

Senate File 129 - Introduced

SENATE FILE 129

BY SALMON

A BILL FOR

1 An Act relating to actions relative to treatment or
2 intervention regarding the discordance between a minor's sex
3 and gender identity, and providing civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS. The general assembly finds all of the
2 following:

3 1. "Sex" is the biological state of being female or male,
4 based on sex organs, chromosomes, and endogenous hormone
5 profiles. An individual's sex is genetically encoded into
6 an individual at the moment of conception, and it cannot be
7 changed.

8 2. Some individuals, including minors, may experience
9 discordance between their sex and their internal sense
10 of gender identity. Individuals who experience severe
11 psychological distress as a result of this discordance may be
12 diagnosed with gender dysphoria.

13 3. The cause of the individual's impression of discordance
14 between sex and gender identity is unknown. Diagnosis is based
15 exclusively on the individual's self-report of feelings and
16 beliefs.

17 4. This internal sense of discordance is not permanent or
18 fixed. To the contrary, numerous studies have shown that a
19 substantial majority of children who experience discordance
20 between their sex and gender identity will outgrow the
21 discordance once they go through puberty and will eventually
22 have a gender identity that aligns with their sex.

23 5. As a result, taking a wait-and-see approach to children
24 who reveal signs of gender nonconformity results in a large
25 majority of such children resolving to a gender identity
26 congruent with their sex by late adolescence.

27 6. Some in the medical community are aggressively pushing
28 for interventions on children that medically alter a child's
29 hormonal balance and remove healthy external and internal sex
30 organs when the child expresses a desire to appear as a sex
31 different from the child's own.

32 7. This course of treatment for children commonly begins
33 with encouraging and assisting a child to socially transition
34 to dressing and presenting as the opposite sex. In the case
35 of prepubertal children, as puberty begins, doctors then

1 administer long-acting gonadotropin-releasing hormone (GnRH)
2 agonists or puberty blockers that suppress the pubertal
3 development of the child. This use of puberty blockers for
4 gender nonconforming children is experimental and not approved
5 by the United States food and drug administration.

6 8. After puberty is blocked, the child is administered
7 cross-sex hormonal treatments that induce the development
8 of secondary sex characteristics of the other sex, such as
9 causing the development of breasts and wider hips in male
10 children taking estrogen and greater muscle mass, bone density,
11 body hair, and a deeper voice in female children taking
12 testosterone. Some children are administered these hormones
13 independent of any prior pubertal blockade.

14 9. The final phase of treatment is for the child to undergo
15 cosmetic and other surgical procedures, often to create an
16 appearance similar to that of the opposite sex. These surgical
17 procedures may include a mastectomy to remove a female child's
18 breasts and bottom surgery that removes a child's healthy
19 reproductive organs and creates an artificial form aiming to
20 approximate the appearance of the genitals of the opposite sex.

21 10. For children who are placed on puberty blockers that
22 inhibit their bodies from experiencing the natural process of
23 sexual development, the overwhelming majority will continue
24 down a path toward cross-sex hormones and cosmetic surgery.

25 11. This unproven, poorly studied series of interventions
26 results in numerous harmful effects for children, as well as
27 risks of effects simply unknown due to the new and experimental
28 nature of these interventions.

29 12. Among the known harms from puberty blockers are
30 diminished bone density. The full effect of puberty blockers
31 on brain development and cognition are yet unknown, though
32 reason for concern is now present. There is no research on the
33 long-term risks to children of persistent exposure to puberty
34 blockers. With the administration of cross-sex hormones comes
35 increased risks of cardiovascular disease, thromboembolic

1 stroke, asthma, chronic obstructive pulmonary disease, and
2 cancer.

3 13. Puberty blockers prevent gonadal maturation and thus
4 render children taking these drugs infertile. Introducing
5 cross-sex hormones to children with immature gonads as a
6 direct result of pubertal blockade is expected to cause
7 irreversible sterility. Sterilization is also permanent for
8 those who undergo surgery to remove reproductive organs,
9 and such children are likely to suffer through a lifetime
10 of complications from the surgery, infections, and other
11 difficulties requiring yet more medical intervention.

12 14. Several studies demonstrate that hormonal and surgical
13 interventions often do not resolve the underlying psychological
14 issues affecting the individual. For example, individuals
15 who undergo cross-sex cosmetic surgical procedures have been
16 found to suffer from elevated mortality rates from medical
17 and psychological conditions. Their suicide rate is nineteen
18 times higher than the general population. They experience
19 significantly higher rates of substance abuse, depression, and
20 psychiatric hospitalizations.

21 15. Children, and often their parents, are unable to
22 comprehend and fully appreciate the risk and life implications,
23 including permanent sterility, that result from the use of
24 puberty blockers, cross-sex hormones, and surgical procedures.

25 16. For these reasons, the decision to pursue a course of
26 hormonal and surgical interventions to address a discordance
27 between an individual's sex and sense of gender identity
28 should not be presented to or determined for children who
29 are incapable of comprehending the negative implications and
30 life-course difficulties resulting from these interventions.

31 **Sec. 2. NEW SECTION. 147.164 Definitions.**

32 As used in this chapter, unless the context otherwise
33 requires:

34 1. "*Gender dysphoria*" means discomfort or distress over a
35 marked incongruence between an individual's sex and the gender

1 with which the individual identifies.

2 2. "*Gender nonconformity*" means behavior or gender
3 expression by an individual that does not match gender norms
4 for the individual's sex.

5 3. "*Government agency*" means a state agency or an agent,
6 employee, volunteer, or contractor of a state agency.

7 4. "*Medical professional*" means a physician or surgeon
8 or osteopathic physician and surgeon licensed pursuant to
9 chapter 148, a physician assistant licensed pursuant to
10 chapter 148C, a nurse or advanced registered nurse practitioner
11 licensed pursuant to chapter 152, a nurse or advanced practice
12 registered nurse licensed pursuant to chapter 152E, or a
13 psychiatrist licensed pursuant to chapter 148.

14 5. "*Mental health professional*" means the same as defined
15 in section 228.1.

16 6. "*Minor*" or "*minor child*" means an unemancipated
17 individual under eighteen years of age.

18 7. "*Parent*" means a parent, custodian, or guardian as
19 defined in section 232.2.

20 8. "*Political subdivision*" means a city, county, township,
21 school district, municipal corporation, special purpose
22 district, board, department, commission, or any other division
23 of local government, or an agent, employee, volunteer, or
24 contractor of such entity.

25 9. "*Sex*" means the biological state of being female or
26 male, based on sex organs, chromosomes, and endogenous hormone
27 profiles.

28 10. "*State agency*" means the same as defined in section
29 8.11.

30 Sec. 3. NEW SECTION. 147.165 **Prohibited practices.**

31 1. Notwithstanding any other provision of law to the
32 contrary, it shall be unlawful for a medical professional to
33 engage in any of the following practices upon a minor, or to
34 cause such practice to be performed to facilitate a minor's
35 desire to present or appear in a manner that is inconsistent

1 with the minor's sex:

2 *a.* Performing a surgery that sterilizes, including
3 castration, vasectomy, hysterectomy, oophorectomy,
4 metoidioplasty, orchiectomy, penectomy, phalloplasty, and
5 vaginoplasty.

6 *b.* Performing a mastectomy.

7 *c.* Administering or supplying the following medications that
8 induce transient or permanent infertility:

9 (1) Puberty-blocking medication to stop or delay normal
10 puberty.

11 (2) Supraphysiologic doses of testosterone or other
12 androgens to members of the female sex.

13 (3) Supraphysiologic doses of estrogen or synthetic
14 compounds with estrogenic activity to members of the male sex.

15 *d.* Removing any otherwise healthy or nondiseased body part
16 or tissue.

17 2. A medical professional who engages in any of the
18 practices prohibited under this section or who causes such
19 practices to be performed shall be subject to revocation of
20 licensure and other appropriate discipline by the medical
21 professional's licensing board. A medical professional who
22 violates this section shall also be subject to a civil penalty
23 of up to one thousand dollars per occurrence of a violation.

24 3. This section shall not apply to the good faith medical
25 decision of a parent of a minor born with a medically
26 verifiable genetic disorder of sexual development, including
27 any of the following:

28 *a.* A minor with external biological sex characteristics that
29 are irresolvably ambiguous, such as a minor born with forty-six
30 XX chromosomes with virilization, forty-six XY chromosomes with
31 undervirilization, or with both ovarian and testicular tissue.

32 *b.* When a medical professional has otherwise diagnosed
33 a disorder of sexual development in which the medical
34 professional has determined through genetic testing that the
35 minor does not have the normal sex chromosome structure for a

1 male or female.

2 Sec. 4. NEW SECTION. 147.166 **Counseling.**

3 A government agency, political subdivision, or any
4 organization with authority to license or discipline the
5 members of a profession shall not prohibit, impose any
6 penalty, or take any adverse action against any member of such
7 profession who gives or receives counsel, advice, guidance,
8 or any other communication however described, and whether or
9 not in exchange for a fee, in accordance with this chapter and
10 consistent with the professional's conscience or religious
11 belief.

12 Sec. 5. NEW SECTION. 147.167 **Protection of parental rights.**

13 1. A parent, in exercising the fundamental right to care
14 for the parent's minor child, may withhold consent for any
15 treatment, activity, or mental health service that is designed
16 and intended to form the minor child's conception of sex and
17 gender or to treat gender dysphoria or gender nonconformity. A
18 government agency or political subdivision shall not infringe
19 upon or impede the exercise of this right.

20 2. Notwithstanding any provision to the contrary, a
21 government agency or political subdivision shall not encourage
22 or coerce a minor to withhold information from the minor's
23 parent, and shall not withhold information from a minor's
24 parent that is relevant to the physical or mental health of
25 the minor exhibiting symptoms of gender dysphoria, gender
26 nonconformity, or otherwise demonstrating a desire to be
27 treated in a manner incongruent with the minor's sex.

28 3. Notwithstanding any provision to the contrary, if a
29 government agency or political subdivision has knowledge that
30 a minor under the care or supervision of a government agency
31 or political subdivision has exhibited symptoms of gender
32 dysphoria, gender nonconformity, or has otherwise demonstrated
33 a desire to be treated in a manner incongruent with the minor's
34 sex, the government agency or political subdivision shall
35 immediately notify, in writing, any parent of the minor. The

1 notice shall describe all of the relevant circumstances with
2 reasonable specificity.

3 Sec. 6. NEW SECTION. 147.168 Whistleblower protection.

4 1. An individual shall not be discriminated against in any
5 manner because the individual does any of the following:

6 a. Provides or causes to be provided to the individual's
7 employer, the office of the attorney general, the civil rights
8 commission, or any applicable federal agency, information
9 relating to any violation of this chapter.

10 b. Testifies in a proceeding concerning a violation of this
11 chapter.

12 c. Assists or participates in a proceeding concerning
13 violation of this chapter.

14 2. Unless the disclosure is otherwise specifically
15 prohibited by law, an individual shall not be discriminated
16 against in any manner because the individual disclosed
17 information under this chapter that the individual believes
18 evinces any of the following:

19 a. A violation of any law, rule, or regulation.

20 b. A violation of any standard of care or other ethical
21 guidelines for the provision of any health care service.

22 c. Gross mismanagement, a gross waste of funds, an abuse
23 of authority, or a substantial and specific danger to public
24 health or safety.

25 Sec. 7. NEW SECTION. 147.169 Judicial relief.

26 1. A person harmed by a violation of section 147.165 may
27 bring an action for injunctive relief, compensatory and special
28 damages, and any other relief available under law against any
29 person responsible for the violation.

30 2. A person harmed by a violation of section 147.166,
31 147.167, or 147.168 may bring an action for injunctive relief,
32 compensatory and special damages, and any other relief
33 available under law against a government agency, political
34 subdivision, or any other person who is responsible for the
35 violation.

1 3. *a.* Unless paragraph "b" applies, an action under this
2 chapter is barred unless the action is commenced within two
3 years after the cause of action accrues.

4 *b.* Notwithstanding any provision to the contrary, including
5 sections 614.8 and 614.8A, a minor injured by practices
6 prohibited under section 147.165 may bring an action during the
7 minor's minority through a parent or guardian, and may bring an
8 action in the minor's own name upon reaching majority and for
9 twenty years after reaching majority.

10 4. A person shall have standing to assert a claim or defense
11 under this section if the person is adversely affected by an
12 alleged violation or the alleged failure to perform a duty or
13 act under this chapter.

14 5. A person who prevails on a claim brought pursuant to
15 this section shall be entitled to monetary damages, including
16 for all psychological, emotional, and physical harm suffered,
17 reasonable attorney fees and costs, and any other appropriate
18 relief.

19 **Sec. 8. NEW SECTION. 147.170 Preemption — immunity.**

20 1. A political subdivision is preempted from enacting,
21 adopting, maintaining, or enforcing any order, ordinance, rule,
22 regulation, policy, or other similar measure that prohibits,
23 restricts, limits, controls, directs, or otherwise interferes
24 with the professional conduct and judgment of a mental health
25 professional, including speech, undertaken under this chapter
26 within the course of treatment and communication with clients,
27 patients, other persons, or the public, including but not
28 limited to therapies, counseling, referrals, and education.

29 2. The attorney general or a mental health professional
30 adversely affected may bring an action for injunctive relief
31 to prevent or restrain a violation of this section. A mental
32 health professional may recover reasonable costs and attorney's
33 fees incurred in obtaining injunctive relief under this
34 section.

35 3. Sovereign and governmental immunity from a civil action

1 or from liability do not apply to violations of this chapter.
2 Sec. 9. CODE EDITOR DIRECTIVE. The Code editor may create
3 a new subchapter in chapter 147, codifying sections 147.164
4 through 147.170, as enacted in this Act, entitled "Gender and
5 Sexual Discordance — Minors".

6 EXPLANATION

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

9 This bill includes provisions relating to practices
10 undertaken to cause a minor to physically appear more like
11 a person of the opposite sex and less like the minor's own
12 sex, or to conform to a gender identity incongruent with the
13 minor's sex. The bill contains findings regarding the harms
14 and ineffectiveness of such practices and contains definitions
15 used in the bill.

16 The bill makes it unlawful for a medical professional to
17 perform interventions or surgical procedures specified in
18 the bill on a minor, and subjects a medical professional to
19 disciplinary action and civil penalties for providing the
20 prohibited treatments to or performing surgical procedures on
21 a minor, unless the treatment occurs based on the good faith
22 medical decision of a parent of a minor born with a medically
23 verifiable genetic disorder of sexual development.

24 The bill protects the freedom of members of a profession to
25 provide counseling, in accordance with the bill and consistent
26 with the individual's conscience or religious belief.

27 The bill includes protections for parents to decline
28 treatment, activity, or mental health care services intended
29 to form their minor child's conception of sex and gender or
30 to treat gender dysphoria or gender nonconformity. The bill
31 also requires government agencies and political subdivisions
32 to inform parents of any information relevant to the physical
33 or mental health of a minor exhibiting symptoms of gender
34 dysphoria, gender nonconformity, or otherwise demonstrating a
35 desire to be treated in a manner incongruent with the minor's

1 sex.

2 The bill includes protections for individuals who provide
3 information relating to violations of the bill.

4 The bill provides a private right of action against any
5 person who violates the bill, and creates a statute of
6 limitations for minors to bring certain claims within 20 years
7 of reaching majority.

8 The bill preempts political subdivisions from having
9 measures in place that interfere with the professional conduct
10 and judgment of a mental health professional undertaken
11 under the bill within a course of treatment or communication;
12 provides for injunctive relief for a violation of this
13 provision; and provides that sovereign and governmental
14 immunity from a civil action or from liability do not apply to
15 violations of the bill.