

House File 662 - Introduced

HOUSE FILE 662

BY BENNETT, MASCHER, McCONKEY,
B. MEYER, EHLERT, HUNTER,
STAED, and BROWN-POWERS

A BILL FOR

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

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 147.163 Legislative findings —
2 treatment or intervention regarding intersex minors.

3 The general assembly finds and declares all of the
4 following:

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

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

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

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

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

25 1. As used in this section:

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

33 b. "*Medically necessary*" means that the treatment or
34 intervention on the sex characteristics of an intersex minor is
35 reasonable and necessary for the diagnosis or treatment of an

1 illness or injury and cannot be safely deferred. A *medically*
2 *necessary* treatment or intervention on the sex characteristics
3 of an intersex minor includes but is not limited to a procedure
4 to repair the bladder, a cloacal exstrophy, or any other
5 procedure intended to allow urine to exit the body absent a
6 urethral opening.

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

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

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

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

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

18 (4) A labiaplasty or labial reduction.

19 (5) A phalloplasty.

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

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

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

34 *b.* The written and oral disclosure provided to the intersex
35 minor by the physician shall be provided in nontechnical,

1 age-appropriate terms, and shall include all of the following:

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

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

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

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

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

21 4. a. Following receipt of the written and oral disclosure
22 provided by the physician described in subsection 3, and prior
23 to the treatment or intervention being performed, the physician
24 shall obtain informed consent to the treatment or intervention
25 from the intersex minor, which shall comply with all of the
26 following requirements:

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

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

33 (2) The written consent shall be signed by the intersex
34 minor and by the physician who will perform the treatment or
35 intervention.

1 (3) The written consent shall contain a notification to
2 the intersex minor that the written consent is an important
3 document that should be retained with other vital records.

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

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

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

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

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

1 intersex minor.

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

6 EXPLANATION

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

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

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

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

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

28 The bill requires that prior to performing any treatment or
29 intervention on the sex characteristics of an intersex minor
30 which is not medically necessary, a physician shall provide
31 written and oral disclosure to the intersex minor and informed
32 consent shall be obtained from the intersex minor. The bill
33 specifies the parameters of the written and oral disclosure
34 and the obtaining of the informed consent. The bill provides
35 that the bill does not affect the obligation of a physician

1 under any other law to obtain the informed consent of a patient
2 before performing a medical procedure on the patient, including
3 those that may significantly affect the patient's reproductive
4 health, fertility, or ability to conceive.

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

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