

Amendment No. 640

Assembly Amendment to Senate Bill No. 201 First Reprint (BDR 54-301)

Proposed by: Assemblyman Araujo

Amendment Box: Consistent with Amendment No. 635.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 201—SENATORS PARKS, RATTI, FORD, ATKINSON, SPEARMAN; CANCELA, CANNIZZARO, DENIS, FARLEY, MANENDO, SEGERBLOM AND WOODHOUSE

FEBRUARY 22, 2017

JOINT SPONSORS: ASSEMBLYMEN ARAUJO, CARRILLO, CARLTON, NEAL, COHEN; BROOKS, FLORES, KRASNER, OHRENSCHALL, SWANK, THOMPSON AND YEAGER

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Enacts provisions relating to conversion therapies. (BDR 54-301)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health care professionals; prohibiting certain health care professionals from providing sexual orientation or gender identity conversion therapy to a minor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Existing law regulates~~ Under existing law, the Legislature has the power to regulate licensed health care professionals for the benefit of the public’s health, safety and welfare and to protect the well-being of patients from ineffective or harmful professional services. (*Dent v. West Virginia*, 129 U.S. 114, 122-23 (1889); *Hawker v. New York*, 170 U.S. 189, 191-95 (1898); *State ex rel. Kassabian v. State Bd. of Med. Exam’rs*, 68 Nev. 455, 463-65 (1951)) In exercising that power, the Legislature has enacted existing laws that regulate homeopathic physicians, advanced practitioners of homeopathy, homeopathic assistants and certain mental health professionals including psychiatrists, psychologists, licensed marriage and family therapists, certain registered nurses and certain licensed clinical or independent social workers. (Chapters 630, 630A, 632, 633 and 641-641B of NRS) ~~This~~
The purpose of this bill is to protect the well-being of children who are under 18 years of age by prohibiting such licensed health care professionals from providing children with conversion therapies, which are any practices or treatments that seek to change the sexual orientation or gender identity of the children. In section 1 of this bill, the Legislature finds and declares that there is a legitimate and compelling need to protect the well-being of children from the harmful and destructive effects of conversion therapies because such therapies have not been proven to be medically or clinically effective but have been shown to have a high potential to cause substantial harm to the physical and psychological well-being of children who are much more vulnerable to the potentially traumatic effects of such intensive conversion therapies.

To carry out the Legislature’s objectives, section 1.5 of this bill prohibits homeopathic physicians, advanced practitioners of homeopathy, homeopathic assistants and certain mental

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23 health professionals from providing sexual orientation or gender identity conversion ~~therapy~~
24 ~~to a person who is~~ therapies to children who are under 18 years of age. However, there is
25 nothing in this bill that regulates or prohibits licensed health care professionals from
26 engaging in expressive speech or religious counseling with such children if the licensed
27 health care professionals: (1) are acting in their pastoral or religious capacity as
28 members of the clergy or as religious counselors; and (2) do not hold themselves out as
29 operating pursuant to their professional licenses when so acting in their pastoral or
30 religious capacity.

31 This bill is modeled on similar laws enacted in California and New Jersey. (Cal. Bus.
32 & Prof. Code §§ 865 et seq.; N.J. Stat. Ann. §§ 45:1-54 et seq.) In interpreting those laws,
33 courts have determined that the laws do not regulate or prohibit licensed health care
34 professionals from engaging in expressive speech or religious counseling with children
35 who are under 18 years of age if the licensed health care professionals: (1) are acting in
36 their pastoral or religious capacity as members of the clergy or as religious counselors;
37 and (2) do not hold themselves out as operating pursuant to their professional licenses
38 when so acting in their pastoral or religious capacity. In addition, courts have also held
39 that the laws: (1) are a constitutional exercise of the legislative power to regulate licensed
40 health care professionals for the benefit of the public's health, safety and welfare and to
41 protect the well-being of children from ineffective or harmful professional services; (2)
42 do not violate any rights to freedom of speech, association or religion and are not
43 unconstitutionally overbroad or vague under the First and Fourteenth Amendments to
44 the United States Constitution; and (3) do not violate any other fundamental or
45 substantive due process rights of licensed health care professionals or the parents or
46 children who seek their professional services. (Pickup v. Brown, 740 F.3d 1208 (9th Cir.
47 2014), cert. denied, 134 S.Ct. 2871 and 2881 (2014); Welch v. Brown, 834 F.3d 1041 (9th
48 Cir. 2016), cert. denied, No. 16-845, --- S.Ct. --- (May 1, 2017); King v. Governor of New
49 Jersey, 767 F.3d 216 (3d Cir. 2014), cert. denied, 135 S.Ct. 2048 (2015); Doe v. Governor
50 of New Jersey, 783 F.3d 150 (3d Cir. 2015), cert. denied, 136 S.Ct. 1155 (2016)).

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1. 1. The Legislature hereby finds that;**

2 (a) For the past several decades, there has been a growing consensus
3 among medical and mental health professionals that conversion therapies,
4 which involve any practices or treatments that seek to change the sexual
5 orientation or gender identity of a patient, also known as reparative therapies
6 or sexual orientation change efforts;

7 (1) Have been based on developmental theories whose scientific
8 validity is questionable;

9 (2) Have relied on anecdotal reports of cures that have not been tested,
10 substantiated or verified by any rigorous scientific research or peer-reviewed
11 studies; and

12 (3) Have not been proven to be medically or clinically effective but
13 have been shown to have a high potential to cause substantial harm to the
14 physical and psychological well-being of the patient, especially children under
15 18 years of age because they are much more vulnerable to the potentially
16 traumatic effects of such intensive conversion therapies.

17 (b) A significant number of well-known and well-respected professional
18 and scientific organizations have publicly denounced or disavowed conversion
19 therapies because of the highly doubtful effectiveness and highly probable
20 harmfulness of such therapies. Such organizations include, without limitation,
21 the American Psychological Association, American Psychiatric Association,
22 American Psychoanalytic Association, American Counseling Association

1 Governing Council, American Medical Association Council on Scientific
2 Affairs, American Academy of Child and Adolescent Psychiatry, American
3 Academy of Pediatrics, American School Counselor Association, National
4 Association of Social Workers and Pan American Health Organization.

5 (c) Such organizations have determined that conversion therapies may be
6 particularly harmful or destructive to children because such therapies:

7 (1) Aggravate and intensify harmful or destructive feelings, including,
8 without limitation, confusion, depression, guilt, shame, stress, loneliness,
9 helplessness, hopelessness, pointlessness, disappointment, self-blame, self-
10 hatred, low self-esteem, marginalization, dehumanization, hostility, anger,
11 betrayal or loss of faith, belief, interest, concern or motivation; and

12 (2) Increase the risk of harmful or destructive behaviors, including,
13 without limitation, social withdrawal, isolation, substance abuse, suicide,
14 deception, high-risk sexual behaviors and unlawful behaviors.

15 2. The Legislature hereby declares that there is a legitimate and
16 compelling need to protect the well-being of children who are under 18 years
17 of age from the harmful and destructive effects of conversion therapies by
18 prohibiting certain licensed health care professionals from providing children
19 with conversion therapies because such therapies have not been proven to be
20 medically or clinically effective but have been shown to have a high potential
21 to cause substantial harm to the physical and psychological well-being of
22 children, who are much more vulnerable to the potentially traumatic effects of
23 such intensive conversion therapies.

24 *Sec. 1.5.* Chapter 629 of NRS is hereby amended by adding thereto a new
25 section to read as follows:

26 *1. A psychotherapist shall not provide any conversion therapy to a person*
27 *who is under 18 years of age regardless of the willingness of the person or his or*
28 *her parent or legal guardian to authorize such therapy.*

29 *2. Any violation of subsection 1 is a ground for disciplinary action by a state*
30 *board that licenses a psychotherapist as defined in subsection 3.*

31 *3. As used in this section:*

32 *(a) "Conversion therapy" means any practice or treatment that seeks to*
33 *change the sexual orientation or gender identity of a person, including, without*
34 *limitation, a practice or treatment that seeks to change behaviors or gender*
35 *expressions or to eliminate or reduce sexual or romantic attractions or feelings*
36 *toward persons of the same gender. The term does not include counseling that:*

37 *(1) Provides assistance to a person undergoing gender transition; or*

38 *(2) Provides acceptance, support and understanding of a person or*
39 *facilitates a person's ability to cope, social support and identity exploration and*
40 *development, including, without limitation, an intervention to prevent or address*
41 *unlawful conduct or unsafe sexual practices that is neutral as to the sexual-*
42 *orientation of the person receiving the intervention and does not seek to change*
43 *the sexual orientation or gender identity of the person receiving the intervention.*

44 *(b) "Psychotherapist" means:*

45 *(1) A psychiatrist licensed to practice medicine in this State pursuant to*
46 *chapter 630;*

47 *(2) A homeopathic physician, advanced practitioner of homeopathy or*
48 *homeopathic assistant licensed or certified pursuant to chapter 630A or NRS;*

49 *(3) A psychiatrist licensed to practice medicine in this State pursuant to*
50 *chapter 633;*

51 *(4) A psychologist licensed to practice in this State pursuant to chapter*
52 *641 of NRS;*

1 (5) *A social worker licensed in this State as an independent social worker*
2 *or a clinical social worker pursuant to chapter 641B of NRS;*

3 (6) *A registered nurse holding a master's degree in the field of*
4 *psychiatric nursing and licensed to practice professional nursing in this State*
5 *pursuant to chapter 632 of NRS;*

6 (7) *A marriage and family therapist or clinical professional counselor*
7 *licensed in this State pursuant to chapter 641A of NRS; or*

8 (8) *A person who provides counseling services as part of his or her*
9 *training for any of the professions listed in subparagraphs (1) to (7), inclusive.*

10 **Sec. 2.** This act becomes effective:

11 1. Upon passage and approval for the purpose of adopting any regulations and
12 performing any other preparatory administrative tasks necessary to carry out the
13 provisions of this act; and

14 2. On January 1, 2018, for all other purposes.