

Ohio House Families, Aging, and Human Services Committee
HB 454
Opponent Testimony
Jordan Bernas
November 16, 2022

Chair Manchester, Ranking Member Denson, and members of the Ohio House Families, Aging, and Human Services Committee, thank you for allowing me to testify in opposition to HB 454, I am asking you today to oppose this damaging and legislatively intrusive bill.

My name is Jordan Bernas. I am a third-year law student at The Ohio State University Moritz College of Law. I am also a proud trans man. Passing HB 454 would irreparably harm the youth of Ohio. A preponderance of evidence exists to show the necessity of gender affirming care for trans youth and those experiencing gender dysphoria.

I would like to start off by providing some statistics, something HB 454 attempts to include numerous times without any attempt at sourcing. Over 1.8% of youth today identify as transgender, according to the CDC's Youth Risk Behavior Survey, which surveyed 118, 803 high school students in ten states. In 2019, there were 73 million Americans under the age of 18.¹ 1.8% of 73 million is 1314000. That is the number termed "tiny" in HB 454.

I have even more statistics. 186,239.² That is the number of head impacts among 524 youth athletes recorded during a study on tackle football for kids aged 6-14.³ Among 7- and 8-year-olds, the mean number of impacts across a season was between 107 and 161 head impacts.⁴ For the 9-12 age group, the mean was 240.⁵ So why am I talking about kids tackle football? Well, because HB 454 states that Ohio has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children. Now, head impacts can cause a traumatic brain injury, leading to long term effects, especially on developing brains⁶ and these are 7- and 8-year-olds receiving head impact after head impact. Voluntarily. For sport. But I

¹ <https://www.ohio.gov/ohiohouse/families-aging-and-human-services-committee/population/qa01104.asp>

² <https://journals.sagepub.com/doi/10.1177/1941738121992324>

³ Id.

⁴ Id.

⁵ Id.

⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3208826/>

don't see a bill on the agenda eliminating tackle football, despite the clearly damaging effect it has on youth across the nation. Instead, we are discussing medical care that verified professional organizations have deemed not only safe for youth experiencing gender dysphoria, but absolutely lifesaving.⁷

HB 454 states that Ohio has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children. I do not disagree with this assertion. The Ohio state legislature does have a responsibility to protect public health. Which is why the bill's complete repudiation and ignorance of conclusions from the major medical organizations that are responsible for treating children is especially disturbing.

As a trans man myself, this issue is obviously one of great importance to me. I personally have lost friends who did not receive the care they needed, or lost hope due to endless cycles of medical gatekeeping. So, to see this legislation come up in the Ohio House, with no concern for the devastating effects the bill will have on trans youth, is extremely upsetting. HB 454 contains many prohibitions based on uncited and scientifically unsupported claims, all of which have concerning implications for all transgender people, not just youth. The inclusion of these claims is frankly shocking, considering the high standard I would expect a committee of seasoned politicians to maintain.

The bill prohibits healthcare providers from providing any kind of gender affirming treatment to minors. (Lines 218-220). HB 454 asserts that "the risks of gender transition procedures far outweigh any benefit at this stage of clinical study on these procedures" (Lines 102-103). The bill also claims that "scientific studies show that individuals struggling with distress at identifying with their biological sex often have already experienced psychopathology" with the legislation claiming that mental health care services should be encouraged rather than any "hormonal or surgical intervention." (Lines 26-31). These indicate that the representatives who signed onto the bill believe trans and non-binary individuals to be under some sort of gender delusion requiring mental health intervention. To make a connection between being transgender and "previous psychopathology" inserts a sort of clinical diagnosis via legislation that has far

⁷ <https://opa.hhs.gov/sites/default/files/2022-03/gender-affirming-care-young-people-march-2022.pdf>;
<https://www.columbiapsychiatry.org/news/gender-affirming-care-saves-lives>

reaching, frightening implications for medical freedom in Ohio. Under the proposed law, providing such evidence-based care could result in the provider losing their medical license, and any “actual or threatened” violation could result in a civil lawsuit. (Lines 257-262).

However, “threatened” remains undefined, a vague term which recklessly opens the door for malfeasance in the enforcement of the bill’s provisions. Private insurance or Ohio Medicaid plans would also not reimburse health care providers for any gender-transition services for minors and the state could potentially cut public funding of hospitals or clinics if those institutions provide gender affirming care to minors. (Lines 235-238, 252-256). Yet, the American Academy of Pediatrics reported the medical necessity of providing gender affirming care, citing the high rates of suicide among transgender and non-binary youth who do not receive such care. The American Academy of Child and Adolescent Psychiatry, and the Endocrine Society are just a few more of the organizations that actively support gender affirming care. These professional societies represent the experts that we already trust to administer guidelines for treating the flu, diabetes, anxiety, and a host of other conditions that can affect children. This bill seeks to restrict evidence-based care for youth experiencing gender dysphoria and would undermine the relationship between a minor, their parents, and their medical provider through unprecedented legislative interference.

I want to finish my testimony by discussing how devastating seeing a bill like this is for members of the trans community. I feel unrepresented by every member who supported this bill. The language here not only questions my identity, but also my sanity. What your bill describes as “experimentation” is a series of well-studied care, shown to save lives. It certainly saved mine. Nowhere in this piece of legislation do I see any intent to care about the lives of trans people. Instead, I see undisguised hate in legislative form. Now I am an adult, I’ve experienced years of people, from pundits in the media, to grandstanding politicians, attempting to belittle my identity or use even just the existence of trans people to further their own political agenda. This still gets to me. I can only imagine the devastating affect seeing bills like this go up around the country has on young people.

While HB 454 claims to be concerned with prioritizing mental health, nowhere did I see mention of expanding mental health services in this state. Nowhere do I see the state legislature taking

active steps to address the increasing anxiety and depression experienced by youth in the state, regardless of their gender identity.

In short, the bill is a dangerous overreach of legislative authority, designed to demonize transgender, non-binary, and gender nonconforming people, while claiming (unsupported) to be a necessary paternalistic safeguard against medical malpractice. As I learn about about the necessary ethical directives of lawyering in class, I am reminded that I have a moral responsibility to utilize my legal education to fight bad law. HB 454 is bad legislation and, if passed, would make terrible law.

This bill is not about protection. HB 454 is about exclusion and bigotry, a thinly disguised attempt to dehumanize and eradicate a group of people that some members of the state legislature don't understand. Well, I'm here to say that we are not going anywhere.

Chair Manchester, Ranking Member Denson, and members of the Ohio House Families, Aging, and Human Services Committee, thank you for the opportunity to provide opponent testimony against HB 454. I would be happy to answer any of the committee's questions at this time.