

SB 310

IN BRIEF

SB 310 establishes the right of a person imprisoned within the California Department of Corrections and Rehabilitation (CDCR) or within a county jail to petition the court to obtain a name or gender change. The bill also requires CDCR and county jails to use the new name of a person who obtains a name change, and to only refer to the prior name as an alias. SB 310 will help ensure that transgender people are legally recognized for who they are while incarcerated, and it will increase the likelihood of their successful reentry into society upon release from custody.

BACKGROUND

Transgender people, who identify as a gender different than the one they were assigned at birth, face significant discrimination both inside and outside of prison. The paradox of their struggle is that they are often hyper-visible for their lack of conformity to gender norms, and, at the same time, are often denied formal legal recognition of who they are, placing them at great risk of discrimination and harassment.

Due to this discrimination, too many transgender people are pushed out of traditional employment, housing, and healthcare. As a result, many transgender people end up incarcerated, criminalized for existing, as they must find alternative ways to survive. Transgender women of color are the most significantly impacted.

The discrimination faced by transgender people in our society is only amplified in prison. According to a 2015 national survey of 25,000 transgender individuals, 30% of incarcerated respondents were physically and/or sexually assaulted while in custody.

Upon their release from incarceration, transgender people face added difficulties reentering society – especially in finding employment – when their gender presentation does not match their identification documents. A significant number of transgender people have reported verbal harassment, denial of benefits or services, being asked to leave, or being assaulted after presenting identification documents that do not match their gender identity.

THE ISSUE

Current law establishes the common law right of any person to change their name and procedures for a person to apply to the court for an official change of name and/or gender. However, people incarcerated in state prison or otherwise under CDCR jurisdiction face significant barriers to accessing the courts for name and gender changes.

Specifically, before petitioning the court for a name change court order or a name and gender change court order, an incarcerated transgender person must first obtain approval from the warden of their facility and then the approval of the Division of Adult Institutions Regional Administrator as well as a Corrections Case Manager. This belabored process often results in either a denial or no response from corrections officials.

Additionally, many transgender people imprisoned in state prisons or county jails report that custodial staff often refuse to refer to them by their preferred name and gender. This causes them emotional distress and violates their right to be free from discrimination on the basis of their gender identity and expression.

THE SOLUTION

SB 310 establishes the right of people imprisoned in state or county facilities to obtain a name or gender change. It also requires CDCR and county jails to use the new name of a person who obtains a name change, and to refer to the prior name as an alias.

CO-SPONSORS

Transgender Gender- Variant Intersex Justice Project
Transgender Law Center
St. James Infirmary
Western Regional Advocacy Project
Women's Foundation of California, Women's Policy Institute
Equality California

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