

116TH CONGRESS
1ST SESSION

S. 2008

To prohibit, as an unfair or deceptive act or practice, commercial sexual orientation conversion therapy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2019

Mrs. MURRAY (for herself, Mr. BOOKER, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BROWN, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HIRONO, Ms. KLOBUCHAR, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mr. MURPHY, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mrs. SHAHEEN, Ms. SINEMA, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit, as an unfair or deceptive act or practice, commercial sexual orientation conversion therapy, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Therapeutic Fraud
5 Prevention Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Being lesbian, gay, bisexual, transgender, or
4 gender nonconforming is not a disorder, disease, ill-
5 ness, deficiency, or shortcoming.

6 (2) The national community of professionals in
7 education, social work, health, mental health, and
8 counseling has determined that—

9 (A) there is no scientifically valid evidence
10 that supports the practice of attempting to pre-
11 vent a person from being lesbian, gay, bisexual,
12 transgender, or gender nonconforming;

13 (B) there is no evidence that conversion
14 therapy is effective or that an individual's sex-
15 ual orientation or gender identity can be
16 changed by conversion therapy; and

17 (C) conversion therapy is substantially
18 dangerous to an individual's mental and phys-
19 ical health, and has been shown to contribute to
20 depression, self-harm, low self-esteem, family
21 rejection, and suicide.

22 (3) It is in the interest of the Nation to prevent
23 lesbian, gay, bisexual, transgender, and gender non-
24 conforming people and their families from being de-
25 frauded by persons seeking to profit by offering this
26 harmful and wholly ineffective therapy.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **CONVERSION THERAPY.**—The term “conver-
4 sion therapy”—

5 (A) means any practice or treatment by
6 any person that seeks to change another indi-
7 vidual’s sexual orientation or gender identity,
8 including efforts to change behaviors or gender
9 expressions, or to eliminate or reduce sexual or
10 romantic attractions or feelings toward individ-
11 uals of the same gender, if such person receives
12 monetary compensation in exchange for—

13 (i) such practice or treatment; or

14 (ii) a product or service that is inte-
15 gral to such practice or treatment by such
16 person, unless such product or service is
17 protected by the First Amendment to the
18 Constitution; and

19 (B) does not include any practice or treat-
20 ment, which does not seek to change sexual ori-
21 entation or gender identity, that—

22 (i) provides assistance to an individual
23 undergoing a gender transition; or

24 (ii) provides acceptance, support, and
25 understanding of a client or facilitation of
26 a client’s coping, social support, and iden-

1 tity exploration and development, including
 2 sexual orientation-neutral interventions to
 3 prevent or address unlawful conduct or un-
 4 safe sexual practices.

5 (2) GENDER IDENTITY.—The term “gender
 6 identity” means the gender-related identity, appear-
 7 ance, mannerisms, or other gender-related character-
 8 istics of an individual, regardless of the individual’s
 9 designated sex at birth.

10 (3) PERSON.—The term “person” means any
 11 individual, partnership, corporation, cooperative, as-
 12 sociation, or any other entity.

13 (4) SEXUAL ORIENTATION.—The term “sexual
 14 orientation” means homosexuality, heterosexuality,
 15 or bisexuality.

16 **SEC. 4. UNFAIR OR DECEPTIVE ACTS AND PRACTICES RE-**
 17 **LATED TO CONVERSION THERAPY.**

18 (a) UNLAWFUL CONDUCT.—It shall be unlawful for
 19 any person—

20 (1) to provide conversion therapy to any indi-
 21 vidual if such person receives compensation in ex-
 22 change for such services;

23 (2) to claim, in any advertisement for the provi-
 24 sion of conversion therapy, that such therapy—

1 (A) will change another individual's sexual
2 orientation or gender identity;

3 (B) will eliminate or reduce sexual or ro-
4 mantic attractions or feelings toward individ-
5 uals of the same gender; or

6 (C) is harmless or without risk to individ-
7 uals receiving such therapy; or

8 (3) to knowingly assist or facilitate the provi-
9 sion of conversion therapy to an individual if such
10 person receives compensation from any source in
11 connection with providing conversion therapy.

12 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
13 SION.—

14 (1) VIOLATION OF RULE.—A violation of sub-
15 section (a) shall be treated as a violation of a rule
16 defining an unfair or deceptive act or practice pre-
17 scribed under section 18(a)(1)(B) of the Federal
18 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

19 (2) POWERS OF COMMISSION.—

20 (A) IN GENERAL.—The Federal Trade
21 Commission shall enforce this section in the
22 same manner, by the same means, and with the
23 same jurisdiction, powers, and duties as though
24 all applicable terms and provisions of the Fed-
25 eral Trade Commission Act (15 U.S.C. 41 et

1 seq.) were incorporated into and made a part of
2 this Act.

3 (B) PRIVILEGES AND IMMUNITIES.—Any
4 person who violates subsection (a) shall be sub-
5 ject to the penalties, and entitled to the privi-
6 leges and immunities, provided in the Federal
7 Trade Commission Act (15 U.S.C. 41 et seq.).

8 (3) REGULATIONS.—The Federal Trade Com-
9 mission may promulgate, in accordance with section
10 553 of title 5, United States Code, such regulations
11 as the Commission considers appropriate to carry
12 out this section.

13 (c) ENFORCEMENT BY STATES.—

14 (1) IN GENERAL.—If the attorney general of a
15 State has reason to believe that an interest of the
16 residents of the State has been or is being threat-
17 ened or adversely affected by a practice that violates
18 subsection (a), the attorney general of the State
19 may, as *parens patriae*, bring a civil action on behalf
20 of the residents of the State in an appropriate dis-
21 trict court of the United States to obtain appro-
22 priate relief.

23 (2) RIGHTS OF FEDERAL TRADE COMMIS-
24 SION.—

1 (A) NOTICE TO FEDERAL TRADE COMMIS-
2 SION.—

3 (i) IN GENERAL.—Except as provided
4 in clause (iii), the attorney general of a
5 State, before initiating a civil action under
6 paragraph (1), shall provide written notifi-
7 cation to the Federal Trade Commission
8 that the attorney general intends to bring
9 such civil action.

10 (ii) CONTENTS.—The notification re-
11 quired under clause (i) shall include a copy
12 of the complaint to be filed to initiate the
13 civil action.

14 (iii) EXCEPTION.—If it is not feasible
15 for the attorney general of a State to pro-
16 vide the notification required under clause
17 (i) before initiating a civil action under
18 paragraph (1), the attorney general shall
19 notify the Commission immediately upon
20 instituting the civil action.

21 (B) INTERVENTION BY FEDERAL TRADE
22 COMMISSION.—The Commission may—

23 (i) intervene in any civil action
24 brought by the attorney general of a State
25 under paragraph (1); and

1 (ii) upon intervening—

2 (I) be heard on all matters arising in the civil action; and

4 (II) file petitions for appeal of a decision in the civil action.

6 (3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

14 (4) PREEMPTIVE ACTION BY FEDERAL TRADE COMMISSION.—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (a), the attorney general of a State may not, during the pendency of such action, bring a civil action under paragraph (1) against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

24 (5) VENUE; SERVICE OF PROCESS.—

1 (A) VENUE.—Any action brought under
2 paragraph (1) may be brought in—

3 (i) the district court of the United
4 States that meets applicable requirements
5 relating to venue under section 1391 of
6 title 28, United States Code; or

7 (ii) another court of competent juris-
8 diction.

9 (B) SERVICE OF PROCESS.—In an action
10 brought under paragraph (1), process may be
11 served in any district in which—

12 (i) the defendant is an inhabitant,
13 may be found, or transacts business; or

14 (ii) venue is proper under section
15 1391 of title 28, United States Code.

16 (6) ACTIONS BY OTHER STATE OFFICIALS.—

17 (A) IN GENERAL.—In addition to a civil
18 action brought by an attorney general under
19 paragraph (1), any other officer of a State who
20 is authorized by the State to do so may bring
21 a civil action under paragraph (1), subject to
22 the same requirements and limitations that
23 apply under this subsection to civil actions
24 brought by attorneys general.

1 (B) SAVINGS PROVISION.—Nothing in this
2 subsection may be construed to prohibit an au-
3 thorized official of a State from initiating or
4 continuing any proceeding in a court of the
5 State for a violation of any civil or criminal law
6 of the State.

7 **SEC. 5. SEVERABILITY.**

8 If any provision of this Act, or the application of such
9 provision to any person or circumstance, is held to be un-
10 constitutional, the remainder of this Act, and its applica-
11 tion to any person or circumstance shall not be affected
12 by such holding.

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