
OLR Bill Analysis

sSB 388

AN ACT CONCERNING INTERSEX PERSONS.

SUMMARY

This bill:

1. specifies that “discrimination on the basis of sex” includes discrimination related to intersex characteristics, for purposes of anti-discrimination laws under the jurisdiction of the Commission on Human Rights and Opportunities (CHRO);
2. allows an intersex applicant to identify as such on a driver’s license or non-driver identification card;
3. allows parents to list a child’s intersex status on a birth certificate, or intersex adults to amend their birth certificate to reflect that status;
4. requires public agencies that require people to identify their sex to (a) accept as proof of intersex identification an identity card, driver’s license, or birth certificate, and (b) specify the person’s sex as intersex on any documentation listing a person’s sex; and
5. establishes a task force to study the circumstances in which a surgery related to a person’s intersex status is medically necessary.

Under the bill, “intersex” means a condition in which a person is born with a reproductive or sexual anatomy or chromosome pattern that does not fit the typical definition of male or female.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2019, except the task force provisions take effect upon passage.

§ 1 — SEX DISCRIMINATION

For purposes of the CHRO statutes, the bill specifically includes discrimination related to intersex characteristics as part of sex discrimination.

CHRO has jurisdiction over laws prohibiting sex discrimination in several contexts, including, among other things, employment; access to public accommodations; the sale or rental of housing; the granting of credit; equal employment in state agencies; state licensing; state services; and the allocation of state benefits.

By law, anyone aggrieved by such alleged discriminatory practices may file a discrimination complaint with CHRO, which investigates and enforces anti-discrimination laws in these areas.

§§ 2 & 3 — DRIVER'S LICENSE AND NON-DRIVER ID CARD

The bill gives intersex applicants the option of identifying as such on a driver's license, including a commercial driver's license, or non-driver identification card. It requires the Department of Motor Vehicles (DMV) to accept evidence of a person's intersex characteristics as proof of intersex identification for these purposes, in the form and manner the DMV commissioner prescribes.

§§ 4 & 5 — BIRTH CERTIFICATES

Specification of Intersex Identification

The bill allows parents to specify a child's sex as intersex on the child's birth certificate. It requires the Department of Public Health (DPH) to accept evidence of a child's intersex characteristics for this purpose, in a form and manner the DPH commissioner prescribes.

Amendment to Certificate

The bill allows intersex persons to request a new birth certificate to change the sex designation and, if applicable, the name on their certificate. It requires the DPH commissioner to issue a new birth certificate to an intersex person who submits the following documentation, in the form and manner the commissioner prescribes:

1. a written request, signed under penalty of law, for a replacement birth certificate to change the sex designated on the person's original birth certificate;
2. a notarized affidavit from a physician, advanced practice registered nurse, or psychologist, licensed in any state, stating that the applicant has intersex characteristics; and
3. if applicable, proof of a legal name change.

As is the case under existing law for birth certificates reflecting gender change:

1. only the DPH commissioner, and not local registrars of vital statistics, may amend a birth certificate to reflect an intersex person's change in sex designation;
2. such a change results in a replacement certificate that supersedes the original, and cannot reveal the original language changed in the amendment;
3. the certificates are not marked "amended"; and
4. the commissioner must forward the replacement certificate to the appropriate local registrar.

§ 6 — AGENCY DOCUMENTATION

Under the bill, any public agency (see below) that requires a person to identify the person's sex for any reason must accept as proof of the person's identification as intersex a (1) DMV-issued identity card or driver's license or (2) birth certificate. The agency must also specify the person's sex as intersex on any documentation it generates on which the person's sex is identified.

These provisions apply to "public agencies" as defined in the Freedom of Information Act (FOIA). Generally, under FOIA, a public agency is any (1) state, municipal, regional, or quasi-public agency or (2) entity that is the functional equivalent of such agencies (CGS § 1-200(1)).

§ 7 — INTERSEX SURGERY TASK FORCE

The bill establishes an eight-member task force to study the circumstances in which surgery related to a person’s intersex status is medically necessary.

Under the bill, the Senate president pro tempore and House speaker each appoint two members, and the Senate and House majority and minority leaders each appoint one. The bill does not prescribe the members’ qualifications. Legislators may serve on the task force.

The bill requires task force appointments to be made no later than 30 days after the bill’s passage. The appointing authority fills any vacancy.

The Senate president and House speaker must select the task force chairpersons from among its members. The chairpersons must schedule the first task force meeting, to be held no later than 60 days after the bill’s passage. The Public Health Committee’s administrative staff serves in that capacity for the task force.

The bill requires the task force to report its findings and recommendations to the Public Health Committee by January 1, 2020. The task force terminates on the date it submits the report or January 1, 2020, whichever is later.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 24 Nay 0 (04/01/2019)