I move to amend HB2177 Of the printed Bill Page _______ Section _______ Lines _______ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____________________________ Amendment submitted by: Kevin West

_________________________  ___________________________
Reading Clerk
STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

FLOOR SUBSTITUTE FOR
HOUSE BILL NO. 2177

By: West (Kevin), Olsen, and
Crosswhite Hader of the
House

and

Bullard of the Senate

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
SECTION 1. NEW LAW  A new section of law to be codified in the Oklahoma Statutes as Section 2607 of Title 63, unless there is created a duplication in numbering, reads as follows:

   A. As used in this act:

   1. "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender;

   2. "Gender" means the psychological, behavioral, social, and cultural aspects of being male or female;

   3. "Health care professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

   4. "Physician" means a person who is licensed in this state to practice medicine; and

   5. "Public funds" means state, county, or local government monies, in addition to any department, agency, or instrumentality authorized or appropriated under state law or derived from any fund in which such monies are deposited.

   B. A physician, mental health professional, or other health care professional shall not knowingly engage in or cause any of the
following practices to be performed upon any person under eighteen (18) years of age if the practice is performed for the purpose of attempting to alter the appearance of or affirm the minor's perception of his or her gender or biological sex, if that appearance or perception is inconsistent with the minor's biological sex as defined in this act:

1. Prescribing or administering gonadotropin-releasing hormone analogues or another synthetic drug used to stop luteinizing hormone and follicle-stimulating hormone secretion, synthetic antiandrogen drugs used to block the androgen receptor, or any drug to suppress or delay normal puberty;

2. Prescribing or administering testosterone, estrogen, or progesterone to a minor in an amount greater than would normally be produced endogenously in a healthy individual of that individual's age and biological sex;

3. Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;

4. Performing surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, including metoidioplasty, phalloplasty, and vaginoplasty; or

5. Removing any healthy or non-diseased body part or tissue for the purpose of changing the appearance of one's biological sex.
C. A physician, mental health professional, or other health care professional shall not knowingly engage in conduct that aids or abets the practices described in subsection B of this section to any person under eighteen (18) years of age. This section may not be construed to impose liability on any speech or conduct protected by federal or state law.

D. Subsections B and C of this section do not apply to:

1. Services to persons born with a medically verifiable disorder of sex development, including a person with external biological sex characteristics that are irresolvably ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with under-virilization, or having both ovarian and testicular tissue;

2. Services provided when a physician has otherwise diagnosed a disorder of sexual development that the physician has determined, through genetic or biochemical testing, is caused by the person not having normal sex chromosomes structure, sex steroid hormone production, or sex steroid hormone action;

3. Treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by the performance of a procedure described in subsection B, whether or not the procedure was performed in accordance with state and federal law or whether or not funding for the procedure is permissible under this act;
4. Any procedure undertaken because the individual suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the individual in imminent danger of death or impairment of major bodily function unless such procedure is performed; or

5. The six-month period following the effective date of this act for individuals who are currently being prescribed medication prohibited pursuant to paragraphs 1 and 2 of subsection B of this act and the services being provided to them by a physician, or other health care professional, to help curtail and taper the hormone- or puberty-blocking medication that has been prescribed to these individuals.

E. It shall be prohibited for any public funds in this state to be directly or indirectly used, granted, paid, or distributed to any entity, organization, or individual for the provision of the services described in subsection B of this act to any minor or adult. No facility that receives public funds shall allow its staff or facilities to be used to perform the services described in subsection B of this act on any minor or adult. Any violation of this section shall result in the loss of public funding to the entity, organization, or individual for a minimum of one (1) year and shall not be reinstated until full compliance with this act.

F. 1. Any violation of subsections B or C of this section shall be considered unprofessional conduct and shall, upon an
1. adverse ruling by the appropriate licensing board, result in
2. immediate revocation of the license or certificate of the physician,
3. mental health professional, or other health care professional for a
4. period of one (1) year.

2. Disciplinary proceedings against the physician, mental
health professional, or health care professional must be commenced
not later than the date as of which the individual upon whom the
services described in subsection B of this section were performed
attains forty-five (45) years of age.

3. A person may assert an actual or threatened violation of
this act as a claim or defense in a judicial or administrative
proceeding and obtain compensatory damages, injunctive relief,
declaratory relief, or any other appropriate relief.

4. A person shall bring a claim for a violation of this act no
later than the date of which the individual upon whom the services
described in subsection B of this section were performed attains
forty-five (45) years of age.

5. An individual under eighteen (18) years of age may bring an
action throughout his or her minority through a parent or next
friend, and may bring an action in his or her own name upon reaching
majority at any time from that point until twenty-seven (27) years
after reaching the age of majority.

6. The Attorney General may bring an action to enforce
compliance with this act. Nothing in this act shall be construed to
1 deny, impair, or otherwise affect any right or authority of the
2 Attorney General, the state, or any agency, officer, or employee of
3 the state to institute or intervene in any action or proceeding.
4
5 7. In any action or proceeding to enforce a provision of this
6 act, a prevailing party who establishes a violation of this act
7 shall recover reasonable attorney fees.
8
9 G. Insurance coverage for the services described in subsections
10 B and C of this section performed within this state on any minor or
11 adult shall be prohibited.
12
13 1. A health benefit plan under an insurance policy or other
14 plan providing health care coverage in this state shall not include
15 reimbursement for the services described in subsections B and C of
16 this section whether performed on a minor or adult.
17
18 2. A health benefit plan under an insurance policy or other
19 plan providing health care coverage in this state is not required to
20 provide coverage for the services described in subsection B of this
21 section whether performed on a minor or adult.
22
23 H. To the extent the state or any private party is enjoined
24 from enforcing any part or application of this act, all other parts
25 or applications of that subsection and all other subsections are
26 severable and enforceable. It is the Legislature's intent that any
27 lawful subsection, application, or part of a subsection remain
28 enforceable no matter the number of subsections, parts of
29 subsections, or applications deemed unenforceable. Under no
circumstance should a court conclude the Legislature intended that the state or private party be enjoined from enforcing any subsection, application, or part of a subsection not deemed independently unenforceable.

SECTION 2. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

59-1-7603      TJ      02/21/23