REFERENCE TITLE: gender transition; prohibitions; public monies

State of Arizona Senate Fifty-fifth Legislature Second Regular Session 2022

SB 1138

Introduced by Senator Petersen

AN ACT

AMENDING TITLE 32, CHAPTER 32, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-3230; RELATING TO HEALTH PROFESSIONALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 32, chapter 32, article 1, Arizona Revised Statutes, is amended by adding section 32-3230, to read:

32-3230. <u>Prohibition of gender transition procedures for minors; public monies prohibited; enforcement; definitions</u>

- A. A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL MAY NOT PROVIDE GENDER TRANSITION PROCEDURES TO ANY INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE. A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL MAY NOT REFER ANY INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE TO ANY HEALTH CARE PROFESSIONAL FOR GENDER TRANSITION PROCEDURES. A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL IS NOT PROHIBITED FROM PROVIDING ANY OF THE FOLLOWING PROCEDURES THAT ARE NOT GENDER TRANSITION PROCEDURES TO AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE:
- 1. SERVICES TO PERSONS BORN WITH A MEDICALLY VERIFIABLE DISORDER OF SEX DEVELOPMENT, INCLUDING A PERSON WITH EXTERNAL BIOLOGICAL SEX CHARACTERISTICS THAT ARE IRRESOLVABLY AMBIGUOUS, SUCH AS BEING BORN WITH FORTY-SIX XX CHROMOSOMES WITH VIRILIZATION OR FORTY-SIX XY CHROMOSOMES WITH UNDERVIRILIZATION OR HAVING BOTH OVARIAN AND TESTICULAR TISSUE.
- 2. SERVICES PROVIDED WHEN A PHYSICIAN HAS OTHERWISE DIAGNOSED A DISORDER OF SEXUAL DEVELOPMENT AND HAS DETERMINED THROUGH GENETIC OR BIOCHEMICAL TESTING THAT THE PERSON DOES NOT HAVE NORMAL SEX CHROMOSOME STRUCTURE, SEX STEROID HORMONE PRODUCTION OR SEX STEROID HORMONE ACTION.
- 3. THE TREATMENT OF ANY INFECTION, INJURY, DISEASE OR DISORDER THAT HAS BEEN CAUSED BY OR EXACERBATED BY THE PERFORMANCE OF GENDER TRANSITION PROCEDURES, WHETHER OR NOT THE GENDER TRANSITION PROCEDURE WAS PERFORMED IN ACCORDANCE WITH STATE AND FEDERAL LAW OR WHETHER OR NOT FUNDING FOR THE GENDER TRANSITION PROCEDURE IS ALLOWABLE UNDER THIS SECTION.
- 4. ANY PROCEDURE UNDERTAKEN BECAUSE THE 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. PUBLIC MONIES MAY NOT BE DIRECTLY OR INDIRECTLY USED, GRANTED, PAID OR DISTRIBUTED TO ANY ENTITY, ORGANIZATION OR INDIVIDUAL THAT PROVIDES GENDER TRANSITION PROCEDURES TO AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE. HEALTH CARE SERVICES FURNISHED IN THE FOLLOWING SITUATIONS MAY NOT INCLUDE GENDER TRANSITION PROCEDURES TO AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE:
- 1. BY OR IN A HEALTH CARE FACILITY OWNED BY THIS STATE OR A COUNTY OR LOCAL GOVERNMENT.
- 2. BY A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL EMPLOYED BY THE STATE OR A COUNTY OR LOCAL GOVERNMENT.

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- C. ANY AMOUNT PAID BY AN INDIVIDUAL OR AN ENTITY DURING A TAXABLE YEAR FOR GENDER TRANSITION PROCEDURES OR AS PREMIUMS FOR HEALTH CARE COVERAGE THAT INCLUDES COVERAGE FOR GENDER TRANSITION PROCEDURES IS NOT TAX-DEDUCTIBLE.
- D. THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM MAY NOT REIMBURSE OR PROVIDE COVERAGE FOR GENDER TRANSITION PROCEDURES TO AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE.
- E. ANY REFERRAL FOR OR PROVISION OF GENDER TRANSITION PROCEDURES TO AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE IS UNPROFESSIONAL CONDUCT AND IS SUBJECT TO DISCIPLINE BY THE APPROPRIATE LICENSING ENTITY OR HEALTH PROFESSION REGULATORY BOARD.
- F. A PERSON MAY ASSERT AN ACTUAL OR THREATENED VIOLATION OF THIS SECTION AS A CLAIM OR DEFENSE IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING AND OBTAIN COMPENSATORY DAMAGES, INJUNCTIVE RELIEF, DECLARATORY RELIEF OR ANY OTHER APPROPRIATE RELIEF. A PERSON SHALL BRING A CLAIM FOR A VIOLATION OF THIS SECTION NOT LATER THAN TWO YEARS AFTER THE DAY THE CAUSE OF ACTION ACCRUES. AN INDIVIDUAL WHO IS UNDER EIGHTEEN YEARS OF AGE MAY BRING AN ACTION THROUGHOUT THE INDIVIDUAL'S MINORITY THROUGH A PARENT OR NEXT FRIEND AND MAY BRING AN ACTION IN THE INDIVIDUAL'S OWN NAME ON REACHING EIGHTEEN YEARS OF AGE UNTIL TWENTY YEARS AFTER REACHING THE EIGHTEEN YEARS OF AGE.
- G. NOTWITHSTANDING ANY OTHER LAW, AN ACTION UNDER THIS SECTION MAY BE COMMENCED, AND RELIEF MAY BE GRANTED, IN A JUDICIAL PROCEEDING WITHOUT REGARD TO WHETHER THE PERSON COMMENCING THE ACTION HAS SOUGHT OR EXHAUSTED AVAILABLE ADMINISTRATIVE REMEDIES. IN ANY ACTION OR PROCEEDING TO ENFORCE THIS SECTION, A PREVAILING PARTY WHO ESTABLISHES A VIOLATION OF THIS SECTION SHALL RECOVER REASONABLE ATTORNEY FEES.
- H. THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENFORCE COMPLIANCE WITH THIS SECTION. THIS SECTION DOES NOT DENY, IMPAIR OR OTHERWISE AFFECT ANY RIGHT OR AUTHORITY OF THE ATTORNEY GENERAL, THIS STATE OR ANY AGENCY, OFFICER OR EMPLOYEE OF THIS STATE, ACTING UNDER ANY LAW OTHER THAN THIS SECTION, TO INSTITUTE OR INTERVENE IN ANY PROCEEDING.
- I. A HEALTH BENEFITS PLAN UNDER AN INSURANCE POLICY OR OTHER PLAN PROVIDING HEALTH CARE COVERAGE IN THIS STATE MAY NOT INCLUDE REIMBURSEMENT FOR GENDER TRANSITION PROCEDURES FOR A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE. A HEALTH BENEFITS PLAN UNDER AN INSURANCE POLICY OR OTHER PLAN PROVIDING HEALTH CARE COVERAGE IN THIS STATE IS NOT REQUIRED TO PROVIDE COVERAGE FOR GENDER TRANSITION PROCEDURES.
 - J. FOR THE PURPOSES OF THIS SECTION:
- 1. "BIOLOGICAL SEX" MEANS 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.

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- 2. "CROSS-SEX HORMONES" MEANS EITHER OF THE FOLLOWING:
- (a) TESTOSTERONE OR OTHER ANDROGENS GIVEN TO BIOLOGICAL FEMALES IN AMOUNTS THAT ARE LARGER OR MORE POTENT THAN WOULD NORMALLY OCCUR NATURALLY IN HEALTHY BIOLOGICAL SEX FEMALES.
- (b) ESTROGEN GIVEN TO BIOLOGICAL MALES IN AMOUNTS THAT ARE LARGER OR MORE POTENT THAN WOULD NORMALLY OCCUR NATURALLY IN HEALTHY BIOLOGICAL SEX MALES.
- 3. "GENDER" MEANS THE PSYCHOLOGICAL, BEHAVIORAL, SOCIAL AND CULTURAL ASPECTS OF BEING MALE OR FEMALE.
 - 4. "GENDER REASSIGNMENT SURGERY":
- (a) MEANS ANY MEDICAL OR SURGICAL SERVICE THAT SEEKS TO SURGICALLY ALTER OR REMOVE HEALTHY PHYSICAL OR ANATOMICAL CHARACTERISTICS OR FEATURES THAT ARE TYPICAL FOR AN INDIVIDUAL'S BIOLOGICAL SEX IN ORDER TO INSTILL OR CREATE PHYSIOLOGICAL OR ANATOMICAL CHARACTERISTICS THAT RESEMBLE A SEX DIFFERENT FROM THE INDIVIDUAL'S BIOLOGICAL SEX.
- (b) INCLUDES GENITAL OR NONGENITAL GENDER REASSIGNMENT SURGERY PERFORMED FOR THE PURPOSE OF ASSISTING AN INDIVIDUAL WITH A GENDER TRANSITION.
- 5. "GENDER TRANSITION" MEANS THE PROCESS IN WHICH A PERSON GOES FROM IDENTIFYING WITH AND LIVING AS A GENDER THAT CORRESPONDS TO THE PERSON'S BIOLOGICAL SEX TO IDENTIFYING WITH AND LIVING AS A GENDER DIFFERENT FROM THE PERSON'S BIOLOGICAL SEX AND MAY INVOLVE SOCIAL, LEGAL OR PHYSICAL CHANGES.
 - 6. "GENDER TRANSITION PROCEDURES":
- (a) MEANS ANY MEDICAL OR SURGICAL SERVICE, INCLUDING PHYSICIAN SERVICES, INPATIENT AND OUTPATIENT HOSPITAL SERVICES OR PRESCRIBED DRUGS RELATED TO GENDER TRANSITION, THAT SEEKS TO EITHER:
- (i) ALTER OR REMOVE PHYSICAL OR ANATOMICAL CHARACTERISTICS OR FEATURES THAT ARE TYPICAL FOR THE INDIVIDUAL'S BIOLOGICAL SEX.
- (ii) INSTILL OR CREATE PHYSIOLOGICAL OR ANATOMICAL CHARACTERISTICS THAT RESEMBLE A SEX DIFFERENT FROM THE INDIVIDUAL'S BIOLOGICAL SEX, INCLUDING MEDICAL SERVICES THAT PROVIDE PUBERTY-BLOCKING DRUGS, CROSS-SEX HORMONES OR OTHER MECHANISMS TO PROMOTE THE DEVELOPMENT OF FEMINIZING OR MASCULINIZING FEATURES IN THE OPPOSITE BIOLOGICAL SEX OR GENITAL OR NONGENITAL GENDER REASSIGNMENT SURGERY PERFORMED FOR THE PURPOSE OF ASSISTING AN INDIVIDUAL WITH A GENDER TRANSITION.
 - (b) DOES NOT INCLUDE ANY OF THE FOLLOWING:
- (i) SERVICES TO PERSONS BORN WITH A MEDICALLY VERIFIABLE DISORDER OF SEX DEVELOPMENT, INCLUDING A PERSON WITH EXTERNAL BIOLOGICAL SEX CHARACTERISTICS THAT ARE IRRESOLVABLY AMBIGUOUS, SUCH AS BEING BORN WITH FORTY-SIX XX CHROMOSOMES WITH VIRILIZATION OR FORTY-SIX XY CHROMOSOMES WITH UNDERVIRILIZATION OR HAVING BOTH OVARIAN AND TESTICULAR TISSUE.

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- (ii) SERVICES PROVIDED WHEN A PHYSICIAN HAS OTHERWISE DIAGNOSED A DISORDER OF SEXUAL DEVELOPMENT AND HAS DETERMINED THROUGH GENETIC OR BIOCHEMICAL TESTING THAT THE PERSON DOES NOT HAVE NORMAL SEX CHROMOSOME STRUCTURE, SEX STEROID HORMONE PRODUCTION OR SEX STEROID HORMONE ACTION.
- (iii) THE TREATMENT OF ANY INFECTION, INJURY, DISEASE OR DISORDER THAT HAS BEEN CAUSED BY OR EXACERBATED BY THE PERFORMANCE OF GENDER TRANSITION PROCEDURES, WHETHER OR NOT THE GENDER TRANSITION PROCEDURE WAS PERFORMED IN ACCORDANCE WITH STATE AND FEDERAL LAW OR WHETHER NOT FUNDING FOR THE GENDER TRANSITION PROCEDURE IS ALLOWABLE UNDER THIS SECTION.
- (iv) ANY PROCEDURE UNDERTAKEN BECAUSE THE 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.
- 7. "GENITAL GENDER REASSIGNMENT SURGERY" MEANS A MEDICAL PROCEDURE PERFORMED FOR THE PURPOSE OF ASSISTING AN INDIVIDUAL WITH A GENDER TRANSITION, INCLUDING ANY OF THE FOLLOWING:
- (a) SURGICAL PROCEDURES SUCH AS PENECTOMY, ORCHIECTOMY, VAGINOPLASTY, CLITOROPLASTY OR VULVOPLASTY FOR BIOLOGICALLY MALE PATIENTS OR HYSTERECTOMY OR OVARIECTOMY FOR BIOLOGICALLY FEMALE PATIENTS.
- (b) RECONSTRUCTION OF THE FIXED PART OF THE URETHRA WITH OR WITHOUT A METOIDIOPLASTY.
- (c) PHALLOPLASTY, VAGINECTOMY, SCROTOPLASTY OR IMPLANTATION OF ERECTION OR TESTICULAR PROSTHESES FOR BIOLOGICALLY FEMALE PATIENTS.
- 8. "HEALTH CARE PROFESSIONAL" MEANS A HEALTH PROFESSIONAL AS DEFINED IN SECTION 32-3201.
- 9. "NONGENITAL GENDER REASSIGNMENT SURGERY" MEANS MEDICAL PROCEDURES PERFORMED FOR THE PURPOSE OF ASSISTING AN INDIVIDUAL WITH A GENDER TRANSITION, INCLUDING EITHER OF THE FOLLOWING:
- (a) SURGICAL PROCEDURES FOR BIOLOGICALLY MALE PATIENTS, SUCH AS AUGMENTATION MAMMOPLASTY, FACIAL FEMINIZATION SURGERY, LIPOSUCTION, LIPOFILLING, VOICE SURGERY, THYROID CARTILAGE REDUCTION, GLUTEAL AUGMENTATION, HAIR RECONSTRUCTION OR VARIOUS AESTHETIC PROCEDURES.
- (b) SURGICAL PROCEDURES FOR BIOLOGICALLY FEMALE PATIENTS, SUCH AS SUBCUTANEOUS MASTECTOMY, VOICE SURGERY, LIPOSUCTION, LIPOFILLING, PECTORAL IMPLANTS OR VARIOUS AESTHETIC PROCEDURES.
- 10. "PHYSICIAN" MEANS A PERSON WHO IS LICENSED PURSUANT TO CHAPTER 13 OR 17 OF THIS TITLE.
- 11. "PUBERTY-BLOCKING DRUGS" MEANS GONADOTROPIN-RELEASING HORMONE ANALOGUES OR OTHER SYNTHETIC DRUGS USED IN BIOLOGICAL MALES TO STOP LUTEINIZING HORMONE SECRETION AND TESTOSTERONE SECRETION, OR SYNTHETIC DRUGS USED IN BIOLOGICAL FEMALES WHICH STOP THE PRODUCTION OF ESTROGENS AND PROGESTERONE, WHEN USED TO DELAY OR SUPPRESS PUBERTAL DEVELOPMENT IN CHILDREN FOR THE PURPOSE OF ASSISTING AN INDIVIDUAL WITH A GENDER TRANSITION.

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 12. "PUBLIC MONIES" MEANS STATE, COUNTY OR LOCAL GOVERNMENT MONIES, IN ADDITION TO ANY DEPARTMENT, AGENCY OR INSTRUMENTALITY AUTHORIZED OR APPROPRIATED UNDER STATE LAW OR DERIVED FROM ANY FUND IN WHICH SUCH MONIES ARE DEPOSITED.

Sec. 2. Legislative right of intervention

The legislature, by joint resolution, may appoint one or more of its members who sponsored or cosponsored this act in the member's official capacity to intervene or defend the statute as a matter of right in any case in which the constitutionality or enforceability of this act or any portion of this act or any rule adopted pursuant to this act is challenged.

Sec. 3. Legislative findings

The legislature finds that:

- 1. Arizona has a compelling governmental interest in protecting the health and safety of its citizens, especially vulnerable children.
- 2. Only a small percentage of the American population experiences distress at identifying with their biological sex.
- 3. For the small percentage of children who are gender-nonconforming or who experience distress at identifying with their biological sex, studies consistently demonstrate that the majority come to identify with their biological sex in adolescence or adulthood, thereby rendering most physiological interventions unnecessary.
- 4. Furthermore, scientific studies show that individuals experiencing distress at identifying with their biological sex often experienced psychopathology preceding their gender dysphoria, which indicates these individuals should be encouraged to seek mental health services.
- 5. Even among people who have undergone inpatient gender reassignment procedures, suicide rates, psychiatric morbidities and mortality rates remain markedly elevated above the background population.
- 6. Some healthcare providers are prescribing puberty-blocking drugs, such as gonadotropin-releasing hormone analogues, in order to delay the onset or progression of puberty in children who experience distress at identifying with their biological sex. Puberty-blocking drugs are being prescribed despite the lack of any long-term longitudinal studies evaluating the risks and benefits of using these drugs for the treatment of such distress or gender transition.
- 7. Health care providers are also prescribing cross-sex hormones for children who experience distress at identifying with their biological sex, despite the fact that no randomized clinical trials have been conducted on the efficacy or safety of the use of cross-sex hormones in adults or children for the purpose of treating such distress or gender transition.

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- 8. The use of cross-sex hormones comes with serious known risks, such as:
 - (a) For biological females:
 - (i) Erythrocytosis, which is an increase in red blood cells.
 - (ii) Severe liver dysfunction.
 - (iii) Coronary artery disease, including heart attacks.
 - (iv) Cerebrovascular disease, including strokes.
 - (v) Hypertension.
 - (vi) Increased risk of breast and uterine cancers.
- 10 (vii) Irreversible infertility.
 - (b) For biological males.
 - (i) Thromboembolic disease, including blood clots.
 - (ii) Cholelithiasis, including gallstones.
- 14 (iii) Coronary artery disease, including heart attacks.
 - (iv) Macroprolactinoma, which is a tumor of the pituitary gland.
 - (v) Cerebrovascular disease, including strokes.
 - (vi) Hypertriglyceridemia, which is an elevated level of tryglycerides in the blood.
 - (vii) Breast cancer.
 - (viii) Irreversible infertility.
 - 9. Genital and nongenital gender reassignment surgeries are generally not recommended for children, although evidence indicates referrals for children to have such surgeries are becoming more frequent.
 - 10. Genital gender reassignment surgery includes several irreversible invasive procedures for males and females and involves the alteration of biologically healthy and functional body parts, including:
 - (a) For biological males:
 - - (ii) Orchiectomy, which is the removal of the testicles.
 - (iii) Vaginoplasty, which is the construction of a vagina-like structure, typically through a penile inversion procedure.
 - (iv) Clitoroplasty, which is the construction of a clitoris-like structure.
 - (v) Vulvoplasty, which is the construction of a vulva-like structure.
 - (b) For biological females:
 - (i) A hysterectomy or oophorectomy.
 - (ii) Reconstruction of the urethra.
 - (iii) Genital reconstruction including metoidioplasty or phalloplasty, which is the construction of a penis-like structure.
 - (iv) Vaginectomy, which is the removal of the vagina.
- 43 (v) Scrotoplasty, which is the construction of a penis-like and 44 scrotum-like structure.
 - (vi) Implantation of erection or testicular prostheses.

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- 11. The complications, risks and long-term care concerns associated with genital gender reassignment surgery for both males and females are numerous and complex.
- 12. Nongenital gender reassignment surgery includes various invasive procedures for males and females and also involves the alteration or removal of biologically normal and functional body parts, including:
 - (a) For biological males:
 - (i) Augmentation mammoplasty.
 - (ii) Facial feminization surgery.
 - (iii) Liposuction.
- (iv) Lipofilling.
 - (v) Voice surgery.
 - (vi) Thyroid cartilage reduction.
- (vii) Gluteal augmentation.
 - (viii) Hair reconstruction.
 - (ix) Other aesthetic procedures.
 - (b) For biological females:
 - (i) A subcutaneous mastectomy.
 - (ii) Voice surgery.
 - (iii) Liposuction.
 - (iv) Lipofilling.
 - (v) Pectoral implants.
 - (vi) Other aesthetic procedures.
 - 13. It is an accepted principle of economics and public policy that when a service or product is subsidized or reimbursed, demand for that service or product is increased. Between 2015 and 2016, gender reassignment surgeries increased by nearly twenty percent in the United States.
 - 14. It is of grave concern to the legislature that the medical community, despite the lack of studies showing that the benefits of such extreme interventions outweigh the risks, is allowing individuals who experience distress at identifying with their biological sex to be subjects of irreversible and drastic nongenital gender reassignment surgery and irreversible, permanently sterilizing genital gender reassignment surgery, which may actually increase the risk of suicide.
 - Sec. 4. Short title

This act may be cited as the "Arizona's Children Deserve Help Not Harm Act".

- Sec. 5. Effective date; purpose
- A. This act is effective from and after March 31, 2023.
- B. The effective date of this act is delayed so that minors in this state who are currently using puberty-blocking drugs or cross-sex hormones have time for appropriate medication tapering and discontinuation under the care of the minor's physician or other health care professional.

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