

1 SENATE BILL NO. 99
2 INTRODUCED BY J. FULLER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A YOUTH HEALTH PROTECTION ACT;
5 PROHIBITING CERTAIN MEDICAL AND SURGICAL TREATMENTS TO TREAT MINORS WITH GENDER
6 DYSPHORIA; PROHIBITING PUBLIC FUNDS, PROGRAMS, PROPERTY, AND EMPLOYEES FROM BEING
7 USED FOR THESE TREATMENTS; PROVIDING THAT A HEALTH CARE PROFESSIONAL WHO VIOLATES
8 THIS LAW COMMITS PROFESSIONAL MISCONDUCT; PROVIDING A PRIVATE CAUSE OF ACTION;
9 PROHIBITING DISCHARGE OF PROFESSIONAL LIABILITY VIA INSURANCE; AND PROVIDING
10 DEFINITIONS."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 NEW SECTION. Section 1. Short title. [Sections 1 through 6] may be cited as the "Youth Health
15 Protection Act".

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17 NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through 6] is to enhance the
18 protection of minors AND THEIR FAMILIES, pursuant to Article II, section 15, of the Montana constitution, from any
19 form of pressure to RECEIVE HARMFUL, EXPERIMENTAL PUBERTY BLOCKERS AND CROSS-SEX HORMONES AND TO
20 undergo irreversible ~~medical,~~ LIFE-ALTERING SURGICAL procedures to ~~change sex~~ prior to attaining the age of
21 majority.

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23 NEW SECTION. Section 3. Definitions. As used in this part [SECTIONS 1 THROUGH 6], unless the
24 context clearly indicates otherwise, the following definitions apply:

- 25 (1) "Female" means ~~an individual who is a member of the female sex~~ A MEMBER OF THE HUMAN
26 SPECIES WHO, UNDER NORMAL DEVELOPMENT, PRODUCES A RELATIVELY LARGE, RELATIVELY IMMOBILE GAMETE DURING
27 HER LIFE CYCLE AND HAS A REPRODUCTIVE AND ENDOCRINE SYSTEM ORIENTED AROUND THE PRODUCTION OF THAT
28 GAMETE.

1 (a) — the health care professional or physician has engaged in unprofessional conduct and is subject
2 to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this
3 state. That discipline must include suspension of the ability to administer health care or practice medicine for at
4 least 1 year.

5 (b) — parents or guardians of the minor subject to the violation have a private cause of action for
6 damages and equitable relief as the court may determine is justified. The court may also award reasonable
7 attorney fees and court costs to a prevailing party.

8
9 **NEW SECTION. Section 5. Private cause of action for subsequent harm.** (1) Any health care
10 professional or physician who provides ~~puberty blockers, cross-sex hormones, or surgical procedures as a~~
11 ~~treatment to address an inconsistency between a minor's sex and the minor's perceived gender or perceived~~
12 ~~sex~~ THE PROCEDURES DESCRIBED IN [SECTION 4(1)(A) OR (1)(B)] is strictly liable to that minor if the treatment or the
13 after-effects of the treatment result in any injury, including physical, psychological, emotional, or physiological
14 harms, within the next 25 years.

15 (2) Except as provided in subsection (3), a person who suffers an injury described in subsection
16 (1) OR FOR ANY VIOLATION OF [SECTION 4], or the person's legal guardian or estate, may bring a civil action **either**
17 **within 25 years from the day the person reaches 18 years of age or** within 4 years from the time of discovery by
18 the injured party of both the injury and the causal relationship between the treatment and the injury, **whichever**
19 **date is later**, against the offending health care professional or physician in a court of competent jurisdiction for:

- 20 (a) declaratory or injunctive relief;
- 21 (b) compensatory damages, including but not limited to pain and suffering, loss of reputation, loss
22 of income, and loss of consortium, including the loss of expectation of sharing parenthood;
- 23 (c) punitive damages;
- 24 (d) any other appropriate relief; and
- 25 (e) attorney fees and costs.

26 (3) (a) If, at the time the person subjected to treatment **attains 18 years of age** discovers the injury
27 and the causal relationship between the treatment and the injury, the person is under **other** legal disability, the
28 limitation period in subsection (2) does not begin to run until the removal of the disability.

1 (b) The limitation period in subsection (2) does not run during a time period when the individual is
2 subject to threats, intimidation, manipulation, fraudulent concealment, or fraud perpetrated by the health care
3 professional or physician who provided the treatment described in subsection (1) or by any person acting in the
4 interest of the health care professional or physician.

5 (4) A health care professional or physician may not be indemnified for potential liability under this
6 section.

7 (5) The attorney general may bring an action to enforce compliance with this section.

8 (6) This section does not deny, impair, or otherwise affect any right or authority of the attorney
9 general, the state, or any agency, officer, or employee of the state, acting under any law other than this section,
10 to institute or intervene in any proceeding.

11
12 NEW SECTION. Section 6. Prohibited insurance coverage. A professional liability insurance policy
13 issued to a health care professional or physician may not include coverage for damages assessed against the
14 health care professional or physician who provides any medication or surgical procedure described in [section
15 4(1)(A) OR (1)(B)] ~~as a treatment to address an inconsistency between a minor's sex and the minor's perceived~~
16 ~~gender or perceived sex.~~

17
18 NEW SECTION. Section 7. Medical or surgical transition for minors. Failure of a health care
19 professional, mental health professional, or physician to adhere to [section 4] constitutes unprofessional
20 conduct, with a mandatory minimum suspension of the ability to practice the person's profession for 1 year.

21
22 NEW SECTION. Section 8. Prohibited reimbursement or coverage. Pursuant to [section 4], the
23 Montana medicaid program may not reimburse or provide coverage for ~~medication or surgery as a treatment to~~
24 ~~address an inconsistency between a minor's sex and the minor's perceived gender or perceived sex~~ ANY
25 MEDICATION OR SURGICAL PROCEDURE DESCRIBED IN [SECTION 4(1)(A) OR (1)(B)].

26
27 NEW SECTION. Section 9. Codification instruction. (1) [Sections 1 through 6] are intended to be
28 codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 6].