

SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 63

As Amended by Senate Committee on Public
Health and Welfare

Brief*

SB 63, as amended, would enact the Help Not Harm Act (Act). The Act would:

- Prohibit health care providers from providing certain treatments to a child who has a perceived gender or perceived sex that is different than the child's biological sex;
- Prohibit recipients of state funds, including the Kansas Program of Medical Assistance and its managed care organizations, from using such funds to provide or subsidize the prohibited treatment;
- Prohibit recipients of state funds for the treatment of children for psychological conditions from prescribing, dispensing, or administering medication as identified in the bill; performing surgery; or providing a referral to another health care provider for the identified medication or surgery for a child whose perceived gender or perceived sex is inconsistent with the child's sex;
- Prohibit the use of state property, facilities, or buildings from being used to promote or advocate the use of social transitioning, medication, or surgery, except to the extent required by the *U.S. Constitution*;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- Prohibit certain state employees while in their official capacities, from promoting the use of social transitioning, or providing or promoting medication, or surgery as a treatment;
- Define that a health care provider in violation of the Act would be engaged in unprofessional conduct and provide authority to sanction the licensee;
- Provide exceptions to the prohibited treatment;
- Establish a treatment protocol for a provider to follow for a patient currently receiving the prohibited treatment;
- Establish a strict liability standard, establish a statute of limitations of 10 years from the child's 18th birthday, and create a private cause of action; and
- Prohibit a professional liability insurance policy issued to a health care provider from providing coverage for damages assessed against a health care provider who provided the prohibited treatment.

The bill would be effective upon publication in the *Kansas Register*.

Definitions (New Section 1)

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

- “Child” would mean an individual less than 18 years of age;
- “Gender” would mean the psychological, behavioral, social, and cultural aspects of being male or female;

- “Gender dysphoria” would mean the diagnosis of gender dysphoria in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders*; and
- “Social transitioning” would mean 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 (New Section 2)

The bill would state that a recipient of state funds could 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.

The bill would state that an individual or entity that receives state funds to pay for or subsidize the treatment of children for psychological conditions, including gender dysphoria, would not be able to prescribe, dispense, or administer medication as identified in the bill; perform surgery; or provide a referral to another health care provider for the identified medication or surgery for a child whose perceived gender or perceived sex is inconsistent with the child’s sex.

The bill would prohibit 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 would prohibit 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 would also be 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 would also prohibit a state employee whose official duties include the care of children, and while engaged in official duties, from 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.

Treatment Prohibitions (New Section 3)

Except as otherwise provided in the bill, the bill would prohibit 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 protheses, 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 in the bill, the bill would prohibit 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 prohibited in the bill would 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 had initiated a course of treatment for a child prior to the effective date of the Act that included prescribing, administering, or dispensing a drug that would be prohibited by the bill, the bill would allow the health care provider to continue the course of treatment as follows:

- Developing a plan to systemically reduce the child's use of such drug;
- Determining and documenting in the child's medical record that immediately terminating the child's use of such drug would cause harm to the child; and
- Not extending the course of treatment beyond December 31, 2025.

Discipline and Private Cause of Action (New Section 4)

If a health care professional violates the provisions of the bill, the bill would state the health care professional has engaged in unprofessional conduct and would have their license revoked by the appropriate licensing entity or disciplinary review board with competent jurisdiction in Kansas.

The bill would state that a health care professional who provides treatment to a child in violation of the bill would 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 that the individual turns 18 years old. The bill would allow a prevailing plaintiff to recover actual and

punitive damages, injunctive relief, the cost of the lawsuit, and reasonable attorney fees.

The bill would provide for the parents of a child who has been provided treatment in violation of the bill and for an individual who was provided treatment as a child in violation of the bill to 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 would require an action against a health care provider brought by an individual who was provided treatment as a child to be filed within 10 years from the date the individual turns 18 years of age.

Liability Insurance (New Section 5)

The bill would state that a professional liability insurance policy issued to a health care provider would not include coverage for damages assessed against the health care provider who provides treatments to a child in violation of the Act.

Severability (New Section 6)

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

Violations of the Act (Section 7)

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

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Erickson.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, **proponent** testimony was provided by one private citizen, one physician, and representatives of Do No Harm Action, Kansas Catholic Conference, Kansas Family Voice, and The Heritage Foundation. The proponents generally stated the bill would protect minors from medical and chemical procedures used to physically change a child's gender. The proponents stated their concerns with health care providers, the reliability of the scientific research, and the influence of social media regarding minors fully understanding the procedures as well as the risks and long term impacts of gender reassignment services. One proponent testified to their negative experience with gender reassignment services.

Written-only proponent testimony was provided by several conferees.

Opponent testimony was provided by a member of the clergy, a social worker, three teachers, a nurse, four private citizens, and a representative of the American Civil Liberties Union. The opponents generally stated the bill would negatively affect the lives of transgender youth and young adults, would prevent parents from making medical decisions for their minor children, and expressed concerns regarding the constitutionality of the bill. Two opponents spoke about their positive experiences with gender reassignment services experienced in Kansas.

Written-only opponent testimony was provided by several conferees.

No other testimony was provided.

The Senate Committee amended the bill as follows:

- Allow that a prevailing plaintiff may recover actual and punitive damages, injunctive relief, the cost of the lawsuit, and reasonable attorney fees;
- Allow for the recovery of actual and punitive damages, injunctive relief, the cost of the lawsuit, and reasonable attorney fees in a private cause of action against a health care provider for violation of the bill; and
- Change the effective date to upon publication in the *Kansas Register*.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration (OJA) states enactment of the bill could increase the number of cases filed in district courts because it allows for civil suits to be filed. This could result in more time spent by judicial and nonjudicial personnel processing, researching, and hearing these cases. OJA estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions, which would be deposited to the State General Fund. The bill would not affect other revenues to the Judicial Branch; however, a fiscal effect cannot be estimated.

The Office of the Attorney General states enactment of the bill could increase litigation costs related to defending the law, but a total fiscal effect could not be estimated.

The State Board of Healing Arts reports passage of the bill could result in more complaints, investigations, and potential litigation but the agency anticipates this will be manageable within existing resources.

The Kansas Insurance Department and the Kansas Health Care Stabilization Fund report enactment of the bill will not result in a fiscal effect for either agency.

Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Minors; children; health care; gender identity; physicians; health care providers; Help Not Harm Act