
A BILL FOR AN ACT

RELATING TO GENDER TRANSITION SURGERY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the culture war
2 continues to rage on in the United States. Over the years, there
3 have been many social disputes arising within the cultural
4 conversations of the United States surrounding gender, gender
5 identity, gender expression, and now the topic of transgenderism
6 has a firm grip on the public discourse. Topics such as
7 transgenderism evoke many powerful emotions from people with
8 various opinions, across all levels of society. This appears to
9 be the next big society issue that will be addressed either in
10 the legislative branch or the judicial branch of government.

11 The legislature also finds that the human brain does not
12 reach full development until roughly age 25. This is a widely
13 known and accepted fact, and one that has been instrumental in
14 the background of enacting laws to protect minors. This is why
15 minors cannot own firearms, buy alcohol, vote, and in most
16 circumstances cannot make other decisions of legal consequence
17 such as enter into contracts. However, the new cultural movement



1 seems to be perfectly fine with allowing minors to request life-
2 altering medical surgeries that alter their bodies permanently.
3 These "gender transition" surgeries include but are not limited
4 to such operations as double mastectomies, feminizing
5 vaginoplasty, masculinizing phalloplasty, scrotoplasty,
6 metoidioplasty, and facial reconstruction surgery.

7 The legislature further finds that protecting children from
8 decisions that they have no capacity to fully understand is both
9 necessary and proper. There is a growing number of
10 "detransitioners," or those individuals who have undergone
11 gender transition surgeries or therapy, but have since decided
12 to transition back to their original gender. There are many
13 stories of detransitioners that have started to permeate the
14 discussion of transgenderism, and these experiences only
15 reinforce the need to protect minors from making irreversible
16 medical decisions that they are unable to fully understand. To
17 preserve the innocence of childhood and prevent future regret
18 among the current youth population, it is imperative that this
19 state prohibit gender reassignment / gender transition surgeries
20 on minors.



1 The purpose of this Act is to prohibit gender reassignment
2 / transition surgeries for minors.

3 SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended
4 by adding a new section to be properly designated and to read as
5 follows:

6 "§453 - Prohibition of gender transition surgeries on
7 minors. (a) As used in this section:

8 "Sex" means the biological state of being female or male,
9 based on the individual's sex organs, chromosomes, and
10 endogenous hormone profiles.

11 "Professional incompetency" means:

12 (1) One or more instances involving failure to adhere to
13 the applicable standard of care to a degree that
14 constitutes gross negligence.

15 (2) Repeated instances involving failure to adhere to the
16 applicable standard of care to a degree that constitutes
17 ordinary negligence.

18 (3) A pattern of practice or other behavior that
19 demonstrates a manifest incapacity or incompetence to
20 practice the healing arts.

21 "Unprofessional conduct" means:



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1 (1) Solicitating professional patronage through the use of
2 fraudulent or false advertisements, or profiting by the
3 acts of those representing themselves to be agents of the
4 licensee.

5 (2) Representing to a patient that a manifestly incurable
6 disease, condition, or injury can be permanently cured.

7 (3) Assisting in the care or treatment of a patient without
8 the consent of the patient, the attending physician, or the
9 patient's legal representatives.

10 (4) The use of any letters, words, or terms as an affix, on
11 stationary, in advertisements or otherwise indicating that
12 such person is entitled to practice a branch of the healing
13 arts for which such person is not licensed.

14 (5) Performing, procuring, or aiding and abetting in the
15 performance or procurement of a criminal abortion.

16 (6) Willfully betraying confidential information.

17 (7) Advertising professional superiority or the performance
18 of professional services in a superior manner.

19 (8) Advertising to guarantee any professional service or to
20 perform any operation painlessly.



1 (9) Participating in any action as a staff member of a
2 medical care facility that is designed to exclude or that
3 results in the exclusion of any person licensed to practice
4 medicine and surgery from the medical staff of a nonprofit
5 medical care facility licensed in this state because of the
6 branch of the healing arts practiced by such person or
7 without just cause.

8 (10) Engaging in conduct likely to deceive, defraud, or
9 harm the public.

10 (11) Making a false or misleading statement regarding the
11 licensee's skill or the efficacy or value of the drug,
12 treatment, or remedy prescribed by the licensee or at the
13 licensee's direction in the treatment of any disease or
14 other condition of the body or mind.

15 (12) Aiding or abetting the practice of the healing arts by
16 an unlicensed, incompetent, or impaired person.

17 (13) Allowing another person or organization to use the
18 licensee's license to practice the healing arts.

19 (14) Committing any acts of sexual abuse, misconduct, or
20 other improper sexual contact that exploits the licensee-



- 1 patient relationship with a patient or person responsible
2 for the healthcare decisions concerning such patient.
- 3 (15) Using any false, fraudulent, or deceptive statement in
4 any document connected with the practice of the healing
5 arts including the intentional falsifying or fraudulent
6 altering of a patient or medical care facility record.
- 7 (16) Obtaining any fee by fraud, deceit, or
8 misrepresentation.
- 9 (17) Directly or indirectly giving or receiving any fee,
10 commission, rebate, or other compensation for professional
11 services not actually and personally rendered, other than
12 through the legal functioning of lawful professional
13 partnerships, corporations, limited liability companies, or
14 associations.
- 15 (18) Failing to transfer patient records through another
16 licensee when requested to do so by the subject patient or
17 by such patient's legally designated representative.
- 18 (19) Performing unnecessary tests, examinations, or
19 services that have no legitimate medical purpose.
- 20 (20) Charging an excessive fee for services rendered.



1 (21) Prescribing, dispensing, administering, or
2 distributing a prescription drug or substance, including a
3 controlled substance, in an improper or inappropriate
4 manner, or for other than a valid medical purpose, or not
5 in the course of the licensee's professional practice.

6 (22) Failing repeatedly to practice healing arts with that
7 level of care, skill, and treatment that is recognized by a
8 reasonably prudent similar practitioner as being acceptable
9 under similar conditions and circumstances.

10 (23) Failing to keep written medical records that
11 accurately describe the services rendered to the patient,
12 including patient histories, pertinent findings,
13 examination results, and test results.

14 (24) Delegating professional responsibilities to a person
15 when the licensee knows or has reason to know that such a
16 person is not qualified by training, experience, or
17 licensure to perform them.

18 (25) Using experimental forms of therapy without proper
19 informed patient consent, without conforming to generally
20 accepted criteria or standard protocols, without keeping
21 detailed legible records, or without having periodic



1 analysis of the study and results reviewed by a committee
2 or peers.

3 (26) Prescribing, dispensing, administering, or
4 distributing an anabolic steroid or human growth hormone
5 for other than a valid medical purpose. Bodybuilding,
6 muscle enhancement, or increasing muscle bulk or strength
7 through the use of an anabolic steroid or human growth
8 hormone by a person who is in good health is not a valid
9 medical purpose.

10 (27) Referring a patient to a health care entity for
11 services if the licensee has a significant investment
12 interest in the health care entity, unless the licensee
13 informs the patient in writing of a significant investment
14 interest and that the patient may obtain such services
15 elsewhere.

16 (28) Failing to properly supervise, direct, or delegate
17 acts that constitute the healing arts to a persons who
18 perform services pursuant to each licensee's direction,
19 supervision, order, referral, delegation, or practice
20 protocols. I



1 (29) Charging, billing, or otherwise soliciting payment
2 from any patient, patient's representative, or insurer for
3 anatomic pathology services, if such services are not
4 personally rendered by the licensee, or under such
5 licensee's direct supervision.

6 (30) Engaging in a conduct that violates patient trust and
7 exploits the licensee-patient relationship for personal
8 gain.

9 (31) Obstructing a board investigation including, but not
10 limited to, engaging in one or more of the following acts:

- 11 (A) Falsifying or concealing a material fact;
- 12 (B) Knowingly making or causing to be made any false
13 or misleading statement or writing; or
- 14 (C) Other acts or conduct likely to deceive or defraud
15 the board.

16 (b) Unlawful gender transition / gender reassignment
17 surgery is knowingly performing, or causing to be performed, any
18 of the following upon a child under 18 years of age for the
19 purpose of attempting to change or affirm the child's perception
20 of the child's sex, if that perception is inconsistent with the
21 child's sex:



1 (1) Performing a surgery that sterilizes, including, but
2 not limited to, castration, vasectomy, hysterectomy,
3 oophorectomy, orchiectomy, and penectomy;
4 (2) Performing a surgery that artificially constructs
5 tissue with the appearance of genitalia, including, but not
6 limited to, metoidioplasty, phalloplasty, and vaginoplasty;
7 (3) Performing a mastectomy;
8 (4) Prescribing, dispensing, administering, or otherwise
9 supplying the following medications:
10 (A) Puberty-blocking medication to stop normal
11 puberty;
12 (B) Supraphysiologic doses of testosterone to females;
13 or
14 (C) Supraphysiologic doses of estrogen to males; or
15 (5) Removing any otherwise healthy or nondiseased body part
16 or tissue.
17 (c) Unlawful gender reassignment / gender transition
18 surgery is a Class A Felony. The individual performing the
19 surgery shall be solely liable under this section.



1 (d) The provisions of this section shall not apply if a
2 child was born with a medically verifiable disorder of sex
3 development, including:


4 (1) A child with external biological sex characteristics
5 that are irresolvably ambiguous, such as a child born with
6 having 46,XX chromosomes with virilization, 46,XY
7 Chromosomes with undervirilization, or both ovarian and
8 testicular tissue; or

9 (2) When a physician has otherwise diagnosed a disorder of
10 sexual development, in which the physician has determined
11 through genetic or biochemical testing that the child does
12 not have the normal sex chromosome structure, sex steroid
13 hormone production or sex steroid hormone action for a male
14 or female.

15 SECTION 3. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17

INTRODUCED BY: 

JAN 23 2023



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Report Title:

Prohibition on Gender Reassignment Surgeries for Minors.

Description:

Prohibits the performance of gender reassignment surgeries on minors. Establishes a Class A felony for those who perform gender reassignment surgeries on minors.

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