

(Includes Legal Advice On The New Law¹)

WHAT IS 'CONVERSION THERAPY'

The term 'conversion therapy' has been coined by activists but not clearly defined – so the rest of us are left trying to work out what it means. If it means practices which are **coercive, abusive or involuntary**, or includes things like electric shock therapy or 'anti-gay boot camps', then we can all agree such things are inhumane and must be condemned. These types of 'therapy' should not be part of any community, let alone a faith-based one. Therapy or counselling should never be forced on anyone. Sadly, in the past, many state institutions sanctioned inhumane treatments such as electroconvulsive therapy (ECT)², being stripped naked and being locked in a small room³, massive doses of medication, lobotomies and screaming patients chained to chairs⁴. **Fortunately, these are not part of current practice and certainly not part of any religious organisation.**

However, banning 'conversion therapy' has expanded to mean stopping someone who experiences **unwanted** same-sex attraction or gender dysphoria from getting counselling or support of any sort that they may themselves desire.

In passing the **Conversion Practices Prohibition Legislation Act 2022**, Parliament has effectively criminalised the discussion and practice of alternatives to hormones, surgery and confusion for gender dysphoria – and more troubling, they have criminalised self-determination of how a person wants to live their own life.

The definition of "conversion practice" in section 5 of the Act states:



Conversion Practices Prohibition Legislation Act 2022

5 Meaning of conversion practice

- (1) In this Act, conversion practice means any practice, sustained effort, or treatment that-
- is directed towards an individual because of the individual's sexual orientation, gender identity or gender expression; and
 - is done with the intention of changing or suppressing the individual's sexual orientation, gender identity, or gender expression.
- (2) However, conversion practice does not include—

- any action that a health practitioner takes when providing a health service if the health practitioner—
 - considers in their reasonable professional judgement it is appropriate to take that action; and
 - complies with all legal, professional, and ethical standards when taking the action; or
- assisting an individual who is undergoing, or considering undergoing, a gender transition; or
- assisting an individual to express their gender identity; or
- providing acceptance, support, or understanding of an individual; or
- facilitating an individual's coping skills, development, or identity exploration, or facilitating social support for the individual; or
- the expression only of a belief or a religious principle made to an individual that is not intended to change or suppress the individual's sexual orientation, gender identity, or gender expression.

Examples of conversion practices

The following are examples of a conversion practice if each practice, sustained effort, or treatment described is directed towards an individual because of that individual's sexual orientation, gender identity, or gender expression:

- using shame or coercion intending to give an individual an aversion to same-sex attractions or to encourage gender-conforming behaviour;
- encouraging an individual to believe that their sexual orientation, gender identity, or gender expression needs changing because it is a defect or disorder;
- carrying out a prayer-based practice, a deliverance practice, or an exorcism intending to change or suppress an individual's sexual orientation, gender identity, or gender expression. (our emphasis added)

Excerpts from Legal Advice received by Family First NZ⁵

...*The terms sexual orientation, gender identity or gender expression are not defined in the Act.*

...*There is greatest certainty for health practitioners... There is significantly less certainty for parents, religious groups and counsellors in ensuring their conversations and actions avoid being classified as “conversion practices”. These persons would have to rely on their actions either not being directed at an individual because of their sexuality or gender; not being intended to change or suppress their sexuality or gender; or falling under one of the exceptions in section 5(2)(b)-(f).* (our emphasis added)

In the **Select Committee report**⁶ which was accepted by Parliament, it said: *The definition of conversion practice does not explicitly state whether it would cover both one-off and cumulative practices. We believe that the definition should cover both, as harm can be caused by one-off acts as well as by cumulative practices.* This adjustment to the definition was subsequently made. This has expanded the possibility of a parent, youthworker or pastor being caught. A simple one-off discussion could be caught – as could a weekly bible study on sex and gender.

Excerpts from Legal Advice received by Family First NZ

...*There were a number of SOPs [amendments] introduced by National and Act proposing certain explicit examples of further actions that were not “conversion practices”, such as an expression of opinion or conversations between a parent and their child, but these were voted down by a majority of members. The Labour party’s view in rejecting these SOPs was that the definition of “conversion practice” set a high threshold and that the Bill was not intended to capture conversations, explorations of views or expressions of opinions. But that is not consistent with the wording of section 5(1) where certain conversations could be “conversion practices” under the definition in the Act.* (our emphasis added)

Prayer is specifically included as a ‘conversion’ practice – even when requested by the person. (see further discussion below)

Ironically, the Committee also said: *“We disagree that gender-affirming care or supporting a gender transition could be classified as conversion practices.”* It appears that **conversion therapy is still legal**. As long as you’re converting someone **to** homosexuality or **to be** transgender, that will still be supported and endorsed by Parliament. Note that in the law, *“assisting”* someone to undergo a

“gender transition” is acceptable, but to *“encourage gender-conforming behaviour”* (i.e. seeking to live comfortably in one’s natal sex) is not acceptable. **As long as you are going in the direction dictated by the activists, that’s okay – which reveals to us all what the real agenda of this legislation is.**

CRIMINALISING PARENTS & FAMILIES

Under the law, **parents could be criminalised and liable to up to five years imprisonment** simply for affirming that their sons are boys and their daughters are girls! The law could criminalise the actions of parents who wish to protect their child from the physical, emotional and psychological harm caused by attempting to change their biological sex.

A parent who promotes biological sex could be criminalised, but an activist who indoctrinates young children with the concept of ‘gender fluidity’ and ‘third (or 112th) gender’ will be celebrated. Affirming biological sex could be illegal; affirming ‘gender identity’ remains legal.

This is not loving or compassionate towards children. Numerous reviews show the majority of children who are confused about their gender also suffer from diagnosed psychiatric disorders, such as depression and anxiety.

A mother who encourages and helps her 12-year-old daughter to accept the body she was born with, rather than being placed on dangerous puberty blockers and wearing chest binders, could be committing a criminal offence. Can Dad even gently discourage his nine-year-old son from demands that his father refer to him with female pronouns and allow him to use the girls’ public toilets?

Just recently, the UK’s Tavistock transgender clinic was shut down by the NHS after a review found it is not a *“safe or viable option”* for children, and that there is insufficient evidence to recommend puberty blockers.⁷

The closing of the Tavistock Clinic came at the same time as the Food and Drug Administration (FDA) in the US issued a warning label about the risk of puberty blockers after six minors (ages 5-12) experienced severe symptoms, including tumor-like masses in the brain, visual disturbances, swelling of the optic nerve, increased blood pressure, and eye paralysis.

Medical professionals and groups around the world – including the *Royal Australian and New Zealand College of Psychiatrists* (RANZCP) – are sounding growing concern and caution around the use of puberty blockers to treat young people with gender dysphoria because of the low certainty of benefits, but the significant potential for medical harm.⁸ Sweden, Finland, France and the UK have all recently moved away from the Gender Affirmative Model.

Complaints can also be made to the Human Rights Commission (HRC) and the Human Rights Review Tribunal – which will also have a chilling effect. In fact, at the beginning of August 2022, the HRC started ‘marketing’ their “new support service for reports of conversion practice.”⁹ (see further discussion below)

“Isn’t the current ‘transitioning’ of a child to an alternate gender just another form of ‘conversion therapy’, using the old and abhorrent means of psychological pressure, hormones and surgery?”

Australian paediatrician Dr John Whitehall

Excerpts from Legal Advice received by Family First NZ

...Health practitioners and counsellors are likely to be arm’s length from “the individual” in a way that parents, other family and friends may not be. This lack of distance increases the risk of overstepping the demarcation line between actions or conversations that are permissible and actions or conversations that are not. The closer a person is to the individual in question and the more their interests are invested in what happens to the individual, the harder it may be for those people to be neutral in their conversation and actions and to leave the choice to the individual. In particular, a parent certainly has a greater interest in what happens to their own child than a health practitioner, counsellor or even a religious group/leader. A parent may also have greater influence (positive or negative) over a child than a health practitioner, counsellor or religious leader.

...There is significantly less certainty for parents, religious groups and counsellors in ensuring their conversations and actions avoid being classified as “conversion practices”. These persons would have to rely on their actions either not being directed at an individual because of their sexuality or gender, not being intended to change or suppress their sexuality or gender, or falling under one of the exceptions in section 5(2)(b)-(f). There are circumstances where there is greater risk of a person’s actions being interpreted as a conversion practice – for example, a conversation between a parent who holds religious beliefs that certain forms of sexual orientation or gender expression are wrong or sinful and their child who has made a decision to live in opposition to those beliefs. In these circumstances the parent could attempt to argue that they were only expressing their beliefs or religious principles (in relying on the exception in section 5(2)(f)), but there is a legal risk that this expression could be found to be intended to change or suppress their child’s sexuality or gender.

...Conversations that are more in the nature of confronting or rejecting, than supporting and assisting, an individual’s sexuality or gender run the risk of being interpreted as a “conversion practice”, as they would be directed towards the individual and could be intended to change or suppress their sexuality or gender...

...There are significant consequences of these criminal offences especially in circumstances where a prosecution is being brought against a parent for a conversion practice performed on their child. In that case, evidence will need to be brought by both the parent and child and potentially other family members as to the events that occurred to determine whether they meet the definition of a “conversion practice” as set out above. This has the potential to effectively tear a family apart as family members are forced to pick sides and act as witnesses on opposing sides of a criminal prosecution.

Puberty Blockers

If a parent was to refuse medical consent for their child to go on puberty blockers, this would likely not, on its own, be held constitute a “conversion practice” under the Act... While withholding consent may not, on its own, constitute a conversion practice, the conversation between parent and child surrounding this refusal could potentially constitute a conversion practice, for instance if the parent indicates to the child that the reason for the refusal is their belief that their child’s gender identity is a defect or disorder and encourages the child to believe the same (as this is an example of a conversion practice given in the Act).

Chest Binders

A parent taking actions or steps to prevent a child from dressing in the way they want to – regardless of whether this is particular clothing (dresses, skirts) or up to and including chest binders – could be interpreted as a practice that is intended to change or suppress their child’s gender identity/expression and therefore be held to be a conversion practice. It depends on the specific facts and

whether the actions are accompanied by a conversation which exacerbates the risk.

Refusal to allow child to identify as the opposite sex

The question is whether those conversations or actions constitute an attempt to change or suppress the child's gender identity/expression. An attempt to control or limit a child's expression of their gender through active intervention (stopping them from doing certain things or dressing in a certain way) would be likely to be a "conversion practice".

Refusal to use pronouns other than biological sex pronouns

A refusal to use preferred pronouns could be a conversion practice if it was not an omission but rather accompanied by an act or conversation of saying to the child "that's ridiculous" or "I won't because that is not what you are". Such words could evidence an intention to change or suppress their gender identity/expression. If the parent consistently refers to their child by a previous name or biological pronouns – this could at some point amount to

a practice that is done with the intention of changing or suppressing their gender identity/expression. I advise that the demarcation line between confronting and rejecting and intending to change or suppress a child's gender identity/expression is a legally risky one for parents to draw and caution against entering into any conversations which are confronting and rejecting.

Encouraging recognition and acceptance of biological sex

Active steps taken by a parent to 'encourage' recognition and acceptance of biological sex and discourage any change in sex/gender would likely be a conversion practice. This is because it would constitute a practice, sustained effort or treatment directed at the child because of their gender identity/expression with the intent of changing or suppressing their stated gender identity/expression. Depending on the nature of the 'encouragement' it may fall within the first of the example conversion practices in section 5: "using shame or coercion ... to encourage gender conforming behaviour". (our emphasis added)

CRIMINALISING COUNSELLORS, CARERS & TEACHERS

Under the new law, it could be illegal for a counsellor, spiritual leader, pastor, youth worker, teacher or other professional to counsel a child or adult with gender dysphoria in a way that **affirms biology. They could be liable to up to five years imprisonment.**

If a young person, for example, **wanted to align their sexuality with the teachings and values of their particular faith** – be it Muslim or Christian, Jewish or Sikh, etc – and sought help to do so from a minister or faith leader, the law makes it virtually impossible to access the support they wanted. Furthermore, if they were able to find someone prepared to provide counselling of that kind, they could well cause that person to become implicated in a criminal offence. Even an ethical discussion of this risk with a counsellor, faith leader or youth worker **could be interpreted by the patient, and the law, as 'trying to stop you ("changing or suppressing" as termed in the law) being trans or gay'.**

One-on-one counselling to help a teen struggling with body image due to anorexia would be permitted, but the very same counselling would be prohibited if the goal is to help a teen struggling with body image due to gender dysphoria.

As warned earlier, prayer as part of counselling or within the setting of a religious meeting could fall inside the concept of 'conversion therapy'. Thus, if a church minister, imam or youth leader were to pray for a teenager to be freed from unwanted sexual thoughts or gender confusion, this could be interpreted as constituting a criminal offence. **It may therefore become dangerous for a child or adult to express confusion over their sexuality or gender.** No-one would be able to legally protect them from the gender-transitioning protocols that are backed by the Parliament and radical gender activists, but which are increasingly being challenged by health professionals and medical groups around the world.



Excerpts from Legal Advice received by Family First NZ

...Section 5(2)(f) says “the expression only of a belief or a religious principle made to an individual that is not intended to change or suppress the individual’s sexual orientation, gender identity, or gender expression” is not a conversion practice. There is, however, no explicit provision to allow a person to carry out the wishes of an individual who may (due to their religious beliefs) want, and therefore consent, to conversion therapy being performed on them.

...Teaching given from the pulpit such as a sermon or even discussion in a small group generally would not be “directed towards an individual”; it would be directed towards a wider group... If one on one discussions or interactions in a small group focused on an individual’s sexuality or gender; this could be found to be a “conversion practice”. The context of a small group heightens the risk of conversations or actions being found to be conversion practices given that the members are more likely to know each other well and speak one to one, so the possibility of a statement being directed at an individual or intended to change or suppress their sexuality or gender is higher (when compared to a pastor giving a sermon to the whole congregation).

...This distinction between an expression of a religious opinion that is intended to change or suppress and one

that is not intended to change or suppress is easy to describe in the abstract but in practice it will be difficult to demarcate the difference between acceptable and unacceptable expressions of religious belief / opinion under the Act...

... Opinions / religious beliefs strongly expressed to a child may be perceived by them as intended to change or suppress their sexuality or gender. At the very least this would then be unlawful at civil law, even if the criminal standard of reasonable doubt could not be met.

...The Act also amends the HRA to include civil liability and remedies, making it unlawful for any person to perform a conversion practice on any other person or arrange for a conversion practice to be performed on any other person. Where a conversion practice is performed on an individual who is over 18, does not lack decision making capacity and no serious harm is caused there would be no criminal offence committed and therefore no risk of criminal prosecution. However, the action would still be unlawful under this provision, and so the person performing the conversion practice would open themselves up to a complaint being made against them under new section 63A the HRA. This could still have serious consequences, including a complaint to the Human Rights Commission, civil proceedings before the Human Rights Review Tribunal, and the award of damages. (our emphasis added)

As mentioned, the Human Rights Commission has already started marketing their complaints service.¹⁰

CRIMINALISING FAITH-BASED SCHOOLS & PLACES OF WORSHIP

Islamic and Christian schools could be breaking the law for teaching their students that Allah/God made us male and female. Church leaders, youth workers and imams could become criminals for reading and explaining the Quran or the Bible – that is, for doing their job – if the student believes their identity is being ‘changed or suppressed’.

If you’re a spiritual leader and someone says to you, “I’m struggling with my sexuality and gender identity, please pray for me,” you may be being asked to commit a crime.

Excerpts from Legal Advice received by Family First NZ

...Prayer or counselling with the intention of changing/ suppressing sexuality or gender (for example, dealing with sexual thoughts towards the same sex or encouraging acceptance of biological sex) would be very likely to be found to be a conversion practice. ...Indeed one of the example conversion practices provided in the Act is carrying out a prayer-based practice directed toward an individual because of their gender or sexuality, and intending to change or suppress their gender or sexuality.

...This distinction between an expression of a religious opinion that is intended to change or suppress and one that is not intended to change or suppress is easy to describe in the abstract but in practice it will be difficult to demarcate the difference between

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acceptable and unacceptable expressions of religious belief/opinion under the Act... Opinions / religious beliefs strongly expressed to a child may be perceived by them as intended to change or suppress their sexuality or gender. At the very least this would then be unlawful at civil law, even if the criminal standard of reasonable doubt could not be met. (our emphasis added)

CRIMINALISING CONSENT

Incredibly, the new law says that “*consent*” is **irrelevant**. Apparently, the mantra “*my body my choice*” doesn’t apply here. **The right of self-determination is a founding principle of the mental health profession, and for children, the wider whanau/ family is part of this important value and support base.**

To restrict the ability to give or receive counselling, teaching, prayer, group discussion and guidance on important personal issues like sexual orientation, gender identity and gender expression would constitute a serious interference with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (BORA).

Those who dare to seek inner freedom and healing from *unwanted* behavioural or thought patterns will have nowhere to turn as a result of this new ban. **The law oppresses and violates the right to seek whatever lifestyle you desire.**

Convincing people that they are a different gender to their biological sex is **not** considered ‘conversion therapy’. Nor is it considered ‘conversion therapy’ to encourage a person to explore and develop same-sex attraction. But if a same-sex attracted individual wishes to explore and strengthen a heterosexual attraction or lifestyle, or a person wishes to align with their biological sex, it would be illegal – subject to imprisonment – to encourage them to do so under this law.

Excerpts from Legal Advice received by Family First NZ

...Consent is not a defence under the Act. Even if it was, this could still lead to prosecution in circumstances where a person originally sought out the conversion practice and asked for it to be performed and liked the outcome, but later changed their mind and realised it had caused them serious harm. (our emphasis added)

Excerpts from Legal Advice received by Family First NZ

...The definition of a health practitioner in section 4 of the Act refers to the definition in the Health Practitioners Competence Assurance Act 2003 (the HPCAA) which defines the term as a person who is registered with an authority as a practitioner of a particular health profession. Certain authorities are appointed by and under the HPCAA for the various professions, including medicine, nursing, psychotherapy and psychology. A registered member of these regulated professions will be able to rely on the exception in section 5(2)(a), but anyone else such as a parent, religious leader or counsellor will not be able to. (our emphasis added)

While there is greatest certainty for health practitioners, the exception is based on taking action they consider appropriate “*in their reasonable professional judgement*”, and “complies with all legal, professional and ethical standards when taking the action.” In our view, that is the Trojan horse. The Ministry of Health and the *Professional Association for Transgender Health Aotearoa* (PATHA) endorse the ‘*Guidelines for Gender Affirming Health Care.*’¹¹ PATHA is an activist group based out of Waikato University who want compulsory training of medical professionals to support children who want to change their sex, and who promote puberty blockers, chest binding, voice reconstruction, genital surgery etc.

“*Affirming*” is code for persuading young people that they were ‘born in the wrong body’ and that it will be beneficial for them to cut off their breasts or penises, bind their chest, take cross sex hormones, block the natural progression of puberty, and potentially destroy their fertility.

The alternative is ‘watchful waiting’, which is accompanied by counselling and support, and is based on research which shows that the overwhelming majority of children grow out of their gender dysphoria after puberty. It helps the young person feel comfortable in their natal sex and deals with the comorbid psychiatric disorders that may exist and which are contributing to the gender dysphoria.

While “*affirming health care*” is currently a ‘guideline’, there is no guarantee that it couldn’t become a “*legal, professional and ethical standard*” as termed in the law, and encouraging ‘watchful waiting’ will be treated as a form of conversion therapy.

Here's what our legal advice said:

Excerpts from Legal Advice received by Family First NZ

...The provisions of the Act potentially infringe on key rights which are protected in NZBORA, including:

- a. Freedom of thought, conscience and religion (section 13)
Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference.*
- b. Freedom of expression (section 14)
Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.*
- c. Manifestation of religion and belief (section 15)
Every person has the right to manifest that person's religion or belief in worship, observance, practice, or teaching, either individually or in community with others, and either in public or in private.*
- d. Rights of minorities (section 20)
A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practice the religion, or to use the language, of that minority.*

Under section 5 of NZBORA the rights and freedoms it sets out can only be subject to "such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society".

It is possible that the following circumstances may step beyond what are justified limits on these rights in certain circumstances and not allow adequate scope for these rights to operate:

- a. Effectively criminalising conversations between parents and children such that parents will not be able to share/impart their views, religious or otherwise, without being found to have performed a conversion practice on their children – breaching section 13, 14 and 15 rights. Parents should be entitled to impart information and opinions to their children especially in complex and difficult scenarios such as those addressed by the Act; and*
- b. Preventing a person with concerns about their sexuality or gender due to their beliefs (religious or otherwise) from obtaining the assistance and support they are seeking to help them live in accordance with those beliefs – breaching section 13 and 15 rights. That person should be able to manifest their belief not only individually but in community with others including through practice and teaching but may be prevented from being able to exercise that right by the Act.*

These circumstances can also lead to compounding harm to the individuals concerned where at an incredibly difficult and stressful time in their life the Act will mean that they will be unable to obtain the assistance they are seeking from family or a pastor or youth group leader who may have counselled the child throughout their life due to the clear and apparent risk of prosecution.

It is also clear that a cultural lens has not been appropriately applied to the provision in the Act. Many cultures have specific views on sexuality and gender which do not appear to have been taken into account. (our emphasis added)

SUMMARY

All New Zealanders should be protected from coercive, abusive or involuntary psychological or spiritual practices. However, participation in psychological assessments, counselling sessions, prayer meetings and other therapeutic practices is almost always an expression of voluntary behaviour and personal freedom.

Under this new law, people would be prevented from getting help to live the lifestyle they choose – if that

lifestyle is heterosexual and/or based on their biological sex. And children could not be encouraged to embrace their biological sex.

While gender and sexuality is supposedly 'fluid', activists want the law to stipulate that it can only go in the direction they approve.

To penalise people on the basis of their beliefs or personal lifestyle choices lacks fairness and is a dangerous discrimination.



For more information on this issue and to read source documents, visit our official site FreeToLive.nz