



Legislation Text

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE related to human rights; and adding a new Chapter 14.21 to the Seattle Municipal Code to prohibit the practice of conversion therapy on minors.

WHEREAS, being lesbian, gay, bisexual, transgender, gender nonconforming, or queer (LGBTQ) is not a disease, disorder, illness, deficiency, or shortcoming. The major professional associations of mental health practitioners and researchers in the United States have recognized this fact for nearly 40 years;

WHEREAS, the American Psychological Association convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation. The task force conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts, and issued a report in 2009. The task force concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem and authenticity to others, increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal, loss of friends and potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources;

WHEREAS, the American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009, which states that it “advises parents, guardians, young people, and their families to avoid sexual orientation change efforts that portray

homosexuality as a mental illness or developmental disorder and to seek psychotherapy, social support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth”;

WHEREAS, the American Academy of Pediatrics in 1993 published an article in its journal, Pediatrics, stating:

“Therapy directed at specifically changing sexual orientation is contraindicated, since it can provoke guilt and anxiety while having little or no potential for achieving changes in orientation”;

WHEREAS, the American School Counselor Association issued a position statement in 2014 which states that:

“It is not the role of the professional school counselor to attempt to change a student’s sexual orientation or gender identity. Professional school counselors do not support efforts by licensed mental health professionals to change a student’s sexual orientation or gender as these practices have been proven ineffective and harmful”;

WHEREAS, the American Psychoanalytic Association issued a position statement in June 2012 on attempts to

change sexual orientation, gender identity, or gender expression, and in it the Association states: “As with any societal prejudice, bias against individuals based on actual or perceived sexual orientation, gender identity or gender expression negatively affects mental health, contributing to an enduring sense of stigma and pervasive self-criticism through the internalization of such prejudice”;

and “Psychoanalytic technique does not encompass purposeful attempts to ‘convert,’ ‘repair,’ change or shift an individual’s sexual orientation, gender identity or gender expression. Such directed efforts are against fundamental principles of psychoanalytic treatment and often result in substantial psychological pain by reinforcing damaging internalized attitudes”;

WHEREAS, the American Academy of Child and Adolescent Psychiatry in 2012 published an article in its

journal, Journal of the American Academy of Child and Adolescent Psychiatry, stating: “Clinicians should be aware that there is no evidence that sexual orientation can be altered through therapy, and that attempts to do so may be harmful. There is no empirical evidence adult homosexuality can be prevented

if gender nonconforming children are influenced to be more gender conforming. Indeed, there is no medically valid basis for attempting to prevent homosexuality, which is not an illness. On the contrary, such efforts may encourage family rejection and undermine self-esteem, connectedness and caring, important protective factors against suicidal ideation and attempts. Given that there is no evidence that efforts to alter sexual orientation are effective, beneficial or necessary, and the possibility that they carry the risk of significant harm, such interventions are contraindicated”;

WHEREAS, the Pan American Health Organization, a regional office of the World Health Organization, issued a statement in 2012 stating: “These supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements.” The organization also noted that conversion therapies “lack medical justification and represent a serious threat to the health and well-being of affected people”;

WHEREAS, the American College of Physicians wrote a position paper in 2015 stating: “The College opposes the use of ‘conversion,’ ‘reorientation,’ or ‘reparative’ therapy for the treatment of LGBT persons. . . . Available research does not support the use of reparative therapy as an effective method in the treatment of LGBT persons. Evidence shows that the practice may actually cause emotional or physical harm to LGBT individuals, particularly adolescents or young persons”;

WHEREAS, minors who experience family rejection based on their sexual orientation face especially serious health risks. In one study, lesbian, gay, and bisexual youth who reported higher levels of family rejection during adolescence were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with peers from families that reported no or low levels of family rejection;

WHEREAS, the LGBTQ community still faces threats to their physical safety, economic security, and overall well-being;

WHEREAS, The City of Seattle has a compelling interest in protecting the physical and psychological well-being of minors, including LGBTQ youth, and in protecting its minors against exposure to serious harms caused by conversion therapy, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 14.21 is added to the Seattle Municipal Code as follows:

Chapter 14.21 THE USE OF CONVERSION THERAPY ON MINORS

14.21.010 Findings

Due to the serious harms to minors caused by conversion therapy or reparative therapy, it is false and deceptive under Section 7.08.030 to advertise that a provider provides conversion therapy or reparative therapy to minors.

14.21.020 Purpose

This Chapter 14.21 is an exercise of police power of the City for the public safety, health, and welfare; and its provisions shall be liberally construed to accomplish that purpose. The purpose of this Chapter 14.21 is to protect the physical and psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, from exposure to the serious harms caused by conversion therapy.

14.21.030 Definitions

“City” means the City of Seattle.

“Conversion therapy” or “reparative therapy” means any practices or treatments that seek 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 shall 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.

“Department” means the Seattle Office for Civil Rights.

“Director” means the Director of the Seattle Office for Civil Rights or the Director’s designee.

“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.

“Minor” means any person under 18 years of age.

14.21.040 Conversion therapy prohibited

It is a violation 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.

14.21.050 Enforcement

A. Powers and duties. The Director shall investigate alleged violations of this Chapter 14.21 and has such powers and duties in the performance of these functions as are defined in this Chapter 14.21 and otherwise necessary and proper in the performance of the same and provided for by law. The Director of the Department is authorized to adopt and promulgate rules to implement the provisions of this Chapter 14.21 pursuant to the Administrative Code, Chapter 3.02.

B. Reporting and investigation of violations. The Director shall investigate any violations of this Chapter 14.21.

1. Individual reporting of a violation of this Chapter 14.21 should include a statement of the date, location, and provider or providers responsible for such violation.

2. The Director shall keep confidential, to the maximum extent permitted by applicable laws, the name and other identifiable information of the person reporting the violation, as well as the name and other

personally identifiable information of the involved minor.

C. Advisory Letter

If the Director receives a report of an alleged violation of this Chapter 14.21, the Director may issue a letter notifying the provider that provision of conversion therapy or reparative therapy is prohibited.

D. Civil violations

The violation or failure to comply with any provision of this Chapter 14.21 shall constitute a civil violation and shall be enforced under the citation provisions set forth in this Section 14.21.050 by the Director.

E. Citation

1. If the Director determines that a violation of this Chapter 14.21 has occurred, the Director shall issue a citation to the provider or providers. The citation shall include the following information: (1) the name and address of the person to whom the citation is issued; (2) the date of the violation; (3) a statement that the person cited must respond to the citation within 15 days after service; (4) the applicable penalty; (5) a statement that a response must be sent to the Hearing Examiner and received not later than 5 p.m. on the day the response is due; (6) the name, address, and phone number of the Hearing Examiner where the citation is to be filed; (7) a statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this Chapter 14.21; and (8) a certified statement of the Director's representative, authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

2. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of mailing. If a citation sent by first class mail is returned as undeliverable, service may be made by posting the citation at a conspicuous place on the property.

F. Response to citation

A person must respond to a citation in one of the following ways:

1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing an address to which notice of such hearing may be sent.

A response to a citation must be received by the Office of the Hearing Examiner no later than 15 days after the date the citation is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

G. Failure to respond. If a person fails to respond to a citation within 15 days of service, an order shall be entered by the Hearing Examiner finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation.

H. Contested hearing

1. Date and notice. If a person requests a contested hearing, the hearing shall be held within 60 days after the written response to the citation requesting such hearing is received.

2. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this Section 14.21.050. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner.

3. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of defects or imperfections, provided such lack of detail or such defects or imperfections do not prejudice substantial rights of the person cited.

4. Amendment of citation. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

5. Evidence at hearing. The certified statement or declaration authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The person cited may rebut the Department's evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

6. Disposition. The Hearing Examiner shall determine by a preponderance of the evidence whether the violation occurred. If the Hearing Examiner determines that the violation occurred, the citation shall be sustained and the Hearing Examiner shall enter an order finding that the person cited committed the violation and imposing the applicable penalty. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

7. Final decision. The Hearing Examiner's decision is the final decision of the City.

I. Failure to appear for hearing

Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

J. Penalties

The following penalties shall be assessed for violations of any provision of this Chapter 14.21:

- a. \$500 for the first violation; and
- b. \$1,000 for each subsequent violation.

K. Collection of penalties

If the person cited fails to pay a penalty imposed pursuant to this chapter, the penalty may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 3. This ordinance shall take effect and be in force 60 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2016, and signed by me in open session in authentication of its passage this _____ day of _____, 2016.

President _____ of the City Council

Approved by me this _____ day of _____, 2016.

Edward B. Murray, Mayor

Filed by me this _____ day of _____, 2016.

Monica Martinez Simmons, City Clerk

(Seal)