



## 2025 SENATE BILL 405

August 28, 2025 - Introduced by Senators HUTTON, KAPENGA, BRADLEY and NASS, cosponsored by Representatives NEDWESKI, STEFFEN, MAXEY, BRILL, GREEN, GUSTAFSON, O'CONNOR, KREIBICH, PIWOWARCZYK, PENTERMAN, MURSAU, ALLEN, DITTRICH, KNODL, MURPHY, WICHGERS and BEHNKE. Referred to Committee on Health.

- 1     **AN ACT** *to create* 895.039 of the statutes; **relating to:** a civil cause of action for  
2     a minor injured by a gender transition procedure.

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### *Analysis by the Legislative Reference Bureau*

This bill establishes a civil cause of action against a health care provider who performs a gender transition procedure, as defined in the bill, on an individual who is under 18 years of age and who is injured, including any physical, psychological, emotional, or physiological injury, by the gender transition procedure or related treatment or the aftereffects of the gender transition procedure or related treatment. Under the bill, such an action must be commenced before the individual attains the age of 33 years.

The bill provides that it is a defense to an action under the bill if all of the following occur before a health care provider performs a gender transition procedure on an individual who is under 18 years of age:

1. The health care provider documents the individual's perceived gender or perceived sex for at least two continuous years, and the individual's perceived gender or perceived sex is invariably inconsistent with the individual's biological sex throughout the two-year period.

2. To the extent that the individual suffers from a mental health concern, at least one mental health professional and one other health care provider certifies in writing that the gender transition procedure is the only way to treat the mental health concern.

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3. At least one mental health professional and one other health care provider certifies in writing that the individual suffers from no other mental health concerns.

4. The health care provider receives the voluntary and informed consent of the individual and the individual's parent or legal guardian by providing them, both orally and in writing, with a notice, the contents of which are prescribed in the bill, at least 30 days before the first treatment of the gender transition procedure and during every subsequent medical visit for treatment during the following six months.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1       **SECTION 1.** 895.039 of the statutes is created to read:

2       **895.039 Performing gender transition procedures on minors;**

3       **liability.** (1) DEFINITIONS. In this section:

4           (a) 1. "Gender transition procedure" means a medical or surgical service,  
5 including a physician's service, inpatient or outpatient hospital service, or  
6 prescribed drug, related to gender transition that seeks to do any of the following:

7           a. Alter or remove an individual's physical or anatomical characteristics or  
8 features that are typical for the individual's biological sex.

9           b. Instill or create for an individual physiological or anatomical characteristics  
10 that resemble a sex different from the individual's biological sex, including a  
11 medical service that provides puberty-blocking drugs, cross-sex hormones, or  
12 another mechanism to promote the development of feminizing or masculinizing  
13 features in a sex different from the individual's biological sex, or genital or  
14 nongenital gender reassignment surgery performed for the purpose of assisting an  
15 individual with a gender transition.

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1           2. Notwithstanding subd. 1., “gender transition procedure” does not include  
2 any of the following:

3           a. A service provided to an individual born with a medically verifiable  
4 disorder of sexual development, including an individual with external biological sex  
5 characteristics that are irresolvably ambiguous, such as an individual born with  
6 46,XX chromosomes with virilization, with 46,XY chromosomes with  
7 undervirilization, or having both ovarian and testicular tissue.

8           b. A service provided to an individual when a physician has diagnosed a  
9 sexual development disorder and the physician has determined through genetic or  
10 biochemical testing that the individual does not have the normal sex chromosome  
11 structure, sex steroid hormone production, or sex steroid hormone action for a  
12 biological male or biological female.

13           c. The treatment of an infection, injury, disease, or disorder that is caused or  
14 exacerbated by the performance of a gender transition procedure, regardless of  
15 whether the gender transition procedure was performed in accordance with state or  
16 federal law.

17           d. A procedure undertaken because an individual suffers from a physical  
18 disorder, physical injury, or physical illness that would, as certified by a physician,  
19 place the individual in imminent danger of death or impairment of major bodily  
20 function unless surgery is performed.

21           (b) “Health care provider” has the meaning given in s. 146.81 (1) (a) to (hp).

22           (c) “Mental health professional” means any of the following:

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1           1. A physician licensed under subch. II of ch. 448 who specializes in  
2       psychiatry.

3           2. A psychologist licensed under ch. 455.

4           3. A professional counselor licensed under ch. 457.

5           4. A marriage and family therapist licensed under ch. 457.

6           5. A social worker certified or licensed under ch. 457.

7           (d) "Minor" means an individual who is under 18 years of age.

8           **(2) CIVIL CAUSES OF ACTION.** A health care provider who performs a gender  
9       transition procedure on a minor is liable to the minor if the minor is injured,  
10      including any physical, psychological, emotional, or physiological injury, by the  
11      gender transition procedure or related treatment or the aftereffects of the gender  
12      transition procedure or related treatment. The minor, or the minor's parent, legal  
13      guardian, or legal representative, may bring a civil action against the health care  
14      provider for any of the following damages:

15          (a) Declaratory or injunctive relief.

16          (b) Compensatory damages.

17          (c) Punitive damages.

18          (d) If the prevailing party, reasonable attorney fees and costs.

19          **(3) LIMITATION OF ACTIONS.** An action under this section shall be commenced  
20      before the minor has attained the age of 33 years or, if the minor dies before  
21      attaining the age of 33 years, the date on which the minor would have attained the  
22      age of 33 years.

23          **(4) SAFE HARBOR.** (a) It is a defense to an action brought under this section if,

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1 before a health care provider performs a gender transition procedure on a minor, all  
2 of the following occur:

3 1. The health care provider documents the minor's perceived gender or  
4 perceived sex for at least 2 continuous years, and the minor's perceived gender or  
5 perceived sex is invariably inconsistent with the minor's biological sex throughout  
6 the 2-year period.

7 2. To the extent that the minor suffers from a mental health concern, at least  
8 2 health care providers, including at least one mental health professional, certifies  
9 in writing that the gender transition procedure is the only way to treat the mental  
10 health concern.

11 3. At least 2 health care providers, including at least one mental health  
12 professional, certifies in writing that the minor suffers from no mental health  
13 concerns other than the concern described under subd. 2., including depression, an  
14 eating disorder, autism, attention deficit hyperactivity disorder, intellectual  
15 disability, or a psychotic disorder.

16 4. The health care provider receives the voluntary and informed consent of  
17 the minor and the minor's parent or legal guardian as provided in par. (b).

18 (b) Consent to a gender transition procedure is voluntary and informed under  
19 par. (a) 4. only if, at least 30 days before the first treatment of the gender transition  
20 procedure and during every subsequent medical visit for treatment during the  
21 following 6 months, the minor and the minor's parent or legal guardian is provided  
22 with the following notice, both orally and in writing in at least 14-point type in a  
23 proportional font:

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## 1 NOTICE

2 If your child begins one of these treatments, it may actually worsen the  
3 discordance and thus increase the likelihood that your child will need additional  
4 and more serious interventions to address the worsening condition. For example, if  
5 your child begins socially transitioning or taking puberty blockers, that treatment  
6 may significantly increase the likelihood that your child's discordance will worsen  
7 and lead to your child eventually seeking cross-sex hormones or even surgery to  
8 remove some of your child's body parts.

9 Sweden, Finland, and the United Kingdom have conducted systematic reviews  
10 of evidence and concluded that there is no evidence that the potential benefits of  
11 puberty blockers and cross-sex hormones for this purpose outweigh the known or  
12 assumed risks.

13 Medical authorities in Sweden, Finland, and the United Kingdom have since  
14 recommended psychotherapy as the first line of treatment for youth gender  
15 dysphoria, with drugs and surgeries reserved as a measure of last resort. Medical  
16 authorities in France have advised "great caution" when prescribing hormones for  
17 gender dysphoria.

18 There are people who underwent gender transition treatments as minors and  
19 later regretted that decision and the physical harm that these treatments caused,  
20 and the total percentage of people who experience this regret is unknown. Some  
21 estimate that the rate is below 2 percent, but that estimate is based on studies done  
22 on adults who transitioned as adults or on minors who transitioned under highly  
23 restrictive and controlled conditions.

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1 Sometimes gender transition treatments have been proposed as a way to  
2 reduce the chances of a minor committing suicide due to discordance between the  
3 minor's sex and his or her perception, but the rates of actual suicide from this  
4 discordance remain extremely low. Furthermore, as recognized by health  
5 authorities in Europe, there is no evidence that suicidality is caused by  
6 "unaffirmed" gender or that gender transition treatments are causally linked to a  
7 reduction in serious suicidal attempts or ideations.

8 For puberty blockers:

9 Puberty blockers are not approved for this purpose by the U.S. food and drug  
10 administration, which is the federal agency that determines which drugs are safe  
11 and effective for humans to use. Claims about puberty blockers' safety and efficacy  
12 are based on their use for precocious puberty, a different condition in which normal  
13 puberty is allowed to resume once the patient reaches the appropriate age. Studies  
14 on the benefits of using puberty blockers for gender dysphoria are notoriously weak.  
15 Puberty blockers are not fully reversible because, among other risks, puberty  
16 blockers may intensify a minor's discordance and cause it to persist. Puberty  
17 blockers increase the risk of your child being sterilized, meaning that he or she will  
18 never be able to have children. Puberty blockers may also cause diminished bone  
19 density for your child, increasing the risk of fracture and early osteoporosis.  
20 Puberty blockers may also prevent your child from ever being able to engage in  
21 sexual activity or achieve orgasm for the rest of your child's life. There is no  
22 research on the long-term risks to minors of persistent exposure to puberty

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1 blockers. The full effects of puberty blockers on brain development and cognition  
2 are unknown.

3 For cross-sex hormones:

4 The use of cross-sex hormones in males is associated with numerous health  
5 risks, such as thromboembolic disease, including blood clots; cholelithiasis,  
6 including gallstones; coronary artery disease, including heart attacks;  
7 macroprolactinoma, which is a tumor of the pituitary gland; cerebrovascular  
8 disease, including stroke; hypertriglyceridemia, which is an elevated level of  
9 triglycerides in the blood; breast cancer; and irreversible infertility. The use of  
10 cross-sex hormones in females is associated with risks of erythrocytosis, which is an  
11 increase in red blood cells; severe liver dysfunction; coronary artery disease,  
12 including heart attack; hypertension; and increased risk of breast and uterine  
13 cancer. Once a minor begins cross-sex hormones, the minor may need to continue  
14 taking those hormones for many years and possibly for the remainder of the minor's  
15 life. The cost of these hormones may be tens of thousands of dollars. If the use of  
16 cross-sex hormones leads to surgery, the total cost of transitioning may exceed  
17 \$100,000.

18 For surgical procedures:

19 The dangers, risks, complications, and long-term concerns associated with  
20 these types of procedures are almost entirely unknown. There are no long-term  
21 studies on either the effectiveness or safety of these surgical procedures.

22 **SECTION 2. Initial applicability.**

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1           (1) This act first applies to a gender transition procedure performed on the  
2           effective date of this subsection.

3 (END)