

PROPOSED

ORDINANCE NO. 2018-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO THE PROHIBITION OF CONVERSION THERAPY ON MINORS; CREATING ARTICLE IX, OF CHAPTER 16½, ENTITLED "PROHIBITION OF CONVERSION THERAPY ON MINORS"; CREATING SECTIONS 16½-166 THROUGH 16½-169 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE"); PROVIDING FOR ENFORCEMENT AND PENALTIES; AMENDING SECTION 8½-16 TO PROVIDE FOR INCLUSION OF PENALTIES; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Commissioner Nan H. Rich, Mayor Beam Furr, Vice-Mayor Mark D. Bogen, and Commissioners Michael Udine, Steve Geller, Tim Ryan, Barbara Sharief, and Dale V.C. Holness)

WHEREAS, for nearly forty years, major professional associations of mental health practitioners and researchers in the United States have recognized that being lesbian, gay, bisexual, transgender, or gender nonconforming is not a mental disease, disorder, illness, deficiency, or shortcoming; and

WHEREAS, the American Psychological Association's Task Force on Appropriate Therapeutic Responses to Sexual Orientation ("Task Force") conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts commonly known as conversion or reparative therapy; and

WHEREAS, the Task Force issued a report in 2009, citing research that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem, increased self-hatred, hostility and blame toward parents,

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1 feelings of anger and betrayal, loss of friends and potential romantic partners, problems
2 in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling
3 of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted
4 time and resources; and

5 WHEREAS, the Task Force's findings are supported by overwhelming scientific
6 consensus that these practices have no scientific basis, contradict modern scientific
7 understanding of sexual orientation, and put young people at risk of serious harm,
8 including severe depression and suicide; and

9 WHEREAS, the American Psychological Association in 2009 issued a resolution
10 on Appropriate Affirmative Response to Sexual Orientation Distress and Change Efforts,
11 advising parents, guardians, young people, and their families to avoid sexual orientation
12 change efforts that portray homosexuality as a mental illness or developmental disorder
13 and to seek psychotherapy, social support, and educational services that provide
14 accurate information on sexual orientation and sexuality, increase family and school
15 support, and reduce rejection of sexual minority youth; and

16 WHEREAS, the American Psychoanalytic Association in June 2012 issued a
17 position statement on conversion therapy efforts, stating that "[a]s with any societal
18 prejudice, bias against individuals based on actual or perceived sexual orientation,
19 gender identity or gender expression negatively affects mental health, contributing to an
20 enduring sense of stigma and pervasive self-criticism through the internalization of such
21 prejudice" and that "[p]sychoanalytic technique does not encompass purposeful attempts
22 to 'convert,' 'repair,' change or shift an individual's sexual orientation, gender identity or
23 gender expression," such efforts being inapposite to "fundamental principles of
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1 psychoanalytic treatment and often result in substantial psychological pain by reinforcing
2 damaging internalized attitudes"; and

3 WHEREAS, the American Academy of Child & Adolescent Psychiatry in 2012
4 published an article in its journal stating that clinicians should be aware that there is "no
5 evidence that sexual orientation can be altered through therapy and that attempts to do
6 so may be harmful"; that there is "no medically valid basis for attempting to prevent
7 homosexuality, which is not an illness"; and that such efforts may encourage family
8 rejection and undermine self-esteem, connectedness, and caring, important protective
9 factors against suicidal ideation and attempts; and that, for similar reasons cumulatively
10 stated above, carrying the risk of significant harm, sexual orientation change efforts are
11 contraindicated; and

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

18 WHEREAS, a 2015 report of the Substance Abuse and Mental Health Services
19 Administration, a division of the U.S. Department of Health and Human Services, "Ending
20 Conversion Therapy: Supporting and Affirming LGBTQ Youth," found that based on
21 scientific literature, conversion therapy to change an individual's sexual orientation,
22 gender identity, or gender expression is a practice not supported by credible evidence, is
23 disavowed by behavioral health experts and associations, and perpetuates outdated
24 views of gender roles and identities and negative stereotypes. The report further stated

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1 that such therapy may put young people at risk of serious harm, and that same-gender
2 sexual orientation (including identity, behavior, and attraction) is part of the normal
3 spectrum of human diversity and does not constitute a mental disorder; and

4 WHEREAS, in a 2015 position paper, the American College of Physicians opposed
5 the use of "conversion," "reorientation," or "reparative" therapy for the treatment of LGBT
6 persons, stating that "[a]vailable research does not support the use of reparative therapy
7 as an effective method in the treatment of LGBT persons. The position paper further
8 states that evidence shows that the practice may actually cause emotional or physical
9 harm to LGBT individuals, particularly adolescents or young persons"; and

10 WHEREAS, one study found that lesbian, gay, and bisexual young adults that have
11 higher levels of family rejection based on their sexual orientation during adolescence were
12 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report
13 high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more
14 likely to report having engaged in unprotected sexual intercourse compared with peers
15 from families that reported no or low levels of family rejection; and

16 WHEREAS, Broward County finds that the overwhelming research demonstrating
17 that sexual orientation and gender identity change efforts poses critical health risks to
18 lesbian, gay, bisexual, transgender, gender nonconforming, or gender-questioning
19 persons, and that being lesbian, gay, bisexual, transgender, gender nonconforming, or
20 gender-questioning is not a mental disease, mental disorder, mental illness, deficiency,
21 or shortcoming; and

22 WHEREAS, numerous jurisdictions in Florida and across the United States have
23 enacted legislation prohibiting conversion therapy on minors, including, but not limited to,
24 the cities of Wilton Manors, Oakland Park, Miami Beach, Miami, North Bay Village,

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1 El Portal, Boca Raton, Boynton Beach, Delray Beach, West Palm Beach, and Key West,
2 and the states of California, Connecticut, Illinois, Nevada, New Jersey, New Mexico,
3 Oregon, Rhode Island, and Vermont; and

4 WHEREAS, this Ordinance does not prohibit licensed mental health professionals
5 from engaging in religious counseling with minors if the licensed mental health
6 professionals are acting in their pastoral or religious capacity as members of the clergy
7 or as religious counselors and do not hold themselves out as operating pursuant to their
8 professional licenses when acting in their pastoral or religious capacity; and

9 WHEREAS, this Ordinance is not intended to prevent mental health professionals
10 from engaging in expressive speech, such as speaking to the public about sexual
11 orientation change efforts, expressing their views to patients, recommending sexual
12 orientation change efforts to patients, or engaging in conversion therapy with any person
13 who is 18 years of age or older; and

14 WHEREAS, Broward County has a compelling interest in protecting the physical
15 and psychological well-being of minors, including, but not limited to, lesbian, gay,
16 bisexual, transgender, gender nonconforming, and gender-questioning youth, and in
17 protecting its minors against exposure to serious harms caused by sexual orientation and
18 gender identity change efforts; and

19 WHEREAS, Broward County desires to prohibit the practice of sexual orientation
20 or gender identity change efforts on minors, including conversion therapy, also known as
21 reparative therapy, by licensed mental health professionals only, which have been
22 demonstrated to be harmful to the physical and psychological well-being of lesbian, gay,
23 bisexual, transgender, gender nonconforming, and gender-questioning persons,

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1 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
2 BROWARD COUNTY, FLORIDA:

3
4 Section 1. Chapter 16½ of the Broward County Code of Ordinances, entitled
5 "Human Rights," is hereby amended to create the following article and sections:

6 [Underlining omitted]

7 **Article IX. Prohibition of conversion therapy on minors.**

8 **Sec. 16½-166. Intent.**

9 The foregoing "Whereas" clauses are adopted by reference and incorporated as if
10 fully set forth in this Section. It is the intent of this Ordinance to protect the physical and
11 psychological well-being of minors, including, but not limited to, lesbian, gay, bisexual,
12 transgender, gender nonconforming, and gender-questioning youth, from exposure to the
13 serious harms and risks caused by conversion therapy or reparative therapy.

14 **Sec. 16½-167. Definitions.**

15 (a) *Conversion therapy or reparative therapy* means, interchangeably, any
16 counseling, practice, or treatment that seeks to change an individual's sexual orientation
17 or gender identity, including, but not limited to, efforts to change behaviors, gender
18 identity, or gender expression, or to eliminate or reduce sexual or romantic attractions or
19 feelings towards individuals of the same gender or sex. Conversion therapy or reparative
20 therapy does not include:

- 21 (1) Counseling that provides support to an individual undergoing gender
22 transition;
- 23 (2) Counseling that provides acceptance, support, or understanding of an
24 individual's sexual orientation, gender identity, or gender expression; or

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1 (3) Facilitating an individual's coping, social support, identity exploration, or
2 development, including sexual orientation-neutral interventions to prevent
3 or address unlawful conduct or unsafe sexual practices, if such counseling
4 does not seek to change sexual orientation, gender identity, or gender
5 expression.

6 (b) *Minor* means a person less than 18 years of age.

7 (c) *Provider* means a person who is licensed by the state of Florida to provide
8 professional counseling, or who performs counseling as part of his or her professional
9 training under Chapters 456, 458, 459, 490, or 491 of the Florida Statutes, as may be
10 amended, including, but not limited to, medical practitioners, osteopathic practitioners,
11 psychologists, psychiatrists, psychotherapists, social workers, marriage and family
12 therapists, and licensed counselors, excluding Providers acting in their pastoral or
13 religious capacity as members of the clergy or as religious counselors as long as they do
14 not hold themselves out as operating pursuant to any of the aforementioned Florida
15 Statutes when acting in their pastoral or religious capacity.

16 **Sec. 16½-168. Conversion therapy prohibited.**

17 A Provider shall not engage in conversion therapy or reparative therapy with a
18 minor, regardless of whether the Provider receives monetary compensation in exchange
19 for such services.

20 **Sec. 16½-169. Enforcement and civil penalties.**

21 (a) Any Provider who violates this Article shall be required to pay to Broward
22 County a civil penalty of \$250 for the first violation and \$500 for each repeat violation.
23 Each conversion therapy session with a minor shall constitute a separate offense, and
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1 any session that purports to extend from one day to another shall constitute separate
2 offenses for each day in which a session takes place.

3 (b) These penalties shall not preclude any other remedies available at law or in
4 equity, including injunctive relief in the circuit court.

5 (c) This Article shall be enforced according to the alternate code enforcement
6 procedure provided for in Chapter 8½, Article II, Section 8½-8 et seq., Broward County
7 Code of Ordinances, as may be amended from time to time.

8 Section 2. Chapter 8½, Article II, Section 8½-16, of the Broward County Code
9 of Ordinances, "Schedule of civil penalties," is hereby amended to read as follows:

10 **Sec. 8½-16. Schedule of civil penalties.**

11 . . .

12 (f) *Miscellaneous provisions:*

| | <i>Fine</i> | |
|------------------|------------------|------------------|
| | <i>First</i> | <i>Repeat</i> |
| <i>Violation</i> | <i>Violation</i> | <i>Violation</i> |
| 13 | | |
| 14 | | |
| 15 | | |
| 16 | | |
| 17 | <u>250.00</u> | <u>500.00</u> |
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19 Section 3. SEVERABILITY.

20 If any portion of this Ordinance is determined by any Court to be invalid, the invalid
21 portion shall be stricken, and such striking shall not affect the validity of the remainder of
22 this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot
23 be legally applied to any individual(s), group(s), entity(ies), property(ies), or
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1 circumstance(s), such determination shall not affect the applicability hereof to any other
2 individual, group, entity, property, or circumstance.

3 Section 4. INCLUSION IN CODE.

4 It is the intention of the Board of County Commissioners that the provisions of this
5 Ordinance shall become and be made a part of the Broward County Code; and that the
6 sections of this Ordinance may be renumbered or relettered and the word "ordinance"
7 may be changed to "section," "article," or such other appropriate word or phrase in order
8 to accomplish such intentions.

9 Section 5. EFFECTIVE DATE.

10 This Ordinance shall become effective as provided by law.

11
12 ENACTED

13 FILED WITH THE DEPARTMENT OF STATE

14 EFFECTIVE

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17 Approved as to form and legal sufficiency:
18 Andrew J. Meyers, County Attorney

PROPOSED

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20 By /s/ Adam Katzman 12/06/17
Adam Katzman (date)
21 Assistant County Attorney

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23 AMK/mm
12/06/17
24 Conversion Therapy Ordinance.doc
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