
OLR Bill Analysis

sSB 388 (File 713, as amended by Senate "A")*

AN ACT CONCERNING INTERSEX PERSONS.

SUMMARY

This bill makes various changes concerning intersex individuals.

It 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).

Starting July 1, 2020, the bill allows a child’s parent or guardian, in consultation with an attending practitioner, to designate a child’s sex as non-binary (i.e., not exclusively male or female) on the child’s birth certificate. Starting July 1, 2021, it requires the Department of Public Health (DPH) commissioner, upon an intersex person’s request and submission of documentary evidence, to issue a new birth certificate to reflect the person’s sex designation. Under current practice, (1) the medical practitioner attending a birth may record a child’s gender as “X” rather than male or female and (2) DPH issues new birth certificates to reflect intersex status if the person submits certain documentation.

The bill also 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 an individual 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.

*Senate Amendment “A” replaces the underlying bill. It removes

provisions (1) allowing an intersex applicant to identify as such on a driver's license or non-driver identification card, (2) requiring public agencies that require people to identify their sex to accept certain documents as proof of intersex identification and specify the person's sex as intersex on any documentation listing a person's sex, and (3) specifying the documentation that intersex applicants must submit to amend the sex designation on their birth certificates. The amendment also (1) delays the start date for the provisions on birth certificates and amendments to July 2020 and July 2021, respectively, and (2) specifies the qualifications for task force members.

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."

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

§ 4 — AMENDING BIRTH CERTIFICATES

Starting July 1, 2021, the bill requires the DPH commissioner to issue a new birth certificate to reflect an intersex individual's sex designation change upon receipt of documentary evidence in the form and manner the commissioner prescribes. The new certificate must reflect the newly designated sex and, if applicable, the individual's legal name change.

Under the bill, 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.

Under existing law for birth certificates reflecting gender change, the original must be physically or electronically sealed and kept in a confidential file. The bill does not specifically extend this to birth certificates reflecting sex designation change by intersex persons.

§ 5 — INTERSEX SURGERY TASK FORCE

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

Table 1 lists the authority and criteria for task force appointments.

Table 1: Task Force Members

<i>Appointing Authority</i>	<i>Appointee Criteria</i>
House speaker	Two appointees: (1) a licensed mental health care provider with experience in treating intersex persons and (2) an intersex adult
Senate president pro tempore	Two appointees: (1) a medical ethicist with a publishing background in issues affecting the intersex community and (2) a representative of a community group led by and comprised of intersex persons who has experience advocating for policies benefiting that community
House majority leader	A pediatrician with experience in treating intersex persons
Senate majority leader	A legal expert with a publishing background in issues affecting the intersex community
House minority leader	A urologist with experience in treating intersex

<i>Appointing Authority</i>	<i>Appointee Criteria</i>
	persons
Senate minority leader	An endocrinologist with experience in treating intersex persons
Governor	An intersex adult

Under the bill, the legislative appointees to the task force may be legislators.

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 pro tempore 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)