SB219

205384-2

By Senators Shelnutt, McClendon and Allen

RFD: Healthcare

First Read: 20-FEB-20
SYNOPSIS: This bill would prohibit the performance of a medical procedure or the prescription or issuance of medication, upon or to a minor child, that is intended to alter the minor child's gender or delay puberty, with certain exceptions.

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

This bill would also establish criminal penalties for violations.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the
affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

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

A BILL
TO BE ENTITLED
AN ACT

Relating to public health; to prohibit the performance of a medical procedure or the prescription or issuance of medication, upon or to a minor child, that is intended to alter the minor child's gender or delay puberty; to provide for exceptions; to provide for disclosure of certain information concerning students to parents by schools; and to establish criminal penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the
BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

Section 2. The Legislature finds as follows:

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

(2) Studies have shown that a substantial majority of pre-pubescent children who claim a gender identity different from their biological sex will ultimately identify with their biological sex by young adulthood or sooner when supported through their natural puberty. There is no psychological or medical test that can differentiate between the majority of children who will desist from their gender incongruence and the minority who will not. Research suggests that the administration of puberty-blocking medications or cross-sex hormones forecloses the possibility of a natural recovery from this condition.
(3) There are no rigorous studies that show that gender changing therapies performed on children, including the administration of puberty blocking medications, the administration of opposite sex hormones, or surgeries intended to approximate the appearance of the opposite sex have any long term beneficial effect, including a reduction in suicide risk. To the contrary, such interventions carry elevated risks for sterility, loss of sexual function, bone fractures, thromboembolic and cardiovascular disease, malignancy, and may even contribute to mental illness and suicide.

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

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

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

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

(2) PERSON. Includes any of the following:
   a. Any individual.
   b. Any agent, employee, official, or contractor of any legal entity.
c. Any agent, employee, official, or contractor of a school district or the state or any of its political subdivisions or agencies.

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

Section 4. (a) Except as provided in subsection (b), no person shall engage in, counsel, or make a referral for any of the following practices upon a minor, and no person shall cause any of the practices in this subsection to be performed upon a minor if the practice is performed for the purpose of attempting to affirm the minor's perception of his or her gender or sex, if that perception is inconsistent with the minor's biological sex as defined in this act:

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

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

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

(4) Performing surgeries that sterilize, including castration, vasectomy, hysterectomy, oophorectomy, orchietomy, and penectomy.
 Performing surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, including metoidioplasty, phalloplasty, and vaginoplasty.

 Removing any healthy or non-diseased body part or tissue.

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

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

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

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

 Section 5. (a) No nurse, counselor, teacher, principal, or other administrative official at a public or private school attended by a minor shall do either of the following:
(1) Encourage or coerce a minor to withhold from the minor's parent or legal guardian the fact that the minor's perception of his or her gender or sex is inconsistent with the minor's sex.

(2) Withhold from a minor's parent or legal guardian information that is relevant to the physical or mental health of the minor, including information related to a minor's perception that his or her gender or sex is inconsistent with his or her sex.

(b) A violation of this section is a Class A misdemeanor.

Section 6. Nothing in this section shall be construed to establish a new or separate standard of care for hospitals or physicians and their patients or otherwise modify, amend, or supersede any provision of the Alabama Medical Liability Act of 1987 or the Alabama Medical Liability Act of 1996, or any amendment or judicial interpretation of either act.

Section 7. If any part, section, or subsection of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect parts, sections, subsections, or applications of this act that can be given effect without the invalid part, section, subsection, or application.

Section 8. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further
requirements and application under Amendment 621, now
appearing as Section 111.05 of the Official Recompilation of
the Constitution of Alabama of 1901, as amended, because the
bill defines a new crime or amends the definition of an
existing crime.

Section 9. This act shall become effective 30 days
following its passage and approval by the Governor, or its
otherwise becoming law.