



General Assembly

Amendment

January Session, 2019

LCO No. 9224



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 Section 46a-51 of the general statutes is repealed and the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 repealed and the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

92 As used in this chapter and sections 19a-40 to 19a-45, inclusive,
93 unless the context otherwise requires:

94 (1) "Registrar of vital statistics" or "registrar" means the registrar of
95 births, marriages, deaths and fetal deaths or any public official charged
96 with the care of returns relating to vital statistics;

97 (2) "Registration" means the process by which vital records are
98 completed, filed and incorporated into the official records of the
99 department;

100 (3) "Institution" means any public or private facility that provides
101 inpatient medical, surgical or diagnostic care or treatment, or nursing,
102 custodial or domiciliary care, or to which persons are committed by

103 law;

104 (4) "Vital records" means a certificate of birth, death, fetal death or
105 marriage;

106 (5) "Certified copy" means a copy of a birth, death, fetal death or
107 marriage certificate that (A) includes all information on the certificate
108 except such information that is nondisclosable by law, (B) is issued or
109 transmitted by any registrar of vital statistics, (C) includes an attested
110 signature and the raised seal of an authorized person, and (D) if
111 submitted to the department, includes all information required by the
112 commissioner;

113 (6) "Uncertified copy" means a copy of a birth, death, fetal death or
114 marriage certificate that includes all information contained in a
115 certified copy except an original attested signature and a raised seal of
116 an authorized person;

117 (7) "Authenticate" or "authenticated" means to affix to a vital record
118 in paper format the official seal, or to affix to a vital record in electronic
119 format the user identification, password, or other means of electronic
120 identification, as approved by the department, of the creator of the
121 vital record, or the creator's designee, by which affixing the creator of
122 such paper or electronic vital record, or the creator's designee, affirms
123 the integrity of such vital record;

124 (8) "Attest" means to verify a vital record in accordance with the
125 provisions of subdivision (5) of this section;

126 (9) "Correction" means to change or enter new information on a
127 certificate of birth, marriage, death or fetal death, within one year of
128 the date of the vital event recorded in such certificate, in order to
129 accurately reflect the facts existing at the time of the recording of such
130 vital event, where such changes or entries are to correct errors on such
131 certificate due to inaccurate or incomplete information provided by the
132 informant at the time the certificate was prepared, or to correct
133 transcribing, typographical or clerical errors;

134 (10) "Amendment" means to (A) change or enter new information
135 on a certificate of birth, marriage, death or fetal death, more than one
136 year after the date of the vital event recorded in such certificate, in
137 order to accurately reflect the facts existing at the time of the recording
138 of the event, (B) create a replacement certificate of birth for matters
139 pertaining to parentage and gender change, or (C) reflect a legal name
140 change in accordance with section 19a-42, as amended by this act, or
141 make a modification to a cause of death;

142 (11) "Acknowledgment of paternity" means to legally acknowledge
143 paternity of a child pursuant to section 46b-172;

144 (12) "Adjudication of paternity" means to legally establish paternity
145 through an order of a court of competent jurisdiction;

146 (13) "Parentage" includes matters relating to adoption, gestational
147 agreements, paternity and maternity;

148 (14) "Department" means the Department of Public Health;

149 (15) "Commissioner" means the Commissioner of Public Health or
150 the commissioner's designee;

151 (16) "Gestational agreement" means a written agreement for assisted
152 reproduction in which a woman agrees to carry a child to birth for an
153 intended parent or intended parents, which woman contributed no
154 genetic material to the child and which agreement (A) names each
155 party to the agreement and indicates each party's respective
156 obligations under the agreement, (B) is signed by each party to the
157 agreement and the spouse of each such party, if any, and (C) is
158 witnessed by at least two disinterested adults and acknowledged in
159 the manner prescribed by law;

160 (17) "Intended parent" means a party to a gestational agreement
161 who agrees, under the gestational agreement, to be the parent of a
162 child born to a woman by means of assisted reproduction, regardless
163 of whether the party has a genetic relationship to the child;

164 (18) "Foundling" means (A) a child of unknown parentage, or (B) an
165 infant voluntarily surrendered pursuant to the provisions of section
166 17a-58; [and]

167 (19) "Certified homeless youth" means a person who is at least
168 fifteen years of age but less than eighteen years of age, is not in the
169 physical custody of a parent or legal guardian, who is a homeless child
170 or youth, as defined in 42 USC 11434a, as amended from time to time,
171 and who has been certified as homeless by (A) a school district
172 homeless liaison, (B) the director of an emergency shelter program
173 funded by the United States Department of Housing and Urban
174 Development, or the director's designee, or (C) the director of a
175 runaway or homeless youth basic center or transitional living program
176 funded by the United States Department of Health and Human
177 Services, or the director's designee; [.]

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

181 (21) "Nonbinary" means not exclusively male or female.

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

185 (a) Not later than ten days after each live birth which occurs in this
186 state, a birth certificate shall be filed with the registrar of vital statistics
187 in the town in which the birth occurred and the certificate shall be
188 registered if properly filed, by manual or electronic systems as
189 prescribed by the commissioner. [On and after January 1, 1994, each]
190 Each hospital with two hundred or more live births in any calendar
191 year [1990, or any subsequent calendar year,] shall electronically
192 transmit birth information data to the department in a computer
193 format approved by the department. Each birth certificate shall contain
194 such information as the department may require and shall be
195 completed in its entirety. Medical and health information which is

196 required by the department, including information regarding
197 voluntary acknowledgments of paternity and whether the child was
198 born out of wedlock, shall be recorded on a confidential portion of the
199 certificate to be sent directly to the department. Such confidential
200 records may be used for statistical and health purposes by the
201 department or by a local director of health, as authorized by the
202 department, for records related to the town served by the local director
203 of health and where the mother was a resident at the time of the birth
204 of the child. Such birth certificate and confidential records may be used
205 internally by the hospital for records transmitted by the hospital for
206 statistical, health and quality assurance purposes. The department
207 shall give due consideration to national uniformity in vital statistics in
208 prescribing the format and content of such certificate.

209 (b) When a birth occurs in an institution or en route thereto, the
210 person in charge of the institution or such person's designated
211 representative shall obtain all available data required by the certificate,
212 prepare the certificate, certify that the child was born alive at the place
213 and time and on the date stated either by signature or by an electronic
214 process approved by the commissioner and file the certificate with the
215 registrar of vital statistics in the town in which the birth occurred, not
216 later than ten days after such birth. The physician or other person in
217 attendance, and the physician, institution or other person providing
218 prenatal care, shall provide the medical information required by the
219 certificate not later than seventy-two hours after the birth. On and after
220 July 1, 2020, the child's parent or guardian, in consultation with an
221 attending practitioner, may designate the sex of a child as nonbinary,
222 which designation shall be reflected on the birth certificate.

223 (c) When a birth occurs outside an institution, the certificate shall be
224 prepared and filed by the physician or midwife in attendance at or
225 immediately after the birth or, in the absence of such a person, by the
226 father or mother. On and after July 1, 2020, the child's parent or
227 guardian, in consultation with an attending practitioner, if any, may
228 designate the sex of the child as nonbinary, which designation shall be
229 reflected on the birth certificate.

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

232 (a) To protect the integrity and accuracy of vital records, a certificate
233 registered under chapter 93 may be amended only in accordance with
234 sections 19a-41 to 19a-45, inclusive, chapter 93, regulations adopted by
235 the Commissioner of Public Health pursuant to chapter 54 and
236 uniform procedures prescribed by the commissioner. Only the
237 commissioner may amend birth certificates to reflect changes
238 concerning parentage, [or] gender change or, on and after July 1, 2021,
239 change in designation of sex by an intersex person. Amendments
240 related to parentage, [or] gender change or, on and after July 1, 2021,
241 change in designation of sex by an intersex person shall result in the
242 creation of a replacement certificate that supersedes the original, and
243 shall in no way reveal the original language changed by the
244 amendment. Any amendment to a vital record made by the registrar of
245 vital statistics of the town in which the vital event occurred or by the
246 commissioner shall be in accordance with such regulations and
247 uniform procedures.

248 (b) The commissioner and the registrar of vital statistics shall
249 maintain sufficient documentation, as prescribed by the commissioner,
250 to support amendments and shall ensure the confidentiality of such
251 documentation as required by law. The date of amendment and a
252 summary description of the evidence submitted in support of the
253 amendment shall be endorsed on or made part of the record and the
254 original certificate shall be marked "Amended", except for
255 amendments due to parentage, [or] gender change or, on and after July
256 1, 2021, change in designation of sex by an intersex person. When the
257 registrar of the town in which the vital event occurred amends a
258 certificate, such registrar shall, within ten days of making such
259 amendment, forward an amended certificate to the commissioner and
260 to any registrar having a copy of the certificate. When the
261 commissioner amends a birth certificate, including changes due to
262 parentage, [or] gender change or, on and after July 1, 2021, designation
263 of sex by an intersex person, the commissioner shall forward an

264 amended certificate to the registrars of vital statistics affected and their
265 records shall be amended accordingly.

266 (c) An amended certificate shall supersede the original certificate
267 that has been changed and shall be marked "Amended", except for
268 amendments due to parentage, [or] gender change or, on and after July
269 1, 2021, designation of sex by an intersex person. The original
270 certificate in the case of parentage or gender change shall be physically
271 or electronically sealed and kept in a confidential file by the
272 department and the registrar of any town in which the birth was
273 recorded, and may be unsealed for issuance only as provided in
274 section 7-53 or upon a written order of a court of competent
275 jurisdiction. The amended certificate shall become the official record.

276 (d) (1) Upon receipt of (A) an acknowledgment of paternity
277 executed in accordance with the provisions of subsection (a) of section
278 46b-172 by both parents of a child born out of wedlock, or (B) a
279 certified copy of an order of a court of competent jurisdiction
280 establishing the paternity of a child born out of wedlock, the
281 commissioner shall include on or amend, as appropriate, such child's
282 birth certificate to show such paternity if paternity is not already
283 shown on such birth certificate and to change the name of the child
284 under eighteen years of age if so indicated on the acknowledgment of
285 paternity form or within the certified court order as part of the
286 paternity action. If a person who is the subject of a voluntary
287 acknowledgment of paternity, as described in this subdivision, is
288 eighteen years of age or older, the commissioner shall obtain a
289 notarized affidavit from such person affirming that he or she agrees to
290 the commissioner's amendment of such person's birth certificate as
291 such amendment relates to the acknowledgment of paternity. The
292 commissioner shall amend the birth certificate for an adult child to
293 change his or her name only pursuant to a court order.

294 (2) If another father is listed on the birth certificate, the
295 commissioner shall not remove or replace the father's information
296 unless presented with a certified court order that meets the

297 requirements specified in section 7-50, or upon the proper filing of a
298 rescission, in accordance with the provisions of section 46b-172. The
299 commissioner shall thereafter amend such child's birth certificate to
300 remove or change the father's name and to change the name of the
301 child, as requested at the time of the filing of a rescission, in
302 accordance with the provisions of section 46b-172. Birth certificates
303 amended under this subsection shall not be marked "Amended".

304 (e) When the parent or parents of a child request the amendment of
305 the child's birth certificate to reflect a new mother's name because the
306 name on the original certificate is fictitious, such parent or parents
307 shall obtain an order of a court of competent jurisdiction declaring the
308 putative mother to be the child's mother. Upon receipt of a certified
309 copy of such order, the department shall amend the child's birth
310 certificate to reflect the mother's true name.

311 (f) Upon receipt of a certified copy of an order of a court of
312 competent jurisdiction changing the name of a person born in this state
313 and upon request of such person or such person's parents, guardian, or
314 legal representative, the commissioner or the registrar of vital statistics
315 of the town in which the vital event occurred shall amend the birth
316 certificate to show the new name by a method prescribed by the
317 department.

318 (g) When an applicant submits the documentation required by the
319 regulations to amend a vital record, the commissioner shall hold a
320 hearing, in accordance with chapter 54, if the commissioner has
321 reasonable cause to doubt the validity or adequacy of such
322 documentation.

323 (h) When an amendment under this section involves the changing of
324 existing language on a death certificate due to an error pertaining to
325 the cause of death, the death certificate shall be amended in such a
326 manner that the original language is still visible. A copy of the death
327 certificate shall be made. The original death certificate shall be sealed
328 and kept in a confidential file at the department and only the

329 commissioner may order it unsealed. The copy shall be amended in
330 such a manner that the language to be changed is no longer visible.
331 The copy shall be a public document.

332 (i) The commissioner shall issue a new birth certificate to reflect a
333 gender change upon receipt of the following documents submitted in
334 the form and manner prescribed by the commissioner: (1) A written
335 request from the applicant, signed under penalty of law, for a
336 replacement birth certificate to reflect that the applicant's gender
337 differs from the sex designated on the original birth certificate; (2) a
338 notarized affidavit by a physician licensed pursuant to chapter 370 or
339 holding a current license in good standing in another state, an
340 advanced practice registered nurse licensed pursuant to chapter 378 or
341 holding a current license in good standing in another state, or a
342 psychologist licensed pursuant to chapter 383 or holding a current
343 license in good standing in another state, stating that the applicant has
344 undergone surgical, hormonal or other treatment clinically appropriate
345 for the applicant for the purpose of gender transition; and (3) if an
346 applicant is also requesting a change of name listed on the original
347 birth certificate, proof of a legal name change. The new birth certificate
348 shall reflect the new gender identity by way of a change in the sex
349 designation on the original birth certificate and, if applicable, the legal
350 name change.

351 (j) On and after July 1, 2021, the commissioner shall issue a new
352 birth certificate to reflect a change in designation of sex by an intersex
353 person upon receipt of documentary evidence in a form and manner
354 prescribed by the commissioner. The new birth certificate shall reflect
355 the newly designated sex by way of a change in the sex designation on
356 the original birth certificate and, if applicable, the legal name change.

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

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

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

365 (2) Two appointed by the president pro tempore of the Senate, one
366 of whom shall be a medical ethicist with a publishing background in
367 issues affecting the intersex community, and one of whom shall be a
368 representative of a community group that is led by and comprised of
369 intersex persons and that has experience advocating for policies
370 benefiting the intersex community;

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

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

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

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

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

383 (c) Any member of the task force appointed under subdivision (1),
384 (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member
385 of the General Assembly.

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

389 (e) The speaker of the House of Representatives and the president

390 pro tempore of the Senate shall select the chairpersons of the task force
 391 from among the members of the task force. Such chairpersons shall
 392 schedule the first meeting of the task force, which shall be held not
 393 later than sixty days after the effective date of this section.

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

397 (g) Not later than January 1, 2020, the task force shall submit a
 398 report on its findings and recommendations to the joint standing
 399 committee of the General Assembly having cognizance of matters
 400 relating to public health, in accordance with the provisions of section
 401 11-4a of the general statutes. The task force shall terminate on the date
 402 that it submits such report or January 1, 2020, whichever is later."

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