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The ABA opposes nonconsensual surgeries on intersex children

The American Bar Association has [adopted a resolution](#) in support of intersex bodily autonomy as of the midyear meeting of its House of Delegates this past Monday.

Resolution 511 states that the ABA “opposes all federal, state, local, territorial, and tribal legislation, regulation, and agency policy that attempts to impose medical or surgical intervention on minors with intersex traits (also known as variations in sex characteristics) without the minor’s informed consent or assent,” and “urges licensed professionals not to conduct or propose medical or surgical intervention on minors with intersex traits until the minor requests the proposed care, understands the impact of the proposed care as well as alternatives, is provided with affirming psychosocial supports, and gives informed consent or assent, except when immediate life-threatening circumstances require emergency intervention.”

This makes the ABA the most recent organization to go on record in support of intersex children’s right to self-determination, which is threatened by the practice of medically unnecessary surgeries performed most commonly in infancy and early childhood – a practice that is increasingly recognized as a human rights violation. Recent anti-trans legislation seeking to ban access to gender-affirming care for transgender adolescents [nearly always includes](#) an explicit exception allowing the harmful practice of unnecessary and unwanted medical intervention on intersex children to continue.

Unlike gender-affirming care, which is actively sought and chosen by individuals in response to their own healthcare needs, the purpose of imposing surgery on young intersex children “historically...has been to make people ‘conform’ to a gender norm,” explained Beth Whittenbury, a delegate of the California Lawyers Association, who spoke in favor of Resolution 511 before the House of Delegates. “And it is the job of the ABA to disrupt historical trends in the interest of equity and justice.”

The resolution was introduced jointly by four groups within the ABA: the Section on Civil Rights and Social Justice, the Center for Human Rights, the Coalition on Racial and Ethnic Justice, and the Commission on Sexual Orientation and Gender Identity. No opposition was registered to speak. The resolution was moved by Civil Rights and Social Justice delegate Mark Shickman, who argued that the decision whether to proceed with surgical intervention on a child’s sex characteristics “should be delayed” whenever possible “until the child is able to provide informed consent ... especially since it’s a decision which could have a lifetime impact.” “[A]s adults, we assume we should make the decisions for children, but most of the time, they really do know – because they’re in their own bodies – what they

want,” added Brenda Robinson, Chair of the ABA Commission on Youth at Risk and attorney for Children’s Law Center of California.

“This week, the world’s largest voluntary organization of legal professionals stood up for each child’s right to make decisions about their own bodies and medical care - and we are celebrating,” said Erika Lorshbough, executive director of interACT. “This resolution was proposed by lawyers who work to protect the rights of children and adults, and who understand the meaning and the fundamental importance of informed consent. With human dignity and autonomy at heart, the ABA joins a growing global and national consensus that the performance of nonessential and nonconsensual medical interventions on children with intersex traits violates their basic human rights.”

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Through law and policy, media, and youth leadership programs, [interACT: Advocates for Intersex Youth](#) leads national conversations on intersex issues.