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SENATE BILL DRS35172-NB-10

Short Title: Mental Health Protection Act. (Public)

Sponsors: Senators Marcus, Chaudhuri, and Murdock (Primary Sponsors).

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 AND
4 GENDER IDENTITY.

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 systematic 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 towards parents, feelings of
16 anger and betrayal, loss of friends and potential romantic partners, problems in sexual and
17 emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being
18 dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources;
19 and

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

27 Whereas, the American Psychiatric Association published a position statement in
28 March of 2000 in which it stated the following: "Psychotherapeutic modalities to convert or
29 'repair' homosexuality are based on developmental theories whose scientific validity is
30 questionable. Furthermore, anecdotal reports of 'cures' are counterbalanced by anecdotal claims
31 of psychological harm. In the last four decades, 'reparative' therapists have not produced any
32 rigorous scientific research to substantiate their claims of cure. Until there is such research
33 available, [the American Psychiatric Association] recommends that ethical practitioners refrain
34 from attempts to change individuals' sexual orientation, keeping in mind the medical dictum to
35 first, do no harm."; and



1 Whereas, in 2013, the American Psychiatric Association stated: "The American
2 Psychiatric Association does not believe that same-sex orientation should or needs to be changed,
3 and efforts to do so represent a significant risk of harm by subjecting individuals to forms of
4 treatment which have not been scientifically validated and by undermining self-esteem when
5 sexual orientation fails to change. No credible evidence exists that any mental health intervention
6 can reliably and safely change sexual orientation; nor, from a mental health perspective does
7 sexual orientation need to be changed."; and

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

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

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

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

27 Whereas, in 2012, the American Academy of Child and Adolescent Psychiatry
28 published an article in its journal, *Journal of the American Academy of Child and Adolescent
29 Psychiatry*, stating: "Given that there is no evidence that efforts to alter sexual orientation are
30 effective, beneficial or necessary, and the possibility that they carry the risk of significant harm,
31 such interventions are contraindicated."; and

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

36 Whereas, in 2014, the American Association of Sexuality Educators, Counselors, and
37 Therapists (AASECT) issued a statement, stating: "[S]ame sex orientation is not a mental
38 disorder and we oppose any 'reparative' or conversion therapy that seeks to 'change' or 'fix' a
39 person's sexual orientation...Reparative therapy (for minors, in particular) is often forced or
40 nonconsensual. Reparative therapy has been proven harmful to minors. Reparative therapy has
41 been shown to be a negative predictor of psychotherapeutic benefit."; and

42 Whereas, in 2015, the American College of Physicians issued a position paper,
43 stating: "The College opposes the use of 'conversion,' 'reorientation,' or 'reparative' therapy for
44 the treatment of LGBT persons...Available research does not support the use of reparative
45 therapy. Evidence shows that the practice may actually cause emotional or physical harm to
46 LGBT individuals, particularly adolescents or young persons."; and

47 Whereas, a 2018 study by the Family Acceptance Project found the following: "Rates
48 of attempted suicide by LGBT young people whose parents tried to change their sexual
49 orientation were more than double (48%) the rate of LGBT young adults who reported no
50 conversion experiences (22%). Suicide attempts nearly tripled for LGBT young people who

1 reported both home-based efforts to change their sexual orientation by parents and intervention
2 efforts by therapists and religious leaders (63%)."

3 "High levels of depression more than doubled (33%) for young people whose parents tried to
4 change their sexual orientation compared with those who reported no conversion experiences
5 (16%), and more than tripled (52%) for LGBT young people who reported both home-based
6 efforts to change their sexual orientation by parents and external sexual orientation change efforts
7 by therapists and religious leaders."; and

8 Whereas, a 2019 study by The Trevor Project published in the *American Journal of*
9 *Public Health* found that LGBTQ youth who underwent conversion therapy were more than
10 twice as likely to report having attempted suicide and more than 2.5 times as likely to report
11 multiple suicide attempts in the past year compared to those who did not. LGBTQ youth with
12 lower family incomes, from the South, who are Hispanic/Latinx, and who are transgender or
13 nonbinary were overrepresented in reports of undergoing conversion therapy; and

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

18 Whereas, North Carolina desires to protect its citizens within the State from harmful
19 and discredited efforts to change sexual orientation or gender identity, including so-called
20 "conversion" or "reparative" therapy, because such efforts lack medical justification, are
21 unethical, violate fundamental human rights principles, and put people at risk of suicide and other
22 long-term physical and psychological harms; and

23 Whereas, no other means of protecting citizens from the harms associated with
24 conversion therapy would be effective; Now, therefore,
25 The General Assembly of North Carolina enacts:

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

28 "Article 1M.

29 "Mental Health Protection Act.

30 **"§ 90-21.140. Short title.**

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

32 **"§ 90-21.141. Definitions.**

33 The following definitions apply in this Article:

34 (1) Adult who has a disability. – An adult who has a developmental disability, as
35 defined in G.S. 122C-3(12a), an intellectual disability, as defined in
36 G.S. 122C-3(17a), or has been adjudicated incompetent, in accordance with
37 Chapter 35A of the General Statutes, and who is incapable of providing
38 consent for conversion therapy or a similar course of therapy or treatment.

39 (2) Conversion therapy. – Any practices or treatments that seek to change an
40 individual's sexual orientation or gender identity, including efforts to (i)
41 change behaviors and gender expressions or (ii) eliminate or reduce sexual or
42 romantic attractions or feelings towards individuals of the same gender.
43 Conversion therapy shall not include counseling that provides assistance to an
44 individual undergoing gender transition or counseling that provides
45 acceptance, support, and understanding of an individual or facilitates an
46 individual's coping, social support, and identity exploration and development,
47 including sexual-orientation-neutral interventions to prevent or address
48 unlawful conduct or unsafe sexual practices, as long as such counseling does
49 not seek to change an individual's sexual orientation or gender identity.

50 **"§ 90-21.142. Conversion therapy prohibited.**

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

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

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

5 (3) Licensed clinical mental health counselor as defined in G.S. 90-330.

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

8 (5) Licensed psychologist as defined in G.S. 90-270.136.

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

13 (c) The Department of Health and Human Services shall report to the appropriate
14 licensing entity any professional found to be in violation of this section. The Department may
15 adopt rules to set forth and implement reporting requirements of violations of this section.

16 **"§ 90-21.143. Prohibited State funding.**

17 No State funds, nor any funds belonging to a municipality, agency, or political subdivision
18 of this State, shall be expended for the purpose of conducting conversion therapy, referring an
19 individual for conversion therapy, health benefits coverage for conversion therapy, or a grant or
20 contract with any entity that conducts conversion therapy or refers individuals for conversion
21 therapy."

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

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