

# State of Wisconsin



2025 Senate Bill 405

Date of enactment:  
Date of publication\*:

## 2025 WISCONSIN ACT

**AN ACT** to create 895.039 of the statutes; **relating to:** a civil cause of action for a minor injured by a gender transition procedure.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 895.039 of the statutes is created to read:

**895.039 Performing gender transition procedures on minors; liability.** (1) **DEFINITIONS.** In this section:

(a) 1. "Gender transition procedure" means a medical or surgical service, including a physician's service, inpatient or outpatient hospital service, or prescribed drug, related to gender transition that seeks to do any of the following:

a. Alter or remove an individual's physical or anatomical characteristics or features that are typical for the individual's biological sex.

b. Instill or create for an individual physiological or anatomical characteristics that resemble a sex different from the individual's biological sex, including a medical service that provides puberty-blocking drugs, cross-sex hormones, or another mechanism to promote the development of feminizing or masculinizing features in a sex different from the individual's biological sex, or genital or nongenital gender reassignment surgery performed for the purpose of assisting an individual with a gender transition.

2. Notwithstanding subd. 1., "gender transition procedure" does not include any of the following:

a. A service provided to an individual born with a medically verifiable disorder of sexual development, including an individual with external biological sex characteristics that are irresolvably ambiguous, such as an individual born with 46,XX chromosomes with virilization, with 46,XY chromosomes with undervirilization, or having both ovarian and testicular tissue.

b. A service provided to an individual when a physician has diagnosed a sexual development disorder and the physician has determined through genetic or biochemical testing that the individual does not have the normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a biological male or biological female.

c. The treatment of an infection, injury, disease, or disorder that is caused or exacerbated by the performance of a gender transition procedure, regardless of whether the gender transition procedure was performed in accordance with state or federal law.

d. A procedure undertaken because an 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 surgery is performed.

(b) "Health care provider" has the meaning given in s. 146.81 (1) (a) to (hp).

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\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(c) “Mental health professional” means any of the following:

1. A physician licensed under subch. II of ch. 448 who specializes in psychiatry.
2. A psychologist licensed under ch. 455.
3. A professional counselor licensed under ch. 457.
4. A marriage and family therapist licensed under ch. 457.
5. A social worker certified or licensed under ch. 457.

(d) “Minor” means an individual who is under 18 years of age.

(2) CIVIL CAUSES OF ACTION. A health care provider who performs a gender transition procedure on a minor is liable to the minor if the minor is injured, including any physical, psychological, emotional, or physiological injury, by the gender transition procedure or related treatment or the aftereffects of the gender transition procedure or related treatment. The minor, or the minor’s parent, legal guardian, or legal representative, may bring a civil action against the health care provider for any of the following damages:

- (a) Declaratory or injunctive relief.
- (b) Compensatory damages.
- (c) Punitive damages.
- (d) If the prevailing party, reasonable attorney fees and costs.

(3) LIMITATION OF ACTIONS. An action under this section shall be commenced before the minor has attained the age of 33 years or, if the minor dies before attaining the age of 33 years, the date on which the minor would have attained the age of 33 years.

(4) SAFE HARBOR. It is a defense to an action brought under this section if, before a health care provider performs a gender transition procedure on a minor, all of the following occur:

(a) The health care provider documents the minor’s perceived gender or perceived sex for at least 2 continuous years, and the minor’s perceived gender or perceived sex is invariably inconsistent with the minor’s biological sex throughout the 2-year period.

(b) To the extent that the minor suffers from a mental health concern, at least 2 health care providers, including at least one mental health professional, certifies in writing that the gender transition procedure is the only way to treat the mental health concern.

(c) The health care provider receives the voluntary and informed consent of the minor and the minor’s parent or legal guardian.

**SECTION 2. Initial applicability.**

(1) This act first applies to a gender transition procedure performed on the effective date of this subsection.