(135th General Assembly)
(Substitute House Bill Number 68)

AN ACT

To enact sections 3109.054, 3129.01, 3129.02, 3129.03, 3129.04, 3129.05, 3129.06, 3313.5319, and 3345.562 of the Revised Code to enact the Saving Ohio Adolescents from Experimentation (SAFE) Act regarding gender transition services for minors, and to enact the Save Women's Sports Act to require schools, state institutions of higher education, and private colleges to designate separate single-sex teams and sports for each sex.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3109.054, 3129.01, 3129.02, 3129.03, 3129.04, 3129.05, 3129.06, 3313.5319, and 3345.562 of the Revised Code be enacted to read as follows:

Sec. 3109.054. When allocating parental rights and responsibilities or parenting time, no court shall deny or limit a parent's parental rights and responsibilities or parenting time based on the parent's decision to do any of the following:

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

(B) Decline to consent to the child receiving gender transition services as defined in section 3129.01 of the Revised Code;

(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.

Sec. 3129.01. As used in this chapter:

(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.

(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.

(C) "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.

(D) "Gender-related condition" means any condition where an individual feels an

incongruence between the individual's gender identity and biological sex. "Gender-related condition" includes gender dysphoria.

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

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

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

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

(2) Surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, such as metoidiplasty, phalloplasty, and vaginoplasty.

(H) "Mental health professional" means all of the following:

(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:

(a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center;

(b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center.

(2) A physician specializing in psychiatry;

(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;

(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.

(I) "Minor individual" means an individual under eighteen years of age.

(J) "Non-genital gender reassignment surgery" means surgery performed for the purpose of assisting an individual with gender transition such as augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal

augmentation, pectoral implants, or other aesthetic procedures.

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

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

Sec. 3129.02. (A) A physician shall not knowingly do any of the following:

(1) Perform gender reassignment surgery on a minor individual;

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

(3) Engage in conduct that aids or abets in the practices described in division (A)(1) or (2) of this section, provided that this section may not be construed to impose liability on any speech protected by federal or state law.

(B) Notwithstanding division (A)(2) of this section, a physician may continue to prescribe a cross-sex hormone or puberty-blocking drug to a minor individual if the minor individual has been a continuous Ohio resident since the effective date of this section and the physician has done both of the following:

(1) Initiated a course of treatment for the minor individual prior to the effective date of this section that includes the prescription of a cross-sex hormone or puberty-blocking drug prohibited by division (A)(2) of this section;

(2) Determined and documented in the minor individual's medical record that terminating the minor individual's prescription for the cross-sex hormone or puberty-blocking drug would cause harm to the minor individual.

Sec. 3129.03. (A) Notwithstanding section 5122.04 of the Revised Code, no mental health professional shall diagnose or treat a minor individual who presents for the diagnosis or treatment of a gender-related condition without first obtaining the consent of one of the following:

(1) At least one parent of the minor individual;

(2) At least one legal custodian of the minor individual;

(3) The minor individual's guardian.

(B) No mental health professional shall diagnose or treat a minor individual who presents for the diagnosis or treatment of a gender-related condition without screening the minor individual for both of the following during the course of diagnosis and treatment:

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

(2) Physical, sexual, mental, and emotional abuse and other traumas.

Sec. 3129.04. This chapter does not prohibit a physician from treating, including by

performing surgery on or prescribing drugs or hormones for, a minor individual who meets any of the following:

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

(B) Received a diagnosis of a disorder of sexual development, in which a physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or biological female;

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

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

(B) Nothing in this chapter shall be construed to preempt any other private cause of action arising under the common law of this state.

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

Sec. 3129.06. (A) Medical assistance provided under the medicaid program shall not include coverage for gender transition services for minor individuals.

(B) This section does not apply to any of the following:

(1) The circumstances described in section 3129.04 of the Revised Code;

(2) Mental health services provided for a gender-related condition;

(3) Any services that are not gender transition services.

Sec. 3313.5319. (A) Each school that participates in athletic competitions or events administered by an organization that regulates interscholastic athletic conferences or events shall designate interscholastic athletic teams based on the sex of the participants as follows:

(1) Separate teams for participants of the female sex within female sports divisions;

(2) Separate teams for participants of the male sex within male sports divisions;

(3) If applicable, co-ed teams for participants of the female and male sexes within co-ed sports divisions.

(B) No school, interscholastic conference, or organization that regulates interscholastic athletics shall knowingly permit individuals of the male sex to participate on athletic teams or in

athletic competitions designated only for participants of the female sex.

(C) Nothing in this section shall be construed to restrict the eligibility of any student to participate on any athletic teams or in athletic competitions that are designated as male or co-ed.

(D) No agency or political subdivision of the state and no accrediting organization or athletic association that operates or has business activities in this state shall process a complaint, begin an investigation, or take any other adverse action against a school or school district for maintaining separate single-sex interscholastic athletic teams or sports.

(E)(1) Any participant who is deprived of an athletic opportunity or suffers a direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the school, school district, interscholastic conference, or organization that regulates interscholastic athletics.

(2) Any participant who is subject to retaliation or other adverse action by a school, school district, interscholastic conference, or organization that regulates interscholastic athletics as a result of reporting a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the entity that takes the retaliatory or other adverse action.

(3) Any school or school district that suffers any direct or indirect harm as a result of a violation of division (D) of this section has a private cause of action for injunctive relief, damages, and any other relief available against the agency, political subdivision, accrediting organization, or athletic association that violates that division.

(F) Any civil action brought as a result of a violation of this section shall be initiated within two years after the date on which the violation occurs. Persons or organizations who prevail on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional, or physical harm suffered, reasonable attorney's fees and costs, and any other appropriate relief.

Sec. 3345.562. (A) As used in this section:

(1) "Private college" means a nonprofit institution that holds a certificate of authorization issued under section 1713.02 of the Revised Code;

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) Each state institution of higher education or private college that is a member of the national collegiate athletics association, the national association of intercollegiate athletics, or the national junior college association shall designate intercollegiate athletic teams and sports based on the sex of the participants as follows:

(1) Separate teams for participants of the female sex within female sports divisions;

(2) Separate teams for participants of the male sex within male sports divisions;

(3) If applicable, co-ed teams for participants of the female and male sexes within co-ed sports divisions.

(C) No state institution or private college to which division (B) of this section applies shall

knowingly allow individuals of the male sex to participate on athletic teams or in athletic competitions designated for only participants of the female sex.

(D) Nothing in this section shall be construed to restrict the eligibility of any student to participate on any athletic teams or in athletic competitions that are designated as male or co-ed.

(E) No agency or political subdivision of the state and no accrediting organization or athletic association that operates or has business activities in this state shall process a complaint, begin an investigation, or take any other adverse action against a state institution of higher education or private college for maintaining separate single-sex intercollegiate athletic teams or sports for participants of the female sex.

(F)(1) Any participant who is deprived of an athletic opportunity or suffers a direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the state institution or the private college.

(2) Any participant who is subject to retaliation or other adverse action by a state institution, private college, or athletic association as a result of reporting a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available against the entity that takes the retaliatory or other adverse action.

(3) Any state institution or private college that suffers any direct or indirect harm as a result of a violation of division (E) of this section has a private cause of action for injunctive relief, damages, and any other relief available against the agency, political subdivision, accrediting organization, or athletic association that violates that division.

(G) Any civil action brought as a result of a violation of this section shall be initiated within two years after the date on which the violation occurs. Persons or organizations who prevail on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional, or physical harm suffered, reasonable attorney's fees and costs, and any other appropriate relief.

SECTION 2. The General Assembly hereby finds and declares all of the following:

(A) This state has a compelling government interest in protecting the health and safety of its citizens, especially vulnerable children.

(B) Only a tiny percentage of the American population experiences distress at identifying with their biological sex.

(C) Studies consistently demonstrate that the vast majority of children who are gender nonconforming or experience distress at identifying with their biological sex come to identify with their biological sex in adolescence or adulthood, thereby rendering most medical health care interventions unnecessary.

(D) Scientific studies show that individuals struggling with distress at identifying with their biological sex often have already experienced psychopathology, which indicates these individuals should be encouraged to seek mental health care services before undertaking any hormonal or

surgical intervention.

(E) Suicide rates, psychiatric morbidities, and mortality rates remain markedly elevated above the background population after inpatient gender reassignment surgery has been performed.

(F) Some health care providers are prescribing puberty-blocking drugs in order to delay the onset or progression of normally timed puberty in children who experience distress at identifying with their biological sex. This is being done despite the lack of any long-term longitudinal studies evaluating the risks and benefits of using these drugs for the treatment of such distress or gender transition.

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

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

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

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

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

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

(1) For biological males, surgery may involve genital reconstruction including penectomy, orchiectomy, vaginoplasty, clitoroplasty, and vulvoplasty.

(2) For biological females, surgery may involve a hysterectomy or oophorectomy, reconstruction of the urethra, genital reconstruction including metoidioplasty or phalloplasty, vaginectomy, scrotoplasty, and implantation of erection or testicular prostheses.

(K) The complications, risks, and long-term care concerns associated with genital gender reassignment surgery for both males and females are numerous and complex.

(L) Non-genital gender reassignment surgery includes various invasive procedures for males and females and also involves the alteration or removal of biologically normal and functional body parts:

(1) For biological males, procedures may include augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, and other aesthetic procedures.

(2) For biological females, procedures may include subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, and other aesthetic procedures.

(M) It is an accepted principle of economics and public policy that when a service or product is subsidized or paid for, demand for that service or product increases. Just between 2015 and 2016, gender reassignment surgeries increased by twenty per cent.

(N) It is of grave concern to the General Assembly that the medical community is allowing individuals who experience distress at identifying with their biological sex to be subjects of irreversible and drastic non-genital gender reassignment surgery and irreversible, permanently sterilizing genital gender reassignment surgery, despite the lack of studies showing that the benefits of such extreme interventions outweigh the risks.

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

SECTION 3. Sections 3109.054, 3129.01, 3129.02, 3129.03, 3129.04, 3129.05, and 3129.06 of the Revised Code, as enacted by this act, shall be known as the Ohio Saving Adolescents from Experimentation (SAFE) Act.

SECTION 4. Sections 3313.5319 and 3345.562 of the Revised Code, as enacted by this act, shall be known as the Save Women's Sports Act.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____