

**BILL NUMBER:**

**SPONSOR:**

**TITLE OF BILL:**

The Youth Privacy Act

**SUMMARY:**

This act would work within the existing bills such as Child Abuse Protection Act (CAPTA), FERPA, and HIPAA to increase the privacy of young queer students. By including in the "Special Rules" section of CAPTA, we can add national protections for gender identity, sexuality, and gender affirming care.

**PURPOSE:**

To amend Child Abuse Protection Act to ensure protections for young people around child abuse and other purposes.

**BILL LANGUAGE:**

Section 1. Short Title.

This Act may be cited as the "Youth Privacy Act"

Section 2. Purpose.

It is the purpose of this Act to clarify the definition of child abuse to exclude gender identity, sexual orientation, and gender affirming care if medically necessary.

Section 3. Definitions **[42 US.C. 5106g]**.

a. Definitions.— For purposes of this title [42 U.S.C. 5101 et. seq.]—

- o 1. the term 'Alaska Native' has the meaning given the term 'Native' in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602);
- o 2. the term 'infant or toddler with a disability' has the meaning given in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432);
- o 3. the term 'Native Hawaiian' has the meaning given the term in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C 7517);

- 4. the term "sexual abuse" includes—
  - A. the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or
  - B. the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children; and
- 5. the term means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—
  - A. the infant is chronically and irreversibly comatose;
  - B. the provision of such treatment would—
    - i. merely prolong dying;
    - ii. not be effective in ameliorating or correcting all of the infant's life threatening conditions; or 41
    - iii. otherwise be futile in terms of the survival of the infant; or
- C. the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.
- (D) The term "gender-affirming care" ,as defined by the Office of Population Affairs, is "...a supportive form of healthcare. It consists of an array of

services that may include medical, surgical, mental health, and non-medical services for transgender and nonbinary people.”

- (b) SPECIAL RULE.—
  - 1. IN GENERAL. – For purposes of section 3(2) and subsection (a)(4), a child shall be considered a victim of ‘child abuse and neglect’ and of ‘sexual abuse’ if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of human trafficking.
  - 2. STATE OPTION.— Notwithstanding the definition of ‘child’ in section (3)(1), a State may elect to define that term for purposes of the application of paragraph (1) to section (3)(2) and subsection (a)(4) as a person who has not attained the age of 24.”
  - 3. Gender Identity and Sexuality Protection.-- For purposes of section 3(2) and subsection (a)(4), a child or person who is subject to discrimination, harassment, or denial of gender-affirming care based on their gender identity, expression, or sexuality shall also be considered a victim of ‘child abuse and neglect’ and afforded protections against such actions.

#### Section 4. AMENDMENTS TO THE CHILD ABUSE PROTECTION ACT.

Section 111 of the Child Abuse Protection Act (42 US.C 5106g) is amended –

- (1) In subsection (a)
  - (a) By inserting, “(D) The term “gender-affirming care,” means a supportive form of healthcare which consists of an array of services that may include medical, surgical, mental health, and non-medical services for transgender and nonbinary people.” after “under such circumstances would be inhumane.”
- (2) In subsection (b)
  - (a) By inserting, “(3) Gender Identity and Sexuality Protection.-- For purposes of section 3(2) and subsection (a)(4), a child or person who is subject to discrimination, harassment, or denial of gender-affirming care based on their gender identity,

expression, or sexuality shall also be considered a victim of 'child abuse and neglect' and afforded protections against such actions." after "as a person who has not attained the age of 24."