

## **Updates to the Name and Gender Marker Change Process in California**

On October 15, 2017, Governor Jerry Brown signed into law Senate Bill 179 (SB 179) and Senate Bill 310 (SB 310). SB 179 and SB 310 simplify and reduce barriers to the name and gender marker change process in California. Some changes have already started, but most are about to happen. The majority of changes will go into effect starting September 1, 2018, and the last changes will start January 1, 2019. Under SB 179 and SB 310, California will (1) no longer require a physician's declaration to change a gender marker on California identity documents and California court-ordered gender changes, (2) allow for a nonbinary gender marker option, (3) eliminate the need in most cases to attend a court hearing to obtain a court-ordered gender change, and (4) no longer deny the right to a court-ordered name and gender marker change for individuals who are under the jurisdiction of the California Department of Corrections and Rehabilitation or are in county jail. Below we discuss which changes have already happened and which are in the pipeline.

### **ALREADY HAPPENING**

#### **The Self-Attestation Standard for California Birth Certificates**

The California Department of Vital Records began to use the self-attestation standard to update gender markers on California birth certificates beginning January 1, 2018. Prior to SB 179, an applicant for a new birth certificate had to submit a physician's declaration stating that they had undergone "clinically appropriate treatment" for the purpose of a gender transition. Now, to change a gender marker with the California Department of Vital Records, folks need only (1) submit a court-ordered gender change, OR (2) sign a declaration under penalty of perjury that they are changing their legal gender to conform to their gender identity.

#### **Nonbinary Gender Marker Option for Birth Certificates**

An applicant may change their gender to nonbinary on their California birth certificate. Folks may wish to change their gender markers to nonbinary if their gender identity aligns with neither male nor female gender markers.

### **BEGINNING SEPTEMBER 1, 2018**

#### **The Self-Attestation Standard for Court Orders**

Like gender markers on California birth certificates as noted above, court-ordered gender changes in California will also move to a self-attestation standard. Starting September 1, 2018, a person need only sign a declaration under penalty of perjury that they are changing their legal gender to conform to their gender identity. SB 179 includes a sample declaration: "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."

## **Nonbinary Gender Marker Option for Court Orders**

Santa Cruz County was the first county in California to grant a court-ordered gender change to nonbinary in October 2016, and many other counties have followed suit. SB 179 provides for this gender marker option on California court-ordered gender changes in all California counties starting September 1, 2018.

Minors may also petition for a court-ordered gender change to nonbinary, but generally, the support of their parents is required.

## **Elimination of Court Hearings**

Prior to SB 179, folks were required to attend court hearings when petitioning for a court-ordered gender change. Starting September 1, 2018, SB 179 eliminates the need for a court hearing if a written objection is not filed. This aligns the court-ordered gender change process with the court-ordered name change process. Since July 1, 2014, court-ordered name changes have not required a court hearing when the court-ordered name change was part of a person's gender transition and no objection was filed.

## **Name and Gender Marker Changes for Folks in Prison and Jail**

Prior to the passage of SB 310, most individuals incarcerated in state prisons and county jails in California were prohibited from filing petitions for court-ordered name changes. Starting September 1, 2018, a person under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR) or sentenced to county jail will have the right to petition the court for a court-ordered name change. A person under the jurisdiction of CDCR need only provide a copy of their petition for a court-ordered name change to CDCR. Similarly, a person sentenced to county jail need only provide a copy of their petition for a court-ordered name change to the Sheriff's department. CDCR or the county jail must use an individual's updated name, and prior names must be listed only as aliases.

## **BEGINNING JANUARY 1, 2019**

### **Nonbinary Gender Markers on DMV ID Documents**

As of January 1, 2019, a person may use a nonbinary gender marker on their driver's license or state ID. All that is required for a nonbinary gender marker is the "applicant's self-certification of their chosen gender identity." The Department of Motor Vehicles cannot require any additional documentation.

If you are interested in changing your name and/or gender marker on your government identity documents, East Bay Community Law Center can help. We hold monthly Name and Gender Change Workshops. Please call 510-560-4213 or email [ngwberkeley@gmail.com](mailto:ngwberkeley@gmail.com) with questions or to schedule an appointment for an upcoming workshop.