

117TH CONGRESS  
2D SESSION

# H. R. 8731

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

---

## IN THE HOUSE OF REPRESENTATIVES

AUGUST 19, 2022

Mrs. GREENE of Georgia (for herself, Mrs. MILLER of Illinois, Mr. DUNCAN, Mr. GOOD of Virginia, Mr. NORMAN, Mr. GAETZ, Mr. TONY GONZALES of Texas, Mr. HIGGINS of Louisiana, Mr. OWENS, Ms. TENNEY, Mr. CLYDE, Mrs. HARSHBARGER, and Mr. GOODEN of Texas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Energy and Commerce, and Education and Labor, 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

---

## 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     **TITLE I—GENDER AFFIRMING**  
2     **CARE FOR MINORS PROHIBITED**

3     **SEC. 101. GENDER AFFIRMING CARE ON MINORS PROHIB-**  
4                     **ITED.**

5             Chapter 110 of title 18, United States Code, is  
6     amended—

7             (1) by adding at the end the following:

8     **“§ 2260B. Gender affirming care for minors**

9             “(a) IN GENERAL.—Whoever, in any circumstance  
10     described in subsection (e), knowingly performs any gen-  
11     der affirming care on a minor is guilty of a class C felony.

12             “(b) PROHIBITION ON PROSECUTION OF PERSON ON  
13     WHOM INTERVENTION IS PERFORMED.—No person on  
14     whom the gender affirming care under subsection (a) is  
15     performed may be arrested or prosecuted for an offense  
16     under this section.

17             “(c) CIVIL ACTION.—A person on whom gender af-  
18     firming care is performed under this section may bring  
19     a civil action for appropriate relief, including compen-  
20     satory and punitive damages, against each person who  
21     performed the gender affirming care.

22             “(d) DEFINITIONS.—In this section:

23                     “(1) GENDER AFFIRMING CARE.—

24                             “(A) IN GENERAL.—For purposes of this  
25             chapter, except as provided in subparagraph

(B), the term ‘gender affirming care’ means, with respect to an individual, any of the following:

“(i) Performing any surgery for the purpose of changing the body of such individual to correspond to a sex that differs from their biological sex, including—

“(I) castration;

“(II) orchiectomy;

“(III) scrotoplasty;

“(IV) vasectomy;

“(V) hysterectomy;

“(VI) oophorectomy;

“(VII) ovariectomy;

“(VIII) metoidioplasty;

“(IX) penectomy;

“(X) phalloplasty;

“(XI) vaginoplasty;

“(XII) vaginectomy;

“(XIII) vulvoplasty;

“(XIV) reduction

thyrochondroplasty;

“(XV) chondrolaryngoplasty; and

“(XVI) mastectomy.

1 “(ii) Any plastic surgery that femi-  
2 nizes or masculinizes the facial features for  
3 the purposes described in clause (i).

4 “(iii) Any placement of chest implants  
5 to create feminine breasts for the purposes  
6 described in clause (i).

7 “(iv) Any placement of fat or artificial  
8 implants in the gluteal region for the pur-  
9 poses described in clause (i).

10 “(v) Administering, supplying, pre-  
11 scribing, dispensing, distributing, or other-  
12 wise conveying to an individual medications  
13 for the purposes described in clause (i), in-  
14 cluding—

15 “(I) gonadotropin-releasing hor-  
16 mone (GnRH) analogues or other pu-  
17 berty-blocking drugs to stop or delay  
18 normal puberty;

19 “(II) testosterone or other  
20 androgens to biological females at  
21 doses that are supraphysiologic to the  
22 female sex; and

23 “(III) estrogen to biological  
24 males at doses that are  
25 supraphysiologic to the male sex.

1                   “(B)    EXCEPTION.—Subparagraph    (A)  
2                   shall not apply to the following individuals:

3                   “(i) An individual with both ovarian  
4                   and testicular tissue.

5                   “(ii) An individual with respect to  
6                   whom a physician has determined through  
7                   genetic or biochemical testing that the in-  
8                   dividual does not have normal sex chro-  
9                   mosome structure, sex steroid hormone  
10                  production, or sex steroid hormone action.

11                  “(iii) An individual experiencing infec-  
12                  tion, disease, injury, or disorder caused or  
13                  exacerbated by previous gender transition  
14                  procedures.

15                  “(iv) An individual suffering from a  
16                  physical disorder, physical injury, or phys-  
17                  ical illness that would, as certified by a  
18                  physician, place the individual in imminent  
19                  danger of death or impairment of a major  
20                  bodily function unless the procedure is per-  
21                  formed.

22                  “(2) BIOLOGICAL SEX.—The term ‘biological  
23                  sex’ means the indication of male or female sex by  
24                  reproductive potential or capacity, sex chromosomes,

1 naturally occurring sex hormones, gonads, or inter-  
2 nal or external genitalia present at birth.

3 “(3) MINOR.—The term ‘minor’ means any per-  
4 son under the age of eighteen years.

5 “(e) CIRCUMSTANCES DESCRIBED.—For purposes of  
6 subsection (a), the circumstances described in this sub-  
7 section are that—

8 “(1) the defendant or victim traveled in inter-  
9 state or foreign commerce, or traveled using a  
10 means, channel, facility, or instrumentality of inter-  
11 state or foreign commerce, in furtherance of or in  
12 connection with the conduct described in subsection  
13 (a);

14 “(2) the defendant used a means, channel, fa-  
15 cility, or instrumentality of interstate or foreign  
16 commerce in furtherance of or in connection with  
17 the conduct described in subsection (a);

18 “(3) any payment of any kind was made, di-  
19 rectly or indirectly, in furtherance of or in connec-  
20 tion with the conduct described in subsection (a)  
21 using any means, channel, facility, or instrumen-  
22 tality of interstate or foreign commerce or in or af-  
23 fecting interstate or foreign commerce;

24 “(4) the defendant transmitted in interstate or  
25 foreign commerce any communication relating to or

1 in furtherance of the conduct described in subsection  
2 (a) using any means, channel, facility, or instrumen-  
3 tality of interstate or foreign commerce or in or af-  
4 fecting interstate or foreign commerce by any means  
5 or in manner, including by computer, mail, wire, or  
6 electromagnetic transmission;

7 “(5) any instrument, item, substance, or other  
8 object that has traveled in interstate or foreign com-  
9 merce was used to perform the conduct described in  
10 subsection (a);

11 “(6) the conduct described in subsection (a) oc-  
12 curred within the special maritime and territorial ju-  
13 risdiction of the United States, or any territory or  
14 possession of the United States; or

15 “(7) the conduct described in subsection (a)  
16 otherwise occurred in or affected interstate or for-  
17 eign commerce.

18 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-  
19 tion shall be construed as prohibiting provision of the med-  
20 ical services described in subsection (d)(1)(A) to address  
21 legitimate health issues, such as any male or female repro-  
22 ductive cancers, apart from changing the body to cor-  
23 respond to a sex that differs from one’s biological sex.”;  
24 and

1 (2) by amending the table of sections for such  
 2 chapter by adding at the end the following:

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

3 **TITLE II—PROHIBITING FEDER-**  
 4 **ALLY FUNDED GENDER AF-**  
 5 **FIRMING CARE**

6 **SEC. 201. PROHIBITING TAXPAYER-FUNDED GENDER AF-**  
 7 **FIRMING CARE.**

8 Title 1, United States Code, is amended by adding  
 9 at the end the following new chapter:

10 **“CHAPTER 4—PROHIBITING TAXPAYER-**  
 11 **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 lands and terri-  
 tories, and Tribal territories.

“304. Construction relating to separate coverage.

“305. Construction relating to the use of non-Federal funds for health coverage.

“306. Construction relating to complications arising from gender affirming care.

“307. Treatment of individuals born with medically verifiable disorder of sex de-  
 velopment.

“308. Gender affirming care defined.

“309. Rule of construction.

12 **“§ 301. Prohibition on funding for gender affirming**  
 13 **care**

14 “No funds authorized or appropriated by Federal  
 15 law, and none of the funds in any trust fund to which  
 16 funds are authorized or appropriated by Federal law, in-  
 17 cluding funds provided under titles XVIII, XIX, and XXI  
 18 of the Social Security Act, shall be expended for any gen-  
 19 der affirming care.



1   **“§ 302. Prohibition on funding for health benefits**  
2                   **plans that cover gender affirming 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, shall  
6 be expended for health benefits coverage that includes cov-  
7 erage of gender affirming care.

8   **“§ 303. Limitation on Federal facilities and employ-**  
9                   **ees, Federal lands and territories, and**  
10                  **Tribal territories**

11          “No health care service furnished—

12                  “(1) by or in a health care facility owned or op-  
13 erated by the Federal Government, Federal land or  
14 territory, or a Tribal territory; or

15                  “(2) by any physician or other individual em-  
16 ployed by the Federal Government, Federal land or  
17 territory, or a Tribal territory to provide health care  
18 services within the scope of the physician’s or indi-  
19 vidual’s employment,

20 may include gender affirming care.

21   **“§ 304. Construction relating to separate coverage**

22          “Nothing in this chapter shall be construed as pro-  
23 hibiting any individual, entity, or State or locality from  
24 purchasing separate coverage for gender affirming care or  
25 health benefits coverage that includes gender affirming  
26 care so long as such coverage is paid for entirely using

1 only funds not authorized or appropriated by Federal law,  
2 federal programs, platforms, or infrastructure, such cov-  
3 erage does not cover any practice that would be subject  
4 to penalty under section 2260B of title 18, United States  
5 Code, and such coverage shall not be purchased using  
6 matching funds required for a federally subsidized pro-  
7 gram, including a State’s or locality’s contribution of Med-  
8 icaid matching funds.

9 **“§ 305. Construction relating to the use of non-Fed-**  
10 **eral funds for health coverage**

11 “Nothing in this chapter shall be construed as re-  
12 stricting the ability of any non-Federal health benefits cov-  
13 erage provider from offering coverage for gender affirming  
14 care, or the ability of a State or locality to contract sepa-  
15 rately with such a provider for such coverage, so long as  
16 only funds not authorized or appropriated by Federal law  
17 are used, such coverage does not cover any practice that  
18 would be subject to penalty under section 2260B of title  
19 18, United States Code, and such coverage shall not be  
20 purchased using matching funds required for a federally  
21 subsidized program, including a State’s or locality’s con-  
22 tribution of Medicaid matching funds.

1   **“§ 306. Construction relating to complications arising**  
2                   **from gender affirming care**

3           “Nothing in this chapter shall be construed to apply  
4 to the treatment of any infection, injury, disease, or dis-  
5 order that has been caused by or exacerbated by the per-  
6 formance of a gender affirming care. This rule of con-  
7 struction shall be applicable without regard to whether the  
8 gender affirming care was performed in accord with Fed-  
9 eral or State law, and without regard to whether funding  
10 for the gender affirming care is permissible under section  
11 307.

12   **“§ 307. Treatment of individuals born with medically**  
13                   **verifiable disorder of sex development**

14           “The limitations established in sections 301, 302,  
15 and 303 shall not apply with respect to an individual de-  
16 scribed in section 2260B(d)(1)(B) of title 18, United  
17 States Code.

18   **“§ 308. Gender affirming care defined**

19           “For purposes of this chapter, the term ‘gender af-  
20 firming care’ has the meaning given such term in section  
21 2260B(d)(1) of title 18, United States Code.

22   **“§ 309. Rule of construction**

23           “Nothing in this chapter shall be construed as pro-  
24 hibiting provision of the medical services described in sec-  
25 tion 2260B(d)(1)(A) of title 18, United States Code, to  
26 address any male or female reproductive cancers, apart

1 from changing the body to correspond to a sex that differs  
 2 from one’s biological sex.”.

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

4 The table of chapters for title 1, United States Code,  
 5 is amended by adding at the end the following new item:

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

6 **TITLE III—APPLICATION UNDER**  
 7 **THE AFFORDABLE CARE ACT**

8 **SEC. 301. CLARIFYING APPLICATION OF PROHIBITION TO**  
 9 **PREMIUM CREDITS AND COST-SHARING RE-**  
 10 **DUCTIONS UNDER ACA.**

11 (a) IN GENERAL.—

12 (1) DISALLOWANCE OF REFUNDABLE CREDIT  
 13 AND COST-SHARING REDUCTIONS FOR COVERAGE  
 14 UNDER QUALIFIED HEALTH PLAN WHICH PROVIDES  
 15 COVERAGE FOR GENDER AFFIRMING CARE.—

16 (A) IN GENERAL.—Subparagraph (A) of  
 17 section 36B(c)(3) of the Internal Revenue Code  
 18 of 1986 is amended by inserting before the pe-  
 19 riod at the end the following: “or any health  
 20 plan that includes coverage for gender affirming  
 21 care (other than any gender affirming care or  
 22 treatment described in section 306 or 307 of  
 23 title 1, United States Code)”.

24 (B) OPTION TO PURCHASE OR OFFER SEP-  
 25 ARATE COVERAGE OR PLAN.—Paragraph (3) of

1 section 36B(c) of such Code is amended by  
2 adding at the end the following new subpara-  
3 graph:

4 “(C) SEPARATE COVERAGE OR PLAN FOR  
5 GENDER AFFIRMING CARE ALLOWED.—

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

20 “(ii) OPTION TO OFFER COVERAGE OR  
21 PLAN.—Nothing in subparagraph (A) shall  
22 restrict any non-Federal health insurance  
23 issuer offering a health plan from offering  
24 separate coverage for gender affirming  
25 care described in such subparagraph, or a

1 plan that includes such gender affirming  
 2 care, so long as premiums for such sepa-  
 3 rate coverage or plan are not paid for with  
 4 any amount attributable to the credit al-  
 5 lowed under this section (or the amount of  
 6 any advance payment of the credit under  
 7 section 1412 of the Patient Protection and  
 8 Affordable Care Act) and such coverage or  
 9 plan does not cover any practice that  
 10 would be subject to penalty under section  
 11 2260B of title 18, United States Code.”.

12 (2) DISALLOWANCE OF SMALL EMPLOYER  
 13 HEALTH INSURANCE EXPENSE CREDIT FOR PLAN  
 14 WHICH INCLUDES COVERAGE FOR GENDER AFFIRM-  
 15 ING CARE.—Subsection (h) of section 45R of the In-  
 16 ternal Revenue Code of 1986 is amended—

17 (A) by striking “Any term” and inserting  
 18 the following:

19 “(1) IN GENERAL.—Any term”; and

20 (B) by adding at the end the following new  
 21 paragraph:

22 “(2) EXCLUSION OF HEALTH PLANS INCLUDING  
 23 COVERAGE FOR GENDER AFFIRMING CARE.—

24 “(A) IN GENERAL.—The term ‘qualified  
 25 health plan’ does not include any health plan

1 that includes coverage for gender affirming care  
2 (other than any gender affirming care or treat-  
3 ment described in section 306 or 307 of title 1,  
4 United States Code).

5 “(B) SEPARATE COVERAGE OR PLAN FOR  
6 GENDER AFFIRMING CARE ALLOWED.—

7 “(i) OPTION TO PURCHASE SEPARATE  
8 COVERAGE OR PLAN.—Nothing in subpara-  
9 graph (A) shall be construed as prohibiting  
10 any employer from purchasing for its em-  
11 ployees separate coverage for gender af-  
12 firming care described in such subpara-  
13 graph, or a health plan that includes such  
14 gender affirming care, so long as no credit  
15 is allowed under this section with respect  
16 to the employer contributions for such cov-  
17 erage or plan and such coverage does not  
18 cover any practice that would be subject to  
19 penalty under section 2260B of title 18,  
20 United States Code.

21 “(ii) OPTION TO OFFER COVERAGE OR  
22 PLAN.—Nothing in subparagraph (A) shall  
23 restrict any non-Federal health insurance  
24 issuer offering a health plan from offering  
25 separate coverage for gender affirming

1 care described in such subparagraph, or a  
2 plan that includes such gender affirming  
3 care, so long as such separate coverage or  
4 plan is not paid for with any employer con-  
5 tribution eligible for the credit allowed  
6 under this section and such coverage or  
7 plan does not cover any practice that  
8 would be subject to penalty under section  
9 2260B of title 18, United States Code.”.

10 (b) APPLICATION TO MULTI-STATE PLANS.—Section  
11 1334(a) of Public Law 111–148 (42 U.S.C. 18054(a)) is  
12 amended by adding at the end the following new para-  
13 graph:

14 “(7) COVERAGE CONSISTENT WITH FEDERAL  
15 POLICY REGARDING GENDER AFFIRMING CARE.—In  
16 entering into contracts under this subsection, the  
17 Director shall ensure that no multi-State qualified  
18 health plan offered in an Exchange provides health  
19 benefits coverage for which the expenditure of Fed-  
20 eral funds is prohibited under chapter 4 of title 1,  
21 United States Code.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 subsection (a) shall apply to taxable years ending after  
24 the date that is one year after the date of enactment of  
25 this Act, but only with respect to plan years beginning



1 after such date, and the amendment made by subsection  
 2 (b) shall apply to plan years beginning after such date.

## 3 **TITLE IV—ADDITIONAL** 4 **PROVISIONS**

5 **SEC. 401. PROHIBITION ON INSTITUTIONS OF HIGHER EDU-**  
 6 **CATION AND ACCREDITING AGENCIES OR AS-**  
 7 **SOCIATIONS.**

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

12 “(30) The institution will not offer instruction  
 13 in gender-affirming care (as defined in section  
 14 2260B(d) of title 18, United States Code).”.

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

18 (1) by striking “and” at the end of paragraph  
 19 (7);

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

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

23 “(9) such agency or association does not ac-  
 24 credit any institution that offers instruction in gen-

1        der-affirming care (as defined in section 2260B(d)  
2        of title 18, United States Code).”.

3    **SEC. 402. IMMIGRATION CONSEQUENCES WITH RESPECT**  
4        **TO PROVIDING GENDER AFFIRMING CARE.**

5        (a) DEFINITIONS.—Section 101(a) of the Immigra-  
6        tion and Nationality Act (8 U.S.C. 1101(a)) is amended  
7        by adding at the end the following:

8                “(53) The term ‘gender affirming care’ shall  
9        have the meaning given such term in section  
10       2260B(d) of title 18, United States Code.”.

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

15               (1) in clause (iii)(II), strike “or” at the end;

16               (2) in clause (iv), strike the comma at the end  
17       and insert “, or”; and

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

19                        “(v) who is determined to have per-  
20                        formed gender affirming care on a child  
21                        that has not attained the age of 18 years  
22                        old,”.

23       (c) CLASSES OF DEPORTABLE ALIENS.—Section  
24       237(a) of the Immigration and Nationality Act (8 U.S.C.  
25       1227(a)) is amended by adding at the end the following:

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

○