



General Assembly

Amendment

January Session, 2019

LCO No. 9112



Offered by:

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To: Subst. Senate Bill No. 388

File No. 713

Cal. No. 358

"AN ACT CONCERNING INTERSEX PERSONS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 46a-51 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2019*):

5 As used in section 4a-60a and this chapter:

6 (1) "Blind" refers to an individual whose central visual acuity does
7 not exceed 20/200 in the better eye with correcting lenses, or whose
8 visual acuity is greater than 20/200 but is accompanied by a limitation
9 in the fields of vision such that the widest diameter of the visual field
10 subtends an angle no greater than twenty degrees;

11 (2) "Commission" means the Commission on Human Rights and
12 Opportunities created by section 46a-52;

13 (3) "Commission legal counsel" means a member of the legal staff
14 employed by the commission pursuant to section 46a-54;

15 (4) "Commissioner" means a member of the commission;

16 (5) "Court" means the Superior Court or any judge of said court;

17 (6) "Discrimination" includes segregation and separation;

18 (7) "Discriminatory employment practice" means any discriminatory
19 practice specified in section 46a-60 or 46a-81c;

20 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-
21 60a, 4a-60g, 31-40y, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-
22 68, 46a-68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive,
23 subsection (a) of section 46a-80 or sections 46a-81b to 46a-81o,
24 inclusive;

25 (9) "Employee" means any person employed by an employer but
26 shall not include any individual employed by such individual's
27 parents, spouse or child;

28 (10) "Employer" includes the state and all political subdivisions
29 thereof and means any person or employer with three or more persons
30 in such person's or employer's employ;

31 (11) "Employment agency" means any person undertaking with or
32 without compensation to procure employees or opportunities to work;

33 (12) "Labor organization" means any organization which exists for
34 the purpose, in whole or in part, of collective bargaining or of dealing
35 with employers concerning grievances, terms or conditions of
36 employment, or of other mutual aid or protection in connection with
37 employment;

38 (13) "Intellectual disability" means intellectual disability as defined
39 in section 1-1g;

40 (14) "Person" means one or more individuals, partnerships,

41 associations, corporations, limited liability companies, legal
42 representatives, trustees, trustees in bankruptcy, receivers and the state
43 and all political subdivisions and agencies thereof;

44 (15) "Physically disabled" refers to any individual who has any
45 chronic physical handicap, infirmity or impairment, whether
46 congenital or resulting from bodily injury, organic processes or
47 changes or from illness, including, but not limited to, epilepsy,
48 deafness or being hard of hearing or reliance on a wheelchair or other
49 remedial appliance or device;

50 (16) "Respondent" means any person alleged in a complaint filed
51 pursuant to section 46a-82 to have committed a discriminatory
52 practice;

53 (17) "Discrimination on the basis of sex" includes but is not limited
54 to discrimination related to pregnancy, child-bearing capacity,
55 sterilization, fertility, intersex characteristics or related medical
56 conditions. As used in this subdivision, "intersex" means a condition in
57 which an individual is born with a reproductive or sexual anatomy or
58 chromosome pattern that does not fit the typical definition of male or
59 female;

60 (18) "Discrimination on the basis of religious creed" includes but is
61 not limited to discrimination related to all aspects of religious
62 observances and practice as well as belief, unless an employer
63 demonstrates that the employer is unable to reasonably accommodate
64 to an employee's or prospective employee's religious observance or
65 practice without undue hardship on the conduct of the employer's
66 business;

67 (19) "Learning disability" refers to an individual who exhibits a
68 severe discrepancy between educational performance and measured
69 intellectual ability and who exhibits a disorder in one or more of the
70 basic psychological processes involved in understanding or in using
71 language, spoken or written, which may manifest itself in a diminished
72 ability to listen, speak, read, write, spell or to do mathematical

73 calculations;

74 (20) "Mental disability" refers to an individual who has a record of,
75 or is regarded as having one or more mental disorders, as defined in
76 the most recent edition of the American Psychiatric Association's
77 "Diagnostic and Statistical Manual of Mental Disorders"; [and]

78 (21) "Gender identity or expression" means a person's gender-
79 related identity, appearance or behavior, whether or not that gender-
80 related identity, appearance or behavior is different from that
81 traditionally associated with the person's physiology or assigned sex at
82 birth, which gender-related identity can be shown by providing
83 evidence including, but not limited to, medical history, care or
84 treatment of the gender-related identity, consistent and uniform
85 assertion of the gender-related identity or any other evidence that the
86 gender-related identity is sincerely held, part of a person's core
87 identity or not being asserted for an improper purpose; [.] and

88 (22) "Veteran" means veteran as defined in subsection (a) of section
89 27-103.

90 Sec. 2. Section 7-36 of the general statutes is amended by adding
91 subdivisions (20) and (21) as follows (*Effective October 1, 2019*):

92 (NEW) (20) "Intersex" means a condition in which an individual is
93 born with a reproductive or sexual anatomy or chromosome pattern
94 that does not fit the typical definition of male or female; and

95 (NEW) (21) "Non binary" means not exclusively male or female.

96 Sec. 3. Subsections (a) to (c), inclusive, of section 7-48 of the general
97 statutes are repealed and the following is substituted in lieu thereof
98 (*Effective October 1, 2019*):

99 (a) Not later than ten days after each live birth which occurs in this
100 state, a birth certificate shall be filed with the registrar of vital statistics
101 in the town in which the birth occurred and the certificate shall be
102 registered if properly filed, by manual or electronic systems as

103 prescribed by the commissioner. [On and after January 1, 1994, each]
104 Each hospital with two hundred or more live births in any calendar
105 year [1990, or any subsequent calendar year,] shall electronically
106 transmit birth information data to the department in a computer
107 format approved by the department. Each birth certificate shall contain
108 such information as the department may require and shall be
109 completed in its entirety. Medical and health information which is
110 required by the department, including information regarding
111 voluntary acknowledgments of paternity and whether the child was
112 born out of wedlock, shall be recorded on a confidential portion of the
113 certificate to be sent directly to the department. Such confidential
114 records may be used for statistical and health purposes by the
115 department or by a local director of health, as authorized by the
116 department, for records related to the town served by the local director
117 of health and where the mother was a resident at the time of the birth
118 of the child. Such birth certificate and confidential records may be used
119 internally by the hospital for records transmitted by the hospital for
120 statistical, health and quality assurance purposes. The department
121 shall give due consideration to national uniformity in vital statistics in
122 prescribing the format and content of such certificate.

123 (b) When a birth occurs in an institution or en route thereto, the
124 person in charge of the institution or such person's designated
125 representative shall obtain all available data required by the certificate,
126 prepare the certificate, certify that the child was born alive at the place
127 and time and on the date stated either by signature or by an electronic
128 process approved by the commissioner and file the certificate with the
129 registrar of vital statistics in the town in which the birth occurred, not
130 later than ten days after such birth. The physician or other person in
131 attendance, and the physician, institution or other person providing
132 prenatal care, shall provide the medical information required by the
133 certificate not later than seventy-two hours after the birth. On and after
134 July 1, 2020, the child's parent or guardian, in consultation with an
135 attending practitioner, may designate the sex of a child as non binary,
136 which designation shall be reflected on the birth certificate.

137 (c) When a birth occurs outside an institution, the certificate shall be
138 prepared and filed by the physician or midwife in attendance at or
139 immediately after the birth or, in the absence of such a person, by the
140 father or mother. On and after July 1, 2020, the child's parent or
141 guardian, in consultation with an attending practitioner, if any, may
142 designate the sex of the child as non binary, which designation shall be
143 reflected on the birth certificate.

144 Sec. 4. Section 19a-42 of the general statutes is repealed and the
145 following is substituted in lieu thereof (*Effective October 1, 2019*):

146 (a) To protect the integrity and accuracy of vital records, a certificate
147 registered under chapter 93 may be amended only in accordance with
148 sections 19a-41 to 19a-45, inclusive, chapter 93, regulations adopted by
149 the Commissioner of Public Health pursuant to chapter 54 and
150 uniform procedures prescribed by the commissioner. Only the
151 commissioner may amend birth certificates to reflect changes
152 concerning parentage, [or] gender change or, on and after July 1, 2021,
153 change in designation of sex by an intersex person. Amendments
154 related to parentage, [or] gender change or, on and after July 1, 2021,
155 change in designation of sex by an intersex person shall result in the
156 creation of a replacement certificate that supersedes the original, and
157 shall in no way reveal the original language changed by the
158 amendment. Any amendment to a vital record made by the registrar of
159 vital statistics of the town in which the vital event occurred or by the
160 commissioner shall be in accordance with such regulations and
161 uniform procedures.

162 (b) The commissioner and the registrar of vital statistics shall
163 maintain sufficient documentation, as prescribed by the commissioner,
164 to support amendments and shall ensure the confidentiality of such
165 documentation as required by law. The date of amendment and a
166 summary description of the evidence submitted in support of the
167 amendment shall be endorsed on or made part of the record and the
168 original certificate shall be marked "Amended", except for
169 amendments due to parentage, [or] gender change or, on and after July

170 1, 2021, change in designation of sex by an intersex person. When the
171 registrar of the town in which the vital event occurred amends a
172 certificate, such registrar shall, within ten days of making such
173 amendment, forward an amended certificate to the commissioner and
174 to any registrar having a copy of the certificate. When the
175 commissioner amends a birth certificate, including changes due to
176 parentage, [or] gender change or, on and after July 1, 2021, designation
177 of sex by an intersex person, the commissioner shall forward an
178 amended certificate to the registrars of vital statistics affected and their
179 records shall be amended accordingly.

180 (c) An amended certificate shall supersede the original certificate
181 that has been changed and shall be marked "Amended", except for
182 amendments due to parentage, [or] gender change or, on and after July
183 1, 2021, designation of sex by an intersex person. The original
184 certificate in the case of parentage or gender change shall be physically
185 or electronically sealed and kept in a confidential file by the
186 department and the registrar of any town in which the birth was
187 recorded, and may be unsealed for issuance only as provided in
188 section 7-53 or upon a written order of a court of competent
189 jurisdiction. The amended certificate shall become the official record.

190 (d) (1) Upon receipt of (A) an acknowledgment of paternity
191 executed in accordance with the provisions of subsection (a) of section
192 46b-172 by both parents of a child born out of wedlock, or (B) a
193 certified copy of an order of a court of competent jurisdiction
194 establishing the paternity of a child born out of wedlock, the
195 commissioner shall include on or amend, as appropriate, such child's
196 birth certificate to show such paternity if paternity is not already
197 shown on such birth certificate and to change the name of the child
198 under eighteen years of age if so indicated on the acknowledgment of
199 paternity form or within the certified court order as part of the
200 paternity action. If a person who is the subject of a voluntary
201 acknowledgment of paternity, as described in this subdivision, is
202 eighteen years of age or older, the commissioner shall obtain a
203 notarized affidavit from such person affirming that he or she agrees to

204 the commissioner's amendment of such person's birth certificate as
205 such amendment relates to the acknowledgment of paternity. The
206 commissioner shall amend the birth certificate for an adult child to
207 change his or her name only pursuant to a court order.

208 (2) If another father is listed on the birth certificate, the
209 commissioner shall not remove or replace the father's information
210 unless presented with a certified court order that meets the
211 requirements specified in section 7-50, or upon the proper filing of a
212 rescission, in accordance with the provisions of section 46b-172. The
213 commissioner shall thereafter amend such child's birth certificate to
214 remove or change the father's name and to change the name of the
215 child, as requested at the time of the filing of a rescission, in
216 accordance with the provisions of section 46b-172. Birth certificates
217 amended under this subsection shall not be marked "Amended".

218 (e) When the parent or parents of a child request the amendment of
219 the child's birth certificate to reflect a new mother's name because the
220 name on the original certificate is fictitious, such parent or parents
221 shall obtain an order of a court of competent jurisdiction declaring the
222 putative mother to be the child's mother. Upon receipt of a certified
223 copy of such order, the department shall amend the child's birth
224 certificate to reflect the mother's true name.

225 (f) Upon receipt of a certified copy of an order of a court of
226 competent jurisdiction changing the name of a person born in this state
227 and upon request of such person or such person's parents, guardian, or
228 legal representative, the commissioner or the registrar of vital statistics
229 of the town in which the vital event occurred shall amend the birth
230 certificate to show the new name by a method prescribed by the
231 department.

232 (g) When an applicant submits the documentation required by the
233 regulations to amend a vital record, the commissioner shall hold a
234 hearing, in accordance with chapter 54, if the commissioner has
235 reasonable cause to doubt the validity or adequacy of such

236 documentation.

237 (h) When an amendment under this section involves the changing of
238 existing language on a death certificate due to an error pertaining to
239 the cause of death, the death certificate shall be amended in such a
240 manner that the original language is still visible. A copy of the death
241 certificate shall be made. The original death certificate shall be sealed
242 and kept in a confidential file at the department and only the
243 commissioner may order it unsealed. The copy shall be amended in
244 such a manner that the language to be changed is no longer visible.
245 The copy shall be a public document.

246 (i) The commissioner shall issue a new birth certificate to reflect a
247 gender change upon receipt of the following documents submitted in
248 the form and manner prescribed by the commissioner: (1) A written
249 request from the applicant, signed under penalty of law, for a
250 replacement birth certificate to reflect that the applicant's gender
251 differs from the sex designated on the original birth certificate; (2) a
252 notarized affidavit by a physician licensed pursuant to chapter 370 or
253 holding a current license in good standing in another state, an
254 advanced practice registered nurse licensed pursuant to chapter 378 or
255 holding a current license in good standing in another state, or a
256 psychologist licensed pursuant to chapter 383 or holding a current
257 license in good standing in another state, stating that the applicant has
258 undergone surgical, hormonal or other treatment clinically appropriate
259 for the applicant for the purpose of gender transition; and (3) if an
260 applicant is also requesting a change of name listed on the original
261 birth certificate, proof of a legal name change. The new birth certificate
262 shall reflect the new gender identity by way of a change in the sex
263 designation on the original birth certificate and, if applicable, the legal
264 name change.

265 (j) On and after July 1, 2021, the commissioner shall issue a new
266 birth certificate to reflect a change in designation of sex by an intersex
267 person upon receipt of documentary evidence in a form and manner
268 prescribed by the commissioner. The new birth certificate shall reflect

269 the newly designated sex by way of a change in the sex designation on
270 the original birth certificate and, if applicable, the legal name change.

271 Sec. 5. (*Effective from passage*) (a) There is established a task force to
272 study the circumstances in which a surgery related to a person's
273 intersex status is medically necessary.

274 (b) The task force shall consist of the following members:

275 (1) Two appointed by the speaker of the House of Representatives,
276 one of whom shall be a licensed mental health care provider with
277 experience in treating intersex persons, and one of whom shall be an
278 intersex adult;

279 (2) Two appointed by the president pro tempore of the Senate, one
280 of whom shall be a medical ethicist with a publishing background in
281 issues affecting the intersex community, and one of whom shall be a
282 representative of a community group that is led by and comprised of
283 intersex persons and that has experience advocating for policies
284 benefiting the intersex community;

285 (3) One appointed by the majority leader of the House of
286 Representatives, who shall be a pediatrician with experience in
287 treating intersex persons;

288 (4) One appointed by the majority leader of the Senate, who shall be
289 a legal expert with a publishing background in issues affecting the
290 intersex community;

291 (5) One appointed by the minority leader of the House of
292 Representatives, who shall be a urologist with experience in treating
293 intersex persons;

294 (6) One appointed by the minority leader of the Senate, who shall be
295 an endocrinologist with experience in treating intersex persons; and

296 (7) One appointed by the Governor, who shall be an intersex adult.

297 (c) Any member of the task force appointed under subdivision (1),
 298 (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member
 299 of the General Assembly.

300 (d) All appointments to the task force shall be made not later than
 301 thirty days after the effective date of this section. Any vacancy shall be
 302 filled by the appointing authority.

303 (e) The speaker of the House of Representatives and the president
 304 pro tempore of the Senate shall select the chairpersons of the task force
 305 from among the members of the task force. Such chairpersons shall
 306 schedule the first meeting of the task force, which shall be held not
 307 later than sixty days after the effective date of this section.

308 (f) The administrative staff of the joint standing committee of the
 309 General Assembly having cognizance of matters relating to public
 310 health shall serve as administrative staff of the task force.

311 (g) Not later than January 1, 2020, the task force shall submit a
 312 report on its findings and recommendations to the joint standing
 313 committee of the General Assembly having cognizance of matters
 314 relating to public health, in accordance with the provisions of section
 315 11-4a of the general statutes. The task force shall terminate on the date
 316 that it submits such report or January 1, 2020, whichever is later."

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|---|------------------------|----------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2019</i> | 46a-51 |
| Sec. 2 | <i>October 1, 2019</i> | 7-36 |
| Sec. 3 | <i>October 1, 2019</i> | 7-48(a) to (c) |
| Sec. 4 | <i>October 1, 2019</i> | 19a-42 |
| Sec. 5 | <i>from passage</i> | New section |