State Policy Brief

Save Adolescents from Experimentation (SAFE) Act

KEY POINTS

"Gender transition" is an experiment; no "treatment" can change a person's genetic composition, and no studies have demonstrated long-term benefits.

The government should not force taxpayers to fund it, insurers to cover it, or children to be subjected to it.

The SAFE Act also provides legal remedies for minors who have been permanently disfigured and/or sterilized.

Family Research Council actively recommends and supports the Save Adolescents from Experimentation (SAFE) Act. One's sex is never "assigned at birth"; it is always objective and observable by time of birth. Propagating an ideology of fluid sexuality not only undermines a scientific understanding of human anatomy but also damages the lives of the next generation. The staggering growth of transgenderism has left children vulnerable to life-altering procedures such as puberty-blocking drugs, cross-sex hormones, and irreversible surgeries. These unscientific, destructive gender transition procedures should not be allowed to interrupt the development of children and irreversibly alter their bodies. The SAFE Act addresses this critical need.

In 2020, 19 states introduced bills banning gender transition procedures on minors; so far in 2021, another 20 states have introduced similar legislation. On April 6th Arkansas became the first state in the nation to enact such a law. Some bills include criminal penalties. Others make gender transition for minors "child abuse." Many do not address insurance coverage. We believe that a more carefully-calibrated approach is warranted.

Legislative Intent: The long-held understanding that human sexuality is inborn and fixed, reinforced by science and reason, has come under fire through a resurgence of post-modern thinking promoting sexual subjectivity. When approaching the very delicate condition of "gender incongruity" (a disconnect between one's psychological, self-perceived "gender identity" and one's biological sex) or "gender dysphoria" (distress about such incongruity), the ideal of subjective sexuality has been elevated, and people who suffer incongruity or dissonance are now told they can "correct" their body's sex-related characteristics. However, this ideology of subjective sexuality is not a victimless dogma; it now targets society's most vulnerable members: children and adolescents who experience distress at identifying with their biological sex. Rather than provide the help such children and adolescents need, transgender ideology promotes radical medical interventions, including the use of drugs to block normal puberty and cross-sex hormones and gender reassignment surgery to create the superficial appearance of conformity with the minor's perceived "gender identity."

The SAFE Act would protect the vulnerable from experimental procedures that cause physiological trauma for minors dealing with gender dysphoria. Despite claims to the contrary, these gender transition procedures are often not reversible (even "temporarily" pausing puberty has permanent consequences for the human body). Furthermore, they are not evidence-based: Research has not shown that these procedures are effective in accomplishing their stated purpose, to improve the patient's mental health. They have serious negative side effects, up to and including permanent sterilization—thus violating the most fundamental principle of medical ethics, "First, do no harm." The SAFE

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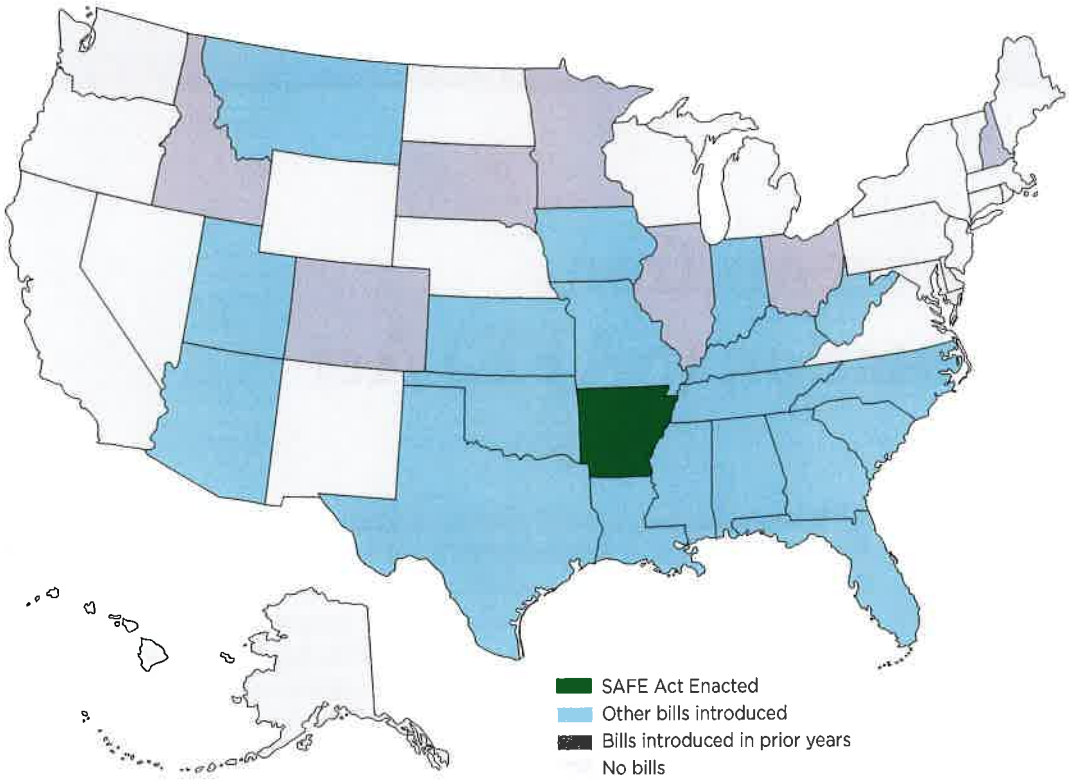
Protecting Minors from Gender Reassignment Procedures



Act addresses these harms by prohibiting physicians from administering any form of treatment that would seek to change an adolescent's sex-related physical characteristics in support of a "gender transition."

"Gender transition" is an experiment, not medical care; there is no treatment that can change a person's genetic composition, and no studies have demonstrated long-term benefits from gender transition. The government should not force taxpayers to fund it or insurers to cover it, and children should not be subjected to it. The SAFE Act prohibits physicians from administering gender transition procedures to minors, prohibits taxpayer funds and medical insurance policies from paying for them, and provides legal remedies for minors who have been permanently disfigured and/or sterilized by them.

Key Provisions:

Legislative findings providing a comprehensive summary of scientific, medical, and historical data related to gender transition procedures.

Defines "sex" in biological terms related to reproductive potential or capacity (in contrast with psychological "gender"), as well as defining "gender transition procedures" to include the use of puberty-blocking drugs, cross-sex hormones, and non-genital and genital gender reassignment surgery.

Exception for those with verifiable disorders of sex development (those who have what are known as "intersex" conditions), treatment of complications or problems arising because of previous gender transition procedures, or treatment necessary to save the life of an individual.

Prohibits "gender transition procedures" for minors and the public funding of, insurance coverage of, or referral for such procedures.

Enforcement and a cause of action to bring claims in court for violations within two years or within two years after the age of majority.

A **severability** clause.

A Growing Number of States Are Protecting Minors from Transgenderism

by Chantel Hoyt

The cultural phenomenon of transgenderism is growing at an astonishing rate. The number of gender reassignment clinics in the United States has increased from one in 2007 to 50 today.[1] In her book, *Irreversible Damage*, Abigail Shrier reports that most Western countries have seen a 1,000-5,000 percent increase in teenage females seeking treatment from gender clinics and psychologists—many of whom recommend that these girls socially and physically transition through hormones and sometimes surgery. This is aimed at treating what is known as gender dysphoria, defined by the American Psychological Association as "psychological distress that results from incongruence between one's sex assigned at birth and one's gender identity."[2]

One's sex is never "assigned at birth"; it is always objective and observable by the time of birth. Propagating an ideology of fluid sexuality undermines a scientific understanding of human anatomy and damages children's lives. The staggering growth of transgender ideology increasingly pressures children to undergo life-altering procedures with puberty-blocking drugs, cross-sex hormones, and irreversible surgeries. These unscientific, destructive gender transition procedures should not be allowed to interrupt the development of children and irreversibly alter their bodies.

States have been taking bold steps to protect vulnerable minors from being harmed by the unscientific idea that people can be "born in the wrong body." To date, a total of **20 states** have introduced gender transition bans in 2021. On April 6, Arkansas became the first state in the nation to ban the use of puberty blockers, cross-sex hormones, and gender reassignment surgeries for the purpose of gender

transition on individuals under 18 when the legislature enacted House Bill 1570, the Save Adolescents from Experimentation (SAFE) Act, over the governor's veto.

The Arkansas SAFE Act can be considered the "gold standard" for gender transition procedure bans. Arkansas HB 1570 has four key provisions:

1. It protects minors from puberty blockers, cross-sex hormones, and gender transition surgeries (with a professional penalty).
2. It bans the use of public funds and/or insurance coverage mandates for such procedures on minors.
3. It includes an exception for the treatment of minors with a diagnosis of a physiological intersex disorder.
4. It provides legal remedies for minors who have been permanently disfigured and/or sterilized by such procedures.

In addition to Arkansas, **four states** introduced fairly strong bills this year: Kentucky (HB 336), Mississippi (SB 2171), Iowa (HF 193), and North Carolina (S 514). Each of these bills contains a prohibition and professional penalty (Iowa's bill includes a civil penalty as well), an exception for minors with a physiological intersex disorder, and legal remedies for minors harmed by such procedures. However, they do not prohibit medical insurance from covering such procedures for minors or put any restrictions on public funds being used for such purposes.

Two other states, Georgia (HB 401) and Indiana (HB 1505, SB 224), also introduced bills with all but the insurance/public funding ban. Yet, these bills impose criminal as opposed to professional penalties, which may make them more difficult to pass. Tennessee's bills (SB 657 and HB 578), which also contain criminal penalties, are diluted because they allow minors who have entered puberty to be subjected to such procedures, provided they have parental consent and the written consent of two doctors and a psychiatrist. Family Research Council does not support allowing for medical experimentation on minors before they are old enough to make adult decisions.

Twelve states this year have introduced protections for minors that contain criminal penalties but lack legal remedies and/or exceptions for children with physiological intersex disorders (in addition to lacking provisions addressing insurance and public funds). They are:

- Alabama (SB 10, HB 1, no private right of action)
- Arizona (SB 1511, lacks key definitions, no private right of action)
- Florida (HB 935, no private right of action)
- Kansas (SB 214, HB 2210, no private right of action)
- Louisiana (HB 575, no private right of action)
- Missouri (SB 442, lacks key definitions, no exception for intersex disorders, no private right of action)
- Montana (HB 113, lacks key definitions, no exception for intersex disorders)
- Oklahoma (SB 583, SB 676, no private right of action, no exception for intersex disorders)
- South Carolina (HB 4047, no private right of action)
- Texas (HB 2693, HB 1399, SB 1311, lacks key definitions, no private right of action)
- Utah (HB 92, no private right of action)
- West Virginia (HB 2171, no private right of action)

Bills like these have been the most common for gender transition bans since 2017. They would need to add a prohibition on insurance coverage and/or public funding, an exception for minors with intersex disorders, and stronger legal remedies, in addition to trading their criminal penalties for professional penalties.

Two states, Missouri and Montana, introduced very weak bills in 2021. Missouri HB 33 includes a prohibition and professional penalty but no other provisions. Montana HB 427, despite including each key provision besides one addressing insurance and public funds, only prohibits gender reassignment surgery, not the use of cross-sex hormones or puberty blockers. Since the latter is what is most often used on minors, this makes the bill much weaker.

Eight additional states introduced bills from 2017 to 2020. The strongest of these was Minnesota HF 4694, which included each of the key provisions, including a ban on insurance coverage. However, it

imposed a civil penalty instead of a professional penalty, had slightly weaker definitions, and lacked findings, among other drawbacks. The next strongest of these bills was Ohio HB 513, which lacked an insurance coverage/public funding ban and imposed criminal penalties. Four of these states—Illinois (HB 3515, 2019), Idaho (H 465, 2019), South Carolina (4716, 2020), and South Dakota (HB 1057, 2020)—lacked most key provisions. Additionally, Idaho's bill contained criminal penalties and South Dakota's bill contained a civil penalty, as opposed to a professional penalty. New Hampshire's bill (HB 1532, 2018) was especially weak, prohibiting gender reassignment surgery for minors but containing no other provisions.

Over the past four years, one thing has been made clear—states want to protect their minors from life-altering procedures such as puberty-blocking drugs, cross-sex hormones, and irreversible surgeries. They have come to grips with the reality that "gender transition" is an experiment. No intervention can change a person's genetic composition, and the best studies have demonstrated no reduction in the number of completed suicides among those who have transitioned. We have also seen states proposing stronger, more successful bills each year. Arkansas' SAFE Act made it the first state to pass potent protections for minors. Arkansas HB 1570 is a watermark and standard that states are sure to follow, making a safer United States for future generations.

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[1] https://www.dailymail.co.uk/news/article-9106895/ABIGAIL-SHRIERS-investigation-exploding-numbers-girls-wanting-change-sex.html.

[2] https://www.psychiatry.org/patients-families/gender-dysphoria.