

119TH CONGRESS
1ST SESSION

S. _____

To prohibit health care professionals, hospitals, or clinics from participating in the chemical or surgical mutilation of a child and to provide a private right of action for children and the parents of children whose healthy body parts have been damaged by medical professionals practicing chemical and surgical mutilation.

IN THE SENATE OF THE UNITED STATES

Mrs. BLACKBURN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prohibit health care professionals, hospitals, or clinics from participating in the chemical or surgical mutilation of a child and to provide a private right of action for children and the parents of children whose healthy body parts have been damaged by medical professionals practicing chemical and surgical mutilation.

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 “Chloe Cole Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

1 (1) CHEMICAL OR SURGICAL MUTILATION.—

2 (A) IN GENERAL.—The term “chemical or
3 surgical mutilation” means engaging in any one
4 or more of the following for the purpose of in-
5 tentiously halting the natural development of
6 the individual’s body so that it no longer cor-
7 responds to the individual’s sex or intentionally
8 changing the individual’s body, including the in-
9 dividual’s external appearance or biological
10 functions, to no longer correspond to the indi-
11 vidual’s sex:

12 (i) The use of puberty blockers, in-
13 cluding gonadotropin releasing hormone
14 agonists and other interventions, to delay
15 the onset or progression of normally timed
16 puberty in an individual.

17 (ii) The use of sex hormones, such as
18 androgen blockers, estrogen, progesterone,
19 or testosterone.

20 (iii) Surgical procedures that attempt
21 to transform an individual’s physical ap-
22 pearance or that attempt to alter or re-
23 move an individual’s sexual organs.

24 (B) EXCLUSIONS.—Such term does not in-
25 clude any of the following:

1 (i) Appropriate and medically nec-
2 essary procedures to treat a verifiable dis-
3 order of sexual development, including an
4 individual born with 46 XX chromosomes
5 with virilization, with 46 XY chromosomes
6 with undervirilization, or having both ovar-
7 ian and testicular tissue.

8 (ii) The treatment of any infection, in-
9 jury, disease, or disorder that has been
10 caused or exacerbated by the performance
11 of an intervention described in subpara-
12 graph (A) without regard to whether the
13 intervention was performed in accordance
14 with State or Federal law or whether the
15 intervention is covered by the private right
16 of action under section 4.

17 (iii) Any intervention undertaken be-
18 cause the individual suffers from any diag-
19 nosed and verifiable condition of the body's
20 organ systems, including the following:

21 (I) Traumatic bodily injuries
22 (such as fractures, organ rupture, or
23 penetrating trauma).

24 (II) Congenital structural anoma-
25 lies of major organs or systems, in-

1 including the cardiovascular, res-
2 piratory, renal, hepatic, neurological,
3 or musculoskeletal systems.

4 (III) Acute illnesses with a high
5 probability of rapid mortality.

6 (iv) Detransition treatment.

7 (2) CHILD.—The term “child” means an indi-
8 vidual under 18 years of age.

9 (3) DETRANSITION TREATMENT.—The term
10 “detransition treatment” means any treatment, in-
11 cluding a mental health treatment, medical interven-
12 tion, or surgery, that does either or both of the fol-
13 lowing:

14 (A) Stops or reverses the effects of a prior
15 chemical or surgical mutilation.

16 (B) Helps an individual cope with the ef-
17 fects of a prior chemical or surgical mutilation.

18 (4) HEALTH CARE PROFESSIONAL.—The term
19 “health care professional” means a person, including
20 a physician, who is licensed, certified, or otherwise
21 authorized by the laws of a State to administer
22 health care in the ordinary course of the practice of
23 his or her profession or performing such acts which
24 require such licensure.

1 (5) MENTAL HEALTH PROFESSIONAL.—The
2 term “mental health professional” means a person
3 who is licensed to diagnose and treat mental health
4 conditions in a State.

5 (6) PARTICIPATE.—The term “participate”,
6 with respect to acts constituting chemical or surgical
7 mutilation as defined in paragraph (1), means di-
8 rectly engaging in the planning, authorization, pre-
9 scription, administration, or performance of any
10 such act, including any of the following:

11 (A) Prescribing puberty blockers, sex hor-
12 mones, or related medications with the intent to
13 alter an individual’s physical appearance or re-
14 productive function to align with an identity
15 differing from his or her sex.

16 (B) Administering medications or treat-
17 ments described in subparagraph (A) with such
18 intent, whether by injection, oral delivery, or
19 other means.

20 (C) Performing surgical procedures that
21 attempt to transform an individual’s physical
22 appearance to confirm a patient’s physical ap-
23 pearance to be of the alternate sex, or that alter
24 or remove sexual organs as part of chemical or
25 surgical mutilation.

1 (D) Authorizing or directing such chemical
2 or surgical mutilation procedures as a super-
3 vising health care professional or institutional
4 representative.

5 (E) Knowingly planning or coordinating
6 the provision of treatments or procedures de-
7 scribed above in subparagraph (A), (C), or (D)
8 with the intent to facilitate chemical or surgical
9 mutilation.

10 (7) SEX.—The term “sex” means a person’s
11 immutable biological classification, determined at the
12 moment of conception, as either male or female, as
13 follows:

14 (A) The term “female” is a person who
15 naturally has, had, will have, or would have but
16 for a congenital anomaly or intentional or unin-
17 tentional disruption, the reproductive system
18 that produces, transports, and utilizes the large
19 gamete (ova) for fertilization.

20 (B) The term “male” is a person who nat-
21 urally has, had, will have, or would have but for
22 a congenital anomaly or intentional or uninten-
23 tional disruption, the reproductive system that
24 produces, transports, and utilizes the small ga-
25 mete (sperm) for fertilization.

1 **SEC. 3. PROHIBITION ON CHEMICAL OR SURGICAL MUTILA-**
2 **TION.**

3 (a) IN GENERAL.—No health care professional, hos-
4 pital, or clinic shall, in a circumstance described in sub-
5 section (b), participate in the chemical or surgical mutila-
6 tion of a child, and a health care professional, hospital,
7 or clinic may commence participation in a treatment that
8 qualifies as an exception specified in clauses (i) through
9 (iv) of section 2(1)(B) only after determining that clear
10 and convincing evidence supports a determination that the
11 treatment so qualifies.

12 (b) CIRCUMSTANCES DESCRIBED.—The cir-
13 cumstances described in this subsection are that—

14 (1) the defendant or child traveled in interstate
15 or foreign commerce, or traveled using a means,
16 channel, facility, or instrumentality of interstate or
17 foreign commerce, in furtherance of or in connection
18 with the participation in the chemical or surgical
19 mutilation;

20 (2) the defendant used a means, channel, facil-
21 ity, or instrumentality of interstate or foreign com-
22 merce in furtherance of or in connection with the
23 participation in the chemical or surgical mutilation;

24 (3) any payment of any kind was made, directly
25 or indirectly, in furtherance of or in connection with
26 the participation in the chemical or surgical mutila-

1 tion using any means, channel, facility, or instru-
2 mentality of interstate or foreign commerce or in or
3 affecting interstate or foreign commerce;

4 (4) the defendant transmitted in interstate or
5 foreign commerce any communication relating to or
6 in furtherance of the participation in the chemical or
7 surgical mutilation using any means, channel, facil-
8 ity, or instrumentality of interstate or foreign com-
9 merce or in or affecting interstate or foreign com-
10 merce by any means or in any manner, including by
11 computer, mail, wire, or electromagnetic trans-
12 mission;

13 (5) any instrument, item, substance, or other
14 object that has traveled in interstate or foreign com-
15 merce was used to perform the chemical or surgical
16 mutilation;

17 (6) the chemical or surgical mutilation occurred
18 within the District of Columbia, the special maritime
19 and territorial jurisdiction of the United States, or
20 any territory or possession of the United States; or

21 (7) the chemical or surgical mutilation other-
22 wise occurred in or affected interstate or foreign
23 commerce.

1 **SEC. 4. PRIVATE RIGHT OF ACTION.**

2 (a) IN GENERAL.—An individual subjected as a child
3 to chemical or surgical mutilation prohibited by section 3,
4 or the parents or legal guardians of such individual, may
5 bring a civil action in an appropriate district court of the
6 United States for damages against any health care profes-
7 sional, hospital, or clinic, who participates in the chemical
8 or surgical mutilation of that child. Such a cause of action
9 shall be available regardless of whether the alleged chem-
10 ical or surgical mutilation occurred before, on, or after the
11 date of enactment of this Act.

12 (b) DAMAGES.—Damages available pursuant to such
13 an action may include—

14 (1) compensatory damages, including all eco-
15 nomic damages associated with undoing, correcting,
16 or ameliorating the effects or results of any chemical
17 or surgical mutilation procedures;

18 (2) non-economic damages for emotional dis-
19 tress and pain and suffering; and

20 (3) punitive damages, if the claimant proves by
21 clear and convincing evidence that the defendant
22 against whom punitive damages are sought acted
23 maliciously, intentionally, fraudulently, or recklessly.

24 (c) STRICT LIABILITY.—Any health care profes-
25 sional, hospital, or clinic whose participation in the chem-
26 ical or surgical mutilation of a child after the date of en-

1 actment of this Act is proven by clear and convincing evi-
2 dence shall be strictly liable for damages for any such act
3 of mutilation. If a treatment qualifies under an exception
4 specified in clauses (i) through (iv) of section 2(1)(B), and
5 that is raised as an affirmative defense to a violation of
6 this Act, the health care professional, hospital, or clinic
7 shall bear the burden of proving by clear and convincing
8 evidence that such exception applies.

9 **SEC. 5. RULES OF CONSTRUCTION.**

10 In this Act:

11 (1) No private right of action is established
12 based on counseling, referrals to mental health pro-
13 fessionals, or discussions of treatment options, in-
14 cluding counseling, referrals, or options available
15 upon reaching adulthood, or in circumstances not
16 described in section 3(b), provided by health care
17 professionals, or mental health professionals, pro-
18 vided that such actions do not constitute participa-
19 tion in chemical or surgical mutilation, as defined in
20 section 2.

21 (2) No liability for a health care professional
22 under these provisions may be waived.

23 (3) Any ambiguities shall be resolved against
24 any party found to have engaged in participation, as

1 defined in section 2(6), in the chemical or surgical
2 mutilation of a child.

3 (4) In any cases in which chemical or surgical
4 mutilation of a child is shown to have occurred be-
5 fore the date of enactment of this Act, there is lim-
6 ited deference to prevailing standards of care to the
7 extent that such standards contradict the intent of
8 this Act and it is shown that the health care profes-
9 sional knew or should have known that such stand-
10 ards of care were in serious, scientific, and medical
11 dispute at the time of the chemical or surgical muti-
12 lation.

13 (5) Nothing in this Act shall be construed to
14 prohibit a health care professional or mental health
15 professional from providing information about all
16 available treatment options, discussing risks and
17 benefits, or expressing professional medical opinions,
18 so long as such actions do not constitute participa-
19 tion in chemical or surgical mutilation.

20 **SEC. 6. STATUTE OF LIMITATIONS.**

21 An action under section 4 may be brought within 25
22 years from the date of the eighteenth birthday of an indi-
23 vidual subjected to chemical or surgical mutilation as a
24 child or within 4 years from the time the cost of a
25 detransition treatment is incurred, whichever date is later.

1 **SEC. 7. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 a provision to any person or circumstance, is held to be
4 unconstitutional, the remainder of this Act, and the appli-
5 cation of the provision held to be unconstitutional to any
6 other person or circumstance, shall not be affected.