

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

4

HOUSE BILL 808
Committee Substitute Favorable 5/2/23
Third Edition Engrossed 5/3/23
Senate Health Care Committee Substitute Adopted 6/21/23

Short Title: Gender Transition/Minors.

(Public)

Sponsors:

Referred to:

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT GENDER TRANSITION PROCEDURES FOR MINORS.

3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article
5 to read:

6 "Article 1N.

7 "Gender Transition Procedures on Minors.

8 "§ 90-21.150. Definitions.

9 The following definitions apply in this Article:

- 10 (1) Biological sex. – The biological indication of male and female in the context
11 of reproductive potential or capacity, such as sex chromosomes, naturally
12 occurring sex hormones, gonads, and nonambiguous internal and external
13 genitalia present at birth, without regard to an individual's psychological,
14 chosen, or subjective experience of gender.
- 15 (2) Cross-sex hormones. – Supraphysiologic doses of testosterone or other
16 androgens to members of the female biological sex or supraphysiologic doses
17 of estrogen or synthetic compounds with estrogenic activity to members of the
18 male biological sex when used for the purpose of assisting an individual with
19 a gender transition.
- 20 (3) Gender. – The psychological, behavioral, social, and cultural aspects of being
21 male or female.
- 22 (4) Gender reassignment surgery. – Any surgical service that seeks to surgically
23 alter or remove healthy physical or anatomical characteristics or features that
24 are typical for the individual's biological sex, in order to instill or create
25 physiological or anatomical characteristics that resemble a sex different from
26 the individual's biological sex, including a genital or non-genital gender
27 reassignment surgery as defined in this section.
- 28 (5) Gender transition. – The process in which a person goes from identifying with
29 and living as a gender that corresponds to his or her biological sex to
30 identifying with and living as a gender different from his or her biological sex
31 and may involve social, legal, or physical changes.
- 32 (6) Genital gender reassignment surgery. – A gender reassignment surgery
33 performed for the purpose of assisting an individual with a gender transition,
34 including, without limitation, any of the following:



* H 8 0 8 - V - 4 *

- 1 a. Surgical procedures such as penectomy, orchiectomy, vaginoplasty,
2 clitoroplasty, or vulvoplasty for biologically male patients or
3 hysterectomy or ovariectomy for biologically female patients.
4 b. Reconstruction of the fixed part of the urethra with or without a
5 metoidioplasty.
6 c. Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or
7 testicular prostheses for biologically female patients.
8 (7) Medical professional. – Any individual licensed to practice medicine under
9 Article 1 of this Chapter or licensed to prescribe or dispense drugs under this
10 Chapter.
11 (8) Minor. – An individual who is younger than 18 years of age.
12 (9) Non-genital gender reassignment surgery. – A gender reassignment surgery
13 performed for the purpose of assisting an individual with a gender transition,
14 including, without limitation, any of the following:
15 a. Surgical procedures for biologically male patients, such as
16 augmentation mammoplasty, facial feminization surgery, liposuction,
17 lipofilling, voice surgery, thyroid cartilage reduction, gluteal
18 augmentation, or hair reconstruction.
19 b. Surgical procedures for biologically female patients, such as
20 subcutaneous mastectomy, voice surgery, liposuction, lipofilling, or
21 pectoral implants.
22 (10) Puberty-blocking drugs. – Gonadotropin releasing hormone analogues or
23 other synthetic drugs used in biological males to stop luteinizing hormone
24 secretion and therefore testosterone secretion, or synthetic drugs used in
25 biological females which stop the production of estrogens and progesterone,
26 when used to delay or suppress pubertal development in children for the
27 purpose of assisting an individual with a gender transition.
28 (11) Surgical gender transition procedure. – Any surgical service, including,
29 without limitation, genital gender reassignment surgery and non-genital
30 reassignment surgery, physician's services, and inpatient and outpatient
31 hospital services related to gender transition, that seeks to do any of the
32 following for the purpose of effecting a gender transition:
33 a. Alter or remove physical or anatomical characteristics or features that
34 are typical for the individual's biological sex.
35 b. Instill or create physiological or anatomical characteristics that
36 resemble a sex different from the individual's biological sex.

37 **"§ 90-21.151. Limitations on gender transition procedures.**

38 It shall be unlawful for a medical professional to perform a surgical gender transition
39 procedure on a minor or to prescribe, provide, or dispense puberty-blocking drugs or cross-sex
40 hormones to a minor.

41 **"§ 90-21.152. When certain procedures are permitted.**

42 (a) Notwithstanding G.S. 90-21.151, and provided the minor's parents or guardians give
43 informed consent, a medical professional shall not be prohibited from providing any of the
44 following procedures to a minor:

- 45 (1) Services to persons born with a medically verifiable disorder of sex
46 development, including a person with external biological sex characteristics
47 that are unresolvedly ambiguous, such as those born with 46 XX
48 chromosomes with virilization, 46 XY chromosomes with under-virilization,
49 or having both ovarian and testicular tissue.
50 (2) Services provided when a physician has otherwise diagnosed a disorder of
51 sexual development that the physician has determined through genetic or

1 biochemical testing that the person does not have normal sex chromosome
2 structure, sex steroid hormone production, or sex steroid hormone action.

3 (3) The treatment of any infection, injury, disease, or disorder that has been
4 caused by or exacerbated by the performance of gender transition procedures,
5 whether or not the gender transition procedure was performed in accordance
6 with State and federal law.

7 (4) Breast reduction procedures for a female patient causing a physical disorder.

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

12 (6) Any surgery, including those listed in G.S. 90-21.150(6) and (9), which a
13 treating physician certifies is medically necessary to treat a physiological
14 condition.

15 (b) Notwithstanding G.S. 90-21.151, a medical professional shall not be prohibited from
16 continuing or completing a course of treatment for a minor that includes a surgical gender
17 transition procedure, or the administration of puberty-blocking drugs or cross-sex hormones, if
18 all of the following apply:

19 (1) The course of treatment commenced prior to October 1, 2023, and was still
20 active as of that date.

21 (2) In the reasonable medical judgment of the medical professional, it is in the
22 best interest of the minor for the course of treatment to be continued or
23 completed.

24 (3) The minor's parents or guardians consent to the continuation or completion of
25 treatment.

26 (c) Except as provided in G.S. 90-21.151, nothing in this Article shall be construed to
27 prohibit treatment provided by a licensed mental health professional which is provided within
28 the scope of that professional's practice.

29 (d) No medical professional, or an entity that employs or contracts with a medical
30 professional, shall be required to perform a surgical gender transition procedure or prescribe,
31 provide, or dispense puberty-blocking drugs or cross-sex hormones. No hospital or other
32 healthcare institution shall be required to participate in, or allow the use of, its facilities by a
33 medical professional performing a surgical gender transition procedure or prescribing, providing,
34 or dispensing puberty-blocking drugs or cross-sex hormones, regardless of whether the medical
35 professional is employed by, under contract with, or has admitting privileges at the hospital or
36 other healthcare institution. No medical professional, entity, hospital, or other healthcare
37 institution shall be civilly, criminally, or administratively liable for exercising his, her, or its
38 rights under this subsection.

39 **"§ 90-21.153. Penalties.**

40 A violation of any of the provisions of this Article by a medical professional shall be
41 considered unprofessional conduct and shall result in the revocation of the medical professional's
42 license to practice."

43 **SECTION 2.** Article 1N of Chapter 90 of the General Statutes, as enacted by Section
44 1 of this act, is amended by adding a new section to read:

45 **"§ 90-21.154. Civil remedies.**

46 (a) Any (i) medical professional who performs a surgical gender transition procedure on
47 a minor or who prescribes, provides, or dispenses puberty-blocking drugs or cross-sex hormones
48 to a minor and (ii) entity that employs or contracts with a medical professional who performs a
49 surgical gender transition procedure on a minor or who prescribes, provides, or dispenses
50 puberty-blocking drugs or cross-sex hormones to a minor shall be liable to the minor for any

1 physical, psychological, emotional, or physiological harms the minor suffers as a result of the
2 surgical gender transition procedure, puberty-blocking drugs, or cross-sex hormones.

3 (b) A minor who suffers an injury described in subsection (a) of this section, or a parent
4 or guardian of a minor who suffers an injury described in subsection (a) of this section, may bring
5 a civil action within the latter of 25 years from the day the minor reaches 18 years of age or four
6 years from the time of discovery by the injured party of both the injury and the causal relationship
7 between the treatment and the injury against the offending medical professional or entity. If the
8 minor who suffered any injury described in subsection (a) of this section is under a legal disability
9 upon attaining 18 years of age, the time limitation in this subsection does not begin to run until
10 that legal disability is removed. An individual commencing an action under this section may seek
11 the following relief:

12 (1) Declaratory or injunctive relief.

13 (2) Compensatory damages, including pain and suffering, loss of reputation, loss
14 of income, and loss of consortium, which includes the loss of expectation of
15 sharing parenthood.

16 (3) Punitive damages.

17 (4) Attorneys' fees and court costs.

18 (5) Any other appropriate relief.

19 (c) Minors bringing an action under this section may do so through a parent or guardian
20 prior to attaining majority and may do so in their own name after attaining majority.
21 Notwithstanding G.S. 143-299, any action brought under this section may be commenced within
22 the time frames described in subsection (b) of this section.

23 (d) G.S. 90-21.19(a) shall not apply to damages awarded in an action brought under this
24 section.

25 (e) Medical professionals and entities employing or contracting with medical
26 professionals may not seek a contractual waiver of the liability imposed under this section. Any
27 attempted waiver is null and void."

28 **SECTION 3.** Article 6 of Chapter 143C of the General Statutes is amended by adding
29 a new section to read:

30 **"§ 143C-6-5.6. Limitation on use of State funds for gender transition procedures.**

31 (a) The following definitions apply in this section:

32 (1) Cross-sex hormones. – As defined in G.S. 90-21.150.

33 (2) Minor. – As defined in G.S. 90-21.150.

34 (3) Puberty-blocking drugs. – As defined in G.S. 90-21.150.

35 (4) Surgical gender transition procedure. – As defined in G.S. 90-21.150.

36 (b) No State funds may be used, directly or indirectly, for the performance of or in
37 furtherance of surgical gender transition procedures, or to provide puberty-blocking drugs or
38 cross-sex hormones to a minor, or to support the administration of any governmental health plan
39 or government-offered insurance policy offering surgical gender transition procedures,
40 puberty-blocking drugs, or cross-sex hormones to a minor.

41 (c) Subsection (b) of this section shall not apply to the State Health Plan for Teachers and
42 State Employees."

43 **SECTION 4.** If any provision of this act or its application is held invalid, the
44 invalidity does not affect other provisions or applications of this act that can be given effect
45 without the invalid provisions or application and, to this end, the provisions of this act are
46 severable.

47 **SECTION 5.** Section 2 of this act becomes effective July 1, 2023. Sections 1 and 3
48 of this act become effective October 1, 2023. Subsection (c) of G.S. 143C-6-5.6, as enacted by
49 Section 3 of this act, expires 30 days after the Memorandum and Order, dated June 10, 2022, or
50 the permanent injunction ordered therein in *Kadel v. Folwell*, 1:19CV272 is vacated, overturned,
51 or is no longer in force. The State Health Plan for Teachers and State Employees shall notify the

- 1 Revisor of Statutes if the order or injunction is vacated, overturned, or no longer in force. The
- 2 remainder of this act is effective when it becomes law.