

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 692

By Senators Maynard and Taylor

[Introduced February 20, 2023; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, as amended, by adding thereto a new article,
 2 designated §16-66-1, §16-66-2, §16-66-3, §16-66-4, and §16-66-5, all relating to gender
 3 reassignment medical services for minors; making findings and declarations; defining sex;
 4 establishing prohibited treatment for minors; providing exceptions; creating responsibilities
 5 for school personnel; and establishing consequences for violations of article.

Be it enacted by the Legislature of West Virginia:

ARTICLE 66. GENDER REASSIGNMENT MEDICAL SERVICES FOR MINORS.

§16-66-1. Findings and Declarations.

1 The West Virginia Legislature hereby finds and declares all of the following:

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

4 (2) Only a tiny percentage of the American population experiences distress at identifying
 5 with their biological sex. According to the American psychiatric association, prevalence ranges
 6 from 0.005 to 0.014 percent for natal adult males and from 0.002 to 0.003 percent for natal
 7 females;

8 (3) Studies consistently demonstrate that the vast majority of children who are gender non-
 9 conforming or experience distress at identifying with their biological sex come to identify with their
 10 biological sex in adolescence or adulthood, thereby rendering most medical health care
 11 interventions unnecessary;

12 (4) Scientific studies show that individuals struggling with distress at identifying with their
 13 biological sex often have already experienced psychopathology, which indicates these individuals
 14 should be encouraged to seek mental health care services before undertaking any hormonal or
 15 surgical intervention;

16 (5) Suicide rates, psychiatric morbidities, and mortality rates remain markedly elevated
 17 above the background population after inpatient gender reassignment procedures have been
 18 performed;

19 (6) Some health care providers are prescribing puberty-blocking drugs in order to delay the
20 onset or progression of normally-timed puberty in children who experience distress at identifying
21 with their biological sex. This is being done despite the lack of any long-term longitudinal studies
22 evaluating the risks and benefits of using these drugs for the treatment of such distress or gender
23 transition;

24 (7) Health care providers are also prescribing cross-sex hormones for children who
25 experience distress at identifying with their biological sex, despite the fact that no randomized
26 clinical trials have been conducted on the efficacy or safety of the use of cross-sex hormones in
27 adults or children for the purpose of treating such distress or gender transition;

28 (8) The use of cross-sex hormones comes with the following serious known risks:

29 (A) For biological females, erythrocytosis, severe liver dysfunction, coronary artery
30 disease, cerebrovascular disease, hypertension, increased risk of breast and uterine cancers, and
31 irreversible infertility.

32 (B) For biological males, thromboembolic disease, cholelithiasis, coronary artery disease,
33 macroprolactinoma, cerebrovascular disease, hypertriglyceridemia, breast cancer, and
34 irreversible infertility.

35 (9) Genital and non-genital reassignment surgeries are generally not recommended for
36 children, although evidence indicates referrals for children to have such surgeries are becoming
37 more frequent;

38 (10) Genital gender reassignment surgery includes several irreversible invasive
39 procedures for males and females and involves the following alterations of biologically normal and
40 functional body parts:

41 (A) For biological males, surgery may involve genital reconstruction including penectomy,
42 orchiectomy, vaginoplasty, clitoroplasty, and vulvoplasty.

43 (B) For biological females, surgery may involve a hysterectomy or oophorectomy,
44 reconstruction of the urethra, genital reconstruction including metoidioplasty or phalloplasty,

45 vaginectomy, scrotoplasty, and implantation of erection or testicular prostheses.

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

48 (12) Non-genital gender reassignment surgery includes various invasive procedures for
 49 males and females and also involves the alteration or removal of biologically normal and functional
 50 body parts:

51 (A) For biological males, procedures may include augmentation mammoplasty, facial
 52 feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal
 53 augmentation, hair reconstruction, and other aesthetic procedures.

54 (B) For biological females, procedures may include subcutaneous mastectomy, voice
 55 surgery, liposuction, lipofilling, pectoral implants, and other aesthetic procedures.

56 (13) It is an accepted principle of economics and public policy that when a service or
 57 product is subsidized or paid for, demand for that service or product increases. Just between 2015
 58 and 2016, gender reassignment surgeries increased by 20 percent;

59 (14) It is of grave concern to the Legislature that the medical community is allowing
 60 individuals who experience distress at identifying with their biological sex to be subjects of
 61 irreversible and drastic non-genital gender reassignment surgery and irreversible, permanently
 62 sterilizing genital gender reassignment surgery, despite the lack of studies showing that the
 63 benefits of such extreme interventions outweigh the risks;

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

§16-66-2. Definition of Sex.

1 As used in this article, "sex" means the biological indication of male and female, including
 2 sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and
 3 external genitalia present at birth, without regard to an individual's psychological, chosen, or
 4 subjective experience of gender.

§16-66-3. Prohibited practices.

1 (a) Except as provided in subsection (c) of this section, no physician or other medical
2 health care professional shall knowingly engage in or cause any of the following practices to be
3 performed upon any person under the age of 18 if the practice is performed for the purpose of
4 attempting to alter the appearance of or affirm the minor's perception of his or her gender or sex, if
5 that appearance or perception is inconsistent with the minor's sex as defined in this act:

6 (1) Prescribing or administering puberty blocking medication to stop or delay normal
7 puberty.

8 (2) Prescribing or administering supraphysiologic doses of testosterone or other
9 androgens to females.

10 (3) Prescribing or administering supraphysiologic doses of estrogen to males.

11 (4) Performing surgeries that sterilize, including castration, vasectomy, hysterectomy,
12 oophorectomy, orchiectomy, and penectomy.

13 (5) Performing surgeries that artificially construct tissue with the appearance of genitalia
14 that differs from the individual's sex, including metoidioplasty, phalloplasty, and vaginoplasty.

15 (6) Removing any healthy or non-diseased body part or tissue, except for a male
16 circumcision.

17 (b) No physician, mental health provider, or other medical health care professional shall
18 knowingly engage in conduct that aids or abets the practices described in subsection (a) to any
19 person under 18 years of age. This section may not be construed to impose liability on any speech
20 or conduct protected by federal or state law.

21 (c) Subsections (a) and (b) do not apply to:

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

26 (2) Services provided to an individual when a physician has otherwise diagnosed a
 27 disorder of sexual development, in which the physician has determined through genetic or
 28 biochemical testing that the individual does not have normal sex chromosome structure, sex
 29 steroid hormone production, or sex steroid hormone action for a biological male or biological
 30 female;

31 (3) The treatment of any infection, injury, disease, or disorder that has been caused or
 32 exacerbated by the performance of gender transition procedures, whether or not the procedures
 33 were performed in accordance with state and federal law;

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

§16-66-4. Responsibilities of school personnel.

1 No nurse, counselor, teacher, principal, or other official or staff at a public or private school
 2 shall knowingly do either of the following:

3 (1) Encourage or coerce a minor to withhold from the minor's parent or legal guardian the
 4 fact that the minor's perception of his or her gender is inconsistent with his or her sex;

5 (2) Withhold from a minor's parent or legal guardian information related to the minor's
 6 perception that his or her gender is inconsistent with his or her sex.

§16-66-5. Violations of article.

1 (a) The provision of services described in §16-66-3 of this code to any person under 18
 2 years of age shall be considered unprofessional conduct and shall be subject to discipline by the
 3 licensing entity with jurisdiction over the physician, mental health provider, or other medical health
 4 care professional.

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

8 (c) A person shall be required to bring a claim for a violation of this article not later than two
9 years after the day the cause of action accrues. A minor may bring an action before reaching 18
10 years of age through a parent or guardian, and may bring an action in the minor's own name upon
11 reaching 18 years of age at any time from that point until 20 years after.

12 (d) An action under this article may be commenced, and relief may be granted, in a judicial
13 proceeding without regard to whether the person commencing the action has sought or exhausted
14 available administrative remedies.

15 (e) In any action or proceeding to enforce a provision of this article, a prevailing party who
16 establishes a violation of this chapter shall be entitled to recover reasonable attorneys' fees.

17 (f) The attorney general may bring an action to enforce compliance with this article.
18 Nothing in this chapter shall be construed to deny, impair, or otherwise affect any right or authority
19 of the attorney general, the state, or any agency, officer, or employee of the state to institute or
20 intervene in any proceeding.

NOTE: The purpose of this bill is relating to gender reassignment medical services for minors; making findings and declarations; defining sex; establishing prohibited treatment for minors; providing exceptions; creating responsibilities for school personnel; and establishing consequences for violations of article

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.