



SPONSOR: Sen. Richardson & Rep. Hilovsky  
Sens. Hocker, Wilson; Reps. Collins, Morris

DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE BILL NO. 315

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO GENDER TRANSITION PROCEDURES.

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

1 Section 1. Amend Part II, Title 16 of the Delaware Code by making deletions as shown by strike through and  
2 insertions as shown by underline as follows:

3 Chapter 30R. The Delaware Save Adolescents From Experimentation Act.

4 § 3001R. Title.

5 This chapter is known and may be cited as the “Delaware Save Adolescents From Experimentation (SAFE) Act”.

6 § 3002R. Legislative findings.

7 The General Assembly finds as follows:

8 (1) The State has a compelling governmental interest in protecting the health and safety of its citizens,  
9 especially vulnerable children.

10 (2) Less than 1% of the American population experiences difficulty at identifying with their biological sex.

11 (3) Studies demonstrate that the majority of children who are gender nonconforming or experience difficulty  
12 identifying with their biological sex come to identify with their biological sex in adolescence or adulthood, rendering  
13 most physiological intervention unnecessary.

14 (4) Despite a lack of studies demonstrating the long-term risk and benefits to using puberty-blocking drugs,  
15 some healthcare providers are prescribing puberty-blocking drugs to delay the onset or progression of puberty in  
16 children who experience difficulty identifying with their biological sex.

17 (5) The United Kingdom’s National Health Service has banned the use of puberty blocking drugs for children  
18 who are gender nonconforming on experience difficulty identifying with their biological sex.

19 (6) Other healthcare providers prescribe cross-sex hormones for such children, despite known health risks.

20 (7) Genital and nongenital reassignment surgeries, despite not typically being recommended for children, are  
21 becoming more frequent.

22 § 3003R. Definitions.

23 As used in this chapter:

24 (1) “Biological sex” means the biological indication of male or female in the context of reproductive potential  
25 or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and  
26 external genitalia present at birth, without regard to an individual’s psychological, chosen, or subjective experience of  
27 gender.

28 (2) “Cross-sex hormones” means all of the following:

29 a. Testosterone or other androgens given to biological females in amounts that are larger or more potent  
30 than would normally occur naturally in healthy biological females.

31 b. Estrogen given to biological males in amounts that are larger or more potent than would normally  
32 occur naturally in healthy biological males.

33 (3) “Gender” means the psychological, behavioral, social, and cultural aspects of being male or female.

34 (4) “Gender reassignment surgery” means any medical or surgical service that seeks to surgically alter or  
35 remove healthy physical or anatomical characteristics or features that are typical for the individual’s biological sex to  
36 instill or create physical or anatomical characteristics or features that resemble a sex different from the individual’s  
37 biological sex, including genital or nongenital gender reassignment surgery performed for the purpose of assisting an  
38 individual with a gender transition.

39 (5) “Gender transition” means the process in which an individual goes from identifying with and living as a  
40 gender that corresponds to the individual’s biological sex to identifying with and living as a gender different from the  
41 individual’s biological sex, and may involve social, legal, or physical changes.

42 (6) “Gender transition procedure” means a medical or surgical service, including physician services, inpatient  
43 and outpatient hospital services, or prescribed drugs related to gender transition, that seeks to do any of the following:

44 a. Alter or remove physical or anatomical characteristics or features that are typical for the individual’s  
45 biological sex.

46 b. Instill or create physical or anatomical characteristics or features that resemble a sex different from the  
47 individual’s biological sex, including medical services that provide puberty-blocking drugs, cross-sex hormones,  
48 or other mechanisms to promote the development of feminizing or masculinizing features in the opposite  
49 biological sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an  
50 individual with a gender transition.

51 (7)a. “Genital gender reassignment surgery” means a medical procedure performed for the purpose of  
52 assisting an individual with a gender transition.

53 b. “Genital gender reassignment surgery” includes any of the following:

54 1. Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or vulvoplasty  
55 for biologically male patients or hysterectomy or ovariectomy for biologically female patients.

56 2. Reconstruction of the fixed part of the urethra with or without a metoidioplasty.

57 3. Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular prostheses for  
58 biologically female patients.

59 (8) “Healthcare professional” means an individual who is licensed, certified, or otherwise authorized by the  
60 laws of this State to administer health care in the ordinary course of the practice of the individual’s profession.

61 (9)a. “Nongenital gender reassignment surgery” means medical procedures performed for the purpose of  
62 assisting an individual with a gender transition.

63 b. “Nongenital gender reassignment surgery” includes any of the following:

64 1. Surgical procedures for biologically male patients, such as augmentation mammoplasty, facial  
65 feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation,  
66 hair reconstruction, or other aesthetic procedures.

67 2. Surgical procedures for biologically female patients, such as subcutaneous mastectomy, voice  
68 surgery, liposuction, lipofilling, pectoral implants, or other aesthetic procedures.

69 (10) “Physician” means an individual who is licensed to practice medicine in this State.

70 (11) “Puberty-blocking drugs” means all of the following when used to delay or suppress pubertal  
71 development in a child for the purpose of assisting the child with a gender transition:

72 a. Gonadotropin-releasing hormone analogues or other synthetic drugs used in biological males to stop  
73 luteinizing hormone secretion and therefore testosterone secretion.

74 b. Synthetic drugs used in biological females which stop the production of estrogens and progesterone.

75 (12) “Public funds” means State, county, or local government monies, in addition to any department, agency,  
76 or instrumentality authorized or appropriated under state law or derived from any fund in which such moneys are  
77 deposited.

78 § 3004R. Prohibition of gender transition procedures for a child; exceptions.

79 (a) A physician or other healthcare professional may not provide gender transition procedures to a child.

80 (b) A physician or other healthcare professional may not refer a child to a healthcare professional for gender  
81 transition procedures.

82 (c) A physician or other healthcare professional may provide any of the following procedures to a child:

83           (1) Services to the child who is born with a medically verifiable disorder of sex development, including a  
84 child with external biological sex characteristics that are irresolvably ambiguous, such as a child born with 46 XX  
85 chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular  
86 tissue.

87           (2) Services provided when a physician has otherwise diagnosed a disorder of sexual development that the  
88 physician has determined through genetic or biochemical testing that the child does not have normal sex chromosome  
89 structure, sex steroid hormone production, or sex steroid hormone action.

90           (3) The treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the  
91 performance of gender transition procedures, whether or not the gender transition procedure was performed under state  
92 and federal law or whether or not funding for the gender transition procedure is permissible under this chapter.

93           (4) Any procedure undertaken because the child suffers from a physical disorder, physical injury, or physical  
94 illness that would, as certified by a physician, place the child in imminent danger of death or impairment of a major  
95 bodily function unless surgery is performed.

96           § 3005R. Prohibition on use of public funds.

97           (a) Public funds may not be directly or indirectly used, granted, paid, or distributed to an entity, organization, or  
98 individual that provides gender transition procedures to a child.

99           (b) Healthcare services furnished in the following situations may not include gender transition procedures for a  
100 child:

101           (1) By or in a healthcare facility owned by the State or a county or local government.

102           (2) By a physician or other healthcare professional employed by the State or a county or local government.

103           (c) The Delaware Medicaid Program may not reimburse or provide coverage for gender transition procedures to a  
104 child.

105           § 3006R. Enforcement.

106           (a) A referral for or provision of gender transition procedures to a child is unprofessional conduct. A physician or  
107 healthcare profession who makes a referral for or provides gender transition procedures to a child is subject to discipline by  
108 the appropriate licensing entity or disciplinary review board with jurisdiction over the physician or healthcare professional  
109 in this State.

110           (b) A person may assert an actual or threatened violation of this chapter as a claim or defense in a judicial or  
111 administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate  
112 relief.

113 (c) Except as provided under paragraph (c)(2) of this section, an individual must bring a claim for a violation of  
114 this chapter not later than 2 years after the day the cause of action accrues.

115 (1) A child may bring an action through a parent or guardian.

116 (2) An individual who was a child when the cause of action accrued may bring an action in the individual's  
117 own name on reaching full age and at any time from that point until 20 years after reaching full age.

118 (d) Notwithstanding any other provision of law to the contrary, an action under this chapter may be commenced,  
119 and relief may be granted, in a judicial proceeding without regard to whether the person commencing the action has sought  
120 or exhausted available administrative remedies.

121 (e) In any action or proceeding to enforce a provision of this chapter, a court shall grant reasonable attorneys' fees  
122 to a prevailing party who establishes a violation of this chapter.

123 (f) The Attorney General may bring an action to enforce compliance with this chapter. This chapter does not deny,  
124 impair, or otherwise affect any right or authority of the Attorney General, the State, or any agency, officer, or employee of  
125 the State, acting under any law other than this chapter, to institute or intervene in any proceeding.

126 § 3007R. Insurance coverage of gender transition procedures.

127 Notwithstanding any other provision of law to the contrary, a health benefit plan under an insurance policy or  
128 other plan providing healthcare coverage issued in this State may not include reimbursement for gender transition  
129 procedures for a child.

#### SYNOPSIS

This Act prohibits gender transition surgery for children due to the potential for an irrevocable procedure occurring when there is a significant probability that children will come to identify with their biological gender.

This Act prohibits the use of public funds and insurance coverage for gender transition surgery for children.

This Act provides for enforcement of the Act as follows:

(1) By providing for compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief.

(2) By making a referral for or provision of gender transition procedures to a child unprofessional conduct for which a physician or healthcare professional making the referral for or provision of gender transition procedures to a child is subject to discipline by the appropriate licensing entity or disciplinary review board with jurisdiction over the physician or healthcare professional in this State.

Author: Senator Richardson