

Senate File 538 - Introduced

SENATE FILE 538
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO SSB 1197)

A BILL FOR

1 An Act relating to prohibited activities regarding gender
2 transition procedures relative to minors, and including
3 effective date and applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147.164 Gender transition
2 procedure-related activities — minors — prohibitions.

3 1. As used in this section:

4 a. "Gender" means the psychological, behavioral, social, and
5 cultural aspects of being male or female.

6 b. "Health care professional" means a person who is
7 licensed, certified, or otherwise authorized or permitted by
8 the law of this state to administer health care in the ordinary
9 course of business or in the practice of a profession.

10 c. "Minor" means an unemancipated person under eighteen
11 years of age.

12 d. "Sex" means the biological indication of male and
13 female, including sex chromosomes, naturally occurring sex
14 hormones, gonads, and nonambiguous internal and external
15 genitalia present at birth without regard to an individual's
16 psychological, chosen, or subjective experience of gender.

17 2. a. Except as otherwise provided in paragraph "c", a
18 health care professional shall not knowingly engage in or cause
19 any of the following practices to be performed on a minor if
20 the practice is performed for the purpose of attempting to
21 alter the appearance of, or affirm the minor's perception of,
22 the minor's gender or sex, if that appearance or perception is
23 inconsistent with the minor's sex.

24 (1) Prescribing or administering gonadotropin-releasing
25 hormone analogues or other synthetic drugs used to stop
26 luteinizing hormone and follicle-stimulating hormone secretion,
27 synthetic antiandrogen drugs used to block the androgen
28 receptor, or any drug to suppress or delay normal puberty.

29 (2) Prescribing or administering testosterone, estrogen,
30 or progesterone to a minor in an amount greater than would
31 normally be produced endogenously in a healthy individual of
32 that individual's age and sex.

33 (3) Performing surgeries that sterilize, including
34 castration, vasectomy, hysterectomy, oophorectomy, orchiectomy,
35 and penectomy.

1 (4) Performing surgeries that artificially construct
2 tissue with the appearance of genitalia that differs from the
3 individual's sex, including metoidioplasty, phalloplasty, and
4 vaginoplasty.

5 (5) Removing any healthy or nondiseased body part or tissue.

6 b. A health care professional shall not knowingly engage in
7 conduct that aids or abets the practices described in paragraph
8 "a". This paragraph shall not be construed to impose liability
9 on any speech protected by federal or state law.

10 c. Paragraphs "a" and "b" do not apply to any of the
11 following:

12 (1) Services provided to a minor born with a medically
13 verifiable disorder of sex development, including a minor
14 with external biological sex characteristics that are
15 irresolvably ambiguous, such as a minor born with forty-six
16 XX chromosomes with virilization, forty-six XY chromosomes
17 with undervirilization, or having both ovarian and testicular
18 tissue.

19 (2) Services provided to a minor who has otherwise
20 been diagnosed with a disorder of sexual development by a
21 physician, when the physician has determined through genetic
22 or biochemical testing that the minor does not have a normal
23 sex chromosome structure, sex steroid hormone production, or
24 sex steroid hormone action for a biological male or biological
25 female.

26 (3) The treatment of any infection, injury, disease, or
27 disorder that has been caused or exacerbated by the performance
28 of gender transition procedures, whether or not the procedures
29 were performed in accordance with state and federal law.

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

35 d. A violation of the prohibitions under paragraph "a" or

1 "b" by a health care professional is considered unprofessional
2 conduct and subject to licensee discipline by the appropriate
3 licensing board or entity.

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

9 b. An action brought for a violation of this section shall
10 be brought within two years after the cause of action accrues.
11 However, a minor may bring an action during the minor's
12 minority through a parent or legal guardian, and may bring an
13 action in the minor's own name upon reaching majority and for
14 twenty years after reaching majority.

15 c. Notwithstanding any other law to the contrary, an
16 action under this section may be commenced, and relief may be
17 granted, in a judicial proceeding without regard to whether the
18 person commencing the action has sought or exhausted available
19 administrative remedies. In an action or proceeding to
20 enforce this section, a prevailing party may recover reasonable
21 attorney fees.

22 d. The attorney general may bring an action to enforce this
23 section.

24 e. Nothing in this section shall be construed to deny,
25 impair, or otherwise affect any right or authority of the
26 attorney general, the state, or any agency, officer, or
27 employee of the state to institute or intervene in any
28 proceeding.

29 f. Compliance with, or enforcement or implementation of,
30 this section shall not constitute a violation of any provision
31 of chapter 216.

32 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
33 importance, takes effect upon enactment.

34 Sec. 3. APPLICABILITY. The following applies one hundred
35 eighty days after the effective date of this Act:

1 The provisions of the section of this Act enacting section
2 147.164, subsection 2, that prohibit a health care professional
3 from knowingly engaging in or causing certain practices to
4 be performed on a minor if the practice is performed for the
5 purpose of attempting to alter the appearance of, or affirm
6 the minor's perception of, the minor's gender or sex, if that
7 appearance or perception is inconsistent with the minor's sex.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to prohibitions regarding gender
12 transition procedure-related activities relating to minors.

13 The bill provides definitions used in the bill including
14 "gender", "health care professional", "minor", and "sex".

15 The bill prohibits, with some exceptions, a health care
16 professional from knowingly engaging in or causing specified
17 practices to be performed on a minor if the practice is
18 performed for the purpose of attempting to alter the appearance
19 of, or affirm the minor's perception of, the minor's gender or
20 sex, if that appearance or perception is inconsistent with the
21 minor's sex. These prohibited practices include prescribing
22 or administering gonadotropin-releasing hormone analogues or
23 other synthetic drugs used to stop luteinizing hormone and
24 follicle-stimulating hormone secretion, synthetic antiandrogen
25 drugs used to block the androgen receptor, or any drug to
26 suppress or delay normal puberty; prescribing or administering
27 testosterone, estrogen, or progesterone to a minor in an amount
28 greater than would normally be produced endogenously in a
29 healthy individual of that individual's age and sex; performing
30 surgeries that sterilize, including castration, vasectomy,
31 hysterectomy, oophorectomy, orchiectomy, and penectomy;
32 performing surgeries that artificially construct tissue with
33 the appearance of genitalia that differs from the individual's
34 sex, including metoidioplasty, phalloplasty, and vaginoplasty;
35 and removing any healthy or nondiseased body part or tissue.

1 The bill also prohibits a health care professional from
2 knowingly engaging in conduct that aids or abets the specified
3 prohibited practices. However, this prohibition is not to
4 be construed to impose liability on any speech protected by
5 federal or state law.

6 The bill specifies services to which the prohibitions
7 of the bill do not apply including: services provided to
8 a minor born with a medically verifiable disorder of sex
9 development, including a minor with external biological sex
10 characteristics that are irresolvably ambiguous, such as a
11 minor born with 46 XX chromosomes with virilization, 46 XY
12 chromosomes with undervirilization, or having both ovarian
13 and testicular tissue; services provided to a minor who has
14 otherwise been diagnosed with a disorder of sexual development
15 by a physician, when the physician has determined through
16 genetic or biochemical testing that the minor does not have
17 a normal sex chromosome structure, sex steroid hormone
18 production, or sex steroid hormone action for a biological male
19 or biological female; the treatment of any infection, injury,
20 disease, or disorder that has been caused or exacerbated by
21 the performance of gender transition procedures, whether or
22 not the procedures were performed in accordance with state and
23 federal law; any procedure undertaken because a minor suffers
24 from a physical disorder, physical injury, or physical illness
25 that is certified by a physician and that would place the minor
26 in imminent danger of death or impairment of a major bodily
27 function unless surgery is performed.

28 A violation of the prohibitions under the bill by a health
29 care professional is considered unprofessional conduct and
30 subject to licensee discipline by the appropriate licensing
31 board or entity.

32 The bill provides that a person may assert an actual
33 or threatened violation of the bill as a claim or defense
34 in a judicial or administrative proceeding and may obtain
35 compensatory damages, injunctive relief, declaratory relief, or

1 any other appropriate relief. An action for a violation of the
2 bill must be brought within two years after the cause of action
3 accrues. However, a minor may bring an action during the
4 minor's minority through a parent or legal guardian, and may
5 bring an action in the minor's own name upon reaching majority
6 and for 20 years after reaching majority.

7 An action may be commenced, and relief may be granted, in
8 a judicial proceeding without regard to whether the person
9 has sought or exhausted available administrative remedies. A
10 prevailing party may recover reasonable attorney fees in an
11 action brought under the bill.

12 The attorney general may bring an action to enforce the bill.
13 The bill is not to be construed to deny, impair, or otherwise
14 affect any right or authority of the attorney general, the
15 state, or any agency, officer, or employee of the state to
16 institute or intervene in any proceeding.

17 Compliance with, or enforcement or implementation of, the
18 bill shall not constitute a violation of Code chapter 216
19 (civil rights commission).

20 The bill takes effect upon enactment.

21 The provisions of the bill prohibiting certain practices
22 by a health care professional performed on a minor if the
23 practice is performed for the purpose of attempting to alter
24 the appearance of, or affirm the minor's perception of, the
25 minor's gender or sex, if that appearance or perception is
26 inconsistent with the minor's sex, are applicable 180 days
27 after the effective date of the bill.