

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2019

COUNCIL BILL NO. CB18-1508
COMMITTEE OF REFERENCE:
Safety, Housing Education & Homelessness

A BILL

For an ordinance adopting a new Article IX of Chapter 28 of the Revised Municipal Code concerning “Prohibition of Conversion Therapy.”

WHEREAS, being lesbian, gay, bisexual, transgender, or queer (LGBTQ) is not a disease, disorder, illness, deficiency, or shortcoming; and

WHEREAS, there is a long and severe history of discrimination against LGBTQ people in this country, state, and city under which LGBTQ people have been subjected to violence and threats of violence, denied services at businesses, prevented from obtaining housing, forced from their homes, fired from their jobs, and denied job opportunities; and

WHEREAS, portrayals of LGBTQ adults and youth as mentally ill, abnormal, or disordered due to their sexual orientation or gender identity are untrue and dehumanizing; and

WHEREAS, it is now generally accepted in the medical and mental health professions, and elsewhere, that LGBTQ status is not abnormal or disordered but instead a normal and positive variation of humanity; and

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

1 of Secondary School Principals, National Education Association, School Social Work Association
2 of America; and

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

7 **WHEREAS**, LGBTQ youth in particular experience the harmful effects of stigma and
8 discrimination when they are forced or coerced into undergoing “conversion,” “reparative,” or
9 “reorientation” therapy because as minors they cannot effectively refuse or prevent conversion
10 therapy wanted by parents or other authorities; and

11 **WHEREAS**, the city has a compelling interest in protecting the physical and psychological
12 well-being of LGBTQ minors by protecting them from conversion therapy in the city and limiting the
13 risk of harms caused by exposure to conversion therapy;

14 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

15 **Section 1.** A new article IX of Chapter 28 of the Denver Revised Municipal Code is hereby
16 adopted to read as follows:

17 **ARTICLE IX. - PROHIBITION OF CONVERSION THERAPY**

18 **Sec. 28-254. - Findings.**

19 Medical, mental health, and child welfare experts have denounced conversion therapy or
20 reparative therapy as ineffective, unreliable and unsafe for the people, including LGBTQ minors, who
21 undergo such treatment. Conversion therapies or reparative therapies are based on the discredited
22 premise that being LGBTQ is a mental disorder that can be cured or corrected. LGBTQ people must
23 be free from ineffective and fraudulent conversion treatments that cause harm to mental health and
24 wellbeing. Based on the foregoing, and due to the serious and dangerous harms caused to minors
25 subjected to conversion therapy or reparative therapy, the city council finds and declares that a
26 compelling interest exists in protecting the health and psychological well-being of minors by
27 protecting them, including LGBTQ minors, from conversion therapy in the city and by limiting the risk
28 of serious harm to LGBTQ minors caused by the exposure to conversion therapy.

29

1 **Sec. 28-255. - Purpose.**

2 This article is an exercise of police power of the city for the public safety, health, and welfare;
3 and its provisions shall be liberally construed to accomplish that purpose. The purpose of this article
4 is to protect the health and well-being LGBTQ minors from being exposed to the serious harms
5 caused by conversion therapy and to provide a method of enforcement exclusively through
6 administrative citations for non-criminal violations.

7 **Sec. 28-256. - Definitions.**

8 The following words and terms when used in this article shall have the following meanings:

- 9 (a) *Agency* means the agency for human rights and community partnerships.
- 10 (b) *Director* means the agency's duly appointed executive director or the director's
11 designee.
- 12 (c) *Conversion therapy or reparative therapy* means any practice or treatment that seeks
13 to change an individual's sexual orientation or gender identity, including efforts to
14 change behaviors or gender expressions or to eliminate or reduce sexual or romantic
15 attractions or feelings toward individuals of the same gender. Conversion therapy shall
16 not include counseling that provides support and assistance to a person undergoing
17 gender transition, or counseling that provides acceptance, support, and understanding
18 of a person or facilitates a person's coping, social support, and development, including
19 sexual orientation-neutral interventions to prevent or address unlawful conduct or
20 unsafe sexual practices, as long as such counseling does not seek to change sexual
21 orientation or gender identity.
- 22 (d) *Sexual Orientation* means a component of identity that includes a person's sexual and
23 emotional attraction to another person and the behavior and/or social affiliation that
24 may result from this attraction. A person may be attracted to men, women, both,
25 neither, or to people who are genderqueer, androgynous, or have other gender
26 identities. Individuals may identify as lesbian, gay, heterosexual, bisexual, queer,
27 pansexual, or asexual, among others.
- 28 (e) *Gender identity* means a person's sense of oneself as a man, woman, or something
29 else. When a person's gender identity or gender expression and sex assigned at birth
30 are not congruent, the individual may identify along the transgender spectrum.

(f) *Gender expression* means a person's expression of gender identity through appearance and behavior including how an individual believes that he or she is perceived by others.

(g) *Minor* means any person under 18 years of age.

(h) *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.

Sec. 28-256. - Prohibited practices.

(a) It shall be unlawful for any provider to provide conversion therapy or reparative therapy to a minor, regardless of whether the provider receives compensation in exchange for such services.

(b) Any violation of subsection (a) of this section is hereby declared to be a non-criminal violation, and upon an admission or finding or judgment of guilt or liability by default or otherwise, the violator shall be subject to the following maximum penalties:

(1) First violation: One hundred fifty dollars (\$150.00).

(2) Second violation: Five hundred dollars (\$500.00).

(3) Third and each subsequent violation: Nine hundred ninety-nine dollars (\$999.00).

Sec. 28-257. - Powers and duties.

The powers and duties of the agency are to:

(a) Perform all tasks and responsibilities necessary and proper to enforce and carry out the provisions and purposes of this article.

(b) Receive, investigate, and make determinations on complaints of violations of this article.

(c) Prescribe and furnish all forms in conformity with the purposes of this article and containing the information required by the provisions this article.

- (d) Adopt and enforce such rules and regulations as it deems necessary and proper for the administration and enforcement of this article.

Sec. 28-258. - Enforcement; Administrative Citations.

- (a) 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 rules and regulations:

- (1) the name and address of the provider responsible for the violation;
- (2) the date and approximate time of the violation;
- (3) the address or location where the violation was observed;
- (4) a statement setting forth the facts supporting the charge of violation;
- (5) the name and address of the person reporting the violation, as well as the name and address of the involved minor; and
- (6) a declaration that the information on the complaint of violation is accurate and truthful made under penalty of perjury under the laws of the State of Colorado.

- (b) *Incomplete complaints.* The director shall review each complaint for completeness. If the director deems any complaint filed under this section to be incomplete, the director shall accept such complaint on a conditional basis and shall 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.

- (c) *Investigation and notices:* If the director deems a complaint to be complete, the director shall investigate the violations alleged and issue an:

- (1) *Advisory letter.* After the director has completed the investigation, the director may, as the director deems appropriate, issue an advisory letter notifying the provider that provision of conversion therapy and reparative therapy is prohibited and immediate compliance is required, and explaining the applicable enforcement procedures and monetary penalties under this article for violations; or
- (2) *Administrative citation.* If the director determines the provider has violated section 28-256, the director may issue an administrative citation in accordance

1 with article XII of chapter 2 of this code and any implementing rules and
2 regulations adopted by the agency.

3 (d) *Response to administrative citation.* A provider must respond to the notice of violation
4 by:

5 (1) Paying the amount of the monetary penalty specified in the notice of violation,
6 in which case the record shall show a finding that the person cited committed
7 the violation; or

8 (2) Appealing the citation and seeking an administrative hearing in accordance with
9 section 2-286 of article XII of chapter 2. Notwithstanding anything to the
10 contrary in article XII of chapter 2, the issues to be decided at the hearing shall
11 be limited to those that are raised in writing in the response to the citation and
12 that are within the jurisdiction of the administrative hearing officer appointed by
13 the director to hear the appeal.

14 (e) *Definitions.*

15 (1) Enforcement *officials*. The director is the “enforcement official” who may issue
16 an administrative citation in accordance with this article, article XII of chapter 2
17 of this Code, and any implementing regulations.

18 (2) Responsible *party*. A provider identified in an administrative citation is a
19 “responsible party” subject to enforcement and administrative penalties under
20 this article, article XII of chapter 2 of this Code, and any implementing
21 regulations.

22 **Sec. 28-259. - Confidentiality; Records.**

23 Except in accordance with judicial order or as otherwise provided by law, the director, and
24 those working under the supervision, shall not divulge the name, address, or other identifying
25 information of the person reporting the violation or the involved minor. Notwithstanding anything to
26 the contrary, any authorized agent of the city, including the city auditor or the auditor’s
27 representative, has the right to access and the right to examine any pertinent records collected under
28 this program. Complaints, completed forms, responses, and other documentation furnished to or
29 prepared by the agency shall be preserved until final disposition of the charge.

30 **Sec. 28-260. – Severability.**

1 If any part, term, or provision of this article is held by a court of competent jurisdiction to be
2 illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or
3 provisions shall not be affected, and the rights, obligations and enforcement of this article shall be
4 continued in full force and effect as if the article did not contain the particular part, term, or provision
5 held to be invalid.

6 **REMAINDER OF PAGE INTENTIONALLY BLANK**

1 COMMITTEE APPROVAL DATE: December 19, 2018
2 MAYOR-COUNCIL DATE: _____, 2018
3 PASSED BY THE COUNCIL: _____
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;
10 PREPARED BY: Victoria J. Ortega, Assistant City Attorney DATE: _____, 2018
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
14 § 3.2.6 of the Charter.
15
16 Kristin M. Bronson, Denver City Attorney
17
18 BY: _____, Assistant City Attorney DATE: _____
19