
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that people born with
2 variations in their physical sex characteristics, many of whom
3 identify with the term "intersex", are a part of the fabric of
4 our state's diversity and should be celebrated, not treated as
5 aberrations in need of "correction". "Variations in physical
6 sex characteristics" is an umbrella term used to describe a wide
7 range of natural bodily variations. In some cases, variations
8 in physical sex characteristics are visible at birth. In other
9 cases, these variations do not become apparent until puberty.
10 Further, some chromosomal variations may not be physically
11 apparent at all.

12 The legislature further finds that people born with
13 variations in their physical sex characteristics should be free
14 to choose whether to undergo life-altering surgeries and other
15 treatments or interventions on their physical sexual
16 characteristics that irreversibly, and sometimes irreparably,
17 cause harm.



1 Accordingly, the purpose of this Act is to ensure the right
2 of people born with variations in their physical sex
3 characteristics to participate in decisions about surgery and
4 other medical treatments or interventions on their physical sex
5 characteristics.

6 SECTION 2. Chapter 453, Hawaii Revised Statutes, is
7 amended by adding a new section to part I to be appropriately
8 designated and to read as follows:

9 "§453- Intersex minors; medically unnecessary surgery;

10 penalty. (a) No treatment or intervention on the sex
11 characteristics of a person born with variations in the person's
12 physical sex characteristics shall be performed on a person who
13 is under the age of eighteen unless the treatment or
14 intervention is medically necessary.

15 (b) Any person who knowingly violates subsection (a) shall
16 be fined not more than \$2,000 or imprisoned not more than one
17 year, or both.

18 (c) On or before July 1, 2021, the board shall adopt
19 rules, pursuant to chapter 91, to determine the treatments and
20 interventions on the sex characteristics of a person born with
21 variations in the person's physical sex characteristics who is



1 under the age of eighteen that are considered medically
2 necessary, in consultation with the following:

- 3 (1) The department of health;
- 4 (2) At least two urologists with professional experience
5 treating people born with variations in their physical
6 sex characteristics;
- 7 (3) At least one pediatrician or family physician and
8 surgeon with professional experience treating people
9 born with variations in their physical sex
10 characteristics;
- 11 (4) At least one mental health professional with
12 professional experience treating people born with
13 variations in their physical sex characteristics;
- 14 (5) At least one medical ethicist with published work on
15 variations in physical sex characteristics;
- 16 (6) At least one legal expert with published work on
17 variations in physical sex characteristics;
- 18 (7) At least one self-identified intersex-led community or
19 advocacy group with a focus on public policy regarding
20 people born with variations in their physical sex
21 characteristics; and



1 (8) At least one representative from a lesbian, gay,
2 bisexual, transgender, queer, and intersex medical
3 association.

4 (d) The rules adopted pursuant to subsection (c) shall be
5 subject to the following:

6 (1) Psychological, psychosocial, and social factors do not
7 constitute a medical necessity for a treatment or
8 intervention on the sex characteristics of a person
9 born with variations in the person's physical sex
10 characteristics who is under the age of eighteen;

11 (2) A procedure that carries a meaningful risk of harm and
12 that can be deferred safely until the individual can
13 participate in the decision is not a treatment or
14 intervention that is medically necessary; and

15 (3) The following treatments or interventions are
16 medically necessary:

17 (A) A procedure to repair the bladder or cloacal
18 exstrophy;

19 (B) A gonadectomy to address a risk of cancer that is
20 significantly elevated above the risk to the
21 general population; and



1 (C) A procedure intended to allow urine to exit the
2 body absent a urethral opening.

3 (e) As used in this section:

4 (1) "Person born with variations in the person's physical
5 sex characteristics" means an individual born with sex
6 characteristics, including genitals, gonads, and
7 chromosome patterns, that do not fit typical binary
8 notions of male or female bodies, including
9 differences in sex development resulting from androgen
10 insensitivity syndrome, congenital adrenal
11 hyperplasia, and proximal hypospadias.

12 (2) "Psychosocial" means an individual's psychological
13 status in relation to their social and physical
14 environment.

15 (3) "Treatment or intervention on the sex characteristics
16 of a person born with variations in the person's
17 physical sex characteristics" includes the following
18 procedures:

19 (A) Clitorectomy, clitoroplasty, clitoral reduction,
20 and clitoral recession, including corporal-
21 sparing procedures;



- 1 (B) Gonadectomy, including of testes, ovaries,
- 2 ovotestes, and streak gonads;
- 3 (C) Proximal hypospadias surgery, relocation of the
- 4 urethral meatus, and chordee release;
- 5 (D) Labiaplasty and labial reduction;
- 6 (E) Phalloplasty;
- 7 (F) Vaginoplasty, introitoplasty, vaginal
- 8 exteriorization, and partial or total urogenital
- 9 sinus mobilization; and
- 10 (G) Any other treatment or intervention on the
- 11 physical sex characteristics of a person born
- 12 with variations in their physical sex
- 13 characteristics intended to assign sex or conform
- 14 physical sex characteristics to typical binary
- 15 notions of male or female bodies."

16 SECTION 3. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 4. New statutory material is underscored.

H.B. NO. 2113

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:



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JAN 17 2020



H.B. NO. 2113

Report Title:

Hawaii Medical Board; Intersex Minors; Unnecessary Surgery;
Administrative Rules

Description:

Prohibits medically unnecessary treatment or intervention on the sex characteristics of persons born with variations in their physical sex characteristics who are under the age of 18. Requires the Hawaii Medical Board to adopt rules to determine which treatments and interventions are medically necessary.

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