

# HOUSE BILL 91

J2, J1

(PRE-FILED)

4r0534  
CF 4r0991

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By: **Delegate Cardin**

Requested: September 24, 2013

Introduced and read first time: January 8, 2014

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations – Sexual Orientation Change Efforts – Prohibited**

3 FOR the purpose of prohibiting certain mental health care practitioners from engaging  
4 in certain sexual orientation change efforts with certain patients; providing that  
5 a certain mental health care practitioner who engages in certain sexual  
6 orientation change efforts with a certain patient shall be considered to have  
7 engaged in unprofessional conduct and shall be subject to discipline by a certain  
8 licensing board; defining certain terms; and generally relating to the prohibition  
9 of sexual orientation change efforts.

10 BY adding to

11 Article – Health Occupations

12 Section 1–212.1

13 Annotated Code of Maryland

14 (2009 Replacement Volume and 2013 Supplement)

15 Preamble

16 WHEREAS, The major professional associations of mental health practitioners  
17 and researchers in the United States have recognized that being lesbian, gay, or  
18 bisexual is not a disease, a disorder, an illness, a deficiency, or a shortcoming for  
19 nearly 40 years; and

20 WHEREAS, The American Psychological Association convened a Task Force on  
21 Appropriate Therapeutic Responses to Sexual Orientation conducted with a systematic  
22 review of peer-reviewed journal literature on sexual orientation change efforts that  
23 concluded in its report of 2009 that sexual orientation change efforts can pose critical  
24 health risks to lesbian, gay, and bisexual people, including confusion, depression,  
25 guilt, helplessness, hopelessness, shame, social withdrawal, suicidal intentions,  
26 substance abuse, stress, disappointment, self-blame, decreased self-esteem and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 authenticity to others, increased self-hatred, hostility and blame toward parents,  
2 feelings of anger and betrayal, loss of friends and potential romantic partners,  
3 problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual  
4 behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a  
5 sense of having wasted time and resources; and

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

14 WHEREAS, The American Psychiatric Association stated in 2009 that  
15 “psychotherapeutic modalities to convert or ‘repair’ homosexuality are based on  
16 developmental theories whose scientific validity is questionable. Furthermore,  
17 anecdotal reports of ‘cures’ are counterbalanced by anecdotal claims of psychological  
18 harm. In the last four decades, ‘reparative’ therapists have not produced any rigorous  
19 scientific research to substantiate their claims of cure. Until there is such research  
20 available, the American Psychiatric Association recommends that ethical practitioners  
21 refrain from attempts to change individuals’ sexual orientation, keeping in mind the  
22 medical dictum to first, do no harm”; and

23 WHEREAS, The American Psychiatric Association also stated in 2009 that “the  
24 potential risks of reparative therapy are great, including depression, anxiety, and  
25 self-destructive behavior, since therapist alignment with societal prejudices against  
26 homosexuality may reinforce self-hatred already experienced by the patient. Many  
27 patients who have undergone reparative therapy relate that they were inaccurately  
28 told that homosexuals are lonely, unhappy individuals who never achieve acceptance  
29 or satisfaction. The possibility that the person might achieve happiness and satisfying  
30 interpersonal relationships as a gay man or lesbian is not presented, nor are  
31 alternative approaches to dealing with the effects of societal stigmatization discussed”;  
32 and

33 WHEREAS, The American Psychiatric Association further stated in 2009 that it  
34 “opposes any psychiatric treatment such as reparative or conversion therapy which is  
35 based upon the assumption that homosexuality per se is a mental disorder or based  
36 upon the a priori assumption that a patient should change his/her sexual homosexual  
37 orientation”; and

38 WHEREAS, The American Academy of Pediatrics in 1993 published an article  
39 in its journal “Pediatrics” stating “[t]herapy directed at specifically changing sexual  
40 orientation is contraindicated, since it can provoke guilt and anxiety while having  
41 little or no potential for achieving changes in orientation”; and

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

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

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

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

24           WHEREAS, The American Academy of Child and Adolescent Psychiatry  
25 published in 2012 an article in its journal entitled “The Journal of the American  
26 Academy of Child and Adolescent Psychiatry”, stating “[c]linicians should be aware  
27 that there is no evidence that sexual orientation can be altered through therapy, and  
28 that attempts to do so may be harmful. There is no empirical evidence adult  
29 homosexuality can be prevented if gender nonconforming children are influenced to be  
30 more gender conforming. Indeed, there is no medically valid basis for attempting to  
31 prevent homosexuality, which is not an illness. On the contrary, such efforts may  
32 encourage family rejection and undermine self-esteem, connectedness and caring,  
33 important protective factors against suicidal ideation and attempts. Given that there  
34 is no evidence that efforts to alter sexual orientation are effective, beneficial, or  
35 necessary, and the possibility that they carry the risk of significant harm, such  
36 interventions are contraindicated”; and

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

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

4 WHEREAS, Maryland has a compelling interest in protecting the physical and  
5 psychological well-being of minors and in protecting minors against exposure to  
6 serious harm caused by sexual change efforts; now, therefore,

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

9 **Article – Health Occupations**

10 **1-212.1.**

11 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
12 **MEANINGS INDICATED.**

13 **(2) “MENTAL HEALTH CARE PRACTITIONER” MEANS:**

14 **(I) A HEALTH CARE PRACTITIONER LICENSED OR**  
15 **CERTIFICATED UNDER TITLE 14, TITLE 17, TITLE 18, OR TITLE 19 OF THIS**  
16 **ARTICLE; OR**

17 **(II) A HEALTH CARE PRACTITIONER LICENSED OR**  
18 **CERTIFICATED UNDER THIS ARTICLE WHO IS AUTHORIZED TO PROVIDE MENTAL**  
19 **HEALTH SERVICES BY THE HEALTH CARE PRACTITIONER’S LICENSING BOARD.**

20 **(3) “SEXUAL ORIENTATION” HAS THE MEANING STATED IN §**  
21 **10-301 OF THE CRIMINAL LAW ARTICLE.**

22 **(4) (I) “SEXUAL ORIENTATION CHANGE EFFORT” MEANS A**  
23 **PRACTICE BY A MENTAL HEALTH CARE PRACTITIONER THAT SEEKS TO CHANGE**  
24 **AN INDIVIDUAL’S SEXUAL ORIENTATION.**

25 **(II) “SEXUAL ORIENTATION CHANGE EFFORT” INCLUDES**  
26 **REPARATIVE THERAPY, CONVERSION THERAPY, AND ANY EFFORT TO CHANGE**  
27 **THE BEHAVIORAL EXPRESSION OF AN INDIVIDUAL’S SEXUAL ORIENTATION,**  
28 **CHANGE GENDER EXPRESSION, OR ELIMINATE OR REDUCE SEXUAL OR**  
29 **ROMANTIC ATTRACTION OR FEELING TOWARD INDIVIDUALS OF THE SAME SEX.**

30 **(III) “SEXUAL ORIENTATION CHANGE EFFORT” DOES NOT**  
31 **INCLUDE:**

1                   1.    A PRACTICE BY A MENTAL HEALTH CARE  
2 PRACTITIONER THAT:

3                   A.    PROVIDES ACCEPTANCE, SUPPORT, AND  
4 UNDERSTANDING, OR THE FACILITATION OF COPING, SOCIAL SUPPORT, AND  
5 IDENTITY EXPLORATION AND DEVELOPMENT, INCLUDING SEXUAL  
6 ORIENTATION-NEUTRAL INTERVENTIONS TO PREVENT OR ADDRESS UNLAWFUL  
7 CONDUCT OR UNSAFE SEXUAL PRACTICES; AND

8                   B.    DOES NOT SEEK TO CHANGE SEXUAL  
9 ORIENTATION; OR

10                  2.    COMMUNICATION BY A MENTAL HEALTH CARE  
11 PRACTITIONER:

12                  A.    DISCUSSING SEXUAL ORIENTATION OR SEXUAL  
13 ORIENTATION CHANGE EFFORT;

14                  B.    EXPRESSING THE MENTAL HEALTH CARE  
15 PRACTITIONER'S VIEWPOINT REGARDING SEXUAL ORIENTATION OR SEXUAL  
16 ORIENTATION CHANGE EFFORT; OR

17                  C.    RECOMMENDING SEXUAL ORIENTATION CHANGE  
18 EFFORTS TO PATIENTS OR REFERRING PATIENTS TO UNLICENSED INDIVIDUALS,  
19 SUCH AS RELIGIOUS LEADERS.

20                  (B)   A MENTAL HEALTH CARE PRACTITIONER MAY NOT ENGAGE IN  
21 SEXUAL ORIENTATION CHANGE EFFORTS WITH A PATIENT WHO IS A MINOR.

22                  (C)   A MENTAL HEALTH CARE PRACTITIONER WHO ENGAGES IN SEXUAL  
23 ORIENTATION CHANGE EFFORTS WITH A PATIENT WHO IS A MINOR SHALL BE  
24 CONSIDERED TO HAVE ENGAGED IN UNPROFESSIONAL CONDUCT AND SHALL BE  
25 SUBJECT TO DISCIPLINE BY THE HEALTH CARE PRACTITIONER'S LICENSING  
26 BOARD.

27                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2014.