

Amendment No. 644

Assembly Amendment to Senate Bill No. 201 Second Reprint	(BDR 54-301)
Proposed by: Assemblyman Hansen	
Amends: Summary: No Title: Yes 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 certain types of sexual orientation or gender identity conversion ~~therapy~~ therapies to a minor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

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)

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 aversive conversion therapies, which are any practices or treatments that seek to change the sexual orientation or gender identity of the children ~~+~~ and which involve application of any type of behavioral conditioning or modification in which noxious or painful stimuli, confinement, isolation or deprivation are used, in whole or in part, for the purpose of changing, eliminating or reducing behaviors or gender expressions. 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 aversive 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

22 psychological well-being of children who are much more vulnerable to the potentially
23 traumatic effects of such ~~intensive~~ aversive conversion therapies.

24 To carry out the Legislature's objectives, **section 1.5** of this bill prohibits homeopathic
25 physicians, advanced practitioners of homeopathy, homeopathic assistants and certain mental
26 health professionals from providing ~~sexual orientation or gender identity~~ aversive
27 conversion therapies to children who are under 18 years of age. However, ~~there is nothing in~~
28 ~~this bill that regulates or prohibits licensed health care professionals from engaging in~~
29 ~~expressive speech or religious counseling with such children if the licensed health care~~
30 ~~professionals: (1) are acting in their pastoral or religious capacity as members of the clergy or~~
31 ~~as religious counselors; and (2) do not hold themselves out as operating pursuant to their~~
32 ~~professional licenses when so acting in their pastoral or religious capacity.~~

33 ~~— This bill is modeled on similar laws enacted in California and New Jersey. (Cal. Bus. &~~
34 ~~Prof. Code §§ 965 et seq.; N.J. Stat. Ann. §§ 45-1.54 et seq.) In interpreting those laws, courts~~
35 ~~have determined that the laws do not regulate or prohibit licensed health care professionals~~
36 ~~from engaging in expressive speech or religious counseling with children who are under 18~~
37 ~~years of age if the licensed health care professionals: (1) are acting in their pastoral or~~
38 ~~religious capacity as members of the clergy or as religious counselors; and (2) do not hold~~
39 ~~themselves out as operating pursuant to their professional licenses when so acting in their~~
40 ~~pastoral or religious capacity. In addition, courts have also held that the laws: (1) are a~~
41 ~~constitutional exercise of the legislative power to regulate licensed health care professionals~~
42 ~~for the benefit of the public's health, safety and welfare and to protect the well being of~~
43 ~~children from ineffective or harmful professional services; (2) do not violate any rights to~~
44 ~~freedom of speech, association or religion and are not unconstitutionally overbroad or vague~~
45 ~~under the First and Fourteenth Amendments to the United States Constitution; and (3) do not~~
46 ~~violate any other fundamental or substantive due process rights of licensed health care~~
47 ~~professionals or the parents or children who seek their professional services. (Pickup v.~~
48 ~~Brown, 740 F.2d 1208 (9th Cir. 2014), cert. denied, 134 S.Ct. 2871 and 2881 (2014); Welch~~
49 ~~v. Brown, 834 F.2d 1041 (9th Cir. 2016), cert. denied, No. 16-845, ___ S.Ct. ___ (May 1, 2017);~~
50 ~~King v. Governor of New Jersey, 767 F.2d 216 (3d Cir. 2014), cert. denied, 135 S.Ct. 2048~~
51 ~~(2015); Doe v. Governor of New Jersey, 783 F.2d 150 (3d Cir. 2015), cert. denied, 136 S.Ct.~~
52 ~~1155 (2016)). this bill does not apply to any non-aversive conversion therapies, including~~
53 ~~any counseling that provides spiritual or other support and guidance to such children~~
54 ~~and uses speech alone to assist the children in discussing or achieving the desired sexual~~
55 ~~orientation or gender identity.~~

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 among
3 medical and mental health professionals that aversive conversion therapies, which
4 involve any practices or treatments that seek to change the sexual orientation or
5 gender identity of a patient, also known as reparative therapies or sexual orientation
6 change efforts,†

7 ~~— (1) Have been based on developmental theories whose scientific validity is~~
8 ~~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 have~~
13 ~~been shown to) , and which involve application to the patient of any type of~~
14 behavioral conditioning or modification in which noxious or painful stimuli,
15 confinement, isolation or deprivation are used, in whole or in part, for the
16 purpose of changing, eliminating or reducing behaviors or gender expressions,
17 have a high potential to cause substantial harm to the physical and psychological

1 well-being of the patient, especially children under 18 years of age because they are
2 much more vulnerable to the potentially traumatic effects of such ~~intensive~~
3 aversive conversion therapies.

4 (b) A significant number of well-known and well-respected professional and
5 scientific organizations have publicly denounced or disavowed aversive conversion
6 therapies because of the ~~highly doubtful effectiveness and~~ highly probable
7 harmfulness of such therapies. Such organizations include, without limitation, the
8 American Psychological Association, American Psychiatric Association, American
9 Psychoanalytic Association, American Counseling Association Governing Council,
10 American Medical Association Council on Scientific Affairs, American Academy
11 of Child and Adolescent Psychiatry, American Academy of Pediatrics, American
12 School Counselor Association, National Association of Social Workers and Pan
13 American Health Organization.

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

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

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

24 2. The Legislature hereby declares that there is a legitimate and compelling
25 need to protect the well-being of children who are under 18 years of age from the
26 harmful and destructive effects of aversive conversion therapies by prohibiting
27 certain licensed health care professionals from providing children with aversive
28 conversion therapies because such therapies ~~have not been proven to be medically~~
29 ~~or clinically effective but have been shown to~~ have a high potential to cause
30 substantial harm to the physical and psychological well-being of children, who are
31 much more vulnerable to the potentially traumatic effects of such ~~intensive~~
32 aversive conversion therapies.

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

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

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

40 3. *As used in this section:*

41 (a) ~~“Conversion”~~ *“Aversive conversion therapy” means any practice or*
42 *treatment that ~~seeks~~:*

43 (1) *Seeks to change the sexual orientation or gender identity of a person,*
44 *including, without limitation, a practice or treatment that seeks to change*
45 *behaviors or gender expressions or to eliminate or reduce sexual or romantic*
46 *attractions or feelings toward persons of the same gender ~~it~~; and*

47 (2) *Involves application to the person of any type of behavioral*
48 *conditioning or modification in which noxious or painful stimuli, confinement,*
49 *isolation or deprivation are used, in whole or in part, for the purpose of*
50 *changing, eliminating or reducing behaviors or gender expressions, including,*
51 *without limitation:*

52 (i) *Inducing nausea, vomiting or paralysis, administering electric*
53 *shocks, targeting parts of the body with any snaps, slaps, pinches, hits, intrusions*

1 or other noxious or painful stimuli or using any noxious or painful light, images,
2 video, audio, noise, sounds, odors, smells or other stimuli;

3 (II) Confining or isolating the person in any small space, darkened
4 area, locked room or other confining or isolating situation; or

5 (III) Depriving the person of food, water, sleep, medicine or other
6 essentials.

7 (b) The term “aversive conversion therapy” does not include any non-
8 aversive conversion therapy, including, without limitation, counseling that:

9 (1) Provides spiritual or other support and guidance to a person which
10 uses speech alone to assist the person in discussing or achieving the desired
11 sexual orientation or gender identity;

12 (2) Provides assistance to a person undergoing gender transition; or

13 ~~+(b)~~ (3) Provides acceptance, support and understanding of a person or
14 facilitates a person’s ability to cope, social support and identity exploration and
15 development, including, without limitation, an intervention to prevent or address
16 unlawful conduct or unsafe sexual practices that is neutral as to the sexual-
17 orientation of the person receiving the intervention and does not seek to change
18 the sexual orientation or gender identity of the person receiving the intervention.

19 ~~+(b)~~ (c) “Psychotherapist” means:

20 (1) A psychiatrist licensed to practice medicine in this State pursuant to
21 chapter 630;

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

24 (3) A psychiatrist licensed to practice medicine in this State pursuant to
25 chapter 633;

26 (4) A psychologist licensed to practice in this State pursuant to chapter
27 641 of NRS;

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

30 (6) A registered nurse holding a master’s degree in the field of
31 psychiatric nursing and licensed to practice professional nursing in this State
32 pursuant to chapter 632 of NRS;

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

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

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

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

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