

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H

D

HOUSE BILL 805
Committee Substitute Favorable 5/6/25
PROPOSED SENATE COMMITTEE SUBSTITUTE H805-PCS10543-CE-20

Short Title: Prevent Sexual Exploitation/Women and Minors.

(Public)

Sponsors:

Referred to:

April 8, 2025

A BILL TO BE ENTITLED
AN ACT TO OFFICIALLY RECOGNIZE TWO SEXES IN NORTH CAROLINA, TO
PREVENT THE SEXUAL EXPLOITATION OF WOMEN AND MINORS, TO LIMIT
THE USE OF STATE FUNDING, TO MODIFY THE LAW RELATED TO BIRTH
CERTIFICATES, TO MODIFY THE LAW RELATED TO CIVIL REMEDIES FOR
GENDER TRANSITION PROCEDURES ON NON-MINORS, TO ALLOW STUDENTS
WITH RELIGIOUS OBJECTIONS TO BE EXCUSED FROM CERTAIN CLASSROOM
DISCUSSIONS OR ACTIVITIES, AND TO ALLOW PARENT ACCESS TO LIBRARY
BOOKS.

Whereas, on January 20, 2025, President Donald J. Trump issued Executive Order 14168, titled "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," which affirms that the United States recognizes only two sexes—male and female—as immutable and grounded in biological reality; and

Whereas, the General Assembly finds that North Carolina must provide clarity, certainty, and uniformity to its laws by requiring that the laws and policies of the State reflect and apply biologically grounded definitions of sex; and

Whereas, the General Assembly must ensure compliance with Executive Order 14168 and federal policy directives issued by the federal government to maintain eligibility for any and all federal funding and program participation; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1.(a) Chapter 12 of the General Statutes is amended by adding a new section to read:

"§ 12-3.3. Official recognition of two sexes in all administrative rules, regulations, or public policies adopted by the State of North Carolina or its political subdivisions.

The following definitions shall apply to all administrative rules, regulations, or public policies adopted by the State of North Carolina or its political subdivisions, unless otherwise specified:

- (1) Biological sex. – 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) Boy. – A minor human male.
- (3) Father. – A male parent.



* H 8 0 5 - P C S 1 0 5 4 3 - C E - 2 0 *

(4) Female. – A term that when used to refer to a natural person, means a person belonging, at conception, to the sex characterized by a reproductive system with the biological function of producing ova (eggs).

(5) Gender identity. – A term that means an individual's self-declared identity that may not align with biological sex and, being a subjective internal sense, shall not be treated as legally or biologically equivalent to sex.

(6) Girl. – A minor human female.

(7) Male. – A term that when used to refer to a natural person, means a person belonging, at conception, to the sex characterized by a reproductive system with the biological function of producing sperm.

(8) Man. – An adult human male.

(9) Mother. – A female parent.

(10) Woman. – An adult human female."

SECTION 1.(b) This section becomes effective January 1, 2026.

SECTION 2.(a) Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 51A.

"Prevent Sexual Exploitation of Women and Minors.

"§ 66-505. Short title; definitions.

(a) This Article shall be known and may be cited as the "Prevent Sexual Exploitation of Women and Minors Act."

(b) The following definitions apply in this Article:

(1) Authorized representative. – With respect to an individual:

a. A person authorized in writing under State or other applicable law by the individual to act on behalf of the individual with regard to the matter in question; or

b. In the case of an individual under the age of 18, a parent or legal guardian of the individual.

(2) Coerced consent. – Purported consent obtained from a person lacking the capacity to consent or obtained from a person with capacity to consent under any of the following circumstances:

a. Through fraud, duress, misrepresentation, undue influence, or nondisclosure.

b. Through exploiting or leveraging the person's (i) immigration status, (ii) pregnancy, (iii) disability, (iv) substance abuse disorder, (v) juvenile status, or (vi) economic circumstances.

(3) Consent. – An agreement that is informed and thorough and does not include coerced consent.

(4) Distribute. – As defined in G.S. 66-500.

(5) Eligible person. – An individual depicted in the pornographic image who has not provided consent, or who has withdrawn consent in compliance with the laws applicable to the jurisdiction, for the distribution of the pornographic image, or an authorized representative of that individual.

(6) Intimate visual depiction. – Any visual depiction of an individual meeting all of the following criteria:

a. The individual is reasonably identifiable from the visual depiction itself or information displayed in connection with the visual depiction, including through (i) facial recognition, (ii) an identifying marking on the individual, including a birthmark, piercing, or tattoo, (iii) an identifying feature of the background of the visual depiction, (iv) voice matching, or (v) written confirmation from an individual who is

responsible, in whole or in part, for the creation or development of the visual depiction.

b. The individual depicted is engaging in sexual activity or the exposed or substantially exposed genitals, anus, pubic area, or post-pubescent female nipple of the individual depicted is visible.

(7) Online entity. – An individual or group of individuals working together or an entity defined in G.S. 66-500.

(8) Online entity operator. – A provider for an online entity that qualifies as a sexually oriented business as defined by G.S. 160D-902(f) or which is subject to G.S. 66-501 because it publishes or distributes material on a website that contains a substantial portion of material harmful to minors.

(9) Performer. – Any person portrayed in a visual depiction engaging in, or assisting another person to engage in, sexual activity.

(10) Pornographic image. – A visual depiction of actual or feigned sexual activity or an intimate visual depiction.

(11) Publish. – As defined in G.S. 66-500.

(12) Sexual activity. – As defined in G.S. 14-190.13.

(13) Visual depiction. – Any photograph, film, video, picture, digital image, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means.

"§ 66-506. Age verification obligations.

(a) An online entity operator may not publish or allow a user to publish a pornographic image to the online entity unless the operator has verified that all of the following criteria are met for each individual appearing in the pornographic image:

(1) The individual was not less than 18 years of age when the pornographic image was created.

(2) The individual has provided explicit written evidence of consent for each act of sexual activity in which the individual engaged during the creation of the pornographic image.

(3) The individual has provided explicit written consent for the distribution of the specific pornographic image.

(b) Separate consent is required for the act of sexual activity and for distribution of the intimate visual depiction, as follows:

(1) Consent for sex act. – Consent described in subdivision (2) of subsection (a) of this section does not imply or constitute evidence of consent described in subdivision (3) of that subsection.

(2) Consent for distribution of image. – Consent described in subdivision (3) of subsection (a) of this section does not imply or constitute evidence of consent described in subdivision (2) of that subsection.

(c) To carry out the obligations of subsection (a) of this section, an online entity operator shall obtain all of the following from the user or entity seeking to publish the pornographic image or through other means:

(1) Written consent from each individual appearing in the pornographic image that includes:

a. The name, date of birth, and signature of the individual.

b. A statement that the individual is not less than 18 years of age, unless no reasonable person could conclude that the individual is less than 30 years of age.

c. A statement that the consent is for distribution of the specific pornographic image.

d. A statement that explains coerced consent and that the individual has the right to withdraw the individual's consent at any time.

(2) Not less than one form of valid identification for each individual appearing in the pornographic image (i) issued by an agency of the federal government or of a state, local, or foreign government; and (ii) containing the name, date of birth, signature, and photograph of the individual; and on which the name, date of birth, and signature of the individual match the name, date of birth, and signature of the individual on the consent form required under subsection (a) of this section.

"§ 66-507. Removal of images.

(a) An online entity operator shall establish a procedure for removing a pornographic image from the online entity at the request of a person and designate one or more employees of the operator to be responsible for handling requests for removal of pornographic images.

(b) An online entity operator shall display a prominently visible notice on the website or mobile application of the online entity that provides instructions on how a person can request the removal of a pornographic image.

(c) If an online entity operator receives a request from an eligible person or a law enforcement officer acting pursuant to a valid court order, through any request mechanism offered by the operator under subsection (b) of this section, to remove a pornographic image that is being hosted by the online entity without the consent of an individual who appears in the pornographic image, the operator shall remove the pornographic image as quickly as possible, and in any event not later than 72 hours after receiving the request.

(d) If an online entity operator receives a request from a person other than an eligible person or law enforcement officer acting pursuant to a court order, through any request mechanism offered by the operator under subsection (b) of this section, to remove a pornographic image that is being hosted by the online entity without the consent of an individual who appears in the pornographic image, then not later than 72 hours after receiving the request, the operator shall do the following:

(1) Review the records of the operator with respect to the pornographic image to determine whether the pornographic image was published to the platform in accordance with the verification requirements of G.S. 66-506; and

(2) Remove the pornographic image if the operator determines that the pornographic image was not published to the platform in accordance with the verification requirements of G.S. 66-506.

(e) An online entity operator shall remove a pornographic image temporarily if any question arises as to the consent of a performer. This requirement is in addition to the requirements of subsections (c) and (d) of this section.

(f) At the request of a performer, a pornographic image distributed or published by an online entity operator must be removed within 72 hours of the request being made, regardless of the age or consent of the performer.

(g) In the case of a pornographic image that has been removed from an online entity in accordance with this section, the online entity operator shall block the pornographic image, and any altered or edited version of the pornographic image, from being distributed on or published to the online entity again.

"§ 66-508. Obligations of users.

(a) A user of an online entity may not distribute or publish a pornographic image of an individual to the online entity without the consent of the individual.

(b) For purposes of subsection (a) of this section, whether an individual has provided consent to the publishing of a pornographic image shall be determined in accordance with this Article.

"§ 66-509. Enforcement.

(a) Violations of this Article are subject to the imposition of civil penalties. In determining the amount of the penalty, the Attorney General shall consider the degree and extent of harm caused by the violation. A civil penalty under this Article shall accrue on a per day and per image basis. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The Attorney General may impose a civil penalty on any online entity operator that violates this Article in an amount of not more than ten thousand dollars (\$10,000) for each day during which a pornographic image remains on the online entity, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(c) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(b) in an amount of not more than ten thousand dollars (\$10,000) for each day during which the online entity remains in violation, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(d) The Attorney General may impose a civil penalty on any online entity operator that violates G.S. 66-507(c) in an amount of not more than five thousand dollars (\$5,000) for each day during which the online entity remains in violation of that subsection, beginning 24 hours after the Attorney General provides notice of the violation to the operator.

(e) An online entity operator shall not be liable for a violation of this Article if, in allowing the publishing of a pornographic image to the online entity, the operator reasonably relied on verification materials that were later found to be in violation of this Article, provided that the operator removes the pornographic image not later than 24 hours after receiving notice that the verification materials are in violation of this Article.

(f) If an online entity operator fails to remove a pornographic image within 24 hours of receiving notice that the verification materials are in violation of this Article, damages shall be calculated with respect to each day on or after the date on which that 24-hour period expires.

(g) If an online entity operator violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the online entity operator for damages in an amount equal to (i) ten thousand dollars (\$10,000) for each day during which a pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis, or (ii) actual damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

(h) If a user of an online entity violates this Article with respect to a pornographic image, any eligible person may bring a civil action against the user for damages in an amount equal to (i) ten thousand dollars (\$10,000) for each day during which the pornographic image remains on the online entity in violation of this Article, calculated on a per day and per image basis, or (ii) actual damages, whichever is greater. A prevailing eligible person shall be awarded attorneys' fees.

"§ 66-510. Severability.

If any provision of this Article is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of this Article that can be given effect without the invalid or unenforceable provision or application and, to this end, the provisions of this Article are severable."

SECTION 2.(b) This section becomes effective December 1, 2025, and applies to acts or omissions occurring before, on, or after that date.

SECTION 3.(a) G.S. 143C-6-5.6 reads as rewritten:

"§ 143C-6-5.6. Limitation on use of State funds for gender transition procedures.

(a) The following definitions apply in this section:

(1) Cross-sex hormones. – As defined in G.S. 90-21.150.

(2) Minor. – As defined in G.S. 90-21.150.

(3) Puberty-blocking drugs. – As defined in G.S. 90-21.150.

(4) Surgical gender transition procedure. – As defined in G.S. 90-21.150.

(b) No State funds may be used, directly or indirectly, for the performance of or in furtherance of surgical gender transition procedures, or to provide puberty-blocking drugs or cross-sex hormones to a minor, or to support the administration of any governmental health plan or government-offered insurance policy offering surgical gender transition procedures, puberty-blocking drugs, or cross-sex hormones to a minor.

(b1) No State funds may be used, directly or indirectly, for the performance of or in furtherance of surgical gender transition procedures, or to provide puberty-blocking drugs or cross-sex hormones to any prisoner incarcerated in the State prison system or the Statewide Misdemeanor Confinement Program or otherwise in the custody of the Department of Adult Correction, or to support the administration of any governmental health plan or government-offered insurance policy offering surgical gender transition procedures, puberty-blocking drugs, or cross-sex hormones to any prisoner incarcerated in the State prison system or the Statewide Misdemeanor Confinement Program or otherwise in the custody of the Department of Adult Correction. Nothing in this subsection shall be construed to prevent State funds from being used, directly or indirectly, to address medical complications resulting in imminent physical harm, including the treatment of any infection, injury, disease, or disorder that has been caused by or exacerbated by a previously performed or privately funded gender transition procedure.

(c) ~~Subsection (b)~~ Subsections (b) and (b1) of this section shall not apply to the State Health Plan for Teachers and State Employees."

SECTION 3.(b) This section becomes effective July 1, 2025. Subsection (c) of G.S. 143C-6-5.6 expires 30 days after the Memorandum and Order, dated June 10, 2022, or the permanent injunction ordered therein in Kadel v. Folwell, 1:19CV272 is vacated, overturned, or is no longer in force. The State Health Plan for Teachers and State Employees shall notify the Revisor of Statutes if the order or injunction is vacated, overturned, or no longer in force.

SECTION 3.1.(a) Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Gender Transition Procedures on Non-Minors.

"§ 90-21.175. Civil remedies for gender transition procedures on non-minors.

(a) Unless the context requires otherwise, the definitions provided in G.S. 90-21.150 apply in this section.

(b) Unless an action is brought pursuant to G.S. 90-21.154, a cause of action for malpractice under G.S. 1-15 arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender transition shall be commenced within 10 years from the time of discovery by the injured party of both the injury and the causal relationship between the treatment and the injury against the offending medical professional or entity.

(c) A medical professional or entity may not seek a contractual waiver of the liability arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender transition. Any attempted waiver is contrary to the public policy of this State and is null and void.

(d) G.S. 90-21.19 does not apply to damages for a cause of action arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender transition."

SECTION 3.1.(b) This section is effective when it becomes law and applies to causes of action accruing before, on, or after that date. This section revives any cause of action arising out of the performance of or failure to perform services while in the course of facilitating or perpetuating gender transition otherwise time-barred under G.S. 1-15, whether or not such cause of action has been asserted in a pending civil action or appeal.

SECTION 3.2.(a) G.S. 115C-47 reads as rewritten:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- (33b) To Excuse Students with Religious Objections. – Local boards of education shall adopt policies to allow a student or the student's parent or guardian to request that the student be excused from specific classroom discussions, activities, or assigned readings that the student, parent, or guardian believes would (i) impose a substantial burden on the student's religious beliefs or (ii) invade the student's privacy by calling attention to the student's religion. To the extent practicable, the local board of education shall provide advance notice to students, parents, and guardians of the discussions, activities, or assigned readings. If a student is excused from a classroom discussion, activity, or assigned reading, the school shall provide the student with an alternative activity or assignment aligned with the standard course of study.
- (33c) To Allow Parent Access to Library Books. – Local boards of education shall adopt policies related to library books consistent with G.S. 115C-98.1.

...."

SECTION 3.2.(b) This section is effective when it becomes law.

SECTION 3.3.(a) Article 3 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-98.1. Parent access to library books.

(a) For the purposes of this section, the term "library books" means electronic, print, and nonprint resources, excluding textbooks, for independent use by students and school personnel outside of the standard course of study for any grade or course. Library books may be held in a formal school library or in a classroom.

(b) Local boards of education shall adopt policies that do all of the following:

- (1) Provide ongoing public access through a searchable web-based catalog to the titles of any library books available at each school within the local school administrative unit. Each school shall display its catalog on the homepage of its website.
- (2) Allow a parent or guardian of a student to identify any library books that may not be borrowed by the student. A student shall not be permitted to borrow any library books identified by the student's parent or guardian pursuant to this subdivision."

SECTION 3.3.(b) This section is effective when it becomes law and applies beginning with the 2025-2026 school year.

SECTION 4.(a) G.S. 130A-118 reads as rewritten:

"§ 130A-118. Amendment of birth and death certificates.

...

(f) When the sex of a person is changed on an amended or new birth certificate issued under subsection (a) or (b)(4) of this section, the State Registrar shall attach the new certificate to the certificate of birth then on file and shall preserve both certificates as a multi-page document. The State Registrar shall forward a copy of the new certificate to the register of deeds of the county of birth. The register of deeds of the county of birth shall attach the new certificate to the copy of the certificate of birth on file. The register of deeds shall preserve both certificates as a multi-page document. Thereafter, when a certified copy of the certificate of birth of the person is issued, it shall be a copy of the multi-page document. The State Registrar shall adopt rules and policies to implement these requirements."

SECTION 4.(b) This section is effective when it becomes law.

1 **SECTION 4.1.** If any section or provision of this act is declared unconstitutional or
2 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
3 the part so declared to be unconstitutional or invalid.

4 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
5 law.