

HOUSE BILL No. 2071

By Committee on Health and Human Services

Requested by Representative Bryce

1-23

1 AN ACT concerning children and minors; relating to healthcare of minors;
2 enacting the help not harm act; prohibiting healthcare providers from
3 treating a child whose gender identity is inconsistent with the child's
4 sex; authorizing a civil cause of action against healthcare providers for
5 providing such treatments; restricting use of state funds to promote
6 gender transitioning; prohibiting professional liability insurance from
7 covering damages for healthcare providers that provide gender
8 transition treatment to children; requiring professional discipline
9 against a healthcare provider who performs such treatments; adding
10 violation of the act to the definition of unprofessional conduct for
11 physicians; amending K.S.A. 65-2837 and repealing the existing
12 section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. (a) The provisions of sections 1 through 6, and
16 amendments thereto, shall be known and may be cited as the help not harm
17 act.

18 (b) As used in this act:

19 (1) "Child" means an individual less than 18 years of age.

20 (2) "Female" means an individual who is a member of the female sex.

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

23 (4) "Gender dysphoria" is the diagnosis of gender dysphoria in the
24 fifth edition of the diagnostic and statistical manual of mental disorders.

25 (5) "Healthcare provider" means an individual who is licensed,
26 certified or otherwise authorized by the laws of this state to administer
27 healthcare services in the ordinary course of the practice of such
28 individual's profession.

29 (6) "Male" means an individual who is a member of the male sex.

30 (7) "Perceived sex" is an individual's internal sense of such
31 individual's sex.

32 (8) "Perceived gender" is an individual's internal sense of such
33 individual's gender.

34 (9) "Sex" means the biological indication of male and female in the
35 context of reproductive potential or capacity, including sex chromosomes,

- 1 (1) Surgical procedures, including, but not limited to, a vaginectomy,
2 hysterectomy, oophorectomy, ovariectomy, reconstruction of the urethra,
3 metoidioplasty, phalloplasty, scrotoplasty, implantation of erection or
4 testicular protheses, subcutaneous mastectomy, voice surgery, liposuction,
5 lipofilling or pectoral implants;
- 6 (2) supraphysiologic doses of testosterone or other androgens; or
- 7 (3) puberty blockers such as GnRH agonists or other synthetic drugs
8 that suppress the production of estrogen and progesterone to delay or
9 suppress pubertal development in female children.
- 10 (b) Except as provided in subsection (c) or (d), a healthcare provider
11 shall not knowingly perform the following surgical procedures or
12 prescribe, dispense or administer the following medications to a male child
13 for the purpose of treatment for distress arising from such male child's
14 perception that such child's gender or sex is not male:
- 15 (1) Surgical procedures, including, but not limited to, a penectomy,
16 orchiectomy, vaginoplasty, clitoroplasty, vulvoplasty, augmentation
17 mammoplasty, facial feminization surgery, liposuction, lipofilling, voice
18 surgery, thyroid cartilage reduction or gluteal augmentation;
- 19 (2) supraphysiologic doses of estrogen; or
- 20 (3) puberty blockers such as GnRH agonists or other synthetic drugs
21 that suppress the production of testosterone or delay or suppress pubertal
22 development in male children.
- 23 (c) The treatments prohibited by subsections (a) and (b) shall not
24 apply to treatment provided for other purposes, including:
- 25 (1) Treatment for individuals born with a medically verifiable
26 disorder of sex development, including:
- 27 (A) An individual born with external biological sex characteristics
28 that are irresolvably ambiguous, including an individual born with 46 XX
29 chromosomes with virilization, 46 XY chromosomes with under
30 virilization or having both ovarian and testicular tissue; or
- 31 (B) an individual whom a physician has otherwise diagnosed with a
32 disorder of sexual development that the physician has determined through
33 genetic or biochemical testing that such individual does not have normal
34 sex chromosome structure, sex steroid hormone production or sex steroid
35 hormone action for a male or female; and
- 36 (2) treatment of any infection, injury, disease or disorder that has
37 been caused or exacerbated by the performance of a procedure listed in
38 subsections (a) or (b).
- 39 (d) If a healthcare provider has initiated a course of treatment for a
40 child that includes prescribing, administering or dispensing of a drug
41 prohibited by subsection (a)(2), (a)(3), (b)(2) or (b)(3) prior to the effective
42 date of this act, the healthcare provider may continue such course of
43 treatment ~~if the healthcare provider:~~

(Striking in line 43)

(Striking in lines 1-7)

- 1 ~~(1) Develops a plan to systematically reduce the child's use of such~~
- 2 ~~drug;~~
- 3 ~~(2) determines and documents in the child's medical record that~~
- 4 ~~immediately terminating the child's use of such drug would cause harm to~~
- 5 ~~the child; and~~
- 6 ~~(3) such course of treatment shall not extend beyond December 31,~~
- 7 ~~2025.~~

8 New Sec. 4. (a) If a healthcare provider violates the provisions of
9 section 3, and amendments thereto:

10 (1) The healthcare provider has engaged in unprofessional conduct
11 and, notwithstanding any provision of law to the contrary, the license of
12 such healthcare provider shall be revoked by the appropriate licensing
13 entity or disciplinary review board with competent jurisdiction in this
14 state.

15 (b) A healthcare provider who provides treatment to a child in
16 violation of section 3(a) or (b), and amendments thereto, shall be held
17 strictly liable to such child if the treatment or effects of such treatment
18 results in any physical, psychological, emotional or physiological harms to
19 such child in the next 10 years from the date that the individual turns 18
20 years of age.

21 (c) The parents of a child who has experienced violation of section
22 3(a) or (b), and amendments thereto, shall have a private cause of action
23 against a healthcare provider for damages and equitable relief as the court
24 may determine is justified. A prevailing party may recover the costs of the
25 suit and reasonable attorney fees.

26 (d) (1) An individual who was provided treatment as a child in
27 violation of section 3(a) or (b), and amendments thereto, shall have a
28 private cause of action against the healthcare provider who provided such
29 treatment for actual damages, punitive damages, injunctive relief, the cost
30 of the suit and reasonable attorney fees.

31 (2) An action against a healthcare provider pursuant to this subsection
32 shall be filed within 10 years from the date that the individual turns 18
33 years of age.

34 New Sec. 5. A professional liability insurance policy issued to a
35 healthcare provider shall not include coverage for damages assessed
36 against the healthcare provider who provides treatment to a child in
37 violation of section 3(a) or (b), and amendments thereto.

38 New Sec. 6. If any provision or clause of this act or application
39 thereof to any person or circumstance is held invalid, such invalidity shall
40 not affect other provisions or applications of this act that can be given
41 effect without the invalid provision or application, and to this end the
42 provisions of this act are declared to be severable.

43 Sec. 7. K.S.A. 65-2837 is hereby amended to read as follows: 65-