

H. B. 2885

(By Delegates Skinner, Fleischauer, Pushkin, Storch, Hamrick and McCuskey)

[Introduced February 23, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, §47-12-6 and §47-12-7, all relating to the Youth Mental Health Protection Act; legislative findings; purpose; definitions; prohibition on conversion therapy; referral services; and discipline.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, §47-12-6 and §47-12-7, all to read as follows:

ARTICLE 12. YOUTH MENTAL HEALTH PROTECTION ACT.

§47-12-1. Short title.

This article may be cited as the Youth Mental Health Protection Act.

§47-12-2. Legislative findings.

The Legislature finds and declares the following:

1 (1) Being lesbian, gay, or bisexual is not a disease, disorder, illness, deficiency, or
2 shortcoming. The major professional associations of mental health practitioners and researchers in
3 the United States have recognized this fact for nearly forty years.

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

14 (3) The American Psychological Association issued a resolution on Appropriate Affirmative
15 Responses to Sexual Orientation Distress and Change Efforts in 2009 that states: "The American
16 Psychological Association advises parents, guardians, young people, and their families to avoid
17 sexual orientation change efforts that portray homosexuality as a mental illness or developmental
18 disorder and to seek psychotherapy, social support, and educational services that provide accurate
19 information on sexual orientation and sexuality, increase family and school support, and reduce
20 rejection of sexual minority youth."

21 (4) The American Psychiatric Association published a position statement in March of 2000
22 that states: "Psychotherapeutic modalities to convert or 'repair' homosexuality are based on

1 developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports of
2 'cures' are counterbalanced by anecdotal claims of psychological harm. In the last four decades,
3 'reparative' therapists have not produced any rigorous scientific research to substantiate their claims
4 of cure. Until there is such research available, the American Psychiatric Association recommends
5 that ethical practitioners refrain from attempts to change individuals' sexual orientation, keeping in
6 mind the medical dictum to first, do no harm. The potential risks of reparative therapy are great,
7 including depression, anxiety and self-destructive behavior, since therapist alignment with societal
8 prejudices against homosexuality may reinforce self-hatred already experienced by the patient. Many
9 patients who have undergone reparative therapy relate that they were inaccurately told that
10 homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction. The
11 possibility that the person might achieve happiness and satisfying interpersonal relationships as a gay
12 man or lesbian is not presented, nor are alternative approaches to dealing with the effects of societal
13 stigmatization discussed. Therefore, the American Psychiatric Association opposes any psychiatric
14 treatment such as reparative or conversion therapy which is based upon the assumption that
15 homosexuality per se is a mental disorder or based upon the a priori assumption that a patient should
16 change his or her sexual homosexual orientation."

17 (5) The American Academy of Pediatrics published an article in 1993 in its journal,
18 Pediatrics, that states: "Therapy directed at specifically changing sexual orientation is
19 contraindicated, since it can provoke guilt and anxiety while having little or no potential for
20 achieving changes in orientation."

21 (6) The American Medical Association Council on Scientific Affairs prepared a report in
22 1994 that states: "Aversion therapy (a behavioral or medical intervention which pairs unwanted

1 behavior, in this case, homosexual behavior, with unpleasant sensations or aversive consequences)
2 is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians
3 can become comfortable with their sexual orientation and understand the societal response to it."

4 (7) The National Association of Social Workers prepared a policy statement in 1997 that
5 states: "Social stigmatization of lesbian, gay, and bisexual people is widespread and is a primary
6 motivating factor in leading some people to seek sexual orientation changes. Sexual orientation
7 conversion therapies assume that homosexual orientation is both pathological and freely chosen. No
8 data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be
9 harmful."

10 (8) The American Counseling Association Governing Council issued a position statement
11 in April, 1999, that states: "We oppose the promotion of "reparative therapy" as a "cure" for
12 individuals who are homosexual."

13 (9) The American Psychoanalytic Association issued a position statement in June, 2012, on
14 attempts to change sexual orientation, gender, identity, or gender expression that states: "As with
15 any societal prejudice, bias against individuals based on actual or perceived sexual orientation,
16 gender identity or gender expression negatively affects mental health, contributing to an enduring
17 sense of stigma and pervasive self-criticism through the internalization of such prejudice.
18 Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change or
19 shift an individual's sexual orientation, gender identity or gender expression. Such directed efforts
20 are against fundamental principles of psychoanalytic treatment and often result in substantial
21 psychological pain by reinforcing damaging internalized attitudes."

22 (10) The American Academy of Child and Adolescent Psychiatry published an article in 2012

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

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

17 (12) Minors who experience family rejection based on their sexual orientation face especially
18 serious health risks. In one study, lesbian, gay, and bisexual young adults who reported higher levels
19 of family rejection during adolescence were 8.4 times more likely to report having attempted suicide,
20 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs,
21 and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with
22 peers from families that reported no or low levels of family rejection. This is documented by Caitlin

1 Ryan et al. in their article entitled Family Rejection as a Predictor of Negative Health Outcomes in
2 White and Latino Lesbian, Gay, and Bisexual Young Adults (2009), 123 Pediatrics 346.

3 (13) West Virginia has a compelling interest in protecting the physical and psychological
4 well-being of minors, including lesbian, gay, bisexual, and transgender youth and in protecting its
5 minors against exposure to serious harms caused by sexual orientation change efforts.

6 **§47-12-3. Purpose.**

7 The purpose of this article is to protect lesbian, gay, bisexual, and transgender youth from
8 sexual orientation change efforts, also known as conversion therapy.

9 **§47-12-4. Definitions.**

10 For the purposes of this article:

11 "Mental health provider" means a clinical psychologist licensed under article twenty-one,
12 chapter thirty of this code; a school psychologist licensed under article twenty-one, chapter thirty of
13 this code; a psychiatrist licensed under article three, chapter thirty of this code; a clinical social
14 worker or social worker licensed under article thirty, chapter thirty of this code; a marriage and
15 family therapist or associate marriage and family therapist licensed under article thirty-one, chapter
16 thirty of this code; a professional counselor or clinical professional counselor licensed under article
17 thirty-one, chapter thirty of this code; or any students, interns, volunteers, or other persons assisting
18 or acting under the direction or guidance of any of these licensed professionals.

19 "Sexual orientation change efforts" or "conversion therapy" means any practices or treatments
20 that seek to change an individual's sexual orientation, including efforts to change behaviors or gender
21 expressions or to eliminate or reduce sexual or romantic attractions or feelings towards individuals
22 of the same sex. "Sexual orientation change efforts" or "conversion therapy" does not include

1 counseling or mental health services that provide acceptance, support, and understanding of a person
2 without seeking to change sexual orientation or mental health services that facilitate a person's
3 coping, social support, and gender identity exploration and development, including sexual
4 orientation neutral interventions to prevent or address unlawful conduct or unsafe sexual practices,
5 without seeking to change sexual orientation.

6 **§47-12-5. Prohibition on conversion therapy.**

7 Under no circumstances shall a mental health provider engage in sexual orientation change
8 efforts with a person under the age of eighteen.

9 **§47-12-6. Referral services related to conversion therapy.**

10 Under no circumstances may a mental health provider refer any current or former client or
11 patient to any individual, within this state or within any other state, for the purpose of engaging in
12 sexual orientation change efforts. This prohibition includes referrals to any individual practicing or
13 engaging in sexual orientation change efforts in person or by telephone, electronic communication,
14 or any other form of direct or indirect communication with a client or patient.

15 **§47-12-7 Discipline.**

16 Any sexual orientation change efforts attempted on a person under the age of eighteen by a
17 mental health provider or any referral made by a mental health provider to a third party practicing
18 sexual orientation change efforts constitutes unprofessional conduct. Mental health providers found
19 to have engaged in a sexual orientation change effort or found to have referred a current or former
20 client or patient under the age of eighteen to an individual for the purpose of engaging in sexual
21 orientation change efforts shall be subject to discipline by the licensing entity or disciplinary review
22 board with competent jurisdiction.

NOTE: The purpose of this bill is to prohibit mental health providers from engaging in, or referring a patient to, sexual orientation conversion therapy when such person is under eighteen years of age.

This article is new; therefore, it is underscored in its entirety.