

## Acknowledgements

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## Forced Youth Gay to Straight Conversion Therapy: A Form of Child Abuse

### **Introduction**

Suicide is the leading cause of death among lesbian, gay, transgender or questioning (LGBTQ) youth nationally with 1,500 Gay and Lesbian youth committing suicide each year (Campos 20). It is estimated that every five hours and 48 minutes a LGBTQ youth succeeds in committing suicide, and every 35 minutes such youth attempt suicide (Campos 21). Societal pressures and gay-to-straight conversion therapy are a major cause of such high rates of suicide amongst LGBTQ youth (Campos 21). LGBTQ youth rights to liberty of opinion, expression, and association are violated when their guardians force them into psychologically harmful gay-to-straight conversion therapy. Additionally, guardians forcing minors into conversion therapy are violating federal laws, state laws, and international agreements as a result of the psychological damage caused by conversion therapy. These guardians are specifically in violation of California State Child Abuse Laws such as California Penal Code 11164-11174.3, Emotional Abuse Citation, Child Abuse Prevention and Treatment Act, and the rights outlined in UN Convention on The Rights of the Child. Previous to delving into each federal law, state law, and the international agreement that proves conversion therapy of LGBTQ youth is child abuse, it is important to fully understand what defines conversion therapy.

## Conversion Therapy

Gay-to-straight conversion therapy is also known as reparative therapy. The American Psychological Association identifies this type of therapy as a pseudoscience, however, the individuals leading reparative therapy sessions use a wide variety of conversion methods that they claim to work (APA 1). In a *Live Science* article, Stephanie Pappas and Tia Ghose outline different types of conversion therapy. Because conversion therapy is not a proven psychological treatment, “there are no professional standards or guidelines for how it is conducted” (Pappas and Ghose 1). Some early treatments include “aversion therapy, such as shocking patients or giving them nausea-inducing drugs while showing them same-sex erotica” (1). Other early conversion therapies include “psychoanalysis, estrogen treatments to reduce libido in men, and even electro convulsion therapy, in which an electric shock is used to induce a seizure, with side effects such as memory loss” (2). Recently victims of conversion therapy say that the therapy “emphasizes pseudoscientific theories, such as the idea that an overbearing mother and a distant father make a child gay” (2). One such victim, Gabriel Arana, described his “ex-gay” therapy experience, saying that his therapist blamed his parents for his homosexuality, and urged him to distance himself from his female best friends (3). Another victim, Chaim Levin, is suing JONAH - a group whose mission statement is “To provide research and clinical strategies for growth out of homosexuality” - for deceptive practices, saying he quit conversion therapy after his therapist had him strip down and touch himself to “reconnect with his masculinity” (3). These ineffective methods described by Levin are being falsely presented to victims as forms of treatment.

These practices not only lack scientific validity, they can also cause long lasting psychological damages to individuals who are forced into them. In an article about the legality of

conversion therapy, Jonathan Sacks discusses forms of treatment methods that have resulted in patients “suffering nervous breakdowns, experiencing feelings of guilt, committing suicide, self-mutilating their genitalia, exhibiting symptoms of post-traumatic stress disorder, and experiencing other psychological traumas” (Sacks 1). Some conversion therapy victims are forced into therapy led by religious groups where they undergo “prayer-based therapy” (2). This type of therapy as well as other types “Of counseling-based conversion therapies, have experienced depression over their homosexuality, compounded with a sense of shame over having failed at their therapy” (2). Victims may have a “psychologically debilitating sense” of having lost people important to them such as “family, religious affiliation, and social support for which there was still some hope as long as the individual was trying to change” (2). After going through such harmful conversion therapy, victims are told they have been converted to heterosexuals. However, since conversion therapy cannot actually change one’s sexual orientation, the victim is left feeling as though they have failed. An interviewee spoke about how she has seen LGBTQ youth effected by conversion therapy, stating:

Young people are extremely impressionable so hearing these things from people you trust like a doctor or your parents, you actually believe them. If you don’t have access to the right resources and someone tells you that your sexuality can be changed you’re going to believe them and once you realize you’re still having feelings for the same sex you feel like a failure (Mikaelyan 2015).

Is the idea that being gay makes you a failure the message we want to continue to send to LGBTQ youth?

A student recalled his firsthand account with conversion therapy to the Kansas State Collegian. The student, who gave the false name “Thomas Swanson” to protect his identity, told about how, as a teenager, he was subjected to conversion therapy that used a combination of mental and physical torture (Collegian 1). In conversion therapy, his “treatment first consisted of two months of a complete emotional and mental breakdown” (1). His therapist told him that he was “an abomination, that he, like all gay men, had AIDS, and that there were no other gay people in the world, [because] the government found gay children and killed them” (1). Swanson, being from a homeschooled setting where he had little contact with mainstream media, said he believed what the therapist told him because he had never been in contact with an openly gay individual (1). For Swanson’s next stage of his therapy, “the student was strapped to a chair where he had either blocks of ice or chemical heat pads pressed to his palms as he was shown images of same sex intimacy” (Sacks 1). The final stage of his treatment consisted of “being shocked while being shown homosexual pornographic images” (1). Swanson will surely suffer long term consequences because of conversion therapy; consequences that could have been prevented if conversion therapy was banned based on the grounds that it is child abuse.

The American Psychological Association (APA) and other professional organizations identify such practices as emotionally demoralizing and psychologically damaging. “[The] opinion that being gay is a choice has no basis in current scientific thinking,” said Dr. Jack Drescher, MD, a Distinguished Fellow of the American Psychiatric Association and a member of the DSM-5 Workgroup on Sexual and Gender Identity Disorders (HRC 1). Dr. Drescher also said “Not only is homosexuality not a choice, as most efforts to try and change a person's sexual orientation fail, but some attempts to change can cause harm and damage to an individual’s well-

being” (HRC 1). Parents who force minors into gay-to-straight conversion therapy are damaging their children emotionally and psychologically. The idea that one can change their physical and emotional attraction for someone has been disproven in early studies such as the David Reimer study. David Reimer was born a man in 1965, but was raised as a female due to losing his penis in a botched circumcision. A psychologist oversaw David Reimer, trying to prove that gender identity is primarily learned and could be changed just as conversion therapists claim sexuality can be changed. Ultimately, as an adult, Reimer transitioned back to male as a result of the experiment failing to alter him psychologically. In 2004, after years of severe depression, Reimer committed suicide at the age of 34. Too often “mental health professionals and religious leaders psychopathologize sexual minority youth and continue their victimization instead of protesting widespread social injustice” (Felix 67). When an adult tells an LGBTQ child that being gay is a mental disorder, it is especially harmful because of the trusting nature of children. Children resist questioning statements coming from an adult, let alone a therapist.

The American Psychological Association declassified homosexuality as a mental disorder in 1973 and all other major health professional organizations have supported this declassification. The “idea that homosexuality is a mental disorder or that the emergence of same-sex attraction and orientation among some adolescents is in any way abnormal or mentally unhealthy has no support among any mainstream health and mental health professional organizations” (APA 1). As a result, conversion therapy efforts to change one’s sexuality have serious potential to harm young people, as they present the view that the sexual orientation of lesbian, gay and bisexual youth is a mental illness or disorder. The American Academy of Pediatrics “advises youth to avoid any treatments that claim to be able to change a person’s sexual orientation, or treatment ideas that see homosexuality as a sickness” (1). In 1999, The

American Counseling Association Governing Council “adopted a position opposing the promotion of reparative therapy as a cure for individuals who are homosexual” (1). In its 2000 position statement on “reparative” therapy, The American Psychiatric Association states, “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” (2). They also go on to say “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” (2). These statements make it clear that the nation’s leading professional medical and mental health organizations do not support efforts to change young people’s sexual orientation through therapy, and have raised concern for potential harm from such efforts (2). With every leading medical professional and organization agreeing sexuality cannot be changed, conversion therapy should logically be banned.

### **Child Abuse and Children’s Rights**

Many state and federal child abuse laws, as well as international agreements, include emotional and psychological harm as child abuse. Children forced to go through conversion therapy are at risk for such harm because the therapy “robs them of the opportunity to be led on an objective discovery of their sexual identity” (Cannava and Prentiss 1). LGBTQ youth need this opportunity to discover their sexuality in order to acceptance themselves. However, when they are forced into conversion therapy “their road to discovery has only one acceptable direction, which is encouraged through talk therapy laden with pressure, guilt, shame and demonstrable rejection of the possibility that their same-sex attractions are a valid part of their

identity” (Cannava and Prentiss). The rates of suicide amongst LGBTQ youth prove that guilt and shame can lead youth to do the inevitable. However, banning conversion therapy on the grounds of child abuse can create the change that is needed to reduce the LGBTQ suicide rate.

### **California State Child Abuse Laws**

California State Child Abuse Laws, such as CA Penal Code 11164-11174.3, require that “any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage” must by law make a report to a designated agency (Penal Code §11164, et seq). This law also requires the mandated reporter “to do whatever is necessary to prevent psychological harm to the child victim” (Penal Code §11164, et seq). The American Psychiatric Association has proven that gay-to-straight conversion therapy is psychologically harmful, therefore, under California Penal Code 11164-11174.3, conversion therapy is a form of child abuse.

The California Welfare & Institutions Code Section 300-304.7 section 300 states that a child is considered a dependent child of the court if he or she is:

Suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, as evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent or guardian, or who has no parent or guardian capable of providing appropriate care (Penal Code §11164, et seq).

As previously demonstrated, each of these requirements are met in cases of parents forcing children into conversion therapy. The CA Code 300 goes on to say that “No child shall be found to be a dependent person if the willful failure of the parent or guardian to provide adequate



mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available” (Penal Code §11164, et seq). I argue that there is no “less intrusive intervention available”; once a child goes through conversion therapy, the psychological damage has been done.

Individual therapists could also be held civilly liable on a theory of Intentional Infliction of Emotional Distress (Sacks 2). This tort consists of the following elements:

- (1) The defendant must have acted intentionally or with reckless disregard of the consequences; (2) the defendant's conduct must have been extreme or outrageous; (3) the plaintiff must have suffered severe emotional distress; and (4) the defendant's conduct must have been the cause of such emotional distress (USLegalInc 1).

First, the conversion therapist could be shown to have acted intentionally or recklessly. To meet this requirement, the plaintiff must demonstrate that the therapist knew that there was a “high degree of probability that the mental distress [would] follow from his or her actions but proceeded to act nevertheless” (Sacks 4). Even if a therapist believes that they are actually helping the patient, they could still act with a reckless disregard for the potential harm the therapy will cause to the patient (4). Specifically, the Ninth Circuit held, in the context of an asylum case, “that the conversion therapy treatments to which the asylum seeker had been subjected constituted mental and physical torture” (4). Additionally, the court rejected the argument that the treatments to which the plaintiff had been put through did not “constitute persecution because they had been intended to help her, not harm her” (4). Conversion therapy is “reckless because there is no evidence that it could be successful, the APA denounces its use in its guidelines of practice, and studies” (4). This demonstrate the therapy's harmful effects.

Next, the plaintiff must prove that the therapist engaged in extreme and outrageous conduct that goes “beyond all possible bounds of decency” (4). It is also required that the plaintiff prove that the conduct “is both atrocious and utterly intolerable in a civilized community, and an average member of the community would be outraged upon hearing the facts” (4). Courts have determined whether a defendant's action has been “extreme and outrageous” by looking at whether he or she knew that “the plaintiff was especially sensitive, susceptible and vulnerable to injury through mental distress at the particular conduct” (4). LGBTQ youth who do not accept their sexuality “are more prone to depression, and conversion therapy could exacerbate their feelings of depression, guilt, and shame” (4). As a result, forcing youth into conversion therapy would make LGBTQ youth “further question their sexuality which would constitute extreme and outrageous conduct” (5). A conversion therapist attempting to cure an individual from a mental disorder that has been labeled by the professional community as normal and healthy “goes beyond all bounds of decency” (5). Finally, the plaintiff could satisfy the last two elements by showing that the conversion therapy caused severe emotional distress. In addition to requiring that the emotional harm was severe, courts require that a “reasonable person of ordinary sensibilities” would have suffered the same type of mental distress as the plaintiff but “...this standard does not apply in cases where the defendant possesses special knowledge of the plaintiff's susceptibility to injury” (5). And since a conversion therapist “knows the patient is gay, he has a special knowledge that the patient is susceptible to harmful emotional consequences, such as depression and internalized feelings of guilt and shame, as a result of the therapy” (5). Under the Intentional Infliction of Emotional Distress tort of claim, conversion therapist could be legally reprimanded.

## **Federal Child Abuse Laws**

The Federal Child Abuse Prevention and Treatment Act defines child abuse as "any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm" (42 U.S.C.A. § 5106g). The Child Abuse Prevention and Treatment Act states that the terms "abuse or child abuse or neglect" includes any case in which a child is subjected to emotional abuse" (42 U.S.C.A. § 5106g). Emotional abuse is defined as an "identifiable and substantial impairment or a substantial risk of impairment of the child's intellectual or psychological functioning or development" (42 U.S.C.A. § 5106g). Parents forcing youth into conversion therapy are putting their children at risk of physical and emotional harm, and should therefore be prosecuted for child abuse.

## **International Children's Rights Agreements**

Children's rights, such as those outlined in the UN Convention on The Rights of the Child, are violated when youth are forced into conversion therapy. The United States signed the UN Convention on The Rights of the Child (also known as CRC) and is only one of the two UN members not to ratify it. The other member not to ratify is South Sudan. This means that the U.S. is not legally mandated to follow anything outlined in the CRC. In the CRC, Articles 2-40 state that States Parties shall ensure that each child within its jurisdiction shall enjoy the following rights without discrimination of any kind:

Article 8: The right to preserve his or her identity

Article 12: Where a child is capable of forming his or her own views, the right to express a view in all matters affecting him or her

Article 27: The right to a standard of living adequate for his or her physical, mental, spiritual, moral, and social development (Campbell 23).

The CRC also states Parties shall take all appropriate measure to ensure:

Article 37: That no child shall be treated with humanity and respect, in a manner consistent with his her age, and have access

Article 19: Protection of children from physical violence, injury, abuse, neglect, negligent treatment, maltreatment, or exploitation (including sexual abuse) while in the care of others (Campbell 24).

Emilio Garcia Mendez states that the most direct impact of the CRC is on the legislature. He quoted the provisions of Article 4 of the Convention which establishes the obligation, “State parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention” (Mendez 110). The incorporation of the international treaty (Convention on The Rights of The Child) needs to be achieved through emanating from the legislature call for priority (Mendez 110). The legislature also needs to address all the difficulties relating to “invocation of international treaties before local courts, as well as those relating to those provisions that are not self-applicable” (Mendez 110). If the United States has signed the CRC, their laws should reflect the articles outlined within it that conversion therapy violates.

### **Current California Law Banning Conversion Therapy for Minors:**

California was the first state to ban reparative therapy for minors and is currently only one of two states banning such therapy. The California ban, or Senate Bill 1172, was signed into law by Governor Jerry Brown on September 19, 2012. It was held constitutional by the Ninth

Circuit Court of Appeals on August 29, 2013. The Supreme Court declined to hear a challenge to the ban on June 30, 2014, clearing the way for enforcement (Haldeman 691). The California law, says those practicing conversion therapy on a patient under eighteen would be engaging in “unprofessional conduct subject to discipline by state licensing authorities” (The Editorial Board 1). The State Legislature “relied heavily on professional reviews of the scientific literature, which concluded that the effectiveness of conversion therapy had not been demonstrated, and cited anecdotal reports of its harm, including depression, suicidal thoughts or actions, and substance abuse” (The Editorial Board 1). Senate Bill 1172 section 1a states:

The task force concluded that sexual orientation change efforts can pose critical health risks to lesbian, gay, and bisexual people, including confusion, depression, guilt, helplessness, hopelessness, shame, social withdrawal, suicidality, substance abuse, stress, disappointment, self-blame, decreased self-esteem and authenticity to others, increased self-hatred, hostility and blame toward parents, feelings of anger and betrayal, loss of friends and potential romantic partners, problems in sexual and emotional intimacy, sexual dysfunction, high-risk sexual behaviors, a feeling of being dehumanized and untrue to self, a loss of faith, and a sense of having wasted time and resources (Leiu SB 1172).

This bill acknowledges each of the negative health risks and all the research that has been done proving conversion therapy is harmful. SB 1172 also has a section specifically outlining how dangerous family rejection of sexual orientation can be. Senate Bill 1172 section 1m States:

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 (Leiu SB 1172).

In an interview, a person identifying as queer talked about what it has been like to have her family reject her based on her sexuality. She said, “I deal with a lot of depression and anger. Anger because I feel like I can’t be myself and that I have to hide and suppress my feelings. And depression because I know my family will never understand. No matter when I come out, they will never be accepting” (Guererro 2015). Another interviewer who cannot completely come out of the closet due to family rejection said:

“I feel like I am living a double life and I created a persona that just is not me. It gets harder and harder to live with and you just go into this automatic mode of lying and deception. Slowly who you actually are starts to fade away. The longer you avoid it the bigger of a monster it becomes and a lot of depression and anxiety comes with that” (Mikaelyan 2015).

The current SB 1172 bill signed by Jerry Brown has made progress in stopping the negative results of conversion therapy and the harmful message it sends. However, the bill only prohibits mental health providers from conducting conversion therapy. In SB 1172, mental health providers are defined as:

A physician and surgeon specializing in the practice of psychiatry, a psychologist, a psychological assistant, intern, or trainee, a licensed marriage and family therapist, a registered marriage and family therapist, intern, or trainee, a licensed educational psychologist, a credentialed school psychologist, a licensed clinical social worker, an associate clinical social worker, a licensed professional clinical counselor, a registered clinical counselor, intern, or trainee, or any other person designated as a mental health professional under California law or regulation. (Leiu SB 1172)

The result is that any individual that does fall under the category of a mental health provider can continue, and most likely will continue, to conduct the very lucrative conversion therapy. Therefore, this California law is not fully adequate.

### **Banning Conversion Therapy as Child Abuse**

In order to make the California law or SB 1172 more effectively ban conversion therapy, it should include that conversion therapy on a minor is child abuse. Many groups are “not licensed therapist but small church groups” (The Editorial Board). Church group leaders conducting conversion therapy are not mental health providers, therefore they could not be prosecuted under malpractice or laws such as SB 1172. Banning conversion therapy as child abuse broadens the reach of the law, or the amount of people the law would be able to help (The Editorial Board 1). Ethicists “object to conversion therapy on two grounds: first, that it constitutes a cure for a condition that has been judged not to be an illness and, second, that it reinforces a prejudicial and unjustified devaluation of homosexuality” (Haldeman 691). LGBTQ minors’ lives could be dramatically different if they were given the opportunity to accept themselves - something that conversion therapy prevents. Seth Guyette, a victim of conversion

therapy explained his life after conversion therapy, saying, “I ended up pursuing a long, self-destructive pattern of thrill-seeking to stave off the emptiness I felt; spending time with a rough group, drinking heavily, doing drugs, and taking a lot of physical risks” (Guyette 1). Eric Leocadio, another victim of conversion therapy, recalled his childhood, “By the time I reached my freshman year in high school, I tried to kill myself. I was a teenager and the message that I received for so many years by my friends, my family, my classmates and myself, was that I was not acceptable because I was gay. I looked in the mirror and I hated that guy, so I wanted to die” (Leocadio). Eric Leocadio is just one of many LGBTQ youth who contemplate and attempt suicide each year.

**Conclusion:**

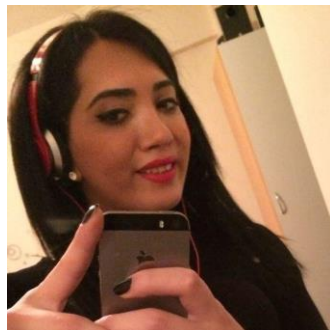
With an LGBT youth attempting suicide every 35 minutes, no time should be wasted in banning conversion therapy as child abuse. Banning conversion therapy as child abuse is the first step in giving LGBTQ youth a chance to come out of the closet and not suffer the impacts of suppressing their sexuality. An interviewee recalled what suppressing one’s sexuality can cause, stating, “I grew up thinking being gay was wrong. Once, I brought my gay friend over to my house and my mom said ‘get that demon out of my house!’ So that message has always been very clear. No one deserves to be treated that way and I feel it made me suppress my sexuality longer and that I could have accepted my sexuality a long time ago if I did grow up in this environment” (Guererro 2015). The interviewee went on to reiterate one of the long term effects of suppressing one’s sexuality, saying, “I constantly feel guilty because the repetition of hearing being gay is wrong through my entire childhood and even today. When I have encounters [with other queer people] I still feel the guilt even though I know it’s what I really want” (Guererro



2015). Having to suppress your sexuality has long term effects - some of which are irreversible. Conversion therapy reinforces “the idea that [LGBTQ youth] will be alone and unwanted if they stay the way they are. The real scar is the loss of self-worth” (Mikaelyan 2015). As long as conversion therapy exists we will be sending the message that individuals who identify as Lesbian, Gay, Bisexual, Transgender, and Queer, are not acceptable the way they are. It is estimated that every five hours and 48 minutes a LGBTQ youth succeeds with suicide (Campos 21). Using this estimation, in the time it took me to research and complete this thesis about 289 people who identify as LGBTQ have committed suicide, including the following individuals:

Eylül Cansın, Age 23

January 5<sup>th</sup> 2015



Zander Mahaffey, Age 15

February 15<sup>th</sup> 2015



Leelah Alcorn, Age 17

December 28<sup>th</sup> 2014



Previous to committing suicide, Leelah Alcorn left a letter on her Tumblr blog which described, “When she told her mom about being transgender, her mother ‘reacted extremely negatively, telling me that it was a phase, that I would never truly be a girl, that God doesn’t make mistakes.’ Leelah wrote that she was subsequently taken to Christian therapists, who reinforced the notion that being transgender was wrong” (Fox 1). Leelah Alcorn’s suicide note stated, “The only way I will rest in peace is if one day transgender people aren’t treated the way I was, they’re treated like humans, with valid feelings and human rights” (Alcorn 2014). Banning LGBTQ youth conversion therapy can help ensure no others will suffer the way that Leelah did.

### Biographical Statement

Markie Flores grew up in Whittier California and graduated from UC Santa Cruz with a B.A in Legal Studies and Politics. She will be attending Golden Gate University School of Law to pursue her law degree with a concentration in Human Rights and Sexuality Law with the hopes of making progress in gaining rights for sexual minorities.

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