

HOUSE BILL No. 2791

By Committee on Health and Human Services

Requested by Representative Bryce

2-9

1 AN ACT concerning children and minors; relating to healthcare of minors;
2 enacting the forbidding abusive child transitions act; prohibiting
3 healthcare professionals from treating a child whose gender identity is
4 inconsistent with the child's sex; authorizing a civil cause of action
5 against healthcare professionals for providing such treatments;
6 restricting use of state funds to promote gender transitioning;
7 prohibiting professional liability insurance from covering damages for
8 healthcare providers that provide gender transition treatment to
9 children; ~~authorizing~~ professional discipline against a ~~physician~~ who
10 performs such treatments; amending K.S.A. 65-2837 and K.S.A. 2023
11 Supp. 65-1120 and repealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) The provisions of sections 1 through 7, and
15 amendments thereto, shall be known and may be cited as the forbidding
16 abusive child transitions act.

17 (b) As used in this act:

18 (1) "Child" means an individual less than 18 years of age.

19 (2) "Female" means an individual who is a member of the female sex.

20 (3) "Gender" means the psychological, behavioral, social and cultural
21 aspects of being male or female.

22 (4) "Gender dysphoria" is the diagnosis of gender dysphoria in the
23 fifth edition of the diagnostic and statistical manual of mental disorders.

24 (5) "Healthcare provider" means an individual who is licensed,
25 certified or otherwise authorized by the laws of this state to administer
26 healthcare services in the ordinary course of the practice of such
27 individual's profession.

28 (6) "Male" means an individual who is a member of the male sex.

29 (7) "Perceived sex" is an individual's internal sense of such
30 individual's sex.

31 (8) "Perceived gender" is an individual's internal sense of such
32 individual's gender.

33 (9) "Sex" means the biological indication of male and female in the
34 context of reproductive potential or capacity, including sex chromosomes,
35 naturally occurring sex hormones, gonads and nonambiguous internal and

1 external genitalia present at birth, without regard to an individual's
2 psychological, chosen or subjective experience of gender.

3 (10) "Social transitioning" means acts other than medical or surgical
4 interventions that are undertaken for the purpose of presenting as a
5 member of the opposite sex, including the changing of an individual's
6 preferred pronouns or manner of dress.

7 New Sec. 2. (a) A recipient of state funds shall not use such funds to
8 provide or subsidize medication or surgery as a treatment for a child's
9 perception of gender or sex that is inconsistent with such child's sex.

10 (b) An individual or entity that receives state funds to pay for or
11 subsidize the treatment of children for psychological conditions, including
12 gender dysphoria, shall not promote or advocate medication or surgery as a
13 treatment for a child whose perceived gender or perceived sex is
14 inconsistent with such child's sex.

15 (c) The Kansas program of medical assistance and its managed care
16 organizations shall not reimburse or provide coverage for medication or
17 surgery as a treatment for a child whose perceived gender or perceived sex
18 is inconsistent with such child's sex.

19 (d) Except to the extent required by the first amendment to the United
20 States constitution, a state property, facility or building shall not be used to
21 promote or advocate the use of social transitioning, medication or surgery
22 as a treatment for a child whose perceived gender or perceived sex is
23 inconsistent with such child's sex.

24 (e) A state property, facility or building shall not be used to prescribe,
25 administer or dispense medication or perform surgery as a treatment for a
26 child whose perceived gender or perceived sex is inconsistent with such
27 child's sex.

28 (f) A state employee whose official duties include the care of children
29 shall not, while engaged in those official duties, provide or promote the
30 use of social transitioning, medication, or surgery as a treatment for a child
31 whose perceived gender or perceived sex is inconsistent with such child's
32 sex.

33 New Sec. 3. (a) A healthcare professional shall obtain informed
34 consent from a child's parent or guardian before discussing with a child the
35 possibility of social transitioning, medication or surgery as a treatment for
36 a child whose perceived gender or perceived sex is inconsistent with such
37 child's sex.

38 (b) For purposes of this act, informed consent requires notice:

39 (1) That social transitioning, medication and surgery may have an
40 iatrogenic effect such that, beginning with one treatment, the discordance
41 between the child's perception and such child's sex may increase, requiring
42 even more treatment;

43 (2) regarding puberty blockers and that such medications:

1 (A) have not been approved by the federal food and drug
2 administration as a treatment for gender dysphoria;

3 (B) have been used to chemically castrate sex offenders;

4 (C) have known harms, including diminished bone density and
5 infertility;

6 (D) may have permanent negative effects on adult sexual function;

7 (E) have not been studied to determine the long-term risks to children
8 who have persistent exposure to puberty blockers; and

9 (F) have unknown effects on brain development and cognition;

10 (3) regarding cross-sex hormones and that the use of such
11 medications is associated with:

12 (A) In males, the risk of thromboembolic disease including blood
13 clots, cholelithiasis including gallstones, coronary artery disease including
14 heart attacks, macroprolactinoma, which is a tumor of the pituitary gland,
15 cerebrovascular disease including strokes, hypertriglyceridemia, which is
16 an elevated level of triglycerides in the blood, breast cancer and
17 irreversible infertility; and

18 (B) in females, the risk of erythrocytosis, which is an increase in red
19 blood cells, severe liver dysfunction, coronary artery disease including
20 heart attacks, hypertension and increased risk of breast and uterine
21 cancers; and

22 (4) that for surgical procedures, the risks, complications and long-
23 term concerns associated with these types of procedures are almost
24 entirely unknown because there are no long-term studies on either the
25 effectiveness or safety of such procedures.

26 (c) If a healthcare professional fails to obtain informed consent in
27 accordance with this section before knowingly discussing with a child the
28 possibility of social transitioning, medication or surgery as a treatment for
29 a child whose perceived gender or perceived sex is inconsistent with such
30 child's sex:

31 (1) The healthcare professional has engaged in unprofessional
32 conduct and is subject to discipline by the appropriate licensing entity or
33 disciplinary review board with competent jurisdiction in this state.

34 New Sec. 4. (a) Except as provided in subsection (c), a healthcare
35 provider shall not knowingly provide the following to a female child
36 whose perceived gender or sex is not female as treatment for distress
37 arising from such female child's perception that such child's gender or sex
38 is not female:

39 (1) Surgical procedures, including vaginectomy, hysterectomy,
40 oophorectomy, ovariectomy, reconstruction of the urethra, metoidioplasty
41 phalloplasty, scrotoplasty, implantation of erection or testicular prostheses,
42 subcutaneous mastectomy, voice surgery, liposuction, lipofilling or
43 pectoral implants;

*and renumber sections and
internal references
accordingly*

1 (2) supraphysiologic doses of testosterone or other androgens; or
 2 (3) puberty blockers such as GnRH agonists or other synthetic drugs
 3 that suppress the production of estrogen and progesterone to delay or
 4 suppress pubertal development in female children.

5 (b) Except as provided in subsection (b), a healthcare provider shall
 6 not knowingly provide the following to a male child whose perceived
 7 gender or sex is not male as treatment for distress arising from such male
 8 child's perception that such child's gender or sex is not male:

9 (1) Surgical procedures, including a penectomy, orchiectomy,
 10 vaginoplasty, clitoroplasty, vulvoplasty, augmentation mammoplasty, facial
 11 feminization surgery, liposuction, lipofilling, voice surgery, thyroid
 12 cartilage reduction or gluteal augmentation;

13 (2) supraphysiologic doses of estrogen; or

14 (3) puberty blockers such as GnRH agonists or other synthetic drugs
 15 that suppress the production of testosterone or delay or suppress pubertal
 16 development in male children.

17 (c) The treatments prohibited by subsections (a) and (b) shall not
 18 apply to treatment provided for other purposes, including:

19 (1) Treatment for individuals born with a medically verifiable
 20 disorder of sex development, including:

21 (A) An individual born with external biological sex characteristics
 22 that are irresolvably ambiguous, including an individual born with 46 XX
 23 chromosomes with virilization, 46 XY chromosomes with under
 24 virilization or having both ovarian and testicular tissue; or

25 (B) an individual whom a physician has otherwise diagnosed with a
 26 disorder of sexual development that the physician has determined through
 27 genetic or biochemical testing that such individual does not have normal
 28 sex chromosome structure, sex steroid hormone production or sex steroid
 29 hormone action for a male or female; and

30 (2) treatment of any infection, injury, disease or disorder that has
 31 been caused or exacerbated by the performance of a procedure listed in
 32 subsections (a) or (b).

33 New Sec. 5. (a) If a healthcare professional violates the provisions of
 34 section 3 ~~or 4~~, and amendments thereto:

35 (1) The healthcare professional has engaged in unprofessional
 36 conduct and ~~is subject to discipline~~ by the appropriate licensing entity or
 37 disciplinary review board with competent jurisdiction in this state.

38 (b) A healthcare professional who provides treatment to a child in
 39 violation of section 4(a) or (b), and amendments thereto, shall be held
 40 strictly liable to such child if the treatment or effects of such treatment
 41 results in any physical, psychological, emotional or physiological harms to
 42 such child in the next ~~30~~ years;

43 (c) The parents of a child who has experienced violation of section 3

notwithstanding any provision of law to the contrary, the license of such healthcare professional shall be revoked

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from the date that the individual turns 18 years of age

(a) or (b)

1 ~~or 4~~, and amendments thereto, shall have a private cause of action against
2 a healthcare provider for damages and equitable relief as the court may
3 determine is justified. A prevailing party may recover the costs of the suit
4 and reasonable attorney fees.

5 (d) (1) An individual who was provided treatment as a child in violation of section ~~4~~(a) or (b), and amendments thereto, shall have a
6 private cause of action against the healthcare provider who provided such
7 treatment for actual damages, punitive damages, injunctive relief, the cost
8 of the suit and reasonable attorney fees. 3

10 (2) An action against a healthcare provider pursuant to this subsection shall be filed within ~~30~~ years from the date the individual turns 18 years of
11 age. 10

13 New Sec. 6. A professional liability insurance policy issued to a
14 healthcare provider shall not include coverage for damages assessed
15 against the healthcare provider who provides treatment to a child in
16 violation of section ~~3 or 4~~(a) or (b), and amendments thereto. 3

17 New Sec. 7. If any provision or clause of this act or application
18 thereof to any person or circumstance is held invalid, such invalidity shall
19 not affect other provisions or applications of this act that can be given
20 effect without the invalid provision or application, and to this end the
21 provisions of this act are declared to be severable.

22 Sec. 8. K.S.A. 2023 Supp. 65-1120 is hereby amended to read as
23 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
24 deny, revoke, limit or suspend any license or authorization to practice
25 nursing as a registered professional nurse, as a licensed practical nurse, as
26 an advanced practice registered nurse or as a registered nurse anesthetist
27 that is issued by the board or applied for under this act, or may require the
28 licensee to attend a specific number of hours of continuing education in
29 addition to any hours the licensee may already be required to attend or
30 may publicly or privately censure a licensee or holder of a temporary
31 permit or authorization, if the applicant, licensee or holder of a temporary
32 permit or authorization is found after hearing:

33 (1) To be guilty of fraud or deceit in practicing nursing or in
34 procuring or attempting to procure a license to practice nursing;

35 (2) to have been guilty of a felony or to have been guilty of a
36 misdemeanor involving an illegal drug offense unless the applicant or
37 licensee establishes sufficient rehabilitation to warrant the public trust,
38 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
39 license or authorization to practice nursing as a licensed professional
40 nurse, as a licensed practical nurse, as an advanced practice registered
41 nurse or registered nurse anesthetist shall be granted to a person with a
42 felony conviction for a crime against persons as specified in article 34 of
43 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article