

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4922

By Delegate Forsht

[Introduced January 19, 2024; Referred to the
Committee on Health and Human Resources then the
Judiciary]

1 A BILL to amend and reenact §30-3-20 of the Code of West Virginia, 1931, as amended, relating to
 2 establishing a cause of action upon violation of prohibition of providing gender
 3 reassignment or gender altering medication to a minor.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.
§30-3-20. Prohibited practice.

1 (a) For the purposes of this section:

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

8 "Gender altering medication" means the prescribing or administering of the following for
 9 the purpose of assisting an individual with a gender transition:

- 10 (1) Puberty blocking medication to stop or delay normal puberty;
- 11 (2) Supraphysiologic doses of testosterone or other androgens to females; and
- 12 (3) Supraphysiologic doses of estrogen to males.

13 "Gender transition" means the process in which a person goes from identifying with and
 14 living as a gender that corresponds to the person's biological sex to identifying with and living as a
 15 gender different from the person biological sex and may involve social, legal, or physical changes.

16 "Irreversible gender reassignment surgery" means a medical procedure performed for the
 17 purpose of assisting an individual with a gender transition, including any of the following:

- 18 (1) Penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male
 19 patients or hysterectomy or ovariectomy for biologically female patients;
- 20 (2) Metoidioplasty, phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or

21 testicular prostheses for biologically female patients; and

22 (3) Augmentation mammoplasty for biological male patient and subcutaneous mastectomy
23 for female patients.

24 (b) Except as otherwise provided in ~~§30-3-20(e)~~ subsection (e), a physician may not
25 provide irreversible gender reassignment surgery or gender altering medication to a person who is
26 under eighteen years of age.

27 (c) A civil cause of action is hereby expressly established when a person is psychologically,
28 emotionally, financially, or physically harmed by a physician's violation of the provisions of this
29 section of the code. Any person filing suit pursuant to this civil cause of action, shall file suit on or
30 before the twenty-fifth birthday of the minor child that was harmed by the violation of this section of
31 the code.

32 (d) Except as otherwise provided in subsection (e) of this section, a physician may not
33 provide irreversible gender reassignment surgery or gender altering medication to a person who is
34 under eighteen years of age. A civil cause of action is hereby expressly established when a
35 parent, or legal guardian, is psychologically, emotionally, financially, or physically harmed, or
36 experiences a loss of parental consortium, that are caused by a physician's violation of the
37 provisions of this section of the code. Any parent, or legal guardian, filing suit pursuant to this civil
38 cause of action, shall file suit within two years of knowledge of the violation of this section of the
39 code.

40 ~~(e)~~ (e) A physician may provide any of the following to a person who is under 18 years of
41 age:

42 (1) Services provided to an individual born with a medically verifiable disorder of sex
43 development, including, but not limited to, a person with external biological sex characteristics that
44 are irresolvably ambiguous, such as an individual born with forty-six xx chromosomes with
45 virilization, forty-six xy chromosomes with undervirilization, or having both ovarian and testicular
46 tissue;

47 (2) Services provided to an individual when a physician has otherwise diagnosed a
48 disorder of sexual development and in which the physician has determined through genetic or
49 biochemical testing that the individual does not have normal sex chromosome structure, sex
50 steroid hormone production, or sex steroid hormone action;

51 (3) The treatment of any infection, injury, disease, or disorder that has been caused by or
52 exacerbated by the performance of gender transition procedures, whether or not these
53 procedures were performed in accordance with state and federal law; and

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

57 (5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:

58 (A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer
59 than two medical or mental health providers with at least one being a mental health provider or
60 adolescent medicine specialist, and both having relevant training in the diagnosis and treatment of
61 severe gender dysphoria in adolescents;

62 (B) The diagnosing medical professionals express in written opinions that treatment with
63 pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric
64 symptoms and limit self-harm, or the possibility of self-harm, by the minor;

65 (C) The minor, the minor's parents, legal guardians, or person or other persons charged
66 with medical decision-making for the minor, and the minor's primary physician agree in writing with
67 the treatment with pubertal modulating and hormonal therapy for the minor;

68 (D) Any use of gender altering medication is for purposes of pubertal modulating and
69 hormonal therapy limited to the lowest titratable dosage necessary to treat the psychiatric
70 condition and not for purposes of gender transition; and

71 (E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where
72 the minor is prepubescent, hormonal treatment may not be provided;

73 ~~(d)~~ (f) The provisions of this section are effective on January 1, 2024.

NOTE: The purpose of this bill is to establish a cause of action upon violation of prohibition of providing gender reassignment or gender altering medication to a minor.

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