

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 878

By: Jett

AS INTRODUCED

An Act relating to health care; creating the Oklahoma Save Adolescents from Experimentation (SAFE) Act; providing short title; defining terms; prohibiting provision of or referral for gender transition procedures; providing exceptions; prohibiting certain uses of public funds, public facilities, public employees, and state Medicaid program; providing for administrative and civil enforcement; authorizing certain civil actions and relief; providing certain construction; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2607.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Save Adolescents from Experimentation (SAFE) Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2607.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as

1 sex chromosomes, naturally occurring sex hormones, gonads, and  
2 nonambiguous internal and external genitalia present at birth,  
3 without regard to an individual's psychological, chosen, or  
4 subjective experience of gender;

5 2. "Cross-sex hormones" means:

- 6 a. testosterone or other androgens given to biological  
7 females in amounts that are larger or more potent than  
8 would normally occur naturally in healthy biological  
9 sex females, and  
10 b. estrogen given to biological males in amounts that are  
11 larger or more potent than would normally occur  
12 naturally in healthy biological sex males;

13 3. "Gender" means the psychological, behavioral, social, and  
14 cultural aspects of being male or female;

15 4. "Gender reassignment surgery" means any medical or surgical  
16 service that seeks to surgically alter or remove healthy physical or  
17 anatomical characteristics or features that are typical for the  
18 individual's biological sex, in order to instill or create  
19 physiological or anatomical characteristics that resemble a sex  
20 different from the individual's biological sex, including but not  
21 limited to genital or nongenital gender reassignment surgery  
22 performed for the purpose of assisting an individual with a gender  
23 transition;

1           5. "Gender transition" means the process in which a person goes  
2 from identifying with and living as a gender that corresponds to his  
3 or her biological sex to identifying with and living as a gender  
4 different from his or her biological sex, and may involve social,  
5 legal, or physical changes;

6           6. a. "Gender transition procedures" means any medical or  
7 surgical service, including but not limited to  
8 physician's services, inpatient and outpatient  
9 hospital services, or prescribed drugs related to  
10 gender transition that seeks to:

- 11           (1) alter or remove physical or anatomical  
12 characteristics or features that are typical for  
13 the individual's biological sex, or  
14           (2) instill or create physiological or anatomical  
15 characteristics that resemble a sex different  
16 from the individual's biological sex, including  
17 but not limited to medical services that provide  
18 puberty-blocking drugs, cross-sex hormones, or  
19 other mechanisms to promote the development of  
20 feminizing or masculinizing features in the  
21 opposite biological sex, or genital or nongenital  
22 gender reassignment surgery performed for the  
23 purpose of assisting an individual with a gender  
24 transition.

1           b. Gender transition procedures do not include:

2           (1) services to persons born with a medically  
3           verifiable disorder of sex development, including  
4           a person with external biological sex  
5           characteristics that are irresolvably ambiguous,  
6           such as those born with 46 XX chromosomes with  
7           virilization, 46 XY chromosomes with  
8           undervirilization, or having both ovarian and  
9           testicular tissue,

10          (2) services provided when a physician has otherwise  
11          diagnosed a disorder of sexual development that  
12          the physician has determined through genetic or  
13          biochemical testing that the person does not have  
14          normal sex chromosome structure, sex steroid  
15          hormone production, or sex steroid hormone  
16          action,

17          (3) the treatment of any infection, injury, disease,  
18          or disorder that has been caused by or  
19          exacerbated by the performance of gender  
20          transition procedures, whether or not the gender  
21          transition procedure was performed in accordance  
22          with state and federal law, or

23          (4) any procedure undertaken because the individual  
24          suffers from a physical disorder, physical

1 injury, or physical illness that would, as  
2 certified by a physician, place the individual in  
3 imminent danger of death or impairment of major  
4 bodily function unless surgery is performed;

5 7. "Genital gender reassignment surgery" means a medical  
6 procedure performed for the purpose of assisting an individual with  
7 a gender transition, including but not limited to:

- 8 a. surgical procedures such as penectomy, orchiectomy,  
9 vaginoplasty, clitoroplasty, or vulvoplasty for  
10 biologically male patients or hysterectomy or  
11 oophorectomy for biologically female patients,  
12 b. reconstruction of the fixed part of the urethra with  
13 or without a metoidioplasty, or  
14 c. phalloplasty, vaginectomy, scrotoplasty, or  
15 implantation of erection or testicular prostheses for  
16 biologically female patients;

17 8. "Healthcare professional" means a person who is licensed,  
18 certified, or otherwise authorized by the laws of this state to  
19 administer health care in the ordinary course of the practice of his  
20 or her profession;

21 9. "Nongenital gender reassignment surgery" means medical  
22 procedures performed for the purpose of assisting an individual with  
23 a gender transition including but not limited to:  
24

- 1 a. surgical procedures for biologically male patients,  
2 such as augmentation mammoplasty, facial feminization  
3 surgery, liposuction, lipofilling, voice surgery,  
4 thyroid cartilage reduction, gluteal augmentation,  
5 hair reconstruction, or various aesthetic procedures,  
6 or  
7 b. surgical procedures for biologically female patients,  
8 such as subcutaneous mastectomy, voice surgery,  
9 liposuction, lipofilling, pectoral implants, or  
10 various aesthetic procedures;

11 10. "Physician" means a person who is licensed to practice  
12 medicine in this state;

13 11. "Puberty-blocking drugs" means gonadotropin-releasing  
14 hormone analogues or other synthetic drugs used in biological males  
15 to stop luteinizing hormone secretion and therefore testosterone  
16 secretion, or synthetic drugs used in biological females which stop  
17 the production of estrogens and progesterone, when used to delay or  
18 suppress pubertal development in children for the purpose of  
19 assisting an individual with a gender transition; and

20 12. "Public funds" means state, county, or local government  
21 monies, in addition to any department, agency, or instrumentality  
22 authorized or appropriated under state law or derived from any fund  
23 in which such moneys are deposited.

1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2607.3 of Title 63, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. A physician or other healthcare professional shall not  
5 provide gender transition procedures to any individual under  
6 eighteen (18) years of age.

7           B. A physician or other healthcare professional shall not refer  
8 any individual under eighteen (18) years of age to any healthcare  
9 professional for gender transition procedures.

10          C. A physician or other healthcare professional is not  
11 prohibited from providing any of the following procedures which are  
12 not gender transition procedures to an individual under eighteen  
13 (18) years of age:

14           1. Services to persons born with a medically verifiable  
15 disorder of sex development, including a person with external  
16 biological sex characteristics that are irresolvably ambiguous, such  
17 as those born with 46 XX chromosomes with virilization, 46 XY  
18 chromosomes with undervirilization, or having both ovarian and  
19 testicular tissue;

20           2. Services provided when a physician has otherwise diagnosed a  
21 disorder of sexual development that the physician has determined  
22 through genetic or biochemical testing that the person does not have  
23 normal sex chromosome structure, sex steroid hormone production, or  
24 sex steroid hormone action;

1           3. The treatment of any infection, injury, disease, or disorder  
2 that has been caused by or exacerbated by the performance of gender  
3 transition procedures, whether or not the gender transition  
4 procedure was performed in accordance with state and federal law or  
5 whether or not funding for the gender transition procedure is  
6 permissible under Section 4 of this act; or

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

12           SECTION 4.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 2607.4 of Title 63, unless there  
14 is created a duplication in numbering, reads as follows:

15           A. Public funds shall not be directly or indirectly used,  
16 granted, paid, or distributed to any entity, organization, or  
17 individual that provides gender transition procedures to an  
18 individual under eighteen (18) years of age.

19           B. Healthcare services furnished in the following situations  
20 shall not include gender transition procedures to an individual  
21 under eighteen (18) years of age:

22           1. By or in a healthcare facility owned by the state or a  
23 county or local government; or

1           2. By a physician or other healthcare professional employed by  
2 the state or a county or local government.

3           C. The state Medicaid program shall not reimburse or provide  
4 coverage for gender transition procedures to an individual under  
5 eighteen (18) years of age.

6           SECTION 5.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 2607.5 of Title 63, unless there  
8 is created a duplication in numbering, reads as follows:

9           A. Any referral for or provision of gender transition  
10 procedures to an individual under eighteen (18) years of age is  
11 unprofessional conduct and shall, upon an adverse ruling by the  
12 appropriate licensing board, result in immediate revocation of the  
13 license or certificate of the physician or other healthcare  
14 professional.

15          B. 1. A person may assert an actual or threatened violation of  
16 this act as a claim or defense in a judicial or administrative  
17 proceeding and obtain compensatory damages, injunctive relief,  
18 declaratory relief, or any other appropriate relief.

19          2. A person shall bring a claim for a violation of this act no  
20 later than two (2) years after the day the cause of action accrues.

21          3. An individual under eighteen (18) years of age may bring an  
22 action throughout their minority through a parent or next friend,  
23 and may bring an action in their own name upon reaching majority at  
24

1 any time from that point until twenty (20) years after reaching the  
2 age of majority.

3 4. Notwithstanding any other provision of law, an action under  
4 this subsection may be commenced, and relief may be granted, in a  
5 judicial proceeding without regard to whether the person commencing  
6 the action has sought or exhausted available administrative  
7 remedies.

8 5. In any action or proceeding to enforce a provision of this  
9 act, a prevailing party who establishes a violation of this act  
10 shall recover reasonable attorney fees.

11 C. 1. The Attorney General may bring an action to enforce  
12 compliance with this act.

13 2. This act does not deny, impair, or otherwise affect any  
14 right or authority of the Attorney General, this state, or any  
15 agency, officer, or employee of the state, acting under any law  
16 other than this act, to institute or intervene in any proceeding.

17 SECTION 6. It being immediately necessary for the preservation  
18 of the public peace, health or safety, an emergency is hereby  
19 declared to exist, by reason whereof this act shall take effect and  
20 be in full force from and after its passage and approval.

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