A BILL for an Act to create and enact chapter 12.1-36.1 of the North Dakota Century Code, relating to the prohibition of certain practices against a minor; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 12.1-36.1 of the North Dakota Century Code is created and enacted as follows:


As used in this chapter:

1. "Health care provider" means a licensed physician, physician assistant, nurse, or a certified medical assistant.

2. "Mental health professional" is defined pursuant to subsection 11 of section 25-03.1-02.

3. "Minor" means an individual under the age of eighteen. The term includes an emancipated individual.

4. "Pre-pubertal" means an individual who has not yet entered puberty.

5. "Puberty" means the period of a minor's development during which secondary sex characteristics start to developing.

6. "Sex" means the biological state of being female or male, based on the individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.


1. Except as provided under section 12.1-36.1-03, if a minor's perception of the minor's sex is inconsistent with the minor's sex, a health care provider may not engage in any of the following practices for the purpose of changing or affirming the minor's perception of the minor's sex:
a. Perform castration, vasectomy, hysterectomy, oophorectomy, metoidioplasty, orchietomy, penectomy, phalloplasty, or vaginoplasty;
b. Perform a mastectomy;
c. Remove any otherwise healthy or nondiseased body part or tissue, except for a male circumcision.
d. Prescribe supraphysiologic doses of testosterone to females; or
e. Prescribe supraphysiologic doses of estrogen to males.

2. Except as provided in section 12.1-36.1-03, a health care provider may not prescribe puberty-blocking medication to any minor unless:
   a. The minor has received mental health care for at least twelve consecutive months prior, as documented by a mental health professional; and
   b. The minor has begun to experience puberty, as documented by a medical provider.

3. Except as provided in section 12.1-36.1-03, a health care provider may not, for the purpose of changing the sex of a pre-pubertal, engage in prescribing, dispensing, administering, or otherwise supplying any drug for the purpose of aligning the pre-pubertal's sex with the pre-pubertal's perception of the pre-pubertal's sex when the perception is inconsistent with the pre-pubertal's sex, including puberty-blocking medication to stop normal puberty.

4. A health care provider who willfully violates:
   a. Subdivisions a, b, or c of subsection 1 is guilty of a class B felony.
   b. Subdivisions d or e of subsection 1, subsection 2, or subsection 3 is guilty of an infraction.

12.1-36.1-03. Exceptions.

Section 12.1-36.1-02 does not apply:

1. To the good-faith medical decision of a parent or guardian of a minor born with a medically verifiable genetic disorder of sex development, including:
   a. A minor with external biological sex characteristics that are irresolvably ambiguous, including having forty-six, XX chromosomes with virilization, forty-six, XY chromosomes with undervirilization, or having both ovarian and testicular tissue; or
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b. When a physician otherwise has diagnosed a disorder of sexual development in
which the physician, through genetic testing, has determined the minor does not
have the normal sex chromosome structure for a male or female; or

2. If performance or administration of the medical procedure on the minor began before
the effective date of this Act.

Notwithstanding the limitations of section 29-04-02, prosecution for a violation of section
12.1-36.1-02 must be commenced within three years of the date of the offense or within three
years after the offense is reported to law enforcement, whichever is later.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.