

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
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As Engrossed: H3/2/21 H3/8/21

# A Bill

HOUSE BILL 1570

By: Representatives Lundstrum, Barker, Bentley, Brown, Bryant, Cavanaugh, Cloud, Coleman, C. Cooper, Cozart, Crawford, Dalby, Dotson, C. Fite, Furman, Gazaway, Gonzales, M. Gray, Haak, Hollowell, Ladyman, Lowery, Lynch, J. Mayberry, McGrew, McNair, S. Meeks, Miller, Payton, Penzo, Pilkington, Ray, Richmond, Slape, B. Smith, Speaks, Tollett, Tosh, Underwood, Vaught, Warren, Watson, Wing, *Bragg, Hillman, Wooten*

By: Senators A. Clark, B. Ballinger, Beckham, Bledsoe, B. Davis, J. English, Gilmore, K. Hammer, Hill, Irvin, B. Johnson, M. Johnson, Rapert, Rice, G. Stubblefield, D. Wallace, *D. Sullivan, Hester, T. Garner*

## For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS SAVE ADOLESCENTS FROM  
EXPERIMENTATION (SAFE) ACT; AND FOR OTHER PURPOSES.

### Subtitle

TO CREATE THE ARKANSAS SAVE ADOLESCENTS  
FROM EXPERIMENTATION (SAFE) ACT.

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

#### SECTION 1. Title.

This act shall be known and may be cited as the "Arkansas Save Adolescents from Experimentation (SAFE) Act".

#### SECTION 2. Legislative findings.

The General Assembly finds that:

(1) Arkansas has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children;

(2)(A) Only a small percentage of the American population experiences distress at identifying with their biological sex.

(B) According to the American Psychiatric Association, "For natal adult males, prevalence ranges from 0.005% to 0.014%, and for



natal females, from 0.002% to 0.003%.”;

(3) For the small percentage of children who are gender nonconforming or experience distress at identifying with their biological sex, studies consistently demonstrate that the majority come to identify with their biological sex in adolescence or adulthood, thereby rendering most physiological interventions unnecessary;

(4) Furthermore, 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 services to address comorbidities and underlying causes of their distress before undertaking any hormonal or surgical intervention;

(5) Even among people who have undergone inpatient gender reassignment procedures, suicide rates, psychiatric morbidities, and mortality rates remain markedly elevated above the background population;

(6)(A) Some healthcare providers are prescribing puberty-blocking drugs, such as gonadotropin-releasing hormone analogues, in order to delay the onset or progression of puberty in children who experience distress at identifying with their biological sex.

(B) The prescribing of puberty-blocking drugs 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;

(7) Healthcare 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;

(8) The use of cross-sex hormones comes with serious known risks, such as:

(A) For biological females:

(i) Erythrocytosis, which is an increase in red blood cells;

(ii) Severe liver dysfunction;

(iii) Coronary artery disease, including heart attacks;

- (iv) Cerebrovascular disease, including strokes;
- (v) Hypertension;
- (vi) Increased risk of breast and uterine cancers;

and

- (vii) Irreversible infertility; and

(B) For biological males:

- (i) Thromboembolic disease, including blood clots;
- (ii) Cholelithiasis, including gallstones;
- (iii) Coronary artery disease, including heart

attacks;

- (iv) Macroprolactinoma, which is a tumor of the

pituitary gland;

- (v) Cerebrovascular disease, including strokes;

- (vi) Hypertriglyceridemia, which is an elevated

level of tryglycerides in the blood;

- (vii) Breast cancer; and

- (viii) Irreversible infertility;

(9) Genital and nongenital gender reassignment surgeries are generally not recommended for children, although evidence indicates referrals for children to have such surgeries are becoming more frequent;

(10)(A) Genital gender reassignment surgery includes several irreversible invasive procedures for males and females and involves the alteration of biologically healthy and functional body parts.

(B) For biological males, surgery may involve:

- (i) Genital reconstruction including penectomy,

which is the removal of the penis;

- (ii) Orchiectomy, which is the removal of the

testicles;

- (iii) Vaginoplasty, which is the construction of a vagina-like structure, typically through a penile inversion procedure;

- (iv) Clitoroplasty, which is the construction of a clitoris-like structure; and

- (v) Vulvoplasty, which is the construction of a

vulva-like structure.

(C) For biological females, surgery may involve:

- (i) A hysterectomy or oophorectomy;

(ii) Reconstruction of the urethra;  
(iii) Genital reconstruction including metoidioplasty or phalloplasty, which is the construction of a penis-like structure;

(iv) Vaginectomy, which is the removal of the vagina;

(v) Scrotoplasty, which is the construction of a penis-like and scrotum-like structure; and

(vi) Implantation of erection or testicular prostheses;

(11) The complications, risks, and long-term care concerns associated with genital gender reassignment surgery for both males and females are numerous and complex;

(12)(A) 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.

(B) For biological males, this surgery may involve:

(i) Augmentation mammoplasty;

(ii) Facial feminization surgery;

(iii) Liposuction;

(iv) Lipofilling;

(v) Voice surgery;

(vi) Thyroid cartilage reduction;

(vii) Gluteal augmentation;

(viii) Hair reconstruction; and

(ix) Other aesthetic procedures.

(C) For biological females, this surgery may involve:

(i) A subcutaneous mastectomy;

(ii) Voice surgery;

(iii) Liposuction;

(iv) Lipofilling;

(v) Pectoral implants; and

(vi) Other aesthetic procedures;

(13)(A) It is an accepted principle of economics and public policy that when a service or product is subsidized or reimbursed, demand for that service or product is increased.

(B) Between 2015 and 2016, gender reassignment surgeries increased by nearly twenty percent (20%) in the United States;

(14) 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; and

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

SECTION 3. Arkansas Code Title 20, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 15 – Arkansas Save Adolescents from Experimentation (SAFE) Act

20-9-1501. Definitions.

As used in this subchapter:

(1) "Biological sex" means the biological indication of male and 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, without regard to an individual's psychological, chosen, or subjective experience of gender;

(2) "Cross-sex hormones" means:

(A) Testosterone or other androgens given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females; and

(B) Estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;

(3) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female;

(4) "Gender reassignment surgery" means any medical or surgical service that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's

biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation, genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition;

(5) "Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, and may involve social, legal, or physical changes;

(6)(A) "Gender transition procedures" means any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender transition that seeks to:

(i) Alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex; or

(ii) Instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including without limitation 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 biological sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

(B) "Gender transition procedures" do not include:

(i) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(ii) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(iii) The treatment of any infection, injury,

disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether not funding for the gender transition procedure is permissible under this subchapter; or

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

(7) "Genital gender reassignment surgery" means a medical procedure performed for the purpose of assisting an individual with a gender transition, including without limitation:

(A) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients;

(B) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

(C) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

(8) "Healthcare professional" a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(9) "Nongenital gender reassignment surgery" means medical procedures performed for the purpose of assisting an individual with a gender transition including without limitation:

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

(B) Surgical procedures for biologically female patients, such as subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or various aesthetic procedures;

(10) "Physician" means a person who is licensed to practice medicine in this state;

(11) "Puberty-blocking drugs" means gonadotropin-releasing

hormone analogues or other synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore testosterone secretion, or synthetic drugs used in biological females which stop the production of estrogens and progesterone, when used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition; and

(12) "Public funds" means state, county, or local government monies, in addition to any department, agency, or instrumentality authorized or appropriated under state law or derived from any fund in which such moneys are deposited.

20-9-1502. Prohibition of gender transition procedures for minors.

(a) A physician or other healthcare professional shall not provide gender transition procedures to any individual under eighteen (18) years of age.

(b) A physician, or other healthcare professional shall not refer any individual under eighteen (18) years of age to any healthcare professional for gender transition procedures.

(c) A physician or other healthcare professional is not prohibited from providing any of the following procedures which are not gender transition procedures to an individual under eighteen (18) years of age:

(1) Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

(2) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined through genetic or biochemical testing that the person does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether not funding for the gender transition procedure is permissible under this subchapter; or

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

20-9-1503. Prohibition on use of public funds for gender transition procedures.

(a) Public funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides gender transition procedures to an individual under eighteen (18) years of age.

(b) Healthcare services furnished in the following situations shall not include gender transition procedures to an individual under eighteen (18) years of age:

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

(2) By a physician or other healthcare professional employed by state or a county or local government.

(c) Any amount paid by an individual or an entity during a taxable year for provision of gender transition procedures or as premiums for health care coverage that includes coverage for gender transition procedures is not tax-deductible.

(d) The Arkansas Medicaid Program shall not reimburse or provide coverage for gender transition procedures to an individual under eighteen (18) years of age.

20-9-1504. Enforcement.

(a) Any referral for or provision of gender transition procedures to an individual under eighteen (18) year of age is unprofessional conduct and is subject to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

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

(c)(1) A person shall bring a claim for a violation of this subchapter

no later than two (2) years after the day the cause of action accrues.

(2) An individual under eighteen (18) years of age may bring an action throughout their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until twenty (20) years after reaching the age of majority.

(d) Notwithstanding any other provision of law, an action under this subchapter may be commenced, and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(e) In any action or proceeding to enforce a provision of this subchapter, a prevailing party who establishes a violation of this subchapter shall recover reasonable attorneys' fees.

(f)(1) The Attorney General may bring an action to enforce compliance with this subchapter.

(2) This subchapter does not deny, impair, or otherwise affect any right or authority of the Attorney General, the State of Arkansas, or any agency, officer, or employee of the state, acting under any law other than this subchapter, to institute or intervene in any proceeding.

SECTION 4. Arkansas Code Title 23, Chapter 79, Subchapter 1, is amended to add an additional section to read as follows:

23-79-164. Insurance coverage of gender transition procedures for minors prohibited.

(a) As used in this section, "gender transition procedures" means the same as defined in § 20-9-1501.

(b) A health benefit plan under an insurance policy or other plan providing healthcare coverage in this state shall not include reimbursement for gender transition procedures for a person under eighteen (18) years of age.

(c) A health benefit plan under an insurance policy or other plan providing healthcare coverage in this state is not required to provide coverage for gender transition procedures.

*/s/Lundstrum*