

STATE OF NEW YORK

S. 5168

A. 7197

2019-2020 Regular Sessions

SENATE - ASSEMBLY

April 12, 2019

IN SENATE -- Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

IN ASSEMBLY -- Introduced by M. of A. BUCHWALD, SIMON, BRONSON, WEPRIN, GOTTFRIED -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the civil rights law, in relation to court recognition of a change of gender

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 2 and 3 of section 61 of the civil rights law
2 are renumbered subdivisions 6 and 7 and four new subdivisions 2, 3, 4
3 and 5 are added to read as follows:

4 2. The petition to change a petitioner's name may also request that
5 the court recognize and direct a change in the petitioner's gender.
6 Such request shall be accompanied, a) by an affidavit from the petition-
7 er, which affidavit shall be accepted as conclusive proof of gender
8 change if it contains substantially the following language: "I,
9 (petitioner's full name), hereby attest under penalty of perjury that
10 the request for a change in gender to (female, male, or nonbinary) is to
11 conform my legal gender to my gender identity and is not for any fraudu-
12 lent purpose"; and b) certification by a medical professional who has
13 treated the petitioner in the following form: "I, (physician's full
14 name), (physician's medical license or certificate number), (issuing
15 U.S. State/Foreign Country of medical license/certificate), am the
16 physician of (name of patient), with whom I have a doctor/patient
17 relationship and whom I have treated (or with whom I have a
18 doctor/patient relationship and whose medical history I have reviewed
19 and evaluated). (Name of patient) has had appropriate clinical treatment
20 for gender transition to the new gender (specify male or female). I
21 declare under penalty of perjury under the laws of the United States

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 that the foregoing is true and correct. (Signature) (Typed Name)
2 (Date)".

3 3. A petitioner may make a request for an order recognizing and
4 directing a change in petitioner's gender by motion under the Index
5 Number of an already granted name change.

6 4. A petitioner may make a request for an order recognizing and
7 directing a change in petitioner's gender by in writing, signed by the
8 petitioner and verified in like manner as a pleading in court of record,
9 and shall specify the grounds of the application, the name, date of
10 birth, place of birth, age and residence of the individual whose name is
11 proposed to be changed and the name which he or she proposes to assume.

12 5. Unless a written objection is filed within twenty-eight days of the
13 filing of the petition and shows good cause for opposing a court order
14 recognizing the change of name and/or gender, the court shall grant the
15 petition without a hearing. If an objection is timely filed, the court
16 may set a hearing, at a time designated by the court, only if the
17 objection filed shows good cause for opposing the petition. Objections
18 based solely on concerns over the petitioner's actual gender identity
19 shall not constitute good cause. At the hearing, the court may examine
20 on oath the petitioner and any other person having knowledge of facts
21 relevant to the petition. At the conclusion of the hearing, the court
22 shall grant the petition if the court determines that the petition is
23 not made for any fraudulent purpose.

24 § 2. Section 63 of the civil rights law, as amended by chapter 253 of
25 the laws of 2014, is amended to read as follows:

26 § 63. Order. If the court to which the petition is presented is satis-
27 fied thereby, or by the affidavit and certificate presented therewith,
28 that the petition is true, and that there is no reasonable objection to
29 the change of name and/or gender proposed, and if the petition be to
30 change the name and/or gender of an infant, that the interests of the
31 infant will be substantially promoted by the change, the court shall
32 make an order authorizing the petitioner to assume the name and/or
33 gender proposed. The order shall further recite the date and place of
34 birth of the applicant and, if the applicant was born in the state of
35 New York, such order shall set forth the number of his birth certificate
36 or that no birth certificate is available. If a gender change is
37 approved the order shall state that "the term gender as used in this
38 order is inclusive of sex or any other term identifying Petitioner's
39 status as male or female" and that "the Court directs that any govern-
40 ment agency or administrative body amend the sex on Petitioner's docu-
41 ments, including, but not limited to, birth certificate, from
42 (Male/Female) to (Female/Male/Non Binary). It is, therefore, ordered,
43 adjudged and decreed that the sex indicated on Petitioner's documents,
44 including, but not limited to, birth certificate, be changed to
45 (Male/Female/Non Binary). The order shall be directed to be entered and
46 the papers on which it was granted to be filed prior to the publication
47 hereinafter directed in the clerk's office of the county in which the
48 petitioner resides if he be an individual, or in the office of the clerk
49 of the civil court of the city of New York if the order be made by that
50 court. Such order shall also direct the publication, at least once,
51 within sixty days after the making of the order, in a designated newspa-
52 per in the county in which the order is directed to be entered and if
53 the petition is made by a person subject to the provisions of subdivi-
54 sion two of section sixty-two of this article, in a designated newspaper
55 in any county wherein such person was convicted if different from the
56 county in which the order is otherwise directed to be entered, of a

1 notice in substantially the following form: Notice is hereby given that
2 an order entered by the court,..... county, on the
3 day of....., bearing Index Number....., a copy of which
4 may be examined at the office of the clerk, located at
5, in room number....., grants me the right to assume
6 the name of The city and state of my present
7 address are; the month and year of my birth
8 are; the place of my birth is; my
9 present name is

10 § 3. Section 64-a of the civil rights law, as amended by chapter 241
11 of the laws of 2015, is amended to read as follows:

12 § 64-a. Exemption from publication requirements. 1. If the court shall
13 find that the publication of an applicant's change of name and/or gender
14 would jeopardize such applicant's personal safety, based on totality of
15 the circumstances the provisions of sections sixty-three and sixty-four
16 of this article requiring publication shall be waived and shall be inap-
17 plicable. Provided, however, the court shall not deny such waiver solely
18 on the basis that the applicant lacks specific instances of or a
19 personal history of threat to personal safety. The court shall order the
20 records of such change of name proceeding to be sealed, to be opened
21 only by order of the court for good cause shown or at the request of the
22 applicant.

23 2. Notwithstanding any other provision of law, pending such a finding
24 in subdivision one of this section where an applicant seeks relief under
25 this section, the court shall immediately order the applicant's current
26 name, proposed new name and/or gender, residential and business
27 addresses, telephone numbers, and any other information contained in any
28 pleadings or papers submitted to the court to be safeguarded and sealed
29 in order to prevent their inadvertent or unauthorized use or disclosure
30 while the matter is pending.

31 § 4. This act shall take effect immediately.