



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 454
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 454's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Click and Grendell

Local Impact Statement Procedure Required: No

Ryan Sherrock, Economist, and other LBO staff

Highlights

- The bill prohibits the distribution of public funds to organizations or individuals that provide gender transition procedures to minors. Additionally, the bill prohibits insurance and Medicaid coverage of gender transition procedures for minors.
- The prohibition on insurance coverage for such procedures would have no fiscal effect on the state, but could minimally reduce costs for some school districts and other political subdivisions for health benefit plans covering employees and their dependents.
- The bill prohibits tax deductions for any amounts paid for gender transition procedures to minors or as health insurance premiums for coverage that includes these procedures for minors, which could result in a gain in tax revenues of an uncertain magnitude. These revenues would be primarily deposited into the GRF, but a small portion would also be deposited into the Local Government Fund and the Public Library Fund.
- There may be costs to licensing boards, regulating specified medical professionals, to investigate complaints and violations of the bill's provisions. The costs will depend on the scope and number of investigations. It is possible that there could also be court fines collected.
- There could be costs to local courts if an individual brings any cases forward regarding the bill's provisions. These costs will depend on the number and scope of cases. Additionally, the Ohio Attorney General's Office may realize an increase in costs if any actions are taken to enforce compliance with the bill's provisions.

Detailed Analysis

Medical health care professionals

The bill prohibits specified medical health care professionals¹ from providing gender transition procedures to minors (under age 18) and from referring minors to a medical doctor for those procedures. 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.² Under the bill, a medical health care professional who provides these procedures to a minor is engaging in unprofessional conduct and is subject to discipline by the appropriate licensing board. As a result, occupational licensing boards regulating these professionals could realize an increase in costs to address licensee questions or to respond and investigate any potential complaints or violations.

Public funds and tax deductions

The bill prohibits the distribution of public funds, directly or indirectly, to organizations or individuals that provide gender transition procedures to minors. There could be some administrative costs to ensure that no public funds are given to any such entities. In addition, the bill 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. To the extent that these procedures are provided to minors in state-run hospitals or facilities, or provided to minors by individuals employed by the state, there could be a reduction in costs for providing said services, as well as a corresponding reduction in any associated third-party reimbursements.

The bill's provision prohibiting certain deductions under the state's personal income tax (PIT) may increase revenue to the GRF, the Local Government Fund (LGF), and the Public Library Fund (PLF). The bill prohibits the deduction for (1) amounts that a taxpayer paid for a gender transition procedure for a minor, or (2) premiums paid by a taxpayer for health care coverage that includes gender transition procedures for minors. But the bill also prohibits benefit packages covering minors under any health benefit policy or plan from including reimbursement for such procedures, which substantially limits any such revenue gain.

Data published by the Department of Taxation are too aggregated to allow an estimate of the potential revenue increase from this provision. For tax year (TY) 2020, taxpayers reporting federal adjusted gross income (FAGI) above \$25,000³ claimed \$2.95 billion in deductions for

¹ The bill defines these as nurses, physicians, pharmacists, psychiatrists, psychologists, and any other professional licensed to provide mental health care services.

² 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 gender transition.

³ Taxpayers with Ohio taxable income less than \$25,000 have zero tax liability under the current tax table.

unreimbursed medical and health care expenses. This reduced revenue from the PIT by roughly \$100 million that year. It is unknown how much of the amounts deducted would be disallowed under the bill. Amounts paid in premiums for health care coverage that includes coverage for such services could have been quite significant that year, however the bill prohibits such coverage for state-regulated plans. There is a federal preemption of state regulation for some health plans offered in Ohio (the Employee Retirement Income Security Act of 1974 (ERISA) exemption, generally applicable to multi-employer plans), though. Considering all these factors, the revenue gain from this provision is likely minimal, but LBO cannot rule out a revenue gain in the millions annually. Data limitations do not allow a more precise estimate of the revenue gain at this time.

PIT revenue is deposited into the GRF. Subsequently, amounts are transferred to the LGF and PLF. Each fund receives 1.66% of GRF tax revenue under codified law, but the PLF receives 1.70% of such revenue during the current biennium under an uncodified provision of H.B. 110.

Health insurance and Medicaid

The bill specifies that no insurance plan providing health care coverage in Ohio may include reimbursement for gender transition procedures for any minor. As a result, any state or local health benefit plan would be unable to cover these procedures. The state plan does not cover such procedures currently, so there would be no cost savings from the bill's prohibition. It is unknown how many local government plans currently cover these procedures. However, those that do provide coverage currently might realize costs savings from the bill's coverage exclusion. Any such cost savings for such local plans are expected to be minimal. Similarly, the bill specifies that Medicaid may not cover these procedures for minors. The Medicaid Program generally reimburses for services that are deemed "medically necessary." If any of the services described by the bill are currently provided to minors (enrolled onto Medicaid) and deemed medically necessary, then Medicaid could no longer provide any reimbursements. The majority of Medicaid enrollees receive services through a Medicaid managed care organization (MCO), which are paid a capitated rate for providing services. Thus, any impact associated with this provision will not be reflected immediately in Medicaid's budget.

Enforcement

The bill allows a person to 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, the 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 must be brought within two years if the person 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. These provisions could lead to increased court costs. The cost will depend on the number and scope of claims brought forward. Court fines could also be received. Finally, the bill allows the Ohio Attorney General to bring an action to enforce compliance with the bill's provisions, which could result in costs if any action is taken.

School staff required disclosures

The bill prohibits a nurse, counselor, teacher, principal, or other staff or official 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. These provisions should not have a direct fiscal impact.

Severability and effective date

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.

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