

117TH CONGRESS  
2D SESSION

# H. R. 8171

To protect children from medical malpractice in the form of gender transition procedures.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2022

Mr. BANKS (for himself, Mr. LAMALFA, Mr. GOOD of Virginia, Mr. NORMAN, Mrs. HARSHBARGER, Mr. MANN, Mr. BABIN, and Mr. GROTHMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, Education and Labor, Natural Resources, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To protect children from medical malpractice in the form of gender transition procedures.

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 Minors from  
5 Medical Malpractice Act of 2022”.

1 **SEC. 2. PRIVATE RIGHT OF ACTION FOR A GENDER-TRANSI-**  
2 **TION PROCEDURE PERFORMED ON A MINOR.**

3 (a) IN GENERAL.—A medical practitioner, in any cir-  
4 cumstance described in subsection (c), who performs a  
5 gender-transition procedure on an individual who is less  
6 than 18 years of age shall, as described in subsection (b),  
7 be liable to the individual if injured (including any phys-  
8 ical, psychological, emotional, or physiological harms) by  
9 such procedure, related treatment, or the aftereffects of  
10 the procedure or treatment.

11 (b) PRIVATE RIGHT OF ACTION.—An individual cov-  
12 ered by subsection (a) who receives a gender-transition  
13 procedure from a medical practitioner (or a representative,  
14 including a legal guardian, on behalf of such individual)  
15 may, not later than the day that is 30 years after the date  
16 on which the individual turns 18 years of age, bring a civil  
17 action against such medical practitioner in a court of com-  
18 petent jurisdiction for—

- 19 (1) declaratory or injunctive relief;  
20 (2) compensatory damages;  
21 (3) punitive damages; and  
22 (4) attorney’s fees and costs.

23 (c) CIRCUMSTANCES.—For the purposes of sub-  
24 section (a), the circumstances described in this subsection  
25 are that—

1           (1) the medical practitioner or the individual re-  
2           ceiving the gender-transition procedure traveled in  
3           interstate or foreign commerce, or traveled using a  
4           means, channel, facility, or instrumentality of inter-  
5           state or foreign commerce, in furtherance of or in  
6           connection with the conduct described in subsection  
7           (a);

8           (2) the medical practitioner used a means,  
9           channel, facility, or instrumentality of interstate or  
10          foreign commerce in furtherance of or in connection  
11          with the conduct described in subsection (a);

12          (3) any payment of any kind was made, directly  
13          or indirectly, in furtherance of or in connection with  
14          the conduct described in subsection (a) using any  
15          means, channel, facility, or instrumentality of inter-  
16          state or foreign commerce or in or affecting inter-  
17          state or foreign commerce;

18          (4) the medical practitioner transmitted in  
19          interstate or foreign commerce any communication  
20          relating to or in furtherance of the conduct de-  
21          scribed in subsection (a) using any means, channel,  
22          facility, or instrumentality of interstate or foreign  
23          commerce or in or affecting interstate or foreign  
24          commerce by any means or in any manner, including

1 by computer, mail, wire, or electromagnetic trans-  
2 mission;

3 (5) any instrument, item, substance, or other  
4 object that has traveled in interstate or foreign com-  
5 merce was used to perform the conduct described in  
6 subsection (a);

7 (6) the conduct described in subsection (a) oc-  
8 curred within the special maritime and territorial ju-  
9 risdiction of the United States, or any territory or  
10 possession of the United States; or

11 (7) the conduct described in subsection (a) oth-  
12 erwise occurred in or affected interstate or foreign  
13 commerce.

14 **SEC. 3. PRESERVING FREEDOM OF CONSCIENCE AND MED-**  
15 **ICAL JUDGEMENT FOR MEDICAL PROVIDERS.**

16 Notwithstanding any other provision of law, no provi-  
17 sion of Federal law shall require, or be construed to re-  
18 quire, a medical practitioner to perform a gender-transi-  
19 tion procedure.

20 **SEC. 4. PROHIBITION ON FUNDING FOR CERTAIN STATES.**

21 Notwithstanding any other provision of law, any  
22 State that requires medical practitioners to perform any  
23 gender-transition procedure on an individual in the State  
24 shall be ineligible to receive any Federal funding from the  
25 Department of Health and Human Services.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) **BIOLOGICAL SEX.**—The term “biological  
4 sex” means the genetic classification of an individual  
5 as male or female, as reflected in the organization  
6 of the body of such individual for a reproductive role  
7 or capacity, such as through sex chromosomes, natu-  
8 rally occurring sex hormones, and internal and ex-  
9 ternal genitalia present at birth, without regard to  
10 the subjective sense of identity of the individual.

11 (2) **GENDER-TRANSITION PROCEDURE.**—

12 (A) **IN GENERAL.**—Except as provided in  
13 subparagraph (B), the term “gender-transition  
14 procedure” means—

15 (i) the prescription or administration  
16 of puberty-blocking drugs for the purpose  
17 of changing the body of an individual so  
18 that it conforms to the subjective sense of  
19 identity of the individual, in the case such  
20 identity is at odds with the individual’s bi-  
21 ological sex;

22 (ii) the prescription or administration  
23 of cross-sex hormones for the purpose of  
24 changing the body of an individual so that  
25 it conforms to the subjective sense of iden-  
26 tity of the individual, in the case such

1 identity is at odds with the individual’s bi-  
2 ological sex; or

3 (iii) a surgery to change the body of  
4 an individual so that it conforms to the  
5 subjective sense of identity of the indi-  
6 vidual, in the case such identity is at odds  
7 with the individual’s biological sex.

8 (B) EXCEPTION.—The term “gender-tran-  
9 sition procedure” does not include—

10 (i) an intervention described in sub-  
11 paragraph (A) that is performed on—

12 (I) an individual with biological  
13 sex characteristics that are inherently  
14 ambiguous, such as those born with  
15 46 XX chromosomes with virilization,  
16 46 XY chromosomes with  
17 undervirilization, or having both ovar-  
18 ian and testicular tissue; or

19 (II) an individual with respect to  
20 whom a physician has determined  
21 through genetic or biochemical testing  
22 that the individual does not have nor-  
23 mal sex chromosome structure, sex  
24 steroid hormone production, or sex

1                   steroid hormone action, for a biologi-  
2                   cal male or biological female;

3                   (ii) the treatment of any infection, in-  
4                   jury, disease, or disorder that has been  
5                   caused or exacerbated by the performance  
6                   of an intervention described in subpara-  
7                   graph (A) without regard to whether the  
8                   intervention was performed in accordance  
9                   with State or Federal law or whether the  
10                  intervention is covered by the private right  
11                  of action under section 2; or

12                  (iii) any procedure undertaken be-  
13                  cause the individual suffers from a physical  
14                  disorder, physical injury, or physical illness  
15                  that would, as certified by a physician,  
16                  place the individual in imminent danger of  
17                  death or impairment of major bodily func-  
18                  tion unless the procedure is performed.

19                  (3) MEDICAL PRACTITIONER.—The term “med-  
20                  ical practitioner” means a person who is licensed,  
21                  certified, or otherwise authorized by the laws of a  
22                  State to administer health care in the ordinary  
23                  course of the practice of the person’s profession.

1 **SEC. 6. EFFECTIVE DATE.**

2       This Act shall take effect on the date of enactment  
3 of this Act.

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