

SB 201 (Wiener) – Intersex Bodily Autonomy

IN BRIEF

Senate Bill 201 will ensure that intersex Californians are given the opportunity to provide informed consent before medical treatments or interventions are performed on their sex characteristics, except in cases of medical necessity. This important human rights measure will prevent intersex individuals from having life-changing choices about sex and gender identity forced upon them in infancy and will instead guarantee that they are able to make those decisions for themselves.

BACKGROUND

Approximately 1-2% of people are born with variations in biological sex characteristics, sometimes referred to as intersex traits. A subset of these variations are recognized at birth, while others may go unnoticed until later in life, if ever. Although a small number of intersex infants may require immediate medical attention—for example, being born without the ability to pass urine—the vast majority are born perfectly healthy and able to live rich, fulfilling lives without any medical modification.

Mounting evidence suggests that well-intentioned but misguided sex assignment and genital modification surgeries on intersex infants violate the basic medical injunction to “first, do no harm.” These purely cosmetic procedures include infant vaginoplasties, clitoral reductions, and removal of gonadal tissues, and may result in extreme scarring, chronic lifetime pain, incontinence, loss of sexual sensation, post-traumatic stress disorder, and incorrect gender assignment. While a number of doctors continue to perform these often-irreversible procedures on infants — based on the theory that they will help intersex people feel more “normal” — no research proves the claim that these medically unnecessary surgeries benefit intersex patients.

Human Rights Watch, the World Health Organization, and all major intersex-led groups condemn these procedures when performed without the consent of the individual involved. The United Nations has deemed the practice of intersex infant genital surgery as akin to torture, and the European Union recently encouraged member states

to ban medically unnecessary surgeries on intersex infants.

Not unlike the survivors of LGBTQ conversion therapy, intersex individuals living with the results of medically unnecessary attempts at “normalizing treatment” often deal with the harmful emotional and physical consequences of for the rest of their lives. Meanwhile, parents who have expressed reluctance about surgery for their intersex children are provided insufficient information regarding the extensive risks involved.

THE SOLUTION

SB 201 simply requires that any medically unnecessary treatment or intervention upon the sex characteristics of an intersex person be postponed until the individual is old enough to provide informed consent. The bill also lays out the procedures by which an individual can give informed consent, which mirrors consent language covering other medical procedures. If passed, this legislation will guarantee intersex Californians’ right to make their own decisions about what is best for their health and happiness in an informed and consensual manner.

SB 201 recognizes that being intersex is not an aberration to be corrected, stigmatized, or erased but instead is an important part of California’s diversity that is worthy of celebration.

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Human Rights Watch
Transgender Law Center

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