FIRST REGULAR SESSION

HOUSE BILL NO. 1038

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAGG.

2464H.01I JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 191.1720, RSMo, and to enact in lieu thereof one new section relating to gender transition procedures.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 191.1720, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 191.1720, to read as follows:

191.1720. 1. This section shall be known and may be cited as the "Missouri Save Adolescents from Experimentation (SAFE) Act".

2. For purposes of this section, the following terms mean:

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

(2) "Cross-sex hormones", testosterone, estrogen, or other androgens given to an individual in amounts that are greater or more potent than would normally occur naturally in a healthy individual of the same age and sex;

(3) "Gender", the psychological, behavioral, social, and cultural aspects of being male or female;

(4) "Gender transition", the process in which an individual transitions from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, and may involve social, legal, or physical changes;

EXPLANATION — Matter enclosed in bold-faced brackets **[**~~thus~~**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(5) "Gender transition surgery", a surgical procedure performed for the purpose of assisting an individual with a gender transition, including, but not limited to:

(a) Surgical procedures that sterilize, including, but not limited to, castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, or penectomy;

(b) Surgical procedures that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, including, but not limited to, metoidioplasty, phalloplasty, or vaginoplasty; or

(c) Augmentation mammoplasty or subcutaneous mastectomy;

(6) "Health care provider", an individual who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(7) "Puberty-blocking drugs", gonadotropin-releasing hormone analogues or other synthetic drugs used to stop luteinizing hormone secretion and follicle stimulating hormone secretion, synthetic antiandrogen drugs to block the androgen receptor, or any other drug used to delay or suppress pubertal development in children for the purpose of assisting an individual with a gender transition.

3. A health care provider shall not knowingly perform a gender transition surgery on any individual under eighteen years of age.

4. (1) A health care provider shall not knowingly prescribe or administer cross-sex hormones or puberty-blocking drugs for the purpose of a gender transition for any individual under eighteen years of age.

(2) **Until March 1, 2026,** the provisions of this subsection shall not apply to the prescription or administration of cross-sex hormones or puberty-blocking drugs for any individual under eighteen years of age who was prescribed or administered such hormones or drugs prior to August 28, 2023, for the purpose of assisting the individual with a gender transition.

[~~(3) The provisions of this subsection shall expire on August 28, 2027.~~**]**

5. The performance of a gender transition surgery or the prescription or administration of cross-sex hormones or puberty-blocking drugs to an individual under eighteen years of age in violation of this section shall be considered unprofessional conduct and any health care provider doing so shall have his or her license to practice revoked by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.

6. (1) The prescription or administration of cross-sex hormones or puberty-blocking drugs to an individual under eighteen years of age for the purpose of a gender transition shall be considered grounds for a cause of action against the health care provider. The provisions of chapter 538 shall not apply to any action brought under this subsection.

(2) An action brought pursuant to this subsection shall be brought within fifteen years of the individual injured attaining the age of twenty-one or of the date the treatment of the injury at issue in the action by the defendant has ceased, whichever is later.

(3) An individual bringing an action under this subsection shall be entitled to a rebuttable presumption that the individual was harmed if the individual is infertile following the prescription or administration of cross-sex hormones or puberty-blocking drugs and that the harm was a direct result of the hormones or drugs prescribed or administered by the health care provider. Such presumption may be rebutted only by clear and convincing evidence.

(4) In any action brought pursuant to this subsection, a plaintiff may recover economic and noneconomic damages and punitive damages, without limitation to the amount and no less than five hundred thousand dollars in the aggregate. The judgment against a defendant in an action brought pursuant to this subsection shall be in an amount of three times the amount of any economic and noneconomic damages or punitive damages assessed. Any award of damages in an action brought pursuant to this subsection to a prevailing plaintiff shall include attorney's fees and court costs.

(5) An action brought pursuant to this subsection may be brought in any circuit court of this state.

(6) No health care provider shall require a waiver of the right to bring an action pursuant to this subsection as a condition of services. The right to bring an action by or through an individual under the age of eighteen shall not be waived by a parent or legal guardian.

(7) A plaintiff to an action brought under this subsection may enter into a voluntary agreement of settlement or compromise of the action, but no agreement shall be valid until approved by the court. No agreement allowed by the court shall include a provision regarding the nondisclosure or confidentiality of the terms of such agreement unless such provision was specifically requested and agreed to by the plaintiff.

(8) If requested by the plaintiff, any pleadings, attachments, or exhibits filed with the court in any action brought pursuant to this subsection, as well as any judgments issued by the court in such actions, shall not include the personal identifying information of the plaintiff. Such information shall be provided in a confidential information filing sheet contemporaneously filed with the court or entered by the court, which shall not be subject to public inspection or availability.

7. The provisions of this section shall not apply to any speech protected by the First Amendment of the United States Constitution.

8. The provisions of this section shall not apply to the following:

(1) Services to individuals born with a medically-verifiable disorder of sex development, including, but not limited to, an individual with external biological sex

characteristics that are irresolvably ambiguous, such as those born with 46,XX chromosomes with virilization, 46,XY chromosomes with undervirilization, or having both ovarian and testicular tissue;

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

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition surgery or the prescription or administration of cross-sex hormones or puberty-blocking drugs regardless of whether the surgery was performed or the hormones or drugs were prescribed or administered in accordance with state and federal law; or

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

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