

119TH CONGRESS
1ST SESSION

S. _____

To deny tax deductions and other Federal funding for the costs of gender transition procedures.

IN THE SENATE OF THE UNITED STATES

Mr. MARSHALL (for himself, Mr. RICKETTS, Mr. CASSIDY, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To deny tax deductions and other Federal funding for the costs of gender transition procedures.

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 “No Subsidies for Gen-
5 der Transition Procedures Act”.

6 **SEC. 2. DENIAL OF MEDICAL EXPENSE TAX DEDUCTION.**

7 (a) IN GENERAL.—Subsection (d) of section 213 of
8 the Internal Revenue Code of 1986 is amended by adding
9 at the end the following new paragraph:

1 “(12) EXPENSES RELATING TO GENDER TRAN-
2 SITION.—

3 “(A) IN GENERAL.—The term ‘medical
4 care’ does not include any gender transition
5 procedure.

6 “(B) DEFINITIONS.—For purposes of this
7 paragraph—

8 “(i) GENDER TRANSITION PROCE-
9 DURE.—

10 “(I) IN GENERAL.—The term
11 ‘gender transition procedure’ means
12 any hormonal or surgical intervention
13 for the purpose of gender transition,
14 including—

15 “(aa) the provision of
16 gonadotropin-releasing hormone
17 agonists or other puberty-sup-
18 pression drugs or puberty-block-
19 ing drugs to stop or delay nor-
20 mally-timed puberty in an indi-
21 vidual who does not identify as
22 his or her sex,

23 “(bb) the provision of testos-
24 terone, estrogen, progesterone, or
25 other androgen blockers to an in-

1 individual at doses which are
2 supraphysiologic to what would
3 normally be produced
4 endogenously in a healthy indi-
5 vidual of the same age and sex,
6 with the intent to align an indi-
7 vidual's physical appearance with
8 an identity that differs from his
9 or her sex,

10 “(cc) surgical procedures
11 that attempt to transform an in-
12 dividual's physical appearance to
13 align with an identity that differs
14 from his or her sex or that at-
15 tempt to alter or remove an indi-
16 vidual's sexual organs to mini-
17 mize or destroy their natural bio-
18 logical functions,

19 “(dd) castration, vasectomy,
20 penectomy, orchiectomy,
21 vaginoplasty, clitoroplasty,
22 vulvoplasty, mastectomy,
23 hysterectomy, oophorectomy,
24 ovariectomy, reconstruction of
25 the fixed part of the urethra with

1 or without metoidioplasty or
2 phalloplasty, metoidioplasty,
3 phalloplasty, vaginectomy,
4 scrotoplasty, implantation of
5 erection or testicular prostheses,
6 reduction thyrochondroplasty,
7 chondrolaryngoplasty, tubal ligation,
8 sterilization, augmentation
9 mammoplasty, placement of chest
10 implants to create feminine
11 breasts, placement of fat or artificial
12 implants in the gluteal region,
13 liposuction, lipofilling, voice
14 surgery, hair reconstruction, pectoral
15 implants, any plastic, cosmetic,
16 or aesthetic surgery which
17 feminizes or masculinizes the facial
18 or other physiological features
19 of an individual, and any
20 removal of any otherwise healthy
21 or non-diseased body part or tissue.
22

23 “(II) EXCLUSIONS.—The term
24 ‘gender transition procedure’ does not
25 include, when furnished to an indi-

vidual by a health care provider with the consent of such individual (or, if applicable, such individual's parents or legal guardian)—

“(aa) services to individuals born with a medically verifiable disorder of sex development, including an individual with external sex characteristics which are irresolvably ambiguous, such as an individual born with 46 XX chromosomes with virilization, an individual born with 46 XY chromosomes with undervirilization, or an individual born having both ovarian and testicular tissue,

“(bb) services relating to any other physician-diagnosed disorder of sexual development with respect to which the physician has determined through genetic or biochemical testing that the individual does not have normal sex chromosome structure, sex steroid hormone production,

1 or sex steroid hormone action for
2 a healthy male or female of the
3 same age,

4 “(cc) the treatment of any
5 infection, injury, disease, or dis-
6 order caused or exacerbated by
7 the performance of gender transi-
8 tion procedures, without regard
9 to whether the gender transition
10 procedure was performed in ac-
11 cordance with State and Federal
12 law or whether the gender transi-
13 tion procedure is treated as med-
14 ical care under this section,

15 “(dd) any procedure under-
16 taken because the individual suf-
17 fers from a physical disorder,
18 physical injury, or physical illness
19 (but not mental, behavioral, or
20 emotional distress or a mental,
21 behavioral, or emotional disorder)
22 which would, as certified by a
23 physician, place the individual in
24 imminent danger of death or im-
25 pairment of major bodily function

1 unless the procedure is performed
2 to alleviate said physical disorder,
3 physical injury, or physical ill-
4 ness,

5 “(ee) procedures to restore
6 or reconstruct the body of the in-
7 dividual in order to correspond to
8 the individual’s sex after one or
9 more previous gender transition
10 procedures, which may include
11 the removal of a pseudo phallus
12 or breast augmentation,

13 “(ff) puberty suppression or
14 puberty-blocking prescription
15 drugs for the purpose of normal-
16 izing puberty for a minor experi-
17 encing precocious puberty, or

18 “(gg) male circumcision.

19 “(ii) GENDER TRANSITION.—The
20 term ‘gender transition’ means the process
21 by which an individual goes from identi-
22 fying with or presenting as his or her sex
23 to identifying with or presenting as a self-
24 proclaimed identity which does not cor-
25 respond with or is different from his or her

1 sex, and may be accompanied by social,
2 legal, or physical changes.

3 “(iii) SEX.—The term ‘sex’, when re-
4 ferring to an individual’s sex, means either
5 male or female, as biologically determined.

6 “(iv) FEMALE.—The term ‘female’,
7 when used to refer to a natural person,
8 means a person belonging, at conception,
9 to the sex characterized by a reproductive
10 system with the biological function of pro-
11 ducing eggs (ova).

12 “(v) MALE.—The term ‘male’, when
13 used to refer to a natural person, means a
14 person belonging, at conception, to the bio-
15 logical sex characterized by a reproductive
16 system with the biological function of pro-
17 ducing sperm.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 the date of the enactment of this Act.

21 **SEC. 3. PROHIBITING FEDERAL MEDICAID FUNDING FOR**
22 **GENDER TRANSITION PROCEDURES.**

23 (a) IN GENERAL.—Section 1903(i) of the Social Se-
24 curity Act (42 U.S.C. 1396b(i)) is amended—

1 (1) in paragraph (26), by striking “; or” and
2 inserting a semicolon;

3 (2) in paragraph (27), by striking the period at
4 the end and inserting “; or”;

5 (3) by inserting after paragraph (27) the fol-
6 lowing new paragraph:

7 “(28) with respect to any amounts expended for
8 any specified gender transition procedure (as defined
9 in section 1905(kk)) to an individual enrolled in a
10 State plan under this title (or a waiver of such
11 plan), including any amounts expended for the ad-
12 ministration of a State program that furnishes any
13 such procedure.”; and

14 (4) in the flush left matter at the end, by strik-
15 ing “and (18),” and inserting “(18), and (28)”.

16 (b) PROHIBITING FEDERAL MEDICAID FUNDING FOR
17 GENDER TRANSITION PROCEDURES.—Section 1905 of
18 the Social Security Act (42 U.S.C. 1396d) is amended by
19 adding at the end the following new subsection:

20 “(kk) PROHIBITING FEDERAL MEDICAID FUNDING
21 FOR SPECIFIED GENDER TRANSITION PROCEDURES.—

22 “(1) SPECIFIED GENDER TRANSITION PROCE-
23 DURES DEFINED.—For purposes of section
24 1903(i)(28), except as provided in paragraph (2),
25 the term ‘specified gender transition procedure’

1 means, with respect to an individual, any hormonal
2 or surgical intervention for the purpose of gender
3 transition, including—

4 “(A) the provision of gonadotropin-releas-
5 ing hormone agonists or other puberty suppres-
6 sion drugs or puberty-blocking drugs to stop or
7 delay normally timed puberty in an individual
8 who does not identify as his or her sex;

9 “(B) the provision of testosterone, estro-
10 gen, progesterone, or other androgen blockers
11 to an individual at doses which are
12 supraphysiologic to what would normally be
13 produced endogenously in a healthy individual
14 of the same age and sex, with the intent to
15 align an individual’s physical appearance with
16 an identity that differs from his or her sex;

17 “(C) surgical procedures that attempt to
18 transform an individual’s physical appearance
19 to align with an identity that differs from his
20 or her sex or that attempt to alter or remove
21 an individual’s sexual organs to minimize or de-
22 stroy their natural biological functions; or

23 “(D) castration, vasectomy, penectomy,
24 orchiectomy, vaginoplasty, clitoroplasty,
25 vulvoplasty, mastectomy, hysterectomy,

1 oophorectomy, ovariectomy, reconstruction of
2 the fixed part of the urethra with or without
3 metoidioplasty or phalloplasty, metoidioplasty,
4 phalloplasty, vaginectomy, scrotoplasty, implan-
5 tation of erection or testicular prostheses, re-
6 duction thyrochondroplasty,
7 chondrolaryngoplasty, tubal ligation, steriliza-
8 tion, augmentation mammoplasty, placement of
9 chest implants to create feminine breasts, place-
10 ment of fat or artificial implants in the gluteal
11 region, liposuction, lipofilling, voice surgery,
12 hair reconstruction, pectoral implants, any plas-
13 tic, cosmetic, or aesthetic surgery which femi-
14 nizes or masculinizes the facial or other physio-
15 logical features of an individual, and any re-
16 moval of any otherwise healthy or non-diseased
17 body part or tissue.

18 “(2) EXCLUSIONS.—The term ‘specified gender
19 transition procedure’ shall not include, when fur-
20 nished to an individual by a health care provider
21 with the consent of such individual (or, if applicable,
22 the parents or legal guardian of such individual)—

23 “(A) services to individuals born with a
24 medically verifiable disorder of sex development,
25 including an individual with external sex char-

1 acteristics which are irresolvably ambiguous,
2 such as an individual born with 46 XX chro-
3 mosomes with virilization, an individual born
4 with 46 XY chromosomes with undervirilization,
5 or an individual born having both ovarian and
6 testicular tissue;

7 “(B) services relating to any other physi-
8 cian-diagnosed disorder of sexual development
9 with respect to which the physician has deter-
10 mined through genetic or biochemical testing
11 that the individual does not have normal sex
12 chromosome structure, sex steroid hormone pro-
13 duction, or sex steroid hormone action for a
14 healthy male or female of the same age;

15 “(C) the treatment of any infection, injury,
16 disease, or disorder caused or exacerbated by
17 the performance of gender transition proce-
18 dures, without regard to whether the gender
19 transition procedure was performed in accord-
20 ance with State and Federal law or whether the
21 gender transition procedure is treated as med-
22 ical care under this section;

23 “(D) any procedure undertaken because
24 the individual suffers from a physical disorder,
25 physical injury, or physical illness (but not

1 mental, behavioral, or emotional distress or a
2 mental, behavioral, or emotional disorder) which
3 would, as certified by a physician, place the in-
4 dividual in imminent danger of death or impair-
5 ment of major bodily function unless the proce-
6 dure is performed to alleviate said physical dis-
7 order, physical injury, or physical illness;

8 “(E) any procedure to restore or recon-
9 struct the body of the individual in order to cor-
10 respond to the individual’s sex after 1 or more
11 previous gender transition procedures, which
12 may include the removal of a pseudo phallus or
13 breast augmentation;

14 “(F) puberty suppression or puberty-block-
15 ing prescription drugs for the purpose of nor-
16 malizing puberty for an individual experiencing
17 precocious puberty; or

18 “(G) male circumcision.

19 “(3) ADDITIONAL DEFINITIONS.—For purposes
20 of this subsection:

21 “(A) GENDER TRANSITION.—The term
22 ‘gender transition’ means the process by which
23 an individual goes from identifying with or pre-
24 senting as his or her sex to identifying with or
25 presenting as a self-proclaimed identity which

1 does not correspond with or is different from
2 his or her sex, and may be accompanied by so-
3 cial, legal, or physical changes.

4 “(B) SEX.—The term ‘sex’, when referring
5 to an individual’s sex, means either male or fe-
6 male, as biologically determined, including as
7 described in subparagraphs (C) and (D).

8 “(C) FEMALE.—The term ‘female’, when
9 used to refer to a natural person, means an in-
10 dividual belonging, at conception, to the sex
11 characterized by a reproductive system with the
12 biological function of producing eggs (ova).

13 “(D) MALE.—The term ‘male’, when used
14 to refer to a natural person, means an indi-
15 vidual belonging, at conception, to the biological
16 sex characterized by a reproductive system with
17 the biological function of producing sperm.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to services furnished on or after
20 the date of the enactment of this Act.

1 **SEC. 4. PROHIBITING FEDERAL CHILDREN'S HEALTH IN-**
2 **SURANCE PROGRAM FUNDING FOR GENDER**
3 **TRANSITION PROCEDURES ON MINORS.**

4 (a) IN GENERAL.—Section 2105(c) of the Social Se-
5 curity Act (42 U.S.C. 1397ee(c)) is amended by adding
6 at the end the following new paragraph:

7 “(13) LIMITATION ON PAYMENT FOR SPECIFIED
8 GENDER TRANSITION PROCEDURES FOR MINORS.—
9 Payment shall not be made to a State under this
10 section for any amount expended under the State
11 plan to pay for specified gender transition proce-
12 dures (as defined in section 1905(kk)) or to assist
13 in the purchase, in whole or in part, of health ben-
14 efit coverage that includes coverage of any such pro-
15 cedure.”.

16 (b) CONFORMING AMENDMENT.—Section
17 2107(e)(1)(N) of the Social Security Act (42 U.S.C.
18 1397gg(e)(1)(N)) is amended by striking “and (17)” and
19 inserting “(17), and (28)”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to services furnished on or after
22 the date of the enactment of this Act.

23 **SEC. 5. PROHIBITING FEDERAL MEDICARE FUNDING FOR**
24 **GENDER TRANSITION PROCEDURES.**

25 (a) IN GENERAL.—Section 1862(a) of the Social Se-
26 curity Act (42 U.S.C. 1395y(a)) is amended—

1 (1) in paragraph (24), by striking “or” at the
2 end;

3 (2) in paragraph (25), by striking the period at
4 the end and inserting “; or”; and

5 (3) by inserting after paragraph (25) the fol-
6 lowing new paragraph:

7 “(26) which are specified gender transition pro-
8 cedures (as defined in section 1905(kk)).”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) shall apply to items and services furnished
11 on or after the date of the enactment of this Act.

12 **SEC. 6. EXCLUSION OF GENDER TRANSITION PROCEDURES**
13 **FROM ESSENTIAL HEALTH BENEFITS.**

14 Section 1302(b)(2) of the Patient Protection and Af-
15 fordable Care Act (42 U.S.C. 18022(b)(2)) is amended—

16 (1) in the paragraph heading, by striking “LIM-
17 ITATION” and inserting “LIMITATIONS”;

18 (2) by redesignating subparagraph (B) as sub-
19 paragraph (C);

20 (3) by inserting after subparagraph (A) the fol-
21 lowing:

22 “(B) EXCLUSIONS.—In defining the essen-
23 tial health benefits under paragraph (1), or in
24 revising essential health benefits under para-
25 graph (4)(H), the Secretary shall not include

1 the category of gender transition procedures (as
2 defined in section 213(d)(12)(B) of the Internal
3 Revenue Code of 1986) or any items or services
4 covered within such a category.”; and
5 (4) in subparagraph (C) (as so redesignated),
6 by striking “paragraph (2)” and inserting “subpara-
7 graph (A)”.