

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 and
4 gender identity change efforts can pose critical health risks to lesbian, gay, and bisexual
5 people, including depression, social withdrawal, suicidality, substance abuse, and high-
6 risk sexual 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 and gender identity change efforts that portray homosexuality as a mental
11 illness or developmental disorder and to seek psychotherapy, social support, and
12 educational services that provide accurate information on sexual orientation and
13 sexuality; and

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

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

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

1 their sexual orientation and understand the societal responses to it"; and

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

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

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

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

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

27 WHEREAS, the Pan American Health Organization, a regional office of the World

1 Health Organization, issued a statement in 2012 stating: "These supposed conversion
2 therapies constitute a violation of the ethical principles of health care and violate human
3 rights that are protected by international and regional agreements"; and

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

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

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

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

25 NOW, THEREFORE,

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

27 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) For the purposes of this section:

3 (a) "Mental health professional" means:

- 4 1. A physician licensed under the laws of Kentucky to practice medicine
5 or osteopathy, or a medical officer of the government of the United
6 States engaged in conducting mental health services;
- 7 2. A psychiatrist licensed under the laws of Kentucky to practice
8 medicine or osteopathy, or a medical officer of the government of the
9 United States engaged in conducting mental health service;
- 10 3. A psychologist, psychological practitioner, a certified psychologist, or
11 a psychological associate, licensed under KRS Chapter 319 and
12 engaged in providing mental health services;
- 13 4. A certified nurse practitioner or clinical nurse specialist with a
14 psychiatric or mental health population focus who is licensed to
15 engage in advanced practice nursing under KRS 314.042 and engaged
16 in providing mental health services;
- 17 5. A licensed clinical social worker licensed under KRS 335.100, or a
18 certified social worker licensed under KRS 335.080 engaged in
19 providing mental health services;
- 20 6. A marriage and family therapist licensed under KRS 335.330 or a
21 marriage and family therapy associate holding a permit under KRS
22 335.332;
- 23 7. A licensed professional clinical counselor or a licensed professional
24 counselor associate credentialed under KRS 335.500 to 335.599
25 engaged in providing mental health services;
- 26 8. A licensed pastoral counselor licensed under KRS 335.600 to 335.699;
- 27 9. An art therapist certified under KRS 309.130 engaged in providing

1 mental health services;

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

4 11. A licensed clinical alcohol and drug counselor, licensed clinical
5 alcohol and drug counselor associate, or certified alcohol and drug
6 counselor licensed or certified under KRS 309.080 to 309.089 engaged
7 in providing mental health services;

8 (b) "Public funds" means any money, regardless of the original source of the
9 money, of:

10 1. The Commonwealth of Kentucky, and any department, agency, or
11 instrumentality thereof;

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

14 3. Any other political subdivision of the Commonwealth, and any
15 department, agency, or instrumentality thereof; and

16 (c) "Sexual orientation and gender identity change efforts" means any practice
17 or treatment that seeks to change an individual's sexual orientation or
18 gender identity, including efforts to change behaviors or gender expressions
19 or to eliminate or reduce sexual or romantic attractions or feelings toward
20 individuals of the same gender. "Sexual orientation and gender identity
21 change efforts" encompasses the terms "conversion therapy," "reparative
22 therapy," "aversion therapy," "reorientation therapy," and "sexual
23 orientation change efforts." "Sexual orientation and gender identity
24 change efforts" does not include counseling that provides assistance to a
25 person undergoing gender transition, or counseling that provides
26 acceptance, support, and understanding of a person or facilitates a person's
27 coping, social support, and identity exploration and development, including

1 sexual-orientation-neutral interventions to prevent or address unlawful
2 conduct or unsafe sexual practices, as long as such counseling does not
3 seek to change an individual's sexual orientation or gender identity.

4 (2) A mental health professional shall not engage in sexual orientation and gender
5 identity change efforts with a person under eighteen (18) years of age or a person
6 who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or
7 a ward as defined in KRS 387.510.

8 (3) Any violation of subsection (2) of this section shall be considered unprofessional
9 conduct and deceptive practice and shall subject the mental health professional to
10 discipline by the appropriate professional certification or licensing board.

11 (4) Public funds shall not be directly or indirectly used, granted, paid, or distributed
12 to any entity, organization, or individual that provides sexual orientation and
13 gender identity change efforts.

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) As used in this section, "sexual orientation and gender identity change efforts"
17 has the same meaning as in Section 1 of this Act.

18 (2) The Department for Public Health and the Department for Behavioral Health,
19 Developmental and Intellectual Disabilities in the Cabinet for Health and Family
20 Services shall:

21 (a) Develop and produce educational materials regarding sexual orientation
22 and gender identity change efforts, the health risks and emotional trauma
23 inflicted by the practice of sexual orientation and gender identity change
24 efforts, and any possible professional discipline that may be imposed for
25 providing sexual orientation and gender identity change efforts; and

26 (b) Disseminate the educational material produced under paragraph (a) of this
27 subsection to mental health and health care providers and any other

1 professionals or community entities who may reasonably be expected to
2 come into contact with individuals who may provide sexual orientation and
3 gender identity change efforts or be affected by sexual orientation and
4 gender identity change efforts.

5 (3) The department may consult or contract with nonprofit organizations to develop
6 and produce the educational materials required by subsection (2) of this section.

7 ➔Section 3. This Act may be cited as the Mental Health Protection Act.

8 ➔Section 4. Whereas numerous professional organizations have concluded that
9 sexual orientation and gender identity change efforts can pose critical health risks to
10 lesbian, gay, bisexual, and transgender people, ranging from depression to substance use
11 to suicidality, an emergency is declared to exist, and this Act takes effect upon its passage
12 and approval by the Governor or upon its otherwise becoming a law.