

# Court blocks California law banning gay therapy

December 22 2012, by Lisa Leff

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(AP)—A federal appeals court on Friday put the brakes on a first-of-its-kind California law that bans therapy aimed at turning gay minors straight.

A three-judge panel of the 9th U.S. Circuit Court of Appeals issued an emergency order putting the law on hold until the court can hear full arguments on the measure's constitutionality. The law was set to take effect Jan. 1.

Licensed counselors who practice so-called "reparative therapy" and two families who say their teenage sons have benefited from it sought the injunction after a lower court judge refused the request.

The law, which was passed by the Legislature and signed by Gov. Jerry Brown this fall, states that therapists and counselors who use "[sexual orientation change efforts](#)" on clients under 18 would be engaging in [unprofessional conduct](#) and subject to discipline by state licensing boards.

The appeals court's order prevents the state from enforcing the law, SB1172, while a different three-judge panel considers if the measure violates the [First Amendment rights](#) of therapists and parents.

Liberty Counsel President Mathew Staver, whose Christian legal aide group is representing reparative therapy practitioners and recipients in a lawsuit seeking to overturn the law, applauded the court's decision to

grant his request to delay its implementation.

"This law is politically motivated to interfere with counselors and clients. Liberty Counsel is thankful that the 9th Circuit blocked the law from going into effect," Staver said. "This law is an astounding overreach by the government into the realm of counseling and would have caused irreparable harm."

Backers of the ban say the state is obligated to outlaw reparative therapy because the practice puts young people at risk and has been rejected by every mainstream mental health association. After signing SB1172, the governor called the therapies it would outlaw "quackery" that "have no basis in science or medicine."

Shannon Minter, legal director for the National Center for Lesbian Rights, which helped fight for the law's passage, said the measure's supporters shouldn't read too much into Friday's order.

"It's disappointing because there shouldn't even be a temporary delay of this law, but this is completely irrelevant to the final outcome," Minter said.

The brief order issued Friday did not explain the panel's thinking. The 9th Circuit has requested briefs on the case's broader constitutional issues but has not scheduled arguments.

"California was correct to outlaw this unsound and harmful practice, and the attorney general will vigorously defend this law," said Lynda Gledhill, press secretary to Attorney General Kamala Harris.

Earlier this month, two federal trial judges in California arrived at opposite conclusions on whether the law violates the Constitution.

On Dec. 4, U.S. District Judge Kimberly Mueller refused to block the law after concluding that the plaintiffs represented by Staver were unlikely to prove the ban on "conversion" therapy unfairly tramples on their civil rights and should therefore be overturned.

The opponents argued the law would make them liable for discipline if they merely recommended the therapy to patients or discuss it with them. Mueller said they didn't demonstrate that they were likely to win, so she wouldn't block the [law](#).

Mueller's decision came half a day after U.S. District Judge William Shubb handed down a somewhat competing ruling in a separate lawsuit filed by a psychiatrist, a licensed counselor and a former patient who is studying to practice gay conversion therapy.

Shubb said he found the First Amendment issues presented by the ban to be compelling. He ordered the state to temporarily exempt the three people named in the case before him.

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