

**SENATE, No. 3506**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED MARCH 9, 2021

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Prohibits certain surgical procedures on children born with variations in their sex characteristics.

**CURRENT VERSION OF TEXT**

As introduced.



1   **AN ACT** concerning certain surgical procedures and supplementing  
2       Title 26 of the Revised Statutes.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7       1. As used in this act:

8       “Person born with variations in their sex characteristics” means a  
9 person born with one or more physical traits, including genitals or  
10 gonads, or hormonal function or chromosomal patterns that vary  
11 from stereotypical notions regarding the development, appearance,  
12 or function of those sex characteristics including, but not limited to,  
13 variations of sex development resulting from androgen insensitivity  
14 syndrome or congenital adrenal hyperplasia.

15       “Prohibited surgical procedure” means clitoroplasty; clitoral  
16 reduction; clitoral recession, including corporal-sparing procedures;  
17 gonadectomy; any procedure that lengthens or reroutes the urethra  
18 from its native orifice; vaginoplasty; urogenital sinus mobilization;  
19 and vaginal exteriorization.

20       “Surgery required to address an immediate risk of physical  
21 harm” means: a surgery to remove tissue that poses a significantly  
22 heightened clinical risk of malignancy relative to that of the general  
23 population; a surgery to allow urine to exit the body, to treat urinary  
24 incontinence, or to make a minimally invasive adjustment to urinary  
25 function in order to decrease a risk of infection or renal  
26 complication in a patient whose current urinary function puts them  
27 at a demonstrated clinical risk of infection or renal complication; a  
28 surgery that is required to treat complications of a previous surgery  
29 and cannot be delayed without increasing physical health risks to  
30 the patient; or a surgery that is necessary to preserve life in the  
31 event of a medical emergency, except that psychological,  
32 psychosocial, or social factors shall not be the basis for determining  
33 whether the surgery is necessary to preserve an individual’s life.  
34 when the surgery is not at the behest of the individual.

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36       2. a. A prohibited surgical procedure shall not be performed by  
37 a health care professional in a health care facility licensed pursuant  
38 to P.L.1971, c.136 (C.26:2H-1 et al.) on a person born with  
39 variations in their physical sex characteristics, who is 12 years of  
40 age or under, unless the surgery is required to address an immediate  
41 risk of physical harm.

42       b. If a hospital allows a surgical procedure prohibited under  
43 subsection b. of this act to be performed by a health care  
44 professional in violation of the provisions of this act, the State  
45 Board of Medical Examiners shall invoke penalties or take  
46 administrative action against the health care professional. Any

1 penalties imposed or administrative actions taken by the State  
2 Board of Medical Examiners pursuant to this subsection may be  
3 imposed in a summary proceeding.

4  
5 3. a. A health care professional who performs a prohibited  
6 surgical procedure in violation of the provisions of section 2 of this  
7 act shall be liable to the person upon whom the prohibited surgical  
8 procedure was performed. Such a person may file an appropriate  
9 civil action against the health care professional in the Superior  
10 Court, and the court may order the health care professional to pay:

11 (1) actual, compensatory, and punitive damages, and other  
12 injunctive and equitable relief as the court determines to be  
13 appropriate;

14 (2) treble damages upon proof of willful, malicious, or reckless  
15 disregard of the law; and

16 (3) reasonable attorney's fees and other litigation costs  
17 reasonably incurred.

18 b. A civil action shall be filed under this section within 10  
19 years of the date the prohibited surgical procedure was performed,  
20 except that, if the person filing the action is 12 years of age or  
21 under, the action shall not be commenced until the person reaches  
22 the age of 18.

23  
24 4. This act shall take effect immediately.

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27 STATEMENT

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29 This bill prohibits a health care professional in a health care  
30 facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et al.) from  
31 performing certain prohibited surgical procedures on a person born  
32 with variations in their sex characteristics, who is 12 years of age  
33 or under, unless the surgery is required to address an immediate risk  
34 of physical harm.. The surgical procedures prohibited under the bill  
35 include: clitoroplasty; clitoral reduction; clitoral recession,  
36 including corporal-sparing procedures; gonadectomy; any procedure  
37 that lengthens or reroutes the urethra from its native orifice;  
38 vaginoplasty; urogenital sinus mobilization; and vaginal  
39 exteriorization.

40 A person born with variations in their sex characteristics is  
41 defined in the bill as a person who born with one or more physical  
42 traits, including genitals or gonads, or hormonal function or  
43 chromosomal patterns that vary from stereotypical notions  
44 regarding the development, appearance, or function of those sex  
45 characteristics including, but not limited to, variations of sex

1 development resulting from androgen insensitivity syndrome and  
2 congenital adrenal hyperplasia.

3 The bill further defines a “surgery required to address an  
4 immediate risk of physical harm” to mean a surgery: to remove  
5 tissue that poses a heightened clinical risk of malignancy relative to  
6 that of the general population; to allow urine to exit the body, to  
7 treat urinary incontinence, or to make a minimally invasive  
8 adjustment to urinary function in order to decrease a risk of  
9 infection or renal complication in a patient whose current urinary  
10 function puts them at a demonstrated clinical risk of infection or  
11 renal complication; that  
12 is required to treat complications of a previous surgery and cannot  
13 be delayed without increasing physical health risks to the patient; or  
14 that is necessary to preserve life in the event of a medical  
15 emergency, except that psychological, psychosocial, or social  
16 factors shall not be the basis for determining whether the surgery is  
17 necessary to preserve an individual’s life.

18 The bill also stipulates that if a hospital allows a prohibited  
19 surgical procedure to be performed by a health care professional in  
20 violation of the bill’s provisions, the State Board of Medical  
21 Examiners is to invoke penalties or take administrative action  
22 against the health care professional. Any penalties imposed or  
23 administrative actions taken by the State Board may be imposed in  
24 a summary proceeding.

25 Under the bill’s provisions, a health care professional who  
26 performs a prohibited surgical procedure on a person born with  
27 variations in their sex characteristics 12 years of age or under, in  
28 violation of the provisions of the bill, will be civilly liable to that  
29 person. The person upon whom the surgery is performed may bring  
30 a civil action in the Superior Court. The court may then order:  
31 actual, compensatory, and punitive damages, and other injunctive  
32 and equitable relief as the court determines to be appropriate; treble  
33 damages upon proof of willful, malicious, or reckless disregard of  
34 the law; and reasonable attorney’s fees and other litigation costs  
35 reasonably incurred.

36 A civil action brought under provisions of the bill is to be filed  
37 within 10 years of the date the surgical procedure was performed,  
38 except that, if a person 12 years of age or under files the action, the  
39 action may not commence until the person reaches the age of 18.