

Kansas Child Mutilation Prevention Act; SB 26

SB 26 creates the Kansas Child Mutilation Prevention Act (Act). The bill allows an individual who had gender reassignment service performed as a child to bring a civil cause of action under the Act against the physician who performed such service. The bill establishes the statute of limitations for such cause of action, the relief that could be sought, and the time frame to which the Act applies. The provisions of the Act do not apply if the child was born with a medically verifiable disorder of sex development, as defined in the bill.

The bill also requires the Kansas State Board of Healing Arts (Board) to revoke the license of a physician who has performed a childhood gender reassignment service.

Definitions

The bill defines the following terms:

- “Childhood gender reassignment service” means performing, or causing to be performed, acts including, but not limited to, any of the following performed on a child under 18 years of age for the purpose of attempting to affirm the child’s perception of the child’s sex or gender, if that perception is inconsistent with the child’s sex:
 - A surgery that sterilizes or is intended to result in sterilization, including, but not limited to, castration, vasectomy, hysterectomy, oophorectomy, orchiectomy and penectomy;
 - A surgery that artificially constructs tissue with the appearance of genitalia, including, but not limited to, metoidioplasty, phalloplasty, and vaginoplasty;
 - A mastectomy;
 - Prescribing, dispensing, administering, or otherwise supplying the following medications:
 - Puberty-blocking medication to delay, hinder, stop, or reverse normal puberty;
 - Supraphysiologic doses of testosterone to females; or
 - Supraphysiologic doses of estrogen to males; or
 - Removing any body part or tissue;
- “Physician” means a person licensed by the Board to practice medicine and surgery;
- “Sex” means the biological state of being female or male based on the individual’s sex organs, chromosomes, and endogenous hormone profiles; and

- “Supraphysiologic doses” means a pharmacologic dosage regimen that produces blood concentrations greater than the accepted range for a child’s age and sex.

Medically Verifiable Disorder of Sex Development

The Act does not apply if a child was born with a medically verifiable disorder of sex development, including, but not limited to:

- A child with external biological sex characteristics that are irresolvably ambiguous, such as a child born having 46,XX chromosomes with virilization, 46,XY chromosomes with undervirilization, or both ovarian and testicular tissue; or
- When a physician has otherwise diagnosed a disorder of sexual development, determined through genetic or biochemical testing, that the child does not have the normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female of the child’s age.

Civil Cause of Action

Statute of Limitations

The bill allows a civil cause of action under the Act to be commenced no more than 3 years after the date the individual attains 18 years of age.

Time Frame for Application of Act

The Act applies to:

- Any action commenced on or after July 1, 2023, including any action that would be barred by the period of limitation applicable prior to such date; and
- Any action commenced prior to July 1, 2023, and pending on such date.

Available Relief

The bill provides that an individual who brings a civil cause of action under the Act could seek actual damages, exemplary or punitive damages, injunctive relief, and other appropriate relief. The bill requires the court to award the prevailing plaintiff the cost of the suit including reasonable attorney fees.

Physician License Revocation

The bill requires the Board to revoke a physician's license upon a finding that the physician had performed a childhood gender reassignment service, as defined by the Act.

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