

SENATE BILL 1028

J2, J1

8lr1806
CF HB 902

By: **Senators Madaleno, Ferguson, Guzzone, Kagan, Lee, Manno, Pinsky, Smith,
~~and Zucker~~ **Zucker, and Young****

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2018

CHAPTER _____

1 AN ACT concerning

2 **Health Occupations – Conversion Therapy for Minors – Prohibition**
3 **(Youth Mental Health Protection Act)**

4 FOR the purpose of prohibiting certain mental health or child care practitioners from
5 engaging in conversion therapy with individuals who are minors; providing that a
6 certain mental health or child care practitioner who engages in conversion therapy
7 with an individual who is a minor shall be considered to have engaged in
8 unprofessional conduct and shall be subject to discipline by a certain licensing or
9 certifying board; prohibiting the use of State funds for certain purposes; requiring
10 the Maryland Department of Health to adopt certain regulations; defining certain
11 terms; making this Act severable; and generally relating to conversion therapy.

12 BY adding to

13 Article – Health Occupations

14 Section 1–212.1

15 Annotated Code of Maryland

16 (2014 Replacement Volume and 2017 Supplement)

17 Preamble

18 WHEREAS, Contemporary science recognizes that being lesbian, gay, bisexual, or
19 transgender (LGBT) is part of the natural spectrum of human identity and is not a disease,
20 a disorder, or an illness; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 WHEREAS, The American Psychological Association convened a Task Force on
2 Appropriate Therapeutic Responses to Sexual Orientation that conducted a systematic
3 review of peer-reviewed journal literature on sexual orientation change efforts and
4 concluded in its 2009 report that sexual orientation change efforts can pose critical health
5 risks to lesbian, gay, and bisexual people, including confusion, depression, guilt,
6 helplessness, hopelessness, shame, social withdrawal, suicidal intentions, substance abuse,
7 stress, disappointment, self-blame, decreased self-esteem and authenticity to others,
8 increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal,
9 loss of friends and potential romantic partners, problems in sexual and emotional intimacy,
10 sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue
11 to self, a loss of faith, and a sense of having wasted time and resources; and

12 WHEREAS, The American Psychological Association issued a resolution on
13 Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in
14 2009 stating that it “advises parents, guardians, young people, and their families to avoid
15 sexual orientation change efforts that portray homosexuality as a mental illness or
16 developmental disorder and to seek psychotherapy, social support, and educational services
17 that provide accurate information on sexual orientation and sexuality, increase family and
18 school support, and reduce rejection of sexual minority youth”; and

19 WHEREAS, The American Psychiatric Association stated in 2000 that
20 “psychotherapeutic modalities to convert or ‘repair’ homosexuality are based on
21 developmental theories whose scientific validity is questionable. Furthermore, anecdotal
22 reports of ‘cures’ are counterbalanced by anecdotal claims of psychological harm. In the last
23 four decades, ‘reparative’ therapists have not produced any rigorous scientific research to
24 substantiate their claims of cure. Until there is such research available, the American
25 Psychiatric Association recommends that ethical practitioners refrain from attempts to
26 change individuals’ sexual orientation, keeping in mind the medical dictum to first, do no
27 harm”; and

28 WHEREAS, The American Psychiatric Association also stated in 2000 that “the
29 potential risks of reparative therapy are great, including depression, anxiety, and
30 self-destructive behavior, since therapist alignment with societal prejudices against
31 homosexuality may reinforce self-hatred already experienced by the patient. Many
32 patients who have undergone reparative therapy relate that they were inaccurately told
33 that homosexuals are lonely, unhappy individuals who never achieve acceptance or
34 satisfaction. The possibility that the person might achieve happiness and satisfying
35 interpersonal relationships as a gay man or lesbian is not presented, nor are alternative
36 approaches to dealing with the effects of societal stigmatization discussed”; and

37 WHEREAS, The American Psychiatric Association further stated in 2000 that it
38 “opposes any psychiatric treatment such as reparative or conversion therapy which is based
39 upon the assumption that homosexuality per se is a mental disorder or based upon the a
40 priori assumption that a patient should change his/her sexual homosexual orientation”; and

41 WHEREAS, The American Academy of Pediatrics in 1993 published an article in its
42 journal “Pediatrics” stating “[t]herapy directed at specifically changing sexual orientation

1 is contraindicated, since it can provoke guilt and anxiety while having little or no potential
2 for achieving changes in orientation”; and

3 WHEREAS, The American Medical Association Council on Scientific Affairs
4 prepared a report in 1994 in which it stated “[a]version therapy (a behavioral or medical
5 intervention which pairs unwanted behavior, in this case, homosexual behavior, with
6 unpleasant sensations or aversive consequences) is no longer recommended for gay men
7 and lesbians”; and

8 WHEREAS, The American Medical Association Council on Scientific Affairs further
9 stated in its 1994 report that “[t]hrough psychotherapy, gay men and lesbians can become
10 comfortable with their sexual orientation and understand the societal response to it”; and

11 WHEREAS, The National Association of Social Workers prepared a 1997 policy
12 statement in which it stated “[s]ocial stigmatization of lesbian, gay, and bisexual people is
13 widespread and is a primary motivating factor in leading some people to seek sexual
14 orientation changes. Sexual orientation conversion therapies assume that homosexual
15 orientation is both pathological and freely chosen. No data demonstrates that reparative or
16 conversion therapies are effective, and, in fact, they may be harmful”; and

17 WHEREAS, The American Counseling Association Governing Council issued a
18 position statement in April 1999 that stated it opposed the promotion of reparative therapy
19 as a “cure” for homosexual individuals; and

20 WHEREAS, The American School Counselor Association issued a position paper in
21 2014 in which it stated that “[i]t is not the role of the professional school counselor to
22 attempt to change a student’s sexual orientation or gender identity” and that “[p]rofessional
23 school counselors do not support efforts by licensed mental health professionals to change
24 a student’s sexual orientation or gender as these practices have been proven ineffective and
25 harmful”; and

26 WHEREAS, The American Psychoanalytic Association issued a position statement
27 in June 2012 regarding attempts to change sexual orientation, gender identity, or gender
28 expression, and in the position statement the Association states “as with any societal
29 prejudice, bias against individuals based on actual or perceived sexual orientation, gender
30 identity or gender expression negatively affects mental health, contributing to an enduring
31 sense of stigma and pervasive self-criticism through the internalization of such prejudice”;
32 and

33 WHEREAS, The American Psychoanalytic Association also stated in June 2012 that
34 “psychoanalytic technique does not encompass purposeful attempts to ‘convert,’ ‘repair,’
35 change or shift an individual’s sexual orientation, gender identity or gender expression.
36 Such directed efforts are against fundamental principles of psychoanalytic treatment and
37 often result in substantial psychological pain by reinforcing damaging internalized
38 attitudes”; and

39 WHEREAS, The American Academy of Child and Adolescent Psychiatry published

1 in 2012 an article in its journal entitled “The Journal of the American Academy of Child
2 and Adolescent Psychiatry”, stating “[c]linicians should be aware that there is no evidence
3 that sexual orientation can be altered through therapy, and that attempts to do so may be
4 harmful. There is no empirical evidence adult homosexuality can be prevented if gender
5 nonconforming children are influenced to be more gender conforming. Indeed, there is no
6 medically valid basis for attempting to prevent homosexuality, which is not an illness. On
7 the contrary, such efforts may encourage family rejection and undermine self-esteem,
8 connectedness and caring, important protective factors against suicidal ideation and
9 attempts. Given that there is no evidence that efforts to alter sexual orientation are
10 effective, beneficial, or necessary, and the possibility that they carry the risk of significant
11 harm, such interventions are contraindicated”; and

12 WHEREAS, The Pan American Health Organization, a regional office of the World
13 Health Organization, issued a statement in May 2012 that states “[t]hese supposed
14 conversion therapies constitute a violation of the ethical principles of health care and
15 violate human rights that are protected by international and regional agreements”; and

16 WHEREAS, The Pan American Health Organization also noted that reparative
17 therapies “lack medical justification and represent a serious threat to the health and
18 well-being of affected people”; and

19 WHEREAS, The American Association of Sexuality Educators, Counselors, and
20 Therapists issued a statement in 2014 that states “same sex orientation is not a mental
21 disorder and that [it] opposes any ‘reparative’ or conversion therapy that seeks to ‘change’
22 or ‘fix’ a person’s sexual orientation”; and

23 WHEREAS, The American Association of Sexuality Educators, Counselors, and
24 Therapists further stated in 2014 its belief that sexual orientation is not “something that
25 needs to be ‘fixed’ or ‘changed’” and provided as its rationale for this position that
26 “[r]eparative therapy (for minors, in particular) is often forced or nonconsensual[,]”, has
27 “been proven harmful to minors[,]”, and that “[t]here is no scientific evidence supporting
28 the success of these interventions”; and

29 WHEREAS, The American Association of Sexuality Educators, Counselors, and
30 Therapists also stated in 2014 that “[r]eparative therapy is grounded in the idea that
31 non-heterosexual orientation is ‘disordered’” and that “[r]eparative therapy has been
32 shown to be a negative predictor of psychotherapeutic benefit”; and

33 WHEREAS, The American College of Physicians wrote a position paper in 2015
34 stating that it “opposes the use of ‘conversion,’ ‘reorientation,’ or ‘reparative’ therapy for the
35 treatment of LGBT persons[,]”, that “[a]vailable research does not support the use of
36 reparative therapy as an effective model in the treatment of LGBT persons[,]”, and that
37 “[e]vidence shows that the practice may actually cause emotional or physical harm to LGBT
38 individuals, particularly adolescents or young persons”; and

39 WHEREAS, Minors who experience family rejection based on their sexual
40 orientation face especially serious health risks; and

1 WHEREAS, In a study published in 2009 in the journal “Pediatrics”, lesbian, gay,
2 and bisexual young adults who reported higher levels of family rejection during adolescence
3 were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to
4 report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times
5 more likely to report having engaged in unprotected sexual intercourse when compared
6 with peers from families that reported no or low levels of family rejection; and

7 WHEREAS, Maryland has a compelling interest in protecting the physical and
8 psychological well-being of minors, including LGBT youth, and in protecting minors
9 against exposure to serious harm caused by sexual orientation change efforts; now,
10 therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Health Occupations**

14 **1–212.1.**

15 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
16 **INDICATED.**

17 **(2) (I) “CONVERSION THERAPY” MEANS A PRACTICE OR**
18 **TREATMENT BY A MENTAL HEALTH OR CHILD CARE PRACTITIONER THAT SEEKS TO**
19 **CHANGE AN INDIVIDUAL’S SEXUAL ORIENTATION OR GENDER IDENTITY.**

20 **(II) “CONVERSION THERAPY” INCLUDES ANY EFFORT TO**
21 **CHANGE THE BEHAVIORAL EXPRESSION OF AN INDIVIDUAL’S SEXUAL ORIENTATION,**
22 **CHANGE GENDER EXPRESSION, OR ELIMINATE OR REDUCE SEXUAL OR ROMANTIC**
23 **ATTRACTIONS OR FEELINGS TOWARD INDIVIDUALS OF THE SAME GENDER.**

24 **(III) “CONVERSION THERAPY” DOES NOT INCLUDE A PRACTICE**
25 **BY A MENTAL HEALTH OR CHILD CARE PRACTITIONER THAT:**

26 **1. PROVIDES ACCEPTANCE, SUPPORT, AND**
27 **UNDERSTANDING, OR THE FACILITATION OF COPING, SOCIAL SUPPORT, AND**
28 **IDENTITY EXPLORATION AND DEVELOPMENT, INCLUDING SEXUAL**
29 **ORIENTATION–NEUTRAL INTERVENTIONS TO PREVENT OR ADDRESS UNLAWFUL**
30 **CONDUCT OR UNSAFE SEXUAL PRACTICES; AND**

31 **2. DOES NOT SEEK TO CHANGE SEXUAL ORIENTATION**
32 **OR GENDER IDENTITY.**

33 **(3) “MENTAL HEALTH OR CHILD CARE PRACTITIONER” MEANS:**

1 **(I) A PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE**
2 **14, TITLE 17, TITLE 18, TITLE 19, OR TITLE 20 OF THIS ARTICLE; OR**

3 **(II) ANY OTHER PRACTITIONER LICENSED OR CERTIFIED**
4 **UNDER THIS ARTICLE WHO IS AUTHORIZED TO PROVIDE COUNSELING BY THE**
5 **PRACTITIONER'S LICENSING OR CERTIFYING BOARD.**

6 **(B) A MENTAL HEALTH OR CHILD CARE PRACTITIONER MAY NOT ENGAGE IN**
7 **CONVERSION THERAPY WITH AN INDIVIDUAL WHO IS A MINOR.**

8 **(C) A MENTAL HEALTH OR CHILD CARE PRACTITIONER WHO ENGAGED IN**
9 **CONVERSION THERAPY WITH AN INDIVIDUAL WHO IS A MINOR SHALL BE**
10 **CONSIDERED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AND SHALL BE**
11 **SUBJECT TO DISCIPLINE BY THE MENTAL HEALTH OR CHILD CARE PRACTITIONER'S**
12 **LICENSING OR CERTIFYING BOARD.**

13 **(D) NO STATE FUNDS MAY BE USED FOR THE PURPOSE OF:**

14 **(1) CONDUCTING, OR REFERRING AN INDIVIDUAL TO RECEIVE,**
15 **CONVERSION THERAPY;**

16 **(2) PROVIDING HEALTH COVERAGE FOR CONVERSION THERAPY; OR**

17 **(3) PROVIDING A GRANT TO OR CONTRACTING WITH ANY ENTITY**
18 **THAT CONDUCTS OR REFERS AN INDIVIDUAL TO RECEIVE CONVERSION THERAPY.**

19 **(E) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO**
20 **IMPLEMENT THIS SECTION.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
22 the application thereof to any person or circumstance is held invalid for any reason in a
23 court of competent jurisdiction, the invalidity does not affect other provisions or any other
24 application of this Act that can be given effect without the invalid provision or application,
25 and for this purpose the provisions of this Act are declared severable.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2018.