

Introduced by

Representatives Tveit, D. Anderson, Bellew, Prichard, Rohr, VanWinkle

Senators Boehm, Clemens, Estenson, Luick, Myrdal, Vedaa

1 A BILL for an Act to create and enact chapter 12.1-36.1 of the North Dakota Century Code,
2 relating to the prohibition of certain practices against a minor; to provide a penalty; and to
3 declare an emergency.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Chapter 12.1-36.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 **12.1-36.1-01. Definitions.**

8 As used in this chapter:

9 1. "Health care provider" means a licensed physician, physician assistant, nurse, or a
10 certified medical assistant.

11 2. "Mental health professional" is defined pursuant to subsection 11 of section
12 25-03.1-02.

13 3. "Minor" means an individual under the age of eighteen. The term includes an
14 emancipated individual.

15 4. "Pre-pubertal" means an individual who has not yet entered puberty.

16 5. "Puberty" means the period of a minor's development during which secondary sex
17 characteristics start to developing.

18 ~~3.6.~~ "Sex" means the biological state of being female or male, based on the individual's
19 nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.

20 **12.1-36.1-02. Perception of a minor's sex - Prohibited practices - Penalty.**

21 1. Except as provided under section 12.1-36.1-03, if a minor's perception of the minor's
22 sex is inconsistent with the minor's sex, a health care provider may not engage in any
23 of the following practices for the purpose of changing or affirming the minor's
24 perception of the minor's sex:

- 1 a. Perform castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty,
2 orchiectomy, penectomy, phalloplasty, or vaginoplasty;
3 b. Perform a mastectomy;
4 c. ~~Prescribe, dispense, administer, or otherwise supply any drug that has the~~
5 ~~purpose of aligning the minor's sex with the minor's perception of the minor's sex~~
6 ~~when the perception is inconsistent with the minor's sex, including:~~
7 ~~(1) Puberty-blocking medication to stop normal puberty;~~
8 ~~(2) Supraphysiologic doses of testosterone to females; or~~
9 ~~(3) Supraphysiologic doses of estrogen to males; or~~
10 ~~d. Remove any otherwise healthy or nondiseased body part or tissue, except for a~~
11 ~~male circumcision.~~
12 d. Prescribe supraphysiologic doses of testosterone to females; or
13 e. Prescribe supraphysiologic doses of estrogen to males.
14 2. Except as provided in section 12.1-36.1-03, a health care provider may not prescribe
15 puberty-blocking medication to any minor unless:
16 a. The minor has received mental health care for at least twelve consecutive
17 months prior, as documented by a mental health professional; and
18 b. The minor has begun to experience puberty, as documented by a medical
19 provider.
20 3. Except as provided in section 12.1-36.1-03, a health care provider may not, for the
21 purpose of changing the sex of a pre-pubertal, engage in prescribing, dispensing,
22 administering, or otherwise supplying any drug for the purpose of aligning the
23 pre-pubertal's sex with the pre-pubertal's perception of the pre-pubertal's sex when the
24 perception is inconsistent with the pre-pubertal's sex, including puberty-blocking
25 medication to stop normal puberty.
26 4. A health care provider who willfully violates:
27 a. Subdivisions a, b, or ~~dc~~ of subsection 1 is guilty of a class B felony.
28 b. ~~Subdivision c~~Subdivisions d or e of subsection 1, subsection 2, or subsection 3 is
29 guilty of a class A misdemeanor or an infraction.

30 **12.1-36.1-03. Exceptions.**

31 Section 12.1-36.1-02 does not apply:

- 1 1. To the good-faith medical decision of a parent or guardian of a minor born with a
2 medically verifiable genetic disorder of sex development, including:
3 a. A minor with external biological sex characteristics that are irresolvably
4 ambiguous, including having forty-six, XX chromosomes with virilization, forty-six,
5 XY chromosomes with undervirilization, or having both ovarian and testicular
6 tissue; or
7 b. When a physician otherwise has diagnosed a disorder of sexual development in
8 which the physician, through genetic testing, has determined the minor does not
9 have the normal sex chromosome structure for a male or female; or
10 2. If performance or administration of the medical procedure on the minor began before
11 the effective date of this Act.

12 **12.1-36.1-04. Statutory limitation.**

13 Notwithstanding the limitations of section 29-04-02, prosecution for a violation of section
14 12.1-36.1-02 must be commenced within three years of the date of the offense or within three
15 years after the offense is reported to law enforcement, whichever is later.

16 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.