

TO: All Legislators

FR: Senator Rob Hutton

Representative Amanda Nedweski

RE: Co-sponsor LRB-2406/1, relating to: a civil cause of action for a minor injured by a gender transition procedure

**Deadline: Monday, Aug. 4 at 5pm**

This legislation creates a legal recourse for individuals who were harmed by a gender transition procedure or treatment that was performed on them as a minor.

Many of the long-term consequences of medical interventions that are becoming more common are still unknown. Research has shown that puberty blockers can cause reduced bone density, and hormone therapy can lead to blood clots, stroke, cardiovascular disease and impaired fertility. Concerns about cognitive development, insulin sensitivity, liver function and other sexual functions are also still being studied.

Recognizing that these full consequences may not manifest for years, this bill allows an individual to seek civil compensation until age 33 if they demonstrate harm. Studies are unclear about the persistence of gender dysphoric identification, but medical interventions with permanent consequences are becoming common to treat potentially transient mental health conditions.

The American Medical Association emphasizes the need for comprehensive evaluation by medical professionals when making irreversible gender-affirming decisions for minors. Therefore, the bill provides a legal safe harbor if a provider can demonstrate they engaged in all due diligence before recommending medical intervention. It also includes several exceptions for circumstances where such intervention is medically necessary.

Individuals who are harmed by any other medical procedure or treatment have clear legal recourse. This bill ensures that children who are administered gender transition drugs or surgeries and suffer harm as a result can also seek compensation.

**If you would like to be added as a co-sponsor, please reply to this email or contact Sen. Hutton's office (6-2512) or Rep. Nedweski's office (9132).**

### **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.
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.