

Senator Michael S. Kennedy proposes the following substitute bill:

TRANSGENDER MEDICAL TREATMENTS AND PROCEDURES

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions regarding transgender medical treatments and procedures.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health and Human Services ~~§→ [to study]~~ to conduct a systematic review of the medical evidence regarding ~~←§~~ hormonal transgender treatments and provide recommendations to the Legislature;
- ▶ requires the Division of Professional Licensing to create a certification for providing hormonal transgender treatments;
- ▶ requires a health care provider to meet certain requirements before providing a hormonal transgender treatment;
- ▶ prohibits a health care provider from providing a hormonal transgender treatment to patients who have not previously received a hormonal transgender treatment;
- ▶ prohibits performing sex characteristic surgical procedures on a minor for the purpose of effectuating a sex change;
- ▶ specifies that a patient may bring a medical malpractice action for a hormonal transgender treatment;



- 26 ▶ extends the medical malpractice statute of limitations for a hormonal transgender
- 27 treatment that is provided to minors;
- 28 ▶ grants rulemaking authority; and
- 29 ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

58-67-102, as last amended by Laws of Utah 2022, Chapter 233

58-67-502, as last amended by Laws of Utah 2021, Chapter 337

58-68-102, as last amended by Laws of Utah 2022, Chapter 233

58-68-502, as last amended by Laws of Utah 2021, Chapter 337

ENACTS:

26B-1-214, Utah Code Annotated 1953

58-1-603, Utah Code Annotated 1953

58-1-603.1, Utah Code Annotated 1953

78B-3-427, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-214 is enacted to read:

26B-1-214. ~~§~~→ [Study] Systematic medical evidence review ~~←~~§ of hormonal transgender treatments.

(1) As used in this section, "hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(2) The department, in consultation with the Division of Professional Licensing created in Section 58-1-103, the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, ~~§~~→ [and] ~~←~~§ the University of Utah, ~~§~~→ and a non-profit hospital system that has multiple hospitals located in Utah and experience in specialty pediatric care, ~~←~~§ shall conduct a ~~§~~→ [study] systematic medical evidence review ~~←~~§ regarding the provision of hormonal transgender treatments to minors.

(3) The purpose of the ~~§~~→ [study] systematic medical evidence review ~~←~~§ is to provide the Legislature with recommendations to

consider when deciding whether to lift the moratorium described in Section 58-1-603.1.

(4) The ~~§~~→ [study] **systematic medical evidence review** ~~←§~~ shall:

(a) analyze hormonal transgender treatments that are prescribed to a minor with gender dysphoria, including:

(i) analyzing any effects and side effects of the treatment; and

(ii) whether each treatment has been approved by the federal Food and Drug Administration to treat gender dysphoria;

(b) review the scientific literature regarding hormonal transgender treatments in minors, including literature from other countries;

(c) review the quality of evidence cited in any scientific literature;

(d) include high quality clinical research assessing the benefits and harms of hormonal transgender treatments prescribed to minors with gender dysphoria;

(e) specify the conditions under which the department recommends that a treatment not be permitted;

(f) recommend what information a minor and the minor's parent should understand before consenting to a hormonal transgender treatment;

(g) recommend the best practices a health care provider should follow to provide the information described in Subsection (4)(e);

(h) describe the assumptions and value determinations used to reach a recommendation; and

(i) include any other information the department, in consultation with the entities described in Subsection (2), determines would assist the Legislature in enacting legislation related to the provision of hormonal transgender treatment to minors.

(5) Upon the completion of the ~~§~~→ [study] **systematic medical evidence review** ~~←§~~, the department shall provide the ~~§~~→ [study] **systematic medical evidence review** ~~←§~~ to the Health and Human Services Interim Committee.

Section 2. Section **58-1-603** is enacted to read:

58-1-603. Hormonal transgender treatment on minors -- Requirements.

(1) As used in this section:

(a) "Approved organization" means an organization with expertise regarding transgender health care for minors that is approved by the division.

(b) "Biological sex at birth" means an individual's sex, as being male or female,

according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.

(c) "Disorder of sexual development" means a sexual development disorder where an individual:

(i) is born with external biological sex characteristics that are irresolvably ambiguous;

(ii) is born with 46, XX chromosomes with virilization;

(iii) is born with 46, XY chromosomes with undervirilization;

(iv) has both ovarian and testicular tissue; or

(v) has been diagnosed by a physician, based on genetic or biochemical testing, with abnormal:

(A) sex chromosome structure;

(B) sex steroid hormone production; or

(C) sex steroid hormone action for a male or female.

(d) "Health care provider" means:

(i) a physician;

(ii) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act; or

(iii) an advanced practice registered nurse licensed under Subsection 58-31b-301(2)(e).

(e) (i) "Hormonal transgender treatment" means administering, prescribing, or supplying:

(A) to an individual whose biological sex at birth is female, a dose of testosterone or other androgens at levels above those normally found in an individual whose biological sex at birth is female;

(B) to an individual whose biological sex at birth is male, a dose of estrogen or a synthetic compound with estrogenic activity or effect at levels above those normally found in an individual whose biological sex at birth is male; or

(C) a puberty inhibition drug.

(ii) "Hormonal transgender treatment" does not include administering, prescribing, or supplying a substance described in Subsection (1)(e)(i) to an individual if the treatment is medically necessary as a treatment for:

(A) precocious puberty;

§→ [(B) idiopathic short stature;] ←§

119 ~~§~~→ ~~[(C)]~~ (B) ~~←~~§ endometriosis;

120 ~~§~~→ ~~[(D)]~~ (C) ~~←~~§ a menstrual, ovarian, or uterine disorder;

121 ~~§~~→ ~~[(E)]~~ (D) ~~←~~§ a sex-hormone stimulated cancer; or

122 ~~§~~→ ~~[(F)]~~ (E) ~~←~~§ a disorder of sexual development.

123 (f) "Mental health professional" means any of the following:

124 (i) a physician who is board certified for a psychiatry specialization recognized by the
125 American Board of Medical Specialists or the American Osteopathic Association's Bureau of
126 Osteopathic Specialists;

127 (ii) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

128 (iii) a clinical social worker licensed under Chapter 60, Part 2, Social Worker
129 Licensing Act;

130 (iv) a marriage and family therapist licensed under Chapter 60, Part 3, Marriage and
131 Family Therapist Licensing Act; or

132 (v) a clinical mental health counselor licensed under Chapter 60, Part 4, Clinical
133 Mental Health Counselor Licensing Act.

134 (g) "Minor" means an individual who is less than 18 years old.

135 (h) "Physician" means an individual licensed under:

136 (i) Chapter 67, Utah Medical Practice Act; or

137 (ii) Chapter 68, Utah Osteopathic Medical Practice Act.

138 (i) "Puberty inhibition drug" means any of the following alone or in combination with
139 aromatase inhibitors:

140 (i) gonadotropin-releasing hormone agonists; or

141 (ii) androgen receptor inhibitors.

142 (j) "Transgender treatment certification" means a certification described in Subsection
143 (2).

144 (2) (a) The division shall create a transgender treatment certification on or before July
145 1, 2023.

146 (b) The division may issue the transgender treatment certification to an individual if the
147 individual:

148 (i) is a health care provider or a mental health professional; and

149 (ii) has completed at least 40 hours of education related to transgender health care for