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135th General Assembly

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Sub. H. B. No. 68

Representative Click

Cosponsors: Representatives Barhorst, Bird, Creech, Claggett, Cutrona, Dean, Demetriou, Edwards, Ferguson, Fowler Arthur, Gross, Hall, Holmes, Hoops, John, Johnson, Jordan, Kick, King, Klopfenstein, Lampton, Lear, Manchester, McClain, Merrin, Miller, K., Miller, M., Plummer, Patton, Powell, Robb Blasdel, Stein, Stewart, Stoltzfus, Swearingen, Wiggam, Williams, Willis, Young, T., Abrams, Carruthers, Dobos, Jones, Lorenz, Mathews, Richardson, Schmidt

A BILL

To enact sections 3109.054, 3129.01, 3129.02, 1
3129.03, 3129.04, 3129.05, 3129.06, 3313.5319, 2
and 3345.562 of the Revised Code to enact the 3
Saving Ohio Adolescents from Experimentation 4
(SAFE) Act regarding gender transition services 5
for minors, and to enact the Save Women's Sports 6
Act to require schools, state institutions of 7
higher education, and private colleges to 8
designate separate single-sex teams and sports 9
for each sex. 10

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

Section 1. That sections 3109.054, 3129.01, 3129.02, 11
3129.03, 3129.04, 3129.05, 3129.06, 3313.5319, and 3345.562 of 12
the Revised Code be enacted to read as follows: 13

Sec. 3109.054. When allocating parental rights and 14
responsibilities or parenting time, a court shall not consider a 15

parent's decision to do any of the following: 16

(A) Refer to and raise the child in a manner consistent 17
with the child's biological sex; 18

(B) Decline to consent to the child receiving gender 19
transition services as defined in section 3129.01 of the Revised 20
Code; 21

(C) Decline to consent to the child receiving counseling 22
or other mental health services for the purpose of affirming the 23
child's perception of the child's gender or sex, if the child's 24
perception is inconsistent with the child's biological sex. 25

Sec. 3129.01. As used in this chapter: 26

(A) "Biological sex," "birth sex," and "sex" mean the 27
biological indication of male and female, including sex 28
chromosomes, naturally occurring sex hormones, gonads, and 29
nonambiguous internal and external genitalia present at birth, 30
without regard to an individual's psychological, chosen, or 31
subjective experience of gender. 32

(B) "Cross-sex hormone" means testosterone, estrogen, or 33
progesterone given to a minor individual in an amount greater 34
than would normally be produced endogenously in a healthy 35
individual of the minor individual's age and sex. 36

(C) "Gender" means the psychological, behavioral, social, 37
and cultural aspects of being male or female. 38

(D) "Gender reassignment surgery" means any surgery 39
performed for the purpose of assisting an individual with gender 40
transition that seeks to surgically alter or remove healthy 41
physical or anatomical characteristics or features that are 42
typical for the individual's biological sex, in order to instill 43

or create physiological or anatomical characteristics that 44
resemble a sex different from the individual's birth sex, 45
including genital or non-genital gender reassignment surgery. 46

(E) "Gender-related condition" means any condition where 47
an individual feels an incongruence between the individual's 48
gender identity and biological sex. "Gender-related condition" 49
includes gender dysphoria. 50

(F) "Gender transition" means the process in which an 51
individual goes from identifying with and living as a gender 52
that corresponds to his or her biological sex to identifying 53
with and living as a gender different from his or her biological 54
sex, including social, legal, or physical changes. 55

(G) "Gender transition services" means any medical or 56
surgical service (including physician services, inpatient and 57
outpatient hospital services, or prescription drugs or hormones) 58
provided for the purpose of assisting an individual with gender 59
transition that seeks to alter or remove physical or anatomical 60
characteristics or features that are typical for the 61
individual's biological sex, or to instill or create 62
physiological or anatomical characteristics that resemble a sex 63
different from the individual's birth sex, including medical 64
services that provide puberty blocking drugs, cross-sex 65
hormones, or other mechanisms to promote the development of 66
feminizing or masculinizing features in the opposite sex, or 67
genital or non-genital gender reassignment surgery. 68

(H) "Genital gender reassignment surgery" means surgery 69
performed for the purpose of assisting an individual with gender 70
transition and includes both of the following: 71

(1) Surgeries that sterilize, such as castration, 72

<u>vasectomy, hysterectomy, oophorectomy, orchiectomy, and</u>	73
<u>penectomy;</u>	74
<u>(2) Surgeries that artificially construct tissue with the</u>	75
<u>appearance of genitalia that differs from the individual's</u>	76
<u>biological sex, such as metoidioplasty, phalloplasty, and</u>	77
<u>vaginoplasty.</u>	78
<u>(I) "Mental health professional" means all of the</u>	79
<u>following:</u>	80
<u>(1) Either of the following advanced practice registered</u>	81
<u>nurses who holds a current, valid license issued under Chapter</u>	82
<u>4723. of the Revised Code that authorizes the practice of</u>	83
<u>nursing as an advanced practice registered nurse:</u>	84
<u>(a) A clinical nurse specialist who is certified as a</u>	85
<u>psychiatric-mental health CNS by the American nurses</u>	86
<u>credentialing center;</u>	87
<u>(b) A certified nurse practitioner who is certified as a</u>	88
<u>psychiatric-mental health NP by the American nurses</u>	89
<u>credentialing center.</u>	90
<u>(2) A physician specializing in psychiatry;</u>	91
<u>(3) A psychologist, school psychologist, or independent</u>	92
<u>school psychologist licensed under Chapter 4732. of the Revised</u>	93
<u>Code or under rules adopted in accordance with sections 3301.07</u>	94
<u>and 3319.22 of the Revised Code;</u>	95
<u>(4) An independent social worker, social worker, licensed</u>	96
<u>professional clinical counselor, licensed professional</u>	97
<u>counselor, independent marriage and family therapist, or</u>	98
<u>marriage and family therapist licensed under Chapter 4757. of</u>	99
<u>the Revised Code.</u>	100

(J) "Minor individual" means an individual under eighteen 101
years of age. 102

(K) "Non-genital gender reassignment surgery" means 103
surgery performed for the purpose of assisting an individual 104
with gender transition such as augmentation mammoplasty, facial 105
feminization surgery, liposuction, lipofilling, voice surgery, 106
thyroid cartilage reduction, gluteal augmentation, pectoral 107
implants, or other aesthetic procedures. 108

(L) "Physician" means an individual authorized under 109
Chapter 4731. of the Revised Code to practice medicine and 110
surgery or osteopathic medicine and surgery. 111

(M) "Puberty-blocking drugs" means Gonadotropin-releasing 112
hormone analogs or other synthetic drugs used to stop 113
luteinizing hormone and follicle stimulating hormone secretion, 114
synthetic antiandrogen drugs used to block the androgen 115
receptor, or any drug to delay or suppress normal puberty. 116

Sec. 3129.02. A physician shall not knowingly do any of 117
the following: 118

(A) Perform gender reassignment surgery on a minor 119
individual; 120

(B) Prescribe a cross-sex hormone or puberty-blocking drug 121
for a minor individual for the purpose of assisting the minor 122
individual with gender transition; 123

(C) Engage in conduct that aids or abets in the practices 124
described in division (A) or (B) of this section, provided that 125
this section may not be construed to impose liability on any 126
speech protected by federal or state law. 127

Sec. 3129.03. (A) Notwithstanding section 5122.04 of the 128

Revised Code, no mental health professional shall diagnose or 129
treat a minor individual who presents for the diagnosis or 130
treatment of a gender-related condition without first obtaining 131
the consent of each residential parent and legal custodian of 132
the minor individual or of the minor individual's guardian. 133

(B) No mental health professional shall diagnose or treat 134
a minor individual who presents for the diagnosis or treatment 135
of a gender-related condition without screening the minor 136
individual for both of the following during the course of 137
diagnosis and treatment: 138

(1) Other comorbidities that may be influencing the minor 139
individual's gender-related condition, including depression, 140
anxiety, attention deficit hyperactivity disorder, autism 141
spectrum disorder, and other mental health conditions; 142

(2) Physical, sexual, mental, and emotional abuse and 143
other traumas. 144

Sec. 3129.04. This chapter does not prohibit a physician 145
from treating, including by performing surgery on or prescribing 146
drugs or hormones for, a minor individual who meets any of the 147
following: 148

(A) Was born with a medically verifiable disorder of sex 149
development, including an individual with external biological 150
sex characteristics that are irresolvably ambiguous, such as 151
an individual born with forty-six XX chromosomes with virilization, 152
forty-six XY chromosomes with undervirilization, or having both 153
ovarian and testicular tissue; 154

(B) Received a diagnosis of a disorder of sexual 155
development, in which a physician has determined through genetic 156
or biochemical testing that the individual does not have normal 157

sex chromosome structure, sex steroid hormone production, or sex 158
steroid hormone action for a biological male or biological 159
female; 160

(C) Needs treatment for any infection, injury, disease, or 161
disorder that has been caused or exacerbated by the performance 162
of gender transition services, whether or not the services were 163
performed in accordance with state or federal law. 164

Sec. 3129.05. (A) Any violation of section 3129.02, 165
section 3129.03, or section 3129.06 of the Revised Code shall be 166
considered unprofessional conduct and subject to discipline by 167
the applicable professional licensing board. 168

(B) Nothing in this chapter shall be construed to preempt 169
any other private cause of action arising under the common law 170
of this state. 171

(C) The attorney general may bring an action to enforce 172
compliance with section 3129.02 or 3129.03 of the Revised Code. 173
Nothing in this chapter shall be construed to deny, impair, or 174
otherwise affect any right or authority of the attorney general, 175
the state, or any agency, officer, or employee of the state, 176
acting under any provision of the Revised Code, to institute or 177
intervene in any proceeding. 178

Sec. 3129.06. (A) Medical assistance provided under the 179
medicaid program shall not include coverage for gender 180
transition services for minor individuals. 181

(B) This section does not apply to any of the following: 182

(1) The circumstances described in section 3129.04 of the 183
Revised Code; 184

(2) Mental health services provided for a gender-related 185

<u>condition;</u>	186
<u>(3) Any services that are not gender transition services.</u>	187
<u>Sec. 3313.5319. (A) Each school that participates in</u>	188
<u>athletic competitions or events administered by an organization</u>	189
<u>that regulates interscholastic athletic conferences or events</u>	190
<u>shall designate interscholastic athletic teams based on the sex</u>	191
<u>of the participants as follows:</u>	192
<u>(1) Separate teams for participants of the female sex</u>	193
<u>within female sports divisions;</u>	194
<u>(2) Separate teams for participants of the male sex within</u>	195
<u>male sports divisions;</u>	196
<u>(3) If applicable, co-ed teams for participants of the</u>	197
<u>female and male sexes within co-ed sports divisions.</u>	198
<u>(B) No school, interscholastic conference, or organization</u>	199
<u>that regulates interscholastic athletics shall knowingly permit</u>	200
<u>individuals of the male sex to participate on athletic teams or</u>	201
<u>in athletic competitions designated only for participants of the</u>	202
<u>female sex.</u>	203
<u>(C) Nothing in this section shall be construed to restrict</u>	204
<u>the eligibility of any student to participate on any athletic</u>	205
<u>teams or in athletic competitions that are designated as male or</u>	206
<u>co-ed.</u>	207
<u>(D) No agency or political subdivision of the state and no</u>	208
<u>accrediting organization or athletic association that operates</u>	209
<u>or has business activities in this state shall process a</u>	210
<u>complaint, begin an investigation, or take any other adverse</u>	211
<u>action against a school or school district for maintaining</u>	212
<u>separate single-sex interscholastic athletic teams or sports.</u>	213

(E) (1) Any participant who is deprived of an athletic opportunity or suffers a direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the school, school district, interscholastic conference, or organization that regulates interscholastic athletics. 214
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(2) Any participant who is subject to retaliation or other adverse action by a school, school district, interscholastic conference, or organization that regulates interscholastic athletics as a result of reporting a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the entity that takes the retaliatory or other adverse action. 220
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(3) Any school or school district that suffers any direct or indirect harm as a result of a violation of division (D) of this section has a private cause of action for injunctive relief, damages, and any other relief available against the agency, political subdivision, accrediting organization, or athletic association that violates that division. 227
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(F) Any civil action brought as a result of a violation of this section shall be initiated within two years after the date on which the violation occurs. Persons or organizations who prevail on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional, or physical harm suffered, reasonable attorney's fees and costs, and any other appropriate relief. 233
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Sec. 3345.562. (A) As used in this section: 240

(1) "Private college" means a nonprofit institution that holds a certificate of authorization issued under section 241
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<u>1713.02 of the Revised Code;</u>	243
<u>(2) "State institution of higher education" has the same</u>	244
<u>meaning as in section 3345.011 of the Revised Code.</u>	245
<u>(B) Each state institution of higher education or private</u>	246
<u>college that is a member of the national collegiate athletics</u>	247
<u>association, the national association of intercollegiate</u>	248
<u>athletics, or the national junior college association shall</u>	249
<u>designate intercollegiate athletic teams and sports based on the</u>	250
<u>sex of the participants as follows:</u>	251
<u>(1) Separate teams for participants of the female sex</u>	252
<u>within female sports divisions;</u>	253
<u>(2) Separate teams for participants of the male sex within</u>	254
<u>male sports divisions;</u>	255
<u>(3) If applicable, co-ed teams for participants of the</u>	256
<u>female and male sexes within co-ed sports divisions.</u>	257
<u>(C) No state institution or private college to which</u>	258
<u>division (B) of this section applies shall knowingly allow</u>	259
<u>individuals of the male sex to participate on athletic teams or</u>	260
<u>in athletic competitions designated for only participants of the</u>	261
<u>female sex.</u>	262
<u>(D) Nothing in this section shall be construed to restrict</u>	263
<u>the eligibility of any student to participate on any athletic</u>	264
<u>teams or in athletic competitions that are designated as male or</u>	265
<u>co-ed.</u>	266
<u>(E) No agency or political subdivision of the state and no</u>	267
<u>accrediting organization or athletic association that operates</u>	268
<u>or has business activities in this state shall process a</u>	269
<u>complaint, begin an investigation, or take any other adverse</u>	270

action against a state institution of higher education or 271
private college for maintaining separate single-sex 272
intercollegiate athletic teams or sports for participants of the 273
female sex. 274

(F) (1) Any participant who is deprived of an athletic 275
opportunity or suffers a direct or indirect harm as a result of 276
a violation of this section has a private cause of action for 277
injunctive relief, damages, and any other relief available 278
against the state institution or the private college. 279

(2) Any participant who is subject to retaliation or other 280
adverse action by a state institution, private college, or 281
athletic association as a result of reporting a violation of 282
this section has a private cause of action for injunctive 283
relief, damages, and any other relief available against the 284
entity that takes the retaliatory or other adverse action. 285

(3) Any state institution or private college that suffers 286
any direct or indirect harm as a result of a violation of 287
division (E) of this section has a private cause of action for 288
injunctive relief, damages, and any other relief available 289
against the agency, political subdivision, accrediting 290
organization, or athletic association that violates that 291
division. 292

(G) Any civil action brought as a result of a violation of 293
this section shall be initiated within two years after the date 294
on which the violation occurs. Persons or organizations who 295
prevail on a claim brought pursuant to this section shall be 296
entitled to monetary damages, including for any psychological, 297
emotional, or physical harm suffered, reasonable attorney's fees 298
and costs, and any other appropriate relief. 299

Section 2. The General Assembly hereby finds and declares	300
all of the following:	301
(A) This state has a compelling government interest in	302
protecting the health and safety of its citizens, especially	303
vulnerable children.	304
(B) Only a tiny percentage of the American population	305
experiences distress at identifying with their biological sex.	306
According to the American Psychiatric Association, prevalence	307
ranges from 0.005 to 0.014 per cent for natal adult males and	308
from 0.002 to 0.003 per cent for natal females.	309
(C) Studies consistently demonstrate that the vast	310
majority of children who are gender nonconforming or experience	311
distress at identifying with their biological sex come to	312
identify with their biological sex in adolescence or adulthood,	313
thereby rendering most medical health care interventions	314
unnecessary.	315
(D) Scientific studies show that individuals struggling	316
with distress at identifying with their biological sex often	317
have already experienced psychopathology, which indicates these	318
individuals should be encouraged to seek mental health care	319
services before undertaking any hormonal or surgical	320
intervention.	321
(E) Suicide rates, psychiatric morbidities, and mortality	322
rates remain markedly elevated above the background population	323
after inpatient gender reassignment surgery has been performed.	324
(F) Some health care providers are prescribing puberty-	325
blocking drugs in order to delay the onset or progression of	326
normally timed puberty in children who experience distress at	327
identifying with their biological sex. This is being done	328

despite the lack of any long-term longitudinal studies 329
evaluating the risks and benefits of using these drugs for the 330
treatment of such distress or gender transition. 331

(G) Health care providers are also prescribing cross-sex 332
hormones for children who experience distress at identifying 333
with their biological sex, despite the fact that no randomized 334
clinical trials have been conducted on the efficacy or safety of 335
the use of cross-sex hormones in adults or children for the 336
purpose of treating such distress or gender transition. 337

(H) The use of cross-sex hormones comes with the following 338
serious known risks: 339

(1) For biological females, erythrocytosis, severe liver 340
dysfunction, coronary artery disease, cerebrovascular disease, 341
hypertension, increased risk of breast and uterine cancers, and 342
irreversible infertility; 343

(2) For biological males, thromboembolic disease, 344
cholelithiasis, coronary artery disease, macroprolactinoma, 345
cerebrovascular disease, hypertriglyceridemia, breast cancer, 346
and irreversible infertility. 347

(I) Genital and non-genital gender reassignment surgeries 348
are generally not recommended for children, although evidence 349
indicates referrals for children to have such surgeries are 350
becoming more frequent. 351

(J) Genital gender reassignment surgery includes several 352
irreversible invasive procedures for males and females and 353
involves the following alterations of biologically normal and 354
functional body parts: 355

(1) For biological males, surgery may involve genital 356
reconstruction including penectomy, orchiectomy, vaginoplasty, 357

clitoroplasty, and vulvoplasty. 358

(2) For biological females, surgery may involve a 359
hysterectomy or oophorectomy, reconstruction of the urethra, 360
genital reconstruction including metoidioplasty or phalloplasty, 361
vaginectomy, scrotoplasty, and implantation of erection or 362
testicular prostheses. 363

(K) The complications, risks, and long-term care concerns 364
associated with genital gender reassignment surgery for both 365
males and females are numerous and complex. 366

(L) Non-genital gender reassignment surgery includes 367
various invasive procedures for males and females and also 368
involves the alteration or removal of biologically normal and 369
functional body parts: 370

(1) For biological males, procedures may include 371
augmentation mammoplasty, facial feminization surgery, 372
liposuction, lipofilling, voice surgery, thyroid cartilage 373
reduction, gluteal augmentation, hair reconstruction, and other 374
aesthetic procedures. 375

(2) For biological females, procedures may include 376
subcutaneous mastectomy, voice surgery, liposuction, 377
lipofilling, pectoral implants, and other aesthetic procedures. 378

(M) It is an accepted principle of economics and public 379
policy that when a service or product is subsidized or paid for, 380
demand for that service or product increases. Just between 2015 381
and 2016, gender reassignment surgeries increased by twenty per 382
cent. 383

(N) It is of grave concern to the General Assembly that 384
the medical community is allowing individuals who experience 385
distress at identifying with their biological sex to be subjects 386

of irreversible and drastic non-genital gender reassignment 387
surgery and irreversible, permanently sterilizing genital gender 388
reassignment surgery, despite the lack of studies showing that 389
the benefits of such extreme interventions outweigh the risks. 390

(O) The risks of gender transition services far outweigh 391
any benefit at this stage of clinical study on these services. 392

Section 3. Section 1 of this act takes effect six months 393
after the effective date of this section. 394

Section 4. Sections 3109.054, 3129.01, 3129.02, 3129.03, 395
3129.04, 3129.05, and 3129.06 of the Revised Code, as enacted by 396
this act, shall be known as the Ohio Saving Adolescents from 397
Experimentation (SAFE) Act. 398

Section 5. Sections 3313.5319 and 3345.562 of the Revised 399
Code, as enacted by this act, shall be known as the Save Women's 400
Sports Act. 401