

2023 – 2024 Legislative Memorandum

**Subject: Intersex Education & Outreach
A.5627 (Seawright) / S.5399 (Hoylman-Sigal)**

Position: SUPPORT

At least 1.7% of people have intersex traits,¹ meaning that they are born with variations in their sex characteristics that differ from traditional assumptions about male and female bodies.² Many infants with intersex traits are subject to nonemergent surgeries to conform their bodies to a gender binary. These surgeries can cause scarring, chronic pain, urinary incontinence, sterilization, loss of future sexual sensation and function, recurring complications requiring repeated follow-up procedures, depression, post-traumatic stress disorder, suicidality, and incorrect gender assignment.³

A.5627 (Seawright)/S.5399 (Hoylman) would permit the Department of Health, in conjunction with directly impacted individuals and their chosen advocates and medical providers, to conduct a public education campaign around the existence of people with intersex traits and the risks associated with nonemergent interventions performed on infants and children with intersex traits. The NYCLU supports this bill.

This important legislation responds to an issue at the intersection of bodily autonomy – the ability to make decisions for oneself about one’s own body – and combatting gender stereotypes. Surgeries on infants with intersex traits are often about trying to make a baby conform to societal expectations about what “typical” male and female bodies “should” look like. Nonemergent interventions on children with intersex traits when they are unable to understand or consent to the procedure also implicate

¹ *Its Intersex Awareness Day – here are 5 myths we need to shatter*, AMNESTY INT’L, Oct. 26, 2018, <https://www.amnesty.org/en/latest/news/2018/10/its-intersex-awareness-day-here-are-5-myths-we-need-to-shatter/>.

² *See generally Intersex 101: Everything you want to know!*, INTERACT, Mar. 2017, <https://interactadvocates.org/wp-content/uploads/2017/03/INTERSEX101.pdf>.

³ *See generally “I WANT TO BE LIKE NATURE MADE ME”: MEDICALLY UNNECESSARY SURGERIES ON INTERSEX CHILDREN IN THE US*, HUMAN RIGHTS WATCH & INTERACT (2017).

constitutional rights; the Constitution protects the rights of all people – including children – to be free from unnecessary medical interventions,⁴ including those that are based not in science but in social biases. Children with intersex traits should have an opportunity to make decisions about their bodies once they are able to determine what is best for themselves.

Done right, the public education campaign this bill requires will give parents, as well as youth with intersex traits themselves, the tools they need to better understand and contextualize the medical interventions offered to them.

People with intersex traits are too often invisible in society and too often have been pathologized and treated as abnormal. The public education campaign will also challenge that view and help New Yorkers to recognize the breadth of human sexuality and gender expression that people in fact experience.

The NYCLU supports A.5627/S.5399 and urges its passage.

⁴ See *Parham v. J. R.*, 442 U.S. 584, 600 (1979) (“It is not disputed that a child, in common with adults, has a substantial liberty interest in not being confined unnecessarily for medical treatment.”).