

2020 South Dakota Legislature
House Bill 1057

AMENDMENT 1057P FOR THE HOUSE STATE AFFAIRS BILL

1 **An Act to prohibit certain acts against children ~~and provide a penalty therefor.~~**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **26-10-36. Definitions.**

5 Terms used in §§ 26-10-37 ~~and 26-10-38 to 26-10-39, inclusive,~~ mean:

6 (1) "Medical professional," any physician, surgeon, physician assistant, clinical nurse
7 specialist, or nurse practitioner licensed under title 36;

8 (2) "Sex," the biological state of being female or male, based on sex organs,
9 chromosomes, and endogenous hormone profiles.

10 **Section 2.** That a NEW SECTION be added:

11 **26-10-37. Perception of minor's sex--Prohibited practices--Violation as a**
12 **felony.**

13 Except as provided in § ~~26-10-38~~26-10-39, a medical professional ~~who engages in~~
14 ~~any of the may not engage in the~~ following practices upon a minor under the age of
15 sixteen, for the purpose of attempting to change or affirm the minor's perception of the
16 minor's sex, if that perception is inconsistent with the minor's sex, ~~is guilty of a Class 1~~
17 ~~misdemeanor:~~

18 (1) Performing the following surgeries: castration, vasectomy, hysterectomy,
19 oophorectomy, metoidioplasty, orchiectomy, penectomy, phalloplasty, and
20 vaginoplasty;

21 (2) Performing a mastectomy;

22 (3) Prescribing, dispensing, administering, or otherwise supplying the following
23 medications:

24 (a) Puberty-blocking medication to stop normal puberty;

- 1 (b) Supraphysiologic doses of testosterone to females; or
2 (c) Supraphysiologic doses of estrogen to males; or
3 (4) Removing any otherwise healthy or nondiseased body part or tissue.

4 **Section 3.** That a NEW SECTION be added:

5 **26-10-38. Claim for relief—Actions through parent or next friend—Actions**
6 **upon reaching age of majority.**

7 Any person injured by practices prohibited under § 26-10-37 may bring a claim to
8 obtain injunctive relief, compensatory and special damages, and any other relief available
9 under law against any person who committed the violation. Minors injured by practices
10 prohibited under § 26-10-37 may bring an action during their minority through a parent
11 or next friend and may bring an action in their own name upon reaching the age of
12 majority until the age of thirty-eight.

13 **Section 4.** That a NEW SECTION be added:

14 ~~26-10-38~~**26-10-39. Perception of minor's sex--Prohibited practices--**
15 **Exceptions.**

16 Section 26-10-37 does not apply to the good faith medical decision of a parent or
17 guardian of a minor born with a medically-verifiable genetic disorder of sex development,
18 including:

- 19 (1) A minor with external biological sex characteristics that are irresolvably ambiguous,
20 such as a minor born having 46, XX chromosomes with virilization, 46, XY
21 chromosomes with undervirilization, or having both ovarian and testicular tissue;
22 or
23 (2) When a physician has otherwise diagnosed a disorder of sexual development, in
24 which the physician has determined through genetic testing that the minor does
25 not have the normal sex chromosome structure for a male or female.

26 **Section 5.** That this Act may be cited as the Vulnerable Child Protection Act.