

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

MELISSA BROWN,

Plaintiff,

v.

NELSON SMITH, in his official capacity as
Commissioner of the Virginia Department of
Behavioral Health and Developmental Services,

Defendant.

Civil Case No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This is an as-applied Fourteenth Amendment challenge to a Virginia statute preventing people with convictions for any of nearly 200 “barrier crimes” from working as substance-abuse counselors. There is no rational basis for this blanket, lifetime prohibition.

2. Plaintiff Melissa Brown won a battle with drug addiction more than twenty years ago. Then, after achieving sobriety herself, Melissa dedicated herself to helping others overcome addiction too. She earned a bachelor’s degree in psychology with honors; took specialized coursework in addiction recovery; completed 2,000 hours in supervised practice; and secured a job as a substance-abuse counselor at a treatment facility. She successfully worked there for nearly half a decade. She was even promoted to lead counselor. But then her employer learned the full extent of Virginia’s prohibition. And because Melissa has a barrier crime on her record—23 years ago, she stole a purse to fund her then-debilitating addiction—her employer was forced to remove her from her job.

3. Today, Melissa is banned from working as a counselor for the rest of her life. She cannot supervise other counselors either. She can and does have a high-ranking role at a treatment facility. But not in the career that she worked toward for years.

4. Applying this lifetime ban to Melissa does not pass even basic constitutional scrutiny. Under the Fourteenth Amendment, laws must, at a minimum, be rational. It is irrational for Virginia to categorically prohibit every person with a wide range of convictions from working as a substance-abuse counselor, regardless of individual circumstances. This severe restriction does nothing to protect the public. It just deprives struggling people of qualified and passionate counselors. Melissa thus seeks a judgment declaring the ban unconstitutional as applied to her, enjoining its application, and allowing her the chance to get back to the career she desperately misses.

JURISDICTION AND VENUE

5. This is a civil-rights action brought under the Fourteenth Amendment to the U.S. Constitution; the Civil Rights Act of 1871, 42 U.S.C. § 1983; and the Declaratory Judgment Act, 28 U.S.C. § 2201. Plaintiff seeks declaratory and injunctive relief against the enforcement of Virginia’s ban on her working in a “direct care position,” Va. Code Ann. § 37.2-416.1, and the policies and practices of the Virginia Department of Behavioral Health and Developmental Services in enforcing that unconstitutional ban.

6. This court has jurisdiction under 28 U.S.C. §§ 1331 (federal-question jurisdiction) and 1343(a)(3) (civil-rights jurisdiction).

7. Venue is proper under 28 U.S.C. § 1391(b)(2) and L.R. 3(C). As described below, Plaintiff and Defendant both reside in this district, and the events giving rise to Plaintiff’s claim occurred in this district and this division.

PARTIES

8. Plaintiff Melissa Brown lives in Spotsylvania County, Virginia.

9. Melissa works as the Vice President of Marketing and Operations at Mainspring Recovery, a licensed behavioral-health treatment facility in Prince William County, Virginia.

10. Melissa wants to work for Mainspring as a substance-abuse counselor or supervisor of substance-abuse counselors.

11. Defendant Nelson Smith is the Commissioner of Virginia’s Department of Behavioral Health and Developmental Services.

12. He is responsible for enforcing Virginia’s ban. Va. Code Ann. §§ 37.2-416.1, -417.

13. Mr. Smith is sued in only his official capacity.

STATEMENT OF FACTS

A. Melissa's history with addiction.

14. Melissa Brown is 50 years old. She and her husband live in Spotsylvania County, Virginia. Melissa works as the Vice President of Marketing and Operations at Mainspring Recovery, a licensed addiction-treatment facility in Prince William County.

15. Despite her success today, Melissa's life was challenging when she was younger.

16. In the late 1990s, Melissa was addicted to drugs.

17. In 1998, Melissa stole about \$160 worth of merchandise from Wal-Mart. She was convicted of shoplifting and sentenced to five years' probation.

18. Then, in 2001, a 27-year-old Melissa stole a woman's pocketbook from a grocery cart and used the credit cards inside to withdraw money for drugs.

19. In 2002, Melissa was convicted of robbery, as well as larceny and possession of a controlled substance for other crimes committed around the same time.

20. Melissa's robbery offense did not involve bodily injury, a weapon, or physical force. *See* Va. Code Ann. § 18.2-58(B)(4).

21. Combined, she was sentenced to five years in prison, plus five more for violating her probation for the earlier shoplifting offense. In total, she served a little more than eight years.

B. Melissa turns her life around and commits to helping others.

22. That was, Melissa says today, "another person" in "another life."

23. After her charges for her 2001 offenses, Melissa knew she needed to get clean and change her life.

24. Melissa has been sober since March 13, 2002—before she was sentenced to prison.

25. Melissa started on her new path while in prison. She applied herself in the various classes offered, earning certification as an optician and in a design software. She tutored other inmates studying for the GED.

26. Melissa was released from prison in 2010.

27. Since her 2002 convictions, Melissa has not been charged with or convicted of any crimes.

28. After her release, Melissa decided to use her new life to help others going through the same struggles with addiction that she once did.

29. She went back to school and earned a bachelor's degree in psychology, *cum laude*, from the University of Mary Washington.

30. Then, Melissa set out to earn her Certification in Substance Abuse Counseling (CSAC) from the Virginia Board of Counseling. To do so, she completed over 200 more hours of coursework in addition recovery, 18 Va. Admin. Code § 115-30-50(A)(2), at Northern Virginia Community College. And she worked through 2,000 hours of supervised substance-abuse counseling practice. *Id.* § 115-30-60(B)(1).

31. The Board of Counseling could have denied Melissa's CSAC based on her felony record. *Id.* § 115-30-150.

32. The Board of Counseling instead granted Melissa her CSAC.

33. The Board of Counseling could have declined Melissa's annual renewal of her CSAC based on her felony record. *Id.*

34. The Board of Counseling has instead granted Melissa annual renewal of her CSAC each year since she first obtained it. *Id.* § 115-30-110.

35. After obtaining her CSAC, Melissa was hired as a substance-abuse counselor at a treatment facility in October 2014, helping people struggling with heroin.

36. Neither Melissa nor her employer correctly understood the scope of the ban, and both believed she could legally work as a counselor despite her criminal record so long as she was an independent contractor.

37. Melissa continued to work as a substance-abuse counselor there for four more years.

38. In her last seven months, she was promoted to lead counselor.

C. The barrier law ends Melissa’s career.

39. Even so, the ban forced Melissa out of her career.

40. In 2018, another rehabilitation facility bought out Melissa’s employer. The new ownership reviewed its legal obligations under the ban.

41. The new ownership contacted the Department, and the Department confirmed that the ban made Melissa ineligible to work in any “direct-care” position at any licensed treatment facility in Virginia.

42. The ban—and the Department’s determination confirming the ban’s application to Melissa—was based solely on Melissa’s then-sixteen-year-old robbery conviction for stealing a purse.

43. Because of the Department’s determination, the treatment facility transferred Melissa to a marketing position, a non-direct-care role.

44. Today, Melissa supports her family by working as the Vice President for Marketing and Operations at a different treatment facility, Mainspring Recovery.

45. In her non-working hours, Melissa volunteers her substance-abuse counseling expertise at a nonprofit helping people struggling with addiction.

46. Because the nonprofit at which she volunteers is not licensed by the Department, Melissa's volunteer counseling is not prohibited by the ban.

47. Melissa misses her career in substance-abuse counseling, and she would restart her career counseling—and supervising other counselors—if she could.

48. Mainspring, Melissa's employer, would transfer her to a direct-care position if it could.

49. But because of a crime she committed while in the throes of addiction 23 years ago, Melissa is banned from working in those positions for the rest of her life.

50. That is true even though she has succeeded at being a counselor in the past, works in a licensed facility today, volunteers as a counselor in her free time, and has been certified by the commonwealth of Virginia as fit to be a counselor. By law, the Department is still forced to keep her out. Forever.

D. The barrier law.

51. Melissa is not the only person affected by Virginia's ban.

52. The Department licenses facilities that provide “[p]lanned individualized interventions intended to reduce or ameliorate ... substance abuse through care, treatment, training, habilitation, or other supports.” Va. Code Ann. §§ 37.2-403, 37.2-405.

53. Some jobs at these facilities are “direct care positions.” A “direct care position” is one “that includes responsibility for ... treatment, case management, health, safety, development, or well-being of an individual receiving ... services” or “immediately supervising a person” in such a position. Va. Code Ann. § 37.2-416.1(A).

54. Substance-abuse counseling is a direct-care position.

55. Supervising other substance-abuse counselors is a direct-care position.

56. In Virginia, the vast majority of these positions exist at facilities licensed by the Department.

57. No one may work in a direct-care position for a licensed substance-abuse treatment facility without undergoing a criminal-background check. Va. Code Ann. § 37.2-416.1(B).

58. When a licensed treatment facility wants to hire someone for a direct-care position, the employer and prospective employee submit paperwork to the Department's Background Investigations Unit.

59. The Department's Background Investigations Unit then sends the employer a letter stating whether the prospective employee is eligible for a direct-care position.

60. With limited exceptions, if the prospective employee has ever been convicted of any of the 176 "barrier crimes," the prospective employee is ineligible to work in a direct-care position. Va. Code Ann. § 37.2-416.1(B)(1), (4), (K) (referencing Va. Code Ann. § 19.2-392.02).

61. The 176 barrier crimes range widely, including both felonies and misdemeanors. Assault and battery, recklessly driving a boat, prostitution, hazing, pointing a laser at a law-enforcement officer, and negligently damaging property by fire are all barrier crimes. Va. Code Ann. § 19.2-392.02(A).

62. Melissa's 2002 robbery conviction is a barrier crime. *Id.* (listing Va. Code Ann. § 18.2-58).

63. There are only limited exceptions to the general rule that conviction of a barrier crime leads to a lifetime ban.

64. For example, some felony drug-possession convictions are barriers for only five years. Va. Code Ann. §§ 37.2-416.1(B)(1), (4) and 19.2-392.02(A). And some misdemeanor assault convictions are barriers for only ten years. *Id.* § 37.2-416.1(F).

65. A few other offenses are eligible for an individualized “screening assessment.” If a person has committed a screening-eligible offense, the person may work in a direct-care position if screening shows that the offense was substantially related to substance abuse or mental illness and that the person is rehabilitated and does not pose a risk to individuals receiving services. Va. Code Ann. § 37.2-416.1(C), (E).

66. One other crime, assault and battery on an official, is eligible for a screening assessment only if ten years have elapsed since the conviction *and* the person has been pardoned. Va. Code Ann. § 37.2-416.1(D).

67. But there is no exception at all for robbery, Melissa’s barrier crime, even with a pardon.

68. Between 2018 and 2021, the ban blocked about 1,100 people from positions supervised by the Department.

E. As applied to Melissa, the barrier law is irrational.

69. Substance abuse is a rampant problem in Virginia and across the country.

70. Because “[t]he increasing trend of drug addiction in Virginia is contributing to multiple adverse public health effects,” the Virginia Department of Health declared opioid addiction a public-health emergency in 2016. That declaration was re-issued in 2021.¹

¹ M. Norman Oliver, *Declaration of Public Health Emergency* (Mar. 25, 2021), <https://tinyurl.com/zme28wth>.

71. Governor Glenn Youngkin has repeatedly described behavioral health in Virginia as in “crisis.”²

72. The Governor’s administration has a stated “objective[.]” of “grow[ing] the Behavioral Health workforce pipeline” and “reduc[ing] administrative burdens that hinder care.”³

73. Yet there is no evidence that the barrier law’s application to Melissa protects the public from bad or dangerous substance-abuse counselors.

74. The barrier law’s application to Melissa does not protect the public from bad or dangerous substance-abuse counselors.

75. The ban’s application to Melissa *worsens* substance abuse in Virginia by limiting the supply of qualified counselors.

76. The commonwealth operates a separate certification mechanism for counselors that can deny applicants based on criminal history.

77. Certification is functionally required to work in substance-abuse counseling at a licensed treatment facility.

78. The barrier law is thus redundant for substance-abuse counselors because the commonwealth already has the discretion to deny people whose criminal records mean they should not be counselors.

² Sarah Rankin, *Youngkin Wants Major New Funding for Mental Health Services*, Associated Press (Dec. 14, 2022), <https://tinyurl.com/mr2vczns>; Nick Minock, ‘*This is a Priority*’: Gov. Glenn Youngkin Pushes for New Funding for Behavioral Health, WJLA (Apr. 6, 2023), <https://tinyurl.com/3wan52cd>.

³ Governor Glenn Youngkin, Right Help. Right Now. Transforming Behavioral Health Care for Virginians, Year 1 Report December 2022-December 2023 at 22 (Feb. 2024), <https://tinyurl.com/5n7s8dpd>.

79. Indeed, Virginia's barrier law bars people from working as substance-abuse counselors if they have been convicted of any of the 176 listed barrier crimes, but most if not all these crimes have nothing to do with substance-abuse counseling.

80. In particular, robbery has nothing to do with substance-abuse counseling.

81. Substance-abuse counseling does not provide unique opportunities to commit crimes.

82. Compared to non-direct-care positions at treatment facilities like marketing and operations roles, substance-abuse counseling does not provide unique opportunities to commit crimes.

83. People with criminal convictions, including for robbery, who have taken all the steps to work as a substance-abuse counselor at a treatment facility, are not more likely to commit crimes, including robbery, as substance-abuse counselors.

84. Melissa is no more likely to commit robbery (or any other crime) in a direct-care position at a treatment facility than in a non-direct care position, including the marketing and operations role that she already has.

85. The barrier law does not even require treatment facilities to fire people who are convicted of a barrier crime while already employed in a direct-care position.

86. The barrier law does not require treatment facilities to fire people with barrier-crime convictions but who were already employed in direct-care positions on July 1, 1999.

87. Nor does Virginia impose the barrier law on counselors that are counseling on topics other than substance abuse outside of licensed treatment facilities.

88. On information and belief, there is no distinction between substance-abuse counseling and other kinds of counseling that would make it rational to have the barrier law for only one of them.

89. Nor does Virginia impose the barrier law on people who work as substance-abuse counselors, not at a licensed treatment facility, but under the employ of another licensed mental-health professional, like an independently practicing psychologist.

90. On information and belief, there is no distinction between substance-abuse counseling at a licensed treatment facility and substance-abuse counseling outside of a licensed treatment facility that would make it rational to have the barrier law for only one of them.

91. Indeed, Virginia does not even categorically prevent people with barrier convictions from working in jobs that *do* present unique opportunities to commit crimes.

92. For instance, Virginia does not categorically prevent people with barrier convictions from working as doctors or lawyers.

93. Even the Speaker of the House of Delegates has a 1994 conviction for a drug felony.

94. If any of the 176 barrier crimes relate to substance-abuse counseling, the barrier-crime statute irrationally makes the crimes *most* related to substance-abuse counseling, like drug offenses, eligible for individualized screening.

95. With limited exceptions that do not apply to Melissa, the barrier law does not consider a person's current ability and qualifications to provide substance-abuse counseling.

96. With limited exceptions that do not apply to Melissa, the barrier law does not allow for consideration of the nature and severity of the crime, the nature and circumstances of a person's involvement in the crime, the time elapsed since the conviction, and the degree of the person's rehabilitation.

97. People with barrier convictions that have been rehabilitated, such as Melissa, would present no unique risk to the public if allowed to work in direct-care positions.

98. With limited exceptions that do not apply to Melissa, the barrier law ignores that recidivism decreases as time elapses after a conviction.

99. In general, it takes only a few years after the end of a criminal sentence for the chance that someone will reoffend to decrease to the risk level that people *without* criminal convictions have of offending for the first time.

100. Melissa's 22-year-old robbery conviction, for an offense committed while in the throes of drug addiction, does not make her any more likely than someone without a prior robbery conviction to commit a crime today.

101. The barrier law further ignores the modern reality that a person's specific criminal convictions can vary wildly based on plea bargaining, the quality of counsel, and other fortuities of the criminal-justice system.

102. Melissa, for instance, could easily have a different criminal record and not be banned, despite committing the same criminal conduct.

103. On information and belief, states without barrier laws for substance-abuse counselors do not have more counselor misconduct.

104. On information and belief, Virginia does not see more counselor misconduct from counselors not subject to the barrier law than it does from counselors at licensed treatment facilities subject to the barrier law.

105. People who have overcome substance addiction are often uniquely qualified to help others beat addiction because of their first-hand experience.

106. But people who have overcome substance addiction often have old convictions for barrier crimes from when they were still suffering from addiction themselves.

107. The ban thus excludes many people like Melissa who are well-suited to work as substance-abuse counselors.

108. A recent survey of Department-licensed treatment facilities described a “scarcity of mental health/substance use resources, challenges navigating the hiring protocol for individuals with barrier crime histories, and stringent barrier crime criteria.” The survey summarized:

Respondents called for the need to reform restrictions on barrier crimes, urging the need to reduce the number/type of disqualifying offenses and introduce amnesty for offenses after certain periods of time. The majority of respondents advocated for giving individuals with barrier crimes an opportunity for employment, citing the potential for valuable contributions and emphasizing the transformative power of recovery experiences.

... These obstacles not only hinder the hiring process for employers eager to recruit strong team members but also limit the accessibility and quality of behavioral health services available for Virginians.⁴

109. The barrier law prevents no one from providing substance-abuse counseling as a volunteer.

110. People with barrier convictions, including Melissa, can and do volunteer as substance-abuse counselors.

111. The Department even admits that the barrier law blocks qualified people from working as substance-abuse counselors.

⁴ Vocal Virginia, *Virginia Barrier Crimes and Peer Recovery Specialists: A Survey of Employers* (Jan. 2024), <https://tinyurl.com/ycxk85p6>.

112. In a public presentation, the Department has explained that one of its “challenges” is finding “qualified applicants to help meet the growing behavioral health/developmental services workforce needs.”⁵

113. In that same presentation, the Department explained that many who are excluded by Virginia’s barrier law are “qualified applicants who can provide valuable services,” partly because many such applicants have “first-hand experience” overcoming substance use themselves, “which can be ... invaluable in the provision of services.”

114. The Department also explained in that public presentation that research shows that “recidivism rates decline by year after arrest.”

115. On information and belief, the Department has told Virginia legislators that Virginia’s barrier law for substance-abuse counselors is the most stringent of any analogous restriction across the nation.

116. Applying the barrier law to Melissa is not rationally related to any legitimate government interest.

117. The barrier law’s basis for excluding Melissa from direct-care positions is not rationally related to Melissa’s fitness for that work.

118. Melissa has successfully worked as a substance-abuse counselor and supervisor of counselors.

119. Melissa remains fully qualified to work as a substance-abuse counselor and supervisor of counselors.

⁵ Stacy Pendleton, *Barrier Crimes for DBHDS Facilities, Licensed Providers, and CSBs*, Virginia Department of Behavioral Health & Developmental Services (June 14, 2021), <https://tinyurl.com/28h8umna>.

120. Allowing Melissa to work in a direct-care position would not pose any risk to the public.

121. Allowing Melissa to work in a direct-care position would benefit the public.

INJURY TO PLAINTIFF

122. Because of the barrier law, Melissa is permanently barred from working in the career she wants.

123. Because of the barrier law, Melissa works in marketing and operations for an addiction-treatment facility, rather than with patients.

124. Because of the barrier law, Melissa cannot professionally use the CSAC certification awarded to her by Virginia itself.

125. Because of the barrier law, Melissa continues to be stigmatized long after she paid her debt to society.

126. To be clear, Melissa is not challenging the ineligibility letter the Department sent her employer. She is not challenging anything that has happened to her in the past or seeking any damages. She is seeking relief prospectively to remove the burden the barrier law imposes on her today.

127. Today, it is futile for Melissa to apply for direct-care positions.

128. But for the barrier law, Melissa would apply to work at a substance-abuse treatment facility as a substance-abuse counselor or supervisor of substance-abuse counselors.

129. But for the barrier law, Melissa would have a fair, nondiscriminatory chance at being hired to work as a substance-abuse counselor or supervisor of substance-abuse counselors.

130. Melissa's current employer would transfer her to a substance-abuse counseling role but for the barrier law.

131. But for the barrier law, Melissa would be hired as, and work as, a substance-abuse counselor or supervisor of substance-abuse counselors.

CLAIMS FOR RELIEF

First Claim for Relief - Equal Protection

132. Plaintiff incorporates paragraphs 1 through 131.

133. Under the Fourteenth Amendment to the U.S. Constitution, no state may “deny to any person within its jurisdiction the equal protection of the laws.”

134. Equal protection of the laws means that the government cannot irrationally subject similarly situated people to different rules.

135. Melissa has equivalent—indeed, greater—training, experience, and qualifications for substance-abuse counseling as other aspiring substance-abuse counselors without barrier convictions.

136. In all relevant respects, Melissa is similarly situated to other aspiring substance-abuse counselors without barrier convictions.

137. In all relevant respects, Melissa is similarly situated to substance-abuse counselors who are convicted of barrier crimes after already being employed as substance-abuse counselors at licensed treatment facilities.

138. In all relevant respects, Melissa is similarly situated to substance-abuse counselors with barrier-crime convictions who are exempt from the barrier law because they were already employed as substance-abuse counselors on July 1, 1999.

139. In all relevant respects, Melissa is similarly situated to substance-abuse counselors who work outside of licensed treatment facilities—for instance, those who work under the employ of an independently practicing mental-health professional—who are not subject to the barrier law.

140. In all relevant respects, Melissa is similarly situated to other kinds of counselors who are not subject to the barrier law.

141. The barrier law irrationally distinguishes Melissa and other aspiring substance-abuse counselors without barrier convictions.

142. The barrier law irrationally distinguishes Melissa and aspiring substance-abuse counselors with equally serious convictions that happen to not be barrier convictions.

143. The barrier law irrationally distinguishes Melissa and substance-abuse counselors who are convicted of barrier crimes after already being employed as substance-abuse counselors at licensed treatment facilities.

144. The barrier law irrationally distinguishes Melissa and substance-abuse counselors with barrier convictions who are exempt from the ban because they were already employed as substance-abuse counselors on July 1, 1999.

145. The barrier law irrationally distinguishes Melissa and substance-abuse counselors who work outside of licensed treatment facilities.

146. The barrier law irrationally distinguishes Melissa and other kinds of aspiring counselors who are not subject to the barrier law.

147. Because the barrier-crime statute irrationally discriminates between similarly situated groups of people, it violates the Equal Protection Clause.

148. Unless Defendant is enjoined from enforcing Va. Code Ann. § 37.2-416.1 against Melissa, Melissa will suffer continuing and irreparable harm.

Second Claim for Relief - Due Process

149. Plaintiff incorporates paragraphs 1 through 131.

150. By irrationally banning Melissa from working as a substance-abuse counselor or supervisor of substance-abuse counselors, Defendant violates the Fourteenth Amendment right to due process of law.

151. The substantive component of the Fourteenth Amendment's Due Process Clause includes the right to choose one's field of private employment and the right to earn an honest living.

152. Due process requires that regulations on entry into a profession be rationally related not merely to any legitimate state interest but specifically to the applicant's fitness or capacity to practice the profession itself. *Schware v. Bd. of Bar Exam'rs*, 353 U.S. 232, 239 (1957).

153. Barring Melissa from working as a substance-abuse counselor or supervisor of substance-abuse counselors, because of a 22-year-old robbery conviction, violates due process of law.

154. Unless Defendant is enjoined from enforcing Va. Code Ann. § 37.2-416.1 against Melissa, Melissa will suffer continuing and irreparable harm.

Third Claim for Relief – Privileges or Immunities

155. Plaintiff incorporates paragraphs 1 through 131.

156. The Fourteenth Amendment's Privileges or Immunities Clause was meant to protect the right to earn a living free from unreasonable government restrictions.

157. By barring Melissa from becoming a substance-abuse counselor or substance-abuse counseling supervisor because of a 22-year-old robbery conviction, Defendant violates the Privileges or Immunities Clause.

158. Plaintiff recognizes that this claim is foreclosed by the *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873). She preserves it here given the "overwhelming consensus among

leading constitutional scholars” that *Slaughter-House* was “egregiously wrong.” *McDonald v. City of Chicago*, 561 U.S. 742, 756–57 (2010) (noting argument made in brief of Constitutional Law Professors as Amici Curiae, Docket No. 08-1521, 561 U.S. 742 (filed July 9, 2009)).

REQUEST FOR RELIEF

Melissa respectfully requests:

- A. A judgment declaring that Va. Code Ann. § 37.2-416.1(B)(1), (4), (K) is unconstitutional as applied to her;
- B. A permanent injunction preventing Defendant from enforcing Va. Code Ann. § 37.2-416.1(B)(1), (4), (K) as to her;
- C. An award of attorneys’ fees, costs, and expenses under 42 U.S.C. § 1988; and
- D. Any further legal and equitable relief that the Court deems just and proper.

DATED this 26th day of March 2024.

Respectfully submitted,

/s/ Paul M. Sherman

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