

NOTE: This is the presented and final version of House Bill 26-028 as presented to the Governor for approval. No gubernatorial action has been recorded at this time.

An Act

HOUSE BILL 26-028

BY SENATOR(S) Josh Quintana, Eliana Velasco
also REPRESENTATIVE(S) Lucia Weiss, Julia Willis

CONCERNING ESTABLISHING PROTECTIONS FOR
INTERSEX INFANTS AND CHILDREN.

*Be it Enacted by the General Assembly of the State of San
Andreas:*

In the San Andreas Revised Statutes, **ADD** section 25-59-164 as follows:

SECTION 1. SHORT TITLE. This act shall be known and may be referred to as the “Intersex Infant Protection Act.”

SECTION 2. LEGISLATIVE DECLARATION. The General Assembly hereby finds and declares that: (a) Intersex individuals are persons born with physical sex characteristics that do not fit typical binary definitions of male or female bodies. (b) Historically, infants born with intersex traits have been subjected to surgical procedures intended to alter their sex characteristics to conform with socially constructed definitions of male or female anatomy. (c) Many such procedures are performed during infancy or early childhood, before the individual is capable of providing informed consent. (d) Medical and social understanding of intersex people, gender identity, and human biological diversity has evolved significantly in recent decades. (e) Surgical interventions

performed for cosmetic or psychosocial purposes, rather than for immediate medical necessity, may cause irreversible harm including damage to skin tissue, loss of sexual function, psychological trauma, infertility, and other lifelong complications. (f) Intersex individuals have increasingly advocated for the right to bodily autonomy and the ability to make their own medical decisions regarding irreversible procedures affecting their bodies. (g) It is the intent of the General Assembly to ensure that irreversible surgical procedures altering the sex characteristics of intersex infants or children are not performed without the informed consent of the individual once they reach the age of majority. (h) Nothing in this Act is intended to restrict medically necessary procedures required to address life-threatening conditions or serious medical complications.

SECTION 3. DEFINITIONS. For the purposes of this Act:

(a) “Intersex” means a person born with variations in sex characteristics, including chromosomes, gonads, hormones, or genital anatomy, that do not conform to typical definitions of male or female bodies. (b) “Sex characteristic surgical procedure” means any surgical or medical intervention intended to alter, remove, or reconstruct sex characteristics, including genital or reproductive anatomy. (c) The term includes, but is not limited to, clitoroplasty, vaginoplasty, phalloplasty, orchidopexy when performed for cosmetic symmetry, and the administration of hormonal therapy intended to induce puberty conforming to a specific binary gender prior to the age of consent. (d) “Medically necessary procedure” means a surgical or medical intervention required to address a condition that poses an immediate threat to the life or physical health of the individual, such procedures include, but are not limited to, the treatment of urinary tract obstructions, rectal atresia, or cancerous gonadal tissue. (e) “Deferred sex characteristic procedure” means any procedure performed primarily for cosmetic, social, or gender-assignment purposes and not required to prevent death or serious and immediate medical harm.

SECTION 4. PROHIBITION ON NON-MEDICALLY NECESSARY SURGERY. (a) No physician, surgeon, hospital, or

health-care professional shall perform a Deferred sex characteristic procedure on an intersex minor. (b) Consent from a parent, guardian, or other individual shall not authorize a procedure prohibited under this section. (c) Deferred sex characteristic procedures described in subsection (a) may only be performed after the individual has reached eighteen years of age and has provided informed consent. (d) prior to performing any medically necessary procedure authorized under section 5, the medical provider shall provide the parents or guardians with information regarding independent intersex patient advocacy organizations and peer support groups. The provision of this information shall be documented in the minor's medical record.

SECTION 5. MEDICAL NECESSITY EXCEPTION. (a) A surgical procedure may be performed on an intersex minor if the procedure is medically necessary to: Prevent imminent risk to the life of the child; Prevent serious and irreversible physical harm; or Address a condition that requires immediate medical intervention. A determination of medical necessity shall not be based on psychological or social factors relating to gender conformity or the presumed preferences of the minor in adulthood. (b) The burden of demonstrating medical necessity shall rest with the physician performing the procedure. (c) Whenever practicable, a second independent physician, who is not an affiliate or colleague of the performing physician shall confirm the determination of medical necessity prior to the procedure. (d) The Department of Health shall establish specific medical billing codes for procedures performed under the medical necessity exception. hospitals shall be subject to biennial audits to ensure that procedures coded as "medically necessary" do not circumvent the prohibitions established in section 4.

SECTION 6. INFORMED CONSENT AFTER AGE OF MAJORITY. (a) Upon reaching eighteen years of age, an intersex individual may elect to undergo any medical or surgical procedure related to their sex characteristics. (b) Such procedures shall require informed consent consistent with applicable state medical standards. (c) Notwithstanding any other provision of law, all

medical records, including photographic and diagnostic imaging relating to the sex characteristics of an intersex minor shall be preserved for a period of not less than thirty years. an individual shall have the right to access their full, unredacted medical records upon reaching the age of eighteen.

SECTION 7. ENFORCEMENT. (a) A violation of this Act shall constitute unprofessional conduct under the laws governing the licensing of medical professionals in the State of San Andreas. (b) Any intersex individual subjected to a prohibited procedure may bring a civil action against the person or entity that performed or authorized the procedure. (I) if the individual is a minor at the time of the discovery of the prohibited procedure, the statute of limitations for such an action shall be tolled until the individual reaches twenty-five (25) years of age. (c) Courts may award damages, injunctive relief, and reasonable attorney fees to prevailing plaintiffs.

SECTION 8. VIOLATIONS AND PENALTIES. (a) Professional Misconduct. Any physician, surgeon, or licensed medical provider who knowingly performs a sex characteristic surgical procedure prohibited under this Act shall be deemed to have engaged in professional misconduct. (b) Licensing Consequences. A violation of this Act shall constitute grounds for disciplinary action by the State Medical Board, including but not limited to: (I) Suspension of the physician's license; (II) Revocation of the physician's license; (III) Administrative fines; or (IV) Any other disciplinary measures authorized under state law governing medical licensure. (c) Civil Liability. Any person who performs or authorizes a prohibited procedure under this Act shall be civilly liable to the individual upon whom the procedure was performed. The court may award: (I) Compensatory damages; (II) Statutory damages of not less than twenty-five thousand dollars (\$25,000) per violation; (III) Punitive damages where the violation was intentional or willful; and (IV) Reasonable attorney fees and court costs. (d) Criminal Penalty. A physician or medical provider who knowingly performs a procedure prohibited under this Act commits a class C felony. (e) Institutional Responsibility. A

hospital, clinic, or medical facility that knowingly permits or facilitates a violation of this Act may be subject to civil penalties and regulatory sanctions as determined by the Department of Health.

SECTION 8.5. ADVISORY COUNCIL ON INTERSEX HEALTHCARE. (a) There is hereby created the advisory council on intersex healthcare within the department of health. The council shall consist of nine members, including: (I) three intersex individuals; (II) two medical ethicists; (III) two pediatric specialists with experience in intersex variations; and (IV) two representatives from intersex advocacy organizations. (b) The council shall advise the department on rulemaking, clinical guidelines, and the evaluation of medical necessity standards.

SECTION 9. RULEMAKING. (a) The Department of Health may adopt rules necessary to implement and enforce the provisions of this Act. (b) The Department shall establish a system for the anonymized collection of data regarding medically necessary procedures performed on intersex minors pursuant to section 5. The data shall include the specific medical justification for each procedure and the age of the patient at the time of the intervention.

SECTION 9.5. MEDICAL EDUCATION AND TRAINING. The Department of Health, in consultation with intersex advocacy organizations and medical ethicists, shall develop educational materials for healthcare professionals regarding the care of intersex individuals, the importance of bodily autonomy, and the long-term physical and psychological impacts of nonconsensual sex characteristic surgical procedures.

SECTION 10. SAFETY CLAUSE. The General Assembly finds this act necessary for the immediate preservation of public peace, health, and safety, and shall take effect on 12:01 a.m. the day following signature from the governor.

Brooklynn Suarez
SPEAKER OF THE HOUSE OF
REPRESENTATIVES

Benjamin Harrison
PRESIDENT OF THE
SENATE

Gabriella Spears
CLERK OF THE HOUSE OF
REPRESENTATIVES

Estella Newman
SECRETARY OF THE
SENATE

APPROVED:

(Date and Time)

Isabel R. Payne
GOVERNOR OF THE STATE OF SAN
ANDREAS