

Senate Bill 39

By: Senators Tillery of the 19th, Summers of the 13th, Robertson of the 29th, Watson of the 1st, Walker III of the 20th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 18 of Title 45, Chapter 4 of Title 49, and Chapter 1 of Title 50 of the
2 Official Code of Georgia Annotated, relating to the employees' insurance and benefits plans,
3 public assistance, and general provisions relative to state government, respectively, so as to
4 prohibit coverage of expenses for gender-affirming care under the state health benefit plan
5 or with any state funds; to provide for definitions; to provide for limited exceptions; to
6 prohibit state healthcare facilities and healthcare providers employed by the state from
7 providing gender-affirming care; to provide for related matters; to provide for legislative
8 findings; to provide for an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 The General Assembly finds that:

12 (1) The State of Georgia has taken measures to protect individuals from a radical gender
13 ideology that has, among other things, resulted in a massive unexplained rise in diagnoses
14 of gender dysphoria;

15 (2) Senate Bill 140 enacted by the General Assembly in the 2023 regular session broadly
16 banned physicians from performing sex reassignment surgeries, hormone replacement

17 therapies, and other gender transition procedures on minors, and similar bills from other
18 states have been upheld by a federal appeals court;

19 (3) In October, 2023, under the guidance of the Georgia Attorney General, a lawsuit
20 brought by or on behalf of a number of state employees and a child seeking access to
21 transgender related healthcare coverage under the state health plan was settled;

22 (4) Prior to the settlement, coverage under the state health benefit plan excluded
23 operations to change one's sex and related services;

24 (5) Under the settlement, the state health benefit plan was required to implement
25 provisions defining transgender related health coverage and to make it available to all
26 employees. In addition, the state reportedly paid a sum of \$365,000.00 that was split
27 among four individuals, including a child, and an organization called the Campaign for
28 Southern Equality, which has been described in news reports as "a nonprofit organization
29 dedicated to advancing LGBTQ+ civil rights in the South." According to the plaintiffs'
30 attorneys, the settlement also covered a portion of the plaintiffs' legal expenses;

31 (6) This settlement was entered into by the state health benefit plan and the Attorney
32 General without prior notice to or approval by the General Assembly; and

33 (7) It is the policy of the State of Georgia that these procedures shall neither be covered
34 by the state health benefit plan nor otherwise paid for through the use of state funds.

35 **SECTION 2.**

36 Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to employees'
37 insurance and benefits plans, is amended by revising Code Section 45-18-4, relating to
38 expenses not to be covered by the state employees' health insurance plan, as follows:

39 "45-18-4.

40 (a) As used in this Code section, the term:

41 (1) 'Abortion' shall have the same meaning as provided in Code Section 31-9A-2.

42 (2) 'Gender' means the psychological, behavioral, social, and cultural aspects of being
43 male or female.

44 (3) 'Gender-affirming care' means healthcare, such as hormone therapy or sex
45 reassignment surgery, to attempt to affirm an individual's perception of such individual's
46 sex that is inconsistent with such individual's sex.

47 (4) 'Hormone therapy' means treatment that adds, blocks, or removes hormones for the
48 purpose of assisting an individual in attempting to alter such individual's sex or to alter
49 the appearance of such individual's sex that is inconsistent with such individual's sex.

50 (5) 'Sex' means the biological state of being male or female, in the context of
51 reproductive potential or capacity, based on the individual's sex organs, chromosomes,
52 naturally occurring sex hormones, gonads, and internal and external genitalia present at
53 birth, including secondary sex characteristics, without regard to an individual's
54 psychological, chosen, or subjective identification of gender.

55 (6) 'Sex reassignment surgery' means any surgical procedure that seeks to surgically alter
56 or remove healthy or nondiseased physical or anatomical characteristics or features that
57 are typical for an individual's sex in order to instill or create physiological or anatomical
58 characteristics that resemble a sex different from such individual's sex. Such term means
59 genital or nongenital surgery performed for the purpose of assisting an individual with
60 attempting to alter such individual's sex or to alter the appearance of or affirm such
61 individual's perception of his or her gender or sex if such appearance or perception is
62 inconsistent with such individual's sex. Such term includes but is not limited to
63 castration, clitorrectomy, clitoroplasty, facial gender-affirming surgery, hysterectomy,
64 mammoplasty, mastectomy, metoidioplasty, oophorectomy, orchiectomy, ovariectomy,
65 penectomy, phalloplasty, scrotoplasty, vaginectomy, vaginoplasty, vasectomy, voice
66 feminization or masculinization surgery, and vulvoplasty, and any healthcare services
67 before or after such surgery.

68 (b) The health insurance plan shall not include expenses incurred by or on account of an
 69 individual prior to the effective date of the plan; expenses for services received for injury
 70 or sickness due to war or any act of war, whether declared or undeclared, which war or act
 71 of war shall have occurred after the effective date of this plan; expenses for which the
 72 individual is not required to make payment; expenses to the extent of benefits provided
 73 under any employer group plan other than this plan in which the state participates in the
 74 cost thereof; expenses for abortion services except to the extent permitted under the state
 75 health benefit plan approved by the board as such plan existed on January 1, 2014;
 76 expenses for gender-affirming care except as provided in subsection (c) of this Code
 77 section; and such other expenses as may be excluded by regulations of the board. For
 78 purposes of this Code section, the term 'abortion' shall have the same meaning as provided
 79 in Code Section 31-9A-2.

80 (c) The board shall adopt rules and regulations regarding the exclusion of expenses for
 81 gender-affirming care provided in subsection (b) of this Code section, which shall contain
 82 limited exceptions for:

- 83 (1) Treatments for medical conditions other than gender dysphoria or for the purpose of
 84 sex reassignment where such treatments are deemed medically necessary;
 85 (2) Treatments for individuals born with a medically verifiable disorder of sex
 86 development, including individuals born with ambiguous genitalia or chromosomal
 87 abnormalities resulting in ambiguity regarding the individual's biological sex;
 88 (3) Treatments for individuals with partial androgen insensitivity syndrome; and
 89 (4) Any other treatments for similar conditions to the extent permitted under the state
 90 health benefit plan approved by the board as such plan existed on January 1, 2025."

91 **SECTION 3.**

92 Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to public assistance,
 93 is amended by adding a new Code section to read as follows:

94 "49-4-159.5.

95 The department shall prohibit the coverage of gender-affirming care as provided for in
96 Code Section 45-18-4 for recipients of medical assistance."

97 **SECTION 4.**

98 Chapter 1 of Title 50 of the Official Code of Georgia Annotated, relating to general
99 provisions relative to state government, is amended by adding a new Code section to read as
100 follows:

101 "50-1-14.

102 (a) No state funds shall be expended for health benefits coverage that includes coverage
103 for gender-affirming care as provided for in Code Section 45-18-4.

104 (b) No healthcare facility owned or operated by the state and no physician or other
105 healthcare provider employed by an agency or entity of this state shall provide
106 gender-affirming care as provided for in Code Section 45-18-4.

107 (c) Nothing in this Code section shall be construed as:

108 (1) Prohibiting any individual, entity, or local government from purchasing separate
109 coverage for gender-affirming care or health benefits coverage that includes
110 gender-affirming care, provided that such coverage is paid for entirely using only funds
111 not authorized or appropriated by the state; or

112 (2) Restricting the ability of any nonstate health benefits coverage provider from offering
113 coverage for gender-affirming care, or the ability of a local government to contract
114 separately with such a provider for such coverage, provided that such coverage is paid
115 for entirely using only funds not authorized or appropriated by the state."

116 **SECTION 5.**

117 This Act shall become effective upon its approval by the Governor or upon its becoming law
118 without such approval.

119

SECTION 6.

120 All laws and parts of laws in conflict with this Act are repealed.