

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4435

BY DELEGATES LANE, WESTFALL, HIGGINBOTHAM,
STORCH, BLAIR, HORNBuckle, BYRD, FLEISCHAUER AND
PUSHKIN

[Introduced February 5, 2018; Referred
to the Committee on Health and Human resources
then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §47-12-1, §47-12-2, §47-12-3, §47-12-4, §47-12-5, and §47-12-6, all relating
 3 to the Youth Mental Health Protection Act; providing for legislative findings; setting out a
 4 purpose; defining terms; providing for a prohibition on conversion therapy; setting forth a
 5 prohibition for referral services for conversion therapy; and providing for discipline of
 6 providers for a violation.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. YOUTH MENTAL HEALTH PROTECTION ACT.

§47-12-1. Legislative findings.

1 The Legislature finds and declares the following:

2 (1) Being lesbian, gay, bisexual, or transgender is not a disease, disorder, illness,
 3 deficiency, or shortcoming. The major professional associations of mental health practitioners
 4 and researchers in the United States have recognized this fact for nearly 40 years.

5 (2) Conversion therapy has been condemned by every major medical and mental health
 6 organization, including the American Psychiatric Association, American Psychological
 7 Association, American Medical Association, American Academy of Pediatrics, American
 8 Counseling Association, and American Academy of Child and Adolescent Psychiatry.

9 (3) Research clearly shows that conversion therapy poses devastating health risks for
 10 lesbian, gay, bisexual, and transgender young people including depression, decreased self-
 11 esteem, substance abuse, homelessness, and suicidality.

12 (4) West Virginia has a compelling interest in protecting the physical and psychological
 13 well-being of minors, including lesbian, gay, bisexual, and transgender youth and in protecting its
 14 minors against exposure to serious harms caused by conversion therapy.

§47-12-2. Purpose.

1 The purpose of this article is to protect lesbian, gay, bisexual, and transgender youth from
 2 conversion therapy, also known as sexual orientation change efforts or reparative therapy.

§47-12-3. Definitions.

1 For the purposes of this article:

2 “Mental health provider” means a clinical psychologist licensed under §30-21-1 et seq. of
3 this code; a school psychologist licensed under §30-21-1 et seq. of this code; a psychiatrist
4 licensed under §30-3-1 et seq. of this code; a clinical social worker or social worker licensed under
5 §30-30-1 et seq. of this code; a marriage and family therapist or associate marriage and family
6 therapist licensed under §30-31-1 et seq. of this code; a professional counselor or clinical
7 professional counselor licensed under §30-31-1 et seq. of this code; or any students, interns,
8 volunteers, or other persons assisting or acting under the direction or guidance of any of these
9 licensed professionals.

10 “Conversion therapy” means any practices or treatments that seek to change an
11 individual’s sexual orientation or gender identity, including efforts to change behaviors or gender
12 expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals
13 of the same gender. Conversion therapy shall not include counseling that provides assistance to
14 a person undergoing gender transition, or counseling that provides acceptance, support, and
15 understanding of a person or facilitates a person’s coping, social support, and identity exploration
16 and development, including sexual-orientation-neutral interventions to prevent or address
17 unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change
18 an individual’s sexual orientation or gender identity.

§47-12-4. Prohibition on conversion therapy.

1 A mental health provider shall not engage in conversion therapy with a person under the
2 age of 18.

§47-12-5. Referral services related to conversion therapy.

1 A mental health provider may not refer any current or former client or patient to any
2 individual, within this state or within any other state, for the purpose of engaging in conversion
3 therapy. This prohibition includes referrals to any individual practicing or engaging in conversion

4 therapy in person or by telephone, electronic communication, or any other form of direct or indirect
5 communication with a client or patient.

§47-12-6. Discipline.

1 Conversion therapy on a person under the age of 18 by a mental health provider or any
2 referral made by a mental health provider to a third party practicing conversion therapy constitutes
3 unprofessional conduct. Mental health providers found to have engaged in conversion therapy
4 or found to have referred a current or former client or patient under the age of 18 to an individual
5 for the purpose of engaging in conversion therapy shall be subject to discipline by the licensing
6 entity or disciplinary review board with competent jurisdiction.

NOTE: The purpose of this bill is to protect lesbian, gay, bisexual, and transgender youth from conversion therapy, also known as sexual orientation change efforts or reparative therapy; to make legislative findings; to set forth a purpose; to define terms; to set forth a prohibition for referral services for conversion therapy; and to provide discipline for providers who violate these prohibitions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.