

THE CALIFORNIA STATE UNIVERSITY  
OFFICE OF THE CHANCELLOR



BAKERSFIELD

September 25, 2018

CHANNEL ISLANDS

**MEMORANDUM**

CHICO

DOMINGUEZ HILLS

**TO:** CSU Presidents

EAST BAY

**FROM:** Timothy P. White  
Chancellor

FRESNO

**SUBJECT:** Gender Recognition Act

FULLERTON

HUMBOLDT

California's Gender Recognition Act, signed into law on October 15, 2017, simplifies the process for individuals living in or who were born in California and who identify as transgender, nonbinary and intersex to obtain identity documents, including but not limited to birth certificates and driver's licenses, that reflect their gender. The Act streamlined the processes available to change one's gender marker and provides the option to select a nonbinary marker, in addition to male or female. While implementation of the law is occurring in phases, new procedures took effect on September 1, 2018. A copy of the original bill is attached for reference.

LONG BEACH

LOS ANGELES

MARITIME ACADEMY

MONTEREY BAY

NORTHRIDGE

As highlighted in our *CSU Commitment to Inclusive Excellence*, it is important for the CSU to always stand visibly for the values of inclusive excellence by promoting and sustaining equitable, physically safe, nurturing and challenging academic environments for all students, faculty, staff and guests.

POMONA

SACRAMENTO

To support the continuing implementation of the Gender Recognition Act, modifications to Cal State Apply, student information systems and human resources systems have been initiated and are scheduled to be on-line in October. Additional technical guidance for campuses will also be shared by Academic and Student Affairs, and Human Resources in the coming weeks.

SAN BERNARDINO

SAN DIEGO

SAN FRANCISCO

SAN JOSÉ

I encourage campuses to take this opportunity to examine the language and labels used on all campus documents and procedures in an effort to continuously advance our commitment to inclusive excellence.

SAN LUIS OBISPO

SAN MARCOS

TPW/ne

SONOMA

Attachment

STANISLAUS

CSU Presidents  
September 25, 2018  
Page Two

c: Ms. Mia Kagianas, President, California State Students Association  
Dr. Catherine Nelson, Chair, Academic Senate CSU  
CSU Office of the Chancellor Leadership  
Provosts/Vice Presidents for Academic Affairs  
Vice Presidents for Student Affairs  
Chief Administrators and Business Officers  
Human Resources Officers

## Senate Bill No. 179

### CHAPTER 853

An act to amend, repeal, and add Sections 1277 and 1278 of, and to add Section 1277.5 to, the Code of Civil Procedure, to amend Sections 103426 and 103440 of, to amend the heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of, and to amend, repeal, and add Sections 103425 and 103430 of, the Health and Safety Code, and to amend Section 13005 of, and to amend, repeal, and add Section 12800 of the Vehicle Code, relating to gender identity.

[Approved by Governor October 15, 2017. Filed with  
Secretary of State October 15, 2017.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 179, Atkins. Gender identity: female, male, or nonbinary.

(1) Existing law authorizes a person who was born in this state and who has undergone clinically appropriate treatment for the purpose of gender transition to obtain a new birth certificate from the State Registrar.

This bill would enact the Gender Recognition Act. For purposes of obtaining a new birth certificate under the provisions above, the bill would delete the requirement that an applicant have undergone any treatment, and instead would authorize a person to submit to the State Registrar an application to change gender on the birth certificate and an affidavit attesting, under penalty of perjury, that the request for a change of gender is to conform the person's legal gender to the person's gender identity and not for any fraudulent purpose. By requiring the affidavit to be attested to under penalty of perjury, the bill would create a crime, thereby imposing a state-mandated local program. The bill would authorize the change of gender on a new birth certificate to be female, male, or nonbinary.

(2) Existing law authorizes a person who has undergone clinically appropriate treatment for the purpose of gender transition to petition for a court judgment recognizing the change of gender, and to petition for a court order conforming the person's name to the person's gender identity. Existing law provides specific procedures to seek these orders and judgments, either separately or in combination.

This bill, commencing on September 1, 2018, would delete the requirement that a person have undergone any treatment to seek a court judgment to recognize a change of gender and instead would authorize the petitioner to attest, under penalty of perjury, that the request is to conform the person's legal gender to the person's gender identity and not for any fraudulent purpose. By requiring the affidavit to be attested to under penalty of perjury, the bill would create a crime, thereby imposing a state-mandated local program. The bill would authorize a change of gender in the court

judgment to female, male, or nonbinary. The bill would provide modified procedures to obtain a court order for a change of name to conform to the petitioner's gender identity and a court judgment to recognize a change in the petitioner's gender. The bill would provide a separate procedure for a person under 18 years of age to petition for a court judgment to recognize a change of gender to female, male, or nonbinary.

(3) Existing law requires the Department of Motor Vehicles to issue a driver's license to an applicant when the department determines that the applicant is lawfully entitled to a license, and requires the license to contain, among other things, a brief description and engraved picture or photograph of the licensee for the purpose of identification. Existing law requires the application for an original driver's license or renewal of a driver's license to contain specified information, as provided by the applicant. Existing law also authorizes the department to issue identification cards and requires an identification card to adequately describe the applicant. Existing law requires the department, upon issuance of a new identification card or renewal of an identification card, to provide information regarding organ and tissue donation, including an enrollment form for the California Organ and Tissue Donor Registry that requires an applicant to mark his or her sex.

This bill, on January 1, 2019, would require an applicant for an original driver's license or renewal of a driver's license to choose a gender category of female, male, or nonbinary, as specified, and would require the department to adopt regulations to provide a process for an amendment to a gender category under these provisions. The bill would also require the enrollment form for the California Organ and Tissue Donor Registry to instead require an applicant to mark his or her gender.

This bill would make legislative findings and declarations in support of its provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known and may be cited as the Gender Recognition Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) It is the policy of the State of California that every person deserves full legal recognition and equal treatment under the law and to ensure that intersex, transgender, and nonbinary people have state-issued identification documents that provide full legal recognition of their accurate gender identity.

(b) Gender identification is fundamentally personal, and the state should endeavor to provide options on state-issued identification documents that

recognize a person’s accurate gender identification. It is the intent of the Legislature in enacting this legislation to provide three equally recognized gender options on state-issued identification documents—female, male, and nonbinary—and an efficient and fair process for people to amend their gender designation on state-issued identification documents so that state-issued identification documents legally recognize a person’s accurate gender identification.

(c) “Intersex” is an umbrella term used to describe natural bodily variations, which can include external genitalia, internal sex organs, chromosomes, or hormonal differences that transcend typical ideas of male and female. Upper estimates of the number of intersex people are approximately 1.7 percent of the general population. In the United States, some children born with intersex traits have been subjected to involuntary and medically unnecessary surgical procedures in infancy in an attempt to erase aspects of their natural bodies, causing significant physical and psychological harm. Human rights authorities have condemned this practice as a form of torture and recognize that legal and ethical frameworks require intersex people themselves to make decisions concerning their own bodies. Thus, those human rights authorities recommended that physicians assign a provisional gender designation with the knowledge that the child may later identify differently. An option of a nonbinary gender designation on state-issued identification documents would allow intersex people, like transgender and nonbinary people, to be able to use state-issued identification documents that accurately recognize their gender identification as female, male, or nonbinary.

(d) The binary gender designations of female and male fail to adequately represent the diversity of human experience. Nonbinary is an umbrella term for people with gender identities that fall somewhere outside of the traditional conceptions of strictly either female or male. People with nonbinary gender identities may or may not identify as transgender, may or may not have been born with intersex traits, may or may not use gender-neutral pronouns, and may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, Two Spirit, bigender, pangender, gender nonconforming, or gender variant. Nonbinary gender identities have been recognized by cultures throughout history and around the world, as well as by legal systems in the United States and other countries, medical authorities, and researchers. Studies show that nonbinary people face frequent discrimination, harassment, and violence in areas of life including education, employment, health care, and law enforcement.

(e) Transgender is an umbrella term used to describe people whose gender identity or gender expression do not match the gender they were assigned at birth. Some transgender people have medically transitioned, undergoing gender affirming surgeries and hormonal treatments, while other transgender people do not choose any form of medical transition. There is no uniform set of procedures that are sought by transgender people that pursue medical transition. Transgender people may identify as female, male, or nonbinary, may or may not have been born with intersex traits, may or may not use

gender-neutral pronouns, and may or may not use more specific terms to describe their genders, such as agender, genderqueer, gender fluid, Two Spirit, bigender, pangender, gender nonconforming, or gender variant. Studies show that transgender people disproportionately face discrimination, harassment, and violence in areas of life including housing, education, employment, health care, and law enforcement.

SEC. 3. Section 1277 of the Code of Civil Procedure is amended to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing. If the petition seeks to conform the petitioner's name to the petitioner's gender identity and no objection is timely filed, the court shall grant the petition without a hearing.

(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If a newspaper of general circulation is not published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting at the time of the hearing of the application.

(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days before the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the

court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(5) If the petition for a change of name is sought in order to conform the petitioner's name to the petitioner's gender identity, the action for a change of name is exempt from the requirement for publication of the order to show cause under this subdivision.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, and that the name the petitioner is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(A) There exists an overriding interest that overcomes the right of public access to the record.

(B) The overriding interest supports sealing the record.

(C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(D) The proposed order to seal the records is narrowly tailored.

(E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness Relocation and Assistance Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If an application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of the guardian's minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days before the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days before the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on July 1, 2014, shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 4. Section 1277 is added to the Code of Civil Procedure, to read:

1277. (a) (1) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), or Section 1277.5, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.



(2) A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If a newspaper of general circulation is not published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting at the time of the hearing of the application.

(3) Four weekly publications shall be sufficient publication of the order to show cause. If the order is published in a daily newspaper, publication once a week for four successive weeks shall be sufficient.

(4) If a petition has been filed for a minor by a parent and the other parent, if living, does not join in consenting thereto, the petitioner shall cause, not less than 30 days before the hearing, to be served notice of the time and place of the hearing or a copy of the order to show cause on the other parent pursuant to Section 413.10, 414.10, 415.10, or 415.40. If notice of the hearing cannot reasonably be accomplished pursuant to Section 415.10 or 415.40, the court may order that notice be given in a manner that the court determines is reasonably calculated to give actual notice to the nonconsenting parent. In that case, if the court determines that notice by publication is reasonably calculated to give actual notice to the nonconsenting parent, the court may determine that publication of the order to show cause pursuant to this subdivision is sufficient notice to the nonconsenting parent.

(b) (1) If the petition for a change of name alleges a reason or circumstance described in paragraph (2), and the petitioner has established that the petitioner is an active participant in the address confidentiality program created pursuant to Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code, and that the name the petitioner is seeking to acquire is on file with the Secretary of State, the action for a change of name is exempt from the requirement for publication of the order to show cause under subdivision (a), and the petition and the order of the court shall, in lieu of reciting the proposed name, indicate that the proposed name is confidential and is on file with the Secretary of State pursuant to the provisions of the address confidentiality program.

(2) The procedure described in paragraph (1) applies to petitions alleging any of the following reasons or circumstances:

(A) To avoid domestic violence, as defined in Section 6211 of the Family Code.

(B) To avoid stalking, as defined in Section 646.9 of the Penal Code.

(C) The petitioner is, or is filing on behalf of, a victim of sexual assault, as defined in Section 1036.2 of the Evidence Code.

(3) For any petition under this subdivision, the current legal name of the petitioner shall be kept confidential by the court and shall not be published or posted in the court's calendars, indexes, or register of actions, as required by Article 7 (commencing with Section 69840) of Chapter 5 of Title 8 of the Government Code, or by any means or in any public forum, including

a hardcopy or an electronic copy, or any other type of public media or display.

(4) Notwithstanding paragraph (3), the court may, at the request of the petitioner, issue an order reciting the name of the petitioner at the time of the filing of the petition and the new legal name of the petitioner as a result of the court's granting of the petition.

(5) A petitioner may request that the court file the petition and any other papers associated with the proceeding under seal. The court may consider the request at the same time as the petition for name change, and may grant the request in any case in which the court finds that all of the following factors apply:

(A) There exists an overriding interest that overcomes the right of public access to the record.

(B) The overriding interest supports sealing the record.

(C) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed.

(D) The proposed order to seal the records is narrowly tailored.

(E) No less restrictive means exist to achieve the overriding interest.

(c) A proceeding for a change of name for a witness participating in the state Witness Relocation and Assistance Program established by Title 7.5 (commencing with Section 14020) of Part 4 of the Penal Code who has been approved for the change of name by the program is exempt from the requirement for publication of the order to show cause under subdivision (a).

(d) If an application for change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), whether as part of a petition or cross-complaint or as a separate order to show cause in a pending action thereunder, service of the application shall be made upon all other parties to the action in a like manner as prescribed for the service of a summons, as set forth in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2. Upon the setting of a hearing on the issue, notice of the hearing shall be given to all parties in the action in a like manner and within the time limits prescribed generally for the type of hearing (whether trial or order to show cause) at which the issue of the change of name is to be decided.

(e) If a guardian files a petition to change the name of the guardian's minor ward pursuant to Section 1276:

(1) The guardian shall provide notice of the hearing to any living parent of the minor by personal service at least 30 days before the hearing.

(2) If either or both parents are deceased or cannot be located, the guardian shall cause, not less than 30 days before the hearing, to be served a notice of the time and place of the hearing or a copy of the order to show cause on the child's grandparents, if living, pursuant to Section 413.10, 414.10, 415.10, or 415.40.

(f) This section shall become operative on September 1, 2018.

SEC. 5. Section 1277.5 is added to the Code of Civil Procedure, to read:

1277.5. (a) (1) If a proceeding for a change of name to conform the petitioner's name to the petitioner's gender identity is commenced by the filing of a petition, the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to make known any objection to the change of name by filing a written objection, which includes any reasons for the objection, within six weeks of the making of the order, and shall state that if no objection showing good cause to oppose the name change is timely filed, the court shall, without hearing, enter the order that the change of name is granted.

(2) The proceeding for a change of name to conform the petitioner's name to the petitioner's gender identity is exempt from any requirement for publication.

(b) A hearing date shall not be set in the proceeding unless an objection is timely filed and shows good cause for opposing the name change. Objections based solely on concerns over the petitioner's actual gender identity shall not constitute good cause. At the hearing, the court may examine under oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name or dismissing the petition or application as the court may deem right and proper.

(c) This section shall become operative on September 1, 2018.

SEC. 6. Section 1278 of the Code of Civil Procedure is amended to read:

1278. (a) (1) Except as provided in subdivisions (c) and (d), the petition or application shall be heard at the time designated by the court, only if objections are filed by a person who can, in those objections, show to the court good cause against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name, or dismissing the petition or application, as the court may seem right and proper.

(2) If no objection is filed at least two court days before the date set for hearing, the court may, without hearing, enter the order that the change of name is granted. If the petition seeks to conform the petitioner's name to the petitioner's gender identity and no objection is timely filed, the court shall grant the petition without a hearing.

(b) If the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence, stalking, sexual assault, or gender identity in the petition are false.

(c) If the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) If the petition for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of the parents. Upon making those findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

(e) This section shall become operative on July 1, 2014, shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 7. Section 1278 is added to the Code of Civil Procedure, to read:

1278. (a) (1) Except as provided in subdivisions (c) and (d), the petition or application shall be heard at the time designated by the court, only if objections are filed by a person who can, in those objections, show to the court good cause against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name, or dismissing the petition or application, as the court may deem right and proper.

(2) If no objection is filed at least two court days before the date set for hearing, the court may, without hearing, enter the order that the change of name is granted.

(b) If the provisions of subdivision (b) of Section 1277 apply, the court shall not disclose the proposed name unless the court finds by clear and convincing evidence that the allegations of domestic violence, stalking, or sexual assault in the petition are false.

(c) If the application for a change of name is brought as part of an action under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), the hearing on the issue of the change of name shall be conducted pursuant to statutes and rules of court governing those proceedings, whether the hearing is conducted upon an order to show cause or upon trial.

(d) If the petition for a change of name is filed by a guardian on behalf of a minor ward, the court shall first find that the ward is likely to remain in the guardian's care until the age of majority and that the ward is not likely to be returned to the custody of the parents. Upon making those findings, the court shall consider the petition and may grant the petition only if it finds that the proposed name change is in the best interest of the child.

(e) This section shall become operative on September 1, 2018.

SEC. 8. The heading of Article 7 (commencing with Section 103425) of Chapter 11 of Part 1 of Division 102 of the Health and Safety Code is amended to read:

#### Article 7. Revision of Birth Records to Reflect Change of Gender

SEC. 9. Section 103425 of the Health and Safety Code is amended to read:

103425. (a) Whenever a person has undergone clinically appropriate treatment for the purpose of gender transition, the person may file a petition with the superior court in any county seeking a judgment recognizing the change of gender.

(b) If requested, the judgment shall include an order that a new birth certificate be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States.

(c) This section shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 10. Section 103425 is added to the Health and Safety Code, to read:

103425. (a) A person may file a petition with the superior court in any county seeking a judgment recognizing the change of gender to female, male, or nonbinary.

(b) If requested, the judgment shall include an order that a new birth certificate be prepared for the person reflecting the change of gender and any change of name accomplished by an order of a court of this state, another state, the District of Columbia, or any territory of the United States.

(c) This section shall become operative on September 1, 2018.

SEC. 11. Section 103426 of the Health and Safety Code is amended to read:

103426. The State Registrar shall issue a new birth certificate reflecting a change of gender to female, male, or nonbinary without a court order for any person born in this state who submits directly to the State Registrar an application to change the gender on the birth certificate and an affidavit attesting under penalty of perjury that the request for a change of gender to (female, male, or nonbinary) is to conform the person's legal gender to the person's gender identity and is not made for any fraudulent purpose. Upon receipt of the documentation and the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate reflecting the gender stated in the application and any change in name, if accompanied by a court order for a change of name.

SEC. 12. Section 103430 of the Health and Safety Code is amended to read:

103430. (a) The petition shall be accompanied by an affidavit of a physician attesting that the person has undergone clinically appropriate treatment for the purpose of gender transition, based on contemporary medical standards, and a certified copy of the court order changing the applicant's name, if applicable. The physician's affidavit shall be accepted as conclusive proof of gender change if it contains substantially the following language: "I, (physician's full name), (physician's medical license or certificate number), am a licensed physician in (jurisdiction). I attest that (name of petitioner) has undergone clinically appropriate treatment for the purpose of gender transition to (male or female). I declare that the foregoing is true and correct to the best of my knowledge."

(b) The petition shall be heard at the time appointed by the court. At the hearing, the court may examine on oath the petitioner, and any other person having knowledge of facts relevant to the application. At the conclusion of the hearing the court shall grant the petition if the court determines that the physician's affidavit shows that the person has undergone clinically appropriate treatment for the purpose of gender transition.

(c) If the judgment includes an order for a new birth certificate and if the petitioner was born in this state, a certified copy of the decree of the court ordering the new birth certificate, shall, within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof together with the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate for the applicant.

(d) The new birth certificate shall indicate the sex of the registrant as specified in the judgment of the court and shall reflect any change of name specified in the application if accompanied by a court order, as prescribed by Section 103425. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the registrant.

(e) This section shall become inoperative on September 1, 2018, and shall be repealed on January 1, 2019.

SEC. 13. Section 103430 is added to the Health and Safety Code, to read:

103430. (a) A petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary shall be accompanied by an affidavit from the petitioner and a certified copy of the court order changing the petitioner's name, if applicable. The petitioner's 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."

(b) Except as provided in subdivision (e), unless a written objection is filed within 28 days of the filing of the petition and shows good cause for opposing a court order recognizing the change of 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.

(c) If the judgment includes an order for a new birth certificate and if the petitioner was born in this state, a certified copy of the decree of the court ordering the new birth certificate, shall, within 30 days from the date of the decree, be filed with the State Registrar. Upon receipt thereof together with

the fee prescribed by Section 103725, the State Registrar shall establish a new birth certificate for the petitioner.

(d) The new birth certificate shall indicate the gender of the petitioner, as specified in the judgment of the court, and shall reflect any change of name specified in the court order, as prescribed by Section 103425. No reference shall be made in the new birth certificate, nor shall its form in any way indicate, that it is not the original birth certificate of the petitioner.

(e) (1) If a petitioner is under 18 years of age, the petition shall be signed by either at least one of the petitioner's parents or any guardian of the petitioner, or if both parents are deceased and there is no guardian of the petitioner, by either a near relative or friend of the petitioner or as provided in Section 7638 of the Family Code.

(A) If a petition filed by a petitioner who is under 18 years of age does not include the signature of both living parents, the petitioner shall serve the living parent who did not sign the petition with notice and an order to show cause pursuant to Section 413.10, 414.10, 415.10, or 415.40 of the Code of Civil Procedure, not less than 30 days after the petition was filed. If service cannot reasonably be accomplished pursuant to Section 415.10 or 415.40 of the Code of Civil Procedure, the court may order that service be given in a manner that the court determines is reasonably calculated to give actual notice to the living parent who did not sign the petition.

(B) The order to show cause shall direct the living parent who did not sign the petition to appear before the court at a time and place specified, which shall be not less than 6 weeks nor more than 12 weeks from the time of making the order to show cause, unless the court orders a different time, to show cause why the petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary should not be granted. The order to show cause shall direct the living parent who did not sign the petition to make known any objection to the granting of the petition by filing a written objection that includes the reasons for the objection with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition should not be granted. The order to show cause shall state that if the living parent who did not sign the petition does not timely file a written objection and appear in the court hearing, the court shall grant the petition without a hearing.

(2) (A) The court shall grant a petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary filed by a petitioner who is under 18 years of age without a hearing, unless a living parent who was required to be served with notice and an order to show cause in compliance with subparagraph (B) of paragraph (1) timely filed a written objection and appears in the court hearing.

(B) The court may deny a petition for a court order to recognize a change in the petitioner's gender as female, male, or nonbinary filed by a petitioner who is under 18 years of age, if both parents, if living, did not sign the petition, the living parent who did not sign the petition timely filed a written objection and appeared in the court hearing, and the court, after holding a

hearing on the matter, finds that the change of gender is not in the best interest of the petitioner.

(f) This section shall become operative on September 1, 2018.

SEC. 14. Section 103440 of the Health and Safety Code is amended to read:

103440. The new birth certificate established pursuant to this article shall supplant any birth certificate previously registered for the registrant and shall be the only birth certificate open to public inspection. The application and supporting affidavit filed pursuant to Section 103426 shall be filed with the original record of birth, that shall remain as a part of the records of the State Registrar. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon written request of the registrant or an order of a court of record.

When a new birth certificate is established under this article, the State Registrar shall transmit copies of the newly established birth certificate for filing to the local registrar and the county recorder whose records contain copies of the original certificate, who shall forward the copies of the original certificate to the State Registrar for filing with the original certificate, if it is practical for the local registrar or the county recorder to do so. If it is impractical for the local registrar or the county recorder to forward the copy to the State Registrar, the local registrar or the county recorder shall effectually seal a cover over the copy of the original certificate in a manner as not to deface or destroy the copy and forward a verified statement of the action to the State Registrar. Thereafter the information contained in the record shall be available only upon written request of the registrant or on order of a court of record.

SEC. 15. Section 12800 of the Vehicle Code, as added by Section 7 of Chapter 524 of the Statutes of 2013, is amended to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) The applicant's true full name, age, sex, mailing address, residence address, and, except as provided in Section 12801, social security account number.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that



affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

(l) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 16. Section 12800 is added to the Vehicle Code, to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) (1) The applicant's true full name, age, gender category, mailing address, residence address, and, except as provided in Section 12801, social security account number.

(2) The applicant shall choose their gender category of female, male, or nonbinary.

(3) The department shall not require documentation for an original driver's license applicant's initial choice of a gender category or a licensed applicant's request for an amendment to a gender category other than the following:

(A) The applicant's self-certification of their chosen gender category.

(B) Documentation required by this code and the California Code of Regulations as necessary to establish that an applicant is lawfully entitled to a license.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

- (h) Whether the applicant understands traffic signs and signals.
- (i) Whether the applicant has ever previously been issued an identification card by the department.
- (j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.
- (k) The department shall adopt regulations to provide a process for an amendment to a gender category.
- (l) This section shall become operative on January 1, 2019.
- (m) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 17. Section 12800 of the Vehicle Code, as added by Section 8 of Chapter 524 of the Statutes of 2013, is amended to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

- (a) The applicant's true full name, age, sex, mailing address, residence address, and social security account number.
- (b) A brief description of the applicant for the purpose of identification.
- (c) A legible print of the thumb or finger of the applicant.
- (d) The type of motor vehicle or combination of vehicles the applicant desires to operate.
- (e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.
- (f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.
- (g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.
- (h) Whether the applicant understands traffic signs and signals.
- (i) Whether the applicant has ever previously been issued an identification card by the department.
- (j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.
- (k) This section shall become operative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

(l) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.

SEC. 18. Section 12800 is added to the Vehicle Code, to read:

12800. Each application for an original or a renewal of a driver's license shall contain all of the following information:

(a) (1) The applicant's true full name, age, gender category, mailing address, residence address, and social security account number.

(2) The applicant shall choose their gender category of female, male, or nonbinary.

(3) The department shall not require documentation for an original driver's license applicant's initial choice of a gender category or a licensed applicant's request for an amendment to a gender category other than the following:

(A) The applicant's self-certification of their chosen gender category.

(B) Documentation required by this code and the California Code of Regulations as necessary to establish that an applicant is lawfully entitled to a license.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by a condition that may bring about recurrent lapses, or whether the applicant has a disease, disorder, or disability that affects his or her ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an identification card by the department.

(j) Any other information that is necessary to enable the department to determine whether the applicant is entitled to a license under this code.

(k) The department shall adopt regulations to provide a process for an amendment to a gender category.

(l) This section shall take effect on January 1, 2019, and shall become operative pursuant to subdivision (m).

(m) This section shall become operative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole

or in part, is enjoined, found unconstitutional, or held invalid for any reason. The department shall post this information on its Internet Web site.

SEC. 19. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear the applicant's picture, and be produced in color or engraved by a process or processes that prohibit, as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) (1) Upon issuance of a new identification card, or renewal of an identification card, the department shall provide information on organ and tissue donation, including a standardized form to be filled out by an individual who desires to enroll in the California Organ and Tissue Donor Registry with instructions for mailing the completed form to the California Organ and Tissue Donor Registrar established pursuant to subdivision (a) of Section 7150.90 of the Health and Safety Code.

(2) The enrollment form shall be simple in design and shall be produced by the department, in cooperation with the California Organ and Tissue Donor Registrar, and shall require all of the following information to be supplied by the enrollee:

(A) Date of birth, gender, full name, address, and home telephone number.

(B) Consent for organs or tissues to be donated for transplant after death.

(C) Any limitation of the donation to specific organs, tissues, or research.

(3) The form shall also include a description of the process for having a name removed from the registry, and the process for donating money for the benefit of the registry.

(4) The registry enrollment form shall be posted on the Internet Web sites for the department and the California Health and Human Services Agency.

(5) The form shall constitute a legal document under the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code).

(6) The registrar shall ensure that all additions and deletions to the registry shall occur within 30 days of receipt.

(7) Information obtained by the registrar for the purposes of this subdivision shall be used for these purposes only and shall not further be disseminated by the registrar.

(c) A contract shall not be awarded to a nongovernmental entity for the processing of identification cards unless the contract conforms to all applicable state contracting laws and all applicable procedures set forth in the State Contracting Manual.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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