State of Arkansas *As Engrossed: H4/2/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1916

By: Representative Bentley
By: Senator A. Clark

For An Act To Be Entitled

AN ACT TO AMEND THE PROTECTING MINORS FROM MEDICAL MALPRACTICE ACT OF 2023; TO INCLUDE GENDER-AFFIRMING INTERVENTIONS AS A RIGHT OF ACTION FOR MEDICAL MALPRACTICE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PROTECTING MINORS FROM MEDICAL MALPRACTICE ACT OF 2023; AND TO INCLUDE GENDER-AFFIRMING INTERVENTIONS AS A RIGHT OF ACTION FOR MEDICAL MALPRACTICE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-114-401, concerning definitions within the Protecting Minors from Medical Malpractice Act of 2023, is amended to add an additional subdivision to read as follows:

(6) "Gender-affirming intervention" means an intervention to support a patient's identification with the gender opposite of his or her biological sex, including without limitation:

(A) Puberty blockers; and

(B) Cross-sex hormone therapy.

SECTION 2. Arkansas Code § 16-114-402 and § 16-114-403 are amended to read as follows:

16-114-402. Right of action.

(a) A healthcare professional who performs a gender transition

procedure or a mental health professional who performs gender-affirming intervention on a minor is liable to the minor if the minor is injured, including without limitation any physical, psychological, emotional, or physiological injury, by the gender transition procedure, gender-affirming intervention, related treatment, or the after effects of the gender transition procedure, or gender-affirming intervention, or related treatment.

(b)(1) A minor injured as provided under subsection (a) of this section, or a representative of a minor injured as provided under subsection (a) of this section who receives a gender transition procedure or a gender-affirming intervention, including without limitation a parent or legal guardian of a minor injured as provided under subsection (a) of this section who receives a gender transition procedure or a gender-affirming intervention acting on behalf of the minor, may bring a civil action against the healthcare professional who performed the gender transition procedure or gender-affirming intervention on the minor in a court of competent jurisdiction for:

(A) Declaratory or injunctive relief;

(B) Compensatory damages;

(C) Punitive damages; and

(D) Attorney's fees and costs.

(2) A civil action under subdivision (b)(1) of this section shall be filed not later than fifteen (15) years after the date on which the minor turns eighteen (18) years of age, or would have turned eighteen (18) years of age if the minor died before turning eighteen (18) years of age.

16-114-403. Safe harbor.

(a) It is a defense to a civil action brought under § 16-114-402 that, before performing a gender transition procedure or a gender-affirming intervention on a minor:

(1) The healthcare professional documented the minor's perceived gender or perceived sex for two (2) continuous years, and the minor's perceived gender or perceived sex was invariably inconsistent with the minor's biological sex throughout the two (2) years;

(2) To the extent that the minor suffered from a mental health concern, at least two (2) healthcare professionals, including at least one (1) mental health professional, certified in writing that the gender

transition procedure was the only way to treat the mental health concern;

(3) At least two (2) healthcare professionals, including at least one (1) mental health professional, certified in writing that the minor suffered from no other mental health concerns, including without limitation depression, eating disorders, autism, attention deficit hyperactivity disorder, intellectual disability, or psychotic disorders; and

(4) The healthcare professional received the voluntary and informed consent of the parent or legal guardian of the minor and the minor as provided in subsection (b) of this section.

(b) Consent to a gender transition procedure or a gender-affirming intervention is voluntary and informed only if, at least thirty (30) days before the first treatment of the gender transition procedure or gender-affirming intervention and during every subsequent medical visit for treatment during the following six (6) months, the minor and the minor's parent or legal guardian receive verbal notice and written notice in at least 14-point, proportionally spaced typeface that state the following facts, verbatim:

"If your child begins one (1) of these treatments, it may actually worsen the discordance and thus increase the likelihood that your child will need additional and more serious interventions to address the worsening condition. For example, if your child begins socially transitioning or taking puberty blockers, that treatment may significantly increase the likelihood that your child's discordance will worsen and lead to your child eventually seeking cross-sex hormones or even surgery to remove some of your child's body parts.

Sweden, Finland, and the United Kingdom have conducted systematic reviews of evidence and concluded that there is no evidence that the potential benefits of puberty blockers and cross-sex hormones for this purpose outweigh the known or assumed risks.

Medical authorities in Sweden, Finland, and the United Kingdom have since recommended psychotherapy as the first line of treatment for youth gender dysphoria, with drugs and surgeries reserved as a measure of last resort. Medical authorities in France have advised 'great caution' when prescribing hormones for gender dysphoria.

There are people who underwent gender transition treatments or gender-affirming interventions as minors and later regretted that decision

and the physical harm that these treatments caused, and the total percentage of people who experience this regret is unknown. Some estimate that the rate is below two percent (2%), but that estimate is based on studies done on adults who transitioned as adults or on minors who transitioned under highly restrictive and controlled conditions.

Sometimes gender transition treatments or gender-affirming interventions have been proposed as a way to reduce the chances of a minor committing suicide due to discordance between the minor's sex and his or her perception, but the rates of actual suicide from this discordance remain extremely low. Furthermore, as recognized by health authorities in Europe, there is no evidence that suicidality is caused by 'unaffirmed' gender or that gender transition treatments are causally linked to a reduction in serious suicidal attempts or ideations.

For puberty blockers:

Puberty blockers are not approved for this purpose by the United States Food and Drug Administration, which is the federal agency that determines which drugs are safe and effective for humans to use. Claims about puberty blockers' safety and efficacy are based on their use for precocious puberty, a different condition in which normal puberty is allowed to resume once the patient reaches the appropriate age. Studies on the benefits of using puberty blockers for gender dysphoria are notoriously weak. Puberty blockers are not fully reversible because, among other risks, puberty blockers may intensify a minor's discordance and cause it to persist. Puberty blockers increase the risk of your child being sterilized, meaning that he or she will never be able to have children. Puberty blockers may also cause diminished bone density for your child, increasing the risk of fracture and early osteoporosis. Puberty blockers may also prevent your child from ever being able to engage in sexual activity or achieve orgasm for the rest of your child's life. There is no research on the long-term risks to minors of persistent exposure to puberty blockers. The full effects of puberty blockers on brain development and cognition are unknown.

For cross-sex hormones:

The use of cross-sex hormones in males is associated with numerous health risks, such as thromboembolic disease, including without limitation blood clots; cholelithiasis, including gallstones; coronary artery disease, including without limitation heart attacks; macroprolactinoma, which

is a tumor of the pituitary gland; cerebrovascular disease, including without limitation strokes; hypertriglyceridemia, which is an elevated level of triglycerides in the blood; breast cancer; and irreversible infertility. The use of cross-sex hormones in females is associated with risks of erythrocytosis, which is an increase in red blood cells; severe liver dysfunction; coronary artery disease, including without limitation heart attacks; hypertension; and increased risk of breast and uterine cancers. Once a minor begins cross-sex hormones, the minor may need to continue taking those hormones for many years and possibly for the remainder of the minor's life. The cost of these hormones may be tens of thousands of dollars. If the use of cross-sex hormones leads to surgery, the total cost of transitioning may exceed one hundred thousand dollars ($100,000).

For surgical procedures:

The dangers, risks, complications, and long-term concerns associated with these types of procedures are almost entirely unknown. There are no long-term studies on either the effectiveness or safety of these surgical procedures."

/s/Bentley

APPROVED: 4/22/25