

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

**H.B. 786**  
**Apr 18, 2023**  
**HOUSE PRINCIPAL CLERK**

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HOUSE BILL DRH40396-NB-138

Short Title: Youth Health Protection Act. (Public)

Sponsors: Representative Kidwell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROTECT MINORS FROM ADMINISTRATION OF PUBERTY BLOCKERS  
3 AND CROSS-SEX HORMONES AND OTHER RELATED ACTIONS, PROCEDURES,  
4 AND TREATMENTS AND TO PROHIBIT OBSCENITY ON SMART PHONES FOR  
5 MINORS.

6 Whereas, the State of North Carolina has a compelling government interest in  
7 protecting the health and safety of its citizens, especially vulnerable children; and

8 Whereas, the sex of a person is the biological state of being female or male, based on  
9 sex organs, chromosomes, and endogenous hormone profiles, and is genetically encoded into a  
10 person at the moment of conception, and it cannot be changed; and

11 Whereas, some individuals, including minors, may experience discordance between  
12 their sex and their internal sense of identity, and individuals who experience severe psychological  
13 distress as a result of this discordance may be diagnosed with gender dysphoria; and

14 Whereas, the cause of the individual's impression of discordance between sex and  
15 identity is unknown, and the diagnosis is based exclusively on the individual's self-report of  
16 feelings and beliefs; and

17 Whereas, this internal sense of discordance is not permanent or fixed, but to the  
18 contrary, numerous studies have shown that a substantial majority of children who experience  
19 discordance between their sex and identity will outgrow the discordance once they go through  
20 puberty and will eventually have an identity that aligns with their sex; and

21 Whereas, as a result, taking a "wait-and-see" approach to children who reveal signs  
22 of gender nonconformity results in a large majority of those children resolving to an identity  
23 congruent with their sex by late adolescence; and

24 Whereas, some in the medical community are aggressively pushing for interventions  
25 on minors that medically alter the child's hormonal balance and remove healthy external and  
26 internal sex organs when the child expresses a desire to appear as a sex different from his or her  
27 own; and

28 Whereas, this course of treatment for minors commonly begins with encouraging and  
29 assisting the child to socially transition to dressing and presenting as the opposite sex. In the case  
30 of prepubertal children, as puberty begins, doctors then administer long-acting GnRH agonist  
31 (puberty blockers) that suppress the pubertal development of the child. This use of puberty  
32 blockers for gender nonconforming children is experimental and not FDA-approved; and

33 Whereas, after puberty blockade, the child is later administered "cross-sex" hormonal  
34 treatments that induce the development of secondary sex characteristics of the other sex, such as  
35 causing the development of breasts and wider hips in male children taking estrogen and greater



1 muscle mass, bone density, body hair, and a deeper voice in female children taking testosterone.  
2 Some children are administered these hormones independent of any prior pubertal blockade; and

3         Whereas, the final phase of treatment is for the individual to undergo cosmetic and  
4 other surgical procedures, often to create an appearance similar to that of the opposite sex. These  
5 surgical procedures may include a mastectomy to remove a female adolescent's breasts and  
6 "bottom surgery" that removes a minor's healthy reproductive organs and creates an artificial  
7 form aiming to approximate the appearance of the genitals of the opposite sex; and

8         Whereas, for minors who are placed on puberty blockers that inhibit their bodies from  
9 experiencing the natural process of sexual development, the overwhelming majority will  
10 continue down a path toward cross-sex hormones and cosmetic surgery; and

11         Whereas, this unproven, poorly studied series of interventions results in numerous  
12 harmful effects for minors, as well as risks of effects simply unknown due to the new and  
13 experimental nature of these interventions; and

14         Whereas, among the known harms from puberty blockers is diminished bone density;  
15 the full effect of puberty blockers on brain development and cognition is yet unknown, though  
16 reason for concern is now present. There is no research on the long-term risks to minors of  
17 persistent exposure to puberty blockers. With the administration of cross-sex hormones comes  
18 increased risks of cardiovascular disease, thromboembolic stroke, asthma, COPD, and cancer;  
19 and

20         Whereas, puberty blockers prevent gonadal maturation and thus render patients taking  
21 these drugs infertile. Introducing cross-sex hormones to children with immature gonads as a  
22 direct result of pubertal blockade is expected to cause irreversible sterility. Sterilization is also  
23 permanent for those who undergo surgery to remove reproductive organs, and such persons are  
24 likely to suffer through a lifetime of complications from the surgery, infections, and other  
25 difficulties requiring yet more medical intervention; and

26         Whereas, several studies demonstrate that hormonal and surgical interventions often  
27 do not resolve the underlying psychological issues affecting the individual. For example,  
28 individuals who undergo cross-sex cosmetic surgical procedures have been found to suffer from  
29 elevated mortality rates higher than the general population. They experience significantly higher  
30 rates of substance abuse, depression, and psychiatric hospitalizations; and

31         Whereas, minors, and often their parents, are unable to comprehend and fully  
32 appreciate the risk and life implications—including permanent sterility—that result from the use of  
33 puberty blockers, cross-sex hormones, and surgical procedures; and

34         Whereas, it is of grave concern to this legislature that the medical community is  
35 allowing individuals who experience distress with their biological sex to be subjects of  
36 irreversible and drastic non-genital gender reassignment surgery and irreversible, permanently  
37 sterilizing genital gender reassignment surgeries, despite the lack of studies showing that such  
38 extreme interventions have benefits that outweigh their risks or chances of cure. In fact, they may  
39 increase the risk of suicide; and

40         Whereas, for these reasons, the decision to pursue a course of hormonal and surgical  
41 interventions to address a discordance between the individual's sex and sense of identity should  
42 not be presented to or determined for minors who are incapable of comprehending the negative  
43 implications and life-course difficulties attending to these interventions; Now, therefore,

44 The General Assembly of North Carolina enacts:

45         **SECTION 1.(a)** Chapter 90 of the General Statutes is amended by adding a new  
46 Article to read:

47   "Article 1M.

48   "Youth Health Protection Act.

49         "§ 90-21.140. Definitions.

50                 The following definitions apply in this Article:

- 1           (1) Government agent. – Any agent, employee, volunteer, or contractor of a  
2 public child services agency, private child placing agency, court, or school  
3 district.
- 4           (2) Medical professional. – Any physician, surgeon, physician assistant, nurse,  
5 clinical nurse specialist, nurse practitioner, anesthetist, psychiatrist, or  
6 medical assistant licensed under this Chapter.
- 7           (3) Mental health care professional or counselor. – Any licensed medical, mental  
8 health, or human services professional licensed under this Chapter, including  
9 any psychologist, social worker, psychiatric nurse, allied mental health and  
10 human services professional, licensed marriage and family therapist, certified  
11 rehabilitation counselor, licensed clinical mental health counselor, or any of  
12 their respective interns or trainees, or any other person designated or licensed  
13 as a mental health or human service professional.
- 14           (4) Minor. – Any individual who is below 18 years of age.
- 15           (5) Political subdivision. – Any division of local government, county, city,  
16 assessment district, municipal corporation, special purpose district, board,  
17 department, commission, or any division of local government delegated the  
18 right to exercise part of the sovereign power of that subdivision.
- 19           (6) Sex. – The biological state of being female or male, based on sex organs,  
20 chromosomes, and endogenous hormone profiles, without regard to an  
21 individual's psychological, chosen, or subjective experience of gender.

22 **"§ 90-21.141. Prohibition of certain practices and health care services.**

23       (a) Notwithstanding any other provision of law, it shall be unlawful for any medical  
24 professional or mental health care professional or counselor to knowingly engage in any of the  
25 following practices upon a minor, or cause them to be performed for the purpose of attempting  
26 to alter the appearance of or affirm the minor's perception of his or her gender or sex, if that  
27 appearance or perception is inconsistent with the minor's sex:

- 28           (1) Performing surgeries that sterilize, including castration, vasectomy,  
29 hysterectomy, oophorectomy, orchiectomy, or penectomy.
- 30           (2) Performing surgeries that artificially construct tissue with the appearance of  
31 genitalia that differs from the individual's sex, including metoidioplasty,  
32 phalloplasty, and vaginoplasty.
- 33           (3) Performing a mastectomy.
- 34           (4) Prescribing, administering, or supplying gonadotropin releasing hormone  
35 analogues or other synthetic drugs used to stop luteinizing hormone and  
36 follicle stimulating hormone secretion, synthetic antiandrogen drugs used to  
37 block the androgen receptor, or any drug to suppress or delay normal puberty.
- 38           (5) Prescribing, administering, or supplying testosterone, estrogen, or  
39 progesterone to a minor in an amount greater than would normally be  
40 produced endogenously in a healthy individual of that individual's age and  
41 sex.
- 42           (6) Removing any otherwise healthy or nondiseased body part or tissue.

43       (b) It shall be unlawful for any medical professional or mental health care professional  
44 or counselor to knowingly engage in conduct that aids or abets the practices described in  
45 subsection (a) of this section to a minor. This section may not be construed to impose liability on  
46 any speech protected by federal or State law.

47       (c) A medical professional or mental health care professional or counselor who engages  
48 in any of the practices identified in subsection (a) of this section or causes them to be performed  
49 shall be considered to have engaged in unprofessional conduct and shall be subject to revocation  
50 of licensure for a minimum of one year and other appropriate discipline by the medical  
51 professional's licensing or certifying board. The medical professional shall also be subject to a

1 civil penalty of up to one thousand dollars (\$1,000) per occurrence. The clear proceeds of civil  
2 penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund  
3 in accordance with G.S. 115C-457.2.

4 (d) This section does not apply to any of the following:

5 (1) The good-faith medical decision of a parent or guardian of a minor born with  
6 a medically verifiable genetic disorder of sexual development, including any  
7 of the following:

8 a. A minor with external biological sex characteristics that are  
9 irresolvably ambiguous, such as a minor born having 46 XX  
10 chromosomes with virilization, 46 XY chromosomes with  
11 under-virilization, or having both ovarian and testicular tissue.

12 b. When a physician has otherwise diagnosed a disorder of sexual  
13 development, in which the physician has determined through genetic  
14 testing that the minor does not have the normal sex chromosome  
15 structure, sex steroid hormone production, or sex steroid hormone  
16 action for male or female sexes.

17 (2) The treatment of any infection, disease, or disorder that has been caused or  
18 exacerbated by the performance of a procedure described in subsection (a) of  
19 this section, whether or not the procedures were performed in accordance with  
20 State or federal law.

21 (3) Any procedure undertaken because an individual suffers from a physical  
22 disorder, physical injury, or physical illness that is certified by a physician and  
23 that would place the individual in imminent danger of death or impairment of  
24 major bodily function unless surgery is performed.

25 (e) Notwithstanding any other provision of law, it shall be unlawful for any health care  
26 provider, as defined in G.S. 90-21.11, that receives State funds to furnish, provide, or perform  
27 any health care service that constitutes the performance of or preparation for a gender transition  
28 procedure to a minor.

29 **"§ 90-21.142. Counseling.**

30 A State office, agency, political subdivision of the State or local government, or any  
31 organization with authority to license or discipline the members of a profession may not prohibit,  
32 impose any penalty, or take any adverse action against any individual who gives or receives  
33 counsel, advice, guidance, or any other speech or communication, whether described as therapy  
34 or provided for a fee, consistent with conscience or religious belief.

35 **"§ 90-21.143. Protection of parental rights.**

36 (a) Parents, guardians, or custodians, in exercising the fundamental right to care for their  
37 child, may withhold consent for any treatment, activity, or mental health care services that are  
38 designed and intended to form their child's conceptions of sex and gender or to treat gender  
39 dysphoria or gender nonconformity. The State, its agents, and political subdivisions shall not  
40 infringe upon or impede the exercise of this right under this section.

41 (b) No government agent, nor any employee of this State, any political subdivision of this  
42 State, or any other governmental entity, except for law enforcement personnel, shall encourage  
43 or coerce a minor to withhold information from the minor's parent. Nor shall any such employee  
44 withhold from a minor's parents information that is relevant to the physical or mental health of  
45 their child and of a sort that parents interested in and responsible for the well-being of a minor  
46 reasonably would demand and should be apprised of. Such conduct shall be grounds for  
47 discipline of the employee, in addition to any other remedies provided to a parent under this  
48 Article.

49 (c) If a government agent has knowledge that a minor under its care or supervision has  
50 exhibited symptoms of gender dysphoria, gender nonconformity, or otherwise demonstrates a  
51 desire to be treated in a manner incongruent with the minor's sex, the government agent or entity

1 with knowledge of that circumstance shall immediately notify, in writing, each of the minor's  
2 parents, guardians, or custodians. The notice shall describe all of the relevant circumstances with  
3 reasonable specificity.

4 **"§ 90-21.144. Whistleblower protection.**

5 (a) No person shall be discriminated against in any manner because the person does any  
6 of the following:

7 (1) Provided, caused to be provided, or takes steps to provide or cause to be  
8 provided to his or her employer, the Attorney General, any State agency, the  
9 United States Department of Health and Human Services, or any other federal  
10 agency any information or an act or omission that is a violation of any  
11 provision of this Article.

12 (2) Testified or prepared to testify in a proceeding concerning a violation of this  
13 Article.

14 (3) Assisted or participated in a proceeding concerning a violation of this Article.

15 (b) Unless a disclosure or report of information is specifically prohibited by law, no  
16 person shall be discriminated against in any manner because the person disclosed any information  
17 under this Article that the person believes evinces any of the following:

18 (1) Any violation of law, rule, or regulation.

19 (2) Any violation of any standard of care or other ethical guidelines for the  
20 provision of any health care service.

21 (3) Gross mismanagement, a gross waste of funds, an abuse of authority, or a  
22 substantial and specific danger to public health or safety.

23 **"§ 90-21.145. Civil remedies.**

24 (a) A civil action for compensatory or special damages, injunctive relief, or any other  
25 relief available under law may be brought by any person for any violation of any provision of  
26 this Article against the clinic, health care system, medical professional, or other person  
27 responsible for the violation.

28 (b) Any party aggrieved or harmed by any violation of this Article shall be required to  
29 bring suit for violation of this Article no later than two years after the day the cause of action  
30 accrued. Minors injured by practices prohibited under this Article may bring an action during  
31 their minority through a parent and may bring an action in their own name upon reaching majority  
32 at any time from that date until 20 years from the date the minor attained the age of majority.

33 (c) Persons who prevail on a claim brought pursuant to this section shall be entitled, upon  
34 the finding of a violation, to recover the following:

35 (1) Monetary damages, including all psychological, emotional, and physical harm  
36 suffered.

37 (2) Total costs of the action and reasonable attorneys' fees.

38 (3) Any other appropriate relief.

39 (d) Standing to assert a claim or defense under this section shall be governed by the  
40 general rules of standing.

41 **"§ 90-21.146. Preemption.**

42 (a) A political subdivision of this State is preempted from enacting, adopting,  
43 maintaining, or enforcing any order, ordinance, rule, regulation, policy, or other similar measure  
44 that prohibits, restricts, limits, controls, directs, or otherwise interferes with the professional  
45 conduct and judgment of a mental health care professional or counselor, including speech,  
46 undertaken within the course of treatment and communication with clients, patients, other  
47 persons, or the public, including therapies, counseling, referrals, and education.

48 (b) The Attorney General or a mental health care professional or counselor may bring an  
49 action for an injunction to prevent or restrain violations of this section. A mental health care  
50 professional may recover reasonable costs and attorneys' fees incurred in obtaining an injunction  
51 under this section.

1       (c) Sovereign and governmental immunity to suit and from liability is waived and  
2 abolished to the extent of the liability created by this section."

3               **SECTION 1.(b)** Article 6 of Chapter 143C of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 143C-6-5.6. Limitation on use of State funds for gender transition procedures.**

6 No State funds may be used, directly or indirectly, for the performance of or in furtherance  
7 of gender transition procedures or to support the administration of any governmental health plan  
8 or government-offered insurance policy offering gender transition procedures."

9               **SECTION 2.** Chapter 48A of the General Statutes is amended by adding a new  
10 Article to read:

11   "Article 3.

12   "Children's Default to Safety Act.

13   "Part 1. Electronic Device Obscenity Filter.

14 **"§ 48A-20. Short title.**

15       This Article may be cited as the "Children's Default to Safety Act."

16 **"§ 48A-21. Definitions.**

17       The following definitions apply in this Article:

- 18       (1) Activate. – The process of powering on an electronic device and associating  
19 it with a new user account.
- 20       (2) Electronic device. – A tablet or a smart phone.
- 21       (3) Internet. – A publicly available and accessible domain.
- 22       (4) Manufacturer. – A person that is engaged in the business of manufacturing an  
23 electronic device and has an agent registered to conduct business in this State.
- 24       (5) Obscenity filter. – Software installed on an electronic device that is capable  
25 of preventing the electronic device from accessing or displaying obscenity  
26 through the internet or any applications owned and controlled by the  
27 manufacturer and installed on the device.
- 28       (6) Smart phone. – An electronic device that combines a cell phone with a  
29 handheld computer, typically offering internet access, data storage, text, and  
30 email capabilities.
- 31       (7) Tablet. – An electronic device equipped with a mobile operating system,  
32 touchscreen display, and rechargeable battery, typically offering internet  
33 access.

34 **"§ 48A-22. Obscenity filter required.**

35       A manufacturer shall manufacture an electronic device that, when activated in the State,  
36 automatically enables an obscenity filter that does all of the following:

- 37       (1) Prevents the user from accessing or downloading material that is obscene to  
38 minors on mobile data networks, applications owned and controlled by the  
39 manufacturer, and wired or wireless internet networks.
- 40       (2) Notifies a user of the electronic device when the obscenity filter blocks the  
41 device from downloading an application or accessing a website.
- 42       (3) Gives a user with a passcode the opportunity to unblock a filtered application  
43 or website.
- 44       (4) Reasonably precludes a user other than a user with a passcode the opportunity  
45 to deactivate, modify, or uninstall the obscenity filter.

46 **"§ 48A-23. Liability; limitations.**

47       (a) A manufacturer of an electronic device is liable if, on activation of an electronic  
48 device sold and activated in the State, the electronic device or manufacturer does the following:

- 49       (1) The electronic device does not enable an obscenity filter that prevents the  
50 display of obscene material to minors in such a way that minors will be able

1 to view the material, or the manufacturer knowingly or in reckless disregard  
2 provides the passcode to a minor to unblock the obscenity filter.

3 (2) The electronic device displays or disseminates obscene material to a minor,  
4 including any performance that is obscene to minors.

5 (b) Nothing in this Article shall affect any other private right of action existing under  
6 other State or federal law, including contract law.

7 (c) This section shall not apply to a manufacturer that makes a good-faith effort to provide  
8 a device that, on activation of the device in the State, automatically enables a generally accepted  
9 and commercially reasonable method of filtration in accordance with this Article and industry  
10 standards.

11 (d) A person who is not a minor's parent or legal guardian may not provide a minor with  
12 the passcode to remove the obscenity filter.

13 **§ 48A-24. Damages.**

14 If a court finds that a manufacturer is liable pursuant to this Article, the court may award the  
15 plaintiff actual damages. When the amount of actual damages is difficult to ascertain due to the  
16 nature of the injury, the court, in its discretion, may award liquidated damages in the amount of  
17 ten thousand dollars (\$10,000) to the injured party. A class action may also be brought under this  
18 Article.

19 **§ 48A-25. Civil action for enforcement.**

20 (a) Except as provided in subsection (h) of this section, a manufacturer that is found liable  
21 under this Article shall be assessed a civil penalty not to exceed ten thousand dollars (\$10,000)  
22 per violation, plus costs and attorneys' fees, in addition to any other applicable penalty under  
23 State law. The civil penalty may be assessed and recovered in a civil action brought in any court  
24 of competent jurisdiction. For purposes of assessing a civil penalty under this section, a  
25 manufacturer is considered to have committed a separate violation for each electronic device sold  
26 and activated in the State.

27 (b) To prevail under this section, a plaintiff shall prove and a court shall find, by clear  
28 and convincing evidence, that a manufacturer manufactured a device on or after October 1, 2023,  
29 and that it was activated in violation of this Article.

30 (c) The plaintiff shall prove all other elements by a preponderance of the evidence.

31 (d) For each violation, the court shall specify the amount of the civil penalty, filing fees,  
32 costs, and attorneys' fees.

33 (e) In assessing the amount of a civil penalty for a violation of this Article, the court shall  
34 consider all of the following:

35 (1) Nature and extent of the violation.

36 (2) Number and severity of the violations.

37 (3) Economic effect of the penalty on the violator.

38 (4) Good-faith measures the violator took to comply with this Article.

39 (5) Timing of the measures the violator took to comply with this Article.

40 (6) Willfulness of the violator's misconduct.

41 (7) Deterrent effect that the imposition of the penalty would have on both the  
42 violator and the regulated community as a whole.

43 (8) Any other factors determined by the court to be pertinent.

44 (f) Actions pursuant to this section may be brought by the Attorney General in the name  
45 of the people of the State or by a private individual in accordance with subsection (g) of this  
46 section.

47 (g) A private individual may bring an action in the public interest to establish liability  
48 under this Article, if that individual has served the alleged violator and the Attorney General a  
49 notice of an alleged violation of this section and the Attorney General has not provided a letter  
50 to the noticing party within 45 days after the day on which the Attorney General receives the  
51 notice of an alleged violation indicating either (i) an action is currently being pursued or will be

1 pursued by the Attorney General regarding the violation or (ii) the Attorney General believes that  
2 there is no merit to the action. If an action is commenced, the plaintiff may amend the complaint  
3 to include additional violations in the claim that are discovered in the discovery process.

4 (h) A manufacturer who makes a good-faith effort to install and enable on activation in  
5 the State a generally accepted and commercially reasonable method of filtration in accordance  
6 with this Article and industry standards is not liable under this Article.

7 "Part 2. Public Display or Dissemination of Obscene Material to Minors.

8 **"§ 48A-30. Public display or dissemination of obscene material to minors.**

9 (a) A person having custody, control, or supervision of any commercial establishment or  
10 newsstand may not knowingly or purposefully do any of the following:

11 (1) Display obscene material to minors in such a way that minors, as a part of the  
12 invited public, will be able to view the material. However, a person is  
13 considered not to have displayed obscene material to minors if the material is  
14 kept behind devices commonly known as blinder racks so that the lower  
15 two-thirds of the material is not exposed to view or other reasonable efforts  
16 were made to prevent view of the material by a minor.

17 (2) Sell, furnish, present, distribute, or otherwise disseminate to a minor or allow  
18 a minor to view, with or without consideration, any obscene material.

19 (3) Present to a minor or participate in presenting to a minor, with or without  
20 consideration, any performance that is obscene to minors.

21 (b) A person does not violate this section if any of the following are satisfied:

22 (1) The person had reasonable cause to believe the minor was 18 years of age. For  
23 the purposes of this subdivision, "reasonable cause" includes, but is not  
24 limited to, being shown a draft card, driver's license, marriage license, birth  
25 certificate, education identification card, governmental identification card,  
26 tribal identification card, or other official or apparently official card or  
27 document purporting to establish that the person is 18 years of age.

28 (2) The person is, or is acting as, an employee of a bona fide public school,  
29 college, or university or a retail outlet affiliated with and serving the  
30 educational purposes of the school, college, or university and the material or  
31 performance was disseminated in accordance with policies approved by the  
32 governing body of the institution.

33 (3) The person is an officer, director, trustee, or employee of a public library or  
34 museum and the material or performance was acquired by the library or  
35 museum and disseminated in accordance with policies approved by the  
36 governing body of the library or museum.

37 (4) An exhibition in a state of nudity is for a bona fide scientific or medical  
38 purpose for a bona fide school, library, or museum.

39 (5) The person is a retail sale clerk with no financial interest in the material or  
40 performance or in the establishment displaying or selling the material or  
41 performance."

42 **SECTION 3.** If any provision of this act or its application is held invalid, the  
43 invalidity does not affect other provisions or applications of this act that can be given effect  
44 without the invalid provisions or application, and, to this end, the provisions of this act are  
45 severable.

46 **SECTION 4.** Section 2 of this act becomes effective January 1, 2024, and applies to  
47 electronic devices manufactured in or outside this State or sold and activated in this State on or  
48 after that date. The remainder of this act becomes effective October 1, 2023.