A BILL FOR

An Act relating to treatment or intervention involving an intersex minor.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
Section 1. NEW SECTION. 147.163 Legislative findings — treatment or intervention regarding intersex minors.

The general assembly finds and declares all of the following:

1. The general assembly opposes all forms of prejudice, bias, or discrimination and affirms the general assembly's commitment to the dignity and autonomy of all people, including those born with variations in their physical sex characteristics.

2. Intersex people are a part of the fabric of our state's diversity to be celebrated, rather than an aberration to be corrected.

3. Intersex people should be free to choose whether to undergo life-altering surgeries and other treatments or interventions on their physical sexual characteristics that irreversibly, and sometimes irreparably, cause harm.

4. The enactment of legislation is necessary to ensure the ability of intersex people to participate in decisions about surgery and other medical treatments or interventions on their physical sex characteristics, and to guarantee the rights of intersex people to bodily integrity, autonomy, and self-determination.

Sec. 2. NEW SECTION. 147.164 Intersex minors — informed consent — penalties.

1. As used in this section:

a. "Intersex minor" means a person during the period of minority as specified in section 599.1 born with atypical physical sex characteristics including but not limited to chromosomes, genitals, or internal organs, and includes differences in sex development resulting from androgen insensitivity syndrome, congenital adrenal hyperplasia, and hypospadias.

b. "Medically necessary" means that the treatment or intervention on the sex characteristics of an intersex minor is reasonable and necessary for the diagnosis or treatment of an
illness or injury and cannot be safely deferred. A "medically necessary" treatment or intervention on the sex characteristics of an intersex minor includes but is not limited to a procedure to repair the bladder, a cloacal extrophy, or any other procedure intended to allow urine to exit the body absent a urethral opening.

c. "Physician" means a person licensed as a physician and surgeon or osteopathic physician and surgeon pursuant to chapter 148.

d. "Treatment or intervention" means, but is not limited to all of the following procedures:

(1) A clitorectomy, clitoroplasty, clitoral reduction, or clitoral recession, including corporal-sparing procedures.

(2) A gonadectomy, including of testes, ovaries, ovotestes, or streak gonads.

(3) Hypospadias surgery, relocation of the urethral meatus, or chordee release.

(4) A labiaplasty or labial reduction.

(5) A phalloplasty.

(6) A vaginoplasty, introitoplasty, vaginal exteriorization, or a partial or total urogenital sinus mobilization.

2. A physician shall not perform any treatment or intervention on the sex characteristics of an intersex minor, which is not medically necessary and can be deferred, until the intersex minor on whom the treatment or intervention is to be performed can provide informed consent. The best interest of the intersex minor shall be the paramount consideration.

3. a. Prior to performing any treatment or intervention on the sex characteristics of an intersex minor which is not medically necessary, a physician shall provide written and oral disclosure to the intersex minor and informed consent shall be obtained from the intersex minor as provided in this section.

b. The written and oral disclosure provided to the intersex minor by the physician shall be provided in nontechnical,
age-appropriate terms, and shall include all of the following:

(1) A description of the treatment or intervention to be performed, including any necessary health care management or long-term follow-up care to be expected following the treatment or intervention.

(2) A description of any attendant discomfort and risks to the intersex minor in the short term and long term, including but not limited to any irreparable or irreversible harm or limitations regarding future fertility or development or construction of female-typical or male-typical characteristics, which may reasonably be expected following the treatment or intervention.

(3) An explanation of any benefits that the intersex minor may reasonably expect following the treatment or intervention.

(4) An explanation of any appropriate alternative procedures, drugs, or devices, including any delay of the procedure, that might be advantageous to the intersex minor, and the relative risks and benefits of these alternatives.

(5) An offer to answer any inquiries concerning the treatment or intervention involved.

4. a. Following receipt of the written and oral disclosure provided by the physician described in subsection 2, and prior to the treatment or intervention being performed, the physician shall obtain informed consent to the treatment or intervention from the intersex minor, which shall comply with all of the following requirements:

(1) The consent shall be in writing and shall contain the following statement:

"I (name of intersex minor) do hereby consent to (description of treatment or intervention) to be performed by (name of physician) on (date that the treatment or intervention is to be performed on the intersex minor)."

(2) The written consent shall be signed by the intersex minor and by the physician who will perform the treatment or intervention.
The written consent shall contain a notification to the intersex minor that the written consent is an important document that should be retained with other vital records. 

b. The physician shall retain the original written consent in the medical record of the intersex minor and shall provide a copy of the written consent to the intersex minor.

c. If the treatment or intervention is performed in a hospital, the physician shall provide a copy of the written consent to the hospital.

5. This section shall not affect the obligation of a physician under any other existing law to obtain the informed consent of a patient before performing any other medical procedure on a patient, including those that may significantly affect the patient's reproductive health, fertility, or ability to conceive.

6. If a physician determines that it is medically necessary to perform a treatment or intervention on the sex characteristics of an intersex minor, and the physician is not able to obtain the informed consent of the intersex minor in accordance with this section, a physician may perform the medical procedure only if the physician provides the written and oral disclosure consistent with subsection 3 to the parent or guardian of the intersex minor, and the parent or guardian of the intersex minor provides written informed consent in a manner consistent with subsection 3.

7. The board of medicine shall adopt rules pursuant to chapter 17A to administer this section. The rules shall provide evidence-based protocols to guide physicians in ensuring that intersex minors and their parents are properly informed of all options and alternatives, that an intersex minor is to the greatest extent possible involved in the decision making about any treatment or intervention, that the intersex minor's choices are fully respected, and that any nonmedically necessary treatment or intervention is only performed with the full, free, and informed consent of the intersex minor.
intersex minor.

Sec. 3. CODE EDITOR DIRECTIVE. The Code editor shall create a new subchapter in chapter 147, codifying sections 147.163 and 147.164, as enacted in this Act, as "intersex minors —
treatment and intervention".

EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill relates to treatment or intervention involving an intersex minor.

The bill provides legislative findings relating to intersex minors and treatments or interventions on their physical sex characteristics. The legislative findings include that enactment of legislation is necessary to ensure the ability of intersex people to participate in decisions about surgery and other medical treatments or interventions on their physical sex characteristics, and to guarantee the rights of intersex people to bodily integrity, autonomy, and self-determination.

The bill provides definitions used in the bill including "intersex minor", "medically necessary", "physician", and "treatment or intervention".

The bill prohibits a physician from performing any treatment or intervention on the sex characteristics of an intersex minor, which is not medically necessary and can be deferred, until the person on whom the treatment or intervention is to be performed can provide informed consent. The best interest of the intersex minor shall be the paramount consideration.

The bill requires that prior to performing any treatment or intervention on the sex characteristics of an intersex minor which is not medically necessary, a physician shall provide written and oral disclosure to the intersex minor and informed consent shall be obtained from the intersex minor. The bill specifies the parameters of the written and oral disclosure and the obtaining of the informed consent. The bill provides that the bill does not affect the obligation of a physician
under any other law to obtain the informed consent of a patient before performing a medical procedure on the patient, including those that may significantly affect the patient's reproductive health, fertility, or ability to conceive.

The bill provides that if a physician determines that it is medically necessary to perform a treatment or intervention on the sex characteristics of an intersex minor, and the physician is not able to obtain the informed consent of the intersex minor in accordance with the bill, the physician may perform the medical procedure only if the physician provides the written and oral disclosure to the parent or guardian of the intersex minor, and the parent or guardian of the intersex minor provides written informed consent in accordance with the bill.

The bill requires the board of medicine to adopt administrative rules to administer the bill. The rules shall provide evidence-based protocols to guide physicians in ensuring that intersex minors and their parents are properly informed of all options and alternatives, that an intersex minor is to the greatest extent possible involved in the decision making about any treatment or intervention, that the intersex minor's choices are fully respected, and that any nonmedically necessary treatment or intervention is only performed with the full, free, and informed consent of the intersex minor.