

The Senate Committee on Insurance and Labor offered the following substitute to SB 39:

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 and applicability; to repeal conflicting laws; and for
9 other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 The General Assembly finds that:

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

16 (2) Senate Bill 140 enacted by the General Assembly in the 2023 regular session broadly
17 banned physicians from performing sex reassignment surgeries, hormone replacement
18 therapies, and other gender transition procedures on minors, and similar bills from other
19 states have been upheld by a federal appeals court;

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

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

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

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

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

36

SECTION 2.

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

40 "45-18-4.

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

- 42 (1) 'Abortion' shall have the same meaning as provided in Code Section 31-9A-2.
- 43 (2) 'Gender' means the psychological, behavioral, social, and cultural aspects of being
44 male or female.
- 45 (3) 'Gender-affirming care' means healthcare, such as hormone therapy or sex
46 reassignment surgery, to attempt to affirm an individual's perception of such individual's
47 sex that is inconsistent with such individual's sex.
- 48 (4) 'Hormone therapy' means treatment that adds, blocks, or removes hormones for the
49 purpose of assisting an individual in attempting to alter such individual's sex or to alter
50 the appearance of such individual's sex that is inconsistent with such individual's sex.
- 51 (5) 'Sex' means the biological state of being male or female, in the context of
52 reproductive potential or capacity, based on the individual's sex organs, chromosomes,
53 naturally occurring sex hormones, gonads, and internal and external genitalia present at
54 birth, including secondary sex characteristics, without regard to an individual's
55 psychological, chosen, or subjective identification of gender.
- 56 (6) 'Sex reassignment surgery' means any surgical procedure that seeks to surgically alter
57 or remove healthy or nondiseased physical or anatomical characteristics or features that
58 are typical for an individual's sex in order to instill or create physiological or anatomical
59 characteristics that resemble a sex different from such individual's sex. Such term means
60 genital or nongenital surgery performed for the purpose of assisting an individual with
61 attempting to alter such individual's sex or to alter the appearance of or affirm such
62 individual's perception of his or her gender or sex if such appearance or perception is
63 inconsistent with such individual's sex. Such term includes but is not limited to
64 castration, clitorrectomy, clitoroplasty, facial gender-affirming surgery, hysterectomy,
65 mammoplasty, mastectomy, metoidioplasty, oophorectomy, orchiectomy, ovariectomy,
66 penectomy, phalloplasty, scrotoplasty, vaginectomy, vaginoplasty, vasectomy, voice
67 feminization or masculinization surgery, and vulvoplasty, and any healthcare services
68 before or after such surgery.

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

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

84 (1) Treatments for medical conditions other than gender dysphoria or for the purpose of
85 sex reassignment where such treatments are deemed medically necessary;

86 (2) Treatments for individuals born with a medically verifiable disorder of sex
87 development, including individuals born with ambiguous genitalia or chromosomal
88 abnormalities resulting in ambiguity regarding the individual's biological sex;

89 (3) Treatments for individuals with partial androgen insensitivity syndrome; and

90 (4) Any other treatments for similar conditions to the extent permitted under the state
91 health benefit plan approved by the board as such plan existed on January 1, 2025."

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SECTION 3.

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

95 "49-4-159.5.

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

98 **SECTION 4.**

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

102 "50-1-14.

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

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

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

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

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

117 **SECTION 5.**

118 This Act shall become effective on January 1, 2026, and shall apply to all state health benefit
119 plans issued, delivered, issued for delivery, or renewed in this state on or after such date.

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SECTION 6.

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