

House Bill 401

By: Representatives Ehrhart of the 36th, Newton of the 123rd, Jasperse of the 11th, Gravley of the 67th, Carson of the 46th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 prohibit certain licensed, certified, or registered professionals from engaging in certain acts
3 upon minors; to provide for a short title; to provide for definitions; to provide for exceptions;
4 to provide for a penalty and private cause of action; to explicitly waive sovereign immunity,
5 qualified immunity, and official immunity for such a private cause of action; to provide for
6 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
11 a new chapter to read as follows:

12 "CHAPTER 20A

13 31-20A-1.

14 This chapter shall be known and may be cited as the 'Vulnerable Child Protection Act.'

H. B. 401

15 31-20A-2.16 As used in this chapter, the term:

17 (1) 'Healthcare professional' means any individual licensed, certified, registered, or
18 otherwise authorized to provide medical care or mental health services to natural persons,
19 including, but not limited to, those individuals licensed, certified, registered, or otherwise
20 authorized under Chapter 4 of Title 26 or under Chapter 9, 10A, 11, 11A, 26, 28, 29, 30,
21 33, 34, 35, 39, or 44 of Title 43.

22 (2) 'Minor' means an individual who is under the age of 18 years.

23 (3) 'Physician' means an individual licensed to practice medicine pursuant to Article 2
24 of Chapter 34 of Title 43.

25 (4) 'Sex' means the biological state of being female or male, based on sex organs,
26 chromosomes, or endogenous hormone profiles.

27 31-20A-3.

28 Except as provided in Code Section 31-20A-4, no healthcare professional shall engage in
29 any of the following practices upon a minor or cause such practices to be performed for the
30 purpose of attempting to affirm the minor's perception of such minor's sex, if that
31 perception is inconsistent with such minor's sex:

32 (1) Performing any surgery that sterilizes, including, but not limited to, castration,
33 vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchiectomy, penectomy,
34 phalloplasty, or vaginoplasty;

35 (2) Performing a mastectomy;

36 (3) Removing any otherwise healthy or nondiseased body part or tissue; or

37 (4) Administering or supplying medications that induce transient or permanent infertility,
38 including, but not limited to:

39 (A) Puberty-blocking medication to stop or delay normal puberty;

40 (B) Supraphysiologic doses of testosterone to females; or

41 (C) Supraphysiologic doses of estrogen to males.

42 31-20A-4.

43 This chapter shall not apply to the medical decision of a parent or guardian of a minor:

44 (1) With external biological sex characteristics that are irresolvably ambiguous, such as
45 a minor born with 46, XX with virilization; 46, XY with undervirilization; or both
46 ovarian and testicular tissue; or

47 (2) Who has been diagnosed with a sex development disorder by a physician who has
48 determined through genetic testing that the minor does not have the normal XY sex
49 chromosome structure for a male or XX sex chromosome structure for a female.

50 31-20A-5.

51 (a) Any healthcare professional who violates this chapter shall be guilty of a felony and,
52 upon conviction thereof, shall be punished by imprisonment for not less than one nor more
53 than ten years.

54 (b) Within ten days of a conviction, a healthcare professional who is convicted of violating
55 this chapter shall notify in writing the applicable licensing board for his or her licensure,
56 certification, registration, or other authorization to conduct such healthcare professional's
57 occupation. Upon being notified and notwithstanding any law, rule, or regulation to the
58 contrary, the applicable licensing board shall revoke the license, certification, registration,
59 or other authorization to conduct such healthcare professional's occupation.

60 31-20A-6.

61 (a) Any individual aggrieved as a result of a violation of this chapter may bring against any
62 person responsible for such violation an action for damages, reasonable attorney's fees and
63 expenses of litigation, punitive damages where appropriate, and any other relief which the
64 court deems proper.

65 (b) Sovereign immunity, qualified immunity, and official immunity from litigation and
66 liability shall be waived for any violations of this chapter.

67 (c) No healthcare professional shall be held civilly or criminally liable for refusing to
68 engage in any practice prohibited under this chapter.

69 31-20A-7.

70 Nothing in this chapter shall be construed to expand the scope of practice of any healthcare
71 professional."

72 **SECTION 2.**

73 This Act shall become effective upon its approval by the Governor or upon its becoming law
74 without such approval and shall apply to offenses that occur on or after such date.

75 **SECTION 3.**

76 All laws and parts of laws in conflict with this Act are repealed.