

1 SB5  
2 214378-1  
3 By Senator Shelnutt  
4 RFD: Healthcare  
5 First Read: 11-JAN-22  
6 PFD: 06/10/2021

8 SYNOPSIS: This bill would prohibit the performance of  
9 a medical procedure or the prescription or issuance  
10 of medication, upon or to a minor child, that is  
11 intended to alter the appearance of the minor  
12 child's gender or delay puberty, with certain  
13 exceptions.

14 This bill would provide for the disclosure  
15 of certain information concerning students to  
16 parents by schools.

17 This bill would also establish criminal  
18 penalties for violations.

19 Amendment 621 of the Constitution of Alabama  
20 of 1901, now appearing as Section 111.05 of the  
21 Official Recompilation of the Constitution of  
22 Alabama of 1901, as amended, prohibits a general  
23 law whose purpose or effect would be to require a  
24 new or increased expenditure of local funds from  
25 becoming effective with regard to a local  
26 governmental entity without enactment by a 2/3 vote  
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the  
2 affected entity; or the Legislature appropriates  
3 funds, or provides a local source of revenue, to  
4 the entity for the purpose.

5 The purpose or effect of this bill would be  
6 to require a new or increased expenditure of local  
7 funds within the meaning of the amendment. However,  
8 the bill does not require approval of a local  
9 governmental entity or enactment by a 2/3 vote to  
10 become effective because it comes within one of the  
11 specified exceptions contained in the amendment.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 Relating to public health; to prohibit the  
18 performance of a medical procedure or the prescription or  
19 issuance of medication, upon or to a minor child, that is  
20 intended to alter the minor child's gender or delay puberty;  
21 to provide for exceptions; to provide for disclosure of  
22 certain information concerning students to parents by schools;  
23 and to establish criminal penalties for violations; and in  
24 connection therewith would have as its purpose or effect the  
25 requirement of a new or increased expenditure of local funds  
26 within the meaning of Amendment 621 of the Constitution of  
27 Alabama of 1901, now appearing as Section 111.05 of the

1 Official Recompilation of the Constitution of Alabama of 1901,  
2 as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as the Alabama Vulnerable Child Compassion and Protection Act  
6 (V-CAP).

7 Section 2. The Legislature finds as follows:

8 (1) The long-term effects and safety of the  
9 administration of puberty blocking medications and cross-sex  
10 hormones to gender incongruent children have not been  
11 rigorously studied. Absent rigorous studies showing their  
12 long-term safety and positive benefits, their continued  
13 administration to children constitutes dangerous and  
14 uncontrolled human medical experimentation that may result in  
15 grave and irreversible consequences to their physical and  
16 mental health.

17 (2) Studies have shown that a substantial majority  
18 of pre-pubescent children who claim a gender identity  
19 different from their biological sex will ultimately identify  
20 with their biological sex by young adulthood or sooner when  
21 supported through their natural puberty. There is no  
22 psychological or medical test that can differentiate between  
23 the majority of children who will desist from their gender  
24 incongruence and the minority who will not. Research shows  
25 that the administration of puberty blocking medications or  
26 cross-sex hormones forecloses the possibility of a natural  
27 recovery from this condition.

1           (3) There are no rigorous studies that show that  
2 gender changing therapies performed on children, including the  
3 administration of puberty blocking medications, the  
4 administration of opposite sex hormones, or surgeries intended  
5 to approximate the appearance of the opposite sex have any  
6 long-term beneficial effect, including a reduction in suicide  
7 risk. To the contrary, such interventions carry elevated risks  
8 for sterility, loss of sexual function, bone fractures,  
9 thromboembolic and cardiovascular disease, malignancy, and may  
10 even contribute to mental illness and suicide.

11           (4) The continued performing of these therapies upon  
12 children constitutes a public health risk.

13           (5) The police power of the state is held to embrace  
14 reasonable regulations to protect the public health. That  
15 authority over children is broader than that over adults.  
16 *Jacobson v. Massachusetts*, 197 U.S. 11 (1905); *Prince v.*  
17 *Massachusetts*, 321 U.S. 158 (1944).

18           Section 3. For the purposes of this act, the  
19 following terms shall have the following meanings:

20           (1) MINOR. The same meaning as in Section 43-8-1,  
21 Code of Alabama 1975.

22           (2) PERSON. Includes any of the following:

23           a. Any individual.

24           b. Any agent, employee, official, or contractor of  
25 any legal entity.

1           c. Any agent, employee, official, or contractor of a  
2 school district or the state or any of its political  
3 subdivisions or agencies.

4           (3) SEX. The biological state of being male or  
5 female, based on the individual's sex organs, chromosomes, and  
6 endogenous hormone profiles.

7           Section 4. (a) Except as provided in subsection (b),  
8 no person shall engage in or cause any of the practices in  
9 this subsection to be performed upon a minor if the practice  
10 is performed for the purpose of attempting to alter the  
11 appearance of, or affirm the minor's perception of, his or her  
12 gender or sex, if that perception is inconsistent with the  
13 minor's biological sex as defined in this act:

14           (1) Prescribing, dispensing, administering, or  
15 otherwise supplying puberty blocking medication to stop or  
16 delay normal puberty.

17           (2) Prescribing, dispensing, administering, or  
18 otherwise supplying supraphysiologic doses of testosterone or  
19 other androgens to females.

20           (3) Prescribing, dispensing, administering, or  
21 otherwise supplying supraphysiologic doses of estrogen to  
22 males.

23           (4) Performing surgeries that sterilize, including  
24 castration, vasectomy, hysterectomy, oophorectomy,  
25 orchiectomy, and penectomy.

26           (5) Performing surgeries that artificially construct  
27 tissue with the appearance of genitalia that differs from the

1 individual's biological sex, including metoidioplasty,  
2 phalloplasty, and vaginoplasty.

3 (6) Removing any healthy or non-diseased body part  
4 or tissue.

5 (b) Subsection (a) does not apply to a procedure  
6 undertaken to treat a minor born with a medically verifiable  
7 disorder of sex development, including either of the  
8 following:

9 (1) An individual born with external biological sex  
10 characteristics that are irresolvably ambiguous, including an  
11 individual born with 46 XX chromosomes with virilization, 46  
12 XY chromosomes with under virilization, or having both ovarian  
13 and testicular tissue.

14 (2) An individual whom a physician has otherwise  
15 diagnosed with a disorder of sexual development, in which the  
16 physician has determined through genetic or biochemical  
17 testing that the person does not have normal sex chromosome  
18 structure, sex steroid hormone production, or sex steroid  
19 hormone action for a male or female.

20 (c) A violation of this section is a Class C felony.

21 Section 5. No nurse, counselor, teacher, principal,  
22 or other administrative official at a public or private school  
23 attended by a minor shall do either of the following:

24 (1) Encourage or coerce a minor to withhold from the  
25 minor's parent or legal guardian the fact that the minor's  
26 perception of his or her gender or sex is inconsistent with  
27 the minor's sex.

1           (2) Withhold from a minor's parent or legal guardian  
2 information related to a minor's perception that his or her  
3 gender or sex is inconsistent with his or her sex.

4           Section 6. Except as provided for in Section 4,  
5 nothing in this act shall be construed as limiting or  
6 preventing psychologists or psychological technicians from  
7 rendering the services for which they are qualified by  
8 training or experience involving the application of recognized  
9 principles, methods, and procedures of the science and  
10 profession of psychology.

11           Section 7. Nothing in this section shall be  
12 construed to establish a new or separate standard of care for  
13 hospitals or physicians and their patients or otherwise  
14 modify, amend, or supersede any provision of the Alabama  
15 Medical Liability Act of 1987 or the Alabama Medical Liability  
16 Act of 1996, or any amendment or judicial interpretation of  
17 either act.

18           Section 8. If any part, section, or subsection of  
19 this act or the application thereof to any person or  
20 circumstance is held invalid, the invalidity shall not affect  
21 parts, sections, subsections, or applications of this act that  
22 can be given effect without the invalid part, section,  
23 subsection, or application.

24           Section 9. Although this bill would have as its  
25 purpose or effect the requirement of a new or increased  
26 expenditure of local funds, the bill is excluded from further  
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of  
2 the Constitution of Alabama of 1901, as amended, because the  
3 bill defines a new crime or amends the definition of an  
4 existing crime.

5 Section 10. This act shall become effective 30 days  
6 following its passage and approval by the Governor, or its  
7 otherwise becoming law.