

## **BILL ANALYSIS**

Senate Research Center  
88R10711 SCL-D

S.B. 1029  
By: Hall  
State Affairs  
3/15/2023  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Transgender healthcare facilities are exploding across the state, and gender reassignment treatments and procedures are becoming increasingly prevalent, especially among minors. One study found the monthly referrals of minors to a pediatric transgender clinic in North Carolina increased from 5.1 in 2015 to 25.7 in 2018. With this increase in transgender treatments also comes an increase in patients that are opting to detransition. The sad reality is that the use of hormone blockers, cross-sex hormone treatments, and gender modification surgeries are not without complications.

The use of hormone blockers causes decreased bone density, disrupts normal bone development, and increases mental health problems. Cross-sex hormones can lead to the overdevelopment of the clitoris, deepening of the voice, growth of body hair in girls, and in males, it causes the development of breasts, lowers sex drive, and leads to sexual dysfunction.

Gender reassignment surgeries lead to many post-surgical complications, often requiring additional surgeries, and those that are choosing to detransition is increasing. Unfortunately, many are finding that the ongoing healthcare issues they face from these treatments are not covered by health insurance, although insurance plans often cover the initial treatments.

This Bill:

Makes private health benefit plans strictly liable for the lifetime care of the patient for consequences of gender modification treatment or procedures covered by the plan.

Makes physicians and healthcare providers liable for malpractice claims for transgender treatments or procedures and strictly liable for a patient's medical, mental health, and pharmaceutical costs incurred for the life of the patient as a result of the procedure or treatment.

Prohibits public funds from being used for the provision or administration of a gender modification procedure or treatment.

Prohibits state funded insurance plans (TRS, ERS, Medicaid, CHIP) from covering transgender modification treatments or procedures.

Allows exemption for medically verifiable genetic sex disorders in children.

As proposed, S.B. 1029 amends current law relating to civil liability for, governmental health plan coverage of, and public funding for gender modification procedures and treatments.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that the legislature finds that:

(1) as evidenced by a 2018 video of a Vanderbilt University Medical Center administrator who promoted gender modification surgeries as financially beneficial and stated that entire clinics are being financed by phalloplasties, the medical community has knowledge that many so-called "gender affirming" treatments are not in the best interest of the health of the patient but rather are being promoted for the monetary gain the health care facilities will receive from providing those treatments; and

(2) the medical community has a conflict of interest in offering gender modification treatments and procedures because those treatments and procedures create lifelong patients as a result of required follow-up visits after those treatments and procedures.

SECTION 2. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 74B, as follows:

#### CHAPTER 74B. LIABILITY FOR GENDER MODIFICATION PROCEDURES AND TREATMENTS

Sec. 74B.001. DEFINITION. Defines "gender modification procedure or treatment."

Sec. 74B.002. CONFLICT OF LAWS. Provides that to the extent this chapter conflicts with another law, this chapter prevails.

Sec. 74B.003. STRICT LIABILITY FOR HEALTH COVERAGE. Provides that a health benefit plan issuer is strictly liable to a patient for the patient's medical, mental health, and pharmaceutical costs, including costs associated with reversing a gender modification procedure or treatment, incurred for the life of the patient as a result of a gender modification procedure or treatment covered by the issuer's plan.

Sec. 74B.004. LIABILITY FOR PHYSICIAN OR HEALTH CARE PROVIDER. Provides that a physician or health care provider who provides a gender modification procedure or treatment to a patient is:

(1) liable to the patient for a malpractice claim in the provision of the procedure or treatment; and

(2) strictly liable to the patient for the patient's medical, mental health, and pharmaceutical costs, including costs associated with reversing a gender modification procedure or treatment, incurred for the life of the patient as a result of the procedure or treatment.

Sec. 74B.005. EXCEPTIONS. Provides that Sections 74B.003 and 74B.004 do not apply to the provision by a physician or health care provider, with the consent of a child's parent or legal guardian, if applicable, and the coverage by a health benefit plan of appropriate and medically necessary gender modification procedures or treatments to a patient who:

(1) is born with a medically verifiable genetic disorder of sex development, including:

(A) 46,XX chromosomes with virilization;

(B) 46,XY chromosomes with undervirilization; or

(C) both ovarian and testicular tissue; or

(2) does not have the normal sex chromosome structure for male or female as determined by a physician through genetic testing.

SECTION 3. Amends Subtitle F, Title 10, Government Code, by adding Chapter 2273A, as follows:

## CHAPTER 2273A. PROHIBITED USES OF PUBLIC MONEY

Sec. 2273A.001. DEFINITIONS. Defines "gender modification procedure or treatment" and "governmental entity."

Sec. 2273A.002. USE FOR GENDER MODIFICATION PROCEDURE OR TREATMENT. Prohibits a governmental entity from using or providing public money for the provision or administration of a gender modification procedure or treatment.

SECTION 4. Amends Subtitle E, Title 8, Insurance Code, by adding Chapter 1372, as follows:

### CHAPTER 1372. PROHIBITED COVERAGE OF GENDER MODIFICATION PROCEDURES AND TREATMENTS

Sec. 1372.001. DEFINITION. Defines "gender modification procedure or treatment."

Sec. 1372.002. APPLICABILITY OF CHAPTER. Provides that, notwithstanding any other law, this chapter applies only to:

- (1) a basic coverage plan under Chapter 1551 (Texas Employees Group Benefits Act);
- (2) a basic plan under Chapter 1575 (Texas Public School Employees Group Benefits Program);
- (3) a primary care coverage plan under Chapter 1579 (Texas School Employees Uniform Group Health Coverage);
- (4) a plan providing basic coverage under Chapter 1601 (Uniform Insurance Benefits Act for Employees of The University of Texas System and the Texas A&M University System);
- (5) the state Medicaid program, including the Medicaid managed care program operated under Chapter 533 (Medicaid Managed Care Program), Government Code; and
- (6) the child health plan program under Chapter 62 (Child Health Care Plan for Certain Low-Income Children), Health and Safety Code.

Sec. 1372.003. PROHIBITED COVERAGE; EXCEPTION. (a) Prohibits a health benefit plan from providing coverage for a gender modification procedure or treatment.

(b) Provides that this section does not apply to the coverage by a health benefit plan of appropriate and medically necessary gender modification procedures or treatments to a patient who:

- (1) is born with a medically verifiable genetic disorder of sex development, including:
  - (A) 46,XX chromosomes with virilization;
  - (B) 46,XY chromosomes with undervirilization; or
  - (C) both ovarian and testicular tissue; or
- (2) does not have the normal sex chromosome structure for male or female as determined by a physician through genetic testing.

SECTION 5. (a) Makes application of Chapter 74B, Civil Practice and Remedies Code, as added by this Act, prospective.

(b) Provides that the changes in law made by this Act apply only to a health benefit plan delivered, issued for delivery, or renewed on or after the effective date of this Act.

SECTION 6. Effective date: September 1, 2023.