

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 71

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE CHILD PROTECTION ACT; AMENDING SECTION 18-1506B, IDAHO CODE,  
2 TO PROVIDE FOR THE CRIME OF GENITAL MUTILATION IN CERTAIN INSTANCES, TO  
3 REMOVE A PROVISION REGARDING A PENALTY, TO REMOVE A PROVISION REGARDING  
4 THE REMOVAL OF A CHILD FROM THIS STATE, TO REVISE AN EXEMPTION, TO PRO-  
5 VIDE CERTAIN EXEMPTIONS, TO REVISE A PENALTY, TO DEFINE A TERM, TO PRO-  
6 VIDE SEVERABILITY, AND TO PROVIDE LEGISLATIVE INTENT; AMENDING SECTION  
7 19-5307, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING  
8 AN EFFECTIVE DATE.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 18-1506B, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 18-1506B. ~~FEMALE~~ GENITAL MUTILATION OF A CHILD -- EXCLUSIONS -- PENAL-  
14 TIES -- DEFINITION. (1) Except as provided in subsection ~~(4)~~(3) of this  
15 section, whoever knowingly authorizes or commits any procedure that circum-  
16 cises, excises, or infibulates the whole or any part of the labia majora,  
17 labia minora, or clitoris of a child shall be guilty of a felony.

18 ~~(2) Except as provided in subsection (4) of this section, whoever know-~~  
19 ~~ingly gives permission for, or permits on a child, any act prohibited by sub-~~  
20 ~~section (1) of this section shall be guilty of a felony.~~

21 ~~(3) Except as provided in subsection (4) of this section, whoever know-~~  
22 ~~ingly removes or causes, permits, or facilitates the removal of a child from~~  
23 ~~this state for the purpose of facilitating any act prohibited by subsection~~  
24 ~~(1) of this section shall be guilty of a felony.~~

25 (2) Except as provided in subsection (4) of this section, any medical  
26 practitioner who knowingly engages in any of the following practices upon  
27 a child for the purpose of attempting to alter the appearance of or affirm  
28 the child's perception of the child's sex if that perception is inconsistent  
29 with the child's biological sex shall be guilty of a felony:

30 (a) Performing surgeries that sterilize or mutilate, or artificially  
31 construct tissue with the appearance of genitalia that differs from the  
32 child's biological sex, including castration, vasectomy, hysterect-  
33 omy, oophorectomy, metoidioplasty, orchiectomy, penectomy, phal-  
34 loplasty, clitoroplasty, vaginoplasty, vulvoplasty, ovariectomy, or  
35 reconstruction of the fixed part of the urethra with or without metoid-  
36 ioplasty, phalloplasty, scrotoplasty, or the implantation of erection  
37 or testicular prostheses;

38 (b) Performing a mastectomy;

39 (c) Administering or supplying the following medications that induce  
40 profound morphologic changes in the genitals of a child or induce tran-  
41 sient or permanent infertility:

42 (i) Puberty-blocking medication to stop or delay normal puberty;

1           (ii) Supraphysiological doses of testosterone to a female; or

2           (iii) Supraphysiological doses of estrogen to a male; or

3           (d) Removing any otherwise healthy or nondiseased body part or tissue.

4           ~~(4)~~ (3) A surgical operation or medical intervention shall not be a vio-  
5 lation of this section if the operation or intervention is:

6           (a) Necessary to the health of the person on whom it is performed and is  
7 performed by a person licensed in the place of its performance as a med-  
8 ical practitioner, except that a medical intervention that results in  
9 the impairment and mutilation of the reproductive organs and parts of a  
10 child is never necessary to the health of the child on whom it is per-  
11 formed if it is for the sole purpose of attempting to alter the appear-  
12 ance of or affirm the child's perception of the child's sex if that per-  
13 ception is inconsistent with the child's biological sex; or

14           (b) Performed on a person in labor or who has just given birth and is  
15 performed for medical purposes connected with that labor or birth by a  
16 person licensed in the place it is performed as a medical practitioner,  
17 midwife, or person in training to become such a practitioner or midwife.

18           (4) The provisions of subsection (2) of this section shall not apply to  
19 a person acting in accordance with the good faith medical decision of a par-  
20 ent or guardian of a child born with a medically verifiable genetic disorder  
21 of sex development, including:

22           (a) A child with external biological sex characteristics that are am-  
23 biguous and irresolvable, such as a child born having 46, XX chromosomes  
24 with virilization, 46, XY chromosomes with undervirilization, or with  
25 both ovarian and testicular tissue;

26           (b) When a physician has otherwise diagnosed a disorder of sexual de-  
27 velopment in which the physician has determined through genetic testing  
28 that the child does not have the normal sex chromosome structure, sex  
29 steroid hormone production, or sex steroid hormone action for a male or  
30 female; or

31           (c) The treatment of any infection, injury, disease, or disorder that  
32 has been caused or exacerbated by the performance of gender transition  
33 procedures, whether or not the procedures were performed in accordance  
34 with state and federal law.

35           (5) In applying subsection ~~(4)~~(3) (a) of this section, no account shall  
36 be taken of the effect on the person on whom the operation is to be performed  
37 or any belief on the part of that person, or any other person, that the opera-  
38 tion is required as a matter of custom or ritual.

39           (6) Any person convicted of a violation of this section shall be guilty  
40 of a felony and shall be imprisoned in the state prison for a term of not more  
41 than ~~life~~ ten (10) years.

42           (7) For the purposes of this section, "child" means any person under  
43 eighteen (18) years of age.

44           (8) For the purposes of this section, "sex" means the immutable biolog-  
45 ical and physiological characteristics, specifically the chromosomes and  
46 internal and external reproductive anatomy, genetically determined at con-  
47 ception and generally recognizable at birth, that define an individual as  
48 male or female.

49           (9) The provisions of this act are hereby declared to be severable,  
50 and if any provision of this act or the application of such provision to any

1 person or circumstance is declared invalid for any reason, such declaration  
2 shall not affect the validity of the remaining portions of this section.

3 (10) The legislature finds and declares that:

4 (a) Biological sex is an objectively defined category that has obvious,  
5 immutable, and distinguishable characteristics.

6 (b) Gender dysphoria among children rarely persists into adulthood,  
7 with peer-reviewed research revealing that as many as ninety-eight per-  
8 cent (98%) of gender dysphoric boys and as many as eighty-eight percent  
9 (88%) of gender dysphoric girls ultimately identify with their biologi-  
10 cal sex after passing through puberty.

11 (c) Some healthcare providers now routinely administer puberty block-  
12 ers to prepubescent and pubescent children notwithstanding scientific  
13 evidence that children who remain on puberty blockers may never recover  
14 lost development and despite known sterility and additional concerns  
15 about reduced IQ and future osteoporosis.

16 (d) Some healthcare providers now routinely administer cross-sex hor-  
17 mones to pubescent children notwithstanding scientific evidence that  
18 such therapies cause irreversible sterility and likely increase risks  
19 of other medical conditions, including cancer, cardiovascular disease,  
20 blood clots, osteoporosis, and obesity.

21 (e) Some healthcare providers now refer pubescent adolescents for sex  
22 reassignment surgeries that permanently mutilate healthy reproductive  
23 organs and other body parts.

24 (f) The world professional association for transgender health, a pro-  
25 fessional organization that publishes the standards of care for treat-  
26 ing gender dysphoria, has altogether removed its age recommendations  
27 for adolescent sex reassignment surgeries, including but not limited to  
28 surgical castration, mastectomies, hysterectomies, and genital recon-  
29 struction, despite the known harms and experimental nature of perform-  
30 ing such surgeries on gender dysphoric children.

31 (g) Recent science suggests that medical interventions like surgeries  
32 and cross-sex hormones do not significantly improve long-term health  
33 outcomes for patients struggling with gender dysphoria and that suicide  
34 rates, psychiatric morbidities, and mortality rates remain markedly  
35 elevated above the background population after inpatient gender reas-  
36 signment procedures have been performed.

37 (h) No long-term randomized studies evaluate the efficacy or safety of  
38 the use of puberty blockers for the purpose of treating gender dyspho-  
39 ria, and no randomized clinical trials have been conducted on the effi-  
40 cacy or safety of the use of cross-sex hormones in adults or children for  
41 the purpose of treating gender dysphoria.

42 (i) These experimental, irreversible, and medically unnecessary phar-  
43 maceutical and surgical interventions violate the Hippocratic oath,  
44 taken by physicians for millennia, to "do no harm."

45 (j) Therefore, the state of Idaho has a compelling government interest  
46 in protecting the health and safety of its minor children from such med-  
47 ical interventions for the purpose of attempting to affirm or change a  
48 child's gender expression.

49 SECTION 2. That Section 19-5307, Idaho Code, be, and the same is hereby  
50 amended to read as follows:

1 19-5307. FINES IN CASES OF CRIMES OF VIOLENCE. (1) Irrespective of any  
2 penalties set forth under state law, and in addition thereto, the court, at  
3 the time of sentencing or such later date as deemed necessary by the court,  
4 may impose a fine not to exceed five thousand dollars (\$5,000) against any  
5 defendant found guilty of any felony listed in subsections (2) and (3) of  
6 this section.

7 The fine shall operate as a civil judgment against the defendant and  
8 shall be entered on behalf of the victim named in the indictment or infor-  
9 mation, or the family of the victim in cases of homicide or crimes against  
10 children, and shall not be subject to any distribution otherwise required  
11 in section 19-4705, Idaho Code. The clerk of the district court may collect  
12 the fine in the same manner as other fines imposed in criminal cases are  
13 collected and shall remit any money collected in payment of the fine to the  
14 victim named in the indictment or information or to the family of the victim  
15 in a case of homicide or crimes against minor children, provided that none  
16 of the provisions of this section shall be construed as modifying the provi-  
17 sions of chapter 6, title 11, Idaho Code, chapter 10, title 55, Idaho Code, or  
18 section 72-802, Idaho Code. A fine created under this section shall be a sep-  
19 arate written order in addition to any other sentence the court may impose.

20 The fine contemplated in this section shall be ordered solely as a puni-  
21 tive measure against the defendant and shall not be based upon any require-  
22 ment of showing of need by the victim. The fine shall not be used as a substi-  
23 tute for an order of restitution as contemplated in section 19-5304, Idaho  
24 Code, nor shall such an order of restitution or order of compensation en-  
25 tered in accordance with section 72-1018, Idaho Code, be offset by the entry  
26 of such fine.

27 A defendant may appeal a fine created under this section in the same man-  
28 ner as any other aspect of a sentence imposed by the court. The imposition of  
29 a fine created under this section shall not preclude the victim from seeking  
30 any other legal remedy; provided that in any civil action brought by or on be-  
31 half of the victim, the defendant shall be entitled to offset the amount of  
32 any fine imposed pursuant to this section against any award of punitive dam-  
33 ages.

34 (2) The felonies for which a fine created under this section may be im-  
35 posed are those described in:

36 Section 18-805, Idaho Code (Aggravated arson);

37 Section 18-905, Idaho Code (Aggravated assault);

38 Section 18-907, Idaho Code (Aggravated battery);

39 Section 18-909, Idaho Code (Assault with intent to commit a serious  
40 felony);

41 Section 18-911, Idaho Code (Battery with intent to commit a serious  
42 felony);

43 Section 18-913, Idaho Code (Felony administration of drugs);

44 Section 18-918, Idaho Code (Felony domestic violence);

45 Section 18-923, Idaho Code (Attempted strangulation);

46 Section 18-1501, Idaho Code (Felony injury to children);

47 Section 18-1506, Idaho Code (Sexual abuse of a child under the age of  
48 sixteen);

49 Section 18-1506A, Idaho Code (Ritualized abuse of a child);

1 Section 18-1506B, Idaho Code (~~Female genital~~ Genital mutilation of a  
2 child);  
3 Section 18-1507, Idaho Code (Sexual exploitation of a child);  
4 Section 18-1508, Idaho Code (Lewd conduct with a child under the age of  
5 sixteen);  
6 Section 18-1508A, Idaho Code (Sexual battery of a minor child sixteen or  
7 seventeen years of age);  
8 Section 18-4001, Idaho Code (Murder);  
9 Section 18-4006, Idaho Code (Felony manslaughter);  
10 Section 18-4014, Idaho Code (Administering poison with intent to kill);  
11 Section 18-4015, Idaho Code (Assault with intent to murder);  
12 Section 18-4502, Idaho Code (First degree kidnapping);  
13 Section 18-5001, Idaho Code (Mayhem);  
14 Section 18-5501, Idaho Code (Poisoning food, medicine or wells);  
15 Section 18-6101, Idaho Code (Rape);  
16 Section 18-6501, Idaho Code (Robbery).  
17 (3) Notwithstanding the provisions of section 18-306(4) and (5), Idaho  
18 Code, the fine created under this section may also be imposed up to five thou-  
19 sand dollars (\$5,000) for attempts of the felonies described in:  
20 Section 18-4001, Idaho Code (Murder);  
21 Section 18-6101, Idaho Code (Rape).

22 SECTION 3. This act shall be in full force and effect on and after Jan-  
23 uary 1, 2024.