

CORPORATE DISCLOSURE STATEMENT

Amicus Human Rights Campaign Foundation ("HRC Foundation") has no parent corporation and there is no publicly held corporation owning 10% or more of its stock.

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INTEREST OF AMICUS CURIAE¹

Amicus Human Rights Campaign Foundation (“HRC Foundation”) is the educational arm of the Human Rights Campaign, America’s largest civil rights organization working to achieve equality for LGBTQ+ people. Through its programs

consequences on the Act's direct targets: transgender Arkansans and their families. Bad as they are, Act 626's harms do not stop there. Rather, the discriminatory law will create ripple effects that radiate beyond transgender Arkansans, stigmatizing the larger LGBTQ+ community and hurting residents and companies in the state. In other words, apart from Act 626's most immediate problems, it is also simply bad for families and businesses.

Survey data confirms that over 80% of LGBTQ+ people and around 90% of transgender or non-binary people feel that

make them feel less safe. Id. Likewise, local health care providers report that in light of Act 626, “patients feel as if society is trying to erase them, trying to make it as if they don’t even exist.” Rebekah Hall Scott, ‘Kids feel like they are being erased’: Inside the clinic targeted by Arkansas’s new anti-trans law, Arkansas Nonprofit News Network (June 9, 2021), <https://arknews.org/index.php/2021/06/09/kids-feel-like-theyre-being-erased-inside-the-clinic-targeted-by-arkansas-new-anti-trans-law/>.

As one resident put it: “We love it here. We love Arkansas; we just want Arkansas to love us back.” Tess Vrbin, Arkansas families describe living where lawmakers are hostile to their transgender children, Arkansas Advocate (May 3, 2023), <https://arkansasadvocate.com/2023/05/03/arkansas-families-describe-living-where-lawmakers-are-hostile-to-their-transgender-children/>.

Amicus respectfully urges this Court to examine the consequences of discrimination on Arkansas families and the Arkansas economy, as described below. These effects are legally relevant and consistent with the Supreme Court’s recognition that anti-LGBTQ+ laws can impose discrimination and harm beyond the laws’ direct targets.

, 576 U.S. 644, 668 (2015) (discussing marriage ban’s stigmatizing impact on children of couples prevented from marrying).

ARGUMENT

I. Act 626 would burden Arkansas families and force many to move out of state.

Act 626 puts Arkansas families with transgender children in a terrible position: either forgo medically necessary care for their children, threatening their health and safety, or leave their jobs, homes, friends, and extended families to move to another state that does not impose a ban on medically necessary healthcare. Recent survey data and the history of LGBTQ+ migration in America underscore this basic dynamic.²

² Act 626 directly targets transgender youth, but gender-affirming-care bans like Act 626 threaten all LGBTQ+ people. That is why over half (52.7%) of transgender or non-binary adults nationwide would move—or already have moved—from a state that banned gender-affirming care. Human Rights Campaign Foundation, Impact of Gender Affirming Care Bans on LGBTQ+ Adults 3 (last updated Aug. 15, 2023). And over 70% of transgender and non-binary adults living in states that had already banned gender transition care at the time of the survey wanted to move to a new state, or had already taken steps to do so. Id. at 4. Over a quarter (28.3%) of all LGBTQ+ adults—not just transgender adults—indicate that they too would look to relocate i « M

This is obviously deleterious and disruptive to individuals and families in a number of personal and practical ways. In particular, Act 626 risks pulling families apart, since one parent or family member may have to uproot their lives and move to another state while another cannot yet, for a number of reasons including job security, economic barriers, and obligations to other family members.

Forcing such impossible tradeoffs upon families would undermine family support networks as well as the stability of the home. As the district court found, Act 626 forces Arkansas families like the Brandts, Jennens, Saxtons, and Dennises to confront the difficult decision of whether to relocate outside of Arkansas. The district court's findings of fact illustrate how Act 626 makes life in Arkansas untenable for many families: Sabrina Jennen's father testified that "if Act 626 went into effect, they would either move or travel out of state to get treatment." App. 259; R. Doc. 283 at 28. The Saxtons "concluded that they'd 'have to

Goldberg, Impact of HB 1557 (Florida's Don't Say Gay Bill) on LGBTQ+ Parents in Florida, Williams Institute (Jan. 2023), <https://williamsinstitute.law.ucla.edu/publications/impact-dont-say-gay-parents/> (noting that more than half of parents surveyed considered moving out of the state); Jose Soto, Searching for Safety: When Anti-LGBTQ+ State Laws Force Families to Move, Equality 19, 19–21 (Fall 2023).

pick up and leave” if Act 626 barred Parker from receiving his hormone therapy. App. 261; R. Doc. 283 at 30. Dylan Brandt and his mother “discussed moving out of state or traveling out of state regularly for treatment.” App. 256; R. Doc. 283 at 25. And the Dennis family similarly concluded that they “would need to regularly travel out of state or move out of state to get Brooke care.” App. 263; R. Doc. 283 at 32.

Bans like Act 626 also impact extended families—grandparents, aunts, uncles, cousins, and so on—and the communities that displaced families leave behind. Family support systems and stable home environments are valuable for all families. *Miller v. Albright*, 576 U.S. at 668 (discussing the importance of “stability” and “predictability” of family structures and the discriminatory effects if children are denied those benefits because of a relative’s LGBTQ+ identity). But Act 626 risks upending these extended family supports, to the detriment of children and all family members involved.

II. Act 626 harms Arkansas businesses and the state economy.

Another destructive consequence of Act 626 involves the Arkansas economy. Overall, stigmatizing LGBTQ+ people and their families—including by preventing children from accessing medically necessary

care—

Real Costs of Recruitment, Society for Human Resource Management (Apr. 11, 2022) (“[T]he total cost to hire a new employee can be three to four times the position’s salary.”).

Second, Act 626 risks making Arkansas less competitive and prompting many consumers to make hard decisions about where to buy certain products and services. LGBTQ+ families and individuals constitute a vital and growing class of consumers and command \$1.4 trillion in spending power nationally, with household-income averages approximately double the national average. US LGBTQ Spending Surpasses 1.4 Trillion Dollars in 2021—According to the Pride Co-op, NASDAQ (Mar. 28, 2022, 4:41 PM), https://www.nasdaq.com/press-release/us-lgbtq-spending-surpasses-1.4-trillion-dollars-in-2021-according-to-the-pride-co-op#google_vignette

By stigmatizing LGBTQ+ persons, pushing them to move out of state, and deterring them from moving to or visiting the state in the first place, Arkansas stands to lose out on considerable revenue. To make matters worse, these losses will only grow over time. As policies in the United States continue to discriminate against LGBTQ+ people,

In fact, the LGBTQ+ community is one of the fastest-growing segments of the population, especially in younger generations. Id. According to 2021 Census Bureau data, while LGBTQ+ people currently constitute about 7.1% of the American public, they make up 10.5% of tute ab

CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the type-volume limitations set forth in Federal Rule of Appellate Procedure 29(a)(5). This brief contains 2,325 words, including all headings, footnotes, and quotations, and excluding the parts exempted under s,