

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS

First Regular Session

House Bill No. 7556



Introduced by **Rep. BEVERLEY ROSE A. DIMACUHA**

EXPLANATORY NOTE

The *Republic of the Philippines v. Cagandahan* (G.R. No. 166676, September 12, 2008) ruling of the Supreme Court recognized the right of an intersex individual -- Jennifer Cagandahan -- to amend her name and sex in the civil register, from "Jennifer" to "Jeff" and from "female" to "male," respectively.

Most notably, the Court declined to impose on Cagandahan the obligation to conform to rigid medical or social expectations, recognizing that "[r]espondent has simply let nature take its course... To him belongs the human right to the pursuit of happiness and of health... Thus, to him should belong the primordial choice of what courses of action to take along the path of his sexual development and maturation."

Despite this jurisprudence, no law currently provides a clear, accessible, and administrative remedy for intersex Filipinos to rectify inaccurate entries in their civil records. Currently, individuals must resort to costly and time-consuming judicial proceedings.

This proposed legislation bill aims to provide a straightforward and accessible legal process for intersex individuals to change their sex and first names in the civil register without the need for a judicial order. It acknowledges the importance of respecting an individual's right to self-determination and privacy regarding their gender identity and personal information.

In view of the foregoing, the urgent passage of this bill is earnestly sought.


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AN ACT
AUTHORIZING THE CITY OR MUNICIPAL CIVIL REGISTRAR OR
THE CONSUL GENERAL TO ADMINISTRATIVELY CHANGE THE
SEX AND THE FIRST NAME OF AN INTERSEX PERSON

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."

SECTION 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.

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.

SECTION 3. Definition of Terms. - Whenever referred to under this Act, the following terms shall be understood as:

- a) **"City or Municipal Civil Registrar"** refers to the head of the local civil registry office of a city or municipality.
- b) **"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.
- c) **"Civil Registrar General"** refers to the Head of Office of the National Statistics Office.
- d) **"First name"** refers to a name or nickname given to a person which may consist of one or more names, excluding the middle initial and surname.
- e) **"Intersex"** is an umbrella term used to describe 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.
- t) **"Applicant"** refers to the intersex person filing the application for the correction or change of entry in his or her Certificate of Live Birth.
- g) **"Primary sex characteristics"** refers to physical traits that indicate their biological sex, such as chromosomes, external genitalia, gonads, hormones, and internal reproductive organ that are present at birth.
- h) **"Secondary sex characteristics"** refers to physical traits that indicate their biological sex, such as chromosomes, external genitalia, gonads, hormones, and internal reproductive organ that develop after birth.

SECTION 4. Authority to Change the Entry on the Sex of an Applicant with the Civil Registry. - The concerned city or municipal civil registrar or the consul general shall have the authority to change, without a judicial order, the sex in the civil register of an intersex person upon proving that he or she is an intersex based on his or her primary and/or secondary sex characteristics in accordance with this Act and its Implementing Rules and Regulations (IRR), subject to requirements under Section 6 of this Act.; Provided, That, the changing of sex and/or first name shall be made *de jure* applicable to intersex people of legal age due to the inborn nature of their medical condition.

SECTION 5. Who may File and Where to File the Application. - The intersex person, who is at least **18** years of age, may file, in person, a notarized application with the local civil registry office of the city or municipality where the record being sought to be changed is kept.

In case the applicant has already migrated to another place in the country and it would impractical and unduly burdensome for such party (given travel expenses. and the time and effort needed to appear in person before the local civil registrar keeping the documents to be corrected or changed), the application may be filed, in person, with the local civil registrar

of the place where the interested party is presently residing or domiciled. The two (2) local civil registrars concerned will then communicate to facilitate the processing of the application.

If the application raises grounds other than those covered by this Act necessitating judicial proceedings, jurisdiction over the application shall vest in the Regional Trial Court having territorial jurisdiction over the local civil registrar's office where the record sought to be corrected or changed is kept.

Citizens of the Philippines who are presently working, residing, domiciled, or found in foreign countries may file their application, in person, with the nearest Philippine Consulates. Applications under this act may be filed online pursuant to the rules that may be set out on the Implementing Rules of this Act.

Applications filed with the city or municipal civil registrar or the consul general shall be processed in accordance with this Act and its IRR.

SECTION 6. Change in the First Name of an Intersex Person. - An application for change of the recorded sex of an intersex person in the civil register may include a prayer to change the applicant's first name to conform to such change.

SECTION 7. Form and Contents of the Application. -An application for a change of the recorded sex of an intersex person in the civil register with or without prayer for a change of first name, shall be in the form of an affidavit, subscribed and sworn to before any person authorized by law to administer oaths. The affidavit shall set forth facts necessary to establish the merits of the application and shall show affirmatively that the applicant is competent to testify to the matters stated. The application shall be supported by the following documents:

- a) A certified true copy of the Certificate of Live Birth or of the page of the registry book containing the entry or entries sought to be corrected or changed; and
- b) A medical certificate from a competent and licensed physician affiliated with or accredited by the Department of Health, attesting, under pain of perjury, that the applicant is an intersex

person.

The application and its supporting papers shall be filed in three (3) copies to be distributed as follows: first copy to the concerned city or municipal civil registrar or the consul general; second copy to the Office of the Civil Registrar General; and third copy to the applicant.

The application shall be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation in the city or province where the application is filed or in the newspaper of general circulation if filed in a Philippine consulate.

Furthermore, the applicant shall submit a certification from the appropriate law enforcement, agencies that he or she has no pending case or no criminal record: Provided that, the pendency of a case or the presence of a criminal record shall not be a ground to deny the application; Provided, further, that the local civil registrar or the consul general shall furnish a copy of its order granting with finality the application to the concerned court or courts.

The local registrar shall likewise furnish all other appropriate government agencies with a copy of the final order. Such government agencies shall make the necessary corrections to their record reflecting the sex and/or name of the applicant.

SECTION 8. Application of Minor Children. - In the case of a minor child. any change of sex in his or her civil register based on being an intersex, with or without prayer for a change of name, shall be done through a petition filed in court, considering the best interest of the child. The decision in such proceeding shall not bar the intersex person from availing of the remedy under this Act upon reaching the age of majority.

SECTION 9. Duties of the City or Municipal Civil Registrar or the Consul General - The city or municipal civil registrar or the consul general to whom the application is presented shall examine the application and its supporting documents. He or she shall post the application in two (2) conspicuous places provided for that purpose for ten (10) consecutive days after he or she finds the application and its supporting documents sufficient in form and substance.

The city or municipal civil registrar or the consul general shall act on the application and shall render a decision not later than five (5) working days after the completion of the posting and/or publication requirement. He or she shall transmit a copy of the decision together with the records of the proceedings to the Office of the Civil Registrar General within five (5) working days from the date of the decision.

SECTION 10. Duties and Powers of the Civil Registrar General - The Civil Registrar General shall, within ten (10) working days from receipt of

the decision granting an application, exercise the power to reverse the decision based on this Act.

The Civil Registrar General shall, within three (3) working days, notify the city or municipal civil registrar or the consul general, and the applicant, of the action taken on the decision.

The applicant may seek reconsideration with the Civil Registrar General or file the appropriate application with the proper court.

If the Civil Registrar General does not reverse the decision of the city or municipal civil registrar or of the consul general within the period prescribed, the decision shall become final and executory.

SECTION 11. Sealing of Records. - Should the application be granted, the Local Civil Registrar shall issue a new Certificate of Live Birth reflecting the corrected and/or changed entries. The superseded Certificate of Live Birth shall be sealed and shall not be released or disclosed except upon order of a competent court.

SECTION 12. Payment of Fees. - The city or municipal civil registrar or the consul general shall be authorized to collect reasonable fees as a condition for accepting and processing the application. An indigent applicant shall be exempt from the payment of such fees.

For this purpose, an applicant shall be deemed indigent upon presentation of at least one (1) of the following documents:

- a) A Certificate of Indigency issued by the Barangay;
- b) A Certification of Indigency issued by the Department of Social Welfare and Development (DSWD);
- c) Affidavit of Indigency; and
- d) Such other document deemed sufficient by the city or municipal civil registrar or the consul general to prove indigency.

SECTION 13. Penalty Clause. - A person who violates any of the provisions of this Act shall, upon conviction, be penalized by imprisonment of not less than six (6) years but not more than twelve (12) years, or a fine of not less than ten thousand pesos (P10,000.00) but not more than One Hundred Thousand pesos (P1 00,000.00), or both, at the discretion of the court.

In addition, if the offender is a government official or employee, he or she shall suffer the penalties provided under civil service laws, rules and regulations.

SECTION 14. Confidentiality Clause. - Except as provided in Section 7, all records and information related to the correction of clerical or typographical errors in the civil register and changes of first names or

nicknames shall be treated with the utmost confidentiality. Civil registrars, officials, and employees involved in the process shall ensure the non-disclosure of sensitive personal information except as required by law or with the express consent of the individual concerned.

SECTION 15. Implementing Rules and Regulations. - The civil registrar general shall, in consultation with the Department of Justice, the Department of Foreign Affairs, the Office of the Supreme Court Administrator, the University of the Philippines Law Center and the Philippine Association of Civil Registrars, issue the necessary rules and regulations for the effective implementation of this Act not later than three (3) months from the effectivity of this law.

SECTION 16. Separability Clause. - If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions thereof shall not be affected by such declaration.

SECTION 17. Repealing Clause. - All laws, decrees, orders, rules and regulations, other issuances, or parts inconsistent with this Act's provisions are hereby repealed or modified accordingly.

SECTION 18. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,