

118TH CONGRESS
1ST SESSION

S. 2176

To prohibit commercial sexual orientation conversion therapy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mrs. MURRAY (for herself, Mr. BOOKER, Ms. BALDWIN, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FETTERMAN, Ms. HIRONO, Mr. HEINRICH, Mr. KAINE, Mr. KING, Mr. MARKEY, Mr. MERKLEY, Mr. SCHATZ, Ms. SINEMA, Mr. WHITEHOUSE, Ms. WARREN, Mr. WYDEN, Mr. KELLY, Ms. SMITH, Ms. CANTWELL, Mr. PADILLA, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. BLUMENTHAL, Mr. SANDERS, Mr. HICKENLOOPER, Mrs. SHAHEEN, Ms. STABENOW, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit 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 2023”.

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 there is no scientif-
9 ically valid evidence that supports the practice of at-
10 tempting to prevent a person from being lesbian,
11 gay, bisexual, transgender, or gender nonconforming.

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

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

23 (5) It is in the interest of the Nation to prevent
24 lesbian, gay, bisexual, transgender, and gender non-
25 conforming people and their families from being de-

1 frauded by persons seeking to profit by offering this
2 harmful and wholly ineffective therapy.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) CONVERSION THERAPY.—The term “conver-
6 sion therapy”—

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

14 (i) receives monetary compensation in
15 exchange for such practice or treatment; or

16 (ii) instead of, or in addition to, re-
17 ceiving monetary compensation in ex-
18 change for such practice or treatment di-
19 rectly, receives monetary compensation in
20 exchange for a product or service that is
21 integral to the provision of such practice or
22 treatment by such person, unless such
23 product or service is protected by the First
24 Amendment to the Constitution; and

(B) does not include any practice or treatment, which does not seek to change sexual orientation or gender identity, that—

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

(ii) provides acceptance, support, and understanding of a client or facilitation of a client’s coping, social support, and identity exploration and development, including sexual orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices.

(2) GENDER IDENTITY.—The term “gender identity” means the gender-related identity, appearance, mannerisms, or other gender-related characteristics of an individual, regardless of the individual’s designated sex at birth.

(3) PERSON.—The term “person” means any individual, partnership, corporation, cooperative, association, or any other entity.

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

1 **SEC. 4. UNLAWFUL CONDUCT RELATED TO CONVERSION**
2 **THERAPY.**

3 (a) IN GENERAL.—It shall be unlawful for any per-
4 son—

5 (1) to provide conversion therapy to any indi-
6 vidual;

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

9 (A) to change another individual's sexual
10 orientation or gender identity;

11 (B) to eliminate or reduce sexual or ro-
12 mantic attractions or feelings toward individ-
13 uals of the same gender; or

14 (C) that such efforts are harmless or with-
15 out risk to individuals receiving such therapy;
16 or

17 (3) to knowingly assist or facilitate the provi-
18 sion of conversion therapy to an individual if such
19 person receives compensation from any source in
20 connection with providing conversion therapy.

21 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
22 SION.—

23 (1) VIOLATION OF RULE.—A violation of sub-
24 section (a) shall be treated as a violation of a rule
25 defining an unfair or deceptive act or practice pre-

scribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) POWERS OF COMMISSION.—

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

(B) PRIVILEGES AND IMMUNITIES.—Any person who violates subsection (a) shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Nothing in this paragraph shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.

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

1 (c) ENFORCEMENT BY ATTORNEY GENERAL.—The
2 Attorney General may bring a civil action in the courts
3 of the United States against a person who engages in a
4 violation of subsection (a), for appropriate relief.

5 (d) ENFORCEMENT BY STATES.—

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

15 (2) RIGHTS OF FEDERAL TRADE COMMIS-
16 SION.—

17 (A) NOTICE TO FEDERAL TRADE COMMIS-
18 SION.—

19 (i) IN GENERAL.—Except as provided
20 in clause (iii), the attorney general of a
21 State, before initiating a civil action under
22 paragraph (1), shall provide written notifi-
23 cation to the Federal Trade Commission
24 that the attorney general intends to bring
25 such civil action.

1 (ii) CONTENTS.—The notification re-
 2 quired under clause (i) shall include a copy
 3 of the complaint to be filed to initiate the
 4 civil action.

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

12 (B) INTERVENTION BY FEDERAL TRADE
 13 COMMISSION.—The Commission may—

14 (i) intervene in any civil action
 15 brought by the attorney general of a State
 16 under paragraph (1); and

17 (ii) upon intervening—

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

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

22 (3) INVESTIGATORY POWERS.—Nothing in this
 23 subsection may be construed to prevent the attorney
 24 general of a State from exercising the powers con-
 25 ferred on the attorney general by the laws of the

1 State to conduct investigations, to administer oaths
2 or affirmations, or to compel the attendance of wit-
3 nesses or the production of documentary or other
4 evidence.

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

15 (5) VENUE; SERVICE OF PROCESS.—

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

18 (i) the district court of the United
19 States that meets applicable requirements
20 relating to venue under section 1391 of
21 title 28, United States Code; or

22 (ii) another court of competent juris-
23 diction.

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

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

6 (ii) venue is proper under section
 7 1391 of title 28, United States Code.

8 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

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

23 **SEC. 5. SEVERABILITY.**

24 If any provision of this Act, or the application of such
 25 provision to any person or circumstance, is held to be un-

1 constitutional, the remainder of this Act, and its applica-
2 tion to any person or circumstance shall not be affected
3 thereby.

