

MEMORANDUM

Agenda Item No. 7(D)

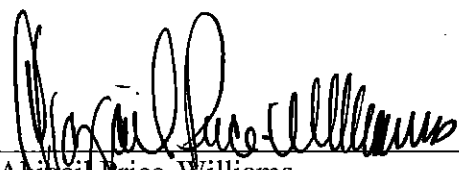
TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: (Second Reading 10-3-17)
June 6, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Ordinance relating to conversion or reparative therapy for minors; creating Article XX, Chapter 21 of the Code; providing definitions, providing for applicability in the unincorporated areas of Miami-Dade County and enforcement by the County; prohibiting certain licensed professional therapists and counselors from engaging in conversion or reparative therapy with a minor; amending 8CC-10; providing penalties

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman, and Co-Sponsors Commissioner Daniella Levine Cava and Vice Chairwoman Audrey M. Edmonson.


Abigail Price-Williams
County Attorney

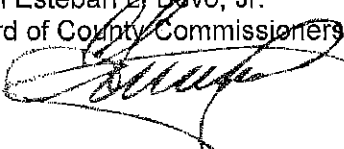
APW/lmp

Memorandum



Date: October 3, 2017

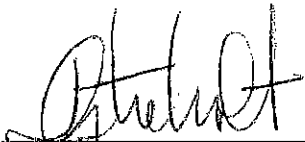
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Fiscal Impact Statement for Ordinance Relating to Conversion or Reparative
Therapy for Minors

The proposed ordinance relating to conversion or reparative therapy for minors, creates Article XX, Chapter 21 of the Code of Miami-Dade County (Code) prohibiting certain licensed professional therapists and counselors from engaging in this therapy with a minor. Also, amending 8CC-10 of the Code providing for penalties.

Enforcement would be conducted on a complaint-driven basis and incorporated into existing field enforcement activities. It is projected that civil violation penalties would cover enforcement costs. Therefore, it is anticipated that implementation of this ordinance will not have a fiscal impact.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt
Deputy Mayor

FIs04917 171359

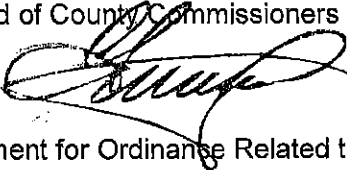
Memorandum

MIAMI-DADE
COUNTY

Date: October 3, 2017

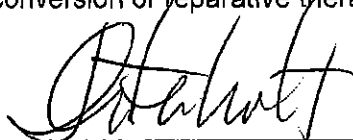
To: Honorable Chairman Esteban Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor



Subject: Social Equity Statement for Ordinance Related to Conversion or Reparative Therapy
for Minors

The proposed ordinance prohibits persons that provide professional counseling, whether licensed or not by the State of Florida, from engaging in conversion or reparative therapy with a minor. By prohibiting this practice in the unincorporated areas of Miami-Dade County, the proposed ordinance allows for the enforcement of civil penalties, which will be borne by the party that engages in conversion or reparative therapy.



Jack Osterholt
Deputy Mayor

171359



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: October 3, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 7(D)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
10-3-17

ORDINANCE NO. _____

ORDINANCE RELATING TO CONVERSION OR REPARATIVE THERAPY FOR MINORS; CREATING ARTICLE XX, CHAPTER 21 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING DEFINITIONS, PROVIDING FOR APPLICABILITY IN THE UNINCORPORATED AREAS OF MIAMI-DADE COUNTY AND ENFORCEMENT BY THE COUNTY; PROHIBITING CERTAIN LICENSED PROFESSIONAL THERAPISTS AND COUNSELORS FROM ENGAGING IN CONVERSION OR REPARATIVE THERAPY WITH A MINOR; AMENDING 8CC-10; PROVIDING PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

WHEREAS, numerous major professional associations of mental health practitioners and researchers in the United States have recognized this fact for nearly 40 years; and

WHEREAS, for instance, the American Psychological Association convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation ("Task Force"), which conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts commonly known as conversion or reparative therapy; and

WHEREAS, the Task Force issued a report in 2009 in which it concluded that efforts to change a person's sexual orientation can pose critical health risks to lesbian, gay, bisexual or transgender 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; and

WHEREAS, the Task Force's findings are supported by overwhelming scientific consensus that these practices have no scientific basis, contradict the modern scientific understanding of sexual orientation, and put young people at risk of serious harm, including severe depression and suicide; and

WHEREAS, moreover, according to one study entitled Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults (2009), minors who experience family rejection based on their sexual orientation face especially serious health risks; and

WHEREAS, the study found that lesbian, gay, and bisexual young adults 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; and

WHEREAS, the American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009, which 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 supports, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth; and

WHEREAS, the American Psychiatric Association also published a position statement in March of 2000 which concluded that Psychotherapeutic modalities to convert or “repair” homosexuality are based on developmental theories whose scientific validity is questionable, and such attempts to do so result in psychological harm; and

WHEREAS, in the last four decades, “reparative” therapists have not produced any rigorous scientific research to substantiate their claims of cure; and

WHEREAS, until there is such research available, the American Psychiatric Association recommends that ethical practitioners refrain from attempts to change individuals’ sexual orientation; and

WHEREAS, the American Psychiatric Association, therefore, opposes any psychiatric treatment such as reparative or conversion therapy which is based upon the assumption that homosexuality per se is a mental disorder or based upon the a prior assumption that a patient should change their sexual orientation; and

WHEREAS, the American School Counselor Association's position statement on professional school counselors and lesbian, gay, bisexual, transgendered, and questioning (LGBTQ) youth concludes that: “It is not the role of the professional school counselor to attempt to change a student’s sexual orientation/gender identity but instead to provide support to LGBTQ students to promote student achievement and personal well-being”; and

WHEREAS, the American Academy of Pediatrics in 1993 also 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”; and

WHEREAS, similar findings have been made by other professional associations, including but not limited to the American Medical Association Council on Scientific Affairs, the National Association of Social Workers, the American Counseling Association Governing Council, the American Psychoanalytic Association, and the American Academy of Child and Adolescent Psychiatry; and

WHEREAS, based on these studies, there is no evidence that sexual orientation can be altered through therapy, and attempts to do so may be harmful; and

WHEREAS, numerous jurisdictions in Florida and across the United States have passed legislation banning conversion or reparative therapy, including but not limited to the cities of Miami Beach, Miami, Wilton Manors, North Bay Village, Boynton Beach, El Portal, West Palm Beach, Cincinnati, and Seattle; and the states of New York, New Jersey, California, Oregon, New Mexico, and Illinois; and

WHEREAS, in fact, such laws, which have been challenged in the courts, have been upheld as constitutional; and

WHEREAS, for instance, in California, a lawsuit was filed challenging the state’s law banning reparative or conversion therapy; and

WHEREAS, the United States Court of Appeals for the Ninth Circuit ruled in *Welch v. Brown* that the law is not unconstitutional and does not violate religious freedom; and

WHEREAS, on May 1, 2017, the United States Supreme Court rejected a petition to review the decision in *Welch v. Brown*, thus leaving the California law intact; and

WHEREAS, this is the fourth time the Supreme Court has declined to review challenges to laws banning conversion therapy; and

WHEREAS, this Board has a compelling interest in protecting the public safety, health and general welfare as well as the physical and psychological well-being of minors, including lesbian, gay, bisexual, and transgender youth, and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts such as conversion or reparative therapy,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Article XX of Chapter 21 of the Code of Miami-Dade County, Florida, is hereby created to read as follows:¹

ARTICLE XX- CONVERSION THERAPY

Sec. 21-288. Policy.

It is hereby declared to be the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to protect minors, including lesbian, gay, bisexual, and transgender youth against exposure to serious harms caused by sexual orientation change efforts such as conversion or reparative therapy.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 21-289. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this section, have the meanings indicated in this section:

- (a) “Conversion therapy” also referred to as “reparative therapy,” means any counseling, practice, or treatment performed with the goal of changing a person's sexual orientation or gender identity including, but not limited to, efforts to change behaviors, gender expression, or to reduce or eliminate sexual or romantic attraction or feelings toward a person of the same gender. “Conversion therapy” does not include counseling that:
 - (i) Provides support to a person undergoing gender transition; or
 - (ii) Provides acceptance, support, or understanding of a person, or facilitates a person's coping, social support, identity exploration, and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, if such counseling is not conducted with the goal of changing the person's sexual orientation or gender identity.
- (b) “Minor” means a person less than 18 years of age.

Sec. 21-290. Conversion therapy prohibited.

A person who is licensed or is not licensed by the state to provide professional counseling, or who performs counseling as part of their professional training under Chapters 458, 459, 490, or 491, Florida Statutes, as such chapters may be amended, including, but not limited to, medical practitioners, osteopathic practitioners, psychologist, psychotherapists, social workers, marriage and family therapists, and licensed counselors, shall not engage in conversion therapy or reparative therapy with a minor.

Sec. 21-291. Applicability and Enforcement

This article shall be applicable in all the unincorporated areas of Miami-Dade County with the enforcement of the provisions of this article being the responsibility of the County. The County Mayor or the County Mayor's designee shall designate a County department to monitor and enforce the provisions of this article.

Sec. 21-292. Penalties.

The first violation of the provisions of this article shall result in a fine of \$500.00. Second and subsequent violations shall result in a fine of \$1,000.00. Each conversion therapy session with a minor shall constitute a separate offense, and any session that purports to extend from one day to another shall constitute separate offenses for each day in which a session takes place. These penalties shall not preclude any other remedies available at law or in equity, including injunctive relief in the circuit court.

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this Chapter 8CC, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined.

Code Section	Description of Violation	Civil Penalty
* * *		
21-287	Rafting	250.00
>>21-288, et. Seq.	<u>Conversion Therapy</u>	
	<u>First offense</u>	<u>500.00</u>
	<u>Second or subsequent offense</u>	<u>1,000.00</u> <<
* * *		

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Terrence A. Smith

APW
LAA

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsors: Commissioner Daniella Levine Cava
Vice Chairwoman Audrey M. Edmonson