

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 513**

**Representatives Hood, Dean**

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

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**A BILL**

To enact sections 2151.63, 5128.01, 5128.02, 1  
5128.03, 5128.04, 5128.05, 5128.06, and 5128.99 2  
of the Revised Code to enact the "Vulnerable 3  
Child Protection Act" regarding sexuality and 4  
identity counseling and prohibiting certain 5  
procedures and activities intended to change, 6  
reinforce, or affirm a minor's perception of his 7  
or her own sexual attraction, sexual behaviors, 8  
or identity. 9

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

**Section 1.** That sections 2151.63, 5128.01, 5128.02, 10  
5128.03, 5128.04, 5128.05, 5128.06, and 5128.99 of the Revised 11  
Code be enacted to read as follows: 12

**Sec. 2151.63.** As used in this section, "minor" means an 13  
individual who is under eighteen years of age. 14

Anyone who knows, or has reasonable cause to suspect based 15  
on facts that would cause a reasonable person in similar 16  
circumstances to suspect, that a minor has been subjected to a 17

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

<u>the minor's own sexual attraction or sexual behaviors, or</u>	74
<u>attempt to change, reinforce, or affirm a minor's gender</u>	75
<u>identity when that identity is inconsistent with the minor's</u>	76
<u>biological sex, by performing or causing to be performed any of</u>	77
<u>the following procedures on the minor:</u>	78
<u>(1) Castration;</u>	79
<u>(2) Vasectomy;</u>	80
<u>(3) Hysterectomy;</u>	81
<u>(4) Oophorectomy;</u>	82
<u>(5) Metoidioplasty;</u>	83
<u>(6) Orchiectomy;</u>	84
<u>(7) Penectomy;</u>	85
<u>(8) Phalloplasty;</u>	86
<u>(9) Urethroplasty;</u>	87
<u>(10) Vaginoplasty;</u>	88
<u>(11) Mastectomy;</u>	89
<u>(12) Lobotomy;</u>	90
<u>(13) A surgery to remove a healthy organ or body part.</u>	91
<u>(B) Except as provided in division (C) of this section, no</u>	92
<u>mental health professional shall purposely attempt to change,</u>	93
<u>reinforce, or affirm a minor's perception of the minor's own</u>	94
<u>sexual attraction or sexual behaviors or attempt to change,</u>	95
<u>reinforce, or affirm a minor's gender identity when that</u>	96
<u>identity is inconsistent with the minor's biological sex, by</u>	97
<u>engaging in any of the following activities:</u>	98

<u>(1) Prescribing, administering, or personally furnishing to the minor a drug to stop or delay puberty;</u>	99
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<u>(2) Prescribing, administering, or personally furnishing to the minor, if female, testosterone or estrogen-suppressing drugs;</u>	101
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<u>(3) Prescribing, administering, or personally furnishing to the minor, if male, estrogen or testosterone-suppressing drugs;</u>	104
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<u>(4) Subjecting the minor's genitals to an electric current;</u>	107
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<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 section do not apply if either of the following are the case:</u>	116
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<u>(1) The minor has a medically-verifiable genetic disorder of sex development, which may include having both ovarian and testicular tissue or having external biological characteristics that are ambiguous resulting from having a karyotype 46,XX with virilization or 46,XY with undervirilization.</u>	118
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<u>(2) The minor has abnormal sex chromosome structure that has been diagnosed by a physician following genetic testing.</u>	123
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(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