

SENATE BILL NO. 861

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

5129S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 191.1720, RSMo, and to enact in lieu thereof two new sections relating to gender transition.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 191.1720, RSMo, is repealed and two
2 new sections enacted in lieu thereof, to be known as sections
3 1.208 and 191.1720, to read as follows:

1.208. As used in the laws and regulations of this
2 state, unless clearly and specifically stated otherwise, the
3 term "reproductive health care" shall not be construed to
4 include gender transition surgeries or the use of cross-sex
5 hormones or puberty-blocking drugs for the purpose of gender
6 transition, as such terms are defined in section 191.1720,
7 for minor children or adults.

191.1720. 1. This section shall be known and may be
2 cited as the "Missouri Save Adolescents from Experimentation
3 (SAFE) Act".

4 2. For purposes of this section, the following terms
5 mean:

6 (1) "Biological sex", the biological indication of
7 male or female in the context of reproductive potential or
8 capacity, such as sex chromosomes, naturally occurring sex
9 hormones, gonads, and nonambiguous internal and external
10 genitalia present at birth, without regard to an

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 individual's psychological, chosen, or subjective experience
12 of gender;

13 (2) "Cross-sex hormones", testosterone, estrogen, or
14 other androgens given to an individual in amounts that are
15 greater or more potent than would normally occur naturally
16 in a healthy individual of the same age and sex;

17 (3) "Gender", the psychological, behavioral, social,
18 and cultural aspects of being male or female;

19 (4) "Gender transition", the process in which an
20 individual transitions from identifying with and living as a
21 gender that corresponds to his or her biological sex to
22 identifying with and living as a gender different from his
23 or her biological sex, and may involve social, legal, or
24 physical changes;

25 (5) "Gender transition surgery", a surgical procedure
26 performed for the purpose of assisting an individual with a
27 gender transition, including, but not limited to:

28 (a) Surgical procedures that sterilize, including, but
29 not limited to, castration, vasectomy, hysterectomy,
30 oophorectomy, orchiectomy, or penectomy;

31 (b) Surgical procedures that artificially construct
32 tissue with the appearance of genitalia that differs from
33 the individual's biological sex, including, but not limited
34 to, metoidioplasty, phalloplasty, or vaginoplasty; or

35 (c) Augmentation mammoplasty or subcutaneous
36 mastectomy;

37 (6) "Health care provider", an individual who is
38 licensed, certified, or otherwise authorized by the laws of
39 this state to administer health care in the ordinary course
40 of the practice of his or her profession;

41 (7) "Puberty-blocking drugs", gonadotropin-releasing
42 hormone analogues or other synthetic drugs used to stop

luteinizing hormone secretion and follicle stimulating hormone secretion, synthetic antiandrogen drugs to block the androgen receptor, or any other drug used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition.

3. A health care provider shall not knowingly perform a gender transition surgery on any individual under eighteen years of age.

4. (1) A health care provider shall not knowingly prescribe or administer cross-sex hormones or puberty-blocking drugs for the purpose of a gender transition for any individual under eighteen years of age.

(2) The provisions of this subsection shall not apply to the prescription or administration of cross-sex hormones or puberty-blocking drugs for any individual under eighteen years of age who was prescribed or administered such hormones or drugs prior to August 28, 2023, for the purpose of assisting the individual with a gender transition.

[(3) The provisions of this subsection shall expire on August 28, 2027.]

5. The performance of a gender transition surgery or the prescription or administration of cross-sex hormones or puberty-blocking drugs to an individual under eighteen years of age in violation of this section shall be considered unprofessional conduct and any health care provider doing so shall have his or her license to practice revoked by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

6. (1) The prescription or administration of cross-sex hormones or puberty-blocking drugs to an individual under eighteen years of age for the purpose of a gender transition shall be considered grounds for a cause of action

75 against the health care provider. The provisions of chapter
76 538 shall not apply to any action brought under this
77 subsection.

78 (2) An action brought pursuant to this subsection
79 shall be brought within fifteen years of the individual
80 injured attaining the age of twenty-one or of the date the
81 treatment of the injury at issue in the action by the
82 defendant has ceased, whichever is later.

83 (3) An individual bringing an action under this
84 subsection shall be entitled to a rebuttable presumption
85 that the individual was harmed if the individual is
86 infertile following the prescription or administration of
87 cross-sex hormones or puberty-blocking drugs and that the
88 harm was a direct result of the hormones or drugs prescribed
89 or administered by the health care provider. Such
90 presumption may be rebutted only by clear and convincing
91 evidence.

92 (4) In any action brought pursuant to this subsection,
93 a plaintiff may recover economic and noneconomic damages and
94 punitive damages, without limitation to the amount and no
95 less than five hundred thousand dollars in the aggregate.
96 The judgment against a defendant in an action brought
97 pursuant to this subsection shall be in an amount of three
98 times the amount of any economic and noneconomic damages or
99 punitive damages assessed. Any award of damages in an
100 action brought pursuant to this subsection to a prevailing
101 plaintiff shall include attorney's fees and court costs.

102 (5) An action brought pursuant to this subsection may
103 be brought in any circuit court of this state.

104 (6) No health care provider shall require a waiver of
105 the right to bring an action pursuant to this subsection as
106 a condition of services. The right to bring an action by or

107 through an individual under the age of eighteen shall not be
108 waived by a parent or legal guardian.

109 (7) A plaintiff to an action brought under this
110 subsection may enter into a voluntary agreement of
111 settlement or compromise of the action, but no agreement
112 shall be valid until approved by the court. No agreement
113 allowed by the court shall include a provision regarding the
114 nondisclosure or confidentiality of the terms of such
115 agreement unless such provision was specifically requested
116 and agreed to by the plaintiff.

117 (8) If requested by the plaintiff, any pleadings,
118 attachments, or exhibits filed with the court in any action
119 brought pursuant to this subsection, as well as any
120 judgments issued by the court in such actions, shall not
121 include the personal identifying information of the
122 plaintiff. Such information shall be provided in a
123 confidential information filing sheet contemporaneously
124 filed with the court or entered by the court, which shall
125 not be subject to public inspection or availability.

126 7. The provisions of this section shall not apply to
127 any speech protected by the First Amendment of the United
128 States Constitution.

129 8. The provisions of this section shall not apply to
130 the following:

131 (1) Services to individuals born with a medically-
132 verifiable disorder of sex development, including, but not
133 limited to, an individual with external biological sex
134 characteristics that are irresolvably ambiguous, such as
135 those born with 46,XX chromosomes with virilization, 46,XY
136 chromosomes with undervirilization, or having both ovarian
137 and testicular tissue;

138 (2) Services provided when a physician has otherwise
139 diagnosed an individual with a disorder of sex development
140 and determined through genetic or biochemical testing that
141 the individual does not have normal sex chromosome
142 structure, sex steroid hormone production, or sex steroid
143 hormone action;

144 (3) The treatment of any infection, injury, disease,
145 or disorder that has been caused by or exacerbated by the
146 performance of gender transition surgery or the prescription
147 or administration of cross-sex hormones or puberty-blocking
148 drugs regardless of whether the surgery was performed or the
149 hormones or drugs were prescribed or administered in
150 accordance with state and federal law; or

151 (4) Any procedure undertaken because the individual
152 suffers from a physical disorder, physical injury, or
153 physical illness that would, as certified by a physician,
154 place the individual in imminent danger of death or
155 impairment of a major bodily function unless surgery is
156 performed.

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