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H.B. 454
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Click and Grendell

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SUMMARY

- Expresses the General Assembly's findings regarding gender transition procedures, particularly for minors.
- Prohibits specified medical health care professionals from providing gender transition procedures to minors and from referring minors to a medical doctor for those procedures.
- Prohibits the distribution of public funds to organizations or individuals that provide gender transition procedures to minors.
- Prohibits insurance coverage of gender transition procedures for minors and tax deductions for any amount paid for gender transition procedures to minors or as health insurance premiums for coverage that includes these procedures for minors.
- Prohibits Medicaid coverage of gender transition procedures for minors.
- Prohibits health care services provided by or in a state, county, or local facility or by a physician employed by the state or other state employee from including gender transition procedures for minors.
- Prohibits school nurses, counselors, teachers, principals, or other staff or officials from withholding, or encouraging or coercing a minor to withhold, from the minor's parent or legal guardian, information that a minor's gender identity is inconsistent with the minor's biological sex.
- Establishes penalties for those who provide gender transition procedures to minors.

DETAILED ANALYSIS

Legislative findings

The General Assembly makes the following findings:¹

- This state has a compelling interest in protecting the health and safety of its citizens, especially vulnerable children.
- Only a tiny percentage of the American population experiences distress at identifying with their biological sex. According to the American Psychiatric Association, prevalence ranges from 0.005% to 0.014% for natal adult males and from 0.002% to 0.003% for natal females.
- Studies consistently demonstrate that the vast majority of children who are gender nonconforming or experience distress at identifying with their biological sex come to identify with their biological sex in adolescence or adulthood, thereby rendering most medical health care interventions unnecessary.
- Scientific studies show that individuals struggling with distress at identifying with their biological sex often have already experienced psychopathology, which indicates these individuals should be encouraged to seek mental health care services before undertaking any hormonal or surgical intervention.
- Suicide rates, psychiatric morbidities, and mortality rates remain markedly elevated above the background population after inpatient gender reassignment procedures have been performed.
- Some health care providers are prescribing puberty-blocking drugs in order to delay the onset or progression of puberty in children who experience distress at identifying with their biological sex. This is being done despite the lack of any long-term longitudinal studies evaluating the risks and benefits of using these drugs for the treatment of such distress or gender transition.
- Health care providers are also prescribing cross-sex hormones for children who experience distress at identifying with their biological sex, despite the fact that no randomized clinical trials have been conducted on the efficacy or safety of the use of cross-sex hormones in adults or children for the purpose of treating such distress or gender transition.
- The use of cross-sex hormones comes with the following serious known risks:
 - For biological females, erythrocytosis (a condition where the body makes too many red blood cells), severe liver dysfunction, coronary artery disease, cerebrovascular disease (a group of conditions that affect blood flow in the brain), hypertension (high blood pressure), increased risk of breast and uterine cancers, and irreversible infertility;

¹ R.C. 3129.01.

- For biological males, thromboembolic disease (a group of conditions where blood clots form in a vein, and then dislodge and travel in the blood), cholelithiasis (gallstones), coronary artery disease, macroprolactinoma (pituitary gland tumor), cerebrovascular disease, hypertriglyceridemia (an abnormal concentration of triglycerides in the blood), breast cancer, and irreversible infertility.
- Genital and nongenital reassignment surgeries are generally not recommended for children, although evidence indicates referrals for children to have such surgeries are becoming more frequent.
- Genital gender reassignment surgery includes several irreversible invasive procedures for males and females and involves the following alterations of biologically normal and functional body parts:
 - For biological females, surgery may involve a hysterectomy (removal of the uterus) or oophorectomy (removal of one or both ovaries), reconstruction of the urethra, genital reconstruction including metoidioplasty (surgical creation of a penis using existing genital tissue) or phalloplasty (construction of a penis), vaginectomy (removal of a vagina), scrotoplasty (construction of a scrotum), and implantation of erection or testicular prostheses;
 - For biological males, surgery may involve genital reconstruction including penectomy (removal of all of a penis), orchiectomy (removal of one or both testicles), vaginoplasty (construction of a vagina), clitoroplasty (construction of a clitoris), and vulvoplasty (creation of a vulva).
- The complications, risks, and long-term care concerns associated with genital gender reassignment surgery for both males and females are numerous and complex.
- Nongenital gender reassignment surgery includes various invasive procedures for males and females and also involves the alteration or removal of biologically normal and functional body parts:
 - For biological females, procedures may include subcutaneous mastectomy (removal of the entire breast except for nipple and areola), voice surgery, liposuction, lipofilling (transfer or grafting of fat), pectoral implants, and other aesthetic procedures;
 - For biological males, procedures may include augmentation mammoplasty (breast implants or fat transfer), facial feminization surgery (including various bony and soft tissue procedures), liposuction, lipofilling, voice surgery, thyroid cartilage reduction (reduction of Adam's apple), gluteal augmentation (buttock implants or fat transfer), hair reconstruction, and other aesthetic procedures.
- It is an accepted principle of economics and public policy that when a service or product is subsidized or paid for, demand for that service or product increases. Just between 2015 and 2016, gender reassignment surgeries increased by 20%.
- It is of grave concern to the General Assembly that the medical community is allowing individuals who experience distress at identifying with their biological sex to be subjects

of irreversible and drastic nongenital gender reassignment surgery and irreversible, permanently sterilizing genital gender reassignment surgery, despite the lack of studies showing that the benefits of such extreme interventions outweigh the risks.

- The risks of gender transition procedures far outweigh any benefit at this stage of clinical study on these procedures.

Prohibition on gender transition procedures for minors

The bill prohibits the provision of gender transition procedures to minors by addressing several facets of the gender transition process. This includes prohibitions regarding medical health professionals, public funds, and insurance coverage.

Medical health care professionals

Medical health professionals, defined by the bill to include nurses, physicians, pharmacists, psychiatrists, psychologists, and any other professional licensed to provide mental health care services,² may not provide gender transition procedures to any person under age 18 or refer any person under 18 to any medical doctor for gender transition procedures.³ Gender transition procedures refer to any medical or surgical service (including physician services, inpatient and outpatient hospital services, or prescription drugs related to gender transition) that seeks to alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex, or to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex. This includes medical services that provide puberty blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite sex, or genital or nongenital gender reassignment surgery performed to assist an individual with a gender transition.⁴

Gender transition procedures do not include the following:⁵

- Services provided to people born with a medically verifiable disorder of sex development, including ambiguous external biological sex characteristics;
- Services to people diagnosed by a physician with a chromosomal or hormonal disorder of sexual development; or
- Services to treat a complication of a previous gender transition procedure.

The bill further specifies that gender reassignment surgery does not include any procedure that (1) is undertaken due to a physical disorder, physical injury, or physical illness

² R.C. 3129.02.

³ R.C. 3129.04.

⁴ R.C. 3129.02.

⁵ R.C. 3129.03.

certified by a physician and (2) would place the person in imminent danger of death or impairment of a major bodily function unless surgery is performed.

Public funds and tax deductions

No public funds may be given, either directly or indirectly, to any entity, organization, or individual that provides gender transition procedures to any minor. The bill specifies that health care services provided in a health care facility owned or operated by the state or a county or local government entity, or by a physician or other individual employed by the state, must not include gender transition procedures for minors.⁶

Any amount paid for gender transition procedures to minors or as premiums for health insurance that includes coverage of these procedures for minors is not tax deductible.⁷

Health insurance and Medicaid

No insurance plan providing health care coverage in Ohio may include reimbursement for gender transition procedures for any minor.⁸ Similarly, Medicaid may not cover gender transition procedures for minors.⁹

School staff required disclosures

The bill prohibits a nurse, counselor, teacher, principal, or any other official or staff member at a public or private school from withholding information from the minor's parent or legal guardian that a minor's gender identity is inconsistent with the minor's biological sex. Similarly, they may not encourage or coerce a student to withhold this information from that student's parent or legal guardian.¹⁰

Enforcement

Any medical health care professional who provides a gender transition procedure to a minor is engaging in unprofessional conduct, and is subject to discipline by the appropriate licensing board.¹¹

A person may assert an actual or threatened violation of the bill's provisions as a claim or defense in a judicial or administrative proceeding. As a result, that person may obtain compensatory damages, injunctive relief, or other appropriate relief. A person may file a lawsuit, and relief may be granted, regardless of if the person sought or exhausted administrative remedies first. A claim for a violation of the bill must be brought within two years if the person

⁶ R.C. 3129.06(A) and (B).

⁷ R.C. 3129.06(C).

⁸ R.C. 3129.07.

⁹ R.C. 3129.06(D).

¹⁰ R.C. 3129.05.

¹¹ R.C. 3129.08(A).

bringing the claim is not the affected minor. An affected minor may bring an action through a parent or guardian, or independently after turning 18 until 20 years after turning 18.¹²

In any action or proceeding to enforce this bill, a prevailing party who establishes a violation of the bill may recover reasonable attorneys' fees.¹³

Ohio's Attorney General may bring an action to enforce compliance with the bill's provisions. The Attorney General, the state, any state agency, any officer of the state, or any employee of the state may act as currently authorized to institute or intervene in any proceeding.¹⁴

Severability

The bill states that if any provision of the bill or its application is held invalid, the invalidity does not affect its other provisions or applications of the bill that can be given effect without the invalid provision or application.¹⁵

Delayed effective date

The bill takes effect six months after the standard 90-day effective date.¹⁶

Designation

The act is designated as the "Save Adolescents from Experimentation (SAFE) Act."¹⁷

HISTORY

Action	Date
Introduced	10-19-21

H0454-I-134/ec

¹² R.C. 3129.08(B) to (D).

¹³ R.C. 3129.08(E).

¹⁴ R.C. 3129.08(F).

¹⁵ Section 3; R.C. 1.50, not in the bill.

¹⁶ Section 4.

¹⁷ Section 2.