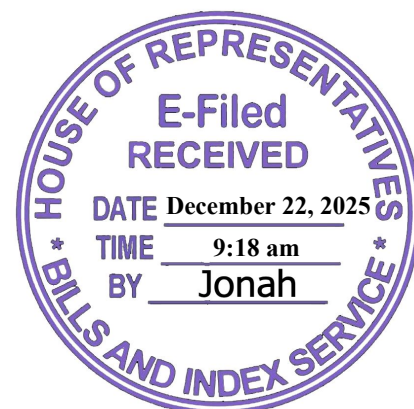




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 6994



Introduced by Representative
JC M. ABALOS

EXPLANATORY NOTE

The Philippines, as a state party to various international human rights instruments, has the obligation to respect, protect, and fulfill the rights listed in these instruments for its citizens. With this, our government needs to enact corresponding legislation to fulfill these obligations. For intersex persons, this means passing a law that will uphold their rights, provide protection against discrimination, and the promotion and eventual fulfillment of their overall well-being.

According to Intersex Philippines¹, a non-government organization that advocates for the rights of intersex persons in our country, the struggles of intersex Filipinos and their families begin upon birth. Often, parents of a newborn with intersex variation that do not fit the typical male or female definitions were compelled to immediately identify their child with either male or female sex or forced their child to go through “corrective operations and treatment”.

Given the coercive nature of the said circumstance described earlier, it consequently geared towards violation of rights of intersex persons at a very early age. Several narratives will reveal that throughout childhood and adult years of an intersex person, they will further experience discrimination, and violations of their right to self-determination and physical integrity.² In a civil and modern society, such violations should end, by ensuring this matter to be adequately mainstreamed in

¹ Intersex Philippines, Inc. (2023). I Exists. City of Manila, Phl.

² Ibid.

public discourse, making way for social innovations and crafting better governance measures specific for this sector.

Fortunately, the existence and rights of intersex people in the Philippines have been recognized in a landmark ruling by the Supreme Court (SC) concerning the right to self-determination.³ This legal position stemmed from the 2003 case initiated by Jeff Cagandahan (formerly Jennifer Cagandahan).

Assigned female at birth, Mr. Cagandahan filed a petition before the Regional Trial Court of Siniloan, Laguna. The petition seeks to correct several entries in his birth certificate, to change his name and his sex to male after developing male characteristics due to Congenital Adrenal Hyperplasia (CAH). In 2008, the Supreme Court decided in favor of Jeff Cagandahan. The Court explicitly stated that when a person is biologically or naturally intersex, the determining factor in gender classification should be what the individual, having reached the age of majority, "with good reason, thinks of his or her sex."

In this light, this representation intends to introduce the following proposed legislative measure to sustain the momentum gained by the landmark decision favoring the cause of Jeff Cagandahan, and further contribute significantly in advancing the rights of intersex persons and their fight against marginalization and discrimination. Particularly, this measure proposed to establish a streamlined administrative process for intersex persons in filing relevant government and non-government credentials such as birth certificates, passports, driver's license, school and employment IDs to mention a few. Further, this measure also establishes safeguards to uphold the fundamental rights to privacy and self-determination of intersex persons, ensuring the best interests of intersex minors in all medical and administrative actions, and guaranteeing that no intersex person is subjected to discrimination, stigmatization, or marginalization in their pursuit of education, employment, and social development.

In view of the foregoing, the immediate passage of this measure is earnestly sought.


JC M. ABALOS
Representative
4Ps Partylist

³ G.R. No. 166676



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Introduced by 4Ps Partylist Representative
JC M. ABALOS

**AN ACT PROVIDING FURTHER ACCESSIBILITY OF RELEVANT
ADMINISTRATIVE PROCESSES FOR INTERSEX PERSONS AND ENSURING
THEIR RIGHT AND PRIVILEGES AS INTERSEX PERSONS FOR EARLY
CHILDHOOD, EDUCATION, AND EMPLOYMENT**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. *Short Title.* — This Act shall be known as "*The Cagandahan Law.*"

SEC. 2. *Declaration of Principles.* — It is hereby declared the policy of the State to recognize the inherent dignity and rights of all individuals under the law. The State recognizes the importance of an efficient and accessible civil registration system that enables individuals to control and protect their personal information and identity, uphold individual rights and autonomy, and correct errors in their civil register entries. In furtherance of this policy, the State upholds the fundamental right of every person to privacy, self-determination, and non-discrimination.

Every individual has the fundamental right to privacy, encompassing the right to control and protect their personal information, medical history, and identity.

All citizens have the right to self-determination with respect to their personal information, including but not limited to decisions related to the correction of clerical or typographical errors in the civil register and changes of first names or nicknames.

No person shall be subject to any form of discrimination, stigmatization, or marginalization. It shall therefore intensify its efforts to fulfill its duties under the Equal Protection Clause and Bill of Rights provisions of the Philippine Constitution, and international and domestic laws to respect, protect, and fulfill the rights and dignity of every individual.

As one of the signatories of the Convention on the Rights of the Child, our country adheres to the principles stipulated in the said instrument, including Article 3.1 of CRC wherein it states that “in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.

Furthermore, the State recognizes the fundamental freedom of its citizens to determine choices as long as they do not harm other members of society who are equally entitled to protection under the law.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- a. *Civil Register* refers to the various registry books and related certificates and documents kept in the archives of the local civil registry offices, Philippine Consulates and of the Office of the Civil Registrar General.
- b. *Civil Registrar General* refers to the head of the Philippine Statistics Authority (PSA) responsible for civil registration under existing laws.
- c. *City or Municipal Civil Registrar* refers to the head of the local civil registry office of the city or municipality, as the case may be, who is appointed as such by the city or municipal mayor in accordance with the provisions of existing laws.
- d. *First name* refers to a name or nickname given to a person which may consist of one or more names in addition to the middle and last names.

- e. *Gender Expression* refers to an individual's physical presentation of himself or herself that includes preference of clothes, accessories, behavior, and other expressions that are visible and at times may not conform with the existing norms of the society the individual belongs to.
- f. *Intersex* refers to a wide range of innate bodily variations in sex characteristics. Intersex people are born with physical sex characteristics such as sexual anatomy, reproductive organs, hormonal patterns, and/or chromosomal patterns, that do not fit typical definitions for male or female bodies.
- g. *Intersex Minor* refers to a person below eighteen (18) years of age with an intersex variation.
- h. *Sex Marker* refers to the recorded entry indicating "male" or "female" in a civil registry record or government identification document
- i. *Sex Characteristics* refers to the chromosomal, gonadal, or anatomical features of a person, including primary characteristics such as reproductive organs, genitalia, hormones, and/or chromosomal structures, and secondary characteristics such as muscle mass, hair distribution, and/or breast structure.

SEC. 4. Coverage. – This Act shall apply exclusively to Intersex persons. Administrative changes under this Act shall cover all consequential updates to all government-held records and IDs that contain a sex marker and/or first name, including but not limited to PSA civil registry certificates, local civil registry records, passports, driver's licenses, professional licenses, voter records, Social Security System (SSS)/Government Service Insurance System (GSIS)/PhilHealth/Pag-IBIG membership records, school records, and employment records.

SEC. 5. Administrative Correction of Sex Marker and First Name for Intersex Persons. – An intersex person of legal age may petition for the administrative correction of the sex marker based on the person's intersex variation and affirmed sex; and, if desired, the first name to align with the affirmed sex.

For intersex minor, a parent or legal guardian may file a petition on the minor's behalf to administratively update the sex marker and/or first name. In all cases involving the petition for change of sex marker and/or first name, the intersex minor shall be heard, and their opinion shall be considered in accordance with their age and evolving needs.

In case of disagreement between the parents or legal guardian and the intersex minor regarding the change of sex marker and/or first name, or if the minor wishes to petition for themselves, any court of law that will acquire jurisdiction of such cases shall provide counsel or assistance for the resolution of such disagreement among concerned parties.

The court shall determine the appropriate course of action based on the best interests of the child after hearing from the intersex minor, the parents, a representative from the Council for the Welfare of Children, and an independent child development specialist. The Court shall, in particular, assess the minor's capacity to discern, understand, and decide on the matter to ascertain whether the minor's choice should prevail.

SEC. 6. *Medical Intervention on Intersex Minor.* — No irreversible medical or surgical procedure shall be performed on an Intersex Minor for the purpose of normalizing or altering sex characteristics to fit typical male or female definitions, unless medically necessary to address a present, significant risk to health or life. In cases where intervention is necessary, it shall be done upon the informed consent of the parents or legal guardian of the Intersex Minor.

The necessity of any non-urgent, irreversible intervention shall be deferred until the Intersex Minor is able to provide their own fully informed consent upon reaching legal age, or when they demonstrate the requisite capacity to discern, as determined by the Court.

SEC. 7. *Sex Marker of Intersex Minors.* — At birth, where medical professionals determine that the infant presents with an intersex variation or indeterminate sex characteristics, the Local Civil Registrar (LCR) shall accept either:

- a. A sex marker of Male or Female, as certified by the attending physician or by the parents/guardian, without prejudice to a later administrative change under this Act; or
- b. The option to temporarily defer the final sex designation until the child can express their own preference, in which case, a provisional sex marker is recorded as “Intersex/Undetermined (X)”.

SEC. 8. *Documentary Requirement and Procedure for Administrative Correction of Sex Marker and First Name for Intersex Persons.* — The petition of the intersex person shall be in affidavit form, subscribed before any person authorized to administer oaths, and must clearly and specifically state:

- a. The record concerned and the specific entry sought to be corrected;
- b. The changes sought such as the administrative correction of the sex marker and/or the change of first name; and
- c. An attestation that the request is voluntary and free from coercion.

The affidavit must be accompanied by the following documents:

- a. Certified true copy of the concerned civil registry entry;
- b. Medical certificate from a licensed physician attesting to the presence of an intersex characteristic or trait of the intersex person, or an existing medical records indicating an intersex variation; and
- c. Other documents which the intersex person or the city or municipal civil registrar or the consul general may consider relevant and necessary for the approval of the petition.

Upon the filing and payment or waiver of fees, the Local Civil Registrar (LCR) shall, within five (5) working days, determine the clarity and sufficiency of the intersex person's requirements for identification and authentication across supporting documents, and may assist the intersex person in curing any formal defects in the petition.

In case of denial or conflicting records, the intersex person may appeal to the CRG within fifteen (15) days from receipt, and the CRG shall resolve the appeal within thirty (30) days.

SEC. 9. Consequential Updates Across Government Records. – Upon approval, the LCR and PSA shall issue a new Certificate of Live Birth reflecting the approved sex marker and/or first name. Within sixty (60) days from approval, the PSA shall notify concerned agencies for synchronized updates in identification and records.

Agencies shall update records within thirty (30) days from notice, without penalty to the individual, and shall reissue IDs or credentials upon surrender of old IDs of the Intersex individual.

SEC. 10. Confidentiality and Protection of Records. – All petitions, records, and administrative annotations related to the administrative change of sex and/or first name under this Act shall be classified as Sensitive Personal Information shall be handled with confidentiality, unless otherwise provided by the Data Privacy Act of 2012 or Republic Act No. 10173.

SEC. 11. Freedom from Discrimination – Educational institutions, workplaces, or other public or private entities shall strictly adhere to the following:

- a. Permit the intersex person to choose and wear the uniform, attire, or dress code that is consistent with their affirmed sex. No intersex person shall be compelled to wear a uniform that is contrary to their asserted sex.
- b. Refrain from imposing disciplinary action or prejudice based on an intersex person's appearance, conduct, or gender expression, provided such expression is otherwise consistent with general institutional or workplace conduct standards.
- c. Provide reasonable accommodation to intersex persons in the use of sex-segregated facilities or gender-neutral facilities that aligns with their affirmed sex.
- d. Prohibit from requiring disclosure or proof of an individual's intersex status or underlying sex characteristics beyond what is strictly necessary for official records.

SEC. 12. Offenses and Penalties. –

- a. In addition to acts or omissions already penalized by existing laws, The following acts shall be penalized with Imprisonment of *prision correccional* in its minimum to medium period; and/or a Fine of not less than One Hundred Thousand Pesos (₱100,000.00) but not more than Five Hundred Thousand Pesos (₱500,000.00); in addition to mandatory psychological counseling or sensitivity training as ordered by the Court:
 - i. Any person who knowingly and without legal authority discloses, publicizes, disseminates, or otherwise makes available the confidential gender classification or any related personal information of an Intersex person shall be penalized;
 - ii. Any person who uses the gender classification of an Intersex person to commit acts of discrimination, harassment, abuse, or humiliation; and

- iii. Any individual, institution, employer, or entity that requires an intersex person to reveal or prove their gender classification in circumstances not covered under this Act.
- b. If the offender is a public officer, government employee, school administrator, teacher, or medical personnel, the following shall also apply:
 - i. Automatic aggravation of penalties by one degree in accordance with the Revised Penal Code.
 - ii. Administrative sanctions, including suspension, dismissal, or disqualification from public office.
 - iii. Mandatory reporting of the violation to the Civil Service Commission, Professional Regulation Commission, or relevant governing body.

The offender shall be civilly liable for moral damages, psychological damages, exemplary damages, and restitution for all harm suffered by the Intersex person, including reputational harm, distress, or injury to dignity.

- c. Educational institutions, medical institutions, corporations, or organizations that fail to implement adequate safeguards to protect the confidentiality of an Intersex person's gender classification shall be subject to:
 - i. Administrative fines of not less than Two Hundred Thousand Pesos (₱200,000.00) but not more than One Million Pesos (₱1,000,000.00).
 - ii. Mandatory compliance orders, including policy revision, personnel training, and system audits.
 - iii. Suspension or revocation of license, accreditation, or permit, in the case of schools, hospitals, or private entities.
 - iv. Liability for damages in favor of the Intersex Person.

SEC. 13. *Inter-agency Coordination and Responsibility* – Guidelines and protocols for specific **SECTORAL CONCERNS** shall be provided by the following corresponding government agencies, upon effectivity of this Act:

- a. The PSA shall prescribe simplified forms and guidelines for the administrative change processes under this Act. The PSA shall further:
 - i. Enable secure inter-agency data exchange concerning corrected civil registry entries;

- ii. Ensure the anonymization of data used for statistical reporting; and
 - iii. Monitor compliance of Local Civil Registrars and other relevant agencies with the provisions of this Act.
- b. The Department of Education (DepEd), Commission on Higher and Technical Education (CHED), Technical Education and Skills Development Authority (TESDA), shall provide guidelines and/or protocols pertaining to matters related to education.
 - c. Department of Labor and Employment (DOLE), Civil Service Commission (CSC), and Professional Regulation Commission (PRC), shall provide guidelines and/or protocols pertaining to matters related to employment and professional settings.
 - d. The Department of Health (DOH) shall provide guidelines and/or protocols pertaining to matters related to health. The DOH shall further issue clinical protocols and ethical guidelines for medical professionals, which includes ensuring that all medical practitioners, particularly those specializing in pediatrics, obstetrics, and endocrinology, are made aware of and trained on the diagnosis, care, and ethical treatment of intersex variations.
 - e. The Early Childhood Care and Development (ECCD) Council shall provide needed guidelines and/or protocols on matters relating to early childhood care of intersex minors, in coordination with other agencies relevant to early childhood development.

In addition, the Department of Social Welfare and Development (DSWD) shall coordinate with the implementing agencies in the drafting and implementation of the guidelines and/or protocol to ensure that the welfare and rights of all Intersex individuals are upheld.

All other relevant government agencies, instrumentalities, and Local Government Units (LGUs) shall review and align their respective policies and regulations with the provisions of this Act.

SEC. 14. *Information and Education.* — All implementing and relevant government agencies shall undertake a nationwide, accessible, evidence-based public education campaign on intersex variations to guide schools, workplaces, health facilities, and government offices on compliant practices.

SEC. 15. *Implementing Rules and Regulations.* — The PSA, DepEd, CHED, TESDA, DOLE, CSC, PRC, DOH, ECCD, and DSWD, shall issue the IRR within three (3) months from the effectivity of this Act.

SEC. 16. *Separability Clause.* — If any provision of this Act is declared invalid or unconstitutional, the provisions not affected thereby shall remain in full force and effect.

SEC 17. *Repealing Clause.* — All laws, presidential decrees, executive orders, presidential proclamations, rules or regulations and other issuances, or parts thereof, contrary to or inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.

SEC. 18. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,