

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H4/2/25

A Bill

HOUSE BILL 1916

5 By: Representative Bentley
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE PROTECTING MINORS FROM MEDICAL
10 MALPRACTICE ACT OF 2023; TO INCLUDE GENDER-AFFIRMING
11 INTERVENTIONS AS A RIGHT OF ACTION FOR MEDICAL
12 MALPRACTICE; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND THE PROTECTING MINORS FROM
16 MEDICAL MALPRACTICE ACT OF 2023; AND TO
17 INCLUDE GENDER-AFFIRMING INTERVENTIONS
18 AS A RIGHT OF ACTION FOR MEDICAL
19 MALPRACTICE.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 16-114-401, concerning definitions within
25 the Protecting Minors from Medical Malpractice Act of 2023, is amended to add
26 an additional subdivision to read as follows:

27 (6) "Gender-affirming intervention" means an intervention to
28 support a patient's identification with the gender opposite of his or her
29 biological sex, including without limitation:

30 (A) Puberty blockers; and

31 (B) Cross-sex hormone therapy.
32

33 SECTION 2. Arkansas Code § 16-114-402 and § 16-114-403 are amended to
34 read as follows:

35 16-114-402. Right of action.

36 (a) A healthcare professional who performs a gender transition



1 procedure or a mental health professional who performs gender-affirming
2 intervention on a minor is liable to the minor if the minor is injured,
3 including without limitation any physical, psychological, emotional, or
4 physiological injury, by the gender transition procedure, gender-affirming
5 intervention, related treatment, or the after effects of the gender
6 transition procedure, or gender-affirming intervention, or related treatment.

7 (b)(1) A minor injured as provided under subsection (a) of this
8 section, or a representative of a minor injured as provided under subsection
9 (a) of this section who receives a gender transition procedure or a gender-
10 affirming intervention, including without limitation a parent or legal
11 guardian of a minor injured as provided under subsection (a) of this section
12 who receives a gender transition procedure or a gender-affirming intervention
13 acting on behalf of the minor, may bring a civil action against the
14 healthcare professional who performed the gender transition procedure or
15 gender-affirming intervention on the minor in a court of competent
16 jurisdiction for:

- 17 (A) Declaratory or injunctive relief;
18 (B) Compensatory damages;
19 (C) Punitive damages; and
20 (D) Attorney's fees and costs.

21 (2) A civil action under subdivision (b)(1) of this section
22 shall be filed not later than fifteen (15) years after the date on which the
23 minor turns eighteen (18) years of age, or would have turned eighteen (18)
24 years of age if the minor died before turning eighteen (18) years of age.

25
26 16-114-403. Safe harbor.

27 (a) It is a defense to a civil action brought under § 16-114-402 that,
28 before performing a gender transition procedure or a gender-affirming
29 intervention on a minor:

30 (1) The healthcare professional documented the minor's perceived
31 gender or perceived sex for two (2) continuous years, and the minor's
32 perceived gender or perceived sex was invariably inconsistent with the
33 minor's biological sex throughout the two (2) years;

34 (2) To the extent that the minor suffered from a mental health
35 concern, at least two (2) healthcare professionals, including at least one
36 (1) mental health professional, certified in writing that the gender

1 transition procedure was the only way to treat the mental health concern;

2 (3) At least two (2) healthcare professionals, including at
3 least one (1) mental health professional, certified in writing that the minor
4 suffered from no other mental health concerns, including without limitation
5 depression, eating disorders, autism, attention deficit hyperactivity
6 disorder, intellectual disability, or psychotic disorders; and

7 (4) The healthcare professional received the voluntary and
8 informed consent of the parent or legal guardian of the minor and the minor
9 as provided in subsection (b) of this section.

10 (b) Consent to a gender transition procedure or a gender-affirming
11 intervention is voluntary and informed only if, at least thirty (30) days
12 before the first treatment of the gender transition procedure or gender-
13 affirming intervention and during every subsequent medical visit for
14 treatment during the following six (6) months, the minor and the minor's
15 parent or legal guardian receive verbal notice and written notice in at least
16 14-point, proportionally spaced typeface that state the following facts,
17 verbatim:

18 "If your child begins one (1) of these treatments, it may
19 actually worsen the discordance and thus increase the likelihood that your
20 child will need additional and more serious interventions to address the
21 worsening condition. For example, if your child begins socially transitioning
22 or taking puberty blockers, that treatment may significantly increase the
23 likelihood that your child's discordance will worsen and lead to your child
24 eventually seeking cross-sex hormones or even surgery to remove some of your
25 child's body parts.

26 Sweden, Finland, and the United Kingdom have conducted systematic
27 reviews of evidence and concluded that there is no evidence that the
28 potential benefits of puberty blockers and cross-sex hormones for this
29 purpose outweigh the known or assumed risks.

30 Medical authorities in Sweden, Finland, and the United Kingdom
31 have since recommended psychotherapy as the first line of treatment for youth
32 gender dysphoria, with drugs and surgeries reserved as a measure of last
33 resort. Medical authorities in France have advised 'great caution' when
34 prescribing hormones for gender dysphoria.

35 There are people who underwent gender transition treatments or
36 gender-affirming interventions as minors and later regretted that decision

1 and the physical harm that these treatments caused, and the total percentage
2 of people who experience this regret is unknown. Some estimate that the rate
3 is below two percent (2%), but that estimate is based on studies done on
4 adults who transitioned as adults or on minors who transitioned under highly
5 restrictive and controlled conditions.

6 Sometimes gender transition treatments or gender-affirming
7 interventions have been proposed as a way to reduce the chances of a minor
8 committing suicide due to discordance between the minor's sex and his or her
9 perception, but the rates of actual suicide from this discordance remain
10 extremely low. Furthermore, as recognized by health authorities in Europe,
11 there is no evidence that suicidality is caused by 'unaffirmed' gender or
12 that gender transition treatments are causally linked to a reduction in
13 serious suicidal attempts or ideations.

14 For puberty blockers:

15 Puberty blockers are not approved for this purpose by the United
16 States Food and Drug Administration, which is the federal agency that
17 determines which drugs are safe and effective for humans to use. Claims about
18 puberty blockers' safety and efficacy are based on their use for precocious
19 puberty, a different condition in which normal puberty is allowed to resume
20 once the patient reaches the appropriate age. Studies on the benefits of
21 using puberty blockers for gender dysphoria are notoriously weak. Puberty
22 blockers are not fully reversible because, among other risks, puberty
23 blockers may intensify a minor's discordance and cause it to persist. Puberty
24 blockers increase the risk of your child being sterilized, meaning that he or
25 she will never be able to have children. Puberty blockers may also cause
26 diminished bone density for your child, increasing the risk of fracture and
27 early osteoporosis. Puberty blockers may also prevent your child from ever
28 being able to engage in sexual activity or achieve orgasm for the rest of
29 your child's life. There is no research on the long-term risks to minors of
30 persistent exposure to puberty blockers. The full effects of puberty blockers
31 on brain development and cognition are unknown.

32 For cross-sex hormones:

33 The use of cross-sex hormones in males is associated with
34 numerous health risks, such as thromboembolic disease, including without
35 limitation blood clots; cholelithiasis, including gallstones; coronary artery
36 disease, including without limitation heart attacks; macroprolactinoma, which

1 is a tumor of the pituitary gland; cerebrovascular disease, including without
2 limitation strokes; hypertriglyceridemia, which is an elevated level of
3 triglycerides in the blood; breast cancer; and irreversible infertility. The
4 use of cross-sex hormones in females is associated with risks of
5 erythrocytosis, which is an increase in red blood cells; severe liver
6 dysfunction; coronary artery disease, including without limitation heart
7 attacks; hypertension; and increased risk of breast and uterine cancers. Once
8 a minor begins cross-sex hormones, the minor may need to continue taking
9 those hormones for many years and possibly for the remainder of the minor's
10 life. The cost of these hormones may be tens of thousands of dollars. If the
11 use of cross-sex hormones leads to surgery, the total cost of transitioning
12 may exceed one hundred thousand dollars (\$100,000).

13 For surgical procedures:

14 The dangers, risks, complications, and long-term concerns
15 associated with these types of procedures are almost entirely unknown. There
16 are no long-term studies on either the effectiveness or safety of these
17 surgical procedures.”.

18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/Bentley