

2020

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

Sexuality and Gender Identity Conversion Practices Bill 2020

SUPPLEMENTARY EXPLANATORY STATEMENT

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Sexuality and Gender Identity Conversion Practices Bill 2020

INTRODUCTION

This supplementary explanatory statement relates to the Government amendments to the Sexuality and Gender Identity Conversion Practices Bill 2020 (the Bill) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Government amendments and help inform debate on them. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

This statement is to be read in conjunction with the Government amendments and the Bill. It is not, and is not intended to be, a comprehensive description of the Bill and the Government amendments.

OVERVIEW OF GOVERNMENT AMENDMENTS

The Bill prohibits certain practices aimed at changing a person's sexuality or gender identity.

The Bill does not prohibit a person providing support and affirmation of an individual's identity and choices. Conversion practices do not include practices that assist a person undergoing or considering undergoing a gender transition, assist a person to express their gender identity, provide acceptance, support or understanding of a person, or facilitate a person's coping skills, social support or identity exploration and development.

The Bill also does not prohibit practices in line with professional medical standards. Conversion practices do not include a practice by a health service provider that, in the provider's reasonable professional judgment, is necessary to provide a health service in a manner that is safe and appropriate or comply with the provider's legal or professional obligations.

The definition of conversion practices is intended to cover practices that actively seek to change the sexuality or gender identity of a person, and instances where someone purports to change the sexuality or gender identity of a person.

It is not intended that mere expressions of religious tenets or beliefs relating to sexuality or gender identity would constitute a conversion practice, nor would failing to provide support to a person.

It is not intended that the definition of 'conversion practices' will capture a conversation, between a parent and a child or young person for whom they have parental responsibility, about exploring or understanding their sexuality or their gender identity. Further, a failure to support a child or young person with their identified sexuality or gender identity is not intended to fall within the scope of a 'conversion practice' for the purpose of the Bill.

The purpose of the Government amendments is to provide a further example and note within the definition of ***sexuality or gender identity conversion practice***.

CONSULTATION ON THE PROPOSED APPROACH

There has been ongoing community engagement on the Bill since the ACT Government announced plans to legislate to prohibit conversion practices in May 2018. Stakeholders who have provided input include LGBTIQ+ groups, survivor groups of conversion practices, faith groups, education peak bodies, medical peak bodies and health organisations, and concerned individuals.

Views from consultation informed the development of the Bill. Consultation highlighted the ongoing nature and harm of conversion practices, the forms in which conversion practices can take, the need to provide for different civil and criminal liabilities and enforcement options for a more effective response, and the need to signal the ongoing ability for people to hold, express and teach religious beliefs.

CONSISTENCY WITH HUMAN RIGHTS

As the explanatory statement provides, the Bill is targeted at practices that are demonstrably harmful and based on unfounded claims that it is possible to change a person's sexuality or gender identity.

These amendments clarify that the definition of conversion practices is to cover practices that actively seek to change the sexuality or gender identity of a person.

The Bill is not intended to interfere with religious teachings more broadly, or to prevent religious schools from teaching the tenets of their faith, including teachings on sexuality or gender identity.

It is not intended that mere expressions of religious tenets or beliefs relating to sexuality or gender identity would constitute a conversion practice, nor would failing to provide support to a person.

CLAUSE NOTES – GOVERNMENT AMENDMENTS

Amendment 1 Meaning of *sexuality or gender identity conversion practice*

Clause 7(2)

Proposed new example and note

Page 4, line 25

Clause 7(2) provides that a ***sexuality or gender identity conversion practice*** does not include a practice the purpose of which is to

- (a) assist a person who is undergoing a gender transition; or
- (b) assist a person who is considering undergoing a gender transition; or
- (c) assist a person to express their gender identity; or
- (d) provide acceptance, support or understanding of a person; or
- (e) facilitate a person's coping skills, social support or identity exploration and development.

Examples—s (2)

- diagnosis and assessment of a person with gender dysphoria or gender non-conforming behaviour or identity
- support for a person with social adjustments related to gender dysphoria
- gender-affirming hormone treatment
- other gender transition services, for example, speech pathology services for a transgender or gender-diverse person who wishes to alter their voice and communication to better align with their gender identity

This amendment inserts a new example and note at clause 7(2).

This amendment inserts a new example that providing support for a person exploring or expressing their sexuality is not a conversion practice.

This amendment inserts a note that under the *Human Rights Act 2004*, s 14, a person has the right to freedom of thought, conscience and religion, including the freedom to demonstrate their religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private. It is not intended that a mere expression of a religious tenet or belief would constitute a sexuality or gender identity conversion practice.