

HOUSE BILL No. 1231

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-15-1-23; IC 16-18-2; IC 16-35-12; IC 27-2-28; IC 34-18-1-1.

Synopsis: Gender transition procedures for minors. Prohibits specified health care professionals from providing gender transition procedures to a minor that are intended to alter the gender of the minor or delay puberty. Provides for certain medical exceptions. Prohibits public funds, Medicaid, or a health carrier from providing reimbursement or coverage for gender transition procedures to a minor. Creates a civil cause of action. Makes conforming changes.

Effective: July 1, 2023.

Lauer

January 10, 2023, read first time and referred to Committee on Public Health.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1231

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-1-23 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2023]: **Sec. 23. The office may not use federal or state funds**
4 **under the Medicaid program to pay or provide coverage for**
5 **gender transition procedures (as defined by IC 16-35-12-6) to an**
6 **individual who is less than eighteen (18) years of age.**

7 SECTION 2. IC 16-18-2-36.1 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2023]: **Sec. 36.1. "Biological sex", for**
10 **purposes of IC 16-35-12, has the meaning set forth in**
11 **IC 16-35-12-1.**

12 SECTION 3. IC 16-18-2-88.7 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2023]: **Sec. 88.7. "Cross sex hormones", for**
15 **purposes of IC 16-35-12, has the meaning set forth in**
16 **IC 16-35-12-2.**

17 SECTION 4. IC 16-18-2-144.2 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2023]: **Sec. 144.2. "Gender", for purposes of**
 3 **IC 16-35-12, has the meaning set forth in IC 16-35-12-3.**

4 SECTION 5. IC 16-18-2-144.3 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2023]: **Sec. 144.3. "Gender reassignment**
 7 **surgery", for purposes of IC 16-35-12, has the meaning set forth in**
 8 **IC 16-35-12-4.**

9 SECTION 6. IC 16-18-2-144.4 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2023]: **Sec. 144.4. "Gender transition", for**
 12 **purposes of IC 16-35-12, has the meaning set forth in**
 13 **IC 16-35-12-5.**

14 SECTION 7. IC 16-18-2-144.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2023]: **Sec. 144.5. "Gender transition**
 17 **procedures", for purposes of IC 16-35-12, has the meaning set**
 18 **forth in IC 16-35-12-6.**

19 SECTION 8. IC 16-18-2-148.2 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2023]: **Sec. 148.2. "Genital gender**
 22 **reassignment surgery", for purposes of IC 16-35-12, has the**
 23 **meaning set forth in IC 16-35-12-7.**

24 SECTION 9. IC 16-18-2-157.2 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2023]: **Sec. 157.2. "Harm", for purposes of**
 27 **IC 16-35-12, has the meaning set forth in IC 16-35-12-8.**

28 SECTION 10. IC 16-18-2-162, AS AMENDED BY P.L.212-2005,
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2023]: **Sec. 162. (a) "Health care professional", for purposes**
 31 **of IC 16-27-1 and IC 16-27-4, has the meaning set forth in**
 32 **IC 16-27-1-1.**

33 **(b) "Health care professional", for purposes of IC 16-27-2, has the**
 34 **meaning set forth in IC 16-27-2-1.**

35 **(c) "Health care professional", for purposes of IC 16-35-12, has**
 36 **the meaning set forth in IC 16-35-12-9.**

37 SECTION 11. IC 16-18-2-250.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2023]: **Sec. 250.5. "Nongenital gender**
 40 **reassignment surgery", for purposes of IC 16-35-12, has the**
 41 **meaning set forth in IC 16-35-12-11.**

42 SECTION 12. IC 16-18-2-296.7 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2023]: **Sec. 296.7. "Puberty blocking drugs",**
for purposes of IC 16-35-12, has the meaning set forth in
IC 16-35-12-12.

SECTION 13. IC 16-18-2-297.2 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2023]: **Sec. 297.2. "Public funds",** **for**
purposes of IC 16-35-12, has the meaning set forth in
IC 16-35-12-13.

SECTION 14. IC 16-35-12 IS ADDED TO THE INDIANA CODE
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2023]:

Chapter 12. Gender Transition Procedures for Minors

Sec. 1. As used in this chapter, "biological sex" means the
biological indication of male and female in the context of
reproductive potential or capacity, including sex chromosomes,
naturally occurring sex hormones, gonads, and nonambiguous
internal and external genitalia present at birth, without regard to
an individual's psychological, chosen, or subjective experience of
gender.

Sec. 2. As used in this chapter, "cross sex hormones" means the
following:

(1) 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.

(2) Estrogen given to biological sex males in amounts that are
larger or more potent than would normally occur naturally in
healthy biological sex males.

Sec. 3. As used in this chapter, "gender" means the
psychological, behavioral, social, and cultural aspects of being male
or female.

Sec. 4. As used in this chapter, "gender reassignment surgery"
means any medical or surgical service that seeks to surgically alter
or remove healthy physical or anatomical characteristics or
features that are typical for the individual's biological sex, in order
to instill or create physiological or anatomical characteristics that
resemble a sex different from the individual's biological sex,
including genital gender reassignment surgery or nongenital
gender reassignment surgery performed for the purpose of
assisting an individual with a gender transition.

Sec. 5. As used in this chapter, "gender transition" means the
process in which an individual shifts from identifying with and



1 living as a gender that corresponds to his or her biological sex to
 2 identifying with and living as a gender different from his or her
 3 biological sex, and may involve social, legal, or physical changes.

4 Sec. 6. (a) As used in this chapter, "gender transition
 5 procedures" means any medical or surgical service, including
 6 physician's services, inpatient and outpatient hospital services, or
 7 prescribed drugs related to gender transition that seeks to:

- 8 (1) alter or remove physical or anatomical characteristics or
- 9 features that are typical for the individual's biological sex; or
- 10 (2) instill or create physiological or anatomical characteristics
- 11 that resemble a sex different from the individual's biological
- 12 sex, including medical services that provide puberty blocking
- 13 drugs, cross sex hormones, or other mechanisms to promote
- 14 the development of feminizing or masculinizing features in the
- 15 opposite biological sex, or genital gender reassignment
- 16 surgery or nongenital gender reassignment surgery
- 17 performed for the purpose of assisting an individual with a
- 18 gender transition.

19 (b) The term does not include the following:

- 20 (1) Services to an individual born with a medically verifiable
- 21 disorder of sex development, including an individual with:
- 22 (A) external biological sex characteristics that are
- 23 irresolvably ambiguous;
- 24 (B) forty-six (46) XX chromosomes with virilization;
- 25 (C) forty-six (46) XY chromosomes with undervirilization;
- 26 or
- 27 (D) both ovarian and testicular tissue.
- 28 (2) Services provided when a physician has diagnosed a
- 29 disorder of sexual development that the physician has
- 30 determined through genetic or biochemical testing that the
- 31 individual does not have normal sex chromosome structure,
- 32 sex steroid hormone production, or sex steroid hormone
- 33 action.
- 34 (3) The treatment of any infection, injury, disease, or disorder
- 35 that has been caused by or exacerbated by the performance of
- 36 gender transition procedures.
- 37 (4) Any procedure undertaken because the individual suffers
- 38 from a physical disorder, physical injury, or physical illness
- 39 that would, as certified by a physician, place the individual in
- 40 imminent danger of death or impairment of major bodily
- 41 function unless surgery is performed.

42 Sec. 7. As used in this chapter, "genital gender reassignment



surgery" means a medical procedure performed for the purpose of assisting an individual with a gender transition, including the following:

(1) Surgical procedures, including a penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty for biological sex male patients or hysterectomy or ovariectomy for biological sex female patients.

(2) Reconstruction of the fixed part of the urethra with or without a metoidioplasty.

(3) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for biological sex female patients.

Sec. 8. As used in this chapter, "harm" includes the following:

(1) Physical injury.

(2) Psychological harm or impairment.

(3) Emotional distress.

Sec. 9. As used in this chapter, "health care professional" refers to the following:

(1) A physician licensed under IC 25-22.5.

(2) A nurse, including an advanced practice registered nurse, licensed under IC 25-23.

(3) Any of the behavioral health or human services professionals licensed under IC 25-23.6.

(4) A physician assistant licensed under IC 25-27.5.

(5) A psychologist licensed under IC 25-33.

Sec. 10. As used in this chapter, "minor" means an individual who is less than eighteen (18) years of age.

Sec. 11. As used in this chapter, "nongenital gender reassignment surgery" means medical procedures performed for the purpose of assisting an individual with a gender transition, including the following:

(1) Surgical procedures for biological sex male patients, including augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or associated aesthetic procedures.

(2) Surgical procedures for biological sex female patients, including subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or associated aesthetic procedures.

Sec. 12. As used in this chapter, "puberty blocking drugs" means:



(1) gonadotropin releasing hormone analogs or other synthetic drugs used in biological sex males to stop luteinizing hormone secretion and testosterone secretion; or

(2) synthetic drugs used in biological sex females that stop the production of estrogens and progesterone;

when used to delay or suppress pubertal development in a minor for the purpose of assisting an individual with a gender transition.

Sec. 13. As used in this chapter, "public funds" means state, county, or local government funds, in addition to any department, agency, or instrumentality authorized or appropriated funds under state law or derived from any fund in which the funds are deposited.

Sec. 14. (a) Except as provided in subsection (c), a health care professional may not provide gender transition procedures to a minor.

(b) Except as provided in subsection (c), a health care professional may not refer a minor to any practitioner for gender transition procedures.

(c) This section does not prohibit a health care professional from providing any of the following procedures to a minor:

(1) Services to individuals born with a medically verifiable disorder of sex development, including individuals having:

(A) both ovarian and testicular tissue; or

(B) external biological characteristics that are ambiguous resulting from having a 46,XX karyotype with virilization or 46,XY karyotype with undervirilization.

(2) Services provided to a minor who has an abnormal sex chromosome structure that has been diagnosed using genetic testing by a physician licensed under IC 25-22.5.

(3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of gender transition procedures.

(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.

Sec. 15. Public funds may not be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual that provides gender transition procedures to a minor.

Sec. 16. Health care services furnished in the following situations may not include gender transition procedures to a



1 minor:

2 (1) By or in a health care facility owned by the state, a county,
3 or a municipality.

4 (2) By a physician or other practitioner employed by state,
5 county, or local government.

6 Sec. 17. (a) An individual, or the individual's parent or guardian
7 if the individual is a minor, who suffers harm as a result of a
8 gender transition procedure provided in violation of this chapter
9 may bring a cause of action against the health care professional
10 who provided the procedure.

11 (b) An action described in subsection (a) must be commenced
12 not later than fifteen (15) years after the individual becomes
13 eighteen (18) years of age.

14 (c) A court may award reasonable attorney's fees, litigation
15 expenses, and costs to a person who prevails in an action under
16 subsection (a).

17 SECTION 15. IC 27-2-28 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2023]:

20 **Chapter 28. Gender Transition Procedures**

21 **Sec. 1. As used in this chapter, "coverage" means the right of an**
22 **individual to receive:**

23 (1) health care services; or

24 (2) payment or reimbursement for health care services;
25 from a health carrier.

26 **Sec. 2. As used in this section, "gender transition procedures"**
27 **has the meaning set forth in IC 16-35-12-6.**

28 **Sec. 3. (a) As used in this chapter, "health carrier" means an**
29 **entity:**

30 (1) that is subject to this title and the administrative rules
31 adopted under this title; and

32 (2) that enters into a contract to:

33 (A) provide health care services;

34 (B) deliver health care services;

35 (C) arrange for health care services; or

36 (D) pay for or reimburse any of the costs of health care
37 services.

38 (b) The term includes the following:

39 (1) An insurer, as defined in IC 27-1-2-3(x), that issues a
40 policy of accident and sickness insurance, as defined in
41 IC 27-8-5-1(a).

42 (2) A health maintenance organization, as defined in



1 **IC 27-13-1-19.**

2 **(3) An administrator (as defined in IC 27-1-25-1(a)) that is**
 3 **licensed under IC 27-1-25.**

4 **(4) A state employee health plan offered under IC 5-10-8.**

5 **(5) A short term insurance plan (as defined by IC 27-8-5.9-3).**

6 **(6) Any other entity that provides a plan of health insurance,**
 7 **health benefits, or health care services.**

8 **(c) The term does not include:**

9 **(1) an insurer that issues a policy of accident and sickness**
 10 **insurance;**

11 **(2) a limited service health maintenance organization (as**
 12 **defined in IC 27-13-34-4); or**

13 **(3) an administrator;**

14 **that only provides coverage for, or processes claims for, dental or**
 15 **vision care services.**

16 **Sec. 4. (a) A health plan may not include coverage or**
 17 **reimbursement for gender transition procedures for an individual**
 18 **who is less than eighteen (18) years of age.**

19 **(b) A health plan is not required to provide coverage for gender**
 20 **transition procedures.**

21 **SECTION 16. IC 34-18-1-1 IS AMENDED TO READ AS**
 22 **FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. This article does not**
 23 **apply to:**

24 **(1) an act of malpractice that occurred before July 1, 1975; or**

25 **(2) an action brought under IC 16-35-12 (gender transition**
 26 **procedures for minors).**

