

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 513

Representatives Hood, Dean

**Cosponsors: Representatives Keller, Becker, Powell, Smith, T., Lang, Vitale,
Stoltzfus, Jordan, Ginter**

A BILL

To enact sections 2151.63, 5128.01, 5128.02,
5128.03, 5128.04, 5128.05, 5128.06, and 5128.99
of the Revised Code to enact the "Vulnerable
Child Protection Act" regarding sexuality and
identity counseling and prohibiting certain
procedures and activities intended to change,
reinforce, or affirm a minor's perception of his
or her own sexual attraction, sexual behaviors,
or identity.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2151.63, 5128.01, 5128.02,
5128.03, 5128.04, 5128.05, 5128.06, and 5128.99 of the Revised
Code be enacted to read as follows:

Sec. 2151.63. As used in this section, "minor" means an
individual who is under eighteen years of age.

Anyone who knows, or has reasonable cause to suspect based
on facts that would cause a reasonable person in similar
circumstances to suspect, that a minor has been subjected to a

procedure specified in division (A) of section 5128.03 of the 18
Revised Code or an activity specified in division (B) of that 19
section shall make a report of that knowledge or reasonable 20
cause to suspect to a public children services agency or peace 21
officer. The report shall be made in the same manner as a report 22
alleging abuse or neglect of a child under section 2151.421 of 23
the Revised Code, and the receiving agency or officer shall 24
treat the report in the same manner as a report made under that 25
section. 26

Sec. 5128.01. As used in this chapter: 27

(A) "Applicant" means an individual who applies for 28
licensure or registration, as applicable, to practice as a 29
mental health professional. 30

(B) "Gender incongruence" means the state of claiming a 31
gender identity other than the individual's biological sex. 32

(C) "Mental health professional" means any of the 33
following: 34

(1) An advanced practice registered nurse licensed under 35
Chapter 4723. of the Revised Code who is designated as a 36
clinical nurse specialist or certified nurse practitioner; 37

(2) A physician assistant licensed under Chapter 4730. of 38
the Revised Code; 39

(3) A physician licensed under Chapter 4731. of the 40
Revised Code to practice medicine and surgery or osteopathic 41
medicine and surgery; 42

(4) A psychologist licensed under Chapter 4732. of the 43
Revised Code; 44

(5) A licensed professional clinical counselor or licensed 45

professional counselor licensed under Chapter 4757. of the 46
Revised Code; 47

(6) An independent social worker, social worker, or social 48
work assistant licensed or registered under Chapter 4757. of the 49
Revised Code; 50

(7) An independent marriage and family therapist or 51
marriage and family therapist licensed under Chapter 4757. of 52
the Revised Code. 53

(D) "Minor" means an individual who is under eighteen 54
years of age. 55

(E) "Sexuality or identity counseling" means any type of 56
counseling or therapy provided by a mental health professional 57
to a mental health client or patient that is intended to aid the 58
client or patient in objectives related to sexuality or 59
identity, including attractions, behaviors, self-concept, and 60
emotional issues. 61

Sec. 5128.02. No government entity, including the 62
department of mental health and addiction services or a 63
professional or occupational licensing board, shall prohibit 64
either of the following: 65

(A) A mental health professional from providing sexuality 66
or identity counseling; 67

(B) A parent, guardian, or custodian of a minor from 68
consenting to or withholding consent to sexuality or identity 69
counseling for that minor. 70

Sec. 5128.03. (A) Except as provided in division (C) of 71
this section, no mental health professional shall purposely 72
attempt to change, reinforce, or affirm a minor's perception of 73

the minor's own sexual attraction or sexual behaviors, or 74
attempt to change, reinforce, or affirm a minor's gender 75
identity when that identity is inconsistent with the minor's 76
biological sex, by performing or causing to be performed any of 77
the following procedures on the minor: 78

(1) Castration; 79

(2) Vasectomy; 80

(3) Hysterectomy; 81

(4) Oophorectomy; 82

(5) Metoidioplasty; 83

(6) Orchiectomy; 84

(7) Penectomy; 85

(8) Phalloplasty; 86

(9) Urethroplasty; 87

(10) Vaginoplasty; 88

(11) Mastectomy; 89

(12) Lobotomy; 90

(13) A surgery to remove a healthy organ or body part. 91

(B) Except as provided in division (C) of this section, no 92
mental health professional shall purposely attempt to change, 93
reinforce, or affirm a minor's perception of the minor's own 94
sexual attraction or sexual behaviors or attempt to change, 95
reinforce, or affirm a minor's gender identity when that 96
identity is inconsistent with the minor's biological sex, by 97
engaging in any of the following activities: 98

<u>(1) Prescribing, administering, or personally furnishing</u>	99
<u>to the minor a drug to stop or delay puberty;</u>	100
<u>(2) Prescribing, administering, or personally furnishing</u>	101
<u>to the minor, if female, testosterone or estrogen-suppressing</u>	102
<u>drugs;</u>	103
<u>(3) Prescribing, administering, or personally furnishing</u>	104
<u>to the minor, if male, estrogen or testosterone-suppressing</u>	105
<u>drugs;</u>	106
<u>(4) Subjecting the minor's genitals to an electric</u>	107
<u>current;</u>	108
<u>(5) Penetrating the minor's fingers with needles;</u>	109
<u>(6) Restraining and placing ice on the minor's hands;</u>	110
<u>(7) Wrapping the minor's hands in heat coils;</u>	111
<u>(8) Subjecting the minor to an ice bath;</u>	112
<u>(9) Injecting drugs in the minor to induce vomiting;</u>	113
<u>(10) Restraining the minor with ties or harnesses;</u>	114
<u>(11) Inflicting physical pain or suffering.</u>	115
<u>(C) The prohibitions in divisions (A) and (B) of this</u>	116
<u>section do not apply if either of the following are the case:</u>	117
<u>(1) The minor has a medically-verifiable genetic disorder</u>	118
<u>of sex development, which may include having both ovarian and</u>	119
<u>testicular tissue or having external biological characteristics</u>	120
<u>that are ambiguous resulting from having a karyotype 46,XX with</u>	121
<u>virilization or 46,XY with undervirilization.</u>	122
<u>(2) The minor has abnormal sex chromosome structure that</u>	123
<u>has been diagnosed by a physician following genetic testing.</u>	124

(D) (1) A mental health client or patient who has been 125
harmed by a violation of this section, or that individual's 126
representative, may, not later than twenty years after the date 127
of discovery of the violation, file a civil action for injury, 128
death, or loss to person or property against the person who 129
violated this section. 130

(2) A person who prevails in an action filed under 131
division (D) (1) of this section shall receive both of the 132
following from the person who committed the violation: 133

(a) Compensatory and exemplary damages in an amount 134
determined by the trier of fact; 135

(b) Court costs and reasonable attorney's fees. 136

Sec. 5128.04. If a mental health professional or applicant 137
is indicted or charged and bound over to the court of common 138
pleas for trial for an alleged violation of section 5128.03 of 139
the Revised Code, the prosecuting attorney handling the case 140
shall send written notice of the indictment or the charge and 141
bind over to the regulatory or licensing board or agency, if 142
any, that has the administrative authority to suspend or revoke 143
the mental health professional's professional license, 144
certification, registration, or authorization. 145

Sec. 5128.05. The failure of the prosecuting attorney to 146
give the notice required by section 5128.04 of the Revised Code 147
does not give rise to a claim for damages against the 148
prosecuting attorney or the county. The failure of the 149
prosecuting attorney to give the notice does not constitute 150
grounds for declaring a mistrial or new trial, for setting aside 151
a conviction or sentence, or for granting postconviction relief 152
to a defendant. 153

Sec. 5128.06. If a mental health professional is convicted 154
of or pleads guilty to a violation of section 5128.03 of the 155
Revised Code, the court shall transmit a certified copy of the 156
judgment entry of conviction to the regulatory or licensing 157
board or agency, if any, that has the administrative authority 158
to suspend or revoke the mental health professional's license, 159
certification, registration, or authorization. 160

Sec. 5128.99. (A) Whoever violates division (A) of section 161
5128.03 of the Revised Code is guilty of a felony of the third 162
degree. 163

(B) Whoever violates division (B) of section 5128.03 of 164
the Revised Code is guilty of a misdemeanor and is subject to a 165
jail term not to exceed one year. 166

Section 2. This act shall be known as the "Vulnerable 167
Child Protection Act." 168