

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2177

By: West (Kevin)

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5
6 AS INTRODUCED

7 An Act relating to public health and safety; defining
8 terms; prohibiting certain health care professionals
9 from performing or attempting to perform gender
10 transition procedures; providing exceptions;
11 prohibiting use of public funds for gender transition
12 procedures; prohibiting certain gender transition
13 procedures; defining certain conduct as
14 unprofessional; requiring revocation of license or
15 certificate; prescribing statute of limitations for
16 disciplinary proceedings; authorizing certain claims
17 or defenses; prescribing statute of limitations;
18 authorizing civil actions by minors; authorizing
19 civil actions after majority; authorizing certain
20 actions without exhaustion of administrative
21 remedies; authorizing attorney fees; authorizing
22 Attorney General to bring enforcement actions;
23 prohibiting state insurance program reimbursements;
24 providing for construction of act; providing for
codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2607 of Title 63, unless there
is created a duplication in numbering, reads as follows:

A. As used in this act:

1 1. "Biological sex" means the biological indication of male and
2 female in the context of reproductive potential or capacity, such as
3 sex chromosomes, naturally occurring sex hormones, gonads, and
4 nonambiguous internal and external genitalia present at birth,
5 without regard to an individual's psychological, chosen, or
6 subjective experience of gender;

7 2. "Gender" means the psychological, behavioral, social, and
8 cultural aspects of being male or female;

9 3. "Health care professional" means a person who is licensed,
10 certified, or otherwise authorized by the laws of this state to
11 administer health care in the ordinary course of the practice of his
12 or her profession;

13 4. "Physician" means a person who is licensed in this state to
14 practice medicine; and

15 5. "Public funds" means state, county, or local government
16 monies, in addition to any department, agency, or instrumentality
17 authorized or appropriated under state law or derived from any fund
18 in which such monies are deposited.

19 B. A physician, mental health professional, or other health
20 care professional shall not knowingly engage in or cause any of the
21 following practices to be performed upon any person under eighteen
22 (18) years of age if the practice is performed for the purpose of
23 attempting to alter the appearance of or affirm the minor's
24 perception of his or her gender or sex, if that appearance or

1 perception is inconsistent with the minor's sex as defined in this
2 act:

3 1. Prescribing or administering puberty blocking medication to
4 stop or delay normal puberty;

5 2. Prescribing or administering supraphysiologic doses of
6 testosterone or other androgens to females;

7 3. Prescribing or administering supraphysiologic doses of
8 estrogen to males;

9 4. Performing sterilization surgeries, including castration,
10 vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;

11 5. Performing surgeries that artificially construct tissue with
12 the appearance of genitalia that differs from the individual's sex,
13 including metoidioplasty, phalloplasty, and vaginoplasty; or

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

16 C. A physician, mental health professional, or other health
17 care professional shall not knowingly engage in conduct that aids or
18 abets the practices described in subsection B of this section to any
19 person under eighteen (18) years of age. This section may not be
20 construed to impose liability on any speech or conduct protected by
21 federal or state law.

22 D. Subsections B and C of this act do not apply to:

23 1. Services to persons born with a medically verifiable
24 disorder of sex development, including a person with external

1 biological sex characteristics that are irresolvably ambiguous, such
2 as those born with 46 XX chromosomes with virilization, 46 XY
3 chromosomes with under-virilization, or having both ovarian and
4 testicular tissue;

5 2. Services provided when a physician has otherwise diagnosed a
6 disorder of sexual development that the physician has determined,
7 through genetic or biochemical testing, is caused by the person not
8 having normal sex chromosomes structure, sex steroid hormone
9 production, or sex steroid hormone action;

10 3. Treatment of any infection, injury, disease, or disorder
11 that has been caused by or exacerbated by the performance of gender
12 transition procedures, whether or not the gender transition
13 procedure was performed in accordance with state and federal law or
14 whether or not funding for the gender transition procedure is
15 permissible under this act; or

16 4. Any procedure undertaken because the individual suffers from
17 a physical disorder, physical injury, or physical illness that
18 would, as certified by a physician, place the individual in imminent
19 danger of death or impairment of major bodily function unless such
20 procedure is performed.

21 E. It shall be prohibited for any public funds to be directly
22 or indirectly used, granted, paid, or distributed to any entity,
23 organization, or individual who provides the services described in
24 subsection B of this section to any minor or adult. No facility

1 that receives public funds shall allow its staff or facilities to be
2 used to perform the services described in subsections B of this act
3 on any minor or adult. Any violation of this section shall result
4 in the loss of public funding to the entity, organization, or
5 individual for a minimum of one (1) year and shall not be reinstated
6 until full compliance with this act.

7 F. 1. Any violation of subsection B or C of this section shall
8 be considered unprofessional conduct and shall, upon an adverse
9 ruling by the appropriate licensing board, result in immediate
10 revocation of the license or certificate of the physician, mental
11 health professional, or other health care professional.

12 2. Disciplinary proceedings against the physician, mental
13 health professional, or health care professional must be commenced
14 not later than the date as of which the individual upon whom the
15 services described in subsection B of this section were performed
16 attains forty-five (45) years of age.

17 3. A person may assert an actual or threatened violation of
18 this act as a claim or defense in a judicial or administrative
19 proceeding and obtain compensatory damages, injunctive relief,
20 declaratory relief, or any other appropriate relief.

21 4. A person shall bring a claim for a violation of this act no
22 later than the date of which the individual upon whom the services
23 described in subsection B of this section were performed attains
24 forty-five (45) years of age.

1 5. An individual under eighteen (18) years of age may bring an
2 action throughout his or her minority through a parent or next
3 friend, and may bring an action in his or her own name upon reaching
4 majority at any time from that point until twenty-seven (27) years
5 after reaching the age of majority.

6 6. The Attorney General may bring an action to enforce
7 compliance with this act. Nothing in this act shall be construed to
8 deny, impair, or otherwise affect any right or authority of the
9 Attorney General, the state, or any agency, officer, or employee of
10 the state to institute or intervene in any action or proceeding.

11 7. In any action or proceeding to enforce a provision of this
12 act, a prevailing party who establishes a violation of this act
13 shall recover reasonable attorney fees.

14 G. Insurance coverage for the services described in subsections
15 B and C of this section performed within this state on any minor or
16 adult shall be prohibited.

17 1. A health benefit plan under an insurance policy or other
18 plan providing health care coverage in this state shall not include
19 reimbursement for the services described in subsections B and C of
20 this section whether performed on a minor or adult.

21 2. A health benefit plan under an insurance policy or other
22 plan providing health care coverage in this state is not required to
23 provide coverage for the services described in subsections B of this
24 act whether performed on a minor or adult.

1 H. To the extent the state or any private party is enjoined
2 from enforcing any part or application of this act, all other parts
3 or applications of that subsection and all other subsections are
4 severable and enforceable. It is the Legislature's intent that any
5 lawful subsection, application, or part of a subsection remain
6 enforceable no matter the number of subsections, parts of
7 subsections, or applications deemed unenforceable. Under no
8 circumstance should a court conclude the Legislature intended that
9 the state or private party be enjoined from enforcing any
10 subsection, application, or part of a subsection not deemed
11 independently unenforceable.

12 SECTION 2. This act shall become effective November 1, 2023.

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