

Proposition 135: Prohibit Surgery on Minors in Response to Perception of Sex or Gender

Placed on the ballot by citizen initiative • Passes with a majority vote

Proposition 135 proposes amending the Colorado statutes to:

- prohibit surgeries on minors that alter their biological sex characteristics as a treatment in response to a minor’s perception of sex or gender, with certain exceptions; and
- prohibit the use of state or federal funds or insurance coverage to pay for these surgeries.

What Your Vote Means

YES

A “yes” vote on Proposition 135 prohibits surgeries on minors that would alter their biological sex characteristics as a treatment in response to a minor’s perception of sex or gender, and prohibits the use of government funds or health insurance to pay for the surgeries.

NO

A “no” vote on Proposition 135 maintains Colorado law, which protects access to surgery altering minors’ biological sex characteristics and allows public and private health insurance programs to pay for these surgeries.

Summary and Analysis of Proposition 135

What medical treatments are prohibited by Proposition 135?

The measure prohibits surgery on minors for the purpose of altering biological sex characteristics as a treatment in response to a minor’s perception of sex or gender. The measure does not list specific surgical procedures that are prohibited; instead, the prohibition is based on the reason that a surgery is performed on a minor. The prohibition includes gender-affirming surgeries, which are a range of procedures that may be provided to transgender individuals to make their physical appearance match their gender identity. Examples include altering, removing, or reconstructing sexual and reproductive organs; modifying body shape; changing facial appearance; or altering vocal characteristics. The measure may also limit other surgeries for minors, including non-transgender minors, if the treatment is interpreted as being in response to the minor’s sex or gender perception.

Proposition 135 allows male circumcision and treatments for medically verifiable disorders of sex development or acquired physical or chemical abnormalities. Non-surgical gender-related

treatments, such as social transition options and counseling, are also not restricted by the measure.

How does Proposition 135 change coverage for these procedures?

Currently in Colorado, gender- and sex-based surgeries that are medically necessary may be covered by private health insurance or a public health care program, or be paid for out-of-pocket. The measure bans the use of state or federal money, Medicaid reimbursements, and private health insurance to pay for the prohibited surgeries.

How often are these procedures performed on minors in the United States?

It is unknown how many minors receive gender- and sex-based surgeries that would be prohibited under the measure. However, one study found that gender-affirming surgery for transgender minors in the United States is rare. The study, from researchers at Harvard University, examined 2019 health insurance claim data and found that for every 100,000 youths aged 15 to 17, an estimated 2.1 youths who identified as transgender or gender diverse had at least one gender-affirming surgery. For youths aged 13 to 14, these surgeries are even more rare, with 0.1 youths having a surgery per 100,000 youths (or 1 in a million). Researchers found no cases of gender-affirming surgeries being performed on youths aged 12 and younger.

The three large pediatric surgical providers in Colorado—Children’s Hospital Colorado, Rocky Mountain Children’s, and Denver Health—report that they do not perform gender- or sex-based surgeries on transgender patients under 18 years of age.

Arguments For Proposition 135

- 1) Minors lack the maturity to make permanent, life-altering medical decisions. Like many other age-restricted rights and activities, gender-affirming surgeries should require a heightened level of maturity and the ability to make fully informed decisions. Until an individual is a legal adult, less invasive, non-surgical methods of providing gender-related care should be used. This ensures that the most permanent interventions are reserved for when a person is able to fully understand the risks and benefits of surgery as an adult.
- 2) More long-term data is needed to determine whether gender-affirming surgery is a necessary treatment option prior to adulthood. Some minors may regret undergoing irreversible gender-affirming surgical procedures. Surgeries have risks, and surgery on minors should only be contemplated if there are no other viable treatment options. Other states have limited gender-related treatment options available to minors, including surgical care.

Arguments Against Proposition 135

- 1) The measure creates an overly broad ban on gender- and sex-based surgeries that interferes with needed care for both transgender and non-transgender minors. In addition to banning gender-affirming surgeries, the narrow exceptions under the measure could limit the ability

of any youths to have surgeries for a range of reasons, both medical and cosmetic. The measure's ban is based on a minor's purpose in seeking treatment, which could lead to uncertainty for patients, physicians, and insurers. Insurers may use this ban to limit their coverage for a wide variety of treatments, and medical professionals may reduce the care they are willing to provide for fear of legal repercussions.

- 2) The measure delays medically recommended care, even when parents, patients, and medical providers all agree the care is necessary. Medical care decisions for minors should be individualized based on a patient's unique needs and well-established standards of care. Transgender youth already face stigmatization, harassment, and discrimination, and restricting gender-affirming surgical care may worsen mental health outcomes for minors, including anxiety, depression, social isolation, eating disorders, and risk for self-harm and suicide. Important medical decisions should be left to patients, families, and health care providers, not legislated at the ballot box.

Information about the organizations supporting and opposing this measure is available on the Colorado Secretary of State's website:

www.coloradosos.gov/pubs/elections/Initiatives/ballot/contacts/2026.html

Fiscal Impact of Proposition 135

State and Local Government Spending

Proposition 135 will minimally increase workload and costs for the Department of Regulatory Agencies, which regulates health care professionals and insurers, to update rules and materials pertaining to gender- and sex-based surgeries and to handle complaints if prohibited surgeries are performed or paid for. Similarly, various state and local government agencies that employ health care professionals, such as the Department of Human Services and county hospitals, among others, will have additional workload to update their policies to ensure that their employees follow the measure. Legal costs may also increase for the state and local governments to respond to any allegations of noncompliance. Assuming health care professionals, insurance companies, and government agencies comply with the measure, any impact on state and local spending is expected to be minimal.

Proposition 135 may also slightly decrease state spending on health programs and employee health insurance from no longer paying for certain surgeries for minors related to gender perception. Specifically, to the extent the state Medicaid program covers these surgeries for minors, spending will decrease. Similarly, if private insurance companies no longer cover these surgeries, it may minimally contribute to lower health insurance premiums for state and local governments. Overall, any savings are expected to be minimal.