

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 658

Representatives Brinkman, Zeltwanger

A BILL

To enact sections 2131.14, 2131.141, 2131.142, 1
2131.143, 2131.144, 2131.145, 2131.146, 2
2131.147, 2131.148, 2131.149, and 2919.30 of the 3
Revised Code to prohibit a court from using a 4
parent, guardian, or custodian's refusal to 5
allow a child to undergo gender-based treatment 6
as a basis for determining custody of the child. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2131.14, 2131.141, 2131.142, 8
2131.143, 2131.144, 2131.145, 2131.146, 2131.147, 2131.148, 9
2131.149, and 2919.30 of the Revised Code be enacted to read as 10
follows: 11

Sec. 2131.14. As used in sections 2131.14 to 2131.149 of 12
the Revised Code: 13

(A) "Gender dysphoria" means the condition of feeling 14
one's emotional and psychological identity as male or female to 15
be opposite to one's biological sex. 16

(B) "Gender dysphoria treatment" includes any of the 17
following used to treat the condition or symptoms of gender 18
dysphoria: 19

<u>(1) Educational materials, classes, or programs;</u>	20
<u>(2) Medical, psychological, social, or other professional treatment, therapy, counseling, or other services.</u>	21 22
<u>(C) "Government agent or entity" means either of the following:</u>	23 24
<u>(1) A person who has supervisory authority or care over children as an agent, employee, contractor, or volunteer for a public children services agency, private child placing agency, court, or school district;</u>	25 26 27 28
<u>(2) A public children services agency, private child placing agency, court, or school district.</u>	29 30
<u>Sec. 2131.141. The parents, guardian, or custodian, in exercising the fundamental right to care for their child, may withhold consent for gender dysphoria treatment or activities that are designed and intended to form a child's conceptions of sex and gender. The state, its agents, and political subdivisions shall not infringe upon or impede the exercise of this right.</u>	31 32 33 34 35 36 37
<u>Sec. 2131.142. (A) It is the policy of this state that the parents, guardian, or custodian of a child retain the right to determine what is in the best interest of the child regarding the following:</u>	38 39 40 41
<u>(1) The child is diagnosed with gender dysphoria.</u>	42
<u>(2) The child exhibits symptoms of gender dysphoria.</u>	43
<u>(3) Whether the child should participate in classes or programs, with or without accompanying educational materials, classes, or programs related to sex and gender.</u>	44 45 46

(4) Any counseling, therapy, or treatment provided to the child regarding the child's gender dysphoria. 47
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(B) Sections 2131.14 to 2131.149 of the Revised Code shall be liberally construed to effectuate that policy. 49
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Sec. 2131.143. If a government agent or entity has knowledge that a child under its care or supervision has exhibited symptoms of gender dysphoria or otherwise demonstrates a desire to be treated in a manner opposite of the child's biological sex, the government agent or entity with knowledge of that circumstance shall immediately notify, in writing, each of the child's parents and the child's guardian or custodian. The notice shall describe the total circumstances with reasonable specificity. 51
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Sec. 2131.144. A government agent or entity may authorize or provide gender dysphoria treatment for a child only after receiving the written, informed consent of each of the child's parents and the child's guardian or custodian. Consent, to be valid, shall include a statement that each of the parents and the guardian or custodian received the information described in section 2131.145 of the Revised Code. 60
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Sec. 2131.145. In order to obtain written, informed consent under section 2131.144 of the Revised Code, a government agent or entity shall provide full and complete disclosure of all of the following, with regard to the proposed gender dysphoria treatment: 67
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(A) Short- and long-term effects of the treatment; 72

(B) A comprehensive review of the safety and efficacy of the treatment, supported by controlled, randomized research; 73
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(C) A review of whether relevant agencies have approved 75

the treatment for the purpose for which it is to be 76
administered. 77

Sec. 2131.146. The parents, guardian, or custodian of a 78
child shall not be subject to adverse action as a result of the 79
refusal to permit gender dysphoria treatment, or refusal to 80
provide written, informed consent for such treatment, for the 81
child, including adverse action under any of the following: 82

(A) Allocation of parental rights and responsibilities 83
regarding the child under section 3109.04 of the Revised Code; 84

(B) A determination of custody by a juvenile court under 85
division (A) (2) of section 2151.23 of the Revised Code; 86

(C) A complaint, adjudication, or disposition that the 87
child is an abused, neglected, or dependent child under Chapter 88
2151. of the Revised Code. 89

Sec. 2131.147. (A) As used in this section, "off-label" 90
means using a medication for a purpose or in a manner that is 91
contrary to any provision of federal law or regulation that 92
governs the use of that medication. 93

(B) Notwithstanding a written, informed consent provided 94
by the parents, guardian, or custodian, there is a rebuttable 95
presumption of negligence when a medication is administered off- 96
label to a child to treat gender dysphoria or its symptoms and 97
an adverse physical or psychological reaction or injury to the 98
child results. 99

Sec. 2131.148. A person injured for a failure to comply 100
with sections 2131.14 to 2131.149 of the Revised Code may bring 101
an action for damages and equitable relief against the 102
government agent or entity. 103

Sec. 2131.149. Nothing in sections 2131.14 to 2131.149 of 104
the Revised Code shall be construed to require any person or 105
entity to engage in affirmative acts, or speech, or to affirm 106
any particular viewpoint. 107

Sec. 2919.30. (A) As used in this section, "gender 108
dysphoria treatment" and "government agent or entity" have the 109
same meanings as in section 2131.14 of the Revised Code. 110

(B) No government agent or entity shall purposely or 111
knowingly authorize or provide gender dysphoria treatment for a 112
child without the written, informed consent of each of the 113
child's parents and the child's guardian or custodian, as 114
required in section 2131.144 of the Revised Code. A violation of 115
this section is gender dysphoria treatment without parental 116
consent, a felony of the fourth degree. 117