

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 2973

By: Olsen

AS INTRODUCED

An Act relating to counseling; creating the Parental and Family Rights in Counseling Protection Act; preempting field of legislation relating to sexual orientation change efforts and gender dysphoria resolution efforts; nullifying any federal rule, statute or executive order relating to sexual orientation change efforts and gender dysphoria resolution efforts; defining terms; prohibiting government from restricting certain counseling by a mental health provider or religious advisor; prohibiting government from restricting certain parental rights; providing for certain construction; providing for the assertion of certain claims; permitting mental health providers or religious advisors to engage in sexual orientation change efforts and certain gender dysphoria resolution efforts with children; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1925.19 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Parental and Family Rights in Counseling Protection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1925.20 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The State Legislature hereby occupies and preempts the entire field of legislation in this state touching in any way federal or state prohibitions against sexual orientation change efforts and gender dysphoria resolution efforts to the complete exclusion of any order, ordinance or regulation by any municipality or other political subdivision of this state.

B. Any federal statute, rule or executive order, federal or state judicial order or judicial findings that would have the effect of prohibiting sexual orientation change efforts or gender dysphoria resolution efforts shall be null, void, unenforceable, and of no effect in the State of Oklahoma.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1925.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Parental and Family Rights in Counseling Protection Act:

1. "Aversion therapy" means any counseling by a mental health provider that exposes or asks a patient or client to undergo physical pain, such as electroshock or electroconvulsive therapy, touch therapy, pornography exposure, or vomit-induction therapy, in order to change sexual behaviors or gender-identity expressions or

to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex;

2. "Counseling" means all communication between a mental health provider or a religious advisor and a patient or client intended to aid the patient or client in his or her self-determined objectives;

3. "Mental health provider" means a physician specializing in the practice of psychiatry; a psychologist; a psychological assistant, intern, or trainee; a licensed marriage and family therapist; a registered marriage and family therapist, intern, or trainee; a licensed educational psychologist; a credentialed school psychologist; a licensed clinical social worker; an associate clinical social worker; a licensed professional clinical counselor; a registered clinical counselor, intern, or trainee; and any other person designated as a mental health professional under state law or regulation;

4. "Patient" or "client" means any person, including persons under eighteen (18) years of age, under the care of a mental health provider or religious advisor;

5. "Political subdivision" means a municipality, a school district, a county, or a public trust where the sole beneficiary or beneficiaries are a city, town, school district, or county;

6. "Religious advisor" means any pastor, preacher, minister, priest, rabbi, imam, or other ecclesiastical dignitary of any

denomination who has been duly ordained or authorized by the religious organization to which he or she belongs;

7. "Sexual orientation change efforts" and "gender dysphoria resolution efforts" mean any counseling, psychotherapy, nonmedical psychiatric services, or communication by mental health providers or religious advisors that seeks to reduce or eliminate unwanted same-sex attraction or gender dysphoria. This includes efforts to change sexual behaviors or gender-identity expressions and to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex; and

8. "State" means the State of Oklahoma or any office, department, agency, authority, commission, board, institution, hospital, college, university, public trust, or other instrumentality thereof.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1925.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Neither the state nor any political subdivision thereof shall prohibit or restrict any mental health provider or religious advisor from providing counseling or any patient or client from receiving counseling intended to aid patients or clients in their self-determined objectives of reducing, eliminating, resolving, or addressing unwanted same-sex attractions, behaviors, identity, sexual or gender-identity expressions, or unwanted gender dysphoria.

A mental health provider or religious advisor shall have the liberty to use any therapy they choose, provided that it is in the best interest of the client and within the ethical bounds of the profession.

B. Neither the state nor any political subdivision thereof shall restrict the rights of parents or legal guardians from obtaining counseling, including sexual orientation change efforts and gender dysphoria resolution efforts, for patients or clients who are their children and who experience unwanted same-sex attractions, behaviors, identity, sexual or gender-identity expressions, or unwanted gender dysphoria.

C. No part of the Parental and Family Rights in Counseling Protection Act may be used as justification by parents, legal guardians, mental health providers, or religious advisors to subject patients or clients to aversion therapy for the purpose of changing sexual behaviors or gender-identity expressions, to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex, or to reduce or eliminate gender dysphoria.

D. A mental health provider, religious advisor, patient, or client whose freedom of speech or communication in the context of counseling has been violated under subsection A of this section may assert that violation as a claim or defense in a judicial proceeding and may obtain appropriate relief against the state or any political subdivision thereof. Standing to assert a claim or defense under

this section shall be governed by the general rules of standing. Prevailing mental health providers, religious advisors, patients, or clients under this section shall be entitled to appropriate attorney fees and costs.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1925.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

A mental health provider or religious advisor may engage in sexual orientation change efforts or nonmedical gender dysphoria resolution efforts with a child under eighteen (18) years of age.

SECTION 6. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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