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SENATE BILL NO. 960

Offered January 11, 2023

Prefiled January 6, 2023

A *BILL to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-382, relating to Youth Health Protection Act established; civil penalty.*

Patrons—Peake and Reeves

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-382, as follows:

CHAPTER 21.**YOUTH HEALTH PROTECTION ACT.****§ 32.1-376. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Act" means the Youth Health Protection Act.

"Gender transition procedure" means any medical or surgical service, including without limitation physician's services, inpatient and outpatient hospital services, or prescribed drugs related to gender transition, that seeks to:

1. Alter or remove physical or anatomical characteristics or features that are typical for an individual's biological sex; or

2. Instill or create physiological or anatomical characteristics that resemble a sex different from an individual's biological sex, including without limitation (i) medical services that provide puberty-blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite biological sex or (ii) genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

"Gender transition procedure" does not include:

1. Services to individuals born with a medically verifiable disorder of sex development, including an individual with external biological sex characteristics that are irresolvably ambiguous, such as a person born with 46,XX with virilization, with 46,XY with undervirilization, or having both ovarian and testicular tissue;

2. Services provided when a physician has otherwise diagnosed a disorder of sexual development or the physician has determined through genetic or biochemical testing that an individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action;

3. The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures, whether or not the gender transition procedure was performed in accordance with state and federal law or whether or not funding for the gender transition procedure is permissible under this chapter; or

4. Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless surgery is performed.

"Government agent" means any agent, employee, volunteer, or contractor of a public child services agency, private child-placing agency, court, or school district.

"Local government" means a county, city, or town, as the context may require.

"Medical professional" means any physician, surgeon, physician assistant, nurse, clinical nurse specialist, nurse practitioner, anesthetist, psychiatrist, or medical assistant licensed under the Act.

"Mental health care professional or counselor" means any licensed medical, mental health, or human services professional licensed under the Act, including any psychologist, social worker, psychiatric nurse, allied mental health and human services professional, licensed marriage and family therapist, certified rehabilitation counselor, licensed clinical mental health counselor, or any of their respective interns or trainees, or any other person designated or licensed as a mental health or human services professional.

"Minor" means any individual who is less than 21 years of age.

"Sex" means the biological state of being female or male, based on sex organs, chromosomes, and endogenous hormone profiles.

§ 32.1-377. Prohibition of certain practices and health care services; civil penalty.

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59 A. Notwithstanding any other provision of law, it shall be unlawful for any individual to engage in
60 any of the following practices upon a minor, or to cause such practice to be performed, to facilitate the
61 minor's desire to present or appear in a manner that is inconsistent with the minor's sex:

62 1. Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy,
63 metoidioplasty, orchiectomy, penectomy, phalloplasty, and vaginoplasty;

64 2. Performing a mastectomy;

65 3. Administering or supplying the following medications that induce transient or permanent
66 infertility:

67 a. Puberty-blocking medication to stop or delay normal puberty;

68 b. Supraphysiologic doses of testosterone or other androgens to members of the female sex; or

69 c. Supraphysiologic doses of estrogen or synthetic compounds with estrogenic activity to members of
70 the male sex; or

71 4. Removing any otherwise healthy or nondiseased body part or tissue.

72 B. A medical professional who engages in any of the practices identified in subsection A or causes
73 any such practice to be performed shall be considered to have engaged in unprofessional conduct and
74 shall be subject to revocation of licensure and other appropriate discipline by the medical professional's
75 licensing or certifying board. The medical professional shall also be subject to a civil penalty of up to
76 \$1,000 per occurrence.

77 C. This section does not apply to the good-faith medical decision of a parent or guardian of a minor
78 born with a medically verifiable genetic disorder of sexual development, including any of the following:

79 1. A minor with external biological sex characteristics that are irresolvably ambiguous, such as a
80 minor born having 46, XX chromosomes with virilization; 46, XY chromosomes with undervirilization;
81 or both ovarian and testicular tissue; or

82 2. When a physician has otherwise diagnosed a disorder of sexual development, in which the
83 physician has determined through genetic testing that the minor does not have the normal sex
84 chromosome structure for male or female sexes.

85 D. Notwithstanding any other provision of law, it shall be unlawful for any health care provider that
86 receives state funds to furnish, provide, or perform any health care service that constitutes the
87 performance of or preparation for a gender transition procedure to a minor.

88 **§ 32.1-378. Counseling.**

89 A state office, agency, political subdivision of the state or local government, or any organization with
90 authority to license or discipline the members of a profession may not prohibit, impose any penalty
91 upon, or take any adverse action against any individual who gives or receives counsel, advice,
92 guidance, or any other speech or communication, whether described as therapy or provided for a fee,
93 consistent with conscience or religious belief.

94 **§ 32.1-379. Protection of parental rights.**

95 A. Parents, guardians, or custodians, in exercising the fundamental right to care for their child, may
96 withhold consent for any treatment, activity, or mental health care services that are designed and
97 intended to form their child's conceptions of sex and gender or to treat gender dysphoria or gender
98 nonconformity. The Commonwealth, its agents, and its political subdivisions shall not infringe upon or
99 impede the exercise of this right under this section.

100 B. No government agent, nor any employee of the Commonwealth, any political subdivision of the
101 Commonwealth, or any other governmental entity, except for law-enforcement personnel, shall
102 encourage or coerce a minor to withhold information from the minor's parent. Nor shall any such
103 employee withhold from a minor's parents information that is relevant to the physical or mental health
104 of their child and of a sort that parents interested in and responsible for the well-being of a minor
105 reasonably would demand and should be apprised of. Such conduct shall be grounds for discipline of
106 the employee, in addition to any other remedies provided to a parent under the Act.

107 C. If a government agent has knowledge that a minor under its care or supervision has exhibited
108 symptoms of gender dysphoria or gender nonconformity or otherwise demonstrates a desire to be treated
109 in a manner incongruent with the minor's sex, the government agent or entity with knowledge of that
110 circumstance shall immediately notify, in writing, each of the minor's parents, guardians, or custodians.
111 The notice shall describe all of the relevant circumstances with reasonable specificity.

112 **§ 32.1-380. Whistleblower protection.**

113 A. No person shall be discriminated against in any manner because the person does any of the
114 following:

115 1. Provides, causes to be provided, or takes steps to provide or cause to be provided to his
116 employer, the Attorney General, any state agency, the U.S. Department of Health and Human Services,
117 or any other federal agency any information or any act or omission that is a violation of any provision
118 of the Act;

119 2. Testifies or prepares to testify in a proceeding concerning a violation of the Act; or

120 3. Assists or participates in a proceeding concerning a violation of the Act.

121 *B. Unless a disclosure or report of information is specifically prohibited by law, no person shall be*
122 *discriminated against in any manner because the person disclosed any information under the Act that*
123 *the person believes evinces any of the following:*

124 *1. Any violation of law, rule, or regulation.*

125 *2. Any violation of any standard of care or other ethical guidelines for the provision of any health*
126 *care service.*

127 *3. Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific*
128 *danger to public health or safety.*

129 **§ 32.1-381. Civil remedies.**

130 *A. Any person may seek injunctive relief and may sue for any violation of any provision of the Act*
131 *against the clinic, health care system, medical professional, or other person responsible for the violation*
132 *and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.*

133 *B. An action shall be commenced under this section within two years after the cause of action*
134 *accrues, except that an action for injury sustained during the infancy of a person shall be brought*
135 *within 20 years after the date on which the person attains 18 years of age.*

136 **§ 32.1-382. Prohibition.**

137 *A. A political subdivision of the Commonwealth is prohibited from enacting, adopting, maintaining,*
138 *or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that prohibits,*
139 *restricts, limits, controls, directs, or otherwise interferes with the professional conduct and judgment of*
140 *a mental health care professional or counselor, including speech, undertaken within the course of*
141 *treatment and communication with clients, patients, other persons, or the public, including therapies,*
142 *counseling, referrals, and education.*

143 *B. The Attorney General or a mental health care professional or counselor may bring an action for*
144 *an injunction to prevent or restrain violations of this section. A mental health care professional may*
145 *recover reasonable costs and attorney fees incurred in obtaining an injunction under this section.*

146 *C. Sovereign and governmental immunity to suit and from liability is waived and abolished to the*
147 *extent of the liability created by this section.*

148 **§ 32.1-383. Limitation on use of state funds for gender transition procedures.**

149 *No state funds may be used, directly or indirectly, for the performance of or in furtherance of gender*
150 *transition procedures or to support the administration of any governmental health plan or*
151 *government-offered insurance policy offering gender transition procedures.*