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

IN THE HOUSE OF REPRESENTATIVES

Mr. Banks introduced the following bill; which was referred to the Committee on

A BILL

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

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 “Protect Minors from Medical Malpractice Act of 2022”.

SEC. 2. PRIVATE RIGHT OF ACTION FOR A GENDER-TRANSITION PROCEDURE PERFORMED ON A MINOR.

(a) In General.—A medical practitioner, in any circumstance described in subsection (c), who performs a
gender-transition procedure on an individual who is less than 18 years of age shall, as described in subsection (b), be liable to the individual if injured (including any physical, psychological, emotional, or physiological harms) by such procedure, related treatment, or the aftereffects of the procedure or treatment.

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

(1) declaratory or injunctive relief;

(2) compensatory damages;

(3) punitive damages; and

(4) attorney’s fees and costs.

(c) **CIRCUMSTANCES.**—For the purposes of subsection (a), the circumstances described in this subsection are that—

(1) the medical practitioner or the individual receiving the gender-transition procedure traveled in interstate or foreign commerce, or traveled using a means, channel, facility, or instrumentality of inter-
state or foreign commerce, in furtherance of or in
connection with the conduct described in subsection
(a);

(2) the medical practitioner 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 inter-
state or foreign commerce or in or affecting inter-
state or foreign commerce;

(4) the medical practitioner transmitted in
interstate or foreign commerce any communication
relating to or in furtherance of the conduct de-
scribed 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 any manner, including
by computer, mail, wire, or electromagnetic trans-
mission;

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

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

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

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

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

SEC. 4. PROHIBITION ON FUNDING FOR CERTAIN STATES.

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

SEC. 5. DEFINITIONS.

In this Act:

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

(2) GENDER-TRANSITION PROCEDURE.—

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

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

(ii) the prescription or administration
of cross-sex hormones for the purpose of
changing the body of an individual so that
it conforms to the subjective sense of iden-
tity of the individual, in the case such
identity is at odds with the individual’s bi-
ological sex; or
(iii) a surgery to change the body of an individual so that it conforms to the subjective sense of identity of the individual, in the case such identity is at odds with the individual’s biological sex.

(B) EXCEPTION.—The term “gender-transition procedure” does not include—

(i) an intervention described in subparagraph (A) that is performed on—

(I) 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

(II) an individual with respect to whom a physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action, for a biological male or biological female;
(ii) the treatment of any infection, injury, disease, or disorder that has been caused or exacerbated by the performance of an intervention described in subparagraph (A) 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 2; or

(iii) any procedure 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 or impairment of major bodily function unless the procedure is performed.

(3) Medical Practitioner.—The term “medical practitioner” means a person who is licensed, certified, or otherwise authorized by the laws of a State to administer health care in the ordinary course of the practice of the person’s profession.

SEC. 6. EFFECTIVE DATE.

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