

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

As Engrossed: H3/19/25

A Bill

HOUSE BILL 1668

5 By: Representative Bentley
6 By: Senator A. Clark
7

For An Act To Be Entitled

9 AN ACT TO CREATE THE VULNERABLE YOUTH PROTECTION ACT;
10 TO AUTHORIZE A CIVIL ACTION FOR SOCIAL TRANSITIONING
11 AND CASTRATION, STERILIZATION, OR MUTILATION OF A
12 MINOR; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO CREATE THE VULNERABLE YOUTH
16 PROTECTION ACT; AND TO AUTHORIZE A CIVIL
17 ACTION FOR SOCIAL TRANSITIONING AND
18 CASTRATION, STERILIZATION, OR MUTILATION
19 OF A MINOR.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 16, is amended to add an additional
25 chapter to read as follows:

CHAPTER 132

VULNERABLE YOUTH PROTECTION ACT

16-132-101. Title.

29 This chapter shall be known and may be cited as the "Vulnerable Youth
30 Protection Act".
31
32

16-132-102. Definitions.

33 As used in this chapter:
34

35 (1)(A) "Castration, sterilization, or mutilation" means any of
36 the procedures or treatments prohibited under § 20-9-1501 et seq., regardless



1 of who performs or provides the procedures or treatments.

2 (B) "Castration, sterilization, or mutilation" does not
3 include any of the conduct described in § 20-9-1502(c);

4 (2) "Minor" means an individual who is younger than
5 eighteen (18) years of age; and

6 (3) "Social transitioning" means any act by which a minor adopts
7 or espouses a gender identity that differs from the minor's biological sex as
8 determined by the sex organs, chromosomes, and endogenous profiles of the
9 minor, including without limitation changes in clothing, pronouns, hairstyle,
10 and name.

11
12 16-132-103. Civil action – Liability.

13 (a)(1) Any person who knowingly causes or contributes to the social
14 transitioning of a minor or the castration, sterilization, or mutilation of a
15 minor shall be strictly and jointly and severally liable to the minor and the
16 minor's parents for any personal injuries or harm resulting from the social
17 transitioning or the castration, sterilization, or mutilation of the minor.

18 (2) Notwithstanding any other law, a person shall not be held
19 liable under this chapter for any speech or conduct protected by the First
20 Amendment of the United States Constitution, as made applicable to the states
21 through the Supreme Court of the United States' interpretations of the
22 Fourteenth Amendment of the United States Constitution, or by Article 2, § 6
23 of the Arkansas Constitution.

24 (b) Notwithstanding any other law, a person may bring an action under
25 this chapter not later than twenty (20) years after the date that the cause
26 of action accrues.

27 (c) Notwithstanding any other law, a civil action under this chapter
28 shall not be brought against any person that acted at the behest of federal
29 agencies, contractors, or employees that are carrying out duties under
30 federal law, if the imposition of liability upon that person would violate
31 the doctrines of preemption or intergovernmental immunity.

32 (d) Notwithstanding any other law or rule, including Arkansas Rule of
33 Civil Procedure 23, a civil action under this chapter shall not be litigated
34 on behalf of a plaintiff class or a defendant class, and a court shall not
35 certify a class under Arkansas Rule of Civil Procedure 23 in any civil action
36 brought under this section.

1 (e) Any waiver or purported waiver of the right to sue under this
2 chapter shall be void as against public policy and shall not be enforceable
3 in any court.

4
5 16-132-104. Recovery.

6 A person who prevails in a suit brought under this chapter shall be
7 entitled to recover:

8 (1) Nominal damages;

9 (2) Compensatory damages;

10 (3) Statutory damages in an amount of not less than ten thousand
11 dollars (\$10,000) from each defendant, in addition to any compensatory
12 damages that may be awarded;

13 (4) Punitive damages in an amount of not less than ten million
14 dollars (\$10,000,000) from each defendant if irreversible sterilization or
15 sexual dysfunction results, in addition to any compensatory damages that may
16 be awarded; and

17 (5) Court costs and reasonable attorney's fees.

18
19 16-132-105. Affirmative defenses.

20 It is an affirmative defense under this chapter that:

21 (1) The imposition of liability on the defendant will violate
22 constitutional or federally protected rights that belong to the defendant
23 personally; or

24 (2) The defendant:

25 (A) Has standing to assert the rights of a third party
26 under the tests for third-party standing established by the United States
27 Supreme Court; and

28 (B) Demonstrates that the imposition of liability on the
29 defendant will violate constitutional or federally protected rights belonging
30 to the third party.

31
32 16-132-106. Void defenses.

33 Notwithstanding any other law, the following are not a defense to an
34 action brought under this chapter:

35 (1) Ignorance or mistake of law;

36 (2) A defendant's belief that the requirements or provisions of

1 this chapter are unconstitutional or were unconstitutional;

2 (3) A defendant's reliance on any court decision that has been
3 vacated, reversed, or overruled on appeal or by a subsequent court, even if
4 that court decision had not been vacated, reversed, or overruled when the
5 conduct occurred;

6 (4) A defendant's reliance on any state or federal court
7 decision that is not binding on the court in which the action has been
8 brought;

9 (5) A defendant's reliance on any federal statute, agency rule
10 or action, or treaty that has been repealed, superseded, or declared invalid
11 or unconstitutional, even if that federal statute, agency rule or action, or
12 treaty had not been repealed, superseded, or declared invalid or
13 unconstitutional when the conduct described in § 16-132-103 occurred;

14 (6) A nonmutual issue preclusion or nonmutual claim preclusion;

15 (7) The consent of the plaintiff to the defendant's conduct;

16 (8) The consent of the minor who was castrated, sterilized,
17 mutilated, or socially transitioned to the defendant's conduct;

18 (9) Contributory or comparative negligence;

19 (10) Assumption of risk;

20 (11) Lack of but-for or proximate causation;

21 (12) Governmental immunity, official immunity, or qualified
22 immunity;

23 (13) The plaintiff's waiver or purported waiver of his or her
24 right to sue under this chapter;

25 (14) The plaintiff's failure to exhaust administrative remedies;
26 or

27 (15) A claim that the enforcement of this chapter or the
28 imposition of civil liability against the defendant will violate the
29 constitutional rights of third parties, except as provided under §16-132-
30 103(a)(2).

31
32 16-132-107. Enforcement as private civil action.

33 (a)(1) Notwithstanding any other law, this chapter shall be enforced
34 exclusively through the private civil action in § 16-132-103.

35 (2) A direct or indirect enforcement of this chapter shall not
36 be taken or threatened by the state, a political subdivision, a district or

1 county attorney, or any officer or employee of this state or a political
2 subdivision against any person or entity, by any means whatsoever, except
3 through the private civil action in § 16-132-103.

4 (b) The state, a political subdivision of the state, a district or
5 county attorney, or any officer or employee of this state or a political
6 subdivision shall not:

7 (1) Use the conduct described under § 16-132-103 to justify or
8 trigger the enforcement of any other law or any type of adverse consequence
9 under any other law, except through the private civil action under § 16-132-
10 103;

11 (2) Act in concert or participate with another person who brings
12 suit under this chapter;

13 (3) Establish or attempt to establish any type of agency or
14 fiduciary relationship with another person who brings suit under this
15 chapter;

16 (4) Make any attempt to control or influence another person's
17 decision to bring suit under this chapter or that person's conduct of the
18 litigation; or

19 (5)(A) Intervene in any action brought under this chapter.

20 (B) Subdivision (b)(5)(A) of this section does not
21 prohibit the state, a political subdivision of the state, a district or
22 county attorney, or any officer or employee of this state or a political
23 subdivision from filing an amicus curiae brief in the action if the state, a
24 political subdivision of the state, a district or county attorney, or any
25 officer or employee of this state or a political subdivision does not act in
26 concert or participate with the plaintiff.

27 (c) Notwithstanding any other law, this section does not preclude or
28 limit the enforcement of any other law or rule against conduct that is
29 independently prohibited by such other law or rule, and that would remain
30 prohibited by such other law or rule in the absence of this chapter.

31 (d) Notwithstanding any other law, a private civil action brought
32 under this chapter is not subject to the Citizen Participation in Government
33 Act, § 16-63-501 et seq., or the Religious Freedom Restoration Act, § 16-123-
34 401 et seq.

35
36 16-132-108. Immunity.

1 (a) Notwithstanding any other law and except as provided in subsection
2 (b) of this section, in any action, claim, counterclaim, or any type of legal
3 or equitable action that challenges the validity or enforceability of any
4 provision or application of this subchapter, on constitutional grounds or
5 otherwise, or that seeks to prevent or enjoin the state, its political
6 subdivisions, or any officer, employee, or agent of this state or a political
7 subdivision from enforcing any provision or application of this chapter, or
8 from hearing, adjudicating, or docketing a civil action brought under this
9 chapter:

10 (1) The state and each of its officers and employees shall have
11 sovereign immunity;

12 (2) The political subdivisions of the state and each of their
13 officers and employees shall have governmental immunity; and

14 (3) Each officer and employee of this state or a political
15 subdivision shall have official immunity and qualified immunity.

16 (b) The sovereign immunity provided under subsection (a)(1) of this
17 section includes the constitutional sovereign immunity recognized by the
18 United States Supreme Court in Seminole Tribe of Florida v. Florida, 517 U.S.
19 44 (1996), and Alden v. Maine, 527 U.S. 706 (1999), which applies in both
20 state and federal court, and which may not be abrogated by the United States
21 Congress or by any state or federal court except pursuant to legislation
22 authorized by Section 5 of the Fourteenth Amendment, by the Bankruptcy Clause
23 of Article I of the United States Constitution, by Congress's powers to raise
24 and support Armies and to provide and maintain a Navy, or by any other
25 constitutional provision that might be recognized by the United States
26 Supreme Court as a basis for authorizing the United States Congress to
27 abrogate state sovereign immunity.

28 (c) The immunities provided under subsection (a) of this section shall
29 apply in every court, both state and federal, and in every adjudicative
30 proceeding of any type whatsoever.

31 (d) State law shall not waive or abrogate an immunity provided under
32 subsection (a) of this section unless the state law expressly waives or
33 abrogates immunity with specific reference to this section.

34 (e) An attorney representing the state, its political subdivisions, or
35 any officer, employee, or agent of this state or a political subdivision
36 shall not:

1 (1) Waive an immunity provided under subsection (a) of this
2 section; or

3 (2)(A) Take any action that would result in a waiver of the
4 immunity provided under subsection (a) of this section.

5 (B) Any action or purported waiver made in violation of
6 subdivision (e)(2)(A) of this section shall be regarded as a legal nullity
7 and an ultra vires act.

8 (f) Notwithstanding any other law, including § 16-111-101 et seq., and
9 § 16-115-102, a court of this state shall not :

10 (1) Award declaratory or injunctive relief, or any type of writ,
11 including a writ of prohibition, that would pronounce any provision or
12 application of this chapter invalid or unconstitutional, or that would
13 restrain or prevent the state or a political subdivision of the state, any
14 officer, employee, or agent of this state or a political subdivision, or any
15 person from enforcing any provision or application of this chapter, or from
16 hearing, adjudicating, docketing, or filing a civil action brought under this
17 chapter; or

18 (2) Have jurisdiction to consider any action, claim, or
19 counterclaim that seeks the relief as described in subdivision (f)(1) of this
20 section.

21 (g)(1) An action, claim, or counterclaim that seeks the relief
22 described in subsection (f) of this section shall not be litigated on behalf
23 of a plaintiff or defendant class, notwithstanding Arkansas Rule of Civil
24 Procedure 23.

25 (2) A court shall not certify a plaintiff or defendant class in
26 any action seeking the relief described in subsection (f) of this section.

27
28 16-132-109. Fee shifting.

29 (a) Any person, including an entity, attorney, or law firm, who seeks
30 declaratory or injunctive relief to prevent this state, its political
31 subdivision, any officer or employee of the state or a political subdivision
32 of the state, or any person from enforcing or bringing suit to enforce any
33 provision of this chapter, in a state or federal court, or that represents a
34 litigant seeking such relief in any state or federal court, is jointly and
35 severally liable to pay the costs and reasonable attorney's fees of the
36 prevailing party, including the costs and reasonable attorney's fees that the

1 prevailing party incurs in the prevailing party's efforts to recover costs
2 and fees.

3 (b) For purposes of this section, a party is considered a prevailing
4 party if:

5 (1) A state or federal court dismisses any claim or cause of
6 action brought against the party by the litigant that seeks the declaratory
7 or injunctive relief described by subsection (a) of this section, regardless
8 of the reason for the dismissal;

9 (2) A state or federal court enters judgment in the party's
10 favor on any such claim or cause of action; or

11 (3) The party that seeks the declaratory or injunctive relief
12 described by subsection (a) of this section voluntarily dismisses or nonsuits
13 the party's claims against the other party under Fed. R. Civ. P. 41, Ark. R.
14 Civ. P. 41, or any other source of law.

15 (c) A prevailing party may recover costs and attorney's fees under
16 this section only to the extent that those costs and attorney's fees were
17 incurred while defending claims or causes of action on which the party
18 prevailed.

19 (d) Regardless of whether a prevailing party sought to recover costs
20 or attorney's fees in the underlying action, a prevailing party under this
21 section may bring a civil action to recover costs and attorney's fees against
22 a person, including an entity, attorney, or law firm, that sought declaratory
23 or injunctive relief as described in subsection (a) of this section no later
24 than three (3) years from the date on which:

25 (1) The dismissal or judgment described by subsection (b) of
26 this section becomes final on the conclusion of appellate review; or

27 (2) The time for seeking appellate review expires.

28 (e) It is not a defense to an action brought under subsection (d) of
29 this section that:

30 (1) A prevailing party under this section failed to seek
31 recovery of costs or attorney's fees in the underlying action;

32 (2) The court in the underlying action declined to recognize or
33 enforce the requirements of this section; or

34 (3) The court in the underlying action held that any provisions
35 of this section are invalid, unconstitutional, or preempted by federal law,
36 notwithstanding the doctrines of issue or claim preclusion.

1 (f) Notwithstanding any other law, including § 16-60-101 et seq., a
2 civil action brought under subsection (d) of this section may be brought in:

3 (1) The county in which all or a substantial part of the events
4 or omissions giving rise to the claim occurred;

5 (2) The county of residence for any one of the natural person
6 defendants at the time the cause of action accrued;

7 (3) The county of the principal office in this state of any one
8 of the defendants that is not a natural person; or

9 (4) The county of residence for the claimant if the claimant is
10 a natural person residing in this state.

11 (g) If a civil action is brought under subsection (d) of this section
12 in any one of the venues described by subsection (f) of this section, then
13 the action may not be transferred to a different venue without the written
14 consent of all parties.

15 (h) Any contractual choice of forum provision that purports to require
16 a civil action under subsection (d) of this section to be litigated in
17 another forum shall be void as against public policy and may not be enforced
18 in any state or federal court.

19
20 16-132-110. Applicability.

21 (a)(1) Notwithstanding any other law, this chapter and the law of this
22 state shall apply to any social transitioning of a minor resident of this
23 state, and to any castration, sterilization, or mutilation of a minor who is
24 a resident of this state, regardless of where that treatment occurred, and to
25 any civil action brought under this chapter, to the maximum extent permitted
26 by federal law and state law.

27 (2) Any contractual choice-of-law provision that purports to
require the law of a different jurisdiction to apply shall be void as against
public policy and shall not be enforced in any court.

30 (b) This chapter shall apply extraterritorially to the maximum extent
31 permitted by the United States Constitution and the Arkansas Constitution.

32 (c) Notwithstanding any other law, a court of this state shall have
33 personal jurisdiction over a defendant sued under this chapter to the maximum
34 extent permitted by the Fourteenth Amendment to the United States
35 Constitution.

36 (d) This chapter does not limit or preclude a defendant from asserting

1 the unconstitutionality of any provision or application of state law as a
2 defense to liability under this chapter or from asserting any other defense
3 that might be available under any other source of law.

4
5 16-132-111. Severability.

6 (a) Under Leavitt v. Jane L., 518 U.S. 137 (1996), in which in the
7 context of determining the severability of a state statute the United States
8 Supreme Court held that an explicit statement of legislative intent is
9 controlling, it is the intent of the General Assembly that every provision,
10 section, subsection, sentence, clause, phrase, or word in this chapter, and
11 every application of this chapter to every person, group of persons, or
12 circumstances, are severable from each other.

13 (b)(1) If any application of a provision of this chapter to any
14 person, group of persons, or circumstances is found by a court to be invalid,
15 preempted, or unconstitutional, for any reason whatsoever, then the remaining
16 applications of that provision of this chapter to all other persons and
17 circumstances shall be severed and preserved and shall remain in effect.

18 (2) All constitutionally valid applications of the provisions in
19 this chapter shall be severed from any applications that a court finds to be
20 invalid, preempted, or unconstitutional, because it is the intent of the
21 General Assembly and priority that every single valid application of every
22 statutory provision be allowed to stand alone.

23 (c) The General Assembly further declares that it would have enacted
24 this chapter, and each provision and all constitutional applications of the
25 provisions of this chapter, irrespective of the fact that any provision of
26 this chapter were to be declared invalid, preempted, or unconstitutional.

27 (d) If any provision of this chapter is found by a court to be
28 unconstitutionally vague, then the applications of that provision that do not
29 present constitutional vagueness problems shall be severed and remain in
30 force, consistent with the severability requirements of subsections (a)
31 through (c) of this section.

32 (e)(1) A court shall not decline to enforce the severability
33 requirements of subsections (a) through (d) of this section on the ground
34 that severance would rewrite the statute or involve the court in legislative
35 or lawmaking activity.

36 (2) A court that declines to enforce or enjoins a state official

1 from enforcing a statutory provision does not rewrite a statute or engaging
2 in legislative or lawmaking activity, as the statute continues to contain the
3 same words as before the court's decision.

4 (3) A judicial injunction or declaration of unconstitutionality:

5 (A) Is nothing more than an edict prohibiting enforcement
6 of the disputed statute against the named parties to that lawsuit, which may
7 subsequently be vacated by a later court if that court has a different
8 understanding of the requirements of the Arkansas Constitution or the United
9 States Constitution;

10 (B) Is not a formal amendment of the language in a
11 statute; and

12 (C) No more rewrites a statute than a decision by the
13 executive not to enforce a duly enacted statute in a limited and defined set
14 of circumstances.

15 (f) If any state or federal court disregards any of the severability
16 requirements in subsections (a) through (e) of this section, and declares or
17 finds any provision of this subchapter facially invalid, preempted, or
18 unconstitutional, when there are discrete applications of that provision that
19 can be enforced against a person, group of persons, or circumstances without
20 violating federal law or the federal or state constitutions, then that
21 provision shall be interpreted, as a matter of state law, as if the
22 legislature had enacted a provision limited to the persons, group of persons,
23 or circumstances for which the provision's application will not violate
24 federal law or the federal or state constitutions, and every court shall
25 adopt this saving construction of that provision until the court ruling that
26 pronounced the provision facially invalid, preempted, or unconstitutional is
27 vacated or overruled.

28
29 SECTION 2. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of
30 this act or the application of this act to any person or circumstance is held
31 invalid, the invalidity shall not affect other provisions or applications of
32 this act which can be given effect without the invalid provision or
33 application, and to this end, the provisions of this act are declared
34 severable.

35
36 /s/Bentley