

PARLIAMENTARY BRIEF

Standing Committee on Justice and Human Rights

Re: Bill C-6 An Act to Amend the Criminal Code (conversion therapy)

Submitted by

Kathleen Hays

Dear Madams and Sirs,

I'm very concerned about the potential ramifications of Bill C-6. Its language conflates sexual orientation and gender identity. These are not the same thing and should not be treated as such in legislation. I am fully in favour of all people living and loving as they wish. I do not support conversion therapy as it has been used against homosexuals.

However, when it comes to gender identity, conversion therapy takes on a different meaning. Many young people struggle with their sexuality and identity. Often, especially for girls, the changes in their bodies and the way they are viewed as sexual objects in the media and elsewhere, can be daunting. Girls who don't conform to the stereotypes of "femininity" may want to find a way to escape this pressure to conform. With the recent transgender trend, they are now offered the possibility of identifying as a boy. Affirming a young person's gender identity can lead to them being prescribed puberty suppressing drugs, cross-sex hormones and surgery. These are life-altering treatments for a condition that usually resolves when one is older.

I'm worried that the definition of conversion therapy in the bill doesn't accurately define what it means in practice. Exploring the reasons for a child's desire to not be their biological sex must be a part of their therapy. Affirmation only approaches are not sufficient when such invasive and dangerous treatments are potentially involved. An example of the damage done through these affirmative approaches is in the Keira Bell v. Tavistock Gender Identity Development Service case in the United Kingdom. The High Court there handed down its decision recently. I quote the conclusion of the decision here:

OVERALL CONCLUSION

151. A child under 16 may only consent to the use of medication intended to suppress puberty where he or she is competent to understand the nature of the treatment. That includes an understanding of the immediate and long-term consequences of the treatment, the limited evidence available as to its efficacy or

purpose, the fact that the vast majority of patients proceed to the use of cross-sex hormones, and its potential life changing consequences for a child. There will be enormous difficulties in a child under 16 understanding and weighing up this information and deciding whether to consent to the use of puberty blocking medication. It is highly unlikely that a child aged 13 or under would be competent to give consent to the administration of puberty blockers. It is doubtful that a child aged 14 or 15 could understand and weigh the long-term risks and consequences of the administration of puberty blockers.

152. In respect of young persons aged 16 and over, the legal position is that there is a presumption that they have the ability to consent to medical treatment. Given the long-term consequences of the clinical interventions at issue in this case, and given that the treatment is as yet innovative and experimental, we recognise that clinicians may well regard these as cases where the authorisation of the court should be sought prior to commencing the clinical treatment.

153. We have granted a declaration to reflect the terms of this judgment.¹

I don't want to see more children and young people suffer the way that Keira Bell has. Please consider removing "gender identity" from the bill. Don't allow children to be sent on a path of medicalization when they are too young to make these life-altering decisions. I believe that a watch-and-wait approach in therapy along with exploring the underlying issues of a child's gender dysphoria is a safer and more effective way to help children. I am concerned that the language of this bill will cause helping professions to avoid this approach for fear of criminal prosecution.

Sincerely,

Kathleen Hays

Bibliography

1. R. (on the application of) Quincy Bell and A. v. Tavistock and Portman NHS Trust and others, [2020] EWHC 3274 (Admin). Available at: <https://www.judiciary.uk/judgments/r-on-the-application-of-quincy-bell-and-a-v-tavistock-and-portman-nhs-trust-and-others/> (Accessed December 6, 2020)