

By: Tinderholt

H.B. No. 4754

A BILL TO BE ENTITLED

AN ACT

relating to health benefit plan coverage for and prohibitions on gender transitioning procedures and treatments provided to certain individuals; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Texas Millstone Act.

SECTION 2. Chapter 161, Health and Safety Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. GENDER TRANSITION PROCEDURES OR TREATMENTS

Sec. 161.701. DEFINITIONS. In this subchapter:

(1) "Biological sex" means 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" means:

(A) testosterone or other androgens provided to a biological female in a more potent amount than would naturally occur in a healthy biological female; or

(B) estrogen provided to a biological male in a more potent amount than would naturally occur in a healthy biological male.

(3) "Gender" means the psychological, behavioral,

1 social, and cultural aspects of being male or female.

2 (4) "Gender reassignment surgery" means a medical
3 procedure performed for the purpose of surgically altering or
4 removing healthy anatomical characteristics typical for the
5 individual's biological sex to instill physiological or anatomical
6 characteristics that resemble a sex different than the individual's
7 biological sex. The term includes genital or nongenital gender
8 reassignment surgery performed for the purpose of assisting an
9 individual with a gender transition.

10 (5) "Gender transition" means the process by which an
11 individual progresses from identifying with and living as the
12 gender that corresponds to the individual's biological sex to
13 identifying with and living as a gender different than the
14 individual's biological sex. The term includes social, legal, or
15 physical changes to an individual.

16 (6) "Gender transition procedure or treatment" means a
17 medical or surgical procedure or treatment, including a physician's
18 services, inpatient and outpatient hospital services, and
19 prescription drugs, related to gender transition that seeks to:

20 (A) alter or remove anatomical characteristics
21 typical for the individual's biological sex; or

22 (B) instill physiological or anatomical
23 characteristics that resemble a sex different from the individual's
24 biological sex, including:

25 (i) medical services that provide
26 puberty-blocking drugs, cross-sex hormones, or other mechanisms to
27 promote the development of feminizing or masculinizing features in

1 the opposite biological sex; and
2 (ii) genital or nongenital gender
3 reassignment surgery performed for the purpose of assisting an
4 individual with a gender transition.

5 (7) "Genital gender reassignment surgery" means a
6 medical procedure related to an individual's genitals and performed
7 for the purpose of assisting the individual with a gender
8 transition, including:

9 (A) surgical procedures such as penectomy,
10 orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for
11 biologically male patients or hysterectomy or oophorectomy for
12 biologically female patients;

13 (B) reconstruction of the fixed part of the
14 urethra with or without a metoidioplasty; or

15 (C) phalloplasty, vaginectomy, scrotoplasty, or
16 implantation of erection or testicular prostheses for biologically
17 female patients.

18 (8) "Health care professional" means an individual
19 other than a physician who is licensed, certified, or otherwise
20 authorized by this state's laws to administer health care in the
21 ordinary course of business or practice of a profession.

22 (9) "Nongenital gender reassignment surgery" means a
23 medical procedure that is not a genital gender reassignment surgery
24 and is performed for the purpose of assisting an individual with a
25 physical gender transition, including the following surgical
26 procedures:

27 (A) for either a biological male or female:

1 (i) liposuction or lipofilling; or

2 (ii) various aesthetic procedures;

3 (B) for a biological male:

4 (i) augmentation mammoplasty;

5 (ii) facial feminization surgery;

6 (iii) voice feminization surgery;

7 (iv) thyroid cartilage reduction;

8 (v) gluteal augmentation; or

9 (vi) hair reconstruction; or

10 (C) for a biological female:

11 (i) subcutaneous mastectomy;

12 (ii) voice masculinization surgery; or

13 (iii) pectoral implants.

14 (10) "Physician" means a person licensed to practice
15 medicine in this state.

16 (11) "Puberty-blocking drug" means a drug used to
17 delay or suppress normal puberty development in children for the
18 purpose of assisting an individual with a gender transition,
19 including:

20 (A) for a biological male, a
21 gonadotropin-releasing hormone analogue or other synthetic drug
22 prescribed to stop luteinizing hormone secretion and testosterone
23 secretion; or

24 (B) for a biological female, a synthetic drug
25 prescribed to stop the production of estrogen and progesterone.

26 (12) "Public money" means money of this state, a state
27 agency, or a political subdivision.

1 Sec. 161.702. APPLICABILITY. This subchapter does not
2 apply to:

3 (1) a procedure, treatment, or service provided to an
4 individual who is born with a medically verifiable genetic disorder
5 of sex development, including:

6 (A) 46,XX chromosomes with virilization;

7 (B) 46,XY chromosomes with undervirilization; or

8 (C) both ovarian and testicular tissue;

9 (2) a procedure, treatment, or service provided to an
10 individual who does not have the normal sex chromosome structure,
11 sex steroid production, or sex steroid hormone action for male or
12 female as determined by a physician through genetic testing or
13 biochemical testing;

14 (3) treatment of an infection, injury, disease, or
15 disorder that has been caused by or exacerbated by the performance
16 of a gender transition procedure or treatment, regardless of
17 whether:

18 (A) the gender transition procedure or treatment
19 was performed in accordance with state and federal law; or

20 (B) funding for the gender transition procedure
21 or treatment is permissible under this subchapter; or

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

27 Sec. 161.703. CONSTRUCTION OF SUBCHAPTER. This subchapter

1 may not be construed to deny, impair, or otherwise affect any right
2 or authority of the attorney general, this state, or any agency,
3 officer, or employee of this state, acting under any law other than
4 this subchapter, to bring or intervene in an action brought under
5 this subchapter.

6 Sec. 161.704. PROHIBITED PROVISION OF GENDER TRANSITION
7 PROCEDURES OR TREATMENTS. A physician or health care professional,
8 including a physician or health care professional employed by or
9 practicing in a facility owned by this state or a political
10 subdivision, may not:

11 (1) provide a gender transition procedure or treatment
12 to an individual younger than 26 years of age; or

13 (2) refer an individual younger than 26 years of age to
14 a physician or health care professional for a gender transition
15 procedure or treatment.

16 Sec. 161.705. PROHIBITED USE OF PUBLIC MONEY. Public money
17 may not directly or indirectly be used, granted, paid, or otherwise
18 distributed to a person who provides gender transition procedures
19 or treatment to individuals younger than 26 years of age.

20 Sec. 161.706. PROHIBITED MEDICAID REIMBURSEMENT. The
21 commission may not provide Medicaid reimbursement to a provider for
22 a gender transition procedure or treatment to an individual younger
23 than 26 years of age.

24 Sec. 161.707. CRIMINAL OFFENSE. (a) A physician or health
25 care professional who knowingly violates Section 161.704 commits an
26 offense.

27 (b) An offense under this section is a state jail felony.

1 (c) An indictment for an offense under this section must be
2 presented within 40 years from the date of the commission of the
3 offense, and not afterward.

4 Sec. 161.708. DISCIPLINARY ACTION. (a) The Texas Medical
5 Board or another state regulatory agency with jurisdiction over a
6 health care provider subject to Section 161.704 shall revoke the
7 license, certification, or authorization of a physician or health
8 care provider who the board or agency determines has violated that
9 section.

10 (b) Disciplinary action described by Subsection (a) must be
11 taken not later than the 40th anniversary of the date of the
12 violation of Section 161.704.

13 Sec. 161.709. CIVIL ACTION. (a) Notwithstanding any other
14 law, an individual may bring an action for damages incurred as a
15 result of a gender transition procedure or treatment performed on
16 the individual:

17 (1) through the individual's parent, guardian, or next
18 friend, if the individual is under 18 years of age; and

19 (2) in the individual's own name, not later than the
20 40th anniversary after the date the individual attains 18 years of
21 age.

22 (b) A court may award to the prevailing claimant:

23 (1) compensatory damages;

24 (2) injunctive relief;

25 (3) declaratory relief; and

26 (4) any other appropriate relief.

27 (c) A court shall award a claimant prevailing in an action

1 brought under this section reasonable attorney's fees incurred in
2 bringing the action.

3 (d) Notwithstanding any other law, an action brought under
4 this section may be commenced, and relief may be granted, in a
5 judicial proceeding without regard to whether the individual
6 commencing the action has sought or exhausted available
7 administrative remedies.

8 Sec. 161.710. ATTORNEY GENERAL ENFORCEMENT. (a) The
9 attorney general may bring an action to enforce this subchapter.

10 (b) In an action brought under this section, the court may
11 award the attorney general injunctive or declaratory relief and
12 reasonable attorney's fees and costs incurred in bringing the
13 action.

14 SECTION 3. If before implementing any provision of this Act
15 a state agency determines that a waiver or authorization from a
16 federal agency is necessary for implementation of that provision,
17 the agency affected by the provision shall request the waiver or
18 authorization and may delay implementing that provision until the
19 waiver or authorization is granted.

20 SECTION 4. This Act takes effect September 1, 2023.