

# **FAMILY ISSUE FACT SHEET**

**NO. 2019-02 (UPDATED FEBRUARY 2019)**

## **COUNSELING BAN: SB 1047/HB 2658 SEXUAL ORIENTATION; CONVERSION THERAPY; PROHIBITION**

### **EXECUTIVE SUMMARY**

SB 1047 and HB 2658 are unconstitutional counseling bans seeking to silence one form of professional speech by imposing a government-sanctioned understanding of human sexuality on licensed mental health professionals.

Under these bills, it is “unprofessional conduct” for a psychiatrist, homeopathic physician, psychologist, or behavioral health professional to provide “conversion therapy” to a minor, regardless of the willingness of the minor or the minor’s parents. In practical terms, they prohibit minors struggling with unwanted same-sex attraction or gender identity issues from receiving professional counseling.

These bills not only ban access to professional counseling for a segment of the population, but they unconstitutionally censor protected professional speech.

### **WHAT DO THESE BILLS PROHIBIT?**

SB 1047 and HB 2658 prohibit licensed mental health professionals from engaging in so-called “conversion therapy.” The bills broadly define “conversion therapy” as “*any practice or treatment that seeks to change the sexual orientation or gender identity of a person, including a practice or treatment that seeks to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same gender.*”

However, they allow for treatment that assists, supports, and encourages gender transition and same-sex attraction.

In sum, these bills allow licensed mental health professionals to help minors with government-sanctioned therapeutic goals, but disallows them from helping minors with different therapeutic goals.

### **TOP 5 REASONS TO OPPOSE SB 1047 AND HB 2658**

1. **They unconstitutionally censor protected professional speech** by telling licensed mental health professionals what type of counseling they can and cannot provide. Three recent U.S. Supreme Court decisions, *Masterpiece*, *Janus*, and *NIFLA*, clearly establish that professional speech is constitutionally protected and that it includes a person’s understanding of human sexuality.

2. **They penalize minors who disagree with the government-sanctioned understanding of human sexuality.** These bills *favors* minors with government-sanctioned beliefs about sexual orientation and gender identity, but *penalize* minors with different beliefs by denying them access to professional counseling.
3. **They restrict the freedom of minors to determine their therapeutic goals.** Everyone, including minors, should be free to find therapy and support to help them achieve their desired therapeutic goals. SB 1047 and HB 2658 deny them that freedom.
4. **They deny fundamental parental rights.** Under ARS 1-602, parents have a fundamental right to direct and oversee the health care of their children. These bills violate that right by denying their children access to professional counseling they believe is critical to their child's wellbeing.
5. **They contradict Arizona's Free Exercise of Religion Act** (ARS 41-1493.04) which protects the right of licensed professionals to express sincerely held religious beliefs in a professional context, provide faith-based services, and make business decisions like client selection decisions. SB 1047 and HB 2658 gut these statutory rights for licensed mental health professionals.

## CONCLUSION

SB 1047 and HB 2658 are unconstitutional counseling bans seeking to silence one form of professional speech by imposing a government-sanctioned understanding of human sexuality on licensed mental health professionals. These bills not only censor constitutionally protected professional speech, but they remove the right of therapists and their clients to determine their therapeutic goals.