

HB 619-FN - AS AMENDED BY THE HOUSE

4Jan2024... 2451h

2023 SESSION

23-0071

02/05

HOUSE BILL

**619-FN**

AN ACT

to require a person to attain the age of majority for genital gender reassignment surgery.

SPONSORS:

Rep. Roy, Rock. 31; Rep. Spillane, Rock. 2; Rep. McCarter, Belk. 8; Rep. Verville, Rock. 2; Rep. Notter, Hills. 12; Rep. Seidel, Hills. 29; Rep. A. Lekas, Hills. 38; Rep. Love, Rock. 13

COMMITTEE:

Health, Human Services and Elderly Affairs

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AMENDED ANALYSIS

The bill prohibits gender reassignment surgery for minors under 18 years of age.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT to require a person to attain the age of majority for genital gender reassignment surgery.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Chapter; Prohibiting Genital Gender Reassignment Surgery on Minors. Amend RSA by  
2 inserting after chapter 332-L the following new chapter:

3 CHAPTER 332-M

4 PROHIBITING GENITAL GENDER REASSIGNMENT SURGERY ON MINORS

5 332-M:1 Purpose.

6 I. The legislature finds that the following facts and circumstances exist, which make the  
7 enactment of this statute necessary for the protection of minors and the furtherance of the public  
8 interest:

9 (a) Physicians have an ethical and legal duty to obtain patients' informed consent before  
10 ordering testing and treatment.

11 (b) Older children and adolescents should be asked to provide their assent for treatment  
12 in addition to their parents' permission.

13 (c) A patient's informed consent requires adequate information, capacity to decide, and  
14 absence of coercion.

15 (d) Best practices urge shared decision making between parent(s) and child and, in  
16 general preferring alternatives that will not foreclose important future choices by the adolescent and  
17 the adult the patient will become.

18 (e) Multivariate analyses of published studies between 2015 and 2022 showed no  
19 decrease in suicidality after gender affirming surgery, with some studies showing a significant  
20 increase in psychiatric hospitalizations and suicide after surgical transition.

21 (f) There is a lack of high quality clinical trials which provide data on outcomes for  
22 adolescent genital gender reassignment surgeries or young adult genital gender reassignment  
23 surgeries, particularly after pubertal suppression and cross sex hormones.

24 II. Adolescent genital gender reassignment surgery generally lacks both adequate  
25 information for informed consent and involves a high risk of coercion for parental consent when  
26 parents believe that they are faced with a choice between their child committing suicide or  
27 consenting to their child's genital gender reassignment surgeries.

28 III. In the absence of high quality data to prove safety and efficacy, including long term  
29 outcomes, only people over the age of majority should receive genital gender reassignment surgery in  
30 the state of New Hampshire.

1           332-M:2 Definitions. In this chapter:

2           I. "Ambiguous genitalia" means a malformation in which a person is not born with clearly  
3 male or clearly female external genitalia.

4           II. "Disorders of sex development" includes:

- 5           (a) Forty-six XX chromosomes with or without virilization,
- 6           (b) Presence of both ovarian and testicular tissue,
- 7           (c) Other abnormal sex chromosome structure,
- 8           (d) Abnormal sex steroid hormone production or action, or
- 9           (e) Ambiguous genitalia.

10          III. "Female genitalia" means

11           (a) Internal female genitalia which are the ovaries, Fallopian tubes, uterus, cervix and  
12 vagina; and

13           (b) External female genitalia which are the labia minora and majora, also known as the  
14 vulva, and the clitoris.

15          IV. "Genital" and "genitalia" means the male or female reproductive organs, in singular and  
16 plural form.

17          V. "Genital gender reassignment surgery" means surgical procedures in people born without  
18 disorders of sex development including but not limited to metoidioplasty, phalloplasty, or  
19 vaginoplasty which seek to change genitalia:

- 20           (a) From male genitalia to female genitalia;
- 21           (b) From female genitalia to male genitalia;
- 22           (c) To form a combination of male and female genitalia or absence of genitalia in those  
23 born with exclusively male or exclusively female genitalia; or
- 24           (d) By removing non-malignant genitalia.

25          VI. "Male circumcision" means surgery which removes all or a portion of the foreskin  
26 covering the glans of the penis, performed for religious, cultural or health reasons.

27          VII. "Male genitalia" means:

- 28           (a) Internal male genitalia which are the testes, epididymis, and vas deferens; and
- 29           (b) External male genitalia which are the penis and scrotum.

30          VIII. "Malignant" means cancerous or otherwise dangerous to the physical health of the  
31 person including physiology compromised by infection, lack of blood flow, or physical injury.

32          IX. "Malformation" means a structural defect in the body due to abnormal embryonic or fetal  
33 development.

34          X. "Metoidioplasty" means a surgery to transform the clitoris into a penis.

35          XI. "Minor" means a person who has not reached the age of majority.

36          XII. "Phalloplasty" means the surgical construction of a penis from other parts of the body.

1 XIII. "Physician" means a person who is licensed to practice medicine in this state under  
2 RSA 329.

3 XIV. "Reconstructive surgery" means surgery to restore normal form and function of tissue  
4 after it has been compromised by malformation, infection, trauma, cancer or other physical  
5 pathologies.

6 XV. "Vaginoplasty" means the surgical creation of a vagina from other parts of the body and  
7 includes but is not limited to:

8 (a) Penile inversion vaginoplasty, which is a first-line "gold standard" approach for those  
9 with sufficient penile tissue;

10 (b) Peritoneal vaginoplasty, which is an emerging surgical approach using the  
11 membrane that lines the abdominopelvic cavity and surrounds the abdominal organs, for people with  
12 insufficient penile tissue including those with a history of puberty blocking medications.

13 (c) Rectosigmoid vaginoplasty, which uses a section of the sigmoid colon to create the  
14 vaginal lining, providing an option for those without sufficient penile tissue or as a revision for failed  
15 vaginoplasty.

16 332-M:3 Prohibition of Genital Gender Reassignment Surgery on Minors.

17 I. A physician shall not perform genital gender reassignment surgery on minors in the state  
18 of New Hampshire.

19 II. Physicians are not prohibited from performing:

20 (a) Reconstructive surgeries on the genitalia of minors to correct malformation,  
21 malignancy, injury or physical disease;

22 (b) Removal of malignant, malformed, or otherwise damaged genitalia;

23 (c) Genital surgeries on minors with disorders of sex development; or

24 (d) Male circumcision.

25 332-M:4 Enforcement.

26 I. Any referral for or provision of genital gender reassignment surgery to an individual  
27 under 18 years of age is unprofessional conduct and is subject to discipline by the appropriate  
28 licensing entity or disciplinary review board with competent jurisdiction in this state.

29 II. A minor or the parent of such minor aggrieved by a violation of this chapter may bring an  
30 action in the superior court for damages and injunctive relief against any person who has committed  
31 or attempted or threatened to commit such violation or any person who has aided or abetted the  
32 same.

33 III.(a) A person shall bring a claim for a violation of this chapter no later than 2 years after  
34 the day the cause of action accrues.

35 (b) An individual under 18 years of age may bring an action during their minority  
36 through a parent or next friend, and may bring an action in their own name upon reaching majority  
37 at any time from that point until 20 years after reaching the age of majority.

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1           IV. Notwithstanding any other provision of law, an action under this chapter may be  
2 commenced, and relief may be granted, in a judicial proceeding without regard to whether the person  
3 commencing the action has sought or exhausted available administrative remedies.

4           V. In any action or proceeding to enforce a provision of this chapter, a prevailing party who  
5 establishes a violation of this chapter shall recover reasonable attorneys' fees.

6           VI.(a) The attorney general shall have authority to bring suit to enforce compliance with this  
7 chapter.

8           (b) This chapter shall not be construed to deny, impair, or otherwise affect any right or  
9 authority of the attorney general, the State of New Hampshire, or any agency, officer, or employee of  
10 the state, acting under any law other than this chapter, to institute or intervene in any proceeding.

11           332-M:4 Severability. Should any part of this chapter be declared invalid the remaining  
12 portions shall continue in full force and effect.

13           2 Effective Date. This act shall take effect January 1, 2025.

**HB 619-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT prohibiting gender transition procedures for minors, relative to sex and gender in public schools, and relative to the definition of conversion therapy.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

The Legislative Budget Assistant Office is awaiting information from the Department of Justice. The Department was contacted for a fiscal note worksheet on January 6, 2023.

**METHODOLOGY:**

This bill prohibits gender transition procedures for individuals under the age of 18 and prohibits the use of funds for these procedures. The Department of Health and Human Services anticipates a reduction in Medicaid funds as a result of the services, therapies, and medications that would no longer be performed or offered. However, the Department also anticipates that the bill may result in an "undefined level of risk" of disallowance of federal matching funds under Medicaid, as federal law and regulations are currently unsettled on the matter of whether states may prohibit public funds from being used for gender transitions and related treatments.

The Judicial Branch notes that violations of the proposed new chapter would be subject to civil proceedings in court. In addition, the bill creates a new subdivision in RSA 193 relative to sex and gender in public schools, and would entitle the attorney general to seek an action in court to enjoin any ongoing violation of the section. The Branch is unable to determine the number of new cases that may be brought as a result of the bill.

The Department of Education states there is no anticipated costs to local school districts as a result of the bill.

**AGENCIES CONTACTED:**

Judicial Branch, and Departments of Health and Human Services, Education, and Justice