

South Australia

Conversion Practices Prohibition Act 2024

An Act to recognise and prevent the harm caused by practices directed to changing or suppressing the sexual orientation or gender identity of individuals, to make related amendments to the *Equal Opportunity Act 1984* and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Meaning of conversion practice
- 5 Objects

Part 2—Offences in relation to conversion practices

- 6 Offence to engage in conversion practice that causes mental or physical harm
- 7 Offence to take individual from SA, or engage person outside SA, for conversion practices

Part 3—Miscellaneous

- 8 Review of Act
- 9 Regulations

Schedule 1—Related amendment of *Equal Opportunity Act 1984*

- 1 Insertion of section 86A
86A Conversion practices
- 2 Amendment of section 93—Making of complaints

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Conversion Practices Prohibition Act 2024*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Interpretation

In this Act—

conversion practice—see section 4;

harm means physical or mental harm (whether temporary or permanent);

health service has the same meaning as in the *Health Practitioner Regulation National Law*;

mental harm means psychological harm and includes mental illness, nervous shock, distress, anxiety or fear that is more than trivial;

parent, of a child, includes—

- (a) a step-parent of the child; and
- (b) a person who stands *in loco parentis* to the child;

serious harm means—

- (a) harm that endangers a person's life; or
- (b) harm that is substantial;

sexual orientation means an individual's sexual orientation towards—

- (a) individuals of the same sex; or
- (b) individuals of a different sex; or
- (c) individuals of the same sex and individuals of a different sex,

and includes having a lack of sexual attraction to any individual of any sex.

4—Meaning of conversion practice

- (1) In this Act, a **conversion practice** means a practice, treatment or sustained effort that consists of more than 1 event or occurs on more than 1 occasion, and that is—
 - (a) directed to an individual on the basis of the individual's sexual orientation or gender identity; and
 - (b) directed to changing or suppressing the individual's sexual orientation or gender identity.
- (2) For the purposes of subsection (1), it is irrelevant whether a practice, treatment or sustained effort directed to an individual on the basis of the individual's sexual orientation or gender identity is based on an incorrect assumption or belief about the individual's sexual orientation or gender identity.
- (3) A conversion practice does not include—
 - (a) a health service or treatment provided by a registered health practitioner that—
 - (i) the registered health practitioner has assessed as clinically appropriate in the registered health practitioner's reasonable professional judgement; and
 - (ii) complies with all relevant legal, professional and ethical requirements; or

Examples of health services or treatments that do not constitute a conversion practice—

Any of the following health services or treatments assessed by a registered health practitioner as clinically appropriate—

- genuinely assisting an individual who is exploring the individual's sexual orientation or gender identity or considering or undergoing a gender transition;
 - genuinely assisting an individual who is receiving care and treatment related to the individual's gender identity;
 - genuinely advising an individual about the potential impacts of gender affirming medical treatment.
- (b) genuinely facilitating an individual's coping skills, development or identity exploration to meet the individual's needs, including by providing acceptance, support or understanding to the individual; or
- (c) the use by a person, without more, of the following expressions:
- (i) an expression, including in prayer, of a belief or principle, including a religious belief or principle;
 - (ii) an expression that a belief or principle ought to be followed or applied.
- (4) To avoid doubt, the following are examples of what does not constitute a conversion practice under this section:
- (a) stating what relevant religious teachings are or what a religion says about a specific topic;
 - (b) general requirements in relation to religious orders or membership or leadership of a religious community;
 - (c) general rules in educational institutions;
 - (d) parents discussing, or providing guidance on, matters relating to sexual orientation, gender identity, sexual activity or religion with their children.

5—Objects

The objects of this Act are—

- (a) to recognise and prevent the harm caused by conversion practices; and
- (b) promote respectful and open discussions regarding sexuality and gender.

Part 2—Offences in relation to conversion practices**6—Offence to engage in conversion practice that causes mental or physical harm**

- (1) A person commits an offence if the person provides or delivers a conversion practice to an individual—
- (a) with the intention of changing or suppressing the individual's sexual orientation or gender identity; and

- (b) that causes serious harm to the individual.

Maximum penalty: Imprisonment for 5 years.

- (2) For subsection (1)(b), the serious harm—
 - (a) may be caused by any combination of conversion practices; and
 - (b) must be assessed by considering the totality of the conversion practices.
- (3) Subsection (1) applies whether the conversion practice is provided or delivered—
 - (a) in South Australia; or
 - (b) partly in South Australia and partly outside South Australia.
- (4) To avoid doubt, subsection (1) applies whether or not any of the following consents to the conversion practice being provided or delivered:
 - (a) the individual;
 - (b) if the individual lacks legal capacity—a parent, guardian or other person who has decision-making authority for the individual.
- (5) In this section—

person does not include an individual under the age of 18 years.

7—Offence to take individual from SA, or engage person outside SA, for conversion practices

- (1) A person commits an offence if that person—
 - (a) takes an individual from South Australia, or arranges for the individual to be taken from South Australia, with the intention that a conversion practice be delivered or provided to the individual outside South Australia; or
 - (b) engages a person outside South Australia to provide or deliver a conversion practice to an individual in South Australia.

Maximum penalty: Imprisonment for 3 years or \$15 000, or both.

- (2) To avoid doubt, subsection (1) applies whether or not any of the following consents to the individual being taken from South Australia or arranges for the individual to be taken from South Australia, or consents to the conversion practice being provided or delivered:
 - (a) the individual;
 - (b) if the individual lacks legal capacity—a parent, guardian or other person who has decision-making authority for the individual.

- (3) In this section—

person does not include an individual under the age of 18 years.

Part 3—Miscellaneous

8—Review of Act

- (1) The Minister must, as soon as possible after the period of 3 years from the commencement of this Act, cause a review of this Act to be undertaken.

- (2) A report on the outcome of the review must be tabled in each House of Parliament within 4 years after the commencement of this Act.

9—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Schedule 1—Related amendment of *Equal Opportunity Act 1984*

1—Insertion of section 86A

After section 86 insert:

86A—Conversion practices

- (1) It is unlawful for a person to—
- (a) provide or deliver a conversion practice to an individual; or
 - (b) arrange for a person to provide or deliver a conversion practice to an individual.
- (2) The Commissioner's functions under section 11 relating to discrimination apply also to conversion practices.
- (3) In this section—

conversion practice has the same meaning as in the *Conversion Practices Prohibition Act 2024*.

2—Amendment of section 93—Making of complaints

Section 93—after subsection (4) insert:

- (5) If a complaint alleges that a registered health practitioner has contravened section 86A in the course of practising a health profession, the Commissioner—
- (a) must refer the complaint to the relevant health complaints entity; and
 - (b) may not proceed to investigate or otherwise deal with the complaint under this Act, or to attempt to resolve the subject matter of the complaint by conciliation under this Act.
- (6) In subsection (5) the terms *health complaints entity*, *health profession* and *registered health practitioner* all have the same meaning as in the *Health Practitioner Regulation National Law*.