

1 AN ACT relating to youth 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 Psychological Association issued a resolution in 2021
15 stating it opposes sexual orientation change efforts because there is abundant evidence of
16 former participants reporting harm resulting from their experiences of sexual orientation
17 change efforts and it opposes training supporting sexual orientation change efforts in any
18 stage of the education of psychologists and psychology; and

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

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

1 WHEREAS, the American Medical Association Council on Scientific Affairs
2 prepared a report in 1994 in which it stated: "Aversion therapy (a behavioral or medical
3 intervention which pairs unwanted behavior, in this case, homosexual behavior, with
4 unpleasant sensations or aversive consequences) is no longer recommended for gay men
5 and lesbians. Through psychotherapy, gay men and lesbians can become comfortable
6 with their sexual orientation and understand the societal responses to it"; and

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

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

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

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

27 WHEREAS, the American Academy of Child and Adolescent Psychiatry in 2012

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

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

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

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

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

27 WHEREAS, the Commonwealth of Kentucky has a compelling interest in

1 protecting the physical and psychological well-being of minors and vulnerable adults,
2 including lesbian, gay, bisexual, and transgender persons, and in protecting its citizens
3 against exposure to serious harms caused by sexual orientation change efforts;

4 NOW, THEREFORE,

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

6 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO
7 READ AS FOLLOWS:

8 *(1) For the purposes of this section:*

9 *(a) 1. "Mental health professional" means:*

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

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

18 *c. A psychologist, psychological practitioner, certified psychologist,*
19 *or psychological associate, licensed under KRS Chapter 319 and*
20 *engaged in providing mental health services;*

21 *d. A certified nurse practitioner or clinical nurse specialist with a*
22 *psychiatric or mental health population focus who is licensed to*
23 *engage in advanced practice nursing under KRS 314.042 and*
24 *engaged in providing mental health services;*

25 *e. A licensed clinical social worker licensed under KRS 335.100, or*
26 *a certified social worker licensed under KRS 335.080 engaged in*
27 *providing mental health services;*

- 1 f. A marriage and family therapist licensed under KRS 335.330 or
2 a marriage and family therapy associate holding a permit under
3 KRS 335.332;
- 4 g. A licensed professional clinical counselor or a licensed
5 professional counselor associate credentialed under KRS
6 335.500 to 335.599 engaged in providing mental health services;
- 7 h. A licensed pastoral counselor licensed under KRS 335.600 to
8 335.699;
- 9 i. An art therapist certified under KRS 309.133 engaged in
10 providing mental health services;
- 11 j. A physician assistant licensed under KRS 311.840 to 311.862
12 engaged in providing mental health services; and
- 13 k. A licensed clinical alcohol and drug counselor, licensed clinical
14 alcohol and drug counselor associate, or certified alcohol and
15 drug counselor licensed or certified under KRS 309.080 to
16 309.089 engaged in providing mental health services.
- 17 2. "Mental health professional" does not mean a faith-based leader who
18 is not also a professional included in subparagraph 1. of this
19 paragraph;
- 20 (b) "Public funds" means any money, regardless of the original source of the
21 money, of:
- 22 1. The Commonwealth of Kentucky, and any department, agency, or
23 instrumentality thereof;
- 24 2. Any county, city, or special district, and any department, agency, or
25 instrumentality thereof; and
- 26 3. Any other political subdivision of the Commonwealth, and any
27 department, agency, or instrumentality thereof; and

- 1 (c) "Sexual orientation and gender identity change efforts":
- 2 1. Means any practice or treatment that seeks to change an individual's
- 3 sexual orientation or gender identity, including efforts to:
- 4 a. Change behaviors or gender expressions; or
- 5 b. Eliminate or reduce sexual or romantic attractions or feelings
- 6 toward individuals of the same gender;
- 7 2. Includes but is not limited to practices known as:
- 8 a. "Conversion therapy";
- 9 b. "Reparative therapy";
- 10 c. "Aversion therapy";
- 11 d. "Reorientation therapy"; and
- 12 e. "Sexual orientation change efforts"; and
- 13 and other forms of treatment using shaming, emotionally traumatic,
- 14 or physically painful stimuli to change an individual's sexual
- 15 orientation or gender identity; and
- 16 3. Does not include:
- 17 a. Counseling that provides assistance to a person undergoing
- 18 gender transition; or
- 19 b. Counseling that provides acceptance, support, and
- 20 understanding of a person or facilitates a person's coping, social
- 21 support, and identity exploration and development, including
- 22 sexual-orientation-neutral interventions to prevent or address
- 23 unlawful conduct or unsafe sexual practices, as long as such
- 24 counseling does not seek to change an individual's sexual
- 25 orientation or gender identity.
- 26 (2) A mental health professional shall not engage in or refer a patient under eighteen
- 27 (18) years of age, a person who is eighteen (18) years or older who is an adult as

1 defined in KRS 209.020, or a ward as defined in KRS 387.510 for sexual
2 orientation and gender identity change efforts.

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

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

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

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

14 (2) The Department for Public Health and the Department for Behavioral Health,
15 Developmental and Intellectual Disabilities in the Cabinet for Health and Family
16 Services shall:

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

22 (b) Disseminate the educational materials produced under paragraph (a) of this
23 subsection to mental health and health care providers, teachers and
24 educational personnel, entities serving youth in foster care, and any other
25 professionals or community entities who serve youth or who may reasonably
26 be expected to come into contact with individuals who may provide sexual
27 orientation and gender identity change efforts or be affected by sexual

1 *orientation and gender identity change efforts.*

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

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

5 ➔Section 4. Whereas peer-reviewed studies and numerous professional
6 organizations have concluded that sexual orientation and gender identity change efforts
7 can pose critical health risks to lesbian, gay, bisexual, and transgender people, ranging
8 from depression to substance use to suicidal thoughts, attempts, and completed suicide,
9 an emergency is declared to exist, and this Act takes effect upon its passage and approval
10 by the Governor or upon its otherwise becoming a law.