

118TH CONGRESS
1ST SESSION

S. _____

To amend chapter 110 of title 18, United States Code, to prohibit gender-affirming care on minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. VANCE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend chapter 110 of title 18, United States Code, to prohibit gender-affirming care on minors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Children’s In-
5 nocence Act”.

- 1 “(II) orchiectomy;
- 2 “(III) scrotoplasty;
- 3 “(IV) vasectomy;
- 4 “(V) hysterectomy;
- 5 “(VI) oophorectomy;
- 6 “(VII) ovariectomy;
- 7 “(VIII) metoidioplasty;
- 8 “(IX) penectomy;
- 9 “(X) phalloplasty;
- 10 “(XI) vaginoplasty;
- 11 “(XII) vaginectomy;
- 12 “(XIII) vulvoplasty;
- 13 “(XIV) reduction
- 14 thyrochondroplasty;
- 15 “(XV) chondrolaryngoplasty; and
- 16 “(XVI) mastectomy.
- 17 “(ii) Any plastic surgery that femi-
- 18 nizes or masculinizes the facial features of
- 19 the individual for the purposes described in
- 20 clause (i).
- 21 “(iii) Any placement of chest implants
- 22 in the individual to create feminine breasts
- 23 for the purposes described in clause (i).
- 24 “(iv) Any placement of fat or artificial
- 25 implants in the gluteal region of the indi-

1 vidual for the purposes described in clause
2 (i).

3 “(v) Administering, supplying, pre-
4 scribing, dispensing, distributing, or other-
5 wise conveying to the individual medica-
6 tions for the purposes described in clause
7 (i), including—

8 “(I) gonadotropin-releasing hor-
9 mone (commonly known as ‘GnRH’)
10 analogues or other puberty-blocking
11 drugs to stop or delay normal pu-
12 berty;

13 “(II) testosterone or other
14 androgens to a biological female at
15 doses that are supraphysiologic to the
16 female sex; and

17 “(III) estrogen to a biological
18 male at doses that are
19 supraphysiologic to the male sex.

20 “(B) EXCEPTION.—Subparagraph (A)
21 shall not apply to conduct with respect to the
22 following individuals:

23 “(i) An individual with both ovarian
24 and testicular tissue.

1 “(ii) An individual who does not have
2 normal sex chromosome structure, sex ster-
3 oid hormone production, or sex steroid hor-
4 mone action, as determined by a physician
5 through genetic or biochemical testing.

6 “(iii) An individual experiencing infec-
7 tion, disease, injury, or disorder caused or
8 exacerbated by previous gender transition
9 procedures.

10 “(iv) An individual suffering from a
11 physical disorder, physical injury, or phys-
12 ical illness that would, as certified by a
13 physician, place the individual in imminent
14 danger of death or impairment of a major
15 bodily function unless a procedure de-
16 scribed in that subparagraph is performed.

17 “(3) MINOR.—The term ‘minor’ means any in-
18 dividual under the age of 18 years.

19 “(b) PROHIBITION ON PERFORMING GENDER-AF-
20 FIRMING CARE ON MINORS.—

21 “(1) OFFENSE.—It shall be unlawful, in any
22 circumstance described in subsection (e), to know-
23 ingly perform any gender-affirming care on a minor.

1 “(2) PENALTY.—Any person who violates para-
2 graph (1) shall be fined under this title, imprisoned
3 for not more than 12 years, or both.

4 “(c) PROHIBITION ON PROSECUTION OF PERSON ON
5 WHOM INTERVENTION IS PERFORMED.—A person on
6 whom gender-affirming care is performed may not be ar-
7 rested or prosecuted for an offense under subsection (b).

8 “(d) CIVIL ACTION.—A person on whom gender-af-
9 firming care is performed in violation of subsection (b)
10 may bring a civil action in an appropriate district court
11 of the United States for appropriate relief, including com-
12 pensatory and punitive damages, against each person who
13 performed the gender-affirming care.

14 “(e) CIRCUMSTANCES DESCRIBED.—The cir-
15 cumstances referred to in subsection (b) are that—

16 “(1) the defendant or victim traveled in inter-
17 state or foreign commerce, or traveled using a
18 means, channel, facility, or instrumentality of inter-
19 state or foreign commerce, in furtherance of or in
20 connection with the conduct described in that sub-
21 section;

22 “(2) the defendant used a means, channel, fa-
23 cility, or instrumentality of interstate or foreign
24 commerce in furtherance of or in connection with
25 the conduct described in that subsection;

1 “(3) any payment of any kind was made, di-
2 rectly or indirectly, in furtherance of or in connec-
3 tion with the conduct described in that subsection
4 using any means, channel, facility, or instrumen-
5 tality of interstate or foreign commerce or in or af-
6 fecting interstate or foreign commerce;

7 “(4) the defendant transmitted in interstate or
8 foreign commerce any communication relating to or
9 in furtherance of the conduct described in that sub-
10 section—

11 “(A) using any means, channel, facility, or
12 instrumentality of interstate or foreign com-
13 merce; or

14 “(B) in or affecting interstate or foreign
15 commerce by any means or in any manner, in-
16 cluding by computer, mail, wire, or electro-
17 magnetic transmission;

18 “(5) any instrument, item, substance, or other
19 object that has traveled in interstate or foreign com-
20 merce was used to perform the conduct described in
21 that subsection;

22 “(6) the conduct described in that subsection
23 occurred in—

24 “(A) the special maritime and territorial
25 jurisdiction of the United States; or

1 “(B) a territory or possession of the
2 United States; or

3 “(7) the conduct described in that subsection
4 otherwise occurred in or affected interstate or for-
5 eign commerce.

6 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
7 tion shall be construed as prohibiting provision of the med-
8 ical services described in subsection (a)(2)(A) to address
9 legitimate health issues, such as any male or female repro-
10 ductive cancers, apart from changing the body of an indi-
11 vidual to correspond to a sex that differs from the individ-
12 ual’s biological sex.”; and

13 (2) in the table of sections, by adding at the
14 end the following:

“2260B. Gender-affirming care on minors.”.

15 **TITLE II—PROHIBITING FEDER-**
16 **ALLY FUNDED GENDER-AF-**
17 **FIRMING CARE**

18 **SEC. 201. PROHIBITING TAXPAYER-FUNDED GENDER-AF-**
19 **FIRMING CARE.**

20 Title 1, United States Code, is amended by adding
21 at the end the following:

22 **“CHAPTER 4—PROHIBITING TAXPAYER-**
23 **FUNDED GENDER-AFFIRMING CARE**

“301. Prohibition on funding for gender-affirming care.

“302. Prohibition on funding for health benefits plans that cover gender-affirm-
ing care.

“303. Limitation on Federal facilities and employees, Federal land and territories, and Tribal territories.

“304. Effect on separate coverage.

“305. Effect on use of non-Federal funds for health coverage.

“306. Application to complications arising from gender-affirming care.

“307. Application to individuals born with medically verifiable disorder of sex development.

“308. Gender-affirming care defined.

“309. Effect of chapter.

1 **“§ 301. Prohibition on funding for gender-affirming**
 2 **care**

3 “No funds authorized or appropriated by Federal
 4 law, and none of the funds in any trust fund to which
 5 funds are authorized or appropriated by Federal law, in-
 6 cluding funds provided under titles XVIII, XIX, and XXI
 7 of the Social Security Act, shall be expended for any gen-
 8 der-affirming care.

9 **“§ 302. Prohibition on funding for health benefits**
 10 **plans that cover gender-affirming care**

11 “No funds authorized or appropriated by Federal
 12 law, and none of the funds in any trust fund to which
 13 funds are authorized or appropriated by Federal law, shall
 14 be expended for health benefits coverage that includes cov-
 15 erage of gender-affirming care.

16 **“§ 303. Limitation on Federal facilities and employ-**
 17 **ees, Federal land and territories, and**
 18 **Tribal territories**

19 “Gender-affirming care may not be included in any
 20 health care service furnished by—

1 “(1) a health care facility owned or operated by
2 the Federal Government;

3 “(2) a health care facility operated on Federal
4 land, in a territory, or in a Tribal territory; or

5 “(3) any physician or other individual providing
6 health care services within the scope of the physi-
7 cian’s or individual’s employment who is—

8 “(A) employed by the Federal Government;

9 or

10 “(B) employed by a health care facility op-
11 erated on Federal land, in a territory, or in a
12 Tribal territory.

13 **“§ 304. Effect on separate coverage**

14 “Nothing in this chapter prohibits any individual, en-
15 tity, or State or locality from purchasing separate cov-
16 erage for gender-affirming care or health benefits coverage
17 that includes gender-affirming care, on the condition that
18 such coverage—

19 “(1) is paid for entirely using funds—

20 “(A) not authorized or appropriated by
21 Federal law; or

22 “(B) not received from Federal programs,
23 platforms, or infrastructure;

1 a State’s or locality’s contribution of Medicaid
2 matching funds.

3 **“§ 306. Application to complications arising from gen-
4 der-affirming care**

5 “Nothing in this chapter applies to the treatment of
6 any infection, injury, disease, or disorder that has been
7 caused or exacerbated by the performance of a gender-
8 affirming care, regardless of whether—

9 “(1) the gender-affirming care was performed
10 in accordance with Federal or State law; or

11 “(2) funding for the gender-affirming care is
12 permissible under section 307.

13 **“§ 307. Application to individuals born with medi-
14 cally verifiable disorder of sex develop-
15 ment**

16 “The prohibitions and limitations described in sec-
17 tions 301, 302, and 303 shall not apply to conduct with
18 respect to an individual described in section
19 2260B(a)(2)(B) of title 18.

20 **“§ 308. Gender-affirming care defined**

21 “For purposes of this chapter, the term ‘gender-af-
22 firming care’ has the meaning given such term in section
23 2260B of title 18.

1 **“§ 309. Effect of chapter**

2 “Nothing in this chapter prohibits the provision of
3 the medical services described in section 2260B(a)(2)(B)
4 of title 18, to address any male or female reproductive
5 cancers (other than medical services to change the body
6 of an individual to correspond to a sex that differs from
7 the individual’s biological sex).”.

8 **SEC. 202. AMENDMENT TO TABLE OF CHAPTERS.**

9 The table of chapters for title 1, United States Code,
10 is amended by adding at the end the following:

“4. Prohibiting taxpayer-funded gender-affirming care ... 301”.

11 **TITLE III—APPLICATION UNDER**
12 **THE AFFORDABLE CARE ACT**

13 **SEC. 301. CLARIFYING APPLICATION OF PROHIBITION TO**
14 **PREMIUM CREDITS AND COST-SHARING RE-**
15 **DUCTIONS UNDER ACA.**

16 (a) IN GENERAL.—

17 (1) DISALLOWANCE OF REFUNDABLE CREDIT
18 AND COST-SHARING REDUCTIONS FOR COVERAGE
19 UNDER QUALIFIED HEALTH PLAN WHICH PROVIDES
20 COVERAGE FOR GENDER-AFFIRMING CARE.—

21 (A) IN GENERAL.—Subparagraph (A) of
22 section 36B(c)(3) of the Internal Revenue Code
23 of 1986 is amended by inserting before the pe-
24 riod at the end the following: “or any health
25 plan that includes coverage for gender-affirming

1 care (other than any gender-affirming care or
2 treatment described in section 306 or 307 of
3 title 1, United States Code)”.
4

5 (B) OPTION TO PURCHASE OR OFFER SEP-
6 ARATE COVERAGE OR PLAN.—Paragraph (3) of
7 section 36B(c) of such Code is amended by
8 adding at the end the following new subpara-
9 graph:

10 “(C) SEPARATE COVERAGE OR PLAN FOR
11 GENDER-AFFIRMING CARE ALLOWED.—

12 “(i) OPTION TO PURCHASE SEPARATE
13 COVERAGE OR PLAN.—Nothing in subpara-
14 graph (A) shall be construed as prohibiting
15 any individual from purchasing separate
16 coverage for gender-affirming care de-
17 scribed in such subparagraph, or a health
18 plan that includes such gender-affirming
19 care, so long as no credit is allowed under
20 this section with respect to the premiums
21 for such coverage or plan and such cov-
22 erage or plan does not cover any practice
23 that would be subject to penalty under sec-
24 tion 2260B of title 18, United States
Code.

1 “(ii) OPTION TO OFFER COVERAGE OR
2 PLAN.—Nothing in subparagraph (A) shall
3 restrict any non-Federal health insurance
4 issuer offering a health plan from offering
5 separate coverage for gender-affirming
6 care described in such subparagraph, or a
7 plan that includes such gender-affirming
8 care, so long as premiums for such sepa-
9 rate coverage or plan are not paid for with
10 any amount attributable to the credit al-
11 lowed under this section (or the amount of
12 any advance payment of the credit under
13 section 1412 of the Patient Protection and
14 Affordable Care Act) and such coverage or
15 plan does not cover any practice that
16 would be subject to penalty under section
17 2260B of title 18, United States Code.”.

18 (2) DISALLOWANCE OF SMALL EMPLOYER
19 HEALTH INSURANCE EXPENSE CREDIT FOR PLAN
20 WHICH INCLUDES COVERAGE FOR GENDER-AFFIRM-
21 ING CARE.—Subsection (h) of section 45R of the In-
22 ternal Revenue Code of 1986 is amended—

23 (A) by striking “Any term” and inserting
24 the following:

25 “(1) IN GENERAL.—Any term”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(2) EXCLUSION OF HEALTH PLANS INCLUDING
4 COVERAGE FOR GENDER-AFFIRMING CARE.—

5 “(A) IN GENERAL.—The term ‘qualified
6 health plan’ does not include any health plan
7 that includes coverage for gender-affirming care
8 (other than any gender-affirming care or treat-
9 ment described in section 306 or 307 of title 1,
10 United States Code).

11 “(B) SEPARATE COVERAGE OR PLAN FOR
12 GENDER-AFFIRMING CARE ALLOWED.—

13 “(i) OPTION TO PURCHASE SEPARATE
14 COVERAGE OR PLAN.—Nothing in subpara-
15 graph (A) shall be construed as prohibiting
16 any employer from purchasing for its em-
17 ployees separate coverage for gender-af-
18 firming care described in such subpara-
19 graph, or a health plan that includes such
20 gender-affirming care, so long as no credit
21 is allowed under this section with respect
22 to the employer contributions for such cov-
23 erage or plan and such coverage does not
24 cover any practice that would be subject to

1 penalty under section 2260B of title 18,
2 United States Code.

3 “(ii) OPTION TO OFFER COVERAGE OR
4 PLAN.—Nothing in subparagraph (A) shall
5 restrict any non-Federal health insurance
6 issuer offering a health plan from offering
7 separate coverage for gender-affirming
8 care described in such subparagraph, or a
9 plan that includes such gender-affirming
10 care, so long as such separate coverage or
11 plan is not paid for with any employer con-
12 tribution eligible for the credit allowed
13 under this section and such coverage or
14 plan does not cover any practice that
15 would be subject to penalty under section
16 2260B of title 18, United States Code.”.

17 (b) APPLICATION TO MULTI-STATE PLANS.—Section
18 1334(a) of Public Law 111–148 (42 U.S.C. 18054(a)) is
19 amended by adding at the end the following:

20 “(8) COVERAGE CONSISTENT WITH FEDERAL
21 POLICY REGARDING GENDER-AFFIRMING CARE.—In
22 entering into contracts under this subsection, the
23 Director shall ensure that no multi-State qualified
24 health plan offered in an Exchange provides health
25 benefits coverage for which the expenditure of Fed-

1 eral funds is prohibited under chapter 4 of title 1,
 2 United States Code.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 subsection (a) shall apply to taxable years ending after
 5 the date that is one year after the date of enactment of
 6 this Act, but only with respect to plan years beginning
 7 after such date, and the amendment made by subsection
 8 (b) shall apply to plan years beginning after such date.

9 **TITLE IV—ADDITIONAL** 10 **PROVISIONS**

11 **SEC. 401. PROHIBITION ON INSTITUTIONS OF HIGHER EDU-** 12 **CATION AND ACCREDITING AGENCIES OR AS-** 13 **SOCIATIONS.**

14 (a) PROHIBITION ON INSTITUTIONS OF HIGHER
 15 EDUCATION.—Section 487(a) of the Higher Education
 16 Act of 1965 (20 U.S.C. 1094(a)) is amended by adding
 17 at the end the following:

18 “(30) The institution will not offer instruction
 19 in gender-affirming care (as defined in section
 20 2260B of title 18, United States Code).”.

21 (b) PROHIBITION ON ACCREDITING AGENCIES OR AS-
 22 SOCIATIONS.—Section 496(a) of the Higher Education
 23 Act of 1965 (20 U.S.C. 1099b(a)) is amended—

24 (1) by striking “and” at the end of paragraph
 25 (7);

1 (2) by striking the period at the end of para-
2 graph (8) and inserting “; and”; and

3 (3) by adding at the end the following:

4 “(9) such agency or association does not ac-
5 credit any institution that offers instruction in gen-
6 der-affirming care (as defined in section 2260B of
7 title 18, United States Code).”.

8 **SEC. 402. IMMIGRATION CONSEQUENCES WITH RESPECT**
9 **TO PROVIDING GENDER-AFFIRMING CARE.**

10 (a) DEFINITION OF GENDER-AFFIRMING CARE.—

11 Section 101(a) of the Immigration and Nationality Act (8
12 U.S.C. 1101(a)) is amended by adding at the end the fol-
13 lowing:

14 “(53) The term ‘gender-affirming care’ shall
15 have the meaning given such term in section 2260B
16 of title 18, United States Code.”.

17 (b) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR
18 ADMISSION.—Section 212(a)(1)(A) of the Immigration
19 and Nationality Act (8 U.S.C. 1182(a)(1)(A)) is amend-
20 ed—

21 (1) in clause (iii)(II), by striking “or” at the
22 end;

23 (2) in clause (iv), by striking the comma at the
24 end and inserting “, or”; and

25 (3) by inserting after clause (iv) the following:

1 “(v) who is determined to have per-
2 formed gender-affirming care on a child
3 that has not attained the age of 18 years
4 old.”.

5 (c) CLASSES OF DEPORTABLE ALIENS.—Section
6 237(a) of the Immigration and Nationality Act (8 U.S.C.
7 1227(a)) is amended by adding at the end the following:

8 “(8) GENDER-AFFIRMING CARE.—Any alien
9 who has performed gender-affirming care on a child
10 who has not attained the age of 18 years old is de-
11 portable.”.