

STATE OF NEW YORK

5969

2021-2022 Regular Sessions

IN ASSEMBLY

March 3, 2021

Introduced by M. of A. BURDICK -- 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 5 and 6 and three new subdivisions 2, 3 and
3 4 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
22 that the foregoing is true and correct. (Signature) (Typed Name)
23 (Date)".

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

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

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

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

12 § 63. Order. If the court to which the petition is presented is satis-
13 fied thereby, or by the affidavit and certificate presented therewith,
14 that the petition is true, and that there is no reasonable objection to
15 the change of name and/or gender proposed, and if the petition be to
16 change the name and/or gender of an infant, that the interests of the
17 infant will be substantially promoted by the change, the court shall
18 make an order authorizing the petitioner to assume the name and/or
19 gender proposed. The order shall further recite the date and place of
20 birth of the applicant and, if the applicant was born in the state of
21 New York, such order shall set forth the number of his birth certificate
22 or that no birth certificate is available. If a gender change is
23 approved the order shall state that "the term gender as used in this
24 order is inclusive of sex or any other term identifying Petitioner's
25 status as male or female" and that "the Court directs that any govern-
26 ment agency or administrative body amend the sex on Petitioner's docu-
27 ments, including, but not limited to, birth certificate, from
28 (Male/Female) to (Female/Male/Non Binary). It is, therefore, ordered,
29 adjudged and decreed that the sex indicated on Petitioner's documents,
30 including, but not limited to, birth certificate, be changed to
31 (Male/Female/Non Binary). The order may be tailored to meet the require-
32 ments of any specific agency and shall be directed to be entered and the
33 papers on which it was granted to be filed prior to the publication
34 hereinafter directed in the clerk's office of the county in which the
35 petitioner resides if he be an individual, or in the office of the clerk
36 of the civil court of the city of New York if the order be made by that
37 court. Such order shall also direct the publication, at least once,
38 within sixty days after the making of the order, in a designated newspa-
39 per in the county in which the order is directed to be entered and if
40 the petition is made by a person subject to the provisions of subdivi-
41 sion two of section sixty-two of this article, in a designated newspaper
42 in any county wherein such person was convicted if different from the
43 county in which the order is otherwise directed to be entered, of a
44 notice in substantially the following form: Notice is hereby given that
45 an order entered by the court, county, on the
46 day of, bearing Index Number, a copy of which
47 may be examined at the office of the clerk, located at
48, in room number, grants me the right to assume
49 the name of The city and state of my present
50 address are; the month and year of my birth
51 are; the place of my birth is; my
52 present name is

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

55 § 64-a. Exemption from publication requirements. 1. If the court shall
56 find that the publication of an applicant's change of name and/or gender

1 would jeopardize such applicant's personal safety, based on totality of
2 the circumstances the provisions of sections sixty-three and sixty-four
3 of this article requiring publication shall be waived and shall be inap-
4 plicable. Provided, however, the court shall not deny such waiver
5 [~~soley~~] solely on the basis that the applicant lacks specific instances
6 of or a personal history of threat to personal safety. The court shall
7 order the records of such change of name proceeding to be sealed, to be
8 opened only by order of the court for good cause shown or at the request
9 of the applicant.

10 2. Notwithstanding any other provision of law, pending such a finding
11 in subdivision one of this section where an applicant seeks relief under
12 this section, the court shall immediately order the applicant's current
13 name, proposed new name and/or gender, residential and business
14 addresses, telephone numbers, and any other information contained in any
15 pleadings or papers submitted to the court to be safeguarded and sealed
16 in order to prevent their inadvertent or unauthorized use or disclosure
17 while the matter is pending.

18 § 4. This act shall take effect immediately.