

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 426*

Short Title: Mental Health Protection Act. (Public)

Sponsors: Senators Chaudhuri, Van Duyn, and Marcus (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2019

A BILL TO BE ENTITLED

1
2 AN ACT CONCERNING THE PROTECTION OF MINORS AND ADULTS WHO HAVE
3 DISABILITIES FROM ATTEMPTS TO CHANGE SEXUAL ORIENTATION, GENDER
4 IDENTITY, AND GENDER EXPRESSION.

5 Whereas, contemporary science recognizes that being lesbian, gay, bisexual, or
6 transgender is part of the natural spectrum of human identity and is not a disease, disorder, or
7 illness; and

8 Whereas, the American Psychological Association convened a Task Force on
9 Appropriate Therapeutic Responses to Sexual Orientation (Task Force). The Task Force
10 conducted a systemic review of peer-reviewed journal literature on sexual orientation change
11 efforts and issued a report on those efforts in 2009. The Task Force concluded that sexual
12 orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people,
13 including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal,
14 suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem and
15 authenticity to others, increased self-hatred, hostility and blame towards parents, feelings of
16 anger and betrayal, loss of friends and potential romantic partners, problems in sexual and
17 emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being
18 dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources;
19 and

20 Whereas, in 2009, the American Psychological Association issued a resolution on
21 Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, stating:
22 "[T]he [American Psychological Association] advises parents, guardians, young people, and their
23 families to avoid sexual orientation change efforts that portray homosexuality as a mental illness
24 or developmental disorder and to seek psychotherapy, social support, and educational services
25 that provide accurate information on sexual orientation and sexuality, increase family and school
26 support, and reduce rejection of sexual minority youth."; and

27 Whereas, the American Psychiatric Association published a position statement in
28 March of 2000 in which it stated the following:

29 "Psychotherapeutic modalities to convert or 'repair' homosexuality are based on
30 developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports
31 of 'cures' are counterbalanced by anecdotal claims of psychological harm. In the last four decades,
32 'reparative' therapists have not produced any rigorous scientific research to substantiate their
33 claims of cure. Until there is such research available, [the American Psychiatric Association]
34 recommends that ethical practitioners refrain from attempts to change individuals' sexual
35 orientation, keeping in mind the medical dictum to first, do no harm."



1 "The potential risks of reparative therapy are great, including depression, anxiety and
2 self-destructive behavior, since therapist alignment with societal prejudices against
3 homosexuality may reinforce self-hatred already experienced by the patient. Many patients who
4 have undergone reparative therapy relate that they were inaccurately told that homosexuals are
5 lonely, unhappy individuals who never achieve acceptance or satisfaction. The possibility that
6 the person might achieve happiness and satisfying interpersonal relationships as a gay man or
7 lesbian is not presented, nor are alternative approaches to dealing with the effects of societal
8 stigmatization discussed."

9 "Therefore, the American Psychiatric Association opposes any psychiatric treatment such as
10 reparative or conversion therapy which is based upon the assumption that homosexuality per se
11 is a mental disorder or based upon the a priori assumption that a patient should change his or her
12 sexual homosexual orientation."; and

13 Whereas, in 2013, the American Psychiatric Association expanded on that position,
14 stating: "The American Psychiatric Association does not believe that same-sex orientation should
15 or needs to be changed, and efforts to do so represent a significant risk of harm by subjecting
16 individuals to forms of treatment which have not been scientifically validated and by
17 undermining self-esteem when sexual orientation fails to change. No credible evidence exists
18 that any mental health intervention can reliably and safely change sexual orientation; nor, from
19 a mental health perspective does sexual orientation need to be changed."; and

20 Whereas, in 1993, the American Academy of Pediatrics published an article in its
21 journal, *Pediatrics*, stating: "Therapy directed at specifically changing sexual orientation is
22 contraindicated, since it can provoke guilt and anxiety while having little or no potential for
23 achieving changes in orientation."; and

24 Whereas, in 1994, the American Medical Association Council on Scientific Affairs
25 prepared a report, stating: "Aversion therapy (a behavioral or medical intervention which pairs
26 unwanted behavior, in this case, homosexual behavior, with unpleasant sensations or aversive
27 consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay
28 men and lesbians can become comfortable with their sexual orientation and understand the
29 societal response to it."; and

30 Whereas, the National Association of Social Workers prepared a 1997 policy
31 statement, stating: "Social stigmatization of lesbian, gay, and bisexual people is widespread and
32 is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual
33 orientation conversion therapies assume that homosexual orientation is both pathological and
34 freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in
35 fact, they may be harmful."; and

36 Whereas, the American Counseling Association Governing Council issued a position
37 statement in April of 1999, stating: "We oppose 'the promotion of "reparative therapy" as a "cure"
38 for individuals who are homosexual.'"; and

39 Whereas, in 2014, the American School Counselor Association issued a position
40 statement, stating: "It is not the role of the professional school counselor to attempt to change a
41 student's sexual orientation or gender identity. Professional school counselors do not support
42 efforts by licensed mental health professionals to change a student's sexual orientation or gender
43 as these practices have been proven ineffective and harmful."; and

44 Whereas, the American Psychoanalytic Association issued a position statement in
45 June 2012 on attempts to change sexual orientation, gender identity, or gender expression,
46 stating: "As with any societal prejudice, bias against individuals based on actual or perceived
47 sexual orientation, gender identity or gender expression negatively affect mental health,
48 contributing to an enduring sense of stigma and pervasive self-criticism through the
49 internalization of such prejudice." The American Psychoanalytic Association further stated:
50 "Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change
51 or shift an individual's sexual orientation, gender identity or gender expression. Such directed

1 efforts are against fundamental principles of psychoanalytic treatment and often result in
2 substantial psychological pain by reinforcing damaging internalized attitudes."; and

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

14 Whereas, in 2012, the Pan American Health Organization, a regional office of the
15 World Health Organization, issued a statement, stating: "These supposed conversion therapies
16 constitute a violation of the ethical principles of health care and violate human rights that are
17 protected by international and regional agreements." The organization also noted that reparative
18 therapies "lack medical justification and represent a serious threat to the health and well-being
19 of affected people."; and

20 Whereas, in 2014, the American Association of Sexuality Educators, Counselors, and
21 Therapists (AASECT) issued a statement, stating: "[S]ame sex orientation is not a mental
22 disorder and we oppose any 'reparative' or conversion therapy that seeks to 'change' or 'fix' a
23 person's sexual orientation. AASECT does not believe that sexual orientation is something that
24 needs to be 'fixed' or 'changed.' The rationale behind this position is the following: Reparative
25 therapy (for minors, in particular) is often forced or nonconsensual. Reparative therapy has been
26 proven harmful to minors. There is no scientific evidence supporting the success of these
27 interventions. Reparative therapy is grounded in the idea that non-heterosexual orientation is
28 'disordered.' Reparative therapy has been shown to be a negative predictor of psychotherapeutic
29 benefit."; and

30 Whereas, in 2015, the American College of Physicians issued a position paper,
31 stating: "The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for
32 the treatment of LGBT persons...Available research does not support the use of reparative
33 therapy as an effective method in the treatment of LGBT persons. Evidence shows that the
34 practice may actually cause emotional or physical harm to LGBT individuals, particularly
35 adolescents or young persons."; and

36 Whereas, minors who experience family rejection based on their sexual orientation
37 face especially serious health risks. In one study, lesbian, gay, and bisexual young adults who
38 reported higher levels of family rejection during adolescence were 8.4 times more likely to report
39 having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times
40 more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected
41 sexual intercourse compared with peers from families that reported no or low levels of family
42 rejection. This is documented by Caitlin Ryan, et al., in their article entitled "Family Rejection
43 as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual
44 Young Adults" (2009) 123 *Pediatrics* 346; and

45 Whereas, a 2018 study by the Family Acceptance Project found the following:

46 "Rates of attempted suicide by LGBT young people whose parents tried to change their
47 sexual orientation were more than double (48%) the rate of LGBT young adults who reported no
48 conversion experiences (22%). Suicide attempts nearly tripled for LGBT young people who
49 reported both home-based efforts to change their sexual orientation by parents and intervention
50 efforts by therapists and religious leaders (63%)."

1 "High levels of depression more than doubled (33%) for young people whose parents tried to
2 change their sexual orientation compared with those who reported no conversion experiences
3 (16%), and more than tripled (52%) for LGBT young people who reported both home-based
4 efforts to change their sexual orientation by parents and external sexual orientation change efforts
5 by therapists and religious leaders."

6 "Sexual orientation change experiences during adolescence by both parents and caregivers
7 and externally by therapists and religious leaders were associated with lower young adult
8 socioeconomic status, less educational attainment, and lower weekly income."; and

9 Whereas, North Carolina has a compelling interest in protecting the physical and
10 psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, and
11 in protecting its minors against exposure to serious harms caused by conversion therapy; Now,
12 therefore,

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article
15 to read:

16 "Article 1L.

17 "Mental Health Protection Act.

18 **"§ 90-21.130. Short title.**

19 This Article shall be known as the "Mental Health Protection Act."

20 **"§ 90-21.131. Definitions.**

21 The following definitions apply in this Article:

22 (1) Adult who has a disability. – A "disabled adult" as defined in
23 G.S. 108A-101(d).

24 (2) Conversion therapy. – Any practices or treatments that seek to change an
25 individual's sexual orientation or gender identity, including efforts to (i)
26 change behaviors and gender expressions or (ii) eliminate or reduce sexual or
27 romantic attractions or feelings towards individuals of the same gender.
28 Conversion therapy shall not include counseling that provides assistance to an
29 individual undergoing gender transition or counseling that provides
30 acceptance, support, and understanding of an individual or facilitates an
31 individual's coping, social support, and identity exploration and development,
32 including sexual-orientation-neutral interventions to prevent or address
33 unlawful conduct or unsafe sexual practices, as long as such counseling does
34 not seek to change an individual's sexual orientation or gender identity.

35 **"§ 90-21.132. Conversion therapy prohibited.**

36 (a) The following professionals shall not engage in conversion therapy with an individual
37 under 18 years of age or an adult who has a disability:

38 (1) Fee-based practicing pastoral counselor as defined in G.S. 90-382.

39 (2) Licensed clinical social worker as defined in G.S. 90B-3.

40 (3) Licensed marriage and family therapist as defined in G.S. 90-270.47.

41 (4) Licensed professional counselor as defined in G.S. 90-330.

42 (5) Psychiatrist licensed in accordance with Article 1 of Chapter 90 of the General
43 Statutes.

44 (6) Psychologist as defined in G.S. 90-270.2.

45 (b) Conversion therapy practiced by any licensed professional in subsection (a) of this
46 section shall be considered unprofessional conduct and shall subject each licensed professional
47 who engages in the practice of conversion therapy to discipline under the licensed professional's
48 respective licensing entity.

49 (c) The Department of Health and Human Services shall have concurrent authority to
50 initiate proceedings for violations of this section. The Department shall promulgate rules in
51 accordance with this section.

1 **"§ 90-21.133. Prohibited State funding.**

2 No State funds, nor any funds belonging to a municipality, agency, or political subdivision
3 of this State, shall be expended for the purpose of conducting conversion therapy, referring an
4 individual for conversion therapy, health benefits coverage for conversion therapy, or a grant or
5 contract with any entity that conducts conversion therapy or refers individuals for conversion
6 therapy."

7 **SECTION 2.** If any provision of this act or its application is held invalid, the
8 invalidity does not affect other provisions or applications of this act that can be given effect
9 without the invalid provisions or application, and to this end the provisions of this act are
10 severable.

11 **SECTION 3.** This act is effective when it becomes law and applies to acts on or after
12 that date.