STATE OF NEW YORK

S. 5168--A A. 7197--A

2019-2020 Regular Sessions

SENATE - ASSEMBLY

April 12, 2019

IN SENATE -- Introduced by Sens. HOYLMAN, BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. BUCHWALD, SIMON, BRONSON, WEPRIN, GOTTFRIED, ORTIZ, EPSTEIN, WOERNER, D'URSO, L. ROSENTHAL, BLAKE, JAFFEE, ZEBROWSKI, MOSLEY, CRUZ, HYNDMAN, O'DONNELL, PAULIN, ASHBY, FERNANDEZ, PICHARDO, SAYEGH, GRIFFIN -- Multi-Sponsored by -- M. of A. GALEF -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

2. The petition to change a petitioner's name may also request that the court recognize and direct a change in the petitioner's gender. Such request shall be accompanied, a) by an affidavit from the petitioner, which affidavit shall be accepted as conclusive proof of gender change if it contains substantially the following language: "I, (petitioner's full name), hereby attest under penalty of perjury that the request for a change in gender to (female, male, or nonbinary) is to conform my legal gender to my gender identity and is not for any fraudulent purpose"; and b) certification by a medical professional who has treated the petitioner in the following form: "I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State/Foreign Country of medical license/certificate), am the

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

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physician of (name of patient), with whom I have a doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated). (Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify male or female). I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. (Signature) (Typed Name) (Date)".

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

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

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

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

§ 63. Order. If the court to which the petition is presented is satisfied thereby, or by the affidavit and certificate presented therewith, that the petition is true, and that there is no reasonable objection to the change of name and/or gender proposed, and if the petition be to change the name and/or gender of an infant, that the interests of the infant will be substantially promoted by the change, the court shall make an order authorizing the petitioner to assume the name and/or gender proposed. The order shall further recite the date and place of birth of the applicant and, if the applicant was born in the state of New York, such order shall set forth the number of his birth certificate or that no birth certificate is available. If a gender change is approved the order shall state that "the term gender as used in this order is inclusive of sex or any other term identifying Petitioner's status as male or female" and that "the Court directs that any government agency or administrative body amend the sex on Petitioner's documents, including, but not limited to, birth certificate, from (Male/Female) to (Female/Male/Non Binary). It is, therefore, ordered, adjudged and decreed that the sex indicated on Petitioner's documents, including, but not limited to, birth certificate, be changed to (Male/Female/Non Binary). The order may be tailored to meet the requirements of any specific agency and shall be directed to be entered and the papers on which it was granted to be filed prior to the publication hereinafter directed in the clerk's office of the county in which the petitioner resides if he be an individual, or in the office of the clerk of the civil court of the city of New York if the order be made by that

court. Such order shall also direct the publication, at least once, within sixty days after the making of the order, in a designated newspaper in the county in which the order is directed to be entered and if the petition is made by a person subject to the provisions of subdivision two of section sixty-two of this article, in a designated newspaper in any county wherein such person was convicted if different from the county in which the order is otherwise directed to be entered, of a notice in substantially the following form: Notice is hereby given that an order entered by the ..... court,..... county, on the ..... day of....., bearing Index Number....., a copy of which may be examined at the office of the clerk, located at ....., in room number....., grants me the right to assume the name of ..... The city and state of my present address are .....; the month and year of my birth are .....; the place of my birth is .....; my present name is .....

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

§ 64-a. Exemption from publication requirements. 1. If the court shall find that the publication of an applicant's change of name **and/or gender** would jeopardize such applicant's personal safety, based on totality of the circumstances the provisions of sections sixty-three and sixty-four of this article requiring publication shall be waived and shall be inapplicable. Provided, however, the court shall not deny such waiver [~~soley~~] **solely** on the basis that the applicant lacks specific instances of or a personal history of threat to personal safety. The court shall order the records of such change of name proceeding to be sealed, to be opened only by order of the court for good cause shown or at the request of the applicant.

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

§ 4. This act shall take effect immediately.