

**Case No. 19-10604**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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ROBERT W. OTTO, PH.D. LMFT, individually and on behalf of his patients, and  
JULIE H. HAMILTON, PH.D., LMFT, individually and on behalf of her patients,

*Plaintiffs-Appellants,*

v.

CITY OF BOCA RATON, FLORIDA, and  
COUNTY OF PALM BEACH, FLORIDA,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 9:18-CV-80771-RLR BEFORE HONORABLE ROBIN L. ROSENBERG

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**MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE*  
THE TREVOR PROJECT IN SUPPORT OF DEFENDANTS-APPELLEES**

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**CERTIFICATE OF INTERESTED PERSONS  
AND CORPORATE DISCLOSURE STATEMENT**

**A. Certificate of Interested Persons**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, counsel for *amicus curiae* The Trevor Project certifies that the following persons and entities may have an interest in the outcome of this case or appeal:

Abbott, Daniel L., trial and appellate co-counsel for defendant/appellee City of Boca Raton

Alliance for Therapeutic Choice, amicus in support of Plaintiffs/Appellants

Berger, Mary Lou, defendant/appellee Palm Beach County Commissioner

Carlton Fields Jordan Burt, P.A., counsel for Equality Florida Institute Inc., amicus in support of defendants/appellees

City of Boca Raton, Florida, defendant/appellee

Cole, Jamie A., trial co-counsel for defendant/appellee City of Boca Raton

Delery, Stuart F., counsel for The Trevor Project, amicus in support of defendants/appellees

Dunlap, Aaron C., counsel for Equality Florida Institute Inc., amicus in support of defendants/appellees

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Gibson, Dunn & Crutcher LLP, counsel for The Trevor Project, amicus in support of defendants/appellees

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Kerner, Dave, defendant/appellee Palm Beach County Commissioner

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Thomson, Andy, defendant/appellee City of Boca Raton Council Member

Valeche, Hal R., defendant/appellee Palm Beach County Commissioner

Walbolt, Sylvia H., counsel for Equality Florida Institute Inc., amicus in  
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Weinroth, Robert S., defendant/appellee Palm Beach County Commissioner

Weiss, Gregg K., defendant/appellee Palm Beach County Commissioner

Weiss Serota Helfman Cole & Bierman, P.L., counsel for defendant/appellee

City of Boca Raton

Yasko, Jennifer A., counsel for Equality Florida Institute Inc., amicus in support of defendants/appellees

**B. Corporate Disclosure Statement**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, counsel for *amicus curiae* The Trevor Project makes this statement of corporate disclosure and states as following:

The Trevor Project is a 501(c)(3) organization. The Trevor Project does not have a parent corporation. The Trevor Project is not a publicly traded company, and no publicly held corporation owns 10% or more of its stock.

Dated: June 17, 2019

Respectfully submitted,

/s/ Stuart F. Delery

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## **INTRODUCTION**

Pursuant to Federal Rule of Appellate Procedure 29(a)(3) and Eleventh Circuit Rule 29-1, proposed *amicus curiae* The Trevor Project respectfully moves for leave to file the accompanying brief as *amicus curiae* in support of defendants/appellees.

Counsel for proposed *amicus curiae* timely notified counsel of record for the parties of its intent to file this motion. Counsel for defendants/appellees consented to the filing of this motion and the *amicus* brief. Counsel for plaintiffs/appellants asked to review the *amicus* brief in advance before deciding whether to consent, asserting that it may introduce “purportedly factual material,” and said that plaintiffs/appellants would oppose the filing of this motion if not given an opportunity to review the brief. Counsel for proposed *amicus curiae* declined to provide a copy of the proposed brief for advance review. As a result, plaintiffs/appellants oppose this motion and the filing of the *amicus* brief.

The Trevor Project should be permitted to file its *amicus* brief notwithstanding the objection of plaintiffs/appellants. The role of an *amicus* is to assist the Court “in cases of general public interest by making suggestions to the court, by providing supplementary assistance to existing counsel, and by insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision.” *Mobile Cty. Water, Sewer & Fire Prot. Auth., Inc. v. Mobile Area Water & Sewer*

*Sys., Inc.*, 567 F. Supp. 2d 1342, 1344 n.1 (S.D. Ala. 2008) (internal citations omitted), *aff'd*, 564 F.3d 1290 (11th Cir. 2009). Courts routinely accept *amicus* briefs of the type at issue here, based on an organization's work and experience. For example, when the Supreme Court recognized the constitutional right for same-sex couples to marry, it relied upon the professional opinions of the American Psychological Association and other leading psychological associations as *amici curiae*, finding that "psychiatrists and others [have] recognized that sexual orientation is both a normal expression of human sexuality and immutable." *Obergefell v. Hodges*, 135 S. Ct. 2584, 2596 (2015).

Consistent with the established and accepted role of an *amicus curiae*, The Trevor Project seeks leave to submit this brief in support of defendants/appellants for the purposes of explaining why the continued enforcement of ordinances in the City of Boca Raton and Palm Beach County is necessary to prevent serious, lifelong harm to lesbian, gay, bisexual, transgender, queer, and questioning ("LGBTQ") youth, and why this Court should affirm the district court's decision to deny Plaintiff's motion for preliminary injunction. The proposed *amicus* brief complies with all the applicable rules, and The Trevor Project respectfully requests that this Court accept its filing.

**IDENTITY AND INTEREST OF *AMICI CURIAE***

Founded in 1998, The Trevor Project is the nation’s largest LGBTQ youth crisis intervention and suicide prevention organization. It is the only nationwide organization that offers accredited, free, and confidential phone, instant message, and text messaging crisis intervention services for LGBTQ youth. These services are used by thousands of individuals each month. Through monitoring, analyzing, and evaluating data obtained from these services, The Trevor Project produces innovative research that brings new knowledge, with clinical implications, regarding issues affecting LGBTQ individuals. The Trevor Project has a strong interest in supporting the enforcement of laws prohibiting the so-called practice of “conversion therapy” because many of the individuals whom The Trevor Project serves are survivors of conversion therapy or have a credible fear that their family members will compel them to receive conversion therapy.

**DESIRABILITY AND RELEVANCE OF THE PROPOSED BRIEF**

The Trevor Project can offer this Court a unique perspective about how the practice of conversion therapy threatens LGBTQ youth by drawing on its own experiences as well as academic literature. The Trevor Project sought and was granted leave to file an *amicus curiae* brief in this action in the Southern District of Florida. *Otto v. City of Boca Raton, Florida*, No. 9:18-cv-80771, Dkt. 73 (S.D. Fla. Sept. 4, 2018). Other federal courts addressing challenges to similar legislation

prohibiting the practice of conversion therapy have also granted leave to file *amicus curiae* briefs. See, e.g., *Schwartz v. City of New York*, No. 1:19-cv-00463-RJD-ST, Dkt. 26 (E.D.N.Y. Apr. 12, 2019) (granting motion of The Trevor Project to appear as *amicus curiae*); *Vazzo v. City of Tampa*, No. 8:17-cv-2896-T-36AAS, 2018 WL 1629216, at \*6 (M.D. Fla. Mar. 15, 2018) (granting motion of Equality Florida Institute, Inc. to appear as *amicus curiae*).

The ordinances at issue protect LGBTQ minors in the City of Boca Raton and Palm Beach County against the known dangers of conversion therapy. Conversion therapy refers to any attempts to change a person's sexual orientation, gender identity, and/or gender expression through counseling, psychotherapy, or other forms of "treatment." Research unequivocally demonstrates that treating sexual orientation, gender identity, and/or gender expression as a mental disorder, in and of itself, can have harmful lifelong effects on LGBTQ individuals. In June 2019, The Trevor Project released the results of a cross-sectional survey with over 34,000 LGBTQ individuals between the ages of 13 and 24 with representation from all 50 states and the District of Columbia. It is the largest survey of LGBTQ youth mental health ever conducted. Two-thirds of LGBTQ youth who responded reported that someone tried to convince them to change their sexual orientation or gender identity. And of the LGBTQ youth who reported that they underwent conversion therapy, 42% reported a suicide attempt in the past year. These individuals reported

attempting suicide in the past 12 months more than twice the rate of their LGBTQ peers who did not report undergoing conversion therapy. It is no surprise that 18 states, as well as Puerto Rico and the District of Columbia and dozens of cities and counties, prohibit the practice on minors. Because The Trevor Project has witnessed firsthand the devastating impact that conversion therapy can inflict on LGBTQ youth, it can present to the Court a vital perspective on the harm that would result from reversing the district court's decision to deny a preliminary injunction.

The demand by plaintiffs/appellants for advance review is not supported by Federal Rule of Appellate Procedure 29 or Eleventh Circuit Rule 29-2. Among other things, satisfying plaintiffs/appellants' requirement of providing an advance copy of the brief for plaintiffs/appellants' review would have prejudiced the timing of drafting, printing, and filing of this brief, necessitating the filing of this motion.

### **CONCLUSION**

For the foregoing reasons, The Trevor Project respectfully moves this Court for leave to appear as *amicus curiae* in the above-captioned matter, and to file the brief accompanying this motion.

Dated: June 17, 2019

Respectfully submitted,

/s/ Stuart F. Delery

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*Counsel for Amicus Curiae*

**CERTIFICATE OF COMPLIANCE**

On behalf of *amicus curiae* The Trevor Project, I hereby certify pursuant to Federal Rule of Appellate Procedure 32(g)(1) that the foregoing motion is proportionally spaced, has a typeface of 14 points or more, is set in Times New Roman, and contains 1,076 words, as counted by Microsoft Word, excluding the items that may be excluded under Federal Rule of Appellate Procedure 27(a)(2)(B).

Dated: June 17, 2019

By: /s/ Stuart F. Delery  
Stuart F. Delery

**CERTIFICATE OF SERVICE**

I, Stuart F. Delery, a member of the Bar of this Court, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on June 17, 2019. I certify that to my knowledge all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: June 17, 2019

By: /s/ Stuart F. Delery  
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**INTEREST OF *AMICUS CURIAE*<sup>1</sup>**

Founded in 1998, The Trevor Project is the nation’s largest lesbian, gay, bisexual, transgender, queer, and questioning (“LGBTQ”) youth crisis intervention and suicide prevention organization. It is the only nationwide organization that offers accredited, free, and confidential phone, instant message, and text messaging crisis intervention services for LGBTQ youth. These services are used by thousands of individuals each month. Through monitoring, analyzing, and evaluating data obtained from these services, The Trevor Project produces innovative research that brings new knowledge, with clinical implications, regarding issues affecting LGBTQ individuals. The Trevor Project has a strong interest in supporting the enforcement of laws prohibiting the practice of so-called “conversion therapy” because many of the individuals whom The Trevor Project serves are survivors of conversion therapy or have a credible fear that their family members will compel them to receive conversion therapy.

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<sup>1</sup> Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), The Trevor Project certifies that no party’s counsel authored the attached brief in whole or in part; no party or party’s counsel contributed money intended to fund the brief’s preparation or submission; and no person other than The Trevor Project, its members, and its counsel contributed money that was intended to fund the brief’s preparation or submission.

**STATEMENT OF ISSUES**

Whether the district court correctly concluded that Plaintiffs are not substantially likely to succeed on the merits of their First Amendment claims when the overwhelming medical and social science literature establishes that the practice of conversion therapy causes significant harm to LGBTQ youth.

## **INTRODUCTION AND SUMMARY OF ARGUMENT**

This Court should affirm the district court's order denying Plaintiffs' motion for preliminary injunction in its entirety.

The City of Boca Raton and Palm Beach County, Florida are among a growing number of state and local governments that have prohibited the practice of conversion therapy on minors because they have determined that the practice causes significant harm to minors. The Trevor Project is uniquely positioned to understand the dangers of conversion therapy because, through its suicide prevention and crisis intervention services, it has communicated with hundreds of LGBTQ individuals about their experiences undergoing conversion therapy or their credible fear that they will be subjected to it. In a recent national survey with over 34,000 LGBTQ respondents conducted by The Trevor Project, 42% of LGBTQ youth who underwent conversion therapy reported a suicide attempt in the past year. These individuals reported attempting suicide in the past 12 months more than twice the rate of their LGBTQ peers who did not report undergoing conversion therapy. The Trevor Project's findings and experiences are corroborated by overwhelming social science evidence from other leading medical organizations and the consensus professional opinion that conversion therapy, which is based on the misguided premise that an individual's sexual orientation or gender identity can be changed, causes significant harm to LGBTQ youth.

## ARGUMENT

### **I. THE ORDINANCES PROHIBITING THE PRACTICE OF CONVERSION THERAPY ON MINORS ARE DESIGNED AND INTENDED TO PREVENT SIGNIFICANT HARM TO LGBTQ YOUTH.**

The ordinances enacted by the City of Boca Raton and Palm Beach County are vital to protect LGBT minors against the known dangers of conversion therapy. Conversion therapy refers to any attempts to change a person’s sexual orientation, gender identity, or gender expression through counseling, psychotherapy, or other forms of “treatment.” It has no legitimate medical or therapeutic basis. Conversion therapy providers exploit and exacerbate the fears of concerned parents while simultaneously deceiving them about the likelihood that their remedies will lead to the results they promise.

Conversion therapy is a pervasive problem. A January 2018 study by the Williams Institute, a leading research institute at UCLA focused on LGBTQ issues, estimates that approximately 700,000 LGBTQ adults in the United States have undergone conversion therapy at some point in their lives, including about 350,000 who were subjected to the practice as adolescents.<sup>2</sup> The report further estimates that 20,000 LGBTQ youth currently between the ages of 13 and 17 will

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<sup>2</sup> Christy Mallory et al., Williams Inst., *Conversion Therapy and LGBT Youth* 1 (Jan. 2018), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Conversion-Therapy-LGBT-Youth-Jan-2018.pdf>.

receive conversion therapy from a licensed health care professional before they reach the age of 18.<sup>3</sup>

Given the prevalence of conversion therapy, governmental action has been necessary to protect LGBTQ individuals. The City of Boca Raton and Palm Beach County are among a growing bipartisan chorus of state and local governments that have determined that the practice of conversion therapy causes significant harm to minors who lack authority to make their own medical and mental health decisions. To date, 18 states, as well as Puerto Rico and the District of Columbia and dozens of cities and counties, have prohibited the practice of conversion therapy for minors.<sup>4</sup> The Movement Advancement Project, an independent think tank that researches

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<sup>3</sup> *Id.*

<sup>4</sup> These states include: California, Cal. Bus. & Prof. Code §§ 865 et seq. (2019); Colorado, 2019 Colo. Legis. Serv. H.B. 19-1129; Connecticut, Conn. Gen. Stat. §§ 19a-907 et seq. (2017); Delaware, Del. Code tit. 24, §§ 3510(d), 3514(a)(13)–(14) (2018); Hawaii, Haw. Rev. Stat. § 453J-1 (2018); Illinois, 405 Ill. Comp. Stat. 48/1 et seq. (2016); Maine, 2019 Me. Legis. Serv. Ch. 165 (H.P. 755); Maryland, Md. Code, Health Occ. § 1-212.1 (2018); Massachusetts, 2019 Mass. Leg. Serv. Ch. 8 (H.B. No. 140); Nevada, Nev. Rev. Stat. § 629.600 (2018); New Hampshire, N.H. Rev. Stat. § 332-L:2 (2018); New Jersey, N.J. Stat. § 45:1-55 (2013); New Mexico, N.M. Stat. Ann. § 61-1-3.3 (2017); New York, N.Y. Educ. Law §§ 6509-e, 6531-a (2019); Oregon, Or. Rev. Stat. § 675.850 (2015); Rhode Island, 23 R.I. Gen. Laws Ann. §§ 23-94-1 et seq. (2017); Vermont, Vt. Stat. Ann. tit. 18, §§ 8351 et seq. (2016); Washington, Wash. Rev. Code § 18.130.180 (2018).

LGBTQ equality, estimates that about 44% of the LGBTQ population lives in states that have laws prohibiting conversion therapy on minors.<sup>5</sup>

The ordinances challenged by Plaintiffs are expressly designed to prevent the direct harm caused to patients of conversion therapy. The preamble to each ordinance uses identical language to assert its clear intent: “to protect the physical and psychological well-being of minors, including but not limited to lesbian, gay, bisexual, transgender and/or questioning youth, from exposure to the serious harms and risks caused by conversion therapy or reparative therapy by licensed providers.”<sup>6</sup> These ordinances demonstrate that these communities accept LGBTQ minors for who they are and desire to protect them from harm.

The Trevor Project is uniquely positioned to understand the dangers of conversion therapy. In the last decade alone, The Trevor Project has communicated with hundreds of individuals specifically about their experiences undergoing conversion therapy or their credible fear that they will be subjected to it. The Trevor Project has witnessed how detrimental and damaging this practice has been to the LGBTQ community it serves. Conversion therapy serves no purpose, as every major

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<sup>5</sup> Movement Advancement Project, *Equality Maps: Conversion Therapy Laws*, [http://www.lgbtmap.org/equality-maps/conversion\\_therapy](http://www.lgbtmap.org/equality-maps/conversion_therapy).

<sup>6</sup> Palm Beach Cty., Fla., Ordinances ch. 18, art. V § 121 (2017); Boca Raton, Fla., Ordinances ch. 9, art. VI § 104 (2017).

medical and mental health association has corroborated The Trevor Project's experience in warning that these practices are harmful and ineffective.

**A. Conversion Therapy Causes Significant Harm to LGBTQ Youth, Which The Trevor Project Regularly Witnesses Through Its Suicide Prevention and Crisis Intervention Services.**

The Trevor Project offers unique suicide prevention and crisis intervention services to LGBTQ youth and, through its services, has direct knowledge of the harm conversion therapy inflicts on the individuals subjected to it. TrevorLifeline is a telephone counseling service that LGBTQ youth can call for support in times of stress and trouble, and TrevorChat and TrevorText are online chat and text messaging services, respectively, that LGBTQ youth can use as an alternative to speaking on the telephone.<sup>7</sup> The Trevor Project also hosts a social networking site called TrevorSpace that allows LGBTQ youth to connect with one another.<sup>8</sup> The Trevor Project provides comprehensive in-person training for volunteers who serve as counselors or moderators on its platforms so that they are prepared to help LGBTQ youth facing a difficult period and, if necessary, refer them to resources where they could find help from mental health professionals.<sup>9</sup>

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<sup>7</sup> The Trevor Project, *Get Help Now*, <https://www.thetrevorproject.org/get-help-now/>.

<sup>8</sup> The Trevor Project, *TrevorSpace*, <https://www.trevorspace.org/>.

<sup>9</sup> The Trevor Project, *Trainings for Youth-Serving Professionals*, <https://www.thetrevorproject.org/education/trainings-for-youth-serving-professionals/>.

Many LGBTQ youth who contact The Trevor Project in moments of crisis describe concerns or stresses associated with conversion therapy. Supervisors for The Trevor Project’s crisis services, such as TrevorText and TrevorChat, report that conversion therapy-related issues come up regularly, as often as weekly. These impressions are borne out by data collected on TrevorLifeline, TrevorText, and TrevorChat, as hundreds of people have reached out to The Trevor Project with specific concerns about conversion therapy. Terms like “conversion therapy,” “reparative therapy,” and “ex-gay” appear on these platforms hundreds of times.

The specific experiences with conversion therapy that LGBTQ youth describe vary, but their experiences are uniformly difficult. For many LGBTQ people, conversion therapy is a source of deep anxiety. Some of these LGBTQ individuals contact The Trevor Project because their families are threatening to send them to conversion therapy and they fear what will happen to them when they are sent away. The Trevor Project has also counseled numerous LGBTQ minors who are afraid to come out to their family members because of the fear that their family members will force them to undergo conversion therapy. Some users of TrevorLifeline, TrevorText, and TrevorChat report that this fear is reinforced by derogatory remarks regularly made by family members—for instance, that being LGBTQ “is a choice” or “demonic,” or that conversion therapy is necessary to “fix” them. Still other LGBTQ youth contact The Trevor Project because they are in conversion therapy, it

is not working, and their feelings of isolation and failure contribute to suicidal thoughts and behaviors.

The harm caused by conversion therapy is not just limited to the child subjected to it, but also spreads to anyone who cares about the child and the pain the child is experiencing. LGBTQ youth regularly reach out to The Trevor Project because friends and loved ones are subjected to conversion therapy, and they are worried about what is happening to them or wonder what they can do to help them. For example, one individual called TrevorLifeline because the caller's relative was being sent to conversion therapy by their family, and the individual wanted to know whether anything could be done to stop them. LGBTQ youth have also contacted The Trevor Project in a state of distress because a loved one has died by suicide during or after being subjected to conversion therapy.

The legal availability of conversion therapy exists as a coercive force in the lives of too many LGBTQ minors. Some who have contacted The Trevor Project have explained that, after coming out to their parents as LGBTQ, their unaccepting family members responded by threatening to cut off contact and support unless they agreed to attend conversion therapy. Others have been estranged from family, with the restoration of relationships conditioned explicitly on the person's consent to conversion therapy. This rejection caused these individuals considerable distress, and they felt like conversion therapy might be their "only" alternative.

**B. Social Science Evidence From The Trevor Project and Other Leading Organizations Overwhelmingly Confirms the Significant Harm of Conversion Therapy on LGBTQ Youth.**

Contemporary science has long recognized that being LGBTQ is part of the natural spectrum of human identity and is not a disease, disorder, or illness.<sup>10</sup> Yet recent research conducted by The Trevor Project and other leading research organizations confirms the challenges that the LGBTQ community experiences as a result of ongoing discrimination, including the pressure faced by many LGBTQ youth to undergo conversion therapy.

In June 2019, The Trevor Project released the results of a cross-sectional survey with over 34,000 LGBTQ individuals between the ages of 13 and 24 with representation from all 50 states and the District of Columbia.<sup>11</sup> It is the largest

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<sup>10</sup> See, e.g., Richard D. Lyons, *Psychiatrists, in a Shift, Declare Homosexuality No Mental Illness*, N.Y. TIMES (Dec. 16, 1973), <https://www.nytimes.com/1973/12/16/archives/psychiatrists-in-a-shift-declare-homosexuality-no-mental-illness.html>; Ben Pickman & Brandon Griggs, *The World Health Organization will stop classifying transgender people as mentally ill*, CNN (June 20, 2018), <https://www.cnn.com/2018/06/20/health/transgender-people-no-longer-considered-mentally-ill-trnd/index.html>; Mary Papenfuss, *World Health Organization Removes Gender Nonconformity From List Of Mental Disorders*, HUFFINGTON POST (May 31, 2019), [https://www.huffpost.com/entry/transgender-right-world-health-organization-no-longer-mental-disorder\\_n\\_5cf0ade0e4b0e346ce7bbd93](https://www.huffpost.com/entry/transgender-right-world-health-organization-no-longer-mental-disorder_n_5cf0ade0e4b0e346ce7bbd93).

<sup>11</sup> The Trevor Project, *National Survey on LGBTQ Youth Mental Health* (June 2019), <https://www.thetrevorproject.org/wp-content/uploads/2019/06/The-Trevor-Project-National-Survey-Results-2019.pdf>.

survey of LGBTQ youth mental health ever conducted. Two-thirds of LGBTQ youth who responded reported that someone tried to convince them to change their sexual orientation or gender identity.<sup>12</sup> Individuals were asked whether they had undergone conversion therapy seeking to change their sexual orientation or gender identity. 5% of LGBTQ youth reported undergoing conversion therapy.<sup>13</sup> 42% of LGBTQ youth who underwent conversion therapy reported a suicide attempt in the past year.<sup>14</sup> These individuals reported attempting suicide in the past 12 months more than twice the rate of their LGBTQ peers who did not report undergoing conversion therapy (42% v. 17%). The highest rate of attempted suicide (57%) was found among transgender and non-binary individuals who reported receiving conversion therapy.<sup>15</sup> Other key findings from The Trevor Project's report are:

- 39% of LGBTQ youth seriously considered attempting suicide in the past year, with more than half of transgender and non-binary youth having seriously considered suicide in the past year.<sup>16</sup>
- 71% of LGBTQ youth reported feeling sad or hopeless for at least two weeks in the past year, with nearly one-fifth of LGBTQ respondents attempting suicide in the past year.<sup>17</sup>

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<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.*

- Less than half of LGBTQ respondents were out to an adult at school, with youth less likely to disclose their gender identity than sexual orientation.<sup>18</sup>
- 71% of LGBTQ youth in The Trevor Project’s study reported discrimination due to their sexual orientation or gender identity.<sup>19</sup>

The Trevor Project’s findings are consistent with a study released in November 2018 examining young adults’ retrospective reports of parent-initiated efforts to change their sexual orientation during adolescence.<sup>20</sup> The study concluded that “parent/caregiver efforts to change an adolescent’s sexual orientation are associated with multiple indicators of poor health and adjustment in young adulthood.”<sup>21</sup> Specifically, conversion therapy—with its false premise that one’s LGBTQ identity can and should be changed—brands LGBTQ identity with a deep stigma that often translates into real harm to LGBTQ young adults. For instance, rates of attempted suicide by LGBTQ young adults whose parents tried to change their sexual orientation during adolescence were more than double (48%) the rate of LGBTQ young adults who reported no conversion experience (22%), and those rates

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<sup>18</sup> *Id.* at 5.

<sup>19</sup> *Id.* at 4.

<sup>20</sup> Caitlin Ryan et al., *Parent-Initiated Sexual Orientation Change Efforts With LGBT Adolescents: Implications for Young Adult Mental Health and Adjustment*, *J. Homosexuality* (Nov. 7, 2018), <https://www.tandfonline.com/doi/full/10.1080/00918369.2018.1538407>.

<sup>21</sup> *Id.* at 9.

were nearly triple for LGBTQ young adults who reported both home-based efforts to change their sexual orientation by parents *and* intervention efforts by therapists and religious leaders (63%).<sup>22</sup> The study found a similar trend for depression—rates were more than double (33%) for LGBTQ young adults whose parents tried to change their sexual orientation compared with those who reported no conversion experience (16%), and more than triple (52%) for LGBTQ young adults who reported both home-based efforts to change their sexual orientation by parents and intervention efforts by therapists and religious leaders.<sup>23</sup> LGBTQ youth whose parents, therapists, and/or religious leaders sought to change their sexual orientation are also more likely to experience lower socioeconomic status as young adults.<sup>24</sup>

The Centers for Disease Control and Prevention confirmed in a June 2018 study that high school students who self-identify as lesbian, gay, or bisexual (“LGB”) experience a greater incidence of emotional distress than those who self-identify as heterosexual.<sup>25</sup> Researchers determined that LGB individuals are more

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<sup>22</sup> *Id.* at 10.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Laura Kann et al., *Youth Risk Behavior Surveillance — United States, 2017*, 67 Ctrs. for Disease Control & Prevention Morbidity & Mortality Wkly. Rep. (June 15, 2018), at 23–28, <https://www.cdc.gov/mmwr/volumes/67/ss/pdfs/ss6708a1-H.pdf>.

than two times more likely to feel sad and hopeless; more than three times more likely to have seriously considered suicide; more than three times more likely to have made a suicide plan; four times more likely to have attempted suicide; and more than four times more likely to have been injured in a suicide attempt.<sup>26</sup> Suicide is the second leading cause of death for adolescents and young adults in the United States between the ages of 10 and 24, and LGB youth are more than four times more likely to attempt suicide than their heterosexual peers.<sup>27</sup>

LGBTQ youth experience a greater incidence of emotional distress not because of their sexual orientation, gender identity, or any other aspect of who they are, but because of persistent discrimination by those around them.<sup>28</sup> Support and acceptance can benefit LGBTQ youth significantly. Indeed, studies have shown that when LGBTQ students receive support through nondiscriminatory policies, like the ordinances at issue here, they report lower levels of depressive symptoms, higher

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<sup>26</sup> *Id.*; see also Eliana Dockterman, *Transgender Teen's Death Sparks Outcry From Advocates*, TIME (Dec. 31, 2014), <http://time.com/3651037/leelah-alcorn-transgender/>.

<sup>27</sup> The Trevor Project, *Preventing Suicide: Facts About Suicide*, <https://www.thetrevorproject.org/resources/preventing-suicide/facts-about-suicide/#sm.0001m8u8qmde4dtzs6d1liekdzo18>.

<sup>28</sup> Joanna Almeida et al., *Emotional Distress Among LGBT Youth: The Influence of Perceived Discrimination Based on Sexual Orientation*, 38 J. Youth & Adolescence 1001, 1002 (2009), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3707280/pdf/nihms261853.pdf>

self-esteem, and greater educational achievement.<sup>29</sup> The ordinances enacted by the City of Boca Raton and Palm Beach County are therefore vital in showing LGBTQ youth that society will accept them for simply being who they are.

**C. Every Major Medical and Mental Health Organization Has Rejected Conversion Therapy as Scientifically Unsound, Harmful to the Patient, and Ineffective at Changing Sexual Orientation, Gender Identity, or Gender Expression.**

The Trevor Project's experiences with LGBTQ individuals who have experienced or have contemplated conversion therapy are further validated by the nation's leading professional medical and mental health associations, which have uniformly rejected the practice of conversion therapy, finding it dangerous and devoid of any scientific merit. The American Psychiatric Association, the American Academy of Pediatrics, the American Medical Association, the American Counseling Association, the American Psychological Association, the American School Counselor Association, the National Association of Social Workers, the American Academy of Nursing, the United States Department of Health and Human

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<sup>29</sup> See Joseph G. Kosciw et al., GLSEN, *The 2015 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools* 45, 49 (2016), [https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report\\_0.pdf](https://www.glsen.org/sites/default/files/2015%20National%20GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report_0.pdf); see also Caitlin Ryan et al., *Family Acceptance in Adolescence and the Health of LGBT Young Adults*, 23 J. CHILD & ADOLESCENT PSYCHIATRIC NURSING 205, 210 (2010).

Services, and the World Health Organization have all denounced conversion therapy and declared that the practice cannot “cure” someone of their sexual orientation, gender identity, or gender expression.<sup>30</sup> Indeed, there is nothing to “cure.”

The American Psychiatric Association has issued a public position statement that conversion therapy is “based on developmental theories whose scientific validity is questionable. . . . In the last four decades, ‘reparative’ therapists have not produced *any rigorous scientific research to substantiate their claims of cure.*”<sup>31</sup> Not only has the American Psychiatric Association determined that practitioners lack credible scientific evidence to justify this practice, but it has also found that “the potential risks of ‘reparative therapy’ are great, including depression, anxiety and

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<sup>30</sup> See, e.g., Am. Psychol. Ass’n, *Just the Facts About Sexual Orientation and Youth* 6 (2008), <http://www.apa.org/pi/lgbt/resources/just-the-facts.aspx>; Am. Med. Ass’n, *Health Care Needs of Lesbian, Gay, Bisexual, Transgender and Queer Populations H-160.991* § 1(c), <https://policysearch.ama-assn.org/policyfinder> (search for H-160.991); World Health Org., “Cures” For An Illness That Does Not Exist: Purported Therapies Aimed At Changing Sexual Orientation Lack Medical Justification And Are Ethically Unacceptable 1 (May 17, 2012), [http://www.paho.org/hq/?option=com\\_docman&task=doc\\_view&gid=17703&Itemid=270&lang=en](http://www.paho.org/hq/?option=com_docman&task=doc_view&gid=17703&Itemid=270&lang=en).

<sup>31</sup> Am. Psychiatric Ass’n, *Position Statement on Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies): Supplement* (emphasis added), <https://www.semanticscholar.org/paper/Position-statement-on-therapies-focused-on-attempts/60f59c20edc207f63cee5022203ef7678a204543>.

self-destructive behavior, since therapist alignment with societal prejudices against homosexuality may reinforce self-hatred already experienced by the patient.”<sup>32</sup>

The American Psychological Association “opposes portrayals of [LGBTQ] youth and adults as mentally ill due to their sexual orientation” and “supports the dissemination of accurate scientific and professional information about sexual orientation in order to counteract bias that is based in lack of knowledge about sexual orientation.”<sup>33</sup> The American Academy of Pediatrics warns its members 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.”<sup>34</sup> The American Academy of Nursing similarly finds that “reparative therapies aimed at ‘curing’ or changing same-sex orientation to heterosexual orientation are pseudo-scientific, ineffective, unethical, abusive and harmful practices that pose serious threats to the dignity,

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<sup>32</sup> *Id.*

<sup>33</sup> Am. Psychol. Ass’n, *Appropriate Affirmative Responses to Sexual Orientation Distress and Change Efforts* 31 (Aug. 5, 2009), <https://www.apa.org/about/policy/sexual-orientation.pdf>.

<sup>34</sup> Am. Acad. of Pediatrics, Cal., *Letter of Support for AB 1779 (Nazarian) Sexual Orientation: Change Efforts* 1 (Apr. 2, 2018), <http://aap-ca.org/letter/ab-1779-nazarian-sexual-orientation-change-efforts/?format=pdf>.

autonomy and human rights as well as to the physical and mental health of individuals exposed to them.”<sup>35</sup>

In addition, leading associations representing counselors and social workers who regularly work with LGBTQ youth vigorously assail any efforts to change a student’s sexual orientation or gender identity. The American School Counselor Association advises that “it is not the school counselor’s role to attempt to change a student’s sexual orientation or gender identity,” and recognizes the “profound harm intrinsic to therapies alleging to change an individual’s sexual orientation or gender identity.”<sup>36</sup> The American Counseling Association condemns conversion therapy and “opposes portrayals of [LGBTQ] individuals as mentally ill due to their sexual orientation.”<sup>37</sup> The National Association of Social Workers avers that conversion therapies “can negatively affect one’s mental health and cannot and will not change

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<sup>35</sup> Am. Acad. of Nursing, *American Academy of Nursing Position Statement on Reparative Therapy* 1 (2015), [http://www.nursingoutlook.org/article/S0029-6554\(15\)00125-6/pdf](http://www.nursingoutlook.org/article/S0029-6554(15)00125-6/pdf).

<sup>36</sup> Am. Sch. Counselor Ass’n, *The School Counselor and LGBTQ Youth* 37 (2016), [https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS\\_LGBTQ.pdf](https://www.schoolcounselor.org/asca/media/asca/PositionStatements/PS_LGBTQ.pdf).

<sup>37</sup> Am. Counseling Ass’n, *Ethical Issues Related to Conversion or Reparative Therapy* (Jan. 16, 2013), <https://www.counseling.org/news/updates/2013/01/16/ethical-issues-related-to-conversion-or-reparative-therapy>.

sexual orientation or gender identity” and that “no data demonstrate that . . . conversion therapy is effective.”<sup>38</sup>

The Substance Abuse and Mental Health Services Administration, a branch of the Department of Health and Human Services, released a comprehensive report in October 2015 condemning conversion therapy. It made three key findings: First, that “[s]ame-gender sexual orientation . . . and variations in gender identity and gender expression are a part of the normal spectrum of human diversity and do not constitute a mental disorder”; second, that despite limited research on conversion therapy, “none of the existing research supports the premise that mental or behavioral health interventions can alter gender identity or sexual orientation”; and third, that “[i]nterventions aimed at a fixed outcome, such as gender conformity or heterosexual orientation, including those aimed at changing gender identity, gender expression, and sexual orientation are coercive, can be harmful, and should not be part of behavioral health treatment.”<sup>39</sup>

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<sup>38</sup> Nat’l Ass’n of Soc. Workers, *Sexual Orientation Change Efforts (SOCE) and Conversion Therapy with Lesbians, Gay Men, Bisexuals, and Transgender Persons* 4 (May 1, 2015), <https://www.socialworkers.org/LinkClick.aspx?fileticket=IQYALknHU6s%3d&portalid=0>.

<sup>39</sup> Substance Abuse & Mental Health Servs. Admin., *Ending Conversion Therapy: Supporting and Affirming LGBTQ Youth* 1 (Oct. 2015), <https://store.samhsa.gov/product/Ending-Conversion-Therapy-Supporting-and-Affirming-LGBTQ-Youth/SMA15-4928>.

The Trevor Project's experiences corroborate the overwhelming professional opinion that conversion therapy is harmful and ineffective. The Trevor Project has spoken frequently with LGBTQ youth who have undergone conversion therapy (usually at the direction of family members) who routinely report to The Trevor Project that this "treatment" was entirely ineffective in changing their sexual orientation, gender identity, or gender expression. Worse, their exposure to conversion therapy actually caused them to experience further depression and anxiety, contributing to increased suicidal ideation and actual self-harm.

Federal courts have also credited the consensus professional opinion that conversion therapy is devoid of any medical or scientific foundation. In affirming New Jersey's statute prohibiting conversion therapy on minors, the Third Circuit found in *King v. New Jersey*, 767 F.3d 216 (3d Cir. 2014) that "over the last few decades a number of well-known, reputable professional and scientific organizations have publicly condemned the practice of SOCE [*i.e.*, sexual orientation change efforts], expressing serious concerns about its potential to inflict harm." *Id.* at 238. The court held that "this evidence is substantial" and that "[l]egislatures are entitled to rely on the empirical judgments of independent professional organizations that possess specialized knowledge and experience concerning [SOCE], particularly when this community has spoken with such urgency and solidarity on the subject." *Id.* Likewise, the Ninth Circuit upheld California's statute protecting minors from

conversion therapy in *Pickup v. Brown*, because “[t]he legislature relied on the report of the Task Force of the American Psychological Association” and “the opinions of many other professional organizations” that “the overwhelming consensus was that SOCE was harmful and ineffective.” 740 F.3d 1208, 1232 (9th Cir. 2014). The court thus had “no trouble concluding that the legislature acted rationally by relying on that consensus.” *Id.* Finally, in upholding the ordinances at issue here, the district court determined that “official position statements of major medical and mental health organizations . . . present a consistent position that conversion therapy is harmful or potentially harmful to all people, and especially to minors.” *Otto v. City of Boca Raton*, 353 F. Supp. 3d 1237, 1262 (S.D. Fla. 2019). The district court was correct to conclude that the City of Boca Raton and the Palm Beach County “could properly find that the research about the dangers of conversion therapy, particularly for minors, was ‘overwhelming.’” *Id.*

### **CONCLUSION**

For the foregoing reasons, The Trevor Project requests that this Court affirm the district court’s order denying a preliminary injunction in its entirety.

Dated: June 17, 2019

Respectfully submitted,

/s/ Stuart F. Delery

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**CERTIFICATE OF COMPLIANCE**

On behalf of *amicus curiae* The Trevor Project, I hereby certify pursuant to Federal Rule of Appellate Procedure 32(g)(1) that the foregoing brief is proportionally spaced, has a typeface of 14 points or more, is set in Times New Roman, and contains 4,248 words, as counted by Microsoft Word, excluding the items that may be excluded under Federal Rule of Appellate Procedure 27(a)(2)(B).

Dated: June 17, 2019

By: /s/ Stuart F. Delery  
Stuart F. Delery

**CERTIFICATE OF SERVICE**

I, Stuart F. Delery, a member of the Bar of this Court, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system on June 17, 2019. I certify that to my knowledge all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: June 17, 2019

By: /s/ Stuart F. Delery  
Stuart F. Delery