

115TH CONGRESS
1ST SESSION

S. 928

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

APRIL 25, 2017

Mrs. MURRAY (for herself, Mr. BOOKER, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BROWN, Ms. CANTWELL, Ms. DUCKWORTH, Mr. MARKEY, Ms. WARREN, Mrs. GILLIBRAND, Ms. HIRONO, Mr. SANDERS, Mr. WHITEHOUSE, Ms. HASSAN, Mr. WYDEN, Mr. MERKLEY, Mr. SCHATZ, Mr. MURPHY, Mr. LEAHY, Mr. CASEY, Mr. FRANKEN, Ms. HARRIS, and Mr. DURBIN) 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 2017”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

4 (2) The national community of professionals in
5 education, social work, health, mental health, and
6 counseling has determined that there is no scientif-
7 ically valid evidence that supports the practice of at-
8 tempting to prevent a person from being lesbian,
9 gay, bisexual, transgender, or gender nonconforming.

10 (3) Such professionals have determined that
11 there is no evidence that conversion therapy is effec-
12 tive or that an individual's sexual orientation or gen-
13 der identity can be changed by conversion therapy.

14 (4) Such professionals have also determined
15 that the potential risks of conversion therapy are not
16 only that it is ineffective, but also that it is substan-
17 tially dangerous to an individual's mental and phys-
18 ical health, and has been shown to contribute to de-
19 pression, self-harm, low self-esteem, family rejection,
20 and suicide.

21 (5) It is in the interest of the Nation to prevent
22 lesbian, gay, bisexual, transgender, and gender non-
23 conforming people and their families from being de-
24 frauded by persons seeking to profit by offering this
25 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 such
13 practices or treatments; and

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

17 (i) provides assistance to an individual
18 undergoing a gender transition; or

19 (ii) provides acceptance, support, and
20 understanding of a client or facilitation of
21 a client’s coping, social support, and iden-
22 tity exploration and development, including
23 sexual orientation-neutral interventions to
24 prevent or address unlawful conduct or un-
25 safe sexual practices.

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

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

9 (4) SEXUAL ORIENTATION.—The term “sexual
10 orientation” means homosexuality, heterosexuality,
11 or bisexuality.

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

14 (a) UNLAWFUL CONDUCT.—It shall be unlawful for
15 any person—

16 (1) to provide conversion therapy to any indi-
17 vidual if such person receives compensation in ex-
18 change for such services;

19 (2) to advertise for the provision of conversion
20 therapy and claim in such advertising—

21 (A) to change another individual’s sexual
22 orientation or gender identity;

23 (B) to eliminate or reduce sexual or ro-
24 mantic attractions or feelings toward individ-
25 uals of the same gender; or

1 (C) that such efforts are harmless or with-
2 out risk to individuals receiving such therapy;
3 or

4 (3) to knowingly assist or facilitate the provi-
5 sion of conversion therapy to an individual if such
6 person receives compensation from any source in
7 connection with providing conversion therapy.

8 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
9 SION.—

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

15 (2) POWERS OF COMMISSION.—

16 (A) IN GENERAL.—The Federal Trade
17 Commission shall enforce this section in the
18 same manner, by the same means, and with the
19 same jurisdiction, powers, and duties as though
20 all applicable terms and provisions of the Fed-
21 eral Trade Commission Act (15 U.S.C. 41 et
22 seq.) were incorporated into and made a part of
23 this Act.

24 (B) PRIVILEGES AND IMMUNITIES.—Any
25 person who violates subsection (a) shall be sub-

1 ject to the penalties, and entitled to the privi-
 2 leges and immunities, provided in the Federal
 3 Trade Commission Act (15 U.S.C. 41 et seq.).

4 (3) REGULATIONS.—The Federal Trade Com-
 5 mission may promulgate, in accordance with section
 6 553 of title 5, United States Code, such regulations
 7 as the Commission considers appropriate to carry
 8 out this section.

9 (c) ENFORCEMENT BY STATES.—

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

19 (2) RIGHTS OF FEDERAL TRADE COMMIS-
 20 SION.—

21 (A) NOTICE TO FEDERAL TRADE COMMIS-
 22 SION.—

23 (i) IN GENERAL.—Except as provided
 24 in clause (iii), the attorney general of a
 25 State, before initiating a civil action under

1 paragraph (1), shall provide written notifi-
2 cation to the Federal Trade Commission
3 that the attorney general intends to bring
4 such civil action.

5 (ii) CONTENTS.—The notification re-
6 quired under clause (i) shall include a copy
7 of the complaint to be filed to initiate the
8 civil action.

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

16 (B) INTERVENTION BY FEDERAL TRADE
17 COMMISSION.—The Commission may—

18 (i) intervene in any civil action
19 brought by the attorney general of a State
20 under paragraph (1); and

21 (ii) upon intervening—

22 (I) be heard on all matters aris-
23 ing in the civil action; and

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

1 (3) INVESTIGATORY POWERS.—Nothing in this
 2 subsection may be construed to prevent the attorney
 3 general of a State from exercising the powers con-
 4 ferred on the attorney general by the laws of the
 5 State to conduct investigations, to administer oaths
 6 or affirmations, or to compel the attendance of wit-
 7 nesses or the production of documentary or other
 8 evidence.

9 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
 10 COMMISSION.—If the Federal Trade Commission in-
 11 stitutes a civil action or an administrative action
 12 with respect to a violation of subsection (a), the at-
 13 torney general of a State may not, during the pend-
 14 ency of such action, bring a civil action under para-
 15 graph (1) against any defendant named in the com-
 16 plaint of the Commission for the violation with re-
 17 spect to which the Commission instituted such ac-
 18 tion.

19 (5) VENUE; SERVICE OF PROCESS.—

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

22 (i) the district court of the United
 23 States that meets applicable requirements
 24 relating to venue under section 1391 of
 25 title 28, United States Code; or

1 (ii) another court of competent juris-
 2 diction.

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

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

8 (ii) venue is proper under section
 9 1391 of title 28, United States Code.

10 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

19 (B) SAVINGS PROVISION.—Nothing in this
 20 subsection may be construed to prohibit an au-
 21 thorized official of a State from initiating or
 22 continuing any proceeding in a court of the
 23 State for a violation of any civil or criminal law
 24 of the State.

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held to be un-
4 constitutional, the remainder of this Act, and its applica-
5 tion to any person or circumstance shall not be affected
6 thereby.

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