

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 398

BY MCCROSTIE

AN ACT

1 RELATING TO THE YOUTH MENTAL HEALTH PROTECTION ACT; AMENDING CHAPTER 24,  
2 TITLE 16, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 16-2435 THROUGH  
3 16-2439, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO STATE LEGISLATIVE  
4 FINDINGS, TO DEFINE "CONVERSION THERAPY," TO PROVIDE FOR VIOLATIONS  
5 AND ENFORCEMENT FOR CERTAIN PERSONS WHO PERFORM CONVERSION THERAPY AND  
6 TO PROHIBIT STATE FUNDING FOR CONVERSION THERAPY; AND PROVIDING SEVER-  
7 ABILITY.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Chapter 24, Title 16, Idaho Code, be, and the same is  
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
12 ignated as Section 16-2435, Idaho Code, and to read as follows:

13 16-2435. SHORT TITLE. Sections 16-2435 through 16-2439, Idaho Code,  
14 shall be known and may be cited as the "Youth Mental Health Protection Act."

15 SECTION 2. That Chapter 24, Title 16, Idaho Code, be, and the same is  
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
17 ignated as Section 16-2436, Idaho Code, and to read as follows:

18 16-2436. LEGISLATIVE FINDINGS. The legislature finds and declares  
19 that:

20 (1) Contemporary science recognizes that being lesbian, gay, bisexual  
21 or transgender is part of the natural spectrum of human identity and is not a  
22 disease, disorder or illness; and

23 (2) Idaho has a compelling interest in protecting the physical and  
24 psychological well-being of minors, including lesbian, gay, bisexual and  
25 transgender youth, and in protecting its minors against exposure to serious  
26 harms caused by conversion therapy.

27 SECTION 3. That Chapter 24, Title 16, Idaho Code, be, and the same is  
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
29 ignated as Section 16-2437, Idaho Code, and to read as follows:

30 16-2437. CONVERSION THERAPY DEFINED. As used in this act, "conversion  
31 therapy" means any practices or treatments that seek to change an individ-  
32 ual's sexual orientation or gender identity, including efforts to change be-  
33 haviors or gender expressions or to eliminate or reduce sexual or romantic  
34 attractions or feelings toward individuals of the same gender. Conversion  
35 therapy does not include counseling that provides assistance to a person un-  
36 dergoing gender transition, or counseling that provides acceptance, support  
37 and understanding of a person or facilitates a person's coping, social sup-  
38 port and identity exploration and development, including sexual-orienta-  
39 tion-neutral interventions to prevent or address unlawful conduct or unsafe

1 sexual practices, as long as such counseling does not seek to change an indi-  
2 vidual's sexual orientation or gender identity.

3 SECTION 4. That Chapter 24, Title 16, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 16-2438, Idaho Code, and to read as follows:

6 16-2438. VIOLATIONS AND ENFORCEMENT. (1) A person who is licensed to  
7 provide professional counseling under title 54, Idaho Code, including, but  
8 not limited to, a psychiatrist, licensed practicing psychologist, certified  
9 social worker, licensed clinical social worker, licensed social worker, li-  
10 censed marriage and family therapist, certified psychoanalyst or a person  
11 who performs counseling as part of the person's professional training for  
12 any of these professions, shall not engage in conversion therapy with a per-  
13 son under eighteen (18) years of age.

14 (2) Any conversion therapy practiced by a licensed professional, as de-  
15 scribed in subsection (1) of this section, on a patient under eighteen (18)  
16 years of age shall be considered unprofessional conduct and shall subject  
17 the licensed professional to discipline by the relevant licensing entity.

18 (3) The Idaho department of health and welfare shall have concurrent  
19 authority to initiate proceedings for violations of this section. The de-  
20 partment shall promulgate rules in accordance with the provisions of this  
21 section.

22 SECTION 5. That Chapter 24, Title 16, Idaho Code, be, and the same is  
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
24 ignated as Section 16-2439, Idaho Code, and to read as follows:

25 16-2439. PROHIBITION ON STATE FUNDING FOR CONVERSION THERAPY. No  
26 state funds, nor any funds belonging to a municipality, agency or political  
27 subdivision of this state, shall be expended for the purpose of conducting  
28 conversion therapy, referring a person for conversion therapy, health ben-  
29 efits coverage for conversion therapy or a grant or contract with any entity  
30 that conducts conversion therapy or refers individuals for conversion ther-  
31 apy.

32 SECTION 6. SEVERABILITY. The provisions of this act are hereby declared  
33 to be severable and if any provision of this act or the application of such  
34 provision to any person or circumstance is declared invalid for any reason,  
35 such declaration shall not affect the validity of the remaining portions of  
36 this act.