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

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

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

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

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

WHEREAS, the American Medical Association Council on Scientific Affairs prepared a report in 1994 in which it stated: "Aversion therapy (a behavioral or medical intervention which pairs unwanted behavior, in this case, homosexual behavior, with unpleasant sensations or aversive consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians can become comfortable with their sexual orientation and understand the societal responses to it"; and
WHEREAS, the National Association of Social Workers prepared a 1997 policy statement in which it stated: "Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful"; and

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

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

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

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

WHEREAS, the Pan American Health Organization, a regional office of the World Health Organization, issued a statement in 2012 stating: "These supposed conversion
therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements”; and

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

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

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

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

NOW, THEREFORE,

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

⇒ SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:
For the purposes of this section:

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

(b) "Mental health professional" means:

1. A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

2. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health service;

3. A psychologist, psychological practitioner, a certified psychologist, or a psychological associate, licensed under KRS Chapter 319;

4. A licensed registered nurse with a master’s degree in psychiatric nursing from an accredited institution, or a licensed registered nurse who is certified as a psychiatric and mental health nurse by the
American Nurses Association, or a registered nurse licensed KRS Chapter 314 engaged in providing mental health services;

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

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

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

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

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

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

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

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

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

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

3. Any other political subdivision of the Commonwealth, and any department, agency, or instrumentality thereof.
(2) A mental health professional shall not engage in conversion therapy with a person under eighteen (18) years of age or a person who is eighteen (18) years or older who is an adult as defined in KRS 209.020 or a ward as defined in KRS 387.510.

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

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

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

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