

Department of Legislative Services  
Maryland General Assembly  
2025 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1399 (Delegate Arikan, *et al.*)  
Health and Government Operations

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Health Occupations - Cross-Sex Hormone Therapy for Minors - Prohibition  
(Protect the Kids Act)

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This bill prohibits a licensed health care practitioner from prescribing, dispensing, or administering “cross-sex hormones” or providing “cross-sex hormone therapy” to a minor for the treatment of a mental health diagnosis associated with gender nonconformity (including gender dysphoria). A violator is guilty of a felony and on conviction is subject to imprisonment not exceeding life. The Maryland Department of Health (MDH) may adopt regulations to carry out the bill.

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Fiscal Summary

**State Effect:** MDH can adopt regulations with existing budgeted resources. Potential minimal increase in general fund expenditures due to the bill’s penalty provision. Revenues are not affected.

**Local Effect:** Potential minimal increase in expenditures due to the bill’s penalty provision. Revenues are not affected.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** “Cross-sex hormone” means a prescription hormone, including estrogen and testosterone, or hormone blocker, including a testosterone blocker. “Cross-sex hormone therapy” means a treatment used to develop secondary sex characteristics for an individual transitioning from the individual’s assigned sex at birth to the individual’s experienced or expressed gender.

## **Current Law:**

### *Minor's Capacity to Consent Regarding a Mental or Emotional Disorder*

A minor who is age 16 or older has the same capacity as an adult to consent to consultation, diagnosis, and treatment of a mental or emotional disorder by a health care provider or a clinic. The capacity of a minor to consent does not include the capacity to refuse consultation, diagnosis, or treatment for a mental or emotional disorder for which a parent, guardian, or custodian of the minor has given consent.

Except under certain circumstances, without the consent of or over the express objection of a minor, the health care provider or, on advice or direction of the health care provider, a member of the medical staff of a hospital or public clinic may give a parent, guardian, or custodian of the minor or the spouse of the parent information about treatment needed by the minor or provided to the minor.

If a health care provider is on a treatment team for a minor that is headed by a physician, the physician heading the treatment team must decide whether a parent, guardian, or custodian of the minor or the spouse of the parent should receive information about treatment needed by the minor or provided to the minor.

Unless the parent, guardian, or custodian of a minor consents to consultation, diagnosis, or treatment of the minor, the parent, guardian, or custodian is not liable for any costs of the consultation, diagnosis, or treatment of the minor.

### *Gender-affirming Treatment*

Under § 15-151 of the Health-General Article, “gender-affirming treatment” means any medically necessary treatment consistent with current clinical standards of care prescribed by a licensed health care provider for the treatment of a condition related to the individual’s gender identity. “Gender-affirming treatment” includes, among other things, hormone therapy, hormone blockers, puberty blockers, and other treatments as prescribed to suppress the development of endogenous secondary sex characteristics, align the individual’s appearance or physical body with gender identity, and alleviate symptoms of clinically significant distress resulting from gender dysphoria.

Chapters 246 and 247 of 2023 established additional protections for information related to “legally protected health care” when that information is sought by another state. The Acts also prohibit (1) a health occupations board from taking specified disciplinary actions related to the provision of legally protected health care; (2) a medical professional liability insurer from taking specified adverse actions against a practitioner related to the practice of legally protected health care; and (3) specified State entities, agents, and employees from

participating in any interstate investigation seeking to impose specified liabilities or sanctions against a person for activity related to legally protected health care (with limited exception).

Chapter 863 of 2024 altered the definition of “legally protected health care” to include all gender-affirming treatment, including medications and supplies, related to the direct provision or support of the provision of care related to gender-affirming treatment that is lawful in the State. Thus, the additional protections and prohibitions established under Chapters 246 and 247 also apply to all gender-affirming treatment that is lawful in the State.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of costs for incarcerated individuals. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,339 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

**Local Expenditures:** Expenditures increase minimally as a result of the bill’s incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$140 to \$350 per incarcerated individual in recent years.

**Small Business Effect:** Small business health care practitioners are prohibited from providing cross-sex hormones or cross-sex hormone therapy to minors to treat a mental

health diagnosis associated with gender nonconformity and may be subject to a felony conviction with a punishment of imprisonment not exceeding life for violating the prohibition.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2025  
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