

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3097**

By Delegates Foster, Phillips, Jeffries, Fast,  
Burkhammer, Keaton, Brooks, Martin, Crouse, Steele  
and Hillenbrand

[Introduced January 27, 2023; Referred  
to the Committee on Health and Human Resources  
then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §9-2-14, relating to prohibiting certain medical practices.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND  
RESPONSIBILITIES GENERALLY.**

**§9-2-14. Medicaid and CHIP payment prohibition for gender reassignment surgery.**

1 (a) For the purposes of this section:

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

6 (2) "Gender" means the psychological, behavioral, social and cultural aspects of being  
7 male or female.

8 (3) "Gender transition" means the process in which a person goes from identifying with and  
9 living as a gender that corresponds to the person's biological sex to identifying with and living as a  
10 gender different from the person biological sex and may involve social, legal or physical changes.

11 (4) "Irreversible gender reassignment surgery" means a medical procedure performed for  
12 the purpose of assisting an individual with a gender transition, including any of the following:

13 (A) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male  
14 patients or hysterectomy or ovariectomy for biologically female patients;

15 (B) Metoidioplasty, Phalloplasty, vaginectomy, scrotoplasty implantation of erection or  
16 testicular prostheses for biologically female patients; and

17 (C) Augmentation mammoplasty for biological male patient and subcutaneous  
18 mastectomy for female patients.

19 (b) A physician who accepts or whose practice accepts Medicaid or Children's Health

- 20 Insurance Program ("CHIP") as a form of payment may not provide irreversible gender  
21 reassignment surgery to a person who is under eighteen years of age.

NOTE: The purpose of this bill is to prohibit Medicaid and CHIP payment for certain prohibited medical practices.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.