

SENATE BILL NO. 164

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CARTER.

1196S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 568.060, RSMo, and to enact in lieu thereof two new sections relating to gender transition procedures, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 568.060, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.1720 and 568.060, to read as follows:

191.1720. 1. This section shall be known and may be cited as the "Missouri Save Adolescents from Experimentation (SAFE) Act".

2. For purposes of this section, the following terms mean:

(1) "Biological sex", the biological indication of the physical condition of being male or female, which is determined by a person's chromosomes, identified at birth by a person's anatomy, and indicated on their birth certificate, without regard to an individual's psychological, chosen, or subjective experience of gender;

(2) "Cross-sex hormones":

(a) Testosterone or other androgens given to biological sex females in amounts that are larger or more potent than would normally occur naturally in healthy biological sex females; and

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (b) Estrogen given to biological sex males in amounts
18 that are larger or more potent than would normally occur
19 naturally in healthy biological sex males;

20 (3) "Gender", the psychological, behavioral, social,
21 and cultural aspects of being male or female;

22 (4) "Gender reassignment surgery", any medical or
23 surgical service that alters or removes physical or
24 anatomical characteristics of an individual's biological sex
25 for the purpose of gender transition;

26 (5) "Gender transition", the process in which an
27 individual transitions from his or her biological sex to a
28 gender different from his or her biological sex, which may
29 involve social, legal, or physical changes;

30 (6) "Gender transition procedures":

31 (a) Any medical or surgical service, including, but
32 not limited to, physician's services, inpatient and
33 outpatient hospital services, or prescribed drugs, related
34 to gender transition that seeks to:

35 a. Alter or remove physical or anatomical
36 characteristics or features that are typical for the
37 individual's biological sex; or

38 b. Instill or create physiological or anatomical
39 characteristics that resemble a sex different from the
40 individual's biological sex, including, but not limited to:

41 (i) Medical services that provide puberty-blocking
42 drugs, cross-sex hormones, or other mechanisms to promote
43 the development of feminizing or masculinizing features in
44 the opposite biological sex; or

45 (ii) Genital or nongenital gender reassignment surgery
46 performed for the purpose of assisting an individual with a
47 gender transition;

48 (b) The term "gender transition procedures" shall not
49 include:

50 a. Services to individuals born with medically-
51 verifiable disorders of sex development, including
52 individuals with external biological sex characteristics
53 that are irresolvably ambiguous, such as those born with
54 forty-six XX chromosomes with virilization or forty-six XY
55 chromosomes with undervirilization;

56 b. Services provided when a physician has otherwise
57 diagnosed an individual with a disorder of sexual
58 development and determined through genetic or biochemical
59 testing that the individual does not have normal sex
60 chromosome structure, sex steroid hormone production, or sex
61 steroid hormone action; or

62 c. The treatment of any infection, injury, disease, or
63 disorder that has been caused by or exacerbated by the
64 performance of gender transition procedures regardless of
65 whether the gender transition procedure was performed in
66 accordance with state and federal law;

67 (7) "Genital gender reassignment surgery", a medical
68 procedure performed for the purpose of assisting an
69 individual with a gender transition, including, but not
70 limited to:

71 (a) Surgical procedures such as penectomy,
72 orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for
73 biologically male patients or hysterectomy or ovariectomy
74 for biologically female patients;

75 (b) Reconstruction of the fixed part of the urethra
76 with or without a metoidioplasty; or

77 (c) Phalloplasty, vaginectomy, scrotoplasty, or
78 implantation of erection or testicular prostheses for
79 biologically female patients;

80 (8) "Health care provider", an individual who is
81 licensed, certified, or otherwise authorized by the laws of
82 this state to administer health care in the ordinary course
83 of the practice of his or her profession;

84 (9) "Nongenital gender reassignment surgery", medical
85 procedures performed for the purpose of assisting an
86 individual with a gender transition, including, but not
87 limited to:

88 (a) Surgical procedures for biologically male
89 patients, such as augmentation mammoplasty, facial
90 feminization surgery, liposuction, lipofilling, voice
91 surgery, thyroid cartilage reduction, gluteal augmentation,
92 hair reconstruction, or various aesthetic procedures; or

93 (b) Surgical procedures for biologically female
94 patients, such as subcutaneous mastectomy, voice surgery,
95 liposuction, lipofilling, pectoral implants, or various
96 aesthetic procedures;

97 (10) "Physician", an individual who is licensed under
98 chapter 334;

99 (11) "Puberty-blocking drugs", gonadotropin-releasing
100 hormone analogues or other synthetic drugs used in
101 biological sex males to stop luteinizing hormone secretion
102 and therefore testosterone secretion, or synthetic drugs
103 used in biological sex females that stop the production of
104 estrogens and progesterone, when used to delay or suppress
105 pubertal development in children for the purpose of
106 assisting an individual with a gender transition.

107 3. A physician or other health care provider shall not
108 provide gender transition procedures to any individual under
109 eighteen years of age and shall not refer any individual
110 under eighteen years of age to any health care provider for
111 gender transition procedures.

112 4. Any physician or health care provider who willfully
113 and knowingly does or assists any prohibited action under
114 subsection 3 of this section shall have his or her license,
115 application for license, or authority to practice his or her
116 profession as a physician, surgeon, nurse, or other health
117 care provider in the state of Missouri rejected or revoked
118 by his or her respective licensing board.

119 5. The provision of gender transition procedures to an
120 individual under eighteen years of age in violation of the
121 provisions of this section shall be considered grounds for a
122 cause of action against the health care provider for
123 personal injury or death under chapter 538 and such cause of
124 action shall be governed by the provisions of such chapter.
125 An individual under eighteen years of age upon whom gender
126 transition procedures were performed in violation of this
127 section may bring the cause of action either through a next
128 friend or his or her own name, subject to the provisions of
129 section 516.105.

568.060. 1. As used in this section, the following
2 terms shall mean:

3 (1) "Abuse", the infliction of physical, sexual, or
4 mental injury against a child by any person eighteen years
5 of age or older. For purposes of this section, abuse shall
6 not include injury inflicted on a child by accidental means
7 by a person with care, custody, or control of the child, or
8 discipline of a child by a person with care, custody, or
9 control of the child, including spanking, in a reasonable
10 manner;

11 (2) "Abusive head trauma", a serious physical injury
12 to the head or brain caused by any means, including but not
13 limited to shaking, jerking, pushing, pulling, slamming,
14 hitting, or kicking;

15 (3) "Mental injury", an injury to the intellectual or
16 psychological capacity or the emotional condition of a child
17 as evidenced by an observable and substantial impairment of
18 the ability of the child to function within his or her
19 normal range of performance or behavior;

20 (4) "Neglect", the failure to provide, by those
21 responsible for the care, custody, and control of a child
22 under the age of eighteen years, the care reasonable and
23 necessary to maintain the physical and mental health of the
24 child, when such failure presents a substantial probability
25 that death or physical injury or sexual injury would result;

26 (5) "Physical injury", physical pain, illness, or any
27 impairment of physical condition, including but not limited
28 to bruising, lacerations, hematomas, welts, or permanent or
29 temporary disfigurement and impairment of any bodily
30 function or organ;

31 (6) "Serious emotional injury", an injury that creates
32 a substantial risk of temporary or permanent medical or
33 psychological damage, manifested by impairment of a
34 behavioral, cognitive, or physical condition. Serious
35 emotional injury shall be established by testimony of
36 qualified experts upon the reasonable expectation of
37 probable harm to a reasonable degree of medical or
38 psychological certainty;

39 (7) "Serious physical injury", a physical injury that
40 creates a substantial risk of death or that causes serious
41 disfigurement or protracted loss or impairment of the
42 function of any part of the body.

43 2. A person commits the offense of abuse or neglect of
44 a child if such person knowingly causes a child who is less
45 than eighteen years of age:

46 (1) To suffer physical or mental injury as a result of
47 abuse or neglect; or

48 (2) To be placed in a situation in which the child may
49 suffer physical or mental injury as the result of abuse or
50 neglect.

51 3. A person commits the offense of abuse or neglect of
52 a child if such person recklessly causes a child who is less
53 than eighteen years of age to suffer from abusive head
54 trauma.

55 4. **A person commits the offense of abuse or neglect of**
56 **a child if such person coerces a child who is less than**
57 **eighteen years of age to undergo any surgical or hormonal**
58 **treatment for the purpose of gender reassignment, as such**
59 **term is defined in section 191.1720.**

60 5. A person does not commit the offense of abuse or
61 neglect of a child by virtue of the sole fact that the
62 person delivers or allows the delivery of a child to a
63 provider of emergency services.

64 [5.]6. The offense of abuse or neglect of a child is:

65 (1) A class D felony, without eligibility for
66 probation, parole, or conditional release until the
67 defendant has served no less than one year of such sentence,
68 unless the person has previously been found guilty of a
69 violation of this section or of a violation of the law of
70 any other jurisdiction that prohibits the same or similar
71 conduct or the injury inflicted on the child is a serious
72 emotional injury or a serious physical injury, in which case
73 abuse or neglect of a child is a class B felony, without
74 eligibility for probation or parole until the defendant has
75 served not less than five years of such sentence; or

76 (2) A class A felony if the child dies as a result of
77 injuries sustained from conduct chargeable under the
78 provisions of this section.

79 [6.]7. Notwithstanding subsection [5]6 of this section
80 to the contrary, the offense of abuse or neglect of a child
81 is a class A felony, without eligibility for probation,
82 parole, or conditional release until the defendant has
83 served not less than fifteen years of such sentence, if:

84 (1) The injury is a serious emotional injury or a
85 serious physical injury;

86 (2) The child is less than fourteen years of age; and

87 (3) The injury is the result of sexual abuse or sexual
88 abuse in the first degree as defined under section 566.100
89 or sexual exploitation of a minor as defined under section
90 573.023.

91 [7.]8. The circuit or prosecuting attorney may refer a
92 person who is suspected of abuse or neglect of a child to an
93 appropriate public or private agency for treatment or
94 counseling so long as the agency has consented to taking
95 such referrals. Nothing in this subsection shall limit the
96 discretion of the circuit or prosecuting attorney to
97 prosecute a person who has been referred for treatment or
98 counseling pursuant to this subsection.

99 [8.]9. Nothing in this section shall be construed to
100 alter the requirement that every element of any crime
101 referred to herein must be proven beyond a reasonable doubt.

102 [9.]10. Discipline, including spanking administered in
103 a reasonable manner, shall not be construed to be abuse
104 under this section.

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