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SENATE BILL DRS15130-NB-100

Short Title: Mental Health Protection Act. (Public)

Sponsors: Senator Grafstein (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT CONCERNING THE PROTECTION OF MINORS AND ADULTS WHO HAVE
3 DISABILITIES FROM ATTEMPTS TO CHANGE SEXUAL ORIENTATION, GENDER
4 IDENTITY, AND GENDER EXPRESSION.

5 Whereas, contemporary science recognizes that being lesbian, gay, bisexual, or
6 transgender is part of the natural spectrum of human identity and is not a disease, disorder, or
7 illness; and

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

19 Whereas, in 2009, the American Psychological Association issued a resolution on
20 Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts, stating:
21 "[T]he [American Psychological Association] advises parents, guardians, young people, and their
22 families to avoid sexual orientation change efforts that portray homosexuality as a mental illness
23 or developmental disorder and to seek psychotherapy, social support, and educational services
24 that provide accurate information on sexual orientation and sexuality, increase family and school
25 support, and reduce rejection of sexual minority youth."; and

26 Whereas, the American Psychiatric Association published a position statement in
27 March of 2000 in which it stated the following:

28 "Psychotherapeutic modalities to convert or 'repair' homosexuality are based on
29 developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports
30 of 'cures' are counterbalanced by anecdotal claims of psychological harm. In the last four decades,
31 'reparative' therapists have not produced any rigorous scientific research to substantiate their
32 claims of cure. Until there is such research available, [the American Psychiatric Association]
33 recommends that ethical practitioners refrain from attempts to change individuals' sexual
34 orientation, keeping in mind the medical dictum to first, do no harm."

35 "The potential risks of reparative therapy are great, including depression, anxiety and
36 self-destructive behavior, since therapist alignment with societal prejudices against



1 homosexuality may reinforce self-hatred already experienced by the patient. Many patients who
2 have undergone reparative therapy relate that they were inaccurately told that homosexuals are
3 lonely, unhappy individuals who never achieve acceptance or satisfaction. The possibility that
4 the person might achieve happiness and satisfying interpersonal relationships as a gay man or
5 lesbian is not presented, nor are alternative approaches to dealing with the effects of societal
6 stigmatization discussed."

7 "Therefore, the American Psychiatric Association opposes any psychiatric treatment such as
8 reparative or conversion therapy which is based upon the assumption that homosexuality per se
9 is a mental disorder or based upon the a priori assumption that a patient should change his or her
10 sexual homosexual orientation."; and

11 Whereas, in 2013, the American Psychiatric Association expanded on that position,
12 stating: "The American Psychiatric Association does not believe that same-sex orientation should
13 or needs to be changed, and efforts to do so represent a significant risk of harm by subjecting
14 individuals to forms of treatment which have not been scientifically validated and by
15 undermining self-esteem when sexual orientation fails to change. No credible evidence exists
16 that any mental health intervention can reliably and safely change sexual orientation; nor, from
17 a mental health perspective does sexual orientation need to be changed."; and

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

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

28 Whereas, the National Association of Social Workers prepared a 1997 policy
29 statement, stating: "Social stigmatization of lesbian, gay, and bisexual people is widespread and
30 is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual
31 orientation conversion therapies assume that homosexual orientation is both pathological and
32 freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in
33 fact, they may be harmful."; and

34 Whereas, the American Counseling Association Governing Council issued a position
35 statement in April of 1999, stating: "We oppose 'the promotion of "reparative therapy" as a "cure"
36 for individuals who are homosexual.'"; and

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

42 Whereas, the American Psychoanalytic Association issued a position statement in
43 June 2012 on attempts to change sexual orientation, gender identity, or gender expression,
44 stating: "As with any societal prejudice, bias against individuals based on actual or perceived
45 sexual orientation, gender identity or gender expression negatively affect mental health,
46 contributing to an enduring sense of stigma and pervasive self-criticism through the
47 internalization of such prejudice." The American Psychoanalytic Association further stated:
48 "Psychoanalytic technique does not encompass purposeful attempts to 'convert,' 'repair,' change
49 or shift an individual's sexual orientation, gender identity or gender expression. Such directed
50 efforts are against fundamental principles of psychoanalytic treatment and often result in
51 substantial psychological pain by reinforcing damaging internalized attitudes."; and

1 Whereas, in 2012, the American Academy of Child and Adolescent Psychiatry
2 published an article in its journal, *Journal of the American Academy of Child and Adolescent*
3 *Psychiatry*, stating: "Clinicians should be aware that there is no evidence that sexual orientation
4 can be altered through therapy, and that attempts to do so may be harmful. There is no empirical
5 evidence adult homosexuality can be prevented if gender nonconforming children are influenced
6 to be more gender conforming. Indeed, there is no medically valid basis for attempting to prevent
7 homosexuality, which is not an illness. On the contrary, such efforts may encourage family
8 rejection and undermine self-esteem, connectedness and caring, important protective factors
9 against suicidal ideation and attempts. Given that there is no evidence that efforts to alter sexual
10 orientation are effective, beneficial or necessary, and the possibility that they carry the risk of
11 significant harm, such interventions are contraindicated."; and

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

18 Whereas, in 2014, the American Association of Sexuality Educators, Counselors, and
19 Therapists (AASECT) issued a statement, stating: "[S]ame sex orientation is not a mental
20 disorder and we oppose any 'reparative' or conversion therapy that seeks to 'change' or 'fix' a
21 person's sexual orientation. AASECT does not believe that sexual orientation is something that
22 needs to be 'fixed' or 'changed.' The rationale behind this position is the following: Reparative
23 therapy (for minors, in particular) is often forced or nonconsensual. Reparative therapy has been
24 proven harmful to minors. There is no scientific evidence supporting the success of these
25 interventions. Reparative therapy is grounded in the idea that non-heterosexual orientation is
26 'disordered.' Reparative therapy has been shown to be a negative predictor of psychotherapeutic
27 benefit."; and

28 Whereas, in 2015, the American College of Physicians issued a position paper,
29 stating: "The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for
30 the treatment of LGBT persons...Available research does not support the use of reparative
31 therapy as an effective method in the treatment of LGBT persons. Evidence shows that the
32 practice may actually cause emotional or physical harm to LGBT individuals, particularly
33 adolescents or young persons."; and

34 Whereas, minors who experience family rejection based on their sexual orientation
35 face especially serious health risks. In one study, lesbian, gay, and bisexual young adults who
36 reported higher levels of family rejection during adolescence were 8.4 times more likely to report
37 having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times
38 more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected
39 sexual intercourse compared with peers from families that reported no or low levels of family
40 rejection. This is documented by Caitlin Ryan, et al., in their article entitled "Family Rejection
41 as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual
42 Young Adults" (2009) 123 *Pediatrics* 346; and

43 Whereas, a 2018 study by the Family Acceptance Project found the following:

44 "Rates of attempted suicide by LGBT young people whose parents tried to change their
45 sexual orientation were more than double (48%) the rate of LGBT young adults who reported no
46 conversion experiences (22%). Suicide attempts nearly tripled for LGBT young people who
47 reported both home-based efforts to change their sexual orientation by parents and intervention
48 efforts by therapists and religious leaders (63%)."

49 "High levels of depression more than doubled (33%) for young people whose parents tried to
50 change their sexual orientation compared with those who reported no conversion experiences
51 (16%), and more than tripled (52%) for LGBT young people who reported both home-based

efforts to change their sexual orientation by parents and external sexual orientation change efforts by therapists and religious leaders."

"Sexual orientation change experiences during adolescence by both parents and caregivers and externally by therapists and religious leaders were associated with lower young adult socioeconomic status, less educational attainment, and lower weekly income."; and

Whereas, North Carolina has a compelling interest in protecting the physical and psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, and in protecting its minors against exposure to serious harms caused by conversion therapy; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Mental Health Protection Act.

"§ 90-21.160. Short title.

This Article shall be known as the "Mental Health Protection Act."

"§ 90-21.161. Definitions.

The following definitions apply in this Article:

(1) Adult who has a disability. – A "disabled adult" as defined in G.S. 108A-101(d).

(2) Conversion therapy. – Any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to (i) change behaviors and gender expressions or (ii) eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy shall not include counseling that provides assistance to an individual undergoing gender transition or counseling that provides acceptance, support, and understanding of an individual or facilitates an individual'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.

"§ 90-21.162. Conversion therapy prohibited.

(a) The following professionals shall not engage in conversion therapy with an individual under 18 years of age or an adult who has a disability:

(1) Fee-based practicing pastoral counselor as defined in G.S. 90-382.

(2) Licensed clinical social worker as defined in G.S. 90B-3.

(3) Licensed marriage and family therapist as defined in G.S. 90-270.47.

(4) Licensed professional counselor as defined in G.S. 90-330.

(5) Psychiatrist licensed in accordance with Article 1 of Chapter 90 of the General Statutes.

(6) Psychologist as defined in G.S. 90-270.2.

(b) Conversion therapy practiced by any licensed professional in subsection (a) of this section shall be considered unprofessional conduct and shall subject each licensed professional who engages in the practice of conversion therapy to discipline under the licensed professional's respective licensing entity.

(c) The Department of Health and Human Services shall have concurrent authority to initiate proceedings for violations of this section. The Department shall promulgate rules in accordance with this section.

"§ 90-21.163. Prohibited State funding.

No State funds, nor any funds belonging to a municipality, agency, or political subdivision of this State, shall be expended for the purpose of conducting conversion therapy, referring an

1 individual for conversion therapy, health benefits coverage for conversion therapy, or a grant or
2 contract with any entity that conducts conversion therapy or refers individuals for conversion
3 therapy."

4 **SECTION 2.** If any provision of this act or its application is held invalid, the
5 invalidity does not affect other provisions or applications of this act that can be given effect
6 without the invalid provisions or application and, to this end, the provisions of this act are
7 severable.

8 **SECTION 3.** This act is effective when it becomes law and applies to acts on or after
9 that date.