

HB 619-FN - AS INTRODUCED

2023 SESSION

23-0071

02/05

HOUSE BILL            **619-FN**

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

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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ANALYSIS

This bill prohibits gender transition care for minors under 18 years of age, prohibits teaching about gender identity in public schools and changes the definition of conversion therapy.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 prohibiting gender transition procedures for minors, relative to sex and gender in public schools, and relative to the definition of conversion therapy.

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

1 1 Title. This act shall be known and may be cited as the "Protection Against Child Medical and  
2 Psychological Experimentation Act".

3 2 Legislative Findings. The general court finds that:

4 I. New Hampshire has a compelling government interest in protecting the health and safety  
5 of its citizens, especially vulnerable children;

6 II.(a) Only a small percentage of the American population experiences distress at identifying  
7 with their biological sex.

8 (b) According to the American Psychiatric Association, "For natal adult males,  
9 prevalence ranges from 0.005 to 0.014 percent, and for natal females, from 0.002 to 0.003 percent.";

10 III. For the small percentage of children who are gender nonconforming or experience  
11 distress at identifying with their biological sex, studies consistently demonstrate that the majority  
12 come to identify with their biological sex in adolescence or adulthood, thereby rendering most  
13 physiological interventions unnecessary;

14 IV. Furthermore, scientific studies show that individuals struggling with distress at  
15 identifying with their biological sex often have already experienced psychopathology, which indicates  
16 these individuals should be encouraged to seek mental health services to address comorbidities and  
17 underlying causes of their distress before undertaking any hormonal or surgical intervention;

18 V. Even among people who have undergone inpatient gender reassignment procedures,  
19 suicide rates, psychiatric morbidities, and mortality rates remain markedly elevated above the  
20 background population;

21 VI.(a) Some health care providers are prescribing puberty blocking drugs, such as  
22 gonadotropin-releasing hormone analogues, in order to delay the onset or progression of puberty in  
23 children who experience distress at identifying with their biological sex.

24 (b) The prescribing of puberty-blocking drugs is being done despite the lack of any long-  
25 term longitudinal studies evaluating the risks and benefits of using these drugs for the treatment of  
26 such distress or gender transition;

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

1 VIII. The use of cross-sex hormones comes with serious known risks, such as:

2 (a) For biological females:

- 3 (1) Erythrocytosis, which is an increase in red blood cells;
- 4 (2) Severe liver dysfunction;
- 5 (3) Coronary artery disease, including heart attacks;
- 6 (4) Cerebrovascular disease, including strokes;
- 7 (5) Hypertension;
- 8 (6) Increased risk of breast and uterine cancers; and
- 9 (7) Irreversible infertility; and

10 (b) For biological males:

- 11 (1) Thromboembolic disease, including blood clots;
- 12 (2) Cholelithiasis, including gallstones;
- 13 (3) Coronary artery disease, including heart attacks;
- 14 (4) Macroprolactinoma, which is a tumor of the pituitary gland;
- 15 (5) Cerebrovascular disease, including strokes;
- 16 (6) Hypertriglyceridemia, which is an elevated level of triglycerides in the blood;
- 17 (7) Breast cancer; and
- 18 (8) Irreversible infertility;

19 IX. Genital and non-genital gender reassignment surgeries are generally not recommended  
20 for children, although evidence indicates referrals for children to have such surgeries are becoming  
21 more frequent;

22 X.(a) Genital gender reassignment surgery includes several irreversible invasive procedures  
23 for males and females and involves the alteration of biologically healthy and functional body parts.

24 (b) For biological males, surgery may involve:

- 25 (1) Genital reconstruction including penectomy, which is the removal of the penis;
- 26 (2) Orchiectomy, which is the removal of the testicles;
- 27 (3) Vaginoplasty, which is the construction of a vagina-like structure, typically  
28 through a penile inversion procedure;
- 29 (4) Clitoroplasty, which is the construction of a clitoris-like structure; and
- 30 (5) Vulvoplasty, which is the construction of a vulva-like structure.

31 (c) For biological females, surgery may involve:

- 32 (1) A hysterectomy or oophorectomy;
- 33 (2) Reconstruction of the urethra;
- 34 (3) Genital reconstruction including metoidioplasty or phalloplasty, which is the  
35 construction of a penis-like structure;
- 36 (4) Vaginectomy, which is the removal of the vagina;

1                   (5) Scrotoplasty, which is the construction of a penis-like and scrotum-like structure;  
2 and

3                   (6) Implantation of erection or testicular prostheses;

4           XI. The complications, risks, and long-term care concerns associated with genital gender  
5 reassignment surgery for both males and females are numerous and complex;

6           XII.(a) Non-genital gender reassignment surgery includes various invasive procedures for  
7 males and females and also involves the alteration or removal of biologically normal and functional  
8 body parts.

9                   (b) For biological males, this surgery may involve:

10                   (1) Augmentation mammoplasty;

11                   (2) Facial feminization surgery;

12                   (3) Liposuction;

13                   (4) Lipofilling;

14                   (5) Voice surgery;

15                   (6) Thyroid cartilage reduction;

16                   (7) Gluteal augmentation;

17                   (8) Hair reconstruction; and

18                   (9) Other aesthetic procedures.

19                   (c) For biological females, this surgery may involve:

20                   (1) A subcutaneous mastectomy;

21                   (2) Voice surgery;

22                   (3) Liposuction;

23                   (4) Lipofilling;

24                   (5) Pectoral implants; and

25                   (6) Other aesthetic procedures;

26           XIII.(a) It is an accepted principle of economics and public policy that when a service or  
27 product is subsidized or reimbursed, demand for that service or product is increased.

28                   (b) Between 2015 and 2016, gender reassignment surgeries increased by nearly twenty  
29 percent in the United States;

30           XIV. It is of grave concern to the general court that the medical community is allowing  
31 individuals who experience distress at identifying with their biological sex to be subjects of  
32 irreversible and drastic non-genital gender reassignment surgery and irreversible, permanently  
33 sterilizing genital gender reassignment surgery, despite the lack of studies showing that the benefits  
34 of such extreme interventions outweigh the risks; and

35           XV. The risks of gender transition procedures far outweigh any benefit at this stage of  
36 clinical study on these procedures.



1 (1) Services to persons born with a medically verifiable disorder of sex development,  
2 including a person with external biological sex characteristics that are ambiguous, such as those  
3 born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or  
4 having both ovarian and testicular tissue;

5 (2) Services provided when a physician has otherwise diagnosed a disorder of sexual  
6 development that the physician has determined through genetic or biochemical testing that the  
7 person does not have normal sex chromosome structure, sex steroid hormone production, or sex  
8 steroid hormone action;

9 (3) The treatment of any infection, injury, disease, or disorder that has been caused  
10 by or exacerbated by the performance of gender transition procedures, whether or not the gender  
11 transition procedure was performed in accordance with state and federal law or whether not funding  
12 for the gender transition procedure is permissible under this chapter; or

13 (4) Any procedure undertaken because the individual suffers from a physical  
14 disorder, physical injury, or physical illness that would, as certified by a physician, place the  
15 individual in imminent danger of death or impairment of major bodily function unless surgery is  
16 performed.

17 VII. "Genital gender reassignment surgery" means a medical procedure performed for the  
18 purpose of assisting an individual with a gender transition, including without limitation:

19 (a) Surgical procedures such as penectomy, orchiectomy, vaginoplasty, clitoroplasty, or  
20 vulvoplasty for biologically male patients or hysterectomy or ovariectomy for biologically female  
21 patients;

22 (b) Reconstruction of the fixed part of the urethra with or without a metoidioplasty; or

23 (c) Phalloplasty, vaginectomy, scrotoplasty, or implantation of erection or testicular  
24 prostheses for biologically female patients.

25 VIII. "Health care professional" a person who is licensed, certified, or otherwise authorized  
26 by the laws of this state to administer health care in the ordinary course of the practice of his or her  
27 profession.

28 IX. "Non-genital gender reassignment surgery" means medical procedures performed for the  
29 purpose of assisting an individual with a gender transition including without limitation:

30 (a) Surgical procedures for biologically male patients, such as augmentation  
31 mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage  
32 reduction, gluteal augmentation, hair reconstruction, or various aesthetic procedures; or

33 (b) Surgical procedures for biologically female patients, such as subcutaneous  
34 mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or various aesthetic procedures.

35 X. "Physician" means a person who is licensed to practice medicine in this state.

36 XI. "Puberty-blocking drugs" means gonadotropin-releasing hormone analogues or other  
37 synthetic drugs used in biological males to stop luteinizing hormone secretion and therefore

1 testosterone secretion, or synthetic drugs used in biological females which stop the production of  
2 estrogens and progesterone, when used to delay or suppress pubertal development in children for the  
3 purpose of assisting an individual with a gender transition.

4 XII. Public funds” means state, county, or local government monies, in addition to any  
5 department, agency, or instrumentality authorized or appropriated under state law or derived from  
6 any fund in which such moneys are deposited.

7 135-G:2 Prohibition of Gender Transition Care for Children and Young Adults.

8 I. A physician or other health care professional shall not provide gender transition  
9 procedures to any individual under 18 years of age.

10 II. A physician or other health care professional shall not refer any individual under 18  
11 years of age to any health care professional for gender transition procedures.

12 III. A physician or other health care professional is not prohibited from providing any of the  
13 following procedures which are not gender transition procedures to an individual under 18 years of  
14 age:

15 (a) Services to persons born with a medically verifiable disorder of sex development,  
16 including a person with external biological sex characteristics that are ambiguous, such as those  
17 born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or  
18 having both ovarian and testicular tissue;

19 (b) Services provided when a physician has otherwise diagnosed a disorder of sexual  
20 development that the physician has determined through genetic or biochemical testing that the  
21 person does not have normal sex chromosome structure, sex steroid hormone production, or sex  
22 steroid hormone action;

23 (c) The treatment of any infection, injury, disease, or disorder that has been caused by or  
24 exacerbated by the performance of gender transition procedures, whether or not the gender  
25 transition procedure was performed in accordance with state and federal law or whether not funding  
26 for the gender transition procedure is permissible under this chapter; or

27 (d) Any procedure undertaken because the individual suffers from a physical disorder,  
28 physical injury, or physical illness that would, as certified by a physician, place the individual in  
29 imminent danger of death or impairment of major bodily function unless surgery is performed.

30 135-G:3 Prohibition on Use of Public Funds for Gender Transition Care.

31 I. Public funds shall not be directly or indirectly used, granted, paid, or distributed to any  
32 entity, organization, or individual that provides gender transition procedures to an individual under  
33 18 years of age.

34 II. Health care services furnished in the following situations shall not include gender  
35 transition procedures to an individual under 18 years of age:

36 (a) By or in a health care facility owned by the state or a county or local government; or

1 (b) By a physician or other health care professional employed by state or a county or  
2 local government.

3 III. The New Hampshire Medicaid program shall not reimburse or provide coverage for  
4 gender transition procedures to an individual under 18 years of age.

5 135-G:4 Enforcement.

6 I. Any referral for or provision of gender transition procedures to an individual under 18  
7 years of age is unprofessional conduct and is subject to discipline by the appropriate licensing entity  
8 or disciplinary review board with competent jurisdiction in this state.

9 II. A person may assert an actual or threatened violation of this chapter as a claim or  
10 defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive  
11 relief, declaratory relief, or any other appropriate relief.

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

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

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

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

22 VI.(a) The attorney general shall bring action to enforce compliance with this chapter.

23 (b) This chapter does not deny, impair, or otherwise affect any right or authority of the  
24 attorney general, the State of New Hampshire, or any agency, officer, or employee of the state, acting  
25 under any law other than this chapter, to institute or intervene in any proceeding.

26 135-G:5 Insurance Coverage.

27 I. No insurer that issues or renews a policy for health insurance under RSA 415, health  
28 service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall  
29 include reimbursement for gender transition procedures for a person under 18 years of age.

30 II. No insurer that issues or renews a policy for health insurance under RSA 415, health  
31 service corporation under RSA 420-A, or health maintenance organization under RSA 420-B shall be  
32 required to provide coverage for gender transition procedures.

33 4 Legislative Findings Relative to Sex and Gender in Public Schools. The general court finds  
34 that:

35 I. Parents are the primary educators of their children.

36 II. Parents are solely responsible for teaching their children about matters of faith, morals,  
37 and matters relating to their sexuality.



1 gender as listed in the enrollment by their parents. Educators in grades kindergarten through 8, are  
2 prohibited from teaching that gender is a choice, optional or fluid and that there are more than 2  
3 genders: male and female. Educators in grades 9 through 12 are prohibited from teaching that  
4 gender is a choice, optional or fluid and that there are more than 2 genders: male and female, except  
5 as a part of an approved psychology course setting where the educator is a licensed child  
6 psychologist, and they may only teach that there may be more than 2 genders in the context of  
7 teaching about the mental health condition known as gender dysphoria. Prior to any lesson, class or  
8 assignment that proposes there are more than the male and female genders, the school shall obtain  
9 written permission from the parents. The permission notice shall explain in detail the contents of  
10 the lesson, class or assignment. Parents shall have the right to opt their child out of such lesson,  
11 class or assignment, and students themselves may choose not to participate if the subject matter  
12 makes them uncomfortable. Any student's failure to participate shall not be used in calculating  
13 their grades. No grade or incomplete status shall be noted in the student's records for failure to  
14 participate in such lesson, class or assignment.

15 II. In any New Hampshire public school that offers regular or extracurricular activities that  
16 are separated by gender or sex (male or female), any student participating shall only be allowed to  
17 participate in the group that corresponds to their biological sex as listed at their time of birth. No  
18 student shall be discriminated against by not being allowed to participate in such an activity based  
19 on their personally identifying as a gender other than that identified at their time of birth but they  
20 shall nonetheless only participate in the activity that corresponds to their biological sex at their time  
21 of birth.

22 III. School restrooms shall be separated by sex (male and female), and students may only  
23 use the restroom that corresponds to their biological sex as listed on their birth certificate.

24 IV.(a) Anyone violating a provision of this subdivision shall be considered to have violated  
25 the terms of their licensure and shall be subject to discipline by their licensing authority up to and  
26 including the revocation of their license. This shall also be considered grounds for immediate  
27 termination from employment for cause, any union or employment contract notwithstanding.

28 (b) Any student or parent aggrieved by a violation of this section may bring a cause of  
29 action in court and may be granted actual damages as well as legal fees.

30 (c) The attorney general, upon referral by the department of education, a parent or  
31 student, shall bring any necessary action to enjoin any ongoing violation of this section and defend  
32 any actions brought under this section.

33 6 Definition; Conversion Therapy. Amend RSA 332-L:1 to read as follows:

34 332-L:1 Definition. In this chapter, "conversion therapy" means practices or treatments that  
35 seek to change an individual's sexual orientation or gender identity ***against their clearly***  
36 ***expressed will***, including ***further*** efforts ***against their will*** to change behaviors or gender  
37 expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of

1 the same gender. Conversion therapy shall not include counseling *of a child enrolled in therapy*  
2 *at the request of their parent for the evaluation of, and treatment for, gender dysphoria, or*  
3 that provides assistance to a person undergoing *therapy for gender dysphoria and who, after*  
4 *reaching the age of 18, wishes to discuss* gender transition *from or to their biological gender,*  
5 or counseling that provides *a person over the age of 18* acceptance, support, and understanding of  
6 a person or facilitates a person's coping, social support, and identity exploration and development,  
7 including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe  
8 sexual practices, as long as such counseling does not seek to change an individual's sexual  
9 orientation or gender identity *against their clearly expressed will.*

10 7 Effective Date. This act shall take effect January 1, 2024.

**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