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## ***Proposed Substitute Bill No. 388***

*January Session, 2019*

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LCO No. 6752

### ***AN ACT CONCERNING INTERSEX PERSONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

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 Section 46a-51 of the general statutes is repealed and the  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

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

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

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

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

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

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

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

16 (7) "Discriminatory employment practice" means any discriminatory

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17 practice specified in section 46a-60 or 46a-81c;

18 (8) "Discriminatory practice" means a violation of section 4a-60, 4a-  
19 60a, 4a-60g, 31-40y, 46a-58, 46a-59, 46a-60, 46a-64, 46a-64c, 46a-66, 46a-  
20 68, 46a-68c to 46a-68f, inclusive, or 46a-70 to 46a-78, inclusive,  
21 subsection (a) of section 46a-80 or sections 46a-81b to 46a-81o,  
22 inclusive;

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

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

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

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

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

38 (14) "Person" means one or more individuals, partnerships,  
39 associations, corporations, limited liability companies, legal  
40 representatives, trustees, trustees in bankruptcy, receivers and the state  
41 and all political subdivisions and agencies thereof;

42 (15) "Physically disabled" refers to any individual who has any  
43 chronic physical handicap, infirmity or impairment, whether  
44 congenital or resulting from bodily injury, organic processes or  
45 changes or from illness, including, but not limited to, epilepsy,

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46 deafness or being hard of hearing or reliance on a wheelchair or other  
47 remedial appliance or device;

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

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

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

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

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

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

86 (22) "Veteran" means veteran as defined in subsection (a) of section  
87 27-103.

88 Sec. 2. Subsection (a) of section 1-1h of the general statutes is  
89 repealed and the following is substituted in lieu thereof (*Effective*  
90 *October 1, 2019*):

91 (a) Any person who does not possess a valid motor vehicle  
92 operator's license may apply to the Department of Motor Vehicles for  
93 an identity card. The application for an identity card shall be  
94 accompanied by the birth certificate of the applicant or a certificate of  
95 identification of the applicant issued and authorized for such use by  
96 the Department of Correction. Such application shall include: (1) The  
97 applicant's name; (2) the applicant's address; (3) whether the address is  
98 permanent or temporary; (4) the applicant's date of birth; (5) notice to  
99 the applicant that false statements on such application are punishable  
100 under section 53a-157b; and (6) such other pertinent information as the  
101 Commissioner of Motor Vehicles deems necessary. [A] The applicant  
102 shall pay a fee of twenty-two dollars and fifty cents [shall be paid] to  
103 the department upon issuance to the applicant of an identity card  
104 which contains a picture of the applicant and specifies the applicant's  
105 height, sex and eye color. An intersex applicant shall have the option  
106 of identifying the applicant's sex as intersex. The commissioner shall  
107 accept as proof of such applicant's identification as intersex, in a form

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108 and manner prescribed by the commissioner, evidence of such  
109 applicant's intersex characteristics and specify such applicant's sex as  
110 intersex on such applicant's identity card. The applicant shall sign the  
111 application in the presence of an official of the department. The  
112 commissioner may waive the fee for any applicant (A) who has  
113 voluntarily surrendered such applicant's motor vehicle operator's  
114 license, (B) whose license has been refused by the commissioner  
115 pursuant to subdivision (4) of subsection (e) of section 14-36, (C) who  
116 is both a veteran, as defined in subsection (a) of section 27-103, and  
117 blind, as defined in subsection (a) of section 1-1f, or (D) who is a  
118 resident of a homeless shelter or other facility for homeless persons.  
119 The commissioner shall adopt regulations, in accordance with the  
120 provisions of chapter 54, to establish the procedure and qualifications  
121 for the issuance of an identity card to any such homeless applicant. As  
122 used in this subsection, "intersex" means a condition in which an  
123 individual is born with a reproductive or sexual anatomy or  
124 chromosome pattern that does not fit the typical definition of male or  
125 female.

126 Sec. 3. (NEW) (*Effective October 1, 2019*) For purposes of issuing a  
127 motor vehicle operator's license, including, but not limited to, a  
128 commercial driver's license, in accordance with part III of chapter 246  
129 of the general statutes, the Commissioner of Motor Vehicles shall  
130 accept as proof of an individual's identification as intersex, in a form  
131 and manner prescribed by the commissioner, evidence of an  
132 individual's intersex characteristics. The commissioner shall specify the  
133 sex of any individual who submits such evidence as intersex on such  
134 individual's license. As used in this section, "intersex" means a  
135 condition in which an individual is born with a reproductive or sexual  
136 anatomy or chromosome pattern that does not fit the typical definition  
137 of male or female.

138 Sec. 4. Subsection (a) of section 7-48 of the general statutes is  
139 repealed and the following is substituted in lieu thereof (*Effective*  
140 *October 1, 2019*):

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141 (a) Not later than ten days after each live birth which occurs in this  
142 state, a birth certificate shall be filed with the registrar of vital statistics  
143 in the town in which the birth occurred and the certificate shall be  
144 registered if properly filed, by manual or electronic systems as  
145 prescribed by the commissioner. [On and after January 1, 1994, each]  
146 Each hospital with two hundred or more live births in any calendar  
147 year [1990, or any subsequent calendar year,] shall electronically  
148 transmit birth information data to the department in a computer  
149 format approved by the department. Each birth certificate shall contain  
150 such information as the department may require and shall be  
151 completed in its entirety. The department shall accept evidence of a  
152 child's intersex characteristics, in a form and manner prescribed by the  
153 commissioner, and allow for the specification of the child's sex as  
154 intersex on the child's birth certificate. Medical and health information  
155 which is required by the department, including information regarding  
156 voluntary acknowledgments of paternity and whether the child was  
157 born out of wedlock, shall be recorded on a confidential portion of the  
158 certificate to be sent directly to the department. Such confidential  
159 records may be used for statistical and health purposes by the  
160 department or by a local director of health, as authorized by the  
161 department, for records related to the town served by the local director  
162 of health and where the mother was a resident at the time of the birth  
163 of the child. Such birth certificate and confidential records may be used  
164 internally by the hospital for records transmitted by the hospital for  
165 statistical, health and quality assurance purposes. The department  
166 shall give due consideration to national uniformity in vital statistics in  
167 prescribing the format and content of such certificate. As used in this  
168 subsection, "intersex" means a condition in which an individual is born  
169 with a reproductive or sexual anatomy or chromosome pattern that  
170 does not fit the typical definition of male or female.

171 Sec. 5. Section 19a-42 of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective October 1, 2019*):

173 (a) To protect the integrity and accuracy of vital records, a certificate

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174 registered under chapter 93 may be amended only in accordance with  
175 sections 19a-41 to 19a-45, inclusive, chapter 93, regulations adopted by  
176 the Commissioner of Public Health pursuant to chapter 54 and  
177 uniform procedures prescribed by the commissioner. Only the  
178 commissioner may amend birth certificates to reflect changes  
179 concerning parentage, [or] gender change or change in designation of  
180 sex by an intersex person. Amendments related to parentage, [or]  
181 gender change or change in designation of sex by an intersex person  
182 shall result in the creation of a replacement certificate that supersedes  
183 the original, and shall in no way reveal the original language changed  
184 by the amendment. Any amendment to a vital record made by the  
185 registrar of vital statistics of the town in which the vital event occurred  
186 or by the commissioner shall be in accordance with such regulations  
187 and uniform procedures.

188 (b) The commissioner and the registrar of vital statistics shall  
189 maintain sufficient documentation, as prescribed by the commissioner,  
190 to support amendments and shall ensure the confidentiality of such  
191 documentation as required by law. The date of amendment and a  
192 summary description of the evidence submitted in support of the  
193 amendment shall be endorsed on or made part of the record and the  
194 original certificate shall be marked "Amended", except for  
195 amendments due to parentage, [or] gender change or change in  
196 designation of sex by an intersex person. When the registrar of the  
197 town in which the vital event occurred amends a certificate, such  
198 registrar shall, within ten days of making such amendment, forward  
199 an amended certificate to the commissioner and to any registrar  
200 having a copy of the certificate. When the commissioner amends a  
201 birth certificate, including changes due to parentage, [or] gender  
202 change or designation of sex by an intersex person, the commissioner  
203 shall forward an amended certificate to the registrars of vital statistics  
204 affected and their records shall be amended accordingly.

205 (c) An amended certificate shall supersede the original certificate  
206 that has been changed and shall be marked "Amended", except for

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207 amendments due to parentage, [or] gender change or designation of  
208 sex by an intersex person. The original certificate in the case of  
209 parentage or gender change shall be physically or electronically sealed  
210 and kept in a confidential file by the department and the registrar of  
211 any town in which the birth was recorded, and may be unsealed for  
212 issuance only as provided in section 7-53 or upon a written order of a  
213 court of competent jurisdiction. The amended certificate shall become  
214 the official record.

215 (d) (1) Upon receipt of (A) an acknowledgment of paternity  
216 executed in accordance with the provisions of subsection (a) of section  
217 46b-172 by both parents of a child born out of wedlock, or (B) a  
218 certified copy of an order of a court of competent jurisdiction  
219 establishing the paternity of a child born out of wedlock, the  
220 commissioner shall include on or amend, as appropriate, such child's  
221 birth certificate to show such paternity if paternity is not already  
222 shown on such birth certificate and to change the name of the child  
223 under eighteen years of age if so indicated on the acknowledgment of  
224 paternity form or within the certified court order as part of the  
225 paternity action. If a person who is the subject of a voluntary  
226 acknowledgment of paternity, as described in this subdivision, is  
227 eighteen years of age or older, the commissioner shall obtain a  
228 notarized affidavit from such person affirming that he or she agrees to  
229 the commissioner's amendment of such person's birth certificate as  
230 such amendment relates to the acknowledgment of paternity. The  
231 commissioner shall amend the birth certificate for an adult child to  
232 change his or her name only pursuant to a court order.

233 (2) If another father is listed on the birth certificate, the  
234 commissioner shall not remove or replace the father's information  
235 unless presented with a certified court order that meets the  
236 requirements specified in section 7-50, or upon the proper filing of a  
237 rescission, in accordance with the provisions of section 46b-172. The  
238 commissioner shall thereafter amend such child's birth certificate to  
239 remove or change the father's name and to change the name of the



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240 child, as requested at the time of the filing of a rescission, in  
241 accordance with the provisions of section 46b-172. Birth certificates  
242 amended under this subsection shall not be marked "Amended".

243 (e) When the parent or parents of a child request the amendment of  
244 the child's birth certificate to reflect a new mother's name because the  
245 name on the original certificate is fictitious, such parent or parents  
246 shall obtain an order of a court of competent jurisdiction declaring the  
247 putative mother to be the child's mother. Upon receipt of a certified  
248 copy of such order, the department shall amend the child's birth  
249 certificate to reflect the mother's true name.

250 (f) Upon receipt of a certified copy of an order of a court of  
251 competent jurisdiction changing the name of a person born in this state  
252 and upon request of such person or such person's parents, guardian, or  
253 legal representative, the commissioner or the registrar of vital statistics  
254 of the town in which the vital event occurred shall amend the birth  
255 certificate to show the new name by a method prescribed by the  
256 department.

257 (g) When an applicant submits the documentation required by the  
258 regulations to amend a vital record, the commissioner shall hold a  
259 hearing, in accordance with chapter 54, if the commissioner has  
260 reasonable cause to doubt the validity or adequacy of such  
261 documentation.

262 (h) When an amendment under this section involves the changing of  
263 existing language on a death certificate due to an error pertaining to  
264 the cause of death, the death certificate shall be amended in such a  
265 manner that the original language is still visible. A copy of the death  
266 certificate shall be made. The original death certificate shall be sealed  
267 and kept in a confidential file at the department and only the  
268 commissioner may order it unsealed. The copy shall be amended in  
269 such a manner that the language to be changed is no longer visible.  
270 The copy shall be a public document.

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271 (i) The commissioner shall issue a new birth certificate to reflect a  
272 gender change upon receipt of the following documents submitted in  
273 the form and manner prescribed by the commissioner: (1) A written  
274 request from the applicant, signed under penalty of law, for a  
275 replacement birth certificate to reflect that the applicant's gender  
276 differs from the sex designated on the original birth certificate; (2) a  
277 notarized affidavit by a physician licensed pursuant to chapter 370 or  
278 holding a current license in good standing in another state, an  
279 advanced practice registered nurse licensed pursuant to chapter 378 or  
280 holding a current license in good standing in another state, or a  
281 psychologist licensed pursuant to chapter 383 or holding a current  
282 license in good standing in another state, stating that the applicant has  
283 undergone surgical, hormonal or other treatment clinically appropriate  
284 for the applicant for the purpose of gender transition; and (3) if an  
285 applicant is also requesting a change of name listed on the original  
286 birth certificate, proof of a legal name change. The new birth certificate  
287 shall reflect the new gender identity by way of a change in the sex  
288 designation on the original birth certificate and, if applicable, the legal  
289 name change.

290 (j) The commissioner shall issue a new birth certificate to reflect a  
291 change in designation of sex by a person as an intersex person upon  
292 receipt of the following documents submitted in the form and manner  
293 prescribed by the commissioner: (1) A written request from the  
294 applicant, signed under penalty of law, for a replacement birth  
295 certificate to reflect that the applicant seeks to change the designation  
296 of sex on the original birth certificate; (2) a notarized affidavit by a  
297 physician licensed pursuant to chapter 370 or holding a current license  
298 in good standing in another state, an advanced practice registered  
299 nurse licensed pursuant to chapter 378 or holding a current license in  
300 good standing in another state, or a psychologist licensed pursuant to  
301 chapter 383 or holding a current license in good standing in another  
302 state, stating that the applicant has intersex characteristics; and (3) if an  
303 applicant is also requesting a change of name listed on the original  
304 birth certificate, proof of a legal name change. The new birth certificate

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305 shall reflect the newly designated sex by way of a change in the sex  
306 designation on the original birth certificate and, if applicable, the legal  
307 name change.

308       Sec. 6. (NEW) (*Effective October 1, 2019*) An agency, as defined in  
309 section 1-200 of the general statutes, that requires a person to identify  
310 the person's sex for any reason shall accept as proof of the person's  
311 identification as intersex an identity card or motor vehicle operator's  
312 license issued by the Department of Motor Vehicles or a birth  
313 certificate issued by the Department of Public Health or a registrar of  
314 vital statistics and shall specify the person's sex as intersex on any  
315 documentation generated by such department or agency on which the  
316 sex of the person is identified. For purposes of this section, "intersex"  
317 means a condition in which an individual is born with a reproductive  
318 or sexual anatomy or chromosome pattern that does not fit the typical  
319 definitions of male or female.

320       Sec. 7. (NEW) (*Effective from passage*) (a) There is established a task  
321 force to study the circumstances in which a surgery related to a  
322 person's intersex status is medically necessary.

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

324       (1) Two appointed by the speaker of the House of Representatives;

325       (2) Two appointed by the president pro tempore of the Senate;

326       (3) One appointed by the majority leader of the House of  
327 Representatives;

328       (4) One appointed by the majority leader of the Senate;

329       (5) One appointed by the minority leader of the House of  
330 Representatives;

331       (6) One appointed by the minority leader of the Senate;

332       (c) Any member of the task force appointed under subsection (b) of

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333 this section may be a member of the General Assembly.

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

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

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

345 (g) Not later than January 1, 2020, the task force shall submit a  
346 report on its findings and recommendations to the joint standing  
347 committee of the General Assembly having cognizance of matters  
348 relating to public health, in accordance with the provisions of section  
349 11-4a of the general statutes. The task force shall terminate on the date  
350 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>	1-1h(a)
Sec. 3	<i>October 1, 2019</i>	New section
Sec. 4	<i>October 1, 2019</i>	7-48(a)
Sec. 5	<i>October 1, 2019</i>	19a-42
Sec. 6	<i>October 1, 2019</i>	New section
Sec. 7	<i>from passage</i>	New section