

## Does the “Mental Health Protection Act” (SB 30) Really Protect Mental Health?

### What will the “Mental Health Protection Act” do?

- The Mental Health Protection Act would make it illegal for mental health workers and licensed professional counselors, **including licensed pastoral counselors**, to assist clients in reducing or overcoming their unwanted same-sex attractions or gender dysphoria.<sup>i</sup>
- The proposed law would force licensed mental health professionals to only “provide acceptance, support, and understanding of a person” undergoing “gender transition” or experiencing same-sex attraction.<sup>ii</sup>
- This ban includes counseling both children *and* adults.<sup>iii</sup>
- If this Act is violated, the violation “shall be considered unprofessional conduct and deceptive practice,” and the mental health professional will be subject to “discipline by the appropriate professional certification or licensing board.”<sup>iv</sup>
- **Tax dollars** will be used to “develop and produce educational materials” to **affirm** same-sex attraction and gender dysphoria. These materials will also be used to intimidate mental health professionals, as they will include possible professional disciplines if the Act is violated.<sup>v</sup>

### What’s Wrong with this Act?<sup>vi</sup>

- This viewpoint discrimination and censorship violates the First Amendment and is therefore **unconstitutional**.<sup>vii</sup>
- This bill does not target harmful practices, it codifies progressive sexual ethics as the only viewpoint allowed by law.
  - “Conversion therapy” is a straw man, it isn’t mainstream and is not representative of the appropriate counselling. There are existing laws governing appropriate medical behavior.
  - This bill does not ban any particular harmful counseling *techniques*, rather it bans *any* counseling (including talk therapy) for the purpose of being comfortable with one’s body or overcoming unwanted same-sex attractions.
  - This bill demands that every mental health worker affirm their patient’s “gender transition” or same-sex desire as the *only* goal, even when that may not be the patient’s desire or the best outcome.
  - The government is taking explicit sides in what sorts of speech a therapist can engage in during talk therapy, and thus what sort of assistance a family can seek. A family can seek help from a counselor to help facilitate their child’s “transition,” but cannot help them move away from unwanted LGBT identities.<sup>viii</sup>
  - A child or adult may seek counsel to accept their body for an eating disorder but not for gender dysphoria.
- It violates the inalienable right of religious liberty.
  - Christians, and those of other faiths, hold to traditional views of marriage, sexuality, and biological sex. The state should not, and cannot constitutionally, ban these views.

Bob Scott  
Director of Church  
Outreach

Ben Taylor  
Director of Content and  
Engagement

Alex Richey  
Executive Assistant

- The state should not ban a “service” that supports these constitutionally protected views from serving willing patients.
- Not only does the First Amendment protect religious liberty, but so does the Kentucky Religious Freedom Restoration Act. This Act says that the “government shall not substantially burden a person’s freedom of religion.” If there is another way to carry out a compelling government interest, it must be done in the “least restrictive means to further that interest.”<sup>ix</sup>
- The Supreme Court Case NIFLA v. Becerra (2020) concluded that speech “is not unprotected merely because it is uttered by professionals.”<sup>x</sup> Upholding the free speech of professionals. A federal magistrate judge blocked Tampa Bay’s “conversion therapy” ban because it violates free speech, based on the NIFLA decision.
- There is no credible evidence to support the implementation of an outright ban on sexual orientation change efforts.
  - “80%-95% of children who experience gender dysphoria but do not transition socially will see their distress resolve on its own over time.”<sup>xi</sup>
    - We should allow people to seek help with their dysphoria, instead of encouraging them to mutilate their bodies or to undergo underaged, untested hormone therapy.
    - Social transitioning consists of a new wardrobe, name, and forcing society to participate in a fiction. Medical transition has consisted of puberty blockers beginning at age 9, cross-sex hormones at 14, and sex-reassignment surgery at 18.<sup>xii</sup>

## Many regret sex transition.

- There have been numerous children and adults who have “detransitioned.” One young woman, who detransitioned, reported that she was authorized by her therapist to receive testosterone injections after only five total hours of counseling. The doctor who prescribed the hormones did not even look at the therapist’s authorization.<sup>xiii</sup>
  - One large six-year study found that “over 80 percent of same-sex-behaved adolescents became exclusively heterosexually oriented after six years.”<sup>xiv</sup>
  - Another eight-year study found that females, between the ages of fourteen and twenty-two, found “fluidity in sexual identity to be highly prevalent. No less than 63 percent of the total participants reported at least one change in their sexual orientation over the eight years; in the ‘lesbian’ class, the girls averaged three orientation changes.”

BR 99 violates the First Amendment of the US Constitution by violating free speech and religious liberty, and there is credible evidence that gender dysphoria and same-sex attraction can be resolved with time and counselling. This bill is dangerous, and when you begin telling a mental health professional what they can or can’t discuss with their client in a session it becomes a slippery slope.

<sup>i</sup> BR 99, 1.1.c.

<sup>ii</sup> Ibid.

<sup>iii</sup> Ibid., 1.2.

<sup>iv</sup> Ibid., 1.3.

<sup>v</sup> Ibid., 2.2.a.

<sup>vi</sup> “Save Women’s Sports Act,” SB 114 (2020).

<sup>vii</sup> <https://www.heritage.org/gender/commentary/protect-good-medicine-stop-the-censorship-good-counseling>

<sup>viii</sup> Ibid.

<sup>ix</sup> <http://www.lrc.ky.gov/record/13rs/hb279.htm>

<sup>x</sup> <https://www.washingtonpost.com/religion/2019/02/02/judge-says-tampa-conversion-therapy-ban-violates-first-amendment-free-speech-rights/>

<sup>xi</sup> <https://www.heritage.org/gender/commentary/how-conversion-therapy-bans-hurt-kids>

<sup>xii</sup> Ibid.

<sup>xiii</sup> Ibid.

<sup>xiv</sup> <https://www.thepublicdiscourse.com/2020/03/60895/>