



June 15, 2016

Richard Pfeiffer, Columbus City Attorney
77 North Front Street
Columbus, Ohio 43215

RE: Proposed "buffer zone" ordinance

Dear Mr. Pfeiffer:

We are writing in regards to the proposed ordinance to amend Chapter 2317 of the Columbus City Code regarding access to reproductive health care facilities. This is an issue of great interest to the ACLU of Ohio, and we write to make you aware of our position on this matter.

The ACLU of Ohio is a vigilant and unapologetic defender of the reproductive rights of all women, including those in Columbus. Like many others, we are concerned about ongoing attempts from government and private individuals to reduce access to constitutionally-protected abortion services.

That said, we have concerns regarding what is being proposed via the ordinance in question.

First, the majority of what is being proposed addresses conduct that is already illegal under local and state law. More specifically, proposed 2317.51(B)(1) criminalizes physically obstructing or blocking entrance to a reproductive health care facility "by *physically striking, shoving, restraining, grabbing, or otherwise subjecting the person to unwanted physical contact, or attempt or threaten to do the same.*"

Without question, individuals engaged in such behavior can already be cited, arrested, and convicted for such actions, under a variety of existing laws, whether they involve reproductive health care facilities or not.

News reports about this issue cite a 170% increase in calls and complaints regarding the actions of abortion protestors. That statistic is used as a reason to introduce these changes to Columbus law. Assuming that statistic is accurate, what it does not reveal is how many people were arrested, charged, or convicted as result of these calls and complaints. Again, the ability to hold people accountable for such actions is already available.

If the problem is that those laws are not being enforced or violators are not being prosecuted, then we fail to see what duplicating those same prohibitions will accomplish.

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Unfortunately, this proposed ordinance is not only redundant, but includes serious free speech implications. As currently written, it criminalizes following and harassing a person within 15 feet of a reproductive health care facility. The proposed ordinance defines "harass" as "*engaging in a course of conduct that is directed at another that would cause a reasonable person to be seriously alarmed, annoyed or inconvenienced and that in fact seriously alarms, annoys or inconveniences another.*"

We question the wisdom and ultimate constitutionality of prosecuting those who "alarm," "annoy," or "inconvenience" another as those terms are entirely subjective in many instances. As the state and nation's preeminent defender of free speech rights, we realize almost all speech has the potential to annoy, alarm, or inconvenience others no matter who is speaking, the content of the speech, or their intended audience.

For this reason, we reject the concept speech should or could be criminalized because it "annoys" another. Establishing a precedent that mere words (not blocking, shoving, restraining, etc.) directed at a person can and will result in prosecution is antithetical to the First Amendment right to free speech benefitting us all.

In this context, a 15-foot buffer zone will undoubtedly restrict the free speech rights of those sidewalk counselors who wish to deliver one-on-one, but peaceful and non-physical, pleas to those entering reproductive health care facilities. People may disagree or be uncomfortable with such speech but that does make it any less deserving of First Amendment protections.

To be clear, the ACLU of Ohio takes no issue with prosecuting those people who attempt to physically deny access to reproductive health care facilities. Enforcement of such laws can play an important role in ensuring and protecting the right to abortion when opponents break laws to accomplish their goals.

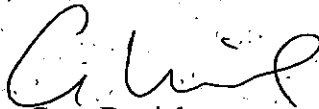
For that reason and the reasons outlined above, the ACLU of Ohio advocates for enforcement of the numerous existing laws available to police and prosecutors to address these problems, not new laws with serious free speech implications sure to be challenged in court by any number of people or organizations, should this proposed ordinance be enacted.

If you have any questions or concerns about our position on this matter, please do not hesitate to contact us.

Sincerely,



Christine Link
Executive Director



Gary Daniels
Chief Lobbyist

cc: Lara Baker-Morrish, Chief Prosecutor