STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1011

By: Olsen

AS INTRODUCED

An Act relating to public health and safety; defining terms; prohibiting certain health care professionals from performing or attempting to perform gender transition procedures to certain individuals; prohibiting certain health care professionals from making certain referrals; providing exceptions; prohibiting use of public funds for gender transition procedures; prohibiting gender transition procedures under certain circumstances; prohibiting state Medicaid program reimbursements; providing for felony penalties; authorizing fine or confinement or both; prescribing statute of limitations; defining certain conduct as unprofessional; requiring revocation of license or certificate; prescribing statute of limitations for disciplinary proceedings; authorizing certain claims or defenses; prescribing statute of limitations; authorizing civil actions by minors; authorizing civil actions after majority; authorizing certain actions without exhaustion of administrative remedies; authorizing attorney fees; authorizing Attorney General to bring enforcement actions; providing for construction of act; providing for codification; and providing an effective date.

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:
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 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 given to biological females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females, and
   b. estrogen given to biological males in amounts that are larger or more potent than would normally occur naturally in healthy biological sex males;

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

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

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

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

   (1) alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex, or

   (2) instill or create physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including but not limited to medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex, or genital or nongenital gender reassignment surgery performed for the
purpose of assisting an individual with a gender transition.

b. Gender transition procedures do not include:

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

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

(3) the treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law, or
(4) any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed;

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

   a. surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female patients,

   b. reconstruction of the fixed part of the urethra with or without a metoidioplasty, or

   c. phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biologically female patients;

8. "Health care professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;
9. "Nongenital gender reassignment surgery" means medical procedures performed for the purpose of assisting an individual with a gender transition, including but not limited to:

   a. surgical procedures for biologically male patients, such as augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or various aesthetic procedures, or

   b. surgical procedures for biologically female patients, such as subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or various aesthetic procedures;

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

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

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

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:

A. A physician or other health care professional shall not perform or attempt to perform gender transition procedures to any individual under twenty-one (21) years of age.

B. A physician or other health care professional shall not refer any individual under twenty-one (21) years of age to any health care professional for gender transition procedures.

C. A physician or other health care professional is not prohibited from providing any of the following procedures which are not gender transition procedures to an individual under twenty-one (21) years of age:

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

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

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

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

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

A. Public funds shall not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides gender transition procedures to an individual under twenty-one (21) years of age. Any violation shall result in the loss of such funding.

B. Health care services furnished in the following situations shall not include gender transition procedures to an individual under twenty-one (21) years of age:
1. By or in a health care facility owned by the state or a county or local government; or

2. By a physician or other health care professional employed by the state or a county or local government.

C. The state Medicaid program shall not reimburse or provide coverage for gender transition procedures to an individual under twenty-one (21) years of age.

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

A. 1. As provided in subsection A of Section 2 of this act, a physician or other health care professional performing or attempting to perform gender transition procedures to any individual under twenty-one (21) years of age shall, upon conviction, be guilty of a felony punishable by fine not to exceed One Hundred Thousand Dollars ($100,000.00), or by confinement in the custody of the Department of Corrections for a term not to exceed ten (10) years, or by both such fine and imprisonment.

2. Prosecution for a criminal violation of this subsection shall be commenced not later than the date as of which the individual receiving gender transition procedures attains the age of forty-five (45) years.

B. 1. As provided in subsection B of Section 2 of this act, a physician or other health care professional found to have knowingly
referred any individual under twenty-one (21) years of age to any
health care professional for gender transition procedures shall,
upon conviction, be guilty of a felony.

2. Prosecution for a criminal violation of this subsection
shall be commenced not later than the date as of which the
individual receiving gender transition procedures attains the age of
forty-five (45) years.

C. 1. Any referral for or provision of gender transition
procedures to an individual under twenty-one (21) years of age is
unprofessional conduct and shall, upon an adverse ruling by the
appropriate licensing board, result in immediate revocation of the
license or certificate of the physician or other health care
professional.

2. Disciplinary proceedings against the physician or other
health care professional must be commenced not later than the date
as of which the individual receiving gender transition procedures
attains the age of forty-five (45) years.

D. 1. A person may assert an actual or threatened violation of
this act as an independent civil action or defense in a judicial or
administrative proceeding and obtain compensatory damages,
injunctive relief, declaratory relief, or any other appropriate
relief.
2. A person shall bring a claim for a violation of this act no later than the date as of which the individual receiving gender transition procedures attains the age of forty-five (45) years.

3. An individual under eighteen (18) years of age may bring an action throughout their minority through a parent or next friend, and may bring an action in their own name upon reaching majority at any time from that point until twenty-seven (27) years after reaching the age of majority.

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

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

E. 1. The Attorney General may bring an action to enforce compliance with this act.

2. This act does not deny, impair, or otherwise affect any right or authority of the Attorney General, the State of Oklahoma, or any agency, officer, or employee of the state, acting under any law other than this act, to institute or intervene in any proceeding.
SECTION 5. This act shall become effective November 1, 2023.

59-1-5096 TJ 11/30/22