



Legislation Text

File #: Ord 20-15, **Version:** 1

Creating Chapter 190 of the Saint Paul Legislative Code entitled "Prohibition of Conversion Therapy Directed to Minors."

SECTION 1

WHEREAS, research, studies, and other available evidence show that conversion therapy or other practices that attempt to change a person's sexual orientation or gender identity pose a significant risk of serious emotional and physical harm to those who undergo them such as anxiety, depression, hopelessness, social withdrawal, illegal drug use, and suicidality; and

WHEREAS, the consensus among medical and mental health professional organizations is that attempts to change a person's sexual orientation or gender identity lack any scientific basis and are in fact ineffective; and

WHEREAS, organizations who have made such policy statements or similar ones include: the American Psychological Association, American Psychiatric Association, the American Academy of Pediatrics, American School Counselor Association, American Counseling Association, American Psychoanalytic Association, American Academy of Child and Adolescent Psychiatry, the American College of Physicians, American Medical Association, the Pan American Health Organization, a regional office of the World Health Organization, the American Association for Marriage and Family Therapy, the American Bar Association, American School Counselor Association, American School Health Association, the National Association of Social Workers, American Association of School Administrators, American Federation of Teachers, American Psychological Association, American School Health Association, Interfaith Alliance Foundation, National Association of School Psychologists, National Association of Secondary School Principals, National Education Association, School Social Work Association of America; and

WHEREAS, the City has a compelling interest in protecting the physical and psychological well-being of LGBTQ minors by protecting them from conversion therapy in the city and limiting the risk of harms caused by exposure to conversion therapy; now, therefore be it

RESOLVED, that the Council finds that medical, mental health, and child welfare experts have denounced conversion therapy or reparative therapy as ineffective, unreliable and unsafe for the people, including LGBTQ minors, who undergo such treatment; and be it

FURTHER RESOLVED, that the Council finds that conversion therapies or reparative therapies are based on the discredited premise that being LGBTQ is a mental disorder that can be cured or corrected; and be it

FURTHER RESOLVED, that the Council finds that LGBTQ people must be free from ineffective and fraudulent conversion efforts that cause harm to mental health and wellbeing; and be it

FURTHER RESOLVED, that due to the serious and dangerous harms caused to minors subjected to conversion therapy or reparative therapy, the city council finds and declares that a compelling interest exists in protecting the health and psychological well-being of minors by protecting them, including LGBTQ minors, from conversion therapy in the city and by limiting the risk of serious harm to LGBTQ minors caused by the exposure to conversion therapy; and be it

FURTHER RESOLVED, that the Council wishes to exercise its police power to protect the public safety, health, and welfare of LGBTQ minors, and no other means of protecting minors from the harms associated with conversion therapy would be effective; and be it

FINALLY RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

SECTION 2

Chapter 190 of the Saint Paul Legislative Code is hereby created as follows:

PROHIBITION OF CONVERSION THERAPY

Sec. 190.01 Definitions.

The following words and terms when used in this chapter have the following meanings:

- (a) *Conversion therapy or reparative therapy* means any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include counseling that provides support and assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change sexual orientation or gender identity.
- (b) *Department* means the Department of Human Rights and Equal Economic Opportunity.
- (c) *Director* means the Director of the Department or the Director's designee.
- (d) *Enforcement officials* means the Director or the Director's designees who are authorized to investigate complaints for violation of this chapter.
- (e) *Gender expression* means a person's expression of gender identity through appearance and behavior,

including how an individual believes that they are perceived by others.

- (f) *Gender identity* means the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.
- (g) *Licensing Authority* means the entity responsible for professional licensing of a provider.
- (h) *Minor* means any person under 18 years of age.
- (i) *Provider* means any licensed medical or mental health professional including but not limited to licensed mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, and social worker associates, and any physicians, psychologists, psychotherapist, certified chemical dependency professionals, certified chemical dependency professional trainees, counselors, certified counselors, and certified advisers. A provider does not include members of the clergy who are acting in their roles as clergy or pastoral counselors and providing religious counseling to congregants.
- (j) *Responsible party* means a Provider identified in a complaint for violation of this chapter.
- (k) *Sexual Orientation* means a homosexuality, heterosexuality, or bisexuality.

Sec. 190.02 Prohibited practices.

It is unlawful for any Provider to provide conversion therapy or reparative therapy to a minor.

Sec. 190.03 - Powers and duties.

The powers and duties of the Department are to:

- (a) Perform all tasks and responsibilities necessary and proper to enforce and carry out the provisions and purposes of this chapter.
- (b) Receive, investigate, and make determinations on complaints of violations of this chapter.
- (c) Prescribe and furnish all forms in conformity with the purposes of this chapter and containing the information required by the provisions this chapter.
- (d) Adopt and enforce such rules as it deems necessary and proper for the administration and enforcement of this chapter.
- (e) Complaints. Complaints of violations may be filed with, and on forms prescribed by, the Director containing the following information and any additional information the director may prescribe by rule:
 - (1) The name and address of the Provider responsible for the violation; the date and approximate time of the violation;
 - (2) The address or location where the violation occurred;
 - (3) A statement setting forth the facts supporting the charge of violation;
 - (4) The name and address of the person reporting the violation; and
 - (5) A declaration that the information on the complaint of violation is accurate and truthful.
 - (6) An acknowledgement that the complaint and any or all information related to the complaint may be used to enforce this chapter and may be reported an appropriate licensing authority.

- (f) Incomplete complaints. The Director will review each complaint for completeness. If the Director deems any complaint filed under this section to be incomplete, the Director will notify the complaining party by mail, telephone, or email with respect to any deficiencies found. If the deficiencies are not corrected within the time frame reasonably established by the Director, the Director will dismiss the complaint and not send any notice to the respondent Provider.
- (g) Notice of investigation. Prior to any final determination, the director must serve upon the provider via U.S. mail a notice of investigation setting forth the allegations and pertinent facts. The notice of investigation will be accompanied by the following notification:
 - (1) That the Provider may provide a written statement and any documents or other evidence about the complaint; and
 - (2) That if the Provider chooses not to respond, the director will make a determination about whether this Chapter has been violated without the Provider's input.

Sec. 190.04 Enforcement

Following an investigation of an alleged violation of this chapter, the director may, as the director deems appropriate:

- (a) Determine that this chapter has not been violated and provide notification of such to the complainant and the Provider.
- (b) Issue a warning letter notifying the Provider that the provision of conversion therapy or reparative therapy is prohibited and immediate compliance is required.
- (c) Issue a notice of violation of this chapter and an administrative citation for violation of this chapter. The notice of violation must set forth the basis for the director's belief that this chapter has been violated and the penalty to be imposed, and a notification that the provider is entitled to a hearing to challenge the director's determination.
 - (1) The penalty for the first violation of this chapter will be five hundred dollars (\$500.00), and for a second and subsequent violation of this chapter the penalty will be one thousand dollars (\$1,000.00).
 - (2) If the provider requests a hearing within thirty (30) days of the notice of violation, a hearing will be held before a hearing examiner.
- (d) Report the violation and details surrounding the violation to the appropriate licensing board or authority.

Sec. 190.05 Hearing

- (a) A hearing for violation of this chapter will be held before a neutral hearing examiner. The hearing examiner will hear all evidence as may be presented on behalf of the city and the provider and will keep a record of the same. Following the hearing, the hearing examiner will determine whether the city has proved by a preponderance of the evidence that the provider has violated this chapter and, if appropriate, the amount of the penalty to be imposed.
- (b) The provider may appeal the determination of the hearing officer to the City Council.

190.06 Severability.

If any part, term, or provision of this chapter is held by a court of competent jurisdiction to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this chapter, which

remaining portions shall continue in full force and effect.

SECTION 3

This Ordinance shall take force and be in effect thirty (30) days following passage, approval, and publication.