

FIRST REGULAR SESSION

HOUSE BILL NO. 540

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SPARKS.

1336H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 191 and 376, RSMo, by adding thereto ten new sections relating to gender transition procedures, with a delayed effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 191 and 376, RSMo, are amended by adding thereto ten new sections, to be known as sections 191.1720, 191.1725, 191.1730, 191.1732, 191.1735, 191.1740, 191.1745, 191.1748, 191.1749, and 376.1280, to read as follows:

191.1720. Sections 191.1720 to 191.1749 and section 376.1280 shall be known and may be cited as the "Missouri's Children Deserve Help Not Harm Act".

191.1725. For purposes of sections 191.1725 to 191.1749, the following terms mean:

(1) "Biological sex", the biological indication of male or female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, including secondary sex characteristics;

(2) "Cross-sex hormones":

(a) Testosterone or other androgens given to biological females in amounts that create serum levels greater than would normally occur naturally in healthy biological females, which may include, but are not limited to, the following risks:

a. Irreversible infertility;

b. Severe liver dysfunction;

c. Coronary artery disease, including heart attacks;

d. Increased risk of breast, cervical, and uterine cancers;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15 e. Cerebrovascular disease, including strokes;
16 f. Hypertension;
17 g. Erythrocytosis, which is an increase in red blood cells;
18 h. Sleep apnea;
19 i. Type 2 diabetes;
20 j. Loss of bone density; and
21 k. Destabilization of psychiatric disorders; and
22 (b) Estrogen given to biological males in amounts that create serum levels
23 greater than would normally occur naturally in healthy biological males, which may
24 include, but are not limited to, the following risks:
25 a. Irreversible infertility;
26 b. Thromboembolic disease, including blood clots;
27 c. Cholelithiasis, including gallstones;
28 d. Coronary artery disease, including heart attacks;
29 e. Type 2 diabetes;
30 f. Breast cancer;
31 g. Macroprolactinoma, which is a tumor of the pituitary gland;
32 h. Cerebrovascular disease, including strokes; and
33 i. Hypertriglyceridemia, which is an elevated level of triglycerides in the blood;
34 (3) "Gender", the psychological, behavioral, social, and cultural aspects of being
35 male or female;
36 (4) "Gender reassignment surgery", any surgical service that seeks to surgically
37 alter or remove healthy physical or anatomical characteristics or features that are
38 typical for the individual's biological sex in order to instill or create physiological or
39 anatomical characteristics that resemble a sex different from the individual's biological
40 sex including, but not limited to, genital or nongenital gender reassignment surgery
41 performed for the purpose of assisting an individual with a gender transition;
42 (5) "Gender transition", the process in which an individual goes from
43 identifying with and living as a gender that corresponds to his or her biological sex to
44 identifying with and living as a gender different from his or her biological sex, and may
45 involve social, legal, or physical changes;
46 (6) "Gender transition procedure":
47 (a) Any medical or surgical service, including, but not limited to, physician's
48 services, inpatient and outpatient hospital services, puberty-blocking drugs, cross-sex
49 hormones, or genital or nongenital gender reassignment surgery, that is provided or
50 performed for the purpose of assisting an individual with a physical gender transition;
51 (b) The term "gender transition procedure" shall not include:

52 a. Services to individuals born with a medically verifiable disorder of sex
53 development including, but not limited to, an individual with external biological sex
54 characteristics that are irresolvably ambiguous, such as those born with 46,XX
55 chromosomes with virilization, 46,XY chromosomes with undervirilization, or having
56 both ovarian and testicular tissue;

57 b. Services provided when a physician has otherwise diagnosed an individual
58 with a disorder of sexual development and determined through genetic or biochemical
59 testing that the individual does not have normal sex chromosome structure, sex steroid
60 production, or sex steroid hormone action;

61 c. The acute or chronic treatment of any infection, injury, disease, or disorder
62 that has been caused by or exacerbated by the performance of gender transition
63 procedures regardless of whether the gender transition procedure was performed in
64 accordance with state and federal law or whether funding for the gender transition
65 procedure is permissible under section 191.1735; or

66 d. Any procedure undertaken because the individual suffers from a physical
67 disorder, physical injury, or physical illness that would, as certified by a physician, place
68 the individual in imminent danger of death or impairment of a major bodily function
69 unless surgery is performed;

70 (7) "Genital gender reassignment surgery", a surgical procedure performed for
71 the purpose of assisting an individual with a physical gender transition including, but
72 not limited to:

73 (a) Surgical procedures such as penectomy, orchiectomy, vaginoplasty,
74 clitoroplasty, or vulvoplasty for biologically male patients; or

75 (b) Surgical procedures such as hysterectomy, oophorectomy, reconstruction of
76 the urethra, metoidioplasty or phalloplasty, vaginectomy, scrotoplasty, implantation of
77 erection prostheses, or implantation of testicular prostheses for biologically female
78 patients;

79 (8) "Health care professional", an individual who is licensed, certified, or
80 otherwise authorized by the laws of this state to administer health care in the ordinary
81 course of the practice of his or her profession, including mental health care providers;

82 (9) "Nongenital gender reassignment surgery", surgical procedures performed
83 for the purpose of assisting an individual with a physical gender transition including,
84 but not limited to:

85 (a) Surgical procedures for biologically male patients, such as augmentation
86 mammoplasty, facial feminization surgery, liposuction, lipofilling, voice feminization
87 surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or
88 various aesthetic procedures; or

89 (b) Surgical procedures for biologically female patients, such as subcutaneous
90 mastectomy, voice masculinization surgery, liposuction, lipofilling, pectoral implants, or
91 various aesthetic procedures;

92 (10) "Physician", an individual who is licensed to practice medicine in this state;

93 (11) "Puberty-blocking drugs", gonadotropin-releasing hormone analogues or
94 other synthetic drugs used in biological males to stop luteinizing hormone secretion and
95 therefore testosterone production, or synthetic drugs used in biological females that stop
96 the production of estrogen and progesterone, when used to delay or suppress pubertal
97 development in children for the purpose of assisting an individual with a gender
98 transition;

99 (12) "Public funds", state, county, or local government moneys, including any
100 such moneys deposited with or derived from any department, agency, or instrumentality
101 authorized or appropriated under state law.

191.1730. 1. A physician or other health care professional shall not provide
2 gender transition procedures to any individual under eighteen years of age.

3 2. A health care institution or entity shall not facilitate the provision of gender
4 transition procedures to any individual under eighteen years of age.

191.1732. 1. A person or entity, including employees of other state governments,
2 the federal government, or foreign governments, shall not knowingly engage in conduct
3 that aids or abets the performance or inducement of gender transition procedures on
4 any individual under eighteen years of age.

5 2. The provisions of this section shall not apply to any speech protected by the
6 First Amendment of the United States Constitution.

7 3. No parent of a child victim shall be held liable under this section.

191.1735. 1. Public funds shall not be directly or indirectly used, granted, paid,
2 or distributed to any individual, entity, or organization that provides gender transition
3 procedures to an individual under eighteen years of age.

4 2. Health care services furnished in the following situations shall not include
5 gender transition procedures to an individual under eighteen years of age:

6 (1) By or in a facility owned by the state or a county or local government; or

7 (2) By a physician or other health care professional employed by the state or a
8 county or local government.

9 3. Any amount paid by an individual or an entity during a tax year for the
10 provision of gender transition procedures or as premiums for health care coverage that
11 includes coverage for gender transition procedures shall not be tax deductible.

12 4. The MO HealthNet program shall not reimburse or provide coverage for
13 gender transition procedures to an individual under eighteen years of age.

191.1740. Any referral for or provision of gender transition procedures to an individual under eighteen years of age is unprofessional conduct and shall be subject to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

191.1745. 1. (1) Notwithstanding any other provision of law, an individual under eighteen years of age may bring an action under sections 191.1725 to 191.1749 throughout the individual's minority through a parent or next friend and may bring an action under sections 191.1725 to 191.1749 in the individual's own name upon reaching the age of majority at any time from that point until thirty years after reaching the age of majority.

(2) If at the time the individual abused attains the age of eighteen years he or she is under other legal disability, the limitation period under subdivision (1) of this subsection shall not begin to run until the removal of the disability.

(3) The limitation period in subdivision (1) of this subsection shall not run during a time period when the individual is subject to threats, intimidation, manipulation, fraudulent concealment, or fraud perpetrated by the physician or other health care professional who prescribed or otherwise provided gender transition procedures or by any person acting in the interest of the physician or other health care professional.

2. (1) An individual may assert an actual or threatened violation of sections 191.1725 to 191.1749 as a claim or defense in a judicial or administrative proceeding.

(2) The following damages may be awarded to a claimant described in subdivision (1) of this subsection:

(a) Compensatory damages including, but not limited to:

a. Pain and suffering;

b. Loss of reputation;

c. Loss of income; and

d. Loss of consortium including, but not limited to, the loss of expectation of sharing parenthood;

(b) Injunctive relief;

(c) Declaratory relief;

(d) Punitive damages; and

(e) Any other appropriate relief.

(3) A prevailing party who establishes a violation of sections 191.1725 to 191.1749 shall recover reasonable attorney's fees.

3. Notwithstanding any other provision of law, an action under sections 191.1725 to 191.1749 may be commenced, and relief may be granted, in a judicial proceeding

34 without regard to whether the individual commencing the action has sought or
35 exhausted available administrative remedies.

36 4. (1) The attorney general may bring an action to enforce compliance with
37 sections 191.1725 to 191.1749.

38 (2) Sections 191.1725 to 191.1749 do not deny, impair, or otherwise affect any
39 right or authority of the attorney general, the state, or any agency, officer, or employee
40 of the state, acting under any law other than sections 191.1725 to 191.1749, to institute
41 or intervene in any proceeding.

191.1748. The general assembly, by joint resolution, may appoint one or more of
2 its members who sponsored or cosponsored the legislation enacting sections 191.1720 to
3 191.1749 and section 376.1280 in his or her official capacity to intervene or defend such
4 legislation as a matter of right in any case in which the constitutionality or enforceability
5 of the legislation, any portion thereof, or any rule or regulation adopted thereunder is
6 challenged.

191.1749. Any provision of sections 191.1720 to 191.1749 or section 376.1280
2 held to be invalid or unenforceable by its terms, or as applied to any person or
3 circumstance, shall be construed so as to give it the maximum effect permitted by law,
4 unless such holding shall be one of utter invalidity or unenforceability, in which event
5 such provision shall be deemed severable herefrom and shall not affect the remainder
6 hereof or the application of such provision to other persons not similarly situated or to
7 other dissimilar circumstances.

376.1280. 1. For purposes of this section, the following terms mean:

2 (1) "Gender transition procedure", the same meaning given to the term in
3 section 191.1725;

4 (2) "Health benefit plan", the same meaning given to the term in section
5 376.1350;

6 (3) "Health carrier", the same meaning given to the term in section 376.1350.

7 2. A health carrier or health benefit plan that offers or issues health benefit
8 plans that are delivered, issued for delivery, continued, or renewed in this state on or
9 after January 1, 2024, shall not include reimbursement for gender transition procedures
10 for an individual under eighteen years of age.

11 3. A health carrier or health benefit plan that offers or issues health benefit
12 plans that are delivered, issued for delivery, continued, or renewed in this state on or
13 after January 1, 2024, shall not be required to provide coverage for gender transition
14 procedures.

15 4. A federal health benefit plan under an insurance policy or other plan
16 providing health care coverage, such as TriCare or Veterans Administration health care,

17 **shall not include reimbursement for gender transition procedures for an individual**
18 **under eighteen years of age in this state.**

Section B. The enactment of sections 191.1720 to 191.1749 and section 376.1280 of
2 this act shall become effective on January 1, 2024.

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