File No. 120680 Board Item No. 66

COMMITTEE/BOARD OF SUPERVISORS

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Board of Supervisors Meeting **Date: June 19, 2012**

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OTHER:

Completed by: Dena Braley **Date: June 14, 2012**

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☐ 1. For reference to Committee: _____
An ordinance, resolution, motion, or charter amendment.

☒ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee: _____

☐ 4. Request for letter beginning "Supervisor _____ inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. _____ from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No. _____

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on _____

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Supervisor Wiener

Subject:

Resolution Supporting California Senate Bill 1172

The text is listed below or attached:

Resolution supporting California Senate Bill 1172, which bans sexual orienation change efforts for minors in the State of California

Signature of Sponsoring Supervisor: _____

For Clerk's Use Only:

FILE NO. 120680 RESOLUTION NO.

[Resolution Supporting Senate Bill 1172]

Resolution supporting California Senate Bill 1172, which bans sexual orientation change efforts for minors in the State of California.

WHEREAS, Senate Bill 1172, which would ban children under the age of eighteen from undergoing sexual orientation change efforts, is currently pending in the California State Assembly; and

WHEREAS, An individual's sexual orientation is not a disease, disorder, or illness; and

WHEREAS, There is no evidence that any type of psychotherapy can change a person's sexual orientation; and

WHEREAS, Such practices of sexual orientation change efforts pose detrimental mental health risks to gay, lesbian and bisexual people including depression, guilt, hopelessness, shame, suicidal ideation and substance abuse, among other forms of psychological and emotional distress; and

WHEREAS, Minors who experience rejection by their family based on their sexual orientation face a variety of critical health issues, including depression, illegal drug use, and suicide attempts; and

WHEREAS, The American Psychiatric Association, the American Psychological Association, the American Counseling Association, the American Association of Marriage and Family Therapists, the National Association of Social Workers, and the American Academy of Pediatrics oppose efforts to change the sexual orientation of any individual; and

WHEREAS, SB 1172 prohibits therapists from engaging in harmful practices that seek to change a minor's sexual orientation or the expression of the young person's sexual orientation; and

WHEREAS, the City and County of San Francisco is home to a large and diverse LGBT community, including many LGBT people who have come to San Francisco as a refuge from discrimination and oppress, San Francisco being unwaivering in its commitment to provide a safe and respectful environment for individuals from all walks of life; now, therefore, be it

RESOLVED, that the City and County of San Francisco hereby supports California SB 1172.

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 30, 2012

AMENDED IN SENATE APRIL 25, 2012

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL No. 1172

Introduced by Senator Lieu
(Coauthor: Assembly Member Ma)

February 22, 2012

An act to add Article 15 (commencing with Section 865) to Chapter 1 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1172, as amended, Lieu. Sexual orientation change efforts.

Existing law provides for licensing and regulation of various professions in the healing arts, including physicians and surgeons, psychologists, marriage and family therapists, educational psychologists, clinical social workers, and licensed professional clinical counselors.

This bill would prohibit ~~psychotherapists~~ *a mental health provider*, as defined, from ~~performing~~ *engaging in* sexual orientation change efforts, as defined, ~~in the absence of informed consent of the~~ *with a* patient *under 18 years of age.* ~~The bill would require a specified statement to be included on the informed consent form. Informed consent would not be effective for patients under 18 years of age. The bill would provide for a cause of action against psychotherapists by patients, former patients, or certain other persons in specified cases.~~

The bill would also declare the intent of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) ~~An individual's sexual orientation, whether homosexual,~~
4 *Being lesbian, gay, or* bisexual~~, or heterosexual,~~ is not a disease,
5 disorder, illness, deficiency, or shortcoming. The major
6 professional associations of mental health practitioners and
7 researchers in the United States have recognized this fact for nearly
8 40 years.
9 (b) ~~Sexual~~ *The American Psychological Association convened*
10 *a Task Force on Appropriate Therapeutic Responses to Sexual*
11 *Orientation. The task force conducted a systematic review of*
12 *peer-reviewed journal literature on sexual orientation change*
13 *efforts, and issued a report in 2009. The task force concluded that*
14 *sexual* orientation change efforts can pose critical health risks to
15 lesbian, gay, and bisexual people, including confusion, depression,
16 guilt, helplessness, hopelessness, shame, social withdrawal,
17 suicidality, substance abuse, stress, disappointment, self-blame,
18 decreased self-esteem and authenticity to others, increased
19 self-hatred, hostility and blame toward parents, feelings of anger
20 and betrayal, loss of friends and potential romantic partners,
21 problems in sexual and emotional intimacy, sexual dysfunction,
22 high-risk sexual behaviors, a feeling of being dehumanized and
23 untrue to self, a loss of faith, and a sense of having wasted time
24 and resources. ~~This is documented by the American Psychological~~
25 ~~Association's Task Force on Appropriate Therapeutic Responses~~
26 ~~to Sexual Orientation in its 2009 Report of the Task Force on~~
27 ~~Appropriate Therapeutic Responses to Sexual Orientation.~~
28 ~~(c) (1) The American Psychological Association, in its 1997~~
29 ~~Resolution on Appropriate Therapeutic Responses to Sexual~~
30 ~~Orientation, states: "We oppose portrayals of lesbian, gay and~~
31 ~~bisexual youth and adults as mentally ill due to their sexual~~
32 ~~orientation and support the dissemination of accurate information~~
33 ~~about sexual orientation and mental health and appropriate~~

~~interventions in order to counteract bias that is based in ignorance of unfounded beliefs about sexual orientation."~~

~~(2) The American Psychological Association also convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation. The task force conducted a systematic review of peer-reviewed journal literature on sexual orientation change efforts. It concluded: "Efforts to change sexual orientation are unlikely to be successful and involve some risk of harm, contrary to the claims of sexual orientation change efforts practitioners and advocates."~~

(c) The American Psychological Association issued a resolution on Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts in 2009, which states: "[T]he [American Psychological Association] 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 support, and educational services that provide accurate information on sexual orientation and sexuality, increase family and school support, and reduce rejection of sexual minority youth."

(d) The American Psychiatric Association published a position statement in March of 2000 in which it stated: ~~"The~~

"Psychotherapeutic modalities to convert or 'repair' homosexuality are based on developmental theories whose scientific validity is questionable. Furthermore, anecdotal reports of 'cures' are counterbalanced by anecdotal claims of psychological harm. In the last four decades, 'reparative' therapists have not produced any rigorous scientific research to substantiate their claims of cure. Until there is such research available, [the American Psychiatric Association] recommends that ethical practitioners refrain from attempts to change individuals' sexual orientation, keeping in mind the medical dictum to first, do no harm.

"The potential risks of reparative therapy are great, including depression, anxiety and self-destructive behavior, since therapist alignment with societal prejudices against homosexuality may reinforce self-hatred already experienced by the patient. Many patients who have undergone reparative therapy relate that they were inaccurately told that homosexuals are lonely, unhappy individuals who never achieve acceptance or satisfaction. The

possibility that the person might achieve happiness and satisfying interpersonal relationships as a gay man or lesbian is not presented, nor are alternative approaches to dealing with the effects of societal stigmatization discussed.

"Therefore, the American Psychiatric Association 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 priori assumption that a patient should change his/her sexual homosexual orientation."

(e) The American School Counselor Association's position statement on professional school counselors and lesbian, gay, bisexual, transgendered, and questioning (LGBTQ) youth states: "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. Recognizing that sexual orientation is not an illness and does not require treatment, professional school counselors may provide individual student planning or responsive services to LGBTQ students to promote self-acceptance, deal with social acceptance, understand issues related to coming out, including issues that families may face when a student goes through this process and identify appropriate community resources."

(f) The American Academy of Pediatrics in 1993 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."

(g) The American Medical ~~Association's~~ *Association* Council on Scientific Affairs prepared a report in 1994 in which it stated: "Aversion therapy (a behavioral or medical intervention which pairs unwanted behavior, in this case, homosexual behavior, with unpleasant sensations or aversive consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians can become comfortable with their sexual orientation and understand the societal response to it."

(h) The National Association of Social Workers prepared a 1997 policy statement in which it stated: "Social stigmatization of lesbian, gay and bisexual people is widespread and is a primary motivating factor in leading some people to seek sexual orientation

changes. Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful."

(i) The American Counseling Association Governing Council issued a position statement in April of 1999, and in it the council states: "We oppose 'the promotion of "reparative therapy" as a "cure" for individuals who are homosexual.'"

(j) The Pan American Health Organization, a regional office of the World Health Organization, issued a statement in May of 2012 and in it the organization states: "These supposed conversion therapies constitute a violation of the ethical principles of health care and violate human rights that are protected by international and regional agreements." The organization also noted that reparative therapies "lack medical justification and represent a serious threat to the health and well-being of affected people."

~~(i)~~

(k) Minors who experience family rejection based on their sexual orientation face especially serious health risks. In one study, 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. This is documented by Caitlin Ryan et al. in their article entitled Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults (2009) 123 Pediatrics 346.

~~(j)~~

(l) California has a compelling interest in protecting the ~~lives and health of~~ *physical and psychological well-being of minors, including* lesbian, gay, ~~and~~ bisexual ~~people~~*, and transgender youth, and in protecting its minors against exposure to serious harms caused by sexual orientation change efforts.*

(m) Nothing in this act is intended to prevent a minor who is 12 years of age or older from consenting to any mental health treatment or counseling services, consistent with Section 124260 of the Health and Safety Code, other than sexual orientation change efforts as defined in this act.

SEC. 2. Article 15 (commencing with Section 865) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 15. Sexual Orientation Change Efforts

865. For the purposes of this article, the following terms shall have the following meanings:

~~(a) "Informed consent" means consent that is voluntarily provided in writing by a patient to a psychotherapist with whom the patient has a therapeutic relationship. The informed consent must explicitly manifest the patient's agreement to sexual orientation change efforts and include a statement as set forth in Section 865.1. Consent that is provided as a result of therapeutic deception or duress or coercion is not informed consent.~~

~~(b) "Psychotherapist"~~

(a) "Mental health provider" means a physician and surgeon specializing in the practice of psychiatry, a psychologist, a psychological assistant, a *licensed* marriage and family therapist, a registered marriage and family therapist, intern, or trainee, an educational psychologist, a licensed clinical social worker, an associate clinical social worker, a licensed professional clinical counselor, or a registered clinical counselor, intern, or trainee.

~~(c) "Psychotherapy" means the professional assessment, evaluation, treatment, or counseling of a mental or emotional illness, symptom, or condition by a psychotherapist.~~

~~(d)~~

(b) "Sexual orientation change efforts" means ~~psychotherapy aimed at altering the sexual or romantic desires, attractions, or conduct of a person toward people of the same sex so that the desire, attraction, or conduct is eliminated or reduced or might instead be directed toward people of a different sex. It does not include psychotherapy aimed at altering sexual desires, attractions, or conduct toward minors or relatives or regarding sexual activity with another person without that person's consent~~ *practices by mental health providers that seek to change orientation or reduce or eliminate sexual or romantic attractions, feelings, or behaviors because those attractions, feelings, or behaviors are directed toward persons of a particular sex or both sexes. "Sexual orientation change efforts" does not include psychotherapies that*

aim to provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, without seeking to change orientation or reduce or eliminate sexual or romantic attractions, feelings, or behaviors because those attractions, feelings, or behaviors are directed toward persons of a particular sex or both sexes.

~~(e) "Therapeutic deception" means a representation by a psychotherapist that sexual orientation change efforts are endorsed by leading medical and mental health associations or that they can or will reduce or eliminate a person's sexual or romantic desires, attractions, or conduct toward another person of the same sex.~~

~~(f) "Therapeutic relationship" means the relationship that exists during the time the patient receives psychotherapy.~~

~~(g) "Leading medical and mental health associations" means the American Psychiatric Association, the American Psychological Association, the American Counseling Association, the National Association of Social Workers, the American Association for Marriage and Family Therapy, and the American Academy of Pediatrics.~~

~~865.1. (a) No psychotherapist shall engage in sexual orientation change efforts without first obtaining the patient's informed consent to therapy as prescribed in subdivision (b).~~

~~(b) To obtain informed consent, a treating psychotherapist shall provide a patient with a form to be signed by the patient that provides informed consent. The form shall include the following statement in size 14 font:~~

~~"Having a lesbian, gay, or bisexual sexual orientation is not a mental disorder. Sexual orientation change efforts have not been shown to be safe or effective and can, in fact, be harmful. The risks include, but are not limited to, depression, anxiety, self-destructive behavior, and suicide.~~

~~The American Psychological Association convened a Task Force on Appropriate Therapeutic Responses to Sexual Orientation and it concluded:~~

~~"Efforts to change sexual orientation are unlikely to be successful and involve some risk of harm, contrary to the claims of sexual orientation change efforts practitioners and advocates."~~

~~The American Academy of Pediatrics states:~~

~~"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."~~

~~The American Medical Association's Council on Scientific Affairs prepared a report in which it stated:~~

~~"Aversion therapy (a behavioral or medical intervention which pairs unwanted behavior, in this case, homosexual behavior, with unpleasant sensations or aversive consequences) is no longer recommended for gay men and lesbians. Through psychotherapy, gay men and lesbians can become comfortable with their sexual orientation and understand the societal response to it."~~

~~The National Association of Social Workers states:~~

~~"Social stigmatization of lesbian, gay and bisexual people is widespread and is a primary motivating factor in leading some people to seek sexual orientation changes. Sexual orientation conversion therapies assume that homosexual orientation is both pathological and freely chosen. No data demonstrates that reparative or conversion therapies are effective, and, in fact, they may be harmful."~~

–

~~865.2.~~

865.1. ~~(a)~~ Under no circumstances shall *a mental health provider engage in sexual orientation change efforts with* a patient under 18 years of age ~~undergo sexual orientation change efforts~~, regardless of the willingness of a *patient,* patient's parent, guardian, conservator, or other person to authorize such efforts.

~~(b) The right to refuse sexual orientation change efforts is not waived by giving informed consent and that consent may be withdrawn at any time prior to, during, or between sessions of sexual orientation change efforts.~~

~~(c) Any act of duress or coercion by any person or facility shall invalidate the patient's consent to sexual orientation change efforts.~~

~~865.3. (a) (1) A cause of action may be brought against a psychotherapist by a patient, former patient, or deceased former patient's parent, child, or sibling if the sexual orientation change efforts were conducted without first obtaining informed consent or by means of therapeutic deception, or if the sexual orientation change efforts were conducted on a patient who was under 18 years of age at any point during the use of the sexual orientation change efforts.~~

1 ~~(2) The patient, former patient, or deceased former patient's~~
2 ~~parent, child, or sibling may recover actual damages, or statutory~~
3 ~~damages in the amount of five thousand dollars ($5,000),~~
4 ~~whichever is greater, in addition to costs and reasonable attorney's~~
5 ~~fees.~~
6 ~~(3) The time for commencement of the action shall be within~~
7 ~~eight years of the date the patient or former patient attains the age~~
8 ~~of majority or within five years of the date the patient, former~~
9 ~~patient, or deceased former patient's parent, child, or sibling~~
10 ~~discovers or reasonably should have discovered that the patient~~
11 ~~was subjected to sexual orientation change efforts in violation of~~
12 ~~this article.~~
13 ~~(b) Nothing in this article precludes or limits the right of a~~
14 ~~patient, former patient, or deceased former patient's parent, child,~~
15 ~~or sibling to bring a civil action against a psychotherapist arising~~
16 ~~from other legal claims.~~

O