

2023 Regular Session

HOUSE BILL NO. 648 (Substitute for House Bill No. 463 by Representative Firment)

BY REPRESENTATIVES FIRMENT, AMEDEE, CREWS, GAROFALO, AND HORTON

1 AN ACT

2 To enact Part IX of Chapter 5-A of Title 40 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 40:1098.1 through 1098.6, relative to certain procedures for minor
4 children; to provide for definitions; to exclude certain services, treatments, and
5 procedures that alter the sex characteristics of a minor; to provide certain restrictions
6 for healthcare professionals; to establish disciplinary procedures; to provide with
7 respect to consent; to provide for legal remedies; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part IX of Chapter 5-A of Title 40 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 40:1098.1 through 1098.6, is hereby enacted to read as follows:

11 PART IX. THE STOP HARMING OUR KIDS ACT

12 §1098.1. Definitions

13 For the purposes of this Part, the following terms have the meaning ascribed
14 to them unless the context clearly indicates otherwise:

15 (1) "Healthcare professional" shall have the same meaning as the term is
16 defined in R.S. 14:34.8.

17 (2) "Minor" means any natural person who has not reached the age of
18 majority as provided in Civil Code Article 29 and who has not been emancipated
19 pursuant to Title V of Book VII of the Code of Civil Procedure.

20 (3) "Sex" means the biological indication of male or female as evidenced by
21 a medical examination of all of the following:

22 (a) Sex chromosomes.

1 (b) Naturally occurring sex hormones.

2 (c) Gonads.

3 (d) As well as nonambiguous internal and external genitalia present at birth.

4 §1098.2. Healthcare professionals; restrictions

5 A. A healthcare professional shall not knowingly engage in any of the
6 following acts that attempt to alter a minor's appearance in an attempt to validate a
7 minor's perception of the minor's sex, if the minor's perception is inconsistent with
8 the minor's sex:

9 (1) The prescription or administration of gonadotropin-releasing hormone
10 analogues or other synthetic drugs used to stop luteinizing hormone and follicle
11 stimulating hormone secretion, synthetic antiandrogen drugs used to block the
12 androgen receptor, or any drug to suppress or delay normal puberty.

13 (2) The prescription or administration of testosterone, estrogen, or
14 progesterone, in amounts greater than would normally be produced endogenously in
15 a healthy individual of the same age and sex.

16 (3) The performance of any sterilizing surgery, including but not limited to
17 castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy.

18 (4) The performance of any surgery that artificially constructs tissue having
19 the appearance of genitalia differing from the minor's sex, including metoidioplasty,
20 phalloplasty, and vaginoplasty.

21 (5) The removal of any healthy or non-diseased body part or tissue.

22 (6) The performance of augmentation mammoplasty, facial feminization
23 surgery, liposuction, lipofilling, pectoral implants, voice surgery, thyroid cartilage
24 reduction, gluteal augmentation, hair reconstruction, or any aesthetic surgical
25 procedure.

26 B. The prohibited acts listed in Subsection A of this Section shall not be
27 considered healthcare services.

28 C. The prohibitions listed in Subsection A of this Section shall not limit or
29 restrict the provision of healthcare:

1 (1) A minor born with a medically verifiable disorder of sex development,
2 including but not limited to external sex characteristics that are irresolvably
3 ambiguous.

4 (2) A minor diagnosed with a disorder of sexual development, if a healthcare
5 professional has determined, through genetic or biochemical testing, that the minor
6 does not have a sex chromosome structure, sex steroid hormone production, or sex
7 steroid hormone action, that is normal for a biological male or biological female.

8 (3) A minor needing treatment for an infection, injury, disease, or disorder
9 that has been caused or exacerbated by any action or procedure prohibited by this
10 Part.

11 (4) A minor suffering from a physical disorder, physical injury, or physical
12 illness that is certified by a healthcare provider and that would place the individual
13 in imminent danger of death or impairment of major bodily function unless surgery
14 is performed.

15 D. If, prior to January 1, 2024, a healthcare professional has initiated a
16 course of treatment, for a minor, which includes the prescription or administration
17 of any drug or hormone prohibited by this Part, and if the healthcare professional
18 determines and documents in the minor's medical record that immediately
19 terminating the minor's use of the drug or hormone would cause harm to the minor,
20 the healthcare professional may institute a period during which the minor's use of the
21 drug or hormone is systematically reduced and discontinued. The period may not
22 extend beyond December 31, 2024.

23 §1098.3. Healthcare professionals; disciplinary actions

24 If a professional or occupational licensing board finds, by a preponderance
25 of the evidence, that a healthcare professional licensed or certified by the board has
26 violated the provisions of this Part, the board shall revoke any professional or
27 occupational license or certificate held by the healthcare professional for a minimum
28 of two years.

1 §1098.4. Minors' lack of consent

2 A. Notwithstanding the provisions of R.S. 40:1079.1 and notwithstanding any
3 other provision of law to the contrary, a minor may not consent to any procedures or
4 services that are prohibited in R.S. 40:1098.2(A).

5 B. The provisions of this Section shall not apply to a minor who is subject to
6 the provisions of R.S. 40:1098.2(D).

7 §1098.5. Civil actions; remedies

8 A. Notwithstanding any other provision of law to the contrary, a person who
9 has been harmed as a result of acts which are prohibited by this Part or who has been
10 subjected to acts which are prohibited by this Part with or without consent, shall have
11 a cause of action for damages in a court of competent jurisdiction.

12 B. The cause of action for damages shall be commenced before the later of
13 either of the following:

14 (1) The lapse of a twelve-year liberative prescription once the minor reaches
15 the age of majority.

16 (2) Within three years from the time the person discovered or reasonably
17 should have discovered that the injury or damages were caused by the violation.

18 C. Venue pursuant to this Section may be brought pursuant to Code of Civil
19 Procedure Article 42 or in the parish of domicile of the petitioner.

20 D.(1) If a court finds that a person is entitled judgment pursuant to this
21 Section, the court shall award damages, attorney fees, and all costs of the proceeding
22 against the defendant for violation of this Part.

23 (2) Damages awarded by the court pursuant to this Section may include but
24 is not to be limited to damages for infertility or sterility that is suffered by the minor
25 as a result of the acts prohibited by this Part.

26 E. Consent shall not operate as defense to a petitioner's claim that is filed
27 pursuant to this Section.

28 §1098.6. Attorney general; injunctive or declaratory relief

29 A. The attorney general may bring a civil action to enforce compliance with
30 this Part in a court of competent jurisdiction.

1 B. The attorney general may seek injunctive or declaratory relief and any
2 other appropriate remedy from in order to protect a minor from those harms resulting
3 from conduct that is prohibited pursuant to this Part.

4 C. Venue pursuant to this Section shall be that same venue which is provided
5 in R.S. 40:1098.5.

6 D. If the court grants relief pursuant to this Section, the court shall award
7 attorney fees and all costs of the proceeding against the defendant for violation of
8 this Part.

9 E. Nothing in this Part shall be construed to deny, impair, or otherwise affect
10 any right or authority of the attorney general, the state, or any agency, officer, or
11 employee of the state to institute or intervene in any proceeding.

12 Section 2. If any provision or item of this Act, or the application thereof, is held
13 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
14 which can be given effect without the invalid provision, item, or application and to this end
15 the provisions of this Act are hereby declared severable.

16 Section 3. This Act shall become effective on January 1, 2024; if vetoed by the
17 governor and subsequently approved by the legislature, this Act shall become effective on
18 the day following such approval by the legislature or January 1, 2024, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____