

DRAFT FOR CONSULTATION

Prohibition of Conversion Therapy Bill

Member's Bill

Explanatory note

General policy statement

Conversion therapy is a flawed and abhorrent practice that continues to happen in New Zealand. This practice tells people that, due to their sexuality or gender, there is something fundamentally wrong with who they are and they should be changed. It has no basis in modern science or psychology, goes against every ethical requirement for practitioners, is demonstrably harmful, and has no place in New Zealand.

Conversion therapy is a practice or treatment that seeks to change, suppress, and/or eliminate a person's sexual orientation, gender identity and, or gender expression. It is a practice that has been outlawed in a number of countries. It is opposed by numerous organisations, including the United Nations Committee against Torture, the Royal College of Psychiatrists London, the Canadian Psychological Association, and the Australian Medical Association.

Conversion therapy is a practice that should be relegated to history. Unfortunately, there is no shortage of stories about the impact conversion therapy has had on our Rainbow community in New Zealand. Continuing to allow people, particularly young people, to be subjected to this unproven and widely condemned practice does not reflect the values of modern New Zealand.

This Bill creates an offence for any person who advertises, offers, or performs conversion therapy on another person. Under this Bill, any person is guilty of an offence if they remove another person from New Zealand for the purposes of conversion therapy. No one should, or even can, have their sexual orientation, gender identity, or gender expression changed through the pseudo-psychology of conversion therapy.

New Zealand is an inclusive, compassionate, tolerant, and forward-looking country and our laws should reflect that. Conversion therapy is another form of legal discrimination the Rainbow community faces and Parliament cannot not let it continue. This Bill will put an end to a practice that has no place in contemporary New Zealand.

This Bill is modelled on legislation currently before Ireland's Seanad Éireann that has progressed with cross-party support.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Part 1 — Preliminary provisions

Clause 3 is the purpose clause.

Clause 4 provides that the Bill will bind the Crown.

Clause 5 is the interpretation clause.

Part 2 — Offences relating to conversion therapy

Clause 6 makes it a criminal offence, punishable by 6 months imprisonment and a \$5,000 fine, for any person to perform, offer to perform, or advertise conversion therapy.

Clause 7 makes it a criminal offence, punishable by 1 year imprisonment and a \$10,000 fine, for any person to remove a person from New Zealand for the purposes of conversion therapy.

Clause 8 creates a specific offence for a professional (defined to mean health practitioners, teachers, and social workers) to perform or offer to perform conversion therapy, or to refer someone to another person for conversion therapy. A professional convicted of this offence would be liable to 1 year imprisonment and a fine of up to \$10,000.

Clause 9 requires the registrar of a court in which a professional has been convicted of an offence against the Bill to notify the relevant professional body of the conviction.

Clause 10 deals with parties to offences committed under the Bill.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Prohibition of Conversion Therapy Act **2018**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

3 Purpose

The purpose of this Act is to prohibit the performance of conversion therapy.

4 Act binds the Crown

This Act binds the Crown.

5 Interpretation

In this Act,—

conversion therapy—

- (a) means any therapeutic practice or treatment administered to a person that seeks to change the person's sexual orientation or gender identity, including, but not limited to, any effort to—
 - (i) change gender expression:
 - (ii) eliminate or reduce sexual or romantic attraction or feelings toward persons of the same gender; but
- (b) does not include counselling intending to—
 - (i) assist a person undergoing gender transition:
 - (ii) provide acceptance, support, and understanding to the person in respect of sexual orientation or gender identity issues:
 - (iii) facilitate the person's coping, social support, or identity exploration and development, including, but not limited to, any therapeutic intervention that is neutral with regard to sexual orientation and seeks to prevent or address unsafe sexual practices providing such counselling does not seek to change the person's sexual orientation or gender identity

gender expression means a person's manifestation of their gender identity that is perceived by others

professional means a person who is one or more of the following:

- (a) a health practitioner as defined in section 5(1) of the Health Practitioners Competence Assurance Act 2003:
- (b) a teacher registered under the Education Act 1989:
- (c) a social worker registered under the Social Workers Registration Act 2003

sexual orientation has the same meaning as in section 21(1)(m) of the Human Rights Act 1993.

Part 2

Offences relating to conversion therapy

6 Offence of performing, offering, or advertising conversion therapy

- (1) Every person commits an offence who knowingly—
 - (a) performs or offers to perform conversion therapy; or
 - (b) advertises the performance of conversion therapy.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction to a term of imprisonment not exceeding 6 months, a fine not exceeding \$5,000, or both.

7 Offence of removing a person from New Zealand for conversion therapy

- (1) Every person commits an offence who knowingly removes a person from New Zealand for the purposes of having conversion therapy performed upon that person.
- (2) A person who commits an offence against **subsection (1)** is liable on conviction to a term of imprisonment not exceeding 1 year, a fine not exceeding \$10,000, or both.

8 Offence of professional performing, offering, or referring a person for conversion therapy

- (1) Every professional commits an offence who knowingly—
 - (a) performs or offers to perform conversion therapy on a person, irrespective of whether monetary compensation is received in exchange; or
 - (b) refers a person to another professional, or any other person, for the performance of conversion therapy.
- (2) A professional who commits an offence against **subsection (1)** is liable on conviction to a term of imprisonment not exceeding 1 year, a fine not exceeding \$10,000, or both.

9 Notification of conviction of professional

Where a professional is convicted of an offence under **section 8**, the registrar of the court must send a notice of the conviction to the body regulating the person's profession.

10 Parties to offences

- (1) Every person is a party to and commits an offence who aids, abets, counsels, procures, or incites—
 - (a) a person to commit an offence under **section 6** or **section 7**; or
 - (b) a professional to commit an offence under **section 8**.

- (2) A person who commits an offence under **subsection (1)** is liable on conviction to a penalty not exceeding that prescribed for the offence to which the person was a party to.