

Forbidding Abusive Child Transitions Act; House Sub. for SB 233

House Sub. for SB 233 enacts the Forbidding Abusive Child Transitions Act (Act).

Definitions

The bill defines various terms as used in the Act, including:

- “Child” means an individual less than 18 years of age;
- “Gender dysphoria” means the diagnosis of gender dysphoria in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders; and
- “Social transitioning” means acts other than medical or surgical interventions that are undertaken for the purpose of presenting as a member of the opposite sex, including the changing of an individual’s preferred pronouns or manner of dress.

Use of State Funds and Resources

The bill states that a recipient of state funds may not use those funds to provide or subsidize medication or surgery as a treatment for a child’s perception of gender or sex that is inconsistent with the child’s sex.

An individual or entity that receives state funds to pay for or subsidize the treatment of children for psychological conditions, including gender dysphoria, may not promote or advocate for medication or surgery as a treatment for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

The bill prohibits the Kansas Program of Medical Assistance and its managed care organizations from reimbursing or providing coverage for medication or surgery as a treatment for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

Except to the extent required by the first amendment to the *U.S. Constitution*, the bill prohibits a state property, facility, or building from being used to promote or advocate the use of social transitioning, medication, or surgery as a treatment for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

A state property, facility, or building is also prohibited from being used to prescribe, administer, or dispense medication or perform surgery as a treatment for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

The bill prohibits a state employee whose official duties include the care of children from, while engaged in official duties, providing or promoting the use of social transitioning, medication, or surgery as a treatment for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

For the purposes of this section, the bill defines “medication” to mean:

- Supraphysiologic doses of testosterone or other androgens; or
- Puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of estrogen and progesterone to delay or suppress pubertal development in female children.

Treatment Prohibitions

Except as otherwise provided, the bill prohibits a health care provider from knowingly providing the following to a female child, whose perceived gender or sex is not female, as treatment for distress arising from the female child’s perception that the child’s gender or sex is not female:

- Surgical procedures, including vaginectomy, hysterectomy, oophorectomy, ovariectomy, reconstruction of the urethra, metoidioplasty phalloplasty, scrotoplasty, implantation of erection or testicular prostheses, subcutaneous mastectomy, voice surgery, liposuction, lipofilling, or pectoral implants;
- Supraphysiologic doses of testosterone or other androgens; or
- Puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of estrogen and progesterone to delay or suppress pubertal development in female children.

Except as otherwise provided, the bill prohibits a health care provider from knowingly providing the following to a male child, whose perceived gender or sex is not male, as treatment for distress arising from the male child’s perception that the child’s gender or sex is not male:

- Surgical procedures, including a penectomy, orchietomy, vaginoplasty, clitoroplasty, vulvoplasty, augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, or gluteal augmentation;
- Supraphysiologic doses of estrogen; or
- Puberty blockers such as GnRH agonists or other synthetic drugs that suppress the production of testosterone or delay or suppress pubertal development in male children.

The treatment prohibitions in the bill do not apply to treatment provided for other purposes, including:

- Treatment for individuals born with a medically verifiable disorder of sex development, including:

- An individual born with external biological sex characteristics that are irresolvably ambiguous, including an individual born with 46 XX chromosomes with virilization, 46 XY chromosomes with under virilization, or having both ovarian and testicular tissue; or
- An individual whom a physician has otherwise diagnosed with a disorder of sexual development that the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; and
- Treatment of any infection, injury, disease, or disorder that has been caused or exacerbated by the performance of a procedure listed in this section of the bill.

If a health care provider has initiated a course of treatment for a child that includes prescribing, administering, or dispensing of a drug prohibited by the bill prior to the effective date of the bill, the bill provides for a health care provider to continue the course of treatment if the health care provider:

- Develops a plan to systematically reduce the child's use of the drug;
- Determines and documents in the child's medical record that immediately terminating the child's use of the drug would cause harm; and
- Ensures the course of treatment does not extend beyond December 31, 2024.

Discipline and Private Cause of Action

A health care professional will be deemed as engaged in unprofessional conduct if the health care professional violates the provisions of the bill, which requires the revocation of the health care professional's license by the appropriate licensing entity or disciplinary review board with competent jurisdiction in Kansas.

A health care professional who provides treatment to a child in violation of the bill will be held strictly liable to the child if the treatment or effects of such treatment results in any physical, psychological, emotional, or physiological harms to the child in the next 10 years from the date the individual turns 18 years old.

The parents of a child who has been provided treatment in violation of the bill have a private cause of action against the health care provider who provided such treatment for actual damages, punitive damages, injunctive relief, the cost of the lawsuit, and reasonable attorney fees.

The bill requires an action against a health care provider to be filed within 10 years from the date the individual turns 18 years of age.

Liability Insurance

A professional liability insurance policy issued to a health care provider does not include coverage for damages assessed against the health care provider who provides treatments to a child in violation of the Act.

Severability

If any provision or clause of the Act to any person or circumstance is held invalid, the invalidity will not affect other provisions or applications of the Act that may be given effect without the invalid provision or application. The provisions of the bill are severable.

Violations of the Act

The bill adds violations of the Act to the list of offenses constituting “unprofessional conduct,” as the term is defined in the Kansas Healing Arts Act.

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