

2021 -- H 6171

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY -- PROTECTION OF CHILDREN -- PHYSICAL
SEX CHARACTERISTICS SURGERY ACT

Introduced By: Representatives Kislak, McNamara, Potter, Felix, Alzate, Cassar,
Cortvriend, Ajello, Donovan, and Henries

Date Introduced: March 26, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 95

4 PROTECTION OF YOUTH WITH VARIATIONS IN PHYSICAL SEX CHARACTERISTICS

5 ACT

6 **23-95-1. Short title.**

7 This chapter shall be known and may be cited as the "Protection of Youth with Variations
8 in Physical Sex Characteristics Act".

9 **23-95-2. Definitions.**

10 As used in this chapter:

11 (1) "Individual born with variations in their physical sex characteristics" means an
12 individual born with physical traits, including genitals, gonads, hormone function, or chromosomal
13 patterns, that vary from stereotypical notions regarding the development, appearance, or function
14 of sex characteristics, including those variations resulting from androgen insensitivity syndrome
15 and congenital adrenal hyperplasia.

16 (2) "Prohibited surgery" means clitoroplasty, clitoral reduction, and clitoral recession,
17 including corporal sparing procedures, gonadectomy, any procedure that lengthens or reroutes a
18 urethra from its native orifice, vaginoplasty, urogenital sinus mobilization, and/or vaginal

1 exteriorization.

2 (3) "Surgery required to address an immediate risk of physical harm" means any of the
3 following:

4 (i) Surgery to remove tissue that poses a significantly heightened clinical risk of
5 malignancy relative to that of the general population.

6 (ii) Surgery to allow urine to exit the body, to treat urinary incontinence, or to make a
7 minimally invasive adjustment to urinary function in order to decrease a risk of infection or renal
8 complication in a patient whose current urinary function puts them at a demonstrated clinical risk
9 of infection or renal complication.

10 (iii) Surgery that is required to treat complications of a previous surgery and cannot be
11 delayed without increasing physical health risks to the patient.

12 (iv) Any other surgery necessary to preserve life in the event of a medical emergency.

13 **23-95-3. Physical sex characteristics surgery for children – Violations and**
14 **enforcement.**

15 (a) No licensed health care professional shall perform a prohibited surgery as defined in §
16 23-95-2, on or relating to a patient under the age of twelve (12) unless required to address an
17 immediate risk of physical harm.

18 (b) The department of health shall promulgate rules and/or regulations to carry out the
19 intent of this chapter.

20 (c) The department of health is hereby authorized to initiate proceedings for violation of
21 this section.

22 **23-95-4. Civil liability.**

23 (a) Any person subjected to a surgical procedure in violation of the provisions of § 23-95-
24 3 may recover damages for any injury to include mental and emotional distress, in a civil action
25 against any health care professional violating or assisting in the violation of the provisions of § 23-
26 95-3. A prevailing plaintiff shall be awarded attorney fees and costs.

27 (b) If the defendant's violation is determined to be a willful and malicious violation of §23-
28 95-3 then the court may order and/or award punitive damages up to the amount of treble actual
29 damages, and injunctive or any other appropriate relief

30 **23-95-5. Limitation of actions.**

31 Actions for violations of § 23-95-3 shall be commenced and sued upon within ten (10)
32 years after the person subjected to the surgical procedure reaches the age of eighteen (18) years,
33 and not after.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- PROTECTION OF CHILDREN -- PHYSICAL
SEX CHARACTERISTICS SURGERY ACT

1 This act would prohibit physical sex characteristics surgery for children under twelve (12)
2 years of age, except to address an immediate risk of physical harm. This act would further provide
3 for a private course of action for violations with a ten (10) year statute of limitations.

4 This act would take effect upon passage.

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