

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

Date:

(Filing No. H- )

**JUDICIARY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 340, L.D. 535, “An Act to Increase Access to Necessary Medical Care for Certain Minors”

Amend the bill by striking out the title and substituting the following:

**'An Act Regarding Consent for Gender-affirming Hormone Therapy for Certain Minors'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 22 MRSA §1508 is enacted to read:

**§1508. Consent for gender-affirming hormone therapy**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Gender-affirming hormone therapy" means nonsurgical, medically necessary health care that respects the gender identity of the patient, as experienced and defined by the patient, that includes, but is not limited to, the following health care:

(1) Interventions to suppress the development of endogenous secondary sex characteristics;

(2) Interventions to align the patient's appearance or physical body with the patient's gender identity; or

(3) Interventions to alleviate symptoms of clinically significant distress resulting from gender dysphoria.

B. "Gender dysphoria" means a clinical diagnosis of gender dysphoria as defined either in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or in the Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 or subsequent version, published by the World Professional Association for Transgender Health.

**COMMITTEE AMENDMENT**

1 C. "Health care professional" means a person qualified by training and experience to  
2 provide and monitor the provision of gender-affirming hormone therapy who is  
3 authorized by law to prescribe medication and who is:

4 (1) Licensed by the Board of Licensure in Medicine under Title 32, chapter 48;

5 (2) Licensed by the Board of Osteopathic Licensure under Title 32, chapter 36; or

6 (3) Licensed by the State Board of Nursing as an advanced practice registered nurse  
7 under Title 32, chapter 31.

8 **2. Authority of minor to consent.** A health care professional may provide gender-  
9 affirming hormone therapy and follow-up care to a minor without obtaining the consent of  
10 the parent or guardian of the minor only if:

11 A. The minor is at least 16 years of age;

12 B. The minor has been diagnosed with gender dysphoria by a health care professional;

13 C. In the judgment of the health care professional, the minor is experiencing harm  
14 from or is expected to experience harm from not receiving gender-affirming hormone  
15 therapy;

16 D. The minor informs the health care professional that the minor has discussed the  
17 minor's gender dysphoria with a parent or guardian of the minor and that parent or  
18 guardian refused to support treatment of the minor's gender dysphoria; and

19 E. The minor provides informed written consent to the receipt of gender-affirming  
20 hormone therapy in accordance with the requirements of subsection 3; the health care  
21 professional makes the written consent that is set forth in a writing containing the  
22 information and statements required by subsection 3, paragraph B and that is signed by  
23 the minor a part of the minor's health record; and the minor, under all the surrounding  
24 circumstances, is mentally and physically competent to give consent.

25 **3. Informed consent.** A minor who meets the requirements of subsection 2,  
26 paragraphs A to D may provide informed written consent to gender-affirming hormone  
27 therapy and follow-up care only in accordance with the requirements of this subsection.

28 A. A health care professional shall, in a manner that the health care professional  
29 believes is not misleading and will be understood by the minor:

30 (1) Explain that the information being given to the minor is not intended to coerce,  
31 persuade or induce the minor to consent to gender-affirming hormone therapy;

32 (2) Explain that the minor may withdraw the decision to commence or to continue  
33 to receive gender-affirming hormone therapy at any time either before the therapy  
34 begins or during the course of the therapy;

35 (3) Clearly and fully explore with the minor the alternative choices available for  
36 managing and treating gender dysphoria;

37 (4) Explain the physiological effects, benefits and possible consequences of  
38 gender-affirming hormone therapy and follow-up care, including the physiological  
39 effects, benefits and possible consequences of discontinuing the therapy;

40 (5) Discuss the possibility of involving the minor's parents or guardians in the  
41 minor's decision making about gender-affirming hormone therapy and follow-up

1 care and explore whether the minor believes that parent or guardian involvement  
2 would be in the minor's best interests; and

3 (6) Provide an adequate opportunity for the minor to ask any questions concerning  
4 gender dysphoria, gender-affirming hormone therapy and follow-up care and  
5 provide the information the minor seeks or, if the health care professional cannot  
6 provide the information, explain where the minor can obtain the information.

7 B. After providing the information and counseling required by paragraph A, the health  
8 care professional shall have the minor sign and date a form stating:

9 (1) The business address and telephone number of the health care professional who  
10 provided the information and counseling required by paragraph A;

11 (2) The minor has received information on gender-affirming hormone therapy and  
12 follow-up care, including the benefits and possible consequences of and  
13 alternatives to gender-affirming hormone therapy;

14 (3) The minor has received an explanation that the minor may withdraw consent to  
15 gender-affirming hormone therapy at any time, including after therapy begins;

16 (4) The alternatives for managing gender dysphoria have been clearly and fully  
17 explored with the minor;

18 (5) The minor has discussed with the health care professional the possibility of  
19 involving the minor's parents or guardians in the minor's decision making about  
20 gender-affirming hormone therapy and follow-up care. If the minor has chosen not  
21 to involve the minor's parents or guardians, the reasons for making that choice must  
22 be stated in writing on the form; and

23 (6) The minor has been given an adequate opportunity to ask questions and receive  
24 answers about gender dysphoria, gender-affirming hormone therapy and follow-up  
25 care.

26 C. The health care professional who provided the information and counseling required  
27 by paragraph A shall also sign and date the form signed by the minor under paragraph  
28 B. The health care professional shall retain a copy of the form in that health care  
29 professional's files and shall give the form to the minor. If the health care professional  
30 who provided the information and counseling required by paragraph A is not the health  
31 care professional who will provide gender-affirming hormone therapy to the minor, at  
32 the minor's request the health care professional shall transmit the form to the health  
33 care professional who will provide gender-affirming hormone therapy to the minor.

34 **4. Rebuttable presumption of validity.** A written consent of a minor who meets the  
35 requirements of subsection 2 that is set forth in a writing containing the information and  
36 statements required by subsection 3, paragraph B and that is signed by the minor is  
37 presumed to be a valid, informed consent to treatment for gender-affirming hormone  
38 therapy and bars an action by a parent or guardian of the minor on the grounds of battery,  
39 malpractice or any other claim for providing gender-affirming hormone therapy without  
40 consent from a parent or guardian. The presumption of validity established in this  
41 subsection may be rebutted only by evidence that the minor's consent was obtained through  
42 fraud, deception or misrepresentation of material fact.

