

Community Services Report to
SPC on Community and Protective Services
2020 May 13

ISC: UNRESTRICTED
CPS2020-0532

Banning Conversion Therapy

EXECUTIVE SUMMARY

The City of Calgary strives to be a welcoming city for all people regardless of sexual orientation, gender identity or gender expression. Conversion therapy has been deemed a harmful and unscientific practice that requires all orders of government to play a role in protecting Calgarians from the harms associated with it.

Council has directed Administration to draft a bylaw to prohibit the business practice of conversion therapy including a fine for those advertising or offering conversion therapy services within Calgary. Council has the authority through the *Municipal Government Act* to enact bylaws with respect to the safety, health and welfare of people and the protection of people and property along with enacting bylaws related to businesses, business activities and persons engaged in business. In response to Council direction, Administration has developed a proposed Prohibited Businesses Bylaw to prohibit engagement in or operation of conversion therapy as a business practice in Calgary.

ADMINISTRATION RECOMMENDATION:

That the Standing Policy Committee on Community and Protective Services recommend that Council give three readings to the proposed Prohibited Businesses Bylaw (Attachment 1).

RECOMMENDATION OF THE STANDING POLICY COMMITTEE ON COMMUNITY AND PROTECTIVE SERVICES, 2020 MAY 14:

That Council give three readings to proposed Bylaw 20M2020.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2020 February 03 Council approved Notice of Motion PFC2020-0116 directing Administration to draft a bylaw to prohibit the business practice of conversion therapy including a fine for those advertising or offering conversion therapy services within Calgary. Council also requested advocacy letters be sent to both the provincial and federal governments urging them to end the practice of conversion therapy within their jurisdiction.

BACKGROUND

Conversion therapy has become the common umbrella term to refer to any attempts to modify a person's sexual orientation, gender identity, or gender expression. Other terms used include: reparative therapy, gay cure, ex-gay therapy, gender critical therapy, sexual orientation change efforts (SOCE), and sexual orientation gender identity or gender expression change efforts (SOGIECE).

Conversion therapy has existed in Canada in various forms since the 1950s; it gained prominence during the 1980s and 1990s, and became increasingly used on Lesbian, Gay, Bisexual, Transgender, Queer and Two-Spirited (LGBTQ2S+) Canadians. In a recent Canadian study, it was estimated that as many as 47,000 Canadian LGBTQ2S+ (gay, bisexual, transgender, queer, and two-spirit) men have experienced some form of conversion therapy, however, this number could be higher due to conversion therapy having never been formally tracked in Canada. Attachment 2 provides a summary of the study results.

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Conversion therapy has been widely denounced as a harmful and unethical practice by many major medical and human rights organizations around the world including the World Health Organization, World Psychiatric Association, International Society of Psychiatric Mental Health Nurses, World Medical Association, and Amnesty International. In Canada, these organizations include the Canadian Psychological Association, Canadian Psychiatric Association, Canadian Pediatric Society, Canadian Association of Social Workers, College of Alberta Psychologists, and Alberta Teachers Association. Many other professional health organizations/associations have also denounced conversion therapy as a deceptive, dangerous, and harmful practice (Attachment 3).

In 2019 December, the Prime Minister directed the Minister of Justice and Attorney General to amend the Criminal Code to ban the practice of conversion therapy and take other steps required with the provinces and territories to end conversion therapy in Canada. On 2020 March 09, there was a first reading of *Bill C-8 An Act to amend the criminal code (conversion therapy)*. This bill addresses conversion therapy as harmful both to those who have been subjected to the practice and to society, as it propagates myths and stereotypes about sexual orientation and gender identity.

To date, five Canadian provincial governments have introduced or enacted legislation which prohibits and/or restricts conversion therapy involving minors and one province has a health care guiding statement in place (Attachment 4). The Government of Alberta has not yet taken any formal legislative action to ban this practice.

Since 2019, six Alberta municipalities/counties have enacted bylaws related to prohibiting conversion therapy as a business, with others currently working towards addressing this issue (Attachment 4).

INVESTIGATION: ALTERNATIVES AND ANALYSIS

To respond to the Notice of Motion, Administration undertook three areas of investigation to inform this report and proposed bylaw:

1. **Review of Municipal Authority:** Administration has determined that The City, through the authority granted by the *Municipal Government Act*, can enact bylaws with respect to the safety, health and welfare of people and the protection of people and property along with enacting bylaws related to businesses, business activities and persons engaged in business. This broad authority is provided so that municipal councils can effectively respond to present and future issues within their communities.
2. **Provincial Municipal Bylaw Scan:** Alberta municipalities/counties were scanned for relevant bylaws banning the business practice of conversion therapy. At the time of writing this report six municipalities have developed or amended existing bylaws to include prohibiting the business of conversion therapy. Attachment 4 provides a summary of the municipal, provincial and federal scan.
3. **Conversion Therapy Definition Research:** A working group led by an Edmonton-based university researcher examined multiple definitions from other countries and municipalities that have prohibition legislation in place, and adapted elements of these definitions to the Canadian context. Notably, some of the conversion therapy prohibition legislation has been tested in American courts and all have withstood legal challenges.

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The definition proposed was reviewed by conversion therapy survivors and has since been used in bylaws regulating conversion therapy for the City of Edmonton and Rocky Mountain House. Further improvements have been made to the definition of conversion therapy as a result of feedback from academics, legal researchers, and members of the LGBTQ2S+ community.

In 2020 April, His Worship Mayor Nenshi, on behalf of Council, sent letters advocating to provincial and federal governments to end the practice of conversion therapy in Alberta and across Canada.

Stakeholder Engagement, Research and Communication

The focus of the stakeholder engagement was feedback on clarity of the definitions of business, conversion therapy, and on the fines and violation sections of the proposed bylaw. A summary of key learnings can be found in Attachment 5.

A survey on these definitions was sent to 58 organizations that were selected based on the potential impact of the bylaw to their overall organization and consisted of both faith and LGBTQ2S+ organizations. Administration identified organizations through research, those that expressed interest through City Councillors' offices, and organizations that heard through word of mouth.

Feedback from the survey resulted in improvements to the clarity of the bylaw, in designing public education, and in training Community Peace Officers.

Strategic Alignment

This report aligns with the following 2019-2022 Citizen Priorities:

A City of Safe and Inspiring Neighbourhoods: Every Calgarian lives in a safe, mixed and inclusive neighbourhood, and has the right and opportunity to participate in civic life. All neighbourhoods are desirable and have equitable public investments.

A Well-Run City: Calgary has a modern and efficient municipal government that is focused on resilience and continuous improvement to make life better every day for Calgarians by learning from citizens, partners, and others

Social, Environmental, Economic (External)

Moving forward with this bylaw allows The City to advance the Social Wellbeing Principles of prevention and equity identified in the Social Wellbeing Policy. Prohibiting the practice of conversion therapy allows The City to use a prevention approach, and as defined, "strengthens the healthy development, safety and wellbeing of individuals across the lifespan". In addition, an equity lens was used in the development of the bylaw. Administration considered the unique and diverse experiences of Calgarians impacted by this issue including within LGBTQ2S+ community. Conversion therapy has a disproportionate negative impact on the LGBTQ2S+ community and as a result an equity lens has informed the proposed bylaw.

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Financial Capacity

Current and Future Operating Budget:

There are no current operating budget impacts associated with this report.
If Council approves the proposed Prohibited Businesses Bylaw, all costs associated with bylaw enforcement would be absorbed into the existing operating budget.

Current and Future Capital Budget:

There are no current or future capital budget impacts associated with this report.

Risk Assessment

The proposed fine amount for this bylaw is substantially more than other City bylaws, and there is a risk that setting the specified fine to \$10,000 could be challenged in court and lower fines set as a result. Administration believes that this risk is acceptable and has recommended the fine of \$10,000 after careful consideration of other Alberta jurisdictions that have imposed the same fine, as well as the inherent harm and egregious nature of the practice as outlined by numerous health and professional organizations (Attachment 3).

Additionally, there is a risk that the proposed Prohibited Businesses Bylaw may require changes as the federal government amends the criminal code to ban the practice of conversion therapy. Administration believes that this risk is acceptable and will monitor *Bill C-8* and make amendments to the bylaw if there is interference with the federal criminal law. *Bill C-8* had its first reading in 2020 March.

REASON(S) FOR RECOMMENDATION(S):

Council directed Administration to draft a bylaw to prohibit the business practice of conversion therapy within Calgary. This report is in response to the Notice of Motion PFC2020-0116 approved at the Combined Meeting of Council on 2020 February 03.

ATTACHMENT(S)

1. **Proposed Bylaw 20M2020**
2. Canadian Survey Result Summaries on Conversion Therapy
3. Position Statements of Major Organizations Against Conversion Therapy
4. Municipal, Provincial, and National Scan
5. What We Heard Stakeholder Report
6. **Public Submissions (refer to Attachment 11 Clerks Note)**
7. **Public Submissions – Batch 2 (refer to Attachment 11 Clerks Note)**
8. **Public Submissions – Batch 3 (refer to Attachment 11 Clerks Note)**
9. **Public Submissions – Batch 4 (refer to Attachment 11 Clerks Note)**
10. **Public Submissions – Batch 5 (refer to Attachment 11 Clerks Note)**
11. **Clerks Note**
12. **Further Public Submissions**
13. **Revised Agenda Public Submissions**