

SUBJECT: Prohibiting certain gender-related procedures and treatments

COMMITTEE: Public Health — committee substitute recommended

VOTE: *After recommitted:*

6 ayes — Klick, Jetton, Oliverson, Price, Smith, Tinderholt

4 nays — Collier, A. Johnson, J. Jones, V. Jones

1 absent — Campos

SENATE VOTE: On final passage (April 4, 2023) — 19 - 12

WITNESSES: None (*considered in a formal meeting on May 5, 2023*)

DIGEST: For the purpose of transitioning a child’s biological sex as determined by the child’s sex organs, chromosomes, and endogenous profiles or affirming the child’s perception of the child’s sex if that perception was inconsistent with the child’s biological sex, CSSB 14 would prohibit a physician or health care provider from knowingly:

- performing certain surgeries that would sterilize the child;
- performing a mastectomy;
- providing, prescribing, administering, or dispensing certain prescription drugs that induce transient or permanent infertility; or
- removing any otherwise healthy or non-diseased body part or tissue.

The bill would not apply to certain services provided by a physician or health care provider, with the consent of the child’s parent or legal guardian, including:

- puberty suppression or blocking prescription drugs for the purpose of normalizing puberty for a minor experiencing precocious puberty;

- appropriate and medically necessary procedures or treatments to a child who was born with a medically verifiable genetic sex development disorder; or
- appropriate and medically necessary procedures or treatments to a child who did not have the normal sex chromosome structure for male or female as determined by a physician through genetic testing.

The bill also would not apply to the provision of a prescription drug to a child that otherwise was prohibited if the prescription drug was part of a continuing course of treatment that began before June 1, 2023, and the child attended at least 12 mental health counseling or psychotherapy sessions during a period of at least six months before the treatment began. A child who would be exempt for this reason would be required to wean off the prescription drug over a period of time in a way that was safe, medically appropriate, and that minimized the risk of complications and could not switch to or begin a prohibited course of treatment.

Public money could not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provided or facilitated a prohibited procedure or treatment to a child. Medicaid and the Children's Health Insurance Plan (CHIP) could not cover services that were intended to transition a child's biological sex. The Health and Human Services Commission (HHSC) could not provide Medicaid or CHIP reimbursement for prohibited services.

A physician or applicant for a license to practice medicine would commit a prohibited practice if the person performed a gender transitioning or gender reassignment procedure or treatment in violation of the bill's provisions. The Texas Medical Board would be required to revoke the license or other authorization to practice medicine of a physician who violated the provisions the bill. The board would have to refuse to admit to examination or refuse to issue or renew a license to a person who violated the bill. These sanctions would be in addition to any other grounds for revocation of a license, refusal to admit a person for examination, or refusal to issue or renew a license.

If the attorney general had reason to believe that a person was committing, had committed, or was about to commit a violation of the bill's provisions, the attorney general could bring an action to restrain or enjoin the person from doing so. The venue for an action brought under the bill would be a district court of Travis County or the county where the violation occurred or was about to occur.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take effect September 1, 2023, and would apply to conduct occurring on or after the effective date.

**SUPPORTERS
SAY:**

CSSB 14 would prevent children and adolescents from being harmed by treatments and procedures intended to change their sex, including surgeries, cross-sex hormones, and puberty blockers. Gender-reassignment surgeries are irreversible, and hormonal treatments can also lead to permanent physiological changes, including unwanted side effects.

Children and adolescents are not able to give fully informed consent for such serious treatment, and in many cases adolescent gender dysphoria resolves itself over time. While certain forms of treatment may be rare, an increase in the establishment of gender clinics has corresponded with a rise in reported gender dysphoria among minors. There is not conclusive evidence to suggest that treatments aimed at physical transition are effective in resolving dysphoria. Physicians who facilitate physical gender transitions for minors without solid, scientific evidence and justification are effectively experimenting on minors. It is not clear that gender clinics are following rigorous and thorough processes to determine the best course of care for patients. Professional counseling remains the best and most scientifically supported treatment for minors with gender dysphoria.

Regulatory authorities in several European nations where gender-related healthcare is long established have begun to reverse support for hormonal gender-related treatment for minors based on a lack of supporting evidence in systematic reviews. If some doctors are not preventing children from being harmed through regulation of their own practices, the state of Texas has a duty to intervene, including by passing laws such as CSSB 14.

CSSB 14's enforcement would focus on doctors who violated its prohibitions, not on parents trying to help their children. Well-meaning parents may be misinformed that their child will be more likely to commit suicide if the child is not allowed to transition, but there is a lack of evidence to suggest that surgical or hormonal gender transition treatment prevents suicide. While suicidal ideation may be higher than average among transgender youth, completed suicide is rare. Even for suicidality rather than actual suicide, the causal role of gender dysphoria is unclear, as such youth often present with other, often pre-existing, mental and emotional problems. Counseling and other appropriate mental healthcare resources would be better ways to address these issues rather than a potentially permanent physical transition.

CSSB 14 would follow scientific best practice by allowing minors who are currently receiving prescription drugs for gender transition purposes to continue using them temporarily, as necessary, to prevent side effects from abruptly stopping treatment. While some have suggested that CSSB 14 could have a chilling effect on mental healthcare for children with gender dysphoria, the bill would require that a minor receive extensive counseling in order to continue using prescribed medication until it was medically safe to stop. The bill would continue to allow use of puberty blockers for precocious puberty because, unlike gender dysphoria, it is a medically verifiable disease and the drugs used to treat it are approved by the FDA for that purpose.

CRITICS
SAY:

CSSB 14 would prevent transgender children and adolescents from receiving safe, medically necessary, and potentially life-saving health care to address gender dysphoria symptoms. Gender-affirming care is age

appropriate and carried out carefully in thorough consultation between parents and physicians. It usually begins with social transition and eventually involves the use of puberty blockers that prevent unwanted physical developments that would make later physical transition more difficult, but that are reversible.

Cross-sex hormones are rarely used for minors, typically are not available until a person turns 16, and require parental consent. Gender-affirming surgeries for minors are extremely rare and offered only under specific conditions; genital surgeries are not available until adulthood. The vast majority of people who identify as transgender continue to do so throughout their lives, but treatments with permanent consequences are not offered until a transgender person is old enough to give informed consent. These treatments are evidence-based and supported by major medical associations and health associations. All medical treatment involves weighing potential risks and benefits, but CSSB 14 would be an overreach by government to determine private medical decisions that should be kept between patients, parents, and doctors.

Gender-affirming care, including use of puberty blockers, can improve mental health and significantly decrease risk of suicidal ideation. Transgender youth already experience disproportionate social discrimination and high rates of suicidality; blocking access to gender-affirming care could increase their mental and emotional distress and make suicides more likely.

CSSB 14 would unjustly discriminate against transgender minors by prohibiting them from receiving forms of care that would continue to be offered to patients experiencing precocious puberty or who were intersex. Due to the liability it would impose on doctors, the bill could have a chilling effect on all mental healthcare for transgender youth, including counseling and prescription psychiatric medications.