

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2023 REGULAR SESSION
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Amend printed copy of **HB 470/SCS 1**

Beginning on page 1, line 3, and continuing through page 7, line 18, by deleting Sections 1 to 3 in their entirety and inserting the following in lieu thereof:

"➔SECTION 1 A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Gender transition" means the process in which a person goes from identifying with and living as a gender that corresponds to his or her sex to identifying with and living as a different gender, and may involve social, legal, or physical changes, including drugs or surgery;

(2) "Health care provider" means a:

(a) Health facility or service required to be licensed under KRS Chapter 216B;

(b) Physician, osteopath, or podiatrist licensed under KRS Chapter 311;

(c) Physician assistant regulated under KRS Chapter 311;

(d) Advanced practice registered nurse (APRN), licensed practical nurse (LPN), or registered nurse (RN) licensed under KRS Chapter 314; and

(e) Pharmacist and all sites or persons that are required to obtain a license, certificate, or permit from the Board of Pharmacy under KRS Chapter 315; and

(3) "Public funds" means any money, regardless of the original source of the money, of:

Amendment No. SFA

Rep. Sen. Adrienne Southworth

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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- (a) The Commonwealth of Kentucky, and any department, agency, or instrumentality thereof;
- (b) Any county, city, special district, and any department, agency, or instrumentality thereof; and
- (c) Any other political subdivision of the Commonwealth, and any department, agency, or instrumentality thereof.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) It shall not be within the scope of practice for any health care provider to render services for, or assist in, gender transition of a person under the age of eighteen (18) years.
- (2) Assisting in gender transition does not include:
- (a) Providing mental health services that address a person's sex or gender but that do not promote gender transition.
- (b) Administering drugs according to their intended use as approved by United States Food and Drug Administration for conditions other than gender transition.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any other provision of the law to the contrary, including KRS 214.185, health care providers that engage in the following activities shall be jointly and severally liable for all damages and costs sustained by reason thereof:
- (a) Providing gender transition services for a person under the age of eighteen (18) years; or
- (b) Dispensing, prescribing, or distributing any drugs or hormones for the purpose of assisting a person under the age of eighteen (18) years with gender transition.
- (2) This section shall constitute a complete defense to any and all claims, demands,

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damages, actions, state judicial or administrative proceedings, or professional licensing or disciplinary proceedings based on the refusal by a health care provider to provide gender transition services to a person under the age of eighteen (18) years.

(3) Notwithstanding any other provision of the law to the contrary, including KRS 214.185, if any act in subsection (1) of this section results in personal injury, an action may be brought by the person's parent or guardian before the person attains the age of eighteen (18) years and may be brought by the person within thirty (30) years after attaining the age of eighteen (18) years, except that:

(a) If, at the time the person attains the age of eighteen (18) years, he or she is under other legal disability, the limitation period shall not begin to run until the removal of the disability; and

(b) If, during any period of time, the person is subject to threats, intimidation, manipulation, fraudulent concealment, or fraud perpetrated by the health care provider who prescribed or otherwise provided gender transition services or by any person acting in the interest of the health care provider, the limitation period shall not run during this time period.

(4) The right of action for personal injury under this section shall not cease or die with the person injuring or the person injured. An action may be brought or revived under this section by the personal representative or against the personal representative, heir, or devisee.

(5) In an action brought under this section:

(a) If the plaintiff prevails, he or she shall be entitled to reasonable costs and attorney's fees;

(b) Compensatory damages may be awardable, including but not limited to:

1. Pain and suffering;

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2. *Loss of reputation;*
3. *Loss of income;*
4. *Loss of consortium between spouses;*
5. *Loss of consortium between parent and child; and*
6. *Loss of enjoyment of life, including the expectation or experience of biological parenthood; and*

(c) *Injunctive, declaratory, punitive, and any other appropriate relief may be awarded.*

(6) *Notwithstanding any other provision of law to the contrary, an action under this section may be commenced and relief may be granted in a judicial proceeding without regard to whether anyone commencing the action has sought or exhausted available contractual or administrative remedies.*

(7) *Nothing in this section shall be construed as precluding legal action under any other applicable statute.*

(8) *Qualified official immunity to suit and from liability are waived to the extent of liability created by this section.*"; and

Beginning on page 8, line 20, and continuing through page 9, line 17, by deleting Section 7 in its entirety and inserting the following in lieu thereof:

"→SECTION 7. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Gender transition" has the same meaning as in Section 1 of this Act; and*

(b) *"Insurer" includes any nongovernmental self-insurer, self-insured plan, self-insured group, or other entity that reimburses or provides benefits or coverage for health care services.*

(2) *To the extent permitted under federal law:*

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- (a) If an insurer elects to reimburse or provide benefits or coverage for services related to gender transition for persons under the age of eighteen (18) years, the insurer shall:
1. Be jointly and severally liable for damages sustained as a result of the gender transition services, notwithstanding any other provision of law to the contrary, including KRS 214.185; and
 2. Not require an insured or any other party to submit to arbitration a claim under subparagraph 1. of this paragraph; and
- (b) Any contractual arbitration clause contained in a policy, plan, certificate, or contract that is in violation of this subsection shall be void and unenforceable.
- (3) Notwithstanding any other provision of the law to the contrary, including KRS 214.185, and to the extent permitted under federal law, if any act in subsection (2) of this section results in personal injury, an action may be brought in the same manner as the cause of action authorized in subsections (3) to (7) of Section 3 of this Act."; and

On page 19, line 25, after "gender transition", by deleting "services".