

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

FILED SENATE
Apr 5, 2023
S.B. 639
PRINCIPAL CLERK

S

D

SENATE BILL DRS35149-NB-122

Short Title: Youth Health Protection Act.

(Public)

Sponsors: Senators Hise, B. Newton, and Sanderson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT MINORS FROM ADMINISTRATION OF PUBERTY BLOCKERS
3 AND CROSS-SEX HORMONES AND OTHER RELATED ACTIONS, PROCEDURES,
4 AND TREATMENTS.

5 Whereas, the State of North Carolina has a compelling government interest protecting
6 the health and safety of its citizens, especially vulnerable children; and

7 Whereas, the sex of a person is the biological state of being female or male, based on
8 sex organs, chromosomes, and endogenous hormone profiles, and is genetically encoded into a
9 person at the moment of conception, and it cannot be changed; and

10 Whereas, some individuals, including minors, may experience discordance between
11 their sex and their internal sense of identity, and individuals who experience severe psychological
12 distress as a result of this discordance may be diagnosed with gender dysphoria; and

13 Whereas, the cause of the individual's impression of discordance between sex and
14 identity is unknown, and the diagnosis is based exclusively on the individual's self-report of
15 feelings and beliefs; and

16 Whereas, this internal sense of discordance is not permanent or fixed, but to the
17 contrary, numerous studies have shown that a substantial majority of children who experience
18 discordance between their sex and identity will outgrow the discordance once they go through
19 puberty and will eventually have an identity that aligns with their sex; and

20 Whereas, as a result, taking a "wait-and-see" approach to children who reveal signs
21 of gender nonconformity results in a large majority of those children resolving to an identity
22 congruent with their sex by late adolescence; and

23 Whereas, some in the medical community are aggressively pushing for interventions
24 on minors that medically alter the child's hormonal balance and remove healthy external and
25 internal sex organs when the child expresses a desire to appear as a sex different from his or her
26 own; and

27 Whereas, this course of treatment for minors commonly begins with encouraging and
28 assisting the child to socially transition to dressing and presenting as the opposite sex. In the case
29 of prepubertal children, as puberty begins, doctors then administer long-acting GnRH agonist
30 (puberty blockers) that suppress the pubertal development of the child. This use of puberty
31 blockers for gender nonconforming children is experimental and not FDA-approved; and

32 Whereas, after puberty blockade, the child is later administered "cross-sex" hormonal
33 treatments that induce the development of secondary sex characteristics of the other sex, such as
34 causing the development of breasts and wider hips in male children taking estrogen and greater
35 muscle mass, bone density, body hair, and a deeper voice in female children taking testosterone.
36 Some children are administered these hormones independent of any prior pubertal blockade; and



- 1 (2) Medical professional. – Any physician, surgeon, physician assistant, nurse,
2 clinical nurse specialist, nurse practitioner, anesthetist, psychiatrist, or
3 medical assistant licensed under this Chapter.
- 4 (3) Mental health care professional or counselor. – Any licensed medical, mental
5 health, or human services professional licensed under this Chapter, including
6 any psychologist, social worker, psychiatric nurse, allied mental health and
7 human services professional, licensed marriage and family therapist, certified
8 rehabilitation counselor, licensed clinical mental health counselor, or any of
9 their respective interns or trainees, or any other person designated or licensed
10 as a mental health or human service professional.
- 11 (4) Minor. – Any individual who is below 18 years of age.
- 12 (5) Political subdivision. – Any division of local government, county, city,
13 assessment district, municipal corporation, special purpose district, board,
14 department, commission, or any division of local government delegated the
15 right to exercise part of the sovereign power of that subdivision.
- 16 (6) Sex. – The biological state of being female or male, based on sex organs,
17 chromosomes, and endogenous hormone profiles, without regard to an
18 individual's psychological, chosen, or subjective experience of gender.

19 **§ 90-21.141. Prohibition of certain practices and health care services.**

20 (a) Notwithstanding any other provision of law, it shall be unlawful for any medical
21 professional or mental health care professional or counselor to knowingly engage in any of the
22 following practices upon a minor, or cause them to be performed for the purpose of attempting
23 to alter the appearance of or affirm the minor's perception of his or her gender or sex, if that
24 appearance or perception is inconsistent with the minor's sex:

- 25 (1) Performing surgeries that sterilize, including castration, vasectomy,
26 hysterectomy, oophorectomy, orchiectomy, or penectomy.
- 27 (2) Performing surgeries that artificially construct tissue with the appearance of
28 genitalia that differs from the individual's sex, including metoidioplasty,
29 phalloplasty, and vaginoplasty.
- 30 (3) Performing a mastectomy.
- 31 (4) Prescribing, administering, or supplying gonadotropin releasing hormone
32 analogues or other synthetic drugs used to stop luteinizing hormone and
33 follicle stimulating hormone secretion, synthetic antiandrogen drugs used to
34 block the androgen receptor, or any drug to suppress or delay normal puberty.
- 35 (5) Prescribing, administering, or supplying testosterone, estrogen, or
36 progesterone to a minor in an amount greater than would normally be
37 produced endogenously in a healthy individual of that individual's age and
38 sex.
- 39 (6) Removing any otherwise healthy or nondiseased body part or tissue.

40 (b) It shall be unlawful for any medical professional or mental health care professional
41 or counselor to knowingly engage in conduct that aids or abets the practices described in
42 subsection (a) of this section to a minor. This section may not be construed to impose liability on
43 any speech protected by federal or State law.

44 (c) A medical professional or mental health care professional or counselor who engages
45 in any of the practices identified in subsection (a) of this section or causes them to be performed
46 shall be considered to have engaged in unprofessional conduct and shall be subject to revocation
47 of licensure for a minimum of one year and other appropriate discipline by the medical
48 professional's licensing or certifying board. The medical professional shall also be subject to a
49 civil penalty of up to one thousand dollars (\$1,000) per occurrence. The clear proceeds of civil
50 penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund
51 in accordance with G.S. 115C-457.2.

1 (d) This section does not apply to any of the following:

2 (1) The good-faith medical decision of a parent or guardian of a minor born with
3 a medically verifiable genetic disorder of sexual development, including any
4 of the following:

5 a. A minor with external biological sex characteristics that are
6 irresolvably ambiguous, such as a minor born having 46 XX
7 chromosomes with virilization, 46 XY chromosomes with
8 under-virilization, or having both ovarian and testicular tissue.

9 b. When a physician has otherwise diagnosed a disorder of sexual
10 development, in which the physician has determined through genetic
11 testing that the minor does not have the normal sex chromosome
12 structure, sex steroid hormone production, or sex steroid hormone
13 action for male or female sexes.

14 (2) The treatment of any infection, disease, or disorder that has been caused or
15 exacerbated by the performance of a procedure described in subsection (a) of
16 this section, whether or not the procedures were performed in accordance with
17 State or federal law.

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

22 (e) Notwithstanding any other provision of law, it shall be unlawful for any health care
23 provider, as defined in G.S. 90-21.11, that receives State funds to furnish, provide, or perform
24 any health care service that constitutes the performance of or preparation for a gender transition
25 procedure to a minor.

26 **§ 90-21.142. Counseling.**

27 A State office, agency, political subdivision of the State or local government, or any
28 organization with authority to license or discipline the members of a profession may not prohibit,
29 impose any penalty, or take any adverse action against any individual who gives or receives
30 counsel, advice, guidance, or any other speech or communication, whether described as therapy
31 or provided for a fee, consistent with conscience or religious belief.

32 **§ 90-21.143. Protection of parental rights.**

33 (a) Parents, guardians, or custodians, in exercising the fundamental right to care for their
34 child, may withhold consent for any treatment, activity, or mental health care services that are
35 designed and intended to form their child's conceptions of sex and gender or to treat gender
36 dysphoria or gender nonconformity. The State, its agents, and political subdivisions shall not
37 infringe upon or impede the exercise of this right under this section.

38 (b) No government agent, nor any employee of this State, any political subdivision of this
39 State, or any other governmental entity, except for law enforcement personnel, shall encourage
40 or coerce a minor to withhold information from the minor's parent. Nor shall any such employee
41 withhold from a minor's parents information that is relevant to the physical or mental health of
42 their child and of a sort that parents interested in and responsible for the well-being of a minor
43 reasonably would demand and should be apprised of. Such conduct shall be grounds for
44 discipline of the employee, in addition to any other remedies provided to a parent under this
45 Article.

46 (c) If a government agent has knowledge that a minor under its care or supervision has
47 exhibited symptoms of gender dysphoria, gender nonconformity, or otherwise demonstrates a
48 desire to be treated in a manner incongruent with the minor's sex, the government agent or entity
49 with knowledge of that circumstance shall immediately notify, in writing, each of the minor's
50 parents, guardians, or custodians. The notice shall describe all of the relevant circumstances with
51 reasonable specificity.

"§ 90-21.144. Whistleblower protection.

(a) No person shall be discriminated against in any manner because the person does any of the following:

(1) Provided, caused to be provided, or takes steps to provide or cause to be provided to his or her employer, the Attorney General, any State agency, the United States Department of Health and Human Services, or any other federal agency any information or an act or omission that is a violation of any provision of this Article.

(2) Testified or prepared to testify in a proceeding concerning a violation of this Article.

(3) Assisted or participated in a proceeding concerning a violation of this Article.

(b) Unless a disclosure or report of information is specifically prohibited by law, no person shall be discriminated against in any manner because the person disclosed any information under this Article that the person believes evinces any of the following:

(1) Any violation of law, rule, or regulation.

(2) Any violation of any standard of care or other ethical guidelines for the provision of any health care service.

(3) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"§ 90-21.145. Civil remedies.

(a) A civil action for compensatory or special damages, injunctive relief, or any other relief available under law may be brought by any person for any violation of any provision of this Article against the clinic, health care system, medical professional, or other person responsible for the violation.

(b) Any party aggrieved or harmed by any violation of this Article shall be required to bring suit for violation of this Article no later than two years after the day the cause of action accrued. Minors injured by practices prohibited under this Article may bring an action during their minority through a parent and may bring an action in their own name upon reaching majority at any time from that date until 20 years from the date the minor attained the age of majority.

(c) Persons who prevail on a claim brought pursuant to this section shall be entitled, upon the finding of a violation, to recover the following:

(1) Monetary damages, including all psychological, emotional, and physical harm suffered.

(2) Total costs of the action and reasonable attorneys' fees.

(3) Any other appropriate relief.

(d) Standing to assert a claim or defense under this section shall be governed by the general rules of standing.

"§ 90-21.146. Preemption.

(a) A political subdivision of this State is preempted from enacting, adopting, maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that prohibits, restricts, limits, controls, directs, or otherwise interferes with the professional conduct and judgment of a mental health care professional or counselor, including speech, undertaken within the course of treatment and communication with clients, patients, other persons, or the public, including therapies, counseling, referrals, and education.

(b) The Attorney General or a mental health care professional or counselor may bring an action for an injunction to prevent or restrain violations of this section. A mental health care professional may recover reasonable costs and attorneys' fees incurred in obtaining an injunction under this section.

(c) Sovereign and governmental immunity to suit and from liability is waived and abolished to the extent of the liability created by this section."

1 **SECTION 1.(b)** Article 6 of Chapter 143C of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 143C-6-5.6. Limitation on use of State funds for gender transition procedures.**

4 No State funds may be used, directly or indirectly, for the performance of or in furtherance
5 of gender transition procedures or to support the administration of any governmental health plan
6 or government-offered insurance policy offering gender transition procedures."

7 **SECTION 2.** G.S. 90-21.5 reads as rewritten:

8 **"§ 90-21.5. Minor's Emancipated minor consent sufficient for certain–medical health**
9 **services.**

10 ~~(a) Subject to subsection (a1) of this section, any minor may give effective consent to a~~
11 ~~physician licensed to practice medicine in North Carolina for medical health services for the~~
12 ~~prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under~~
13 ~~G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional~~
14 ~~disturbance. This section does not authorize the inducing of an abortion, performance of a~~
15 ~~sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter~~
16 ~~122C of the General Statutes except as provided in G.S. 122C-223. This section does not prohibit~~
17 ~~the admission of a minor to a treatment facility upon his own written application in an emergency~~
18 ~~situation as authorized by G.S. 122C-223.~~

19 ~~(a1) Notwithstanding any other provision of law to the contrary, a health care provider~~
20 ~~shall obtain written consent from a parent or legal guardian prior to administering any vaccine~~
21 ~~that has been granted emergency use authorization and is not yet fully approved by the United~~
22 ~~States Food and Drug Administration to an individual under 18 years of age.~~

23 ~~(b) Any minor who is emancipated may consent to any medical treatment, dental and~~
24 ~~health services for himself or for his child."~~

25 **SECTION 3.** If any provision of this act or its application is held invalid, the
26 invalidity does not affect other provisions or applications of this act that can be given effect
27 without the invalid provisions or application and, to this end, the provisions of this act are
28 severable.

29 **SECTION 4.** This act becomes effective October 1, 2023.