

SENATE BILL 1028

J2, J1

8lr1806
CF HB 902

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

Introduced and read first time: February 5, 2018

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 stress, disappointment, self-blame, decreased self-esteem and authenticity to others,
2 increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal,
3 loss of friends and potential romantic partners, problems in sexual and emotional intimacy,
4 sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue
5 to self, a loss of faith, and a 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 in
8 2009 stating that it “advises parents, guardians, young people, and their families to avoid
9 sexual orientation change efforts that portray homosexuality as a mental illness or
10 developmental disorder and to seek psychotherapy, social support, and educational services
11 that provide accurate information on sexual orientation and sexuality, increase family and
12 school support, and reduce rejection of sexual minority youth”; and

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

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

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

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

39 WHEREAS, The American Medical Association Council on Scientific Affairs
40 prepared a report in 1994 in which it stated “[a]version therapy (a behavioral or medical
41 intervention which pairs unwanted behavior, in this case, homosexual behavior, with

1 unpleasant sensations or aversive consequences) is no longer recommended for gay men
2 and lesbians”; and

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

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

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

15 WHEREAS, The American School Counselor Association issued a position paper in
16 2014 in which it stated that “[i]t is not the role of the professional school counselor to
17 attempt to change a student’s sexual orientation or gender identity” and that “[p]rofessional
18 school counselors do not support efforts by licensed mental health professionals to change
19 a student’s sexual orientation or gender as these practices have been proven ineffective and
20 harmful”; and

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

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

34 WHEREAS, The American Academy of Child and Adolescent Psychiatry published
35 in 2012 an article in its journal entitled “The Journal of the American Academy of Child
36 and Adolescent Psychiatry”, stating “[c]linicians should be aware that there is no evidence
37 that sexual orientation can be altered through therapy, and that attempts to do so may be
38 harmful. There is no empirical evidence adult homosexuality can be prevented if gender
39 nonconforming children are influenced to be more gender conforming. Indeed, there is no
40 medically valid basis for attempting to prevent homosexuality, which is not an illness. On

1 the contrary, such efforts may encourage family rejection and undermine self-esteem,
2 connectedness and caring, important protective factors against suicidal ideation and
3 attempts. Given that there is no evidence that efforts to alter sexual orientation are
4 effective, beneficial, or necessary, and the possibility that they carry the risk of significant
5 harm, such interventions are contraindicated”; and

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

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

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

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

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

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

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

35 WHEREAS, In a study published in 2009 in the journal “Pediatrics”, lesbian, gay,
36 and bisexual young adults who reported higher levels of family rejection during adolescence
37 were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to
38 report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times
39 more likely to report having engaged in unprotected sexual intercourse when compared

1 with peers from families that reported no or low levels of family rejection; and

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

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

8 **Article – Health Occupations**

9 **1-212.1.**

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

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

15 (II) “CONVERSION THERAPY” INCLUDES ANY EFFORT TO
16 CHANGE THE BEHAVIORAL EXPRESSION OF AN INDIVIDUAL’S SEXUAL ORIENTATION,
17 CHANGE GENDER EXPRESSION, OR ELIMINATE OR REDUCE SEXUAL OR ROMANTIC
18 ATTRACTIONS OR FEELINGS TOWARD INDIVIDUALS OF THE SAME GENDER.

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

21 1. PROVIDES ACCEPTANCE, SUPPORT, AND
22 UNDERSTANDING, OR THE FACILITATION OF COPING, SOCIAL SUPPORT, AND
23 IDENTITY EXPLORATION AND DEVELOPMENT, INCLUDING SEXUAL
24 ORIENTATION-NEUTRAL INTERVENTIONS TO PREVENT OR ADDRESS UNLAWFUL
25 CONDUCT OR UNSAFE SEXUAL PRACTICES; AND

26 2. DOES NOT SEEK TO CHANGE SEXUAL ORIENTATION
27 OR GENDER IDENTITY.

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

29 (I) A PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE
30 14, TITLE 17, TITLE 18, TITLE 19, OR TITLE 20 OF THIS ARTICLE; OR

31 (II) ANY OTHER PRACTITIONER LICENSED OR CERTIFIED

1 UNDER THIS ARTICLE WHO IS AUTHORIZED TO PROVIDE COUNSELING BY THE
2 PRACTITIONER'S LICENSING OR CERTIFYING BOARD.

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

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

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

11 (1) CONDUCTING, OR REFERRING AN INDIVIDUAL TO RECEIVE,
12 CONVERSION THERAPY;

13 (2) PROVIDING HEALTH COVERAGE FOR CONVERSION THERAPY; OR

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

16 (E) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO
17 IMPLEMENT THIS SECTION.

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

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