

# House Bill 3137

Sponsored by Representative DIEHL

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits medical health care professional from performing or providing sex alteration procedure on minor. Defines "sex alteration procedure." Provides that sex alteration procedure on minor is unprofessional conduct subject to discipline by appropriate health professional licensing board. Allows individual to bring claim for violation and recover specified damages.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to procedures to alter minor's sex; and declaring an emergency.

2 Whereas Oregon has a compelling governmental interest in protecting the health and safety of  
3 its residents, especially vulnerable children; and

4 Whereas only a tiny percentage of the American population experiences distress related to a  
5 fixation on the reality of their sex; and

6 Whereas according to the American Psychiatric Association, prevalence ranges from 0.005 to  
7 0.014 percent of adult males and from 0.002 to 0.003 percent of adult females; and

8 Whereas studies consistently demonstrate that the vast majority of children who experience  
9 distress related to a fixation on the reality of their sex come to accept their sex in adolescence or  
10 adulthood; and

11 Whereas scientific studies show that individuals struggling with distress related to a fixation  
12 on the reality of their sex often have already experienced psychopathology, which indicates these  
13 individuals should be encouraged to seek mental health care services; and

14 Whereas suicide rates, psychiatric morbidities and mortality rates remain markedly elevated  
15 above the background population after inpatient sex alteration procedures have been performed; and

16 Whereas some health care providers are prescribing drugs in order to delay the onset or  
17 progression of normally timed puberty in children who experience distress related to a fixation on  
18 the reality of their sex, despite the lack of any long-term longitudinal studies evaluating the risks  
19 and benefits of using these drugs for the treatment of such distress; and

20 Whereas health care providers are also prescribing cross-sex hormones for children who expe-  
21 rience distress related to a fixation on the reality of their sex, despite the fact that no randomized  
22 clinical trials have been conducted on the efficacy or safety of the use of cross-sex hormones in  
23 adults or children for the purpose of treating such distress; and

24 Whereas the use of cross-sex hormones comes with serious known risks, including, for females,  
25 erythrocytosis, severe liver dysfunction, coronary artery disease, cerebrovascular disease,  
26 hypertension, increased risk of breast and uterine cancers and irreversible infertility, and for males,  
27 thromboembolic disease, cholelithiasis, coronary artery disease, macroprolactinoma, cerebrovascular  
28 disease, hypertriglyceridemia, breast cancer and irreversible infertility; and

29 Whereas genital and nongenital modification, amputation and mutilation surgeries are generally  
30

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 not recommended for children, although evidence indicates referrals for children to undergo such  
 2 surgeries are becoming more frequent; and

3 Whereas genital modification, amputation and mutilation surgeries include several irreversible  
 4 invasive procedures for both males and females and involve alterations of biologically normal and  
 5 functional body parts, including, for males, surgery that may involve genital mutilation including  
 6 penectomy, orchiectomy, vaginoplasty, clitoroplasty and vulvoplasty, and for females, surgery that  
 7 may involve a hysterectomy or oophorectomy, reconstruction of the urethra, genital mutilation in-  
 8 cluding metoidioplasty or phalloplasty, vaginectomy, scrotoplasty and implantation of erection or  
 9 testicular prostheses; and

10 Whereas the complications, risks and long-term care concerns associated with genital modifica-  
 11 tion, amputation and mutilation surgeries for both males and females are numerous and complex;  
 12 and

13 Whereas nongenital surgeries include various invasive procedures for males and females and  
 14 also involve the modification, amputation and mutilation of biologically normal and functional body  
 15 parts, including, for males, procedures such as augmentation mammoplasty, facial feminization sur-  
 16 gery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair  
 17 reconstruction and other aesthetic procedures, and for females, procedures such as subcutaneous  
 18 mastectomy, voice surgery, liposuction, lipofilling, pectoral implants and other aesthetic procedures;  
 19 and

20 Whereas it is an accepted principle of economics and public policy that when a service or  
 21 product is subsidized or paid for, demand for that service or product increases, and just between  
 22 2015 and 2016, sex alteration surgeries increased by 20 percent; and

23 Whereas it is of grave concern to Oregonians that the medical community is allowing individ-  
 24 uals who experience distress related to a fixation on the reality of their sex to be subject to irre-  
 25 versible and drastic nongenital surgery and irreversible, permanently sterilizing genital modification,  
 26 amputation and mutilation surgeries, despite the lack of studies showing that the benefits of such  
 27 extreme interventions outweigh the risks; and

28 Whereas the risks of these procedures far outweigh any benefit at this stage of clinical study  
 29 on these procedures; now, therefore,

30 **Be It Enacted by the People of the State of Oregon:**

31 **SECTION 1. As used in sections 2 to 4 of this 2023 Act:**

32 (1) **“Female” means the sex that typically has the capacity to bear young or produce**  
 33 **eggs.**

34 (2) **“Male” means the sex that typically has the capacity to produce relatively small,**  
 35 **usually motile, gametes that fertilize the eggs of a female.**

36 (3) **“Medical health care professional” means the following individuals:**

37 (a) **A nurse licensed under ORS 678.010 to 678.410;**

38 (b) **A physician licensed under ORS chapter 677;**

39 (c) **A physician assistant licensed under ORS 677.505 to 677.525;**

40 (d) **A psychologist licensed under ORS 675.010 to 675.150;**

41 (e) **A pharmacist licensed under ORS chapter 689; or**

42 (f) **Other individual licensed to provide medical health care services.**

43 (4) **“Minor” means an individual who is under 18 years of age.**

44 (5) **“Sex” means the biological indication of male and female, such as sex chromosomes,**  
 45 **naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia**

1 present at birth, without regard to an individual's psychological, chosen or subjective expe-  
2 rience.

3 (6)(a) "Sex alteration procedure" means, when performed or used for the purpose of ap-  
4 proximating the secondary sex characteristics of the opposite sex, a medical or surgical  
5 service, physician service, inpatient or outpatient hospital service or prescription drug in-  
6 tended to alter or remove physical or anatomical characteristics or features that are typical  
7 for the individual's sex or to cosmetically create physiological or anatomical characteristics  
8 that resemble a sex different from the individual's sex.

9 (b) "Sex alteration procedure" does not include:

10 (A) A service provided to an individual born with a medically verifiable disorder of sex  
11 development;

12 (B) A service provided to an individual diagnosed, through genetic or biochemical testing,  
13 with a disorder of sexual development resulting from not having typical sex chromosome  
14 structure, sex steroid hormone production or sex steroid hormone action; or

15 (C) The treatment of an infection, injury, disease or disorder caused or exacerbated by  
16 the performance of a sex alteration procedure.

17 **SECTION 2.** (1) A medical health care professional may not, for an individual who is a  
18 minor:

19 (a) Perform a sex alteration procedure on the minor; or

20 (b) Refer the minor to another medical health care professional for the purpose of ob-  
21 taining a sex alteration procedure.

22 (2) A mental health professional may not refer a minor to a medical health care profes-  
23 sional for the purpose of obtaining a sex alteration procedure.

24 (3) An employee or contractor of a public or private school may not, for an individual  
25 who is a minor:

26 (a) Encourage or coerce the minor to withhold from the minor's parent or legal guardian  
27 the fact that the minor's self-perception is inconsistent with the minor's sex; or

28 (b) Withhold from the minor's parent or legal guardian information related to the  
29 minor's self-perception being inconsistent with the minor's sex.

30 **SECTION 3.** (1) Public funds may not be directly or indirectly used for or granted, paid  
31 or distributed to an entity, organization or individual that provides or performs a sex alter-  
32 ation procedure to or for a minor.

33 (2) The health care services provided by or in a health care facility owned or operated  
34 by the state or a county or local government, or by a physician or other individual employed  
35 by the state or a county or local government may not include sex alteration procedures  
36 provided to minors.

37 (3) Any amount paid by an individual or an entity for the provision of sex alteration  
38 procedures for minors, or as premiums for a policy for health insurance that includes cov-  
39 erage for sex alteration procedures for minors is not tax deductible.

40 (4) Medical assistance may not include sex alteration procedures provided to minors.

41 (5) A policy for health insurance may not provide payment or reimbursement for sex al-  
42 teration procedures provided to minors.

43 **SECTION 4.** The provision of a sex alteration procedure to a minor shall be considered  
44 unprofessional conduct by a medical health care professional for which the medical health  
45 care professional may be subject to disciplinary action by the appropriate health professional

1 **licensing board.**

2 **SECTION 5. (1) A person may bring a claim for a violation of section 2 or 3 of this 2023**  
3 **Act and recover economic and noneconomic damages, injunctive relief or declaratory relief.**

4 **(2)(a) Except as provided in paragraph (b) of this subsection, an action under this section**  
5 **must be commenced not later than two years after the action accrues.**

6 **(b) An individual subjected as a minor to a violation of section 2 or 3 of this 2023 Act**  
7 **may bring a claim under this section at any time before the individual reaches 38 years of**  
8 **age.**

9 **(3) The court shall award reasonable attorney fees to a prevailing plaintiff in a civil**  
10 **action under this section.**

11 **(4) The Attorney General may bring an action to enforce compliance with section 2 or 3**  
12 **of this 2023 Act.**

13 **SECTION 6. This 2023 Act being necessary for the immediate preservation of the public**  
14 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**  
15 **on its passage.**

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