

SENATE BILL NO. 960

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health

on _____)

(Patron Prior to Substitute--Senator Peake)

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 32.1-383, relating to Youth Health Protection Act established; civil penalty.

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 32.1-383, 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 and inpatient and outpatient hospital services, 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 genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

"Gender transition procedure" does not include:

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

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

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

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

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

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

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

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

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

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

54 **§ 32.1-377. Prohibition of certain practices and health care services; civil penalty.**

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

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

60 2. Performing a mastectomy;

61 3. Administering or supplying medications that induce transient or permanent infertility;

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

63 B. A medical professional who engages in any of the practices identified in subsection A or causes
64 any such practice to be performed shall be considered to have engaged in unprofessional conduct and shall
65 be subject to revocation of licensure and other appropriate discipline by the medical professional's
66 licensing or certifying board. The medical professional shall also be subject to a civil penalty of up to
67 \$1,000 per occurrence.

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

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

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

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

79 **§ 32.1-378. Counseling.**

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

85 **§ 32.1-379. Protection of parental rights.**

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

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

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

103 **§ 32.1-380. Whistleblower protection.**

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

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

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

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

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

115 1. Any violation of law, rule, or regulation.

116 2. Any violation of any standard of care or other ethical guidelines for the provision of any health
117 care service.

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

120 **§ 32.1-381. Civil remedies.**

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

124 B. An action shall be commenced under this section within two years after the cause of action
125 accrues, except that an action for injury sustained during the infancy of a person shall be brought within
126 20 years after the date on which the person attains 18 years of age.

127 **§ 32.1-382. Prohibition.**

128 A. A political subdivision of the Commonwealth is prohibited from enacting, adopting,
129 maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure that
130 prohibits, restricts, limits, controls, directs, or otherwise interferes with the professional conduct and
131 judgment of a mental health care professional or counselor, including speech, undertaken within the course

132 of treatment and communication with clients, patients, other persons, or the public, including therapies,
133 counseling, referrals, and education.

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

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

139 **§ 32.1-383. Limitation on use of state funds for gender transition procedures.**

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

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