

HB 712-FN - VERSION ADOPTED BY BOTH BODIES

27Mar2025... 1138h
06/05/2025 1987s
06/05/2025 2506s
06/05/2025 2508s
26Jun2025... 2862CofC
26Jun2025... 2926EBA

2025 SESSION

25-0438
05/09

HOUSE BILL **712-FN**

AN ACT limiting breast surgeries for minors, relative to residential care and health facility licensing, and relative to the collection and reporting of abortion statistics by health care providers and medical facilities.

SPONSORS: Rep. Mazur, Hills. 44; Rep. Kofalt, Hills. 32; Rep. Reinfurt, Hills. 29; Rep. Seidel, Hills. 29; Rep. DeVito, Rock. 8; Rep. Litchfield, Rock. 32; Rep. Notter, Hills. 12; Rep. Noble, Hills. 2; Rep. Colcombe, Hills. 30; Rep. Layon, Rock. 13; Sen. Murphy, Dist 16; Sen. Sullivan, Dist 18

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill:

I. Limits breast surgeries for minors to only those procedures needed to treat malignancy, injury, infection, or malformation and those needed to reconstruct the breasts after such procedures.

II. Requires the collection and reporting of certain abortion statistics by health care providers, medical facilities, and the department of health and human services. The reporting requirement replaces a provision in the fetal life protection act stating that nothing in the subdivision shall be construed as creating or recognizing a right to abortion.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

1 V. "Transgender chest surgery" means surgery to remove the breasts of a biological female
2 through mastectomy or to increase the size of breasts of a biological male through augmentation
3 mammoplasty, except in cases where such surgery is physiologically necessary, or is reconstructive
4 in nature. In this paragraph, "physiologically necessary" refers to interventions, procedures,
5 medications, or therapies essential for maintaining or restoring normal physiological function,
6 preventing life-threatening conditions, or ensuring survival by addressing critical bodily needs, such
7 as stabilizing vital systems, correcting severe imbalances, or supporting essential biological
8 processes.

9 329:53 Prohibitions and Enforcement.

10 I. Pursuant to this subdivision and RSA 332-M, no physician shall perform transgender
11 chest surgery on a person under 18 years of age.

12 II. No physician shall perform breast surgery on a person under 18 years of age unless one
13 or more of the following conditions are met:

14 (a) The procedure is subsequent to a diagnosis of cancer which necessitates such a
15 procedure as part of a treatment plan;

16 (b) The procedure is needed to remove malignant tissue and an appropriate margin, and
17 lymph nodes as indicated;

18 (c) Reconstruction of breast tissue to restore the breasts after injury or infection which
19 requires the removal of breast tissue to restore the physical health of the person;

20 (d) The procedure is needed to correct gynecomastia and symptomatic macromastia; or

21 (e) Treatment of congenital deformities of the breast and/or chest wall.

22 III. A violation of this subdivision is unprofessional conduct and is subject to discipline by
23 the board of medicine under RSA 329, in conjunction with the office of professional licensure and
24 certification under RSA 310. A violation of this subdivision shall not be grounds for additional civil
25 liability, except as allowable by this subdivision and shall not be grounds for criminal liability.

26 IV. An individual under 18 years of age aggrieved by a violation of this subdivision may
27 bring an action in the superior court for damages and injunctive relief against any person who has
28 committed a violation of this subdivision.

29 V. An individual under 18 years of age may bring an action during their minority through a
30 parent or next friend, or may bring an action in their own name upon reaching majority. A person
31 shall bring a claim for a violation of this subdivision no later than 2 years after the minor aggrieved
32 by the violation reaches the age of majority.

33 VI. Notwithstanding any other provision of law, an action under this subdivision may be
34 commenced, and relief may be granted, in a judicial proceeding without regard to whether the person
35 commencing the action has sought or exhausted available administrative remedies.

36 VII. Notwithstanding RSA 507-E or any other provision of law, the plaintiff may recover
37 damages for all injuries, including but not limited to any costs incurred for any subsequent

1 procedures, therapies, prescriptions, or other treatments related to the unlawful medical procedure
2 or treatment.

3 VIII. In any action or proceeding to enforce a provision of this subdivision, a prevailing party
4 who establishes a violation of this subdivision shall recover reasonable attorneys' fees.

5 IX.(a) The attorney general shall have authority to bring suit to enforce compliance with this
6 subdivision.

7 (b) This subdivision shall not be construed to deny, impair, or otherwise affect any right
8 or authority of the attorney general, the State of New Hampshire, or any agency, officer, or employee
9 of the state, acting under any law other than this chapter, to institute or intervene in any
10 proceeding.

11 2 Title Change. Amend the title of RSA 332-M to read as follows:

12 CHAPTER 332-M

13 PROHIBITING ~~[GENITAL]~~ GENDER ~~[REASSIGNMENT]~~ SURGERY ON MINORS

14 3 Definition of Gender Reassignment Surgery Added. Amend RSA 332-M:2 by inserting after
15 paragraph III the following new paragraph:

16 III-a. "Gender surgery" includes genital gender reassignment surgery, transgender chest
17 surgery as defined in RSA 329:52, VI, facial feminization or masculinization surgery, and/or removal
18 of the reproductive organs for the purposes of gender identity including hysterectomy, oophorectomy,
19 salpingo-oophorectomy, and/or orchiectomy.

20 4 Prohibition of Gender Surgery on Minors. Amend RSA 332-M:3 to read as follows:

21 332-M:3 Prohibition of ~~[Genital]~~ Gender ~~[Reassignment]~~ Surgery on Minors.

22 I. A physician shall not perform ~~[genital]~~ gender ~~[reassignment]~~ surgery on minors in the
23 state of New Hampshire.

24 II. Physicians are not prohibited from performing:

25 (a) Reconstructive surgeries on ~~[the genitalia of]~~ minors to correct malformation,
26 malignancy, injury or physical disease;

27 (b) Removal of malignant, malformed, or otherwise damaged ~~[genitalia]~~ *tissue*;

28 (c) Genital surgeries on minors with disorders of sex development; ~~[or]~~

29 (d) Male circumcision; *or*

30 (e) *Breast surgery subject to the conditions of RSA 329:53, II.*

31 5 Enforcement. Amend RSA 332-M:4, I to read as follows:

32 I. Any ~~[referral for or]~~ provision of ~~[genital]~~ gender ~~[reassignment]~~ surgery to an individual
33 under 18 years of age is unprofessional conduct and is subject to discipline by the appropriate
34 licensing entity or disciplinary review board with competent jurisdiction in this state.

35 6 Residential Care and Health Facility Licensing; Proceedings of Residential Care Facility
36 Quality Assurance Program; Confidentiality. Amend RSA 151:5-c, I to read as follows:

1 I. To help assure quality care of residents in licensed residential care facilities, such
2 facilities ~~[may voluntarily]~~ **shall** maintain a quality assurance program for its residents as set forth
3 in this section.

4 7 Residential Care and Health Facility Licensing; Investigations and Consultations. Amend
5 RSA 151:6, I to read as follows:

6 I. The department of health and human services may investigate, in response to a complaint
7 alleging a violation of this chapter or when it has good reason to believe that the provisions of this
8 chapter or rules adopted under this chapter have been violated by any facility licensed under this
9 chapter **or agency required to be licensed in accordance with RSA 151:2, I** or any facility
10 providing **services beyond** room and board to 2 or more individuals unrelated to the owner or
11 manager. Such investigations shall be conducted in accordance with rules adopted by the
12 commissioner of the department of health and human services under RSA 151:9. The commissioner
13 of the department of health and human services shall, when necessary, seek the assistance of local
14 and state law enforcement authorities in order to complete its investigation. **Investigation results**
15 **shall be provided as a written report that identifies any noncompliance with this chapter**
16 **and applicable rules adopted under this chapter. The results of investigations shall be**
17 **posted on the department's website in the manner determined by the commissioner of the**
18 **department of health and human services. The results so posted shall indicate the**
19 **facilities and services investigated and the results for each such facility or service.**
20 **Investigation results shall not be subject to RSA 151:13.**

21 8 Residential Care and Health Facility Licensing; Annual Inspection. Amend RSA 151:6-a, II(c)
22 to read as follows:

23 (c) Facilities shall ~~[not]~~ be required to post notices to correct issued under subparagraph
24 (a) of this paragraph.

25 9 New Subparagraph; Residential Care and Health Facility Licensing; Annual Inspection.
26 Amend RSA 151:6-a, II by inserting after subparagraph (e) the following new subparagraph:

27 (f) The results of all inspections under this paragraph shall be posted to the
28 department's website in the manner determined by the commissioner of the department of health
29 and human services. The results so posted shall indicate the facilities and services inspected and
30 the results for each such facility or service. Inspection results shall not be subject to RSA 151:13.

31 10 Residential Care and Health Facility Licensing; Civil Fines. Amend RSA 151:16-b to read as
32 follows:

33 151:16-b Civil Fines. All ~~[administrative fines and other]~~ civil monetary penalties collected by
34 the department from facilities licensed under this chapter shall be kept by the state treasurer in a
35 separate, non-lapsing, interest bearing account. Interest earned on moneys deposited in the account
36 shall be deposited into the account. The moneys in the account shall be used by the department for
37 the protection of the health and property of residents of facilities licensed under this chapter.

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1 11 Residential Care and Health Facility Licensing; Patients' Bill of Rights. Amend RSA 151:21,
2 XXIII(b)(1)(D) to read as follows:

3 (D) Visitors are noncompliant with written [~~hospital~~] **facility** policy.

4 12 Residential Care and Health Facility Licensing; Patients' Bill of Rights. Amend RSA 151:21,
5 XXIII(f)(3)to read as follows:

6 (3) [~~Hospital~~] **Facility** visitation policy detailing the rights and responsibilities
7 specified in this paragraph, and the limitations placed upon those rights by written [~~hospital~~]
8 **facility** policy on its website.

9 13 Residential Care and Health Facility Licensing; Dementia Training for Direct Care Staff in
10 Residential Facilities; Continuing Education. Amend RSA 151:50 to read as follows:

11 151:50 Continuing Education. The commissioner shall adopt rules to require at least 6 hours of
12 initial [~~continuing~~] education for covered administrative staff members and covered direct service
13 staff members and shall require at least 4 hours of [~~ongoing training~~] **continuing education** each
14 calendar year. Such continuing education shall include new information on best practices in the
15 treatment and care of persons with dementia.

16 14 New Section; Collection and Reporting of Abortion Statistics. Amend RSA 329 by inserting
17 after section 49 the following new section:

18 329:49-a Collection and Reporting of Abortion Statistics.

19 I. Any health care provider who performs an abortion as defined in RSA 132:32, I, shall
20 report the following information in writing to the medical facility in which the abortion is performed:

- 21 (a) Date when the abortion was performed;
- 22 (b) County where the abortion was performed;
- 23 (c) Age group of the pregnant patient when the abortion was performed;
- 24 (d) Residence of patient as “in-state” or “out-of-state” when the abortion was performed;
- 25 (e) Method used to perform the abortion; and
- 26 (f) Estimated gestational age when the abortion was performed.

27 II. The aggregated report containing the information and data required by this section shall
28 be transmitted by the medical facility to the department of health and human services. These
29 reports shall not identify the patient or health care provider by name or include other personally
30 identifiable information.

31 III. The commissioner of the department of health and human services shall prepare from
32 these data such aggregated statistical trends and tables with respect to maternal health, abortion
33 methods, and estimated gestational age, and shall make an annual aggregated report thereof to the
34 general court.

35 IV. The commissioner of health and human services shall adopt rules, pursuant to RSA 541-
36 A, relative to:

- 37 (a) The form in which data shall be filed under paragraph I.

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1 (b) The cadence of reporting from medical facilities.

2 (c) Confidentiality of data collected and disclosed under this section subject to the
3 provisions of this section.

4 (d) Procedures and written requirements for obtaining, using, and protecting data
5 provided by the department of health and human services under this section.

6 V. Any medical facility that willfully fails to comply with the provisions of this section shall
7 be subject to an administrative fine of \$100 for each business day the facility remains in
8 noncompliance. Any individual who knowingly and willfully provides false information pursuant to
9 this section shall be guilty of a misdemeanor under RSA 638:3.

10 15 Effective Date.

11 I. Sections 10, 11, 12, and 13 of this act shall take effect July 1, 2025.

12 II. Sections 1, 6, 7, 8, and 9 of this act shall take effect 60 days after its passage.

13 III. Section 14 of this act shall take effect January 1, 2027.

14 IV. The remainder of this act shall take effect January 1, 2026.

**HB 712-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-1138h)**

AN ACT limiting breast surgeries for minors.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

| Estimated State Impact | | | | |
|-------------------------------|----------------|--|----------------|----------------|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| <i>Revenue Fund(s)</i> | None | | | |
| Expenditures* | \$0 | Indeterminable Increase more than \$10,000 to \$100,000 or less per fiscal year | | |
| <i>Funding Source(s)</i> | General Fund | | | |
| Appropriations* | \$0 | \$0 | \$0 | \$0 |
| <i>Funding Source(s)</i> | None | | | |

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill places limitations on permissible breast surgeries on people under the age of 18 to only those procedures needed to treat malignancy, injury, infection, or malformation and those needed to reconstruct the breasts after such procedures.

The Department of Health and Human Services (DHHS) states this bill could lead to an uncertain increase in General Fund expenditures, given that gender surgery for individuals under 19 is an extremely rare occurrence. Furthermore, DHHS suggests that the bill might result in minimal, if any, savings to Medicaid expenditures, as prohibiting breast surgery for minors could lead to the substitution of other services, potentially offsetting or exceeding any anticipated savings. The indeterminable increase in expenditures is anticipated to be more than \$10,000 to \$100,000 or less.

The Department of Justice (DOJ) states that the bill incorporates prohibitions in RSA 332-M which includes a provision to authorize the Attorney General to bring legal action to enforce the law, as well as other private rights actions. However, the fiscal impact is likely to be under \$10,000 although it is indeterminable as the amount of cases is unknown. Additionally, the DOJ could potentially be involved in any complaints of unprofessional conduct to the Office of Professional Licensure and Certification for legal guidance.

The Judicial Branch indicates that this bill would result in an increase of litigation under \$10,000.

This could possibly result in an increase in civil cases in the Superior Court, however, there is no way to predict how many such actions would occur so any such increase is indeterminable. The Judicial Branch has provided average cost information for civil cases in the Superior Court:

NH Judicial Branch Average Civil Case Estimates

| Judicial Branch Average Cost | FY 2025 | FY 2026 |
|--------------------------------------|----------------|----------------|
| Superior Court Complex Civil Case | \$1,430 | \$1,473 |
| Superior Court Routine Civil Case | \$535 | \$552 |

Common Civil Case Fees

| Superior Court Fees | As of 2/12/2020 |
|----------------------------|------------------------|
| Original Entry Fee | \$280 |
| Third-Party Claim | \$280 |
| Motion to Reopen | \$160 |

It is assumed that any fiscal impact would occur after FY 2025.

AGENCIES CONTACTED:

Department of Health and Human Services, Department of Justice, and Judicial Branch