

**As Introduced**

**135th General Assembly**

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**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.**



**A BILL**

To enact sections 3109.054, 3129.01, 3129.02, 1  
3129.03, 3129.04, 3129.05, 3129.06, and 3129.07 2  
of the Revised Code regarding gender transition 3  
services for minors and to name this act the 4  
Ohio Saving Adolescents from Experimentation 5  
(SAFE) Act. 6

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

**Section 1.** That sections 3109.054, 3129.01, 3129.02, 7  
3129.03, 3129.04, 3129.05, 3129.06, and 3129.07 of the Revised 8  
Code be enacted to read as follows: 9

**Sec. 3109.054.** When allocating parental rights and 10  
responsibilities or parenting time, a court shall not consider a 11  
parent's decision to do any of the following: 12

(A) Refer to and raise the child in a manner consistent 13  
with the child's biological sex; 14

(B) Decline to consent to the child receiving gender 15

transition services as defined in section 3129.01 of the Revised Code; 16  
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(C) Decline to consent to the child receiving counseling or other mental health services for the purpose of affirming the child's perception of the child's gender or sex, if the child's perception is inconsistent with the child's biological sex. 18  
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**Sec. 3129.01.** As used in this chapter: 22

(A) "Biological sex," "birth sex," and "sex" mean the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender. 23  
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(B) "Cross-sex hormone" means testosterone, estrogen, or progesterone given to a minor individual in an amount greater than would normally be produced endogenously in a healthy individual of the minor individual's age and sex. 29  
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(C) "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female. 33  
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(D) "Gender reassignment surgery" means any surgery performed for the purpose of assisting an individual with gender transition that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex, including genital or non-genital gender reassignment surgery. 35  
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(E) "Gender-related condition" means any condition where an individual feels an incongruence between the individual's 43  
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gender identity and biological sex. "Gender-related condition" 45  
includes gender dysphoria. 46

(F) "Gender transition" means the process in which an 47  
individual goes from identifying with and living as a gender 48  
that corresponds to his or her biological sex to identifying 49  
with and living as a gender different from his or her biological 50  
sex, including social, legal, or physical changes. 51

(G) "Gender transition services" means any medical or 52  
surgical service (including physician services, inpatient and 53  
outpatient hospital services, or prescription drugs or hormones) 54  
provided for the purpose of assisting an individual with gender 55  
transition that seeks to alter or remove physical or anatomical 56  
characteristics or features that are typical for the 57  
individual's biological sex, or to instill or create 58  
physiological or anatomical characteristics that resemble a sex 59  
different from the individual's birth sex, including medical 60  
services that provide puberty blocking drugs, cross-sex 61  
hormones, or other mechanisms to promote the development of 62  
feminizing or masculinizing features in the opposite sex, or 63  
genital or non-genital gender reassignment surgery. 64

(H) "Genital gender reassignment surgery" means surgery 65  
performed for the purpose of assisting an individual with gender 66  
transition and includes both of the following: 67

(1) Surgeries that sterilize, such as castration, 68  
vasectomy, hysterectomy, oophorectomy, orchiectomy, and 69  
penectomy; 70

(2) Surgeries that artificially construct tissue with the 71  
appearance of genitalia that differs from the individual's 72  
biological sex, such as metoidioplasty, phalloplasty, and 73

<u>vaginoplasty.</u>	74
<u>(I) "Health benefit plan" has the same meaning as in section 3922.01 of the Revised Code.</u>	75 76
<u>(J) "Mental health professional" means all of the following:</u>	77 78
<u>(1) Either of the following advanced practice registered nurses who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse:</u>	79 80 81 82
<u>(a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center;</u>	83 84 85
<u>(b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center.</u>	86 87 88
<u>(2) A physician specializing in psychiatry;</u>	89
<u>(3) A psychologist, school psychologist, or independent school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with sections 3301.07 and 3319.22 of the Revised Code;</u>	90 91 92 93
<u>(4) An independent social worker, social worker, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist, or marriage and family therapist licensed under Chapter 4757. of the Revised Code.</u>	94 95 96 97 98
<u>(K) "Minor individual" means an individual under eighteen years of age.</u>	99 100

(L) "Non-genital gender reassignment surgery" means 101  
surgery performed for the purpose of assisting an individual 102  
with gender transition such as augmentation mammoplasty, facial 103  
feminization surgery, liposuction, lipofilling, voice surgery, 104  
thyroid cartilage reduction, gluteal augmentation, pectoral 105  
implants, or other aesthetic procedures. 106

(M) "Physician" means an individual authorized under 107  
Chapter 4731. of the Revised Code to practice medicine and 108  
surgery or osteopathic medicine and surgery. 109

(N) "Puberty-blocking drugs" means Gonadotropin-releasing 110  
hormone analogs or other synthetic drugs used to stop 111  
luteinizing hormone and follicle stimulating hormone secretion, 112  
synthetic antiandrogen drugs used to block the androgen 113  
receptor, or any drug to delay or suppress normal puberty. 114

**Sec. 3129.02.** A physician shall not knowingly do any of 115  
the following: 116

(A) Perform gender reassignment surgery on a minor 117  
individual; 118

(B) Prescribe a cross-sex hormone or puberty-blocking drug 119  
for a minor individual for the purpose of assisting the minor 120  
individual with gender transition; 121

(C) Engage in conduct that aids or abets in the practices 122  
described in division (A) or (B) of this section, provided that 123  
this section may not be construed to impose liability on any 124  
speech protected by federal or state law. 125

**Sec. 3129.03.** (A) No mental health professional shall 126  
diagnose or treat a minor individual who presents for the 127  
diagnosis or treatment of a gender-related condition without 128  
first doing both of the following: 129

(1) Notwithstanding section 5122.04 of the Revised Code, 130  
obtaining the consent of the minor individual's residential 131  
parent and legal custodian or the minor individual's guardian; 132

(2) Screening the minor individual for both of the 133  
following: 134

(a) Other comorbidities that may be influencing the minor 135  
individual's gender-related condition, including depression, 136  
anxiety, attention deficit hyperactivity disorder, autism 137  
spectrum disorder, and other mental health conditions; 138

(b) Physical, sexual, mental, and emotional abuse and 139  
other traumas. 140

(B) No political subdivision may prohibit the use of 141  
watchful waiting, treatment and therapies similar to those 142  
provided for the treatment of body dysmorphia and eating 143  
disorders, or other models of care that assist minor individuals 144  
experiencing a gender-related condition in reconciling their 145  
gender identity with their biological sex. 146

**Sec. 3129.04.** This chapter does not prohibit a physician 147  
from treating, including by performing surgery on or prescribing 148  
drugs or hormones for, a minor individual who meets any of the 149  
following: 150

(A) Was born with a medically verifiable disorder of sex 151  
development, including an individual with external biological 152  
sex characteristics that are irresolvably ambiguous, such as 153  
an individual born with forty-six XX chromosomes with virilization, 154  
forty-six XY chromosomes with undervirilization, or having both 155  
ovarian and testicular tissue; 156

(B) Received a diagnosis of a disorder of sexual 157  
development, in which a physician has determined through genetic 158

or biochemical testing that the individual does not have normal 159  
sex chromosome structure, sex steroid hormone production, or sex 160  
steroid hormone action for a biological male or biological 161  
female; 162

(C) Needs treatment for any infection, injury, disease, or 163  
disorder that has been caused or exacerbated by the performance 164  
of gender transition services, whether or not the services were 165  
performed in accordance with state or federal law. 166

**Sec. 3129.05.** (A) Any violation of section 3129.02, 167  
section 3129.03, or section 3129.06 of the Revised Code shall be 168  
considered unprofessional conduct and subject to discipline by 169  
the applicable professional licensing board. 170

(B) An individual may bring a claim for a violation of 171  
this chapter not later than two years after the date the cause 172  
of action accrues. A minor individual may bring an action before 173  
reaching eighteen years of age through a parent or guardian, and 174  
may bring an action in the minor individual's own name upon 175  
reaching eighteen years of age at any time from that date until 176  
twenty years after that date. Nothing in this chapter shall be 177  
construed to preempt any other private cause of action arising 178  
under the common law of this state. 179

(C) The attorney general may bring an action to enforce 180  
compliance with section 3129.02 or 3129.03 of the Revised Code. 181  
Nothing in this chapter shall be construed to deny, impair, or 182  
otherwise affect any right or authority of the attorney general, 183  
the state, or any agency, officer, or employee of the state, 184  
acting under any provision of the Revised Code, to institute or 185  
intervene in any proceeding. 186

**Sec. 3129.06.** (A) Each mental health professional who 187

diagnoses or treats a minor individual for a gender-related 188  
condition shall report to the department of health not later 189  
than the first day of March of each year all of the following 190  
information: 191

(1) The number of minor individuals the mental health 192  
professional diagnosed or treated for a gender-related condition 193  
in the previous year; 194

(2) The biological sex of the minor individuals the mental 195  
health professional diagnosed or treated for a gender-related 196  
condition in the previous year; 197

(3) The age at which the minor individual's diagnosis or 198  
treatment for a gender-related condition began; 199

(4) The number of minor individuals diagnosed or treated 200  
for a gender-related condition who also presented with any of 201  
the comorbidities, abuse, or other trauma described in division 202  
(A) of section 3129.03 of the Revised Code; 203

(5) The number of minor individuals who resumed 204  
identification with their biological sex; 205

(6) The number of minor individuals the mental health 206  
professional previously diagnosed or treated for a gender- 207  
related condition who have not been treated by the mental health 208  
professional for six months or more and who were not included in 209  
a previous report; 210

(7) Any other information required by the department by 211  
rule. 212

(B) In reporting the information required by this section, 213  
both of the following apply: 214

(1) Where appropriate, the mental health professional 215



<u>shall organize the previous year's information by month.</u>	216
<u>(2) The mental health professional shall not report</u>	217
<u>information that identifies or would tend to identify any</u>	218
<u>specific individual.</u>	219
<u>(C) Not later than three months after the annual deadline</u>	220
<u>described in division (A) of this section, the department of</u>	221
<u>health shall compile that information in a report to the general</u>	222
<u>assembly. The department shall submit the report in accordance</u>	223
<u>with division (B) of section 101.68 of the Revised Code.</u>	224
<u>(D) The director of health may adopt rules as necessary to</u>	225
<u>implement this section, including by adding other information to</u>	226
<u>be reported in accordance with division (A) of this section. Any</u>	227
<u>such rules shall be adopted pursuant to section 111.15 of the</u>	228
<u>Revised Code, but the requirement in division (C) of this</u>	229
<u>section is not contingent on the adoption of any such rules.</u>	230
<u>Notwithstanding any provision of section 121.95 of the Revised</u>	231
<u>Code to the contrary, a regulatory restriction contained in a</u>	232
<u>rule adopted under this section is not subject to sections</u>	233
<u>121.95 to 121.953 of the Revised Code.</u>	234
<b><u>Sec. 3129.07. (A) Medical assistance provided under the</u></b>	235
<b><u>medicaid program shall not include coverage for gender</u></b>	236
<b><u>transition services for minor individuals.</u></b>	237
<u>(B) This section does not apply to any of the following:</u>	238
<u>(1) The circumstances described in section 3129.04 of the</u>	239
<u>Revised Code;</u>	240
<u>(2) Mental health services provided for a gender-related</u>	241
<u>condition;</u>	242
<u>(3) Any services that are not gender transition services.</u>	243

<b>Section 2.</b> The General Assembly hereby finds and declares	244
all of the following:	245
(A) This state has a compelling government interest in	246
protecting the health and safety of its citizens, especially	247
vulnerable children.	248
(B) Only a tiny percentage of the American population	249
experiences distress at identifying with their biological sex.	250
According to the American Psychiatric Association, prevalence	251
ranges from 0.005 to 0.014 per cent for natal adult males and	252
from 0.002 to 0.003 per cent for natal females.	253
(C) Studies consistently demonstrate that the vast	254
majority of children who are gender nonconforming or experience	255
distress at identifying with their biological sex come to	256
identify with their biological sex in adolescence or adulthood,	257
thereby rendering most medical health care interventions	258
unnecessary.	259
(D) Scientific studies show that individuals struggling	260
with distress at identifying with their biological sex often	261
have already experienced psychopathology, which indicates these	262
individuals should be encouraged to seek mental health care	263
services before undertaking any hormonal or surgical	264
intervention.	265
(E) Suicide rates, psychiatric morbidities, and mortality	266
rates remain markedly elevated above the background population	267
after inpatient gender reassignment surgery has been performed.	268
(F) Some health care providers are prescribing puberty-	269
blocking drugs in order to delay the onset or progression of	270
normally timed puberty in children who experience distress at	271
identifying with their biological sex. This is being done	272

despite the lack of any long-term longitudinal studies 273  
evaluating the risks and benefits of using these drugs for the 274  
treatment of such distress or gender transition. 275

(G) Health care providers are also prescribing cross-sex 276  
hormones for children who experience distress at identifying 277  
with their biological sex, despite the fact that no randomized 278  
clinical trials have been conducted on the efficacy or safety of 279  
the use of cross-sex hormones in adults or children for the 280  
purpose of treating such distress or gender transition. 281

(H) The use of cross-sex hormones comes with the following 282  
serious known risks: 283

(1) For biological females, erythrocytosis, severe liver 284  
dysfunction, coronary artery disease, cerebrovascular disease, 285  
hypertension, increased risk of breast and uterine cancers, and 286  
irreversible infertility; 287

(2) For biological males, thromboembolic disease, 288  
cholelithiasis, coronary artery disease, macroprolactinoma, 289  
cerebrovascular disease, hypertriglyceridemia, breast cancer, 290  
and irreversible infertility. 291

(I) Genital and non-genital gender reassignment surgeries 292  
are generally not recommended for children, although evidence 293  
indicates referrals for children to have such surgeries are 294  
becoming more frequent. 295

(J) Genital gender reassignment surgery includes several 296  
irreversible invasive procedures for males and females and 297  
involves the following alterations of biologically normal and 298  
functional body parts: 299

(1) For biological males, surgery may involve genital 300  
reconstruction including penectomy, orchiectomy, vaginoplasty, 301

clitoroplasty, and vulvoplasty.	302
(2) For biological females, surgery may involve a	303
hysterectomy or oophorectomy, reconstruction of the urethra,	304
genital reconstruction including metoidioplasty or phalloplasty,	305
vaginectomy, scrotoplasty, and implantation of erection or	306
testicular prostheses.	307
(K) The complications, risks, and long-term care concerns	308
associated with genital gender reassignment surgery for both	309
males and females are numerous and complex.	310
(L) Non-genital gender reassignment surgery includes	311
various invasive procedures for males and females and also	312
involves the alteration or removal of biologically normal and	313
functional body parts:	314
(1) For biological males, procedures may include	315
augmentation mammoplasty, facial feminization surgery,	316
liposuction, lipofilling, voice surgery, thyroid cartilage	317
reduction, gluteal augmentation, hair reconstruction, and other	318
aesthetic procedures.	319
(2) For biological females, procedures may include	320
subcutaneous mastectomy, voice surgery, liposuction,	321
lipofilling, pectoral implants, and other aesthetic procedures.	322
(M) It is an accepted principle of economics and public	323
policy that when a service or product is subsidized or paid for,	324
demand for that service or product increases. Just between 2015	325
and 2016, gender reassignment surgeries increased by twenty per	326
cent.	327
(N) It is of grave concern to the General Assembly that	328
the medical community is allowing individuals who experience	329
distress at identifying with their biological sex to be subjects	330

of irreversible and drastic non-genital gender reassignment 331  
surgery and irreversible, permanently sterilizing genital gender 332  
reassignment surgery, despite the lack of studies showing that 333  
the benefits of such extreme interventions outweigh the risks. 334

(O) The risks of gender transition services far outweigh 335  
any benefit at this stage of clinical study on these services. 336

**Section 3.** Section 1 of this act takes effect six months 337  
after the effective date of this section. 338

**Section 4.** This act shall be known as the Ohio Saving 339  
Adolescents from Experimentation (SAFE) Act. 340