

1 State of Arkansas As Engrossed: H3/2/21 H3/8/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1570

4

5 By: Representatives Lundstrum, Barker, Bentley, Brown, Bryant, Cavanaugh, Cloud, Coleman, C.

6 Cooper, Cozart, Crawford, Dalby, Dotson, C. Fite, Furman, Gazaway, Gonzales, M. Gray, Haak,

7 Hollowell, Ladyman, Lowery, Lynch, J. Mayberry, McGrew, McNair, S. Meeks, Miller, Payton, Penzo,

8 Pilkington, Ray, Richmond, Slape, B. Smith, Speaks, Tollett, Tosh, Underwood, Vaught, Warren,

9 Watson, Wing, *Bragg, Hillman, Wooten*

10 By: Senators A. Clark, B. Ballinger, Beckham, Bledsoe, B. Davis, J. English, Gilmore, K. Hammer, Hill,

11 Irvin, B. Johnson, M. Johnson, Rapert, Rice, G. Stubblefield, D. Wallace, *D. Sullivan, Hester, T. Garner*

12

For An Act To Be Entitled

14 AN ACT TO CREATE THE ARKANSAS SAVE ADOLESCENTS FROM

15 EXPERIMENTATION (SAFE) ACT; AND FOR OTHER PURPOSES.

16

17

18

Subtitle

19

TO CREATE THE ARKANSAS SAVE ADOLESCENTS

20

FROM EXPERIMENTATION (SAFE) ACT.

21

22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24

25 SECTION 1. Title.

26 This act shall be known and may be cited as the "Arkansas Save

27 Adolescents from Experimentation (SAFE) Act".

28

29 SECTION 2. Legislative findings.

30 The General Assembly finds that:

31 (1) Arkansas has a compelling government interest in protecting

32 the health and safety of its citizens, especially vulnerable children;

33 (2)(A) Only a small percentage of the American population

34 experiences distress at identifying with their biological sex.

35

(B) According to the American Psychiatric Association,

36 "For natal adult males, prevalence ranges from 0.005% to 0.014%, and for



1 natal females, from 0.002% to 0.003%.”;

2 (3) For the small percentage of children who are gender
3 nonconforming or experience distress at identifying with their biological
4 sex, studies consistently demonstrate that the majority come to identify with
5 their biological sex in adolescence or adulthood, thereby rendering most
6 physiological interventions unnecessary;

7 (4) Furthermore, scientific studies show that individuals
8 struggling with distress at identifying with their biological sex often have
9 already experienced psychopathology, which indicates these individuals should
10 be encouraged to seek mental health services to address comorbidities and
11 underlying causes of their distress before undertaking any hormonal or
12 surgical intervention;

13 (5) Even among people who have undergone inpatient gender
14 reassignment procedures, suicide rates, psychiatric morbidities, and
15 mortality rates remain markedly elevated above the background population;

16 (6)(A) Some healthcare providers are prescribing puberty-
17 blocking drugs, such as gonadotropin-releasing hormone analogues, in order to
18 delay the onset or progression of puberty in children who experience distress
19 at identifying with their biological sex.

20 (B) The prescribing of puberty-blocking drugs is being
21 done despite the lack of any long-term longitudinal studies evaluating the
22 risks and benefits of using these drugs for the treatment of such distress or
23 gender transition;

24 (7) Healthcare providers are also prescribing cross-sex hormones
25 for children who experience distress at identifying with their biological
26 sex, despite the fact that no randomized clinical trials have been conducted
27 on the efficacy or safety of the use of cross-sex hormones in adults or
28 children for the purpose of treating such distress or gender transition;

29 (8) The use of cross-sex hormones comes with serious known
30 risks, such as:

31 (A) For biological females:

32 (i) Erythrocytosis, which is an increase in red
33 blood cells;

34 (ii) Severe liver dysfunction;

35 (iii) Coronary artery disease, including heart
36 attacks;

- 1 (iv) Cerebrovascular disease, including strokes;
2 (v) Hypertension;
3 (vi) Increased risk of breast and uterine cancers;
4 and
5 (vii) Irreversible infertility; and
6 (B) For biological males:
7 (i) Thromboembolic disease, including blood clots;
8 (ii) Cholelithiasis, including gallstones;
9 (iii) Coronary artery disease, including heart
10 attacks;
11 (iv) Macroprolactinoma, which is a tumor of the
12 pituitary gland;
13 (v) Cerebrovascular disease, including strokes;
14 (vi) Hypertriglyceridemia, which is an elevated
15 level of tryglycerides in the blood;
16 (vii) Breast cancer; and
17 (viii) Irreversible infertility;
18 (9) Genital and nongenital gender reassignment surgeries are
19 generally not recommended for children, although evidence indicates referrals
20 for children to have such surgeries are becoming more frequent;
21 (10)(A) Genital gender reassignment surgery includes several
22 irreversible invasive procedures for males and females and involves the
23 alteration of biologically healthy and functional body parts.
24 (B) For biological males, surgery may involve:
25 (i) Genital reconstruction including penectomy,
26 which is the removal of the penis;
27 (ii) Orchiectomy, which is the removal of the
28 testicles;
29 (iii) Vaginoplasty, which is the construction of a
30 vagina-like structure, typically through a penile inversion procedure;
31 (iv) Clitoroplasty, which is the construction of a
32 clitoris-like structure; and
33 (v) Vulvoplasty, which is the construction of a
34 vulva-like structure.
35 (C) For biological females, surgery may involve:
36 (i) A hysterectomy or oophorectomy;

1 (ii) Reconstruction of the urethra;
2 (iii) Genital reconstruction including
3 metoidioplasty or phalloplasty, which is the construction of a penis-like
4 structure;

5 (iv) Vaginectomy, which is the removal of the
6 vagina;

7 (v) Scrotoplasty, which is the construction of a
8 penis-like and scrotum-like structure; and

9 (vi) Implantation of erection or testicular
10 prostheses;

11 (11) The complications, risks, and long-term care concerns
12 associated with genital gender reassignment surgery for both males and
13 females are numerous and complex;

14 (12)(A) Nongenital gender reassignment surgery includes various
15 invasive procedures for males and females and also involves the alteration or
16 removal of biologically normal and functional body parts.

17 (B) For biological males, this surgery may involve:

18 (i) Augmentation mammoplasty;

19 (ii) Facial feminization surgery;

20 (iii) Liposuction;

21 (iv) Lipofilling;

22 (v) Voice surgery;

23 (vi) Thyroid cartilage reduction;

24 (vii) Gluteal augmentation;

25 (viii) Hair reconstruction; and

26 (ix) Other aesthetic procedures.

27 (C) For biological females, this surgery may involve:

28 (i) A subcutaneous mastectomy;

29 (ii) Voice surgery;

30 (iii) Liposuction;

31 (iv) Lipofilling;

32 (v) Pectoral implants; and

33 (vi) Other aesthetic procedures;

34 (13)(A) It is an accepted principle of economics and public
35 policy that when a service or product is subsidized or reimbursed, demand for
36 that service or product is increased.

1 (B) Between 2015 and 2016, gender reassignment surgeries
2 increased by nearly twenty percent (20%) in the United States;

3 (14) It is of grave concern to the General Assembly that the
4 medical community is allowing individuals who experience distress at
5 identifying with their biological sex to be subjects of irreversible and
6 drastic nongenital gender reassignment surgery and irreversible, permanently
7 sterilizing genital gender reassignment surgery, despite the lack of studies
8 showing that the benefits of such extreme interventions outweigh the risks;
9 and

10 (15) The risks of gender transition procedures far outweigh any
11 benefit at this stage of clinical study on these procedures.

12
13 SECTION 3. Arkansas Code Title 20, Chapter 9, is amended to add an
14 additional subchapter to read as follows:

15
16 Subchapter 15 – Arkansas Save Adolescents from Experimentation (SAFE) Act

17
18 20-9-1501. Definitions.

19 As used in this subchapter:

20 (1) "Biological sex" means the biological indication of male and
21 female in the context of reproductive potential or capacity, such as sex
22 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous
23 internal and external genitalia present at birth, without regard to an
24 individual's psychological, chosen, or subjective experience of gender;

25 (2) "Cross-sex hormones" means:

26 (A) Testosterone or other androgens given to biological
27 females in amounts that are larger or more potent than would normally occur
28 naturally in healthy biological sex females; and

29 (B) Estrogen given to biological males in amounts that are
30 larger or more potent than would normally occur naturally in healthy
31 biological sex males;

32 (3) "Gender" means the psychological, behavioral, social, and
33 cultural aspects of being male or female;

34 (4) "Gender reassignment surgery" means any medical or surgical
35 service that seeks to surgically alter or remove healthy physical or
36 anatomical characteristics or features that are typical for the individual's

1 biological sex, in order to instill or create physiological or anatomical
2 characteristics that resemble a sex different from the individual's
3 biological sex, including without limitation, genital or nongenital gender
4 reassignment surgery performed for the purpose of assisting an individual
5 with a gender transition;

6 (5) "Gender transition" means the process in which a person goes
7 from identifying with and living as a gender that corresponds to his or her
8 biological sex to identifying with and living as a gender different from his
9 or her biological sex, and may involve social, legal, or physical changes;

10 (6)(A) "Gender transition procedures" means any medical or
11 surgical service, including without limitation physician's services,
12 inpatient and outpatient hospital services, or prescribed drugs related to
13 gender transition that seeks to:

14 (i) Alter or remove physical or anatomical
15 characteristics or features that are typical for the individual's biological
16 sex; or

17 (ii) Instill or create physiological or anatomical
18 characteristics that resemble a sex different from the individual's
19 biological sex, including without limitation medical services that provide
20 puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote
21 the development of feminizing or masculinizing features in the opposite
22 biological sex, or genital or nongenital gender reassignment surgery
23 performed for the purpose of assisting an individual with a gender
24 transition.

25 (B) "Gender transition procedures" do not include:

26 (i) Services to persons born with a medically
27 verifiable disorder of sex development, including a person with external
28 biological sex characteristics that are irresolvably ambiguous, such as those
29 born with 46 XX chromosomes with virilization, 46 XY chromosomes with
30 undervirilization, or having both ovarian and testicular tissue;

31 (ii) Services provided when a physician has
32 otherwise diagnosed a disorder of sexual development that the physician has
33 determined through genetic or biochemical testing that the person does not
34 have normal sex chromosome structure, sex steroid hormone production, or sex
35 steroid hormone action;

36 (iii) The treatment of any infection, injury,

1 disease, or disorder that has been caused by or exacerbated by the
2 performance of gender transition procedures, whether or not the gender
3 transition procedure was performed in accordance with state and federal law
4 or whether not funding for the gender transition procedure is permissible
5 under this subchapter; or

6 (iv) Any procedure undertaken because the individual
7 suffers from a physical disorder, physical injury, or physical illness that
8 would, as certified by a physician, place the individual in imminent danger
9 of death or impairment of major bodily function unless surgery is performed;

10 (7) "Genital gender reassignment surgery" means a medical
11 procedure performed for the purpose of assisting an individual with a gender
12 transition, including without limitation:

13 (A) Surgical procedures such as penectomy, orchiectomy,
14 vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or
15 hysterectomy or ovariectomy for biologically female patients;

16 (B) Reconstruction of the fixed part of the urethra with
17 or without a metoidioplasty; or

18 (C) Phalloplasty, vaginectomy, scrotoplasty, or
19 implantation of erection or testicular prostheses for biologically female
20 patients;

21 (8) "Healthcare professional" a person who is licensed,
22 certified, or otherwise authorized by the laws of this state to administer
23 health care in the ordinary course of the practice of his or her profession;

24 (9) "Nongenital gender reassignment surgery" means medical
25 procedures performed for the purpose of assisting an individual with a gender
26 transition including without limitation:

27 (A) Surgical procedures for biologically male patients,
28 such as augmentation mammoplasty, facial feminization surgery, liposuction,
29 lipofilling, voice surgery, thyroid cartilage reduction, gluteal
30 augmentation, hair reconstruction, or various aesthetic procedures; or

31 (B) Surgical procedures for biologically female patients,
32 such as subcutaneous mastectomy, voice surgery, liposuction, lipofilling,
33 pectoral implants, or various aesthetic procedures;

34 (10) "Physician" means a person who is licensed to practice
35 medicine in this state;

36 (11) "Puberty-blocking drugs" means gonadotropin-releasing

1 hormone analogues or other synthetic drugs used in biological males to stop
2 luteinizing hormone secretion and therefore testosterone secretion, or
3 synthetic drugs used in biological females which stop the production of
4 estrogens and progesterone, when used to delay or suppress pubertal
5 development in children for the purpose of assisting an individual with a
6 gender transition; and

7 (12) "Public funds" means state, county, or local government
8 moneys, in addition to any department, agency, or instrumentality authorized
9 or appropriated under state law or derived from any fund in which such moneys
10 are deposited.

11
12 20-9-1502. Prohibition of gender transition procedures for minors.

13 (a) A physician or other healthcare professional shall not provide
14 gender transition procedures to any individual under eighteen (18) years of
15 age.

16 (b) A physician, or other healthcare professional shall not refer any
17 individual under eighteen (18) years of age to any healthcare professional
18 for gender transition procedures.

19 (c) A physician or other healthcare professional is not prohibited
20 from providing any of the following procedures which are not gender
21 transition procedures to an individual under eighteen (18) years of age:

22 (1) Services to persons born with a medically verifiable
23 disorder of sex development, including a person with external biological sex
24 characteristics that are irresolvably ambiguous, such as those born with 46
25 XX chromosomes with virilization, 46 XY chromosomes with undervirilization,
26 or having both ovarian and testicular tissue;

27 (2) Services provided when a physician has otherwise diagnosed a
28 disorder of sexual development that the physician has determined through
29 genetic or biochemical testing that the person does not have normal sex
30 chromosome structure, sex steroid hormone production, or sex steroid hormone
31 action;

32 (3) The treatment of any infection, injury, disease, or disorder
33 that has been caused by or exacerbated by the performance of gender
34 transition procedures, whether or not the gender transition procedure was
35 performed in accordance with state and federal law or whether not funding for
36 the gender transition procedure is permissible under this subchapter; or

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

5
6 20-9-1503. Prohibition on use of public funds for gender transition
7 procedures.

8 (a) Public funds shall not be directly or indirectly used, granted,
9 paid, or distributed to any entity, organization, or individual that provides
10 gender transition procedures to an individual under eighteen (18) years of
11 age.

12 (b) Healthcare services furnished in the following situations shall
13 not include gender transition procedures to an individual under eighteen (18)
14 years of age:

15 (1) By or in a healthcare facility owned by the state or a
16 county or local government; or

17 (2) By a physician or other healthcare professional employed by
18 state or a county or local government.

19 (c) Any amount paid by an individual or an entity during a taxable
20 year for provision of gender transition procedures or as premiums for health
21 care coverage that includes coverage for gender transition procedures is not
22 tax-deductible.

23 (d) The Arkansas Medicaid Program shall not reimburse or provide
24 coverage for gender transition procedures to an individual under eighteen
25 (18) years of age.

26
27 20-9-1504. Enforcement.

28 (a) Any referral for or provision of gender transition procedures to
29 an individual under eighteen (18) year of age is unprofessional conduct and
30 is subject to discipline by the appropriate licensing entity or disciplinary
31 review board with competent jurisdiction in this state.

32 (b) A person may assert an actual or threatened violation of this
33 subchapter as a claim or defense in a judicial or administrative proceeding
34 and obtain compensatory damages, injunctive relief, declaratory relief, or
35 any other appropriate relief.

36 (c)(1) A person shall bring a claim for a violation of this subchapter

1 no later than two (2) years after the day the cause of action accrues.

2 (2) An individual under eighteen (18) years of age may bring an
3 action throughout their minority through a parent or next friend, and may
4 bring an action in their own name upon reaching majority at any time from
5 that point until twenty (20) years after reaching the age of majority.

6 (d) Notwithstanding any other provision of law, an action under this
7 subchapter may be commenced, and relief may be granted, in a judicial
8 proceeding without regard to whether the person commencing the action has
9 sought or exhausted available administrative remedies.

10 (e) In any action or proceeding to enforce a provision of this
11 subchapter, a prevailing party who establishes a violation of this subchapter
12 shall recover reasonable attorneys' fees.

13 (f)(1) The Attorney General may bring an action to enforce compliance
14 with this subchapter.

15 (2) This subchapter does not deny, impair, or otherwise affect
16 any right or authority of the Attorney General, the State of Arkansas, or any
17 agency, officer, or employee of the state, acting under any law other than
18 this subchapter, to institute or intervene in any proceeding.

19
20 SECTION 4. Arkansas Code Title 23, Chapter 79, Subchapter 1, is
21 amended to add an additional section to read as follows:

22 23-79-164. Insurance coverage of gender transition procedures for
23 minors prohibited.

24 (a) As used in this section, "gender transition procedures" means the
25 same as defined in § 20-9-1501.

26 (b) A health benefit plan under an insurance policy or other plan
27 providing healthcare coverage in this state shall not include reimbursement
28 for gender transition procedures for a person under eighteen (18) years of
29 age.

30 (c) A health benefit plan under an insurance policy or other plan
31 providing healthcare coverage in this state is not required to provide
32 coverage for gender transition procedures.

33
34 /s/Lundstrum

35 APPROVED: BECAME LAW ON 4/6/21 ON OVERRIDE OF GOVERNOR'S VETO.

36