



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1138

gender transition; prohibitions; public monies

Purpose

Prohibits health care professionals from providing gender transition procedures to any person under 18 years of age. Declares violations of this prohibition as acts of unprofessional conduct, subject to judicial or administrative action. Restricts the distribution of public monies to any entity that provides gender transition procedures to persons under 18 years of age.

Background

In statute, *health professionals* includes podiatrists, chiropractors, dentists, medical physicians and surgeons, naturopathic physicians, nurses, dispensing opticians, optometrists, osteopathic physicians and surgeons, pharmacists, physical therapists, psychologists, veterinarians, physician assistants, radiologic technologists, homeopathic physicians, behavioral health professionals, occupational therapists, respiratory therapists, acupuncturists, athletic trainers, massage therapists, nursing care institution administrators, assisted living facilities managers, midwives, audiologists and speech pathologists ([A.R.S. § 32-3201](#)). Acts considered unprofessional conduct vary between health professionals and are investigated and addressed by the applicable licensing entity or regulatory board, potentially resulting in suspension or revocation of licensure ([A.R.S. Title 32](#); [A.R.S. Title 36](#)).

Costs associated with gender reassignment surgery are currently not covered by the Arizona Health Care Cost Containment System (AHCCCS) ([A.A.C. R9-22-205](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits physicians and other health care professionals from providing or referring to another practitioner to provide gender transition procedures to any individual under 18 years of age, including:
 - a) services to an individual born with a medically verifiable disorder of sex development, including individuals with irresolvably ambiguous external biological sex characteristics;
 - b) services provided upon diagnosis of a sexual development disorder and a determination that, through genetic or biochemical testing, the individual does not have normal sex chromosome structure, sex steroid hormone production or sex steroid hormone action;
 - c) treatment of an infection, injury, disease or disorder that is caused or exacerbated by the performance of gender transition procedures, regardless of whether the procedure was performed in compliance with state and federal laws; or
 - d) any procedure undertaken due to a physical disorder, injury or illness that would place the individual in imminent danger of death or impairment of major bodily function, unless surgery is performed.

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2. Prohibits public monies from being distributed to any entity, organization or individual that provides gender transition procedures to minors.
3. Restricts physicians employed by and health care facilities owned by the state or a political subdivision thereof from providing gender transition procedures to minors.
4. Specifies that costs associated with gender transition procedures are not tax deductible.
5. Prohibits AHCCCS from reimbursing or providing coverage for gender transition procedures to minors.
6. Declares it unprofessional conduct by a health care provider to refer or provide a gender transition procedure to a minor.
7. Permits violations of the prohibition on gender transition procedures for minors to be used as a claim or defense in any judicial or administrative proceeding, including the right to obtain compensatory damages, injunctive relief, declaratory relief or other relief.
8. Requires all claims of violation of the prohibition on gender transition procedures for minors to be brought within two years of the action.
9. Permits any individual under 18 years of age that brings a claim of violation of the prohibition on gender transition procedures, with regards to themselves, to bring action in court at any time prior to 38 years of age.
10. Allows any judicial action relating to a minor's gender transition procedure to be commenced, with relief granted, regardless of whether the individual bringing action has sought or exhausted all available administrative remedies.
11. Specifies that a prevailing party that brought claim of a gender transition procedure performed on a minor is to recover all reasonable attorney fees.
12. Permits the Attorney General to bring action to enforce compliance with the restriction on gender transition procedures performed on individuals under 18 years of age.
13. Specifies that the prohibition on gender transition procedures for minors does not deny, impair or affect any other right or authority of the Attorney General, the state or an agency, officer or employee of the state.
14. Prohibits health insurance providers from providing reimbursement for gender transition procedures performed on minors.
15. Specifies health insurance providers are not required to provide coverage for gender transition procedures in any health benefits plan.
16. Permits the Legislature, by joint resolution, to appoint one or more members who sponsored or co-sponsored this legislation to act in an official capacity to intervene or defend the statute as a matter of right in any case questioning the constitutionality or enforceability of this legislation.
17. Defines terms.

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18. Contains a legislative findings clause.

19. Designates this legislation as the *Arizona's Children Deserve Help Not Harm Act*.

20. Specifies that this legislation has a delayed effective date to allow minors that are currently using puberty-blocking drugs or cross-sex hormones time for appropriate medication tapering and discontinuation under the care of a physician.

21. Becomes effective on April 1, 2023.

Prepared by Senate Research

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MM/sr