

HOUSE REPUBLICAN STAFF ANALYSIS

Bill: Senate File 538 (Formerly HF 623)	House Committee: PASSED on March 3 (12-8)
Committee: Judiciary	House Floor: PASSED on March 8 (58-39)
Floor Manager: Rep. Holt	Senate Floor: PASSED on March 7 (33-16)
Date: May 8, 2023	Governor: SIGNED on March 22, 2023
Staff: Amanda Wille (1-5230)	

Prohibitions on Gender Procedures on Children

- Prohibits gender transition surgeries and hormone therapy from being performed on children.

Section by Section Analysis

Section 1 – General Provisions, Health-Related Professions- Gender Transition Procedure-Related Activities- Minors- Prohibitions (147.164)

1) Definitions

Gender- psychological, behavioral, social, and cultural aspects of being male or female.

Health care professional- a licensed, certified or authorized person to administer health care.

Minor- unemancipated person under 18

Sex- biological indication of male and female, including sex chromosomes, naturally occurring hormones and non-ambiguous internal and external genitalia present at birth without regards to an individual's psychological, chosen or subjective experience of gender.

2) Except as otherwise provided, a health care professional shall not knowingly perform any of the following practices on a minor if it is done for the purpose of attempting to alter the appearance of, or affirm the minor's perception of, their gender or sex if that appearance or perception is inconsistent with the minor's sex.

- Prescribing or administering puberty blocking drugs
- Prescribing or administering hormone therapy (testosterone to girls, estrogen to boys) in an amount greater than would normally be produced by the child.
- Performing gender altering surgeries
- Remove any healthy or non- diseased body part or tissue

A health care professional shall not knowingly engage in conduct that aids or abets the practices described above. This shall not be construed to impose liability on any speech protected by federal or state law.

This does not apply to any of the following:

- Services provided to a minor born with a medically verifiable disorder of sex development.
- Services provided to a minor who has otherwise been diagnosed with a disorder of sexual development, when through genetic testing it is determined the minor does not have normal sex chromosome structure.
- Treatment of any infection, injury, disease or disorder that has been caused or exacerbated by a gender transition procedure.
- Any procedure undertaken because a minor suffers from a physical disorder, physical injury, or physical illness that is certified by a physician and would place the minor in imminent danger of death or impairment of a major bodily function unless surgery is performed.

A violation of this law is considered unprofessional conduct and subject to licensee discipline by the appropriate licensing board.

3) A person may assert actual or threatened violation of this section as a claim or defense in a judicial or administrative proceeding and may obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief.

An action brought for a violation of this section must be brought in two years. A minor may bring an action up to 20 years after they turn 18.

A person seeking action does not have to exhaust all administrative remedies. A prevailing party may recover reasonable attorney fees.

The Attorney General may bring an action to enforce this section.

Nothing in this section shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the State or any agency, officer or employee of the state to institute or intervene in any proceeding.

Compliance, enforcement, or implementation of this section does not constitute a violation of the civil rights code.

Section 2 –Effective Date

Effective upon enactment.

Section 3- Applicability

This section allows 180 days before health care professionals are prohibited from prescribing puberty blockers, hormone therapy, and gender altering surgeries. This allows time for those on the prescriptions to be slowly and safely removed.

Amendment Analysis