

118TH CONGRESS
1ST SESSION

H. R. 3462

To require elementary schools and secondary schools that receive Federal funds to obtain parental consent before facilitating a child’s gender transition in any form, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2023

Mr. BANKS (for himself, Mrs. MILLER of Illinois, Mr. GOSAR, Mr. GROTHMAN, Mr. BABIN, Mr. DUNCAN, and Mr. LAMALFA) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require elementary schools and secondary schools that receive Federal funds to obtain parental consent before facilitating a child’s gender transition in any form, 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 “Empower Parents to
5 Protect Their Kids Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) School districts across the country are vio-
2 lating parental and familial rights by encouraging or
3 instructing staff to deceive or withhold information
4 from parents if their child expresses confusion about
5 their gender and is seeking to “transition”. Without
6 parental knowledge or consent, schools are facili-
7 tating “social gender transitions” by changing the
8 names and pronouns of children in school, or even
9 allowing children to change which sex-segregated fa-
10 cilities they use, such as rest rooms, locker rooms,
11 and dormitories or other housing for overnight field
12 trips.

13 (2) Powerful teachers unions and activist orga-
14 nizations are pressuring more schools to adopt poli-
15 cies to enable and encourage children, of any age, to
16 change their “gender identity” at school without pa-
17 rental notice or consent.

18 (3) Contrary to the unfounded assertions of ac-
19 tivists, “socially transitioning” a child is not an evi-
20 dence-based practice and it is not a neutral or
21 uncontroversial decision. This practice is an experi-
22 mental social and psychological intervention that has
23 immediate effects on a child’s psychology and a high
24 likelihood of changing the life path of a child. A “so-
25 cial gender transition” may make it more difficult

1 for a child to reverse course later on, thereby in-
2 creasing the likelihood that the child will continue on
3 to a “medical transition”, resulting in life-changing,
4 irreversible consequences.

5 (4) Any policies that attempt to circumvent pa-
6 rental authority are a violation of parents’ constitu-
7 tionally protected rights to direct the care, custody,
8 and upbringing of their children as recognized by
9 the Supreme Court. Further, policies that withhold
10 information from parents or ask children about inti-
11 mate details of their family life violate Federal stat-
12 utes designed to uphold a parent’s rights and duties
13 in education. School districts implementing such
14 policies are misrepresenting or entirely ignoring
15 these statutes and constitutional protections.

16 (5) Schools should never be allowed to intrude
17 on family life by misleading or excluding parents
18 and confusing children.

19 **SEC. 3. REQUIREMENT OF PARENTAL CONSENT.**

20 (a) IN GENERAL.—No Federal funds shall be made
21 available to any elementary school or secondary school un-
22 less the elementary school or secondary school, with re-
23 spect to students enrolled at the school who have not yet
24 reached 18 years of age, complies with each of the fol-
25 lowing requirements:

1 (1) School employees do not proceed with any
2 accommodation intended to affirm a student’s pur-
3 ported “gender identity”, where the student’s pur-
4 ported “gender identity” is incongruous with the
5 student’s biological sex, or any action to facilitate a
6 “gender transition”, including referral or rec-
7 ommendation to any third-party medical provider,
8 unless the employees have received express parental
9 consent to do so.

10 (2) School employees do not facilitate, encour-
11 age, or coerce students to withhold information from
12 their parents regarding the student’s “gender transi-
13 tion” or the student’s purported “gender identity”,
14 where the student’s purported “gender identity” is
15 incongruous with the student’s biological sex.

16 (3) School employees do not withhold or hide
17 information from parents about a student’s desired
18 “gender transition” or a student’s purported “gen-
19 der identity”, where the student’s purported “gender
20 identity” is incongruous with the student’s biological
21 sex.

22 (4) School employees do not encourage, pres-
23 sure, or coerce the parents of students, or students
24 themselves, to proceed with any treatment or inter-
25 vention to affirm the student’s purported “gender

1 identity”, where that “gender identity” is incon-
2 gruous with the student’s biological sex.

3 (b) RULES OF CONSTRUCTION.—Nothing in this sec-
4 tion shall be construed—

5 (1) to prevent a school employee from con-
6 tacting appropriate legal authorities about an immi-
7 nent threat to a student’s physical safety in the
8 event that the school employee knows or has a rea-
9 sonable suspicion that the student is at risk of phys-
10 ical abuse, as defined in section 1169 of title 18,
11 United States Code; or

12 (2) to deprive any parent of the right to be in-
13 volved in a child’s actions or discussions about gen-
14 der transition, without the due process of law.

15 (c) ENSURING COMPLIANCE.—The head of each Fed-
16 eral agency shall require each application for Federal as-
17 sistance submitted by a State educational agency or local
18 educational agency to the head of such Federal agency—

19 (1) to describe the steps that each elementary
20 school and secondary school served by the State edu-
21 cational agency or local educational agency proposes
22 to take to ensure compliance with the requirements
23 under this section and how these steps preserve and
24 protect the authority of the family; and

25 (2) to ensure that—

1 (A) a copy of the written policy that each
2 elementary school and secondary school served
3 by the State educational agency or local edu-
4 cational agency has to ensure compliance with
5 the requirements under this section is provided
6 to the head of such Federal agency and to the
7 families of enrolled students; and

8 (B) each such policy is clearly and publicly
9 posted on the website of the school.

10 (d) CIVIL ACTION FOR CERTAIN VIOLATIONS.—

11 (1) IN GENERAL.—A qualified party may, in a
12 civil action, obtain appropriate relief with regard to
13 a designated violation.

14 (2) ADMINISTRATIVE REMEDIES NOT RE-
15 QUIRED.—An action under this section may be com-
16 menced, and relief may be granted, without regard
17 to whether the party commencing the action has
18 sought or exhausted any available administrative
19 remedy.

20 (3) DEFENDANTS IN ACTIONS UNDER THIS
21 SECTION MAY INCLUDE GOVERNMENTAL ENTITIES
22 AS WELL AS OTHERS.—An action under this section
23 may be brought against any elementary school or
24 secondary school receiving Federal financial assist-

1 ance or any governmental entity assisting an elemen-
2 tary school or secondary school.

3 (4) NATURE OF RELIEF.—In an action under
4 this section, the court shall grant—

5 (A) all appropriate relief, including injunc-
6 tive relief and declaratory relief;

7 (B) to a prevailing plaintiff, reasonable at-
8 torneys' fees and litigation costs; and

9 (C) payment for treatments or therapy
10 needed to repair harm to the child perpetuated
11 by pursuit of “gender transition” determined
12 necessary by the parent and the child's medical
13 providers.

14 (5) ATTORNEYS FEES FOR DEFENDANT.—If a
15 defendant in a civil action under this subsection pre-
16 vails and the court finds that the plaintiff's suit was
17 frivolous, the court shall award a reasonable attor-
18 ney's fee in favor of the defendant against the plain-
19 tiff.

20 (e) DEFINITIONS.—In this section:

21 (1) BIOLOGICAL SEX.—The term “biological
22 sex” means the biological indication of male and fe-
23 male as determined by reproductive potential or ca-
24 pacity, such as sex chromosomes, naturally occurring
25 sex hormones, gonads, and nonambiguous internal

1 and external genitalia present at birth, without re-
2 gard to a person’s psychological, chosen, or subjec-
3 tive experience of gender.

4 (2) DESIGNATED VIOLATION.—The term “des-
5 ignated violation” means an actual or threatened
6 violation of this section.

7 (3) ESEA.—The terms “elementary school”
8 and “secondary school” have the meanings given the
9 terms in section 8101 of the Elementary and Sec-
10 ondary Education Act of 1965 (20 U.S.C. 7801).

11 (4) GENDER IDENTITY.—The term “gender
12 identity” means a person’s self-perception of their
13 gender or claimed gender, regardless of the person’s
14 biological sex.

15 (5) GENDER TRANSITION.—

16 (A) IN GENERAL.—The term “gender tran-
17 sition” includes both medical transition and so-
18 cial transition.

19 (B) MEDICAL TRANSITION.—The term
20 “medical transition” means any medical, hor-
21 monal, or surgical intervention undertaken to
22 alter the body of a person in order to assert an
23 identity incongruent with biological sex or un-
24 dertaken to create or facilitate the development
25 of physiological or anatomical characteristics

1 that resemble a sex different from the person’s
2 biological sex.

3 (C) SOCIAL TRANSITION.—The term “so-
4 cial transition” means any action taken to af-
5 firm a person’s asserted “gender identity” that
6 is in contradiction to the person’s biological sex,
7 including but not limited to decisions pertaining
8 to the use of sex-specific facilities and accom-
9 modations, participation in sex-segregated
10 sports or activities, pronoun and name usage,
11 boarding, sleeping and travel arrangements for
12 field trips (including overnight trips), and dress
13 code guidelines.

14 (6) GOVERNMENTAL ENTITY.—The term “gov-
15 ernmental entity” means a school district, a local
16 educational agency, a school board, or any agency or
17 other governmental unit or subdivision of a State re-
18 sponsible for education, or of such a local govern-
19 ment.

20 (7) QUALIFIED PARTY.—The term “qualified
21 party” means—

22 (A) the Attorney General of the United
23 States; or

1 (B) any parent or legal guardian adversely
2 affected by the designated violation.

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