

## **A BILL**

To prohibit healthcare professionals, physicians, hospitals, or clinics from participating in the chemical or surgical mutilation of a child and to provide a private right of action for children and the parents of children whose healthy body parts have been damaged by medical professionals practicing chemical and surgical mutilation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Victims of Chemical or Surgical Mutilation Act.”

### **SEC. 2. DEFINITIONS.**

When used in this Act: -

(1) The term "chemical or surgical mutilation" means engaging in any one or more of the following: the use of puberty blockers, including GnRH agonists and other interventions, to delay the onset or progression of normally timed puberty in an individual who does not identify as his or her sex; the use of sex hormones, such as androgen blockers, estrogen, progesterone, or testosterone, to align an individual's physical appearance with an identity that differs from his or her sex; or surgical procedures that attempt to transform an individual's physical appearance or that attempt to alter or remove an individual's sexual organs to minimize or destroy their natural biological functions, to align with an identity that differs from his or her sex. Such term does not include:

(A) an intervention described in the previous sentence that is performed on an individual with biological sex characteristics that are inherently ambiguous, such as those born with 46 XX chromosomes with virilization, 46 XY chromosomes with undervirilization, or having both ovarian and testicular tissue, or who otherwise has a gender identity disorder that in fact results from a physical impairment such that it would not be excluded from the definition of disability as set forth in section 512 of the Americans with Disabilities Act of 1990.”;

(B) the treatment of any infection, injury, disease, or disorder that has been caused or exacerbated by the performance of an intervention described in the previous sentence without regard to whether the intervention was performed in accordance with State or Federal law or whether the intervention is covered by the private right of action under section 4;

(C) any intervention 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 unless the procedure is performed, not including any intervention for the purpose of alleviating mental

distress; or

(D) detransition treatment.

(2) The term "child" or "children" means an individual or individuals under 18 years of age.

(3) The term "detransition treatment" means any treatment, including a mental-health treatment, medical intervention, or surgery that—

(A) stops or reverses the effects of a prior chemical or surgical mutilation after the individual affirms his or her sex as defined in paragraph (8), or

(B) helps an individual cope with the effects of a prior chemical or surgical mutilation after the individual affirms his or her sex as defined in paragraph (8).

(4) The term "healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of a State to administer healthcare in the ordinary course of the practice of his or her profession or performing such acts which require such licensure.

(5) The term "mental health professional" means a person who is licensed to diagnose and treat mental health conditions in a State.

(6) The term "participate" means directly engage in the planning, authorization, prescription, administration, or performance of any act constituting chemical or surgical mutilation as defined in paragraph (1). Such term includes, but is not limited to—

(A) prescribing puberty blockers, sex hormones, or related medications with the intent to alter an individual's physical appearance or reproductive function to align with an identity differing from his or her sex;

(B) administering medications or treatments listed in subparagraph (A) with such intent, whether by injection, oral delivery, or other means;

(C) performing surgical procedures that attempt to transform an individual's physical appearance to confirm a patient's physical appearance to be of the alternate sex, or that alter or remove sexual organs as part of chemical or surgical mutilation;

(D) authorizing or directing such chemical or surgical mutilation procedures as a supervising physician, healthcare professional, or institutional representative; or

(E) knowingly planning or coordinating the provision of treatments or procedures described above in subparagraphs (A), (C), and (D) with the intent to facilitate chemical or surgical mutilation.

(7) The term "physician" means a person who is licensed to practice medicine in a State or performing such acts which require licensure in a State.

(8) The term "sex" means a person's immutable biological classification, determined at the moment of conception, as either male or female.

(A) The term "female" is a person who naturally has, had, will have, or would have—but for a congenital anomaly or intentional or unintentional disruption—the reproductive system that produces, transports, and utilizes the large gamete (ova) for fertilization.

(B) The term "male" is a person who naturally has, had, will have, or would have—but for a congenital anomaly or intentional or unintentional disruption—the reproductive system that produces, transports, and utilizes the small gamete (sperm) for fertilization.

### **SEC. 3. PROHIBITION– MUTILATION.**

(a) No healthcare professional, physician, hospital, or clinic shall, in a circumstance described in subsection (b), participate in the chemical or surgical mutilation of a child, as defined in section 2, except when such a treatment qualifies under an exception specified in subparagraphs (A) through (D) of section 2(1), as determined by clear and convincing evidence as established by the healthcare professional, physician, hospital, or clinic prior to commencing the procedure.

(b) The circumstances described in this subsection are that—

(1) the defendant or child traveled in interstate or foreign commerce, or traveled using a means, channel, facility, or instrumentality of interstate or foreign commerce, in furtherance of or in connection with the conduct described in subsection (a);

(2) the defendant used a means, channel, facility, or instrumentality of interstate or foreign commerce in furtherance of or in connection with the conduct described in subsection (a);

(3) any payment of any kind was made, directly or indirectly, in furtherance of or in connection with the conduct described in subsection (a) using any means, channel, facility, or instrumentality of interstate or foreign commerce or in or affecting interstate or foreign commerce;

(4) the defendant transmitted in interstate or foreign commerce any communication relating to or in furtherance of the conduct described in subsection (a) using any means, channel, facility, or instrumentality of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means or in manner, including by computer, mail, wire, or electromagnetic transmission;

(5) any instrument, item, substance, or other object that has traveled in interstate or foreign commerce was used to perform the conduct described in subsection (a);

(6) the conduct described in subsection (a) occurred within the District of Columbia, the special maritime and territorial jurisdiction of the United States, or any territory or possession of the United States; or

(7) the conduct described in subsection (a) otherwise occurred in or affected interstate or foreign commerce.

#### **SEC. 4. PRIVATE RIGHT OF ACTION.**

An individual subjected as a child to chemical or surgical mutilation prohibited by section 3, or the parents of such individual, may bring a civil action in an appropriate district court of the United States for damages against any healthcare professional, physician, hospital, or clinic, who participates in the chemical or surgical mutilation of that child. This includes, but is not limited to, compensatory damages, including all economic damages associated with undoing, correcting, or ameliorating the effects or results of any chemical or surgical mutilation procedures, and noneconomic damages for emotional distress and pain and suffering. Punitive damages may also be awarded if the claimant proves by clear and convincing evidence that the defendant against whom punitive damages are sought acted maliciously, intentionally, fraudulently or recklessly. After the date of enactment of this Act, any healthcare professional, physician, hospital, or clinic who participates in the chemical or surgical mutilation of that child is strictly liable for damages for acts occurring after such date, if the plaintiff can prove such participation by clear and convincing evidence. If such a treatment qualifies under an exception specified in subparagraphs (A) through (D) of section 2(1), and that is raised as an affirmative defense to a violation of this Act, the burden of proving by clear and convincing evidence that such treatment qualifies as such an exception shall belong to the healthcare professional, physician, hospital, or clinic.

#### **SEC. 5. RULES OF CONSTRUCTION.**

Under this Act:

(1) No private right of action is created for counseling, referrals to mental health professionals, or discussions of treatment options—including those available upon reaching adulthood or in other jurisdictions—provided by healthcare professionals, physicians, or mental health professionals, so long as such actions do not constitute participation as defined in section 2(6).

(2) No liability for a healthcare professional or physician under these provisions may be waived.

(3) Any ambiguities shall be resolved against any party found to have engaged in participation, as defined in section 2(6), in the chemical or surgical mutilation of a child.

(4) In any cases in which chemical or surgical mutilation of children is shown to have occurred before the date of enactment of this Act, there is limited deference to prevailing standards of care to the extent they contradict the intent of this Act and it is shown that the healthcare professional or physician knew or should have known that such standards of care were in serious, scientific, and medical dispute at the time of the chemical or surgical mutilation.

(5) Nothing in this Act shall be construed to prohibit a healthcare

professional, physician, or mental health professional from providing information about all available treatment options, discussing risks and benefits, or expressing professional medical opinions, so long as such actions do not constitute participation as defined in section 2(6).

## **SEC. 6. STATUTE OF LIMITATIONS.**

Because these decisions are often made by parents, or medical providers, on a child's behalf, and because these actions often have long term effects that are not discovered until years after the medical actions have been taken, actions brought under this Act may be brought either within 25 years from the date of the eighteenth birthday of an individual subjected to chemical or surgical mutilation as a child or within 4 years from the time the cost of a detransition treatment is incurred, whichever date is later.