

1 AN ACT relating to mental health protection and declaring an emergency.

2 WHEREAS, the American Psychological Association's Task Force on Appropriate
3 Therapeutic Responses to Sexual Orientation concluded that sexual orientation change
4 efforts can pose critical health risks to lesbian, gay, and bisexual people, including
5 depression, social withdrawal, suicidality, substance abuse, and high-risk sexual
6 behaviors; and

7 WHEREAS, the American Psychological Association issued a resolution on
8 Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in
9 2009, which advises parents, guardians, young people, and their families to avoid sexual
10 orientation change efforts that portray homosexuality as a mental illness or developmental
11 disorder and to seek psychotherapy, social support, and educational services that provide
12 accurate information on sexual orientation and sexuality; and

13 WHEREAS, the American Psychiatric Association published a position statement
14 in March 2000 in which it stated psychotherapeutic modalities to convert or 'repair'
15 homosexuality are based on developmental theories whose scientific validity is
16 questionable and that anecdotal reports of 'cures' are counterbalanced by anecdotal
17 claims of psychological harm; and

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

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

1 WHEREAS, the National Association of Social Workers prepared a 1997 policy
2 statement in which it stated: "Sexual orientation conversion therapies assume that
3 homosexual orientation is both pathological and freely chosen. No data demonstrates that
4 reparative or conversion therapies are effective, and, in fact, they may be harmful"; and

5 WHEREAS, the American Counseling Association Governing Council issued a
6 position statement in April of 1999, and in it the council states: "We oppose the
7 promotion of 'reparative therapy' as a 'cure' for individuals who are homosexual"; and

8 WHEREAS, the American School Counselor Association issued a position
9 statement in 2014 which states that: "It is not the role of the professional school counselor
10 to attempt to change a student's sexual orientation or gender identity. Professional school
11 counselors do not support efforts by licensed mental health professionals to change a
12 student's sexual orientation or gender identity as these practices have been proven
13 ineffective and harmful"; and

14 WHEREAS, the American Psychoanalytic Association issued a position statement
15 in June 2012 on attempts to change sexual orientation, gender identity, or gender
16 expression, and in it the association states: "Psychoanalytic technique does not encompass
17 purposeful attempts to 'convert,' 'repair,' change or shift an individual's sexual
18 orientation, gender identity or gender expression. Such directed efforts are against
19 fundamental principles of psychoanalytic treatment and often result in substantial
20 psychological pain by reinforcing damaging internalized attitudes"; and

21 WHEREAS, the American Academy of Child and Adolescent Psychiatry in 2012
22 published an article in its journal, Journal of the American Academy of Child and
23 Adolescent Psychiatry, stating: "Clinicians should be aware that there is no evidence that
24 sexual orientation can be altered through therapy, and that attempts to do so may be
25 harmful" and

26 WHEREAS, the Pan American Health Organization, a regional office of the World
27 Health Organization, issued a statement in 2012 stating: "These supposed conversion

1 therapies constitute a violation of the ethical principles of health care and violate human
2 rights that are protected by international and regional agreements"; and

3 WHEREAS, the American Association of Sexuality Educators, Counselors, and
4 Therapists issued a statement in 2014 stating: "[S]ame sex orientation is not a mental
5 disorder and we oppose any 'reparative' or conversion therapy that seeks to 'change' or
6 'fix' a person's sexual orientation"; and

7 WHEREAS, the American College of Physicians wrote a position paper in 2015
8 stating: "The College opposes the use of 'conversion,' 'reorientation,' or 'reparative'
9 therapy for the treatment of LGBT persons. [...] Available research does not support the
10 use of reparative therapy as an effective method in the treatment of LGBT persons.
11 Evidence shows that the practice may actually cause emotional or physical harm to LGBT
12 individuals, particularly adolescents or young persons"; and

13 WHEREAS, the Trevor Project's 2019 National Survey on LGBTQ Mental Health,
14 which surveyed 34,000 LGBTQ youth between the ages of 13-24, found that five percent
15 of respondents reported being subjected to conversion therapy. Forty-two percent of these
16 LGB youth who underwent conversion therapy reported a suicide attempt in the past year,
17 more than twice the rate of their LGBTQ peers who did not report undergoing conversion
18 therapy, and 57 percent of transgender and nonbinary youth who had undergone
19 conversion therapy reported a suicide attempt in the last year; and

20 WHEREAS, the Commonwealth of Kentucky has a compelling interest in
21 protecting the physical and psychological well-being of minors and vulnerable adults,
22 including lesbian, gay, bisexual, and transgender persons, and in protecting its citizens
23 against exposure to serious harms caused by sexual orientation change efforts;

24 NOW, THEREFORE,

25 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

26 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO
27 READ AS FOLLOWS:

1 (1) For the purposes of this section:

2 (a) "Conversion therapy" means any practice or treatment that seeks to change
3 an individual's sexual orientation or gender identity, including efforts to
4 change behaviors or gender expressions or to eliminate or reduce sexual or
5 romantic attractions or feelings toward individuals of the same gender.
6 "Conversion therapy" encompasses the terms "reparative therapy,"
7 "aversion therapy," "reorientation therapy," and "sexual orientation
8 change efforts." "Conversion therapy" does not include counseling that
9 provides assistance to a person undergoing gender transition, or counseling
10 that provides acceptance, support, and understanding of a person or
11 facilitates a person's coping, social support, and identity exploration and
12 development, including sexual-orientation-neutral interventions to prevent
13 or address unlawful conduct or unsafe sexual practices, as long as such
14 counseling does not seek to change an individual's sexual orientation or
15 gender identity;

16 (b) "Mental health professional" means:

- 17 1. A physician licensed under the laws of Kentucky to practice medicine
18 or osteopathy, or a medical officer of the government of the United
19 States engaged in conducting mental health services;
- 20 2. A psychiatrist licensed under the laws of Kentucky to practice
21 medicine or osteopathy, or a medical officer of the government of the
22 United States engaged in conducting mental health service;
- 23 3. A psychologist, psychological practitioner, a certified psychologist, or
24 a psychological associate, licensed under KRS Chapter 319;
- 25 4. A licensed registered nurse with a master's degree in psychiatric
26 nursing from an accredited institution, or a licensed registered nurse
27 who is certified as a psychiatric and mental health nurse by the

1 American Nurses Association, or a registered nurse licensed KRS
2 Chapter 314 engaged in providing mental health services;

3 5. A licensed clinical social worker licensed under KRS 335.100, or a
4 certified social worker licensed under KRS 335.080 engaged in
5 providing mental health services;

6 6. A marriage and family therapist licensed under KRS 335.330 or a
7 marriage and family therapy associate holding a permit under KRS
8 335.332;

9 7. A professional clinical counselor or a professional counselor associate
10 credentialed under KRS 335.500 to 335.599 engaged in providing
11 mental health services;

12 8. A licensed pastoral counselor licensed under KRS 335.600 to 335.699;

13 9. An art therapist certified under KRS 309.130 engaged in providing
14 mental health services;

15 10. A physician assistant licensed under KRS 311.840 to 311.862 engaged
16 in providing mental health services; and

17 11. A licensed clinical alcohol and drug counselor, licensed clinical
18 alcohol and drug counselor associate, or certified alcohol and drug
19 counselor licensed or certified under KRS 309.080 to 309.089, and

20 (c) "Public funds" means any money, regardless of the original source of the
21 money, of:

22 1. The Commonwealth of Kentucky, and any department, agency, or
23 instrumentality thereof;

24 2. Any county, city, or special district, and any department, agency, or
25 instrumentality thereof; and

26 3. Any other political subdivision of the Commonwealth, and any
27 department, agency, or instrumentality thereof.

1 (2) A mental health professional shall not engage in conversion therapy with a
2 person under eighteen (18) years of age or a person who is eighteen (18) years or
3 older who is an adult as defined in KRS 209.020 or a ward as defined in KRS
4 387.510.

5 (3) Any violation of subsection (2) of this section shall be considered unprofessional
6 conduct and shall subject the mental health professional to discipline by the
7 appropriate professional certification or licensing agency.

8 (4) Public funds shall not be directly or indirectly used, granted, paid, or distributed
9 to any entity, organization, or individual that provides conversion therapy.

10 ➔Section 2. This Act may be cited as the Mental Health Protection Act.

11 ➔Section 3. Whereas numerous professional organizations have concluded that
12 conversion therapy can pose critical health risks to lesbian, gay, and bisexual people,
13 ranging from depression to substance use to suicidality, an emergency is declared to exist,
14 and this Act takes effect upon its passage and approval by the Governor or upon its
15 otherwise becoming a law.