



IN THE CONGRESS OF THE UNITED STATES

NOVEMBER 3, 2020

Mr. McKENNA and Ms. CHAN (for themselves, Mr. GRAVES, Mr. LIGHTWOOD, Mr. CAGE, Ms. CARROT, Mr. ANTONIO, Mr. SOMEONE, Mr. KOAY-JOHNSON and Mrs. COLBERT) introduced the following bill;

A BILL

To protect intersex children from elective surgery in infancy

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protect Intersex Children Act” or the acronym “PICA”.

SEC. 2. FINDINGS.

Congress finds that—

- (a) 1 in 1500 to 1 in 2000 births result in a child with noticeably atypical genitalia.
- (b) Such children are often subjected to surgeries to physically alter their innate traits for no medically necessary reason while too young to consent to such actions.
- (c) Said surgical intervention has been shown to result in mental distress, up to and including depression, gender dysphoria, Post Traumatic Stress Disorder (PTSD), and suicide.
- (d) A lack of information available to parents and the general public increases the amount of uninformed decisions made on behalf of intersex children.

SEC. 3. DEFINITIONS.

In this Act—

- (a) INTERSEX.— “Intersex” is a general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn’t seem to fit the typical definitions of female or male.
 - (b) ELECTIVE SURGERY.— The term “Elective Surgery” refers to surgery that is scheduled in advance because it does not involve a medical emergency.
 - (c) SURGICAL INTERVENTION.— The term “Surgical Intervention” refers to an addition or a modification to the current vascular structure.
 - (d) CONSENT.— The term “Consent” means one person voluntarily agrees to the proposal or desires of another.
 - (e) MEDICALLY UNNECESSARY. — The term “Medically Unnecessary” is defined as not both reasonable and necessary for the diagnosis or treatment of illness or injury as defined by the Secretary of Health and Human Services.
- SECRETARY— The term “Secretary” refers to the Secretary of Education, or whomever else the principal officer of the Department may be.

SEC. 4. SURGERIES.

- (a) IN GENERAL.— Medically unnecessary surgical intervention upon the sex characteristics of intersex individuals shall not be performed unless
 - (1) the child has reached 8 years of age or signs of puberty have been attested by two different practicing physicians; and
 - (2) the child has undergone a psychological assessment by a licensed therapist, psychiatrist or otherwise qualified individual resulting in an affirmative recommendation to proceed; and
 - (3) the child has given their consent attested to in writing or another documented form; and
 - (4) at least two practicing pediatricians have given their written consent or an affirmative recommendation to proceed with any intervention.
- (b) Any violation of this section will result in consequences as laid out in Section 6 of this act.

SEC. 5. EDUCATION.

- (a) IN GENERAL.— The Secretary of Education shall establish a program that provides federal funding to schools to advance awareness of intersex individuals. This program shall be named the “Intersex Education Program” (IED) and shall be overseen by the Office of Elementary and Secondary Education in conjuncture with the Office of Civil Rights. This program shall

formulate education modules to be used by schools. These education modules may be constructed in conjunction with the Administration on Children, Youth and Families.

- (b) **REQUIREMENTS.**— In carrying out the program under subsection (a) the Secretary shall—
- (1) ensure the presence of notable efforts on behalf of the school to implement the educational modules; and
 - (2) ensure the validity and accuracy of the information provided in conjunction with the Office of Civil Rights, and the Secretary of Health and Human Services; and
 - (3) ensure the continued implementation as conditional for federal financial support; and
 - (4) ensure the inclusion of the educational modules in testing methods such as quizzes and exams, to determine the effectiveness of the implementation of the IED. Testing results may be factored into the process of continuing or terminating funding from the program.
- (c) **IMPLEMENTATION.** — The Secretary and their subordinates in the Department shall have the power and responsibility to do the following:
- (i) To disburse a grant per year to public schools, districts, and state departments of education who are in compliance with the requirements within this section, for the purposes of reimbursing and incentivizing their efforts to continually comply with the provisions of the program above. All grants of this type may not collectively exceed \$50,000,000 per year.
 - (ii) To disburse a grant in the fiscal year of 2021 to schools, districts, and state departments of education for the sole purpose of reimbursing these institutions for the set-up costs of compliance with the requirements of the program above. These grants may not exceed \$500,000,000 collectively, and may not exceed the expenses of the respective public schools, districts, and state departments of education.
- (d) **FUNDING.**— The Secretary shall be appropriated \$600,000,000 from the Expanding Civil Rights Education Inclusivity Grant Program, the Budget of the Department of Education, and the Budget of the Department of Health and Human Services for the fiscal year of 2020 to carry out the provisions of this section.

SEC. 6. ENFORCEMENT OF SEC 4.

- (a) **IN GENERAL.**— The Secretary of Health and Human Services in conjunction with the Centers for Medicare & Medicaid Services shall monitor healthcare providers' compliance with Section 4 of this act. If found to violate any subsection of Section 4, the healthcare provider in question shall not receive any further federal financial support in any manner until

- (1) the healthcare provider has released some form of substantive statement pledging future compliance with this act; and
- (2) the healthcare provider has made noticeable efforts to educate their employees as to this act as well as the substantial empirical data supporting this act.

SEC. 7. ENACTMENT.

EFFECTIVE DATE.— The provisions of this Act shall come into force twenty-eight (28) days after passage.
