

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 68

Representative Click

Cosponsors: Representatives Barhorst, Bird, Creech, Claggett, Cutrona, Dean, Demetriou, Edwards, Ferguson, Fowler Arthur, Gross, Hall, Holmes, Hoops, John, Johnson, Jordan, Kick, King, Klopfenstein, Lampton, Lear, Manchester, McClain, Merrin, Miller, K., Miller, M., Plummer, Patton, Powell, Robb Blasdel, Stein, Stewart, Stoltzfus, Swearingen, Wiggam, Williams, Willis, Young, T.

A BILL

To enact sections 3109.054, 3129.01, 3129.02,
3129.03, 3129.04, 3129.05, 3129.06, and 3129.07
of the Revised Code regarding gender transition
services for minors and to name this act the
Ohio Saving Adolescents from Experimentation
(SAFE) Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3109.054, 3129.01, 3129.02,
3129.03, 3129.04, 3129.05, 3129.06, and 3129.07 of the Revised
Code be enacted to read as follows:

Sec. 3109.054. When allocating parental rights and
responsibilities or parenting time, a court shall not consider a
parent's decision to do any of the following:

(A) Refer to and raise the child in a manner consistent
with the child's biological sex;

(B) Decline to consent to the child receiving gender

transition services as defined in section 3129.01 of the Revised 16
Code; 17

(C) Decline to consent to the child receiving counseling 18
or other mental health services for the purpose of affirming the 19
child's perception of the child's gender or sex, if the child's 20
perception is inconsistent with the child's biological sex. 21

Sec. 3129.01. As used in this chapter: 22

(A) "Biological sex," "birth sex," and "sex" mean the 23
biological indication of male and female, including sex 24
chromosomes, naturally occurring sex hormones, gonads, and 25
nonambiguous internal and external genitalia present at birth, 26
without regard to an individual's psychological, chosen, or 27
subjective experience of gender. 28

(B) "Cross-sex hormone" means testosterone, estrogen, or 29
progesterone given to a minor individual in an amount greater 30
than would normally be produced endogenously in a healthy 31
individual of the minor individual's age and sex. 32

(C) "Gender" means the psychological, behavioral, social, 33
and cultural aspects of being male or female. 34

(D) "Gender reassignment surgery" means any surgery 35
performed for the purpose of assisting an individual with gender 36
transition that seeks to surgically alter or remove healthy 37
physical or anatomical characteristics or features that are 38
typical for the individual's biological sex, in order to instill 39
or create physiological or anatomical characteristics that 40
resemble a sex different from the individual's birth sex, 41
including genital or non-genital gender reassignment surgery. 42

(E) "Gender-related condition" means any condition where 43
an individual feels an incongruence between the individual's 44

gender identity and biological sex. "Gender-related condition" 45
includes gender dysphoria. 46

(F) "Gender transition" means the process in which an 47
individual goes from identifying with and living as a gender 48
that corresponds to his or her biological sex to identifying 49
with and living as a gender different from his or her biological 50
sex, including social, legal, or physical changes. 51

(G) "Gender transition services" means any medical or 52
surgical service (including physician services, inpatient and 53
outpatient hospital services, or prescription drugs or hormones) 54
provided for the purpose of assisting an individual with gender 55
transition that seeks to alter or remove physical or anatomical 56
characteristics or features that are typical for the 57
individual's biological sex, or to instill or create 58
physiological or anatomical characteristics that resemble a sex 59
different from the individual's birth sex, including medical 60
services that provide puberty blocking drugs, cross-sex 61
hormones, or other mechanisms to promote the development of 62
feminizing or masculinizing features in the opposite sex, or 63
genital or non-genital gender reassignment surgery. 64

(H) "Genital gender reassignment surgery" means surgery 65
performed for the purpose of assisting an individual with gender 66
transition and includes both of the following: 67

(1) Surgeries that sterilize, such as castration, 68
vasectomy, hysterectomy, oophorectomy, orchiectomy, and 69
penectomy; 70

(2) Surgeries that artificially construct tissue with the 71
appearance of genitalia that differs from the individual's 72
biological sex, such as metoidioplasty, phalloplasty, and 73

<u>vaginoplasty.</u>	74
<u>(I) "Health benefit plan" has the same meaning as in</u>	75
<u>section 3922.01 of the Revised Code.</u>	76
<u>(J) "Mental health professional" means all of the</u>	77
<u>following:</u>	78
<u>(1) Either of the following advanced practice registered</u>	79
<u>nurses who holds a current, valid license issued under Chapter</u>	80
<u>4723. of the Revised Code that authorizes the practice of</u>	81
<u>nursing as an advanced practice registered nurse:</u>	82
<u>(a) A clinical nurse specialist who is certified as a</u>	83
<u>psychiatric-mental health CNS by the American nurses</u>	84
<u>credentialing center;</u>	85
<u>(b) A certified nurse practitioner who is certified as a</u>	86
<u>psychiatric-mental health NP by the American nurses</u>	87
<u>credentialing center.</u>	88
<u>(2) A physician specializing in psychiatry;</u>	89
<u>(3) A psychologist, school psychologist, or independent</u>	90
<u>school psychologist licensed under Chapter 4732. of the Revised</u>	91
<u>Code or under rules adopted in accordance with sections 3301.07</u>	92
<u>and 3319.22 of the Revised Code;</u>	93
<u>(4) An independent social worker, social worker, licensed</u>	94
<u>professional clinical counselor, licensed professional</u>	95
<u>counselor, independent marriage and family therapist, or</u>	96
<u>marriage and family therapist licensed under Chapter 4757. of</u>	97
<u>the Revised Code.</u>	98
<u>(K) "Minor individual" means an individual under eighteen</u>	99
<u>years of age.</u>	100

(L) "Non-genital gender reassignment surgery" means 101
surgery performed for the purpose of assisting an individual 102
with gender transition such as augmentation mammoplasty, facial 103
feminization surgery, liposuction, lipofilling, voice surgery, 104
thyroid cartilage reduction, gluteal augmentation, pectoral 105
implants, or other aesthetic procedures. 106

(M) "Physician" means an individual authorized under 107
Chapter 4731. of the Revised Code to practice medicine and 108
surgery or osteopathic medicine and surgery. 109

(N) "Puberty-blocking drugs" means Gonadotropin-releasing 110
hormone analogs or other synthetic drugs used to stop 111
luteinizing hormone and follicle stimulating hormone secretion, 112
synthetic antiandrogen drugs used to block the androgen 113
receptor, or any drug to delay or suppress normal puberty. 114

Sec. 3129.02. A physician shall not knowingly do any of 115
the following: 116

(A) Perform gender reassignment surgery on a minor 117
individual; 118

(B) Prescribe a cross-sex hormone or puberty-blocking drug 119
for a minor individual for the purpose of assisting the minor 120
individual with gender transition; 121

(C) Engage in conduct that aids or abets in the practices 122
described in division (A) or (B) of this section, provided that 123
this section may not be construed to impose liability on any 124
speech protected by federal or state law. 125

Sec. 3129.03. (A) No mental health professional shall 126
diagnose or treat a minor individual who presents for the 127
diagnosis or treatment of a gender-related condition without 128
first doing both of the following: 129

(1) Notwithstanding section 5122.04 of the Revised Code, 130
obtaining the consent of the minor individual's residential 131
parent and legal custodian or the minor individual's guardian; 132

(2) Screening the minor individual for both of the 133
following: 134

(a) Other comorbidities that may be influencing the minor 135
individual's gender-related condition, including depression, 136
anxiety, attention deficit hyperactivity disorder, autism 137
spectrum disorder, and other mental health conditions; 138

(b) Physical, sexual, mental, and emotional abuse and 139
other traumas. 140

(B) No political subdivision may prohibit the use of 141
watchful waiting, treatment and therapies similar to those 142
provided for the treatment of body dysmorphia and eating 143
disorders, or other models of care that assist minor individuals 144
experiencing a gender-related condition in reconciling their 145
gender identity with their biological sex. 146

Sec. 3129.04. This chapter does not prohibit a physician 147
from treating, including by performing surgery on or prescribing 148
drugs or hormones for, a minor individual who meets any of the 149
following: 150

(A) Was born with a medically verifiable disorder of sex 151
development, including an individual with external biological 152
sex characteristics that are irresolvably ambiguous, such as 153
an individual born with forty-six XX chromosomes with virilization, 154
forty-six XY chromosomes with undervirilization, or having both 155
ovarian and testicular tissue; 156

(B) Received a diagnosis of a disorder of sexual 157
development, in which a physician has determined through genetic 158

or biochemical testing that the individual does not have normal 159
sex chromosome structure, sex steroid hormone production, or sex 160
steroid hormone action for a biological male or biological 161
female; 162

(C) Needs treatment for any infection, injury, disease, or 163
disorder that has been caused or exacerbated by the performance 164
of gender transition services, whether or not the services were 165
performed in accordance with state or federal law. 166

Sec. 3129.05. (A) Any violation of section 3129.02, 167
section 3129.03, or section 3129.06 of the Revised Code shall be 168
considered unprofessional conduct and subject to discipline by 169
the applicable professional licensing board. 170

(B) An individual may bring a claim for a violation of 171
this chapter not later than two years after the date the cause 172
of action accrues. A minor individual may bring an action before 173
reaching eighteen years of age through a parent or guardian, and 174
may bring an action in the minor individual's own name upon 175
reaching eighteen years of age at any time from that date until 176
twenty years after that date. Nothing in this chapter shall be 177
construed to preempt any other private cause of action arising 178
under the common law of this state. 179

(C) The attorney general may bring an action to enforce 180
compliance with section 3129.02 or 3129.03 of the Revised Code. 181
Nothing in this chapter shall be construed to deny, impair, or 182
otherwise affect any right or authority of the attorney general, 183
the state, or any agency, officer, or employee of the state, 184
acting under any provision of the Revised Code, to institute or 185
intervene in any proceeding. 186

Sec. 3129.06. (A) Each mental health professional who 187

diagnoses or treats a minor individual for a gender-related 188
condition shall report to the department of health not later 189
than the first day of March of each year all of the following 190
information: 191

(1) The number of minor individuals the mental health 192
professional diagnosed or treated for a gender-related condition 193
in the previous year; 194

(2) The biological sex of the minor individuals the mental 195
health professional diagnosed or treated for a gender-related 196
condition in the previous year; 197

(3) The age at which the minor individual's diagnosis or 198
treatment for a gender-related condition began; 199

(4) The number of minor individuals diagnosed or treated 200
for a gender-related condition who also presented with any of 201
the comorbidities, abuse, or other trauma described in division 202
(A) of section 3129.03 of the Revised Code; 203

(5) The number of minor individuals who resumed 204
identification with their biological sex; 205

(6) The number of minor individuals the mental health 206
professional previously diagnosed or treated for a gender- 207
related condition who have not been treated by the mental health 208
professional for six months or more and who were not included in 209
a previous report; 210

(7) Any other information required by the department by 211
rule. 212

(B) In reporting the information required by this section, 213
both of the following apply: 214

(1) Where appropriate, the mental health professional 215

shall organize the previous year's information by month. 216

(2) The mental health professional shall not report 217
information that identifies or would tend to identify any 218
specific individual. 219

(C) Not later than three months after the annual deadline 220
described in division (A) of this section, the department of 221
health shall compile that information in a report to the general 222
assembly. The department shall submit the report in accordance 223
with division (B) of section 101.68 of the Revised Code. 224

(D) The director of health may adopt rules as necessary to 225
implement this section, including by adding other information to 226
be reported in accordance with division (A) of this section. Any 227
such rules shall be adopted pursuant to section 111.15 of the 228
Revised Code, but the requirement in division (C) of this 229
section is not contingent on the adoption of any such rules. 230
Notwithstanding any provision of section 121.95 of the Revised 231
Code to the contrary, a regulatory restriction contained in a 232
rule adopted under this section is not subject to sections 233
121.95 to 121.953 of the Revised Code. 234

Sec. 3129.07. (A) Medical assistance provided under the 235
medicaid program shall not include coverage for gender 236
transition services for minor individuals. 237

(B) This section does not apply to any of the following: 238

(1) The circumstances described in section 3129.04 of the 239
Revised Code; 240

(2) Mental health services provided for a gender-related 241
condition; 242

(3) Any services that are not gender transition services. 243

Section 2. The General Assembly hereby finds and declares 244
all of the following: 245

(A) This state has a compelling government interest in 246
protecting the health and safety of its citizens, especially 247
vulnerable children. 248

(B) Only a tiny percentage of the American population 249
experiences distress at identifying with their biological sex. 250
According to the American Psychiatric Association, prevalence 251
ranges from 0.005 to 0.014 per cent for natal adult males and 252
from 0.002 to 0.003 per cent for natal females. 253

(C) Studies consistently demonstrate that the vast 254
majority of children who are gender nonconforming or experience 255
distress at identifying with their biological sex come to 256
identify with their biological sex in adolescence or adulthood, 257
thereby rendering most medical health care interventions 258
unnecessary. 259

(D) Scientific studies show that individuals struggling 260
with distress at identifying with their biological sex often 261
have already experienced psychopathology, which indicates these 262
individuals should be encouraged to seek mental health care 263
services before undertaking any hormonal or surgical 264
intervention. 265

(E) Suicide rates, psychiatric morbidities, and mortality 266
rates remain markedly elevated above the background population 267
after inpatient gender reassignment surgery has been performed. 268

(F) Some health care providers are prescribing puberty- 269
blocking drugs in order to delay the onset or progression of 270
normally timed puberty in children who experience distress at 271
identifying with their biological sex. This is being done 272

despite the lack of any long-term longitudinal studies 273
evaluating the risks and benefits of using these drugs for the 274
treatment of such distress or gender transition. 275

(G) Health care providers are also prescribing cross-sex 276
hormones for children who experience distress at identifying 277
with their biological sex, despite the fact that no randomized 278
clinical trials have been conducted on the efficacy or safety of 279
the use of cross-sex hormones in adults or children for the 280
purpose of treating such distress or gender transition. 281

(H) The use of cross-sex hormones comes with the following 282
serious known risks: 283

(1) For biological females, erythrocytosis, severe liver 284
dysfunction, coronary artery disease, cerebrovascular disease, 285
hypertension, increased risk of breast and uterine cancers, and 286
irreversible infertility; 287

(2) For biological males, thromboembolic disease, 288
cholelithiasis, coronary artery disease, macroprolactinoma, 289
cerebrovascular disease, hypertriglyceridemia, breast cancer, 290
and irreversible infertility. 291

(I) Genital and non-genital gender reassignment surgeries 292
are generally not recommended for children, although evidence 293
indicates referrals for children to have such surgeries are 294
becoming more frequent. 295

(J) Genital gender reassignment surgery includes several 296
irreversible invasive procedures for males and females and 297
involves the following alterations of biologically normal and 298
functional body parts: 299

(1) For biological males, surgery may involve genital 300
reconstruction including penectomy, orchiectomy, vaginoplasty, 301

clitoroplasty, and vulvoplasty. 302

(2) For biological females, surgery may involve a 303
hysterectomy or oophorectomy, reconstruction of the urethra, 304
genital reconstruction including metoidioplasty or phalloplasty, 305
vaginectomy, scrotoplasty, and implantation of erection or 306
testicular prostheses. 307

(K) The complications, risks, and long-term care concerns 308
associated with genital gender reassignment surgery for both 309
males and females are numerous and complex. 310

(L) Non-genital gender reassignment surgery includes 311
various invasive procedures for males and females and also 312
involves the alteration or removal of biologically normal and 313
functional body parts: 314

(1) For biological males, procedures may include 315
augmentation mammoplasty, facial feminization surgery, 316
liposuction, lipofilling, voice surgery, thyroid cartilage 317
reduction, gluteal augmentation, hair reconstruction, and other 318
aesthetic procedures. 319

(2) For biological females, procedures may include 320
subcutaneous mastectomy, voice surgery, liposuction, 321
lipofilling, pectoral implants, and other aesthetic procedures. 322

(M) It is an accepted principle of economics and public 323
policy that when a service or product is subsidized or paid for, 324
demand for that service or product increases. Just between 2015 325
and 2016, gender reassignment surgeries increased by twenty per 326
cent. 327

(N) It is of grave concern to the General Assembly that 328
the medical community is allowing individuals who experience 329
distress at identifying with their biological sex to be subjects 330

of irreversible and drastic non-genital gender reassignment 331
surgery and irreversible, permanently sterilizing genital gender 332
reassignment surgery, despite the lack of studies showing that 333
the benefits of such extreme interventions outweigh the risks. 334

(O) The risks of gender transition services far outweigh 335
any benefit at this stage of clinical study on these services. 336

Section 3. Section 1 of this act takes effect six months 337
after the effective date of this section. 338

Section 4. This act shall be known as the Ohio Saving 339
Adolescents from Experimentation (SAFE) Act. 340