



Louisville Metro Government

Legislation Text

File #: O-413-20, Version: 1

ORDINANCE NO. _____, SERIES 2020

AN ORDINANCE CREATING A NEW CHAPTER OF THE LOUISVILLE METRO CODE OF ORDINANCES TO PROHIBIT MENTAL HEALTH PROFESSIONALS FROM ENGAGING IN SEXUAL ORIENTATION AND GENDER IDENTITY CHANGE EFFORTS.

SPONSORED BY: COUNCIL MEMBERS HOLLANDER, GREEN, COAN, GEORGE, SHANKLIN, MULVIHILL, TRIPLETT, WINKLER, DORSEY, AND PRESIDENT JAMES

WHEREAS, the intent of this Ordinance is to protect the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by “conversion therapy” or “reparative therapy” by licensed providers, including but not limited to licensed therapists; and

WHEREAS, research demonstrates that sexual orientation and gender identity change efforts can pose critical health risks to lesbian, gay, bisexual or transgender persons; and

WHEREAS, contemporary science recognizes that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming; and the major professional associations of mental health practitioners and researchers in the United States have recognized this fact for nearly 40 years; and

WHEREAS, in 2009, the American Psychological Association’s Task Force on Appropriate Therapeutic Responses to Sexual Orientation concluded that efforts to change sexual orientation and gender identity are unlikely to produce anticipated outcomes and can pose unintended harmful side effects to participants, such as a sense of having wasted time and resources, confusion, shame, guilt, helplessness, hopelessness, loss of faith, decreased self-esteem and authenticity towards others, increased self-hatred and negative perceptions, social withdrawal, a feeling of being

dehumanized and untrue to self, depression, increased substance abuse and high-risk sexual behaviors and suicidality; and

WHEREAS, in 2009, the American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts that, among other things, advises parents, guardians, young people, and their families to avoid sexual orientation change efforts that portray homosexuality as a mental illness or developmental disorder, while encouraging psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth; and

WHEREAS, the National Association of Social Workers, the American Counseling Association Governing Council, the American School Counselor Association, the American Psychoanalytic Association, the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the American Medical Association Council on Scientific Affairs, the Pan American Health Organization, the American Association of Sexuality Educators, Counselors, and Therapists, and the American College of Physicians, among others, oppose the use of conversion therapy and find the method of treatment ineffective and harmful; and

WHEREAS, in a 2015 report, the Substance Abuse and Mental Health Services Administrations concluded that:

1. "Conversion therapy perpetuates outdated views of gender roles and identities as well as the negative stereotype that being a sexual or gender minority or identifying as LGBTQ is an abnormal aspect of human development. Most importantly, it may put young people at risk of serious harm."
2. "Conversion therapy- efforts to change an individual's sexual orientation, gender identity, or gender expression- is a practice that is not supported by credible evidence and has been disavowed by behavioral health experts and associations."
3. "Same-gender sexual identity, behavior, and attraction are not mental disorders. Same-gender sexual attractions are part of the normal spectrum of sexual orientation. Sexual orientation change in children and adolescents should not be a goal of mental health

and behavioral interventions;” and

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

1. “Rates of attempted suicide by LGBT young people whose parents tried to change their sexual orientation were more than double (48%) the rate of LGBT young adults who reported no conversion experiences (22%). Suicide attempts nearly tripled for LGBT young people who reported both home-based and out-of-home efforts to change their sexual orientation (63%);”
2. “High levels of depression more than doubled (33%) for LGBT young people whose parents tried to change their sexual orientation compared with those who reported no conversion experiences (16%) and more than tripled (52%) for LGBT young people who reported both home-based and out-of-home efforts to change their sexual orientation;”
3. “Sexual orientation change experiences during adolescence by both parents/caregivers and externally by therapists and religious leaders were associated with lower young adult socioeconomic status, less education attainment and lower weekly income;” and

WHEREAS, a 2019 study by The Trevor Project, which surveyed 34,000 LGBTQ youth between the ages of 13-24, found that five (5) percent of respondents reported being subjected to conversion therapy. Forty-two (42) percent of these LGBTQ 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. Fifty-seven (57) percent of transgender and nonbinary youth who had undergone conversion therapy reported a suicide attempt in the last year; and

WHEREAS, twenty (20) states, as well as the District of Columbia and Puerto Rico, have enacted laws banning conversion therapy efforts against minors when applied by licensed medical providers; and

WHEREAS, a 2015 Gallup Poll ranked Louisville, Kentucky with the 11th highest rate of individuals who identify as lesbian, gay, bisexual or transgender, surpassing major neighboring cities, including Cincinnati, Nashville, Indianapolis, St. Louis and Columbus, Ohio; and

WHEREAS, Louisville has a compelling and important interest in protecting the physical and

psychological well-being of minors, including lesbian, gay, bisexual and transgender youths, and in protecting minors against exposure to serious harms associated with conversion therapy; and

WHEREAS, the Kentucky Supreme Court held that there is no broader field of police power than that of public health, and a municipal corporation, pursuant to its police power, has a wide latitude to adopt ordinances which promote the health, safety, morals or general welfare of the people; and

WHEREAS, the following provisions are exercises of police power of Louisville Metro for the safety, health and welfare of the public; its provisions shall be liberally construed to accomplish that purpose; and

WHEREAS, through this narrowly tailored ordinance, Louisville Metro desires to prohibit within the City harmful conduct by licensed professionals in the mental health field to change sexual orientation or gender identity with minors, finding that this conduct is correlated with serious risks to health, wellbeing and lives, and no other less intrusive means of protecting minors from the harms associated with conversion therapy would be effective in furthering the City's interest.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: A new chapter of Title XI is hereby added to the Louisville Metro Code of Ordinances to read as follows:

TITLE IX: GENERAL REGULATIONS

CHAPTER 103: SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS

§ 103.01 PURPOSE; FINDINGS.

PURPOSE. This Section is an exercise of the City's police power for the public safety, health and welfare; and its provisions shall be liberally construed to accomplish this purpose.

FINDINGS AND INTENT. Medical and mental health experts have denounced efforts to change

sexual orientation and gender identity as ineffective and unsafe for people, especially minors. These efforts are based on the discredited premise that being non-heterosexual is a mental disorder that can be corrected or cured. It is the intent of the Legislative Council that these unethical conversion practices that correlate with serious and dangerous harm to the health and well-being of minors be prohibited. Therefore, the Council finds and declares that a compelling and important interest exists in protecting the physical and psychological well-being of minors from efforts to change sexual orientation and gender identity within the municipality through the professional conduct of licensed providers, and no other less intrusive means of protecting minors from the harms associated with conversion therapy would be effective in furthering the City's interest.

§ 103.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply.

SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS or "CONVERSION THERAPY." Any counseling, practice, or treatment that seek to change a person's sexual orientation or gender identity, including, but not limited to, efforts to change behaviors or gender expression, or reduce or eliminate sexual or romantic attraction or feelings toward a person of the same gender. The definition encompasses the terms "reparative therapy," "aversion therapy," and "reorientation therapy." Sexual orientation or gender identity change efforts do not include counseling that does not seek to change sexual orientation or gender identity and that:

- (1) Assists a person undergoing gender transition;
- (2) Provides acceptance, support, and understanding to the person; or
- (3) Facilitates a person's coping, social support, identity exploration, and development, including sexual orientation- and gender identity- neutral interventions to prevent or address unlawful conduct or unsafe sexual

practices.

MINOR. Any person less than eighteen (18) years of age.

PROVIDER. Any person licensed, certified, or registered to provide professional counseling including, but not limited to, behavior analysts, licensed professional counselors, marital and family therapists or associates, physicians or assistants, osteopaths or assistants, registered or practical nurses or assistive personnel, certified nurse aides, physical or occupational therapists or assistants, psychologists or psychological associates, social workers or associates, licensed professional conservators or guardians, naturopaths, or any other person who performs counseling as part of the person's professional training.

PUBLIC FUNDS. Any money, regardless of the original source of the money, of Louisville/Jefferson County Metro, and any department, agency or instrumentality thereof.

§ 103.03 PROHIBITION ON SEXUAL ORIENTATION OR GENDER IDENTITY CHANGE EFFORTS.

(A) It is unlawful for any provider to provide, apply, or use sexual orientation or gender identity change efforts or conversion therapy with a minor through a provider's professional conduct; and

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

§ 103.04 ENFORCEMENT

The Louisville/Jefferson County Human Relations Commission ("Commission") shall enforce the provisions of this chapter pursuant to Louisville Metro Code of Ordinances ("LMCO") Chapter 92.

§ 103.05 COMPLAINT PROCEDURE

(A) Any person or persons claiming to be aggrieved by a violation of this chapter may file a written complaint to the Human Relations Commission- Enforcement pursuant to LMCO § 92.09. The

complaint must be filed within 180 days after the alleged violation has occurred. Any member of the Human Relations Commission- Enforcement who has reason to believe an unlawful practice has occurred may file a complaint.

(B) If the Executive Director of the Human Relations Commission-Enforcement determines that there is reasonable cause for the complaint, the Human Relations Commission-Enforcement, shall make an effort to eliminate the unlawful practice by any means allowed pursuant to LMCO § 92.09.

§ 103.06 ENFORCEMENT HEARINGS

In the event a complaint is not resolved under LMCO § 92.09, a written notice, signed by the Director of the Human Relations Commission-Enforcement or authorized representative, together with a copy of the complaint, shall require the respondent to answer the charges of such complaint at a hearing before a Hearing Officer pursuant to LMCO § 92.10, § 92.11 and § 92.12.

§ 103.07 APPEALS

(A) An appeal from a determination of the Hearing Officer to the Appeal Panel, as defined by LMCO § 92.02, can be made only by filing with the Human Relations Commission- Enforcement, a notice of appeal pursuant to LMCO § 92.13.

(B) The Appeal Panel and the Human Relations Commission-Enforcement shall respond to such notice of appeal and possess all duties and powers regarding appeals pursuant to LMCO § 92.13.

(C) Any respondent or complainant aggrieved by a final order of the Commission, or any complainant aggrieved by the final order of dismissal of his or her complaint by the Commission, may obtain a review of such order in the Jefferson Circuit Court by filing with the Clerk of the Court, within thirty (30) days after service on him or her of the order, a written petition in duplicate praying that such order be modified or set aside, and by serving a duplicate copy of the petition on the Commission. The Commission shall then cause to be filed in the court a certified transcript of the record in the proceedings before it, including the pleadings, testimony and order.

SECTION II: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

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