

2023 South Dakota Legislature

House Bill 1080**AMENDMENT 1080G
FOR THE HOUSE HEALTH AND HUMAN SERVICES
ENGROSSED BILL**

1 **An Act to provide counseling for and prohibit certain medical and surgical**
2 **interventions on minor patients.**

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

4 **Section 1. That chapter 28-6 be amended with a NEW SECTION:**

5 The Department of Social Services shall make available mental health counseling
6 services to any person on medical assistance under the age of eighteen who is
7 experiencing gender dysphoria. For purposes of this section, the term, gender dysphoria,
8 means clinically significant distress resulting from a conflict between the person's gender
9 and the person's gender identity.

10 The department shall, on or before August 1, 2023, submit a state plan amendment
11 to the Centers for Medicare and Medicaid Services to effectuate the coverage extension
12 referenced in this section.

13 **Section 2. That chapter 34-24 be amended with a NEW SECTION:**

14 Terms used in sections ~~2-3~~ to ~~67~~, inclusive, of this Act, mean:

- 15 (1) "Minor," any person under the age of eighteen; and
16 (2) "Sex," ~~means~~ the biological indication of male and female, as evidenced by sex
17 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous
18 internal and external genitalia present at birth.

19 **Section 3. That chapter 34-24 be amended with a NEW SECTION:**

20 Except as provided in section ~~3-4~~ of this Act, a healthcare professional may not,
21 for the purpose of attempting to alter the appearance of, or to validate a minor's
22 perception of, the minor's sex, if that appearance or perception is inconsistent with the
23 minor's sex, knowingly:

- 24 (1) Prescribe or administer any drug to delay or stop normal puberty;

- 1 (2) Prescribe or administer testosterone, estrogen, or progesterone, in amounts
2 greater than would normally be produced endogenously in a healthy individual of
3 the same age and sex;
4 (3) Perform any sterilizing surgery, including castration, hysterectomy, oophorectomy,
5 orchiectomy, penectomy, and vasectomy;
6 (4) Perform any surgery that artificially constructs tissue having the appearance of
7 genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and
8 vaginoplasty; or
9 (5) Remove any healthy or non-diseased body part or tissue.

10 **Section 4. That chapter 34-24 be amended with a NEW SECTION:**

- 11 The prohibitions of section ~~2-3~~ of this Act do not limit or restrict the provision of
12 services to:
13 (1) A minor born with a medically verifiable disorder of sex development, including
14 external biological sex characteristics that are irresolvably ambiguous;
15 (2) A minor diagnosed with a disorder of sexual development, if a healthcare provider
16 has determined, through genetic or biochemical testing, that the minor does not
17 have a sex chromosome structure, sex steroid hormone production, or sex steroid
18 hormone action, that is normal for a biological male or biological female; or
19 (3) A minor needing treatment for an infection, injury, disease, or disorder that has
20 been caused or exacerbated by any action or procedure prohibited by section 2 of
21 this Act.

22 **Section 5. That chapter 34-24 be amended with a NEW SECTION:**

- 23 If a professional or occupational licensing board finds, by a preponderance of the
24 evidence and in compliance with chapter 1-26, that a healthcare professional licensed or
25 certified by the board has violated section ~~2-3~~ of this Act, the board must revoke any
26 professional or occupational license or certificate held by the healthcare professional.

27 **Section 6. That chapter 34-24 be amended with a NEW SECTION:**

- 28 Any civil action to recover damages for injury suffered as a result of a violation of
29 section ~~2-3~~ of this Act must be commenced before the later of:
30 (1) The date on which the person reaches age twenty-five; or

1 (2) Within three years from the time the person discovered or reasonably should have
2 discovered that the injury or damages were caused by the violation.

3 **Section 7. That chapter 34-24 be amended with a NEW SECTION:**

4 If, prior to July 1, 2023, a healthcare professional has initiated a course of
5 treatment, for a minor, which includes the prescription or administration of any drug or
6 hormone prohibited by section ~~2-3~~ of this Act, and if the healthcare professional
7 determines and documents in the minor's medical record that immediately terminating
8 the minor's use of the drug or hormone would cause harm to the minor, the healthcare
9 professional may institute a period during which the minor's use of the drug or hormone
10 is systematically reduced. That period may not extend beyond December 31, 2023.