

ACT 148

H.B. NO. 1165

A Bill for an Act Relating to Gender Identification.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that according to a 2016 report by the Williams Institute, Hawai'i has the highest percentage of transgender-identifying individuals in the United States, and that overall transgender-identifying individuals experience high levels of discrimination in every area of life. Hawai'i has been at the forefront of policies offering protection to transgender people and should continue to take proactive measures. A 2013 University of Hawai'i report found that gender-stereotypical policies and norms continue to stigmatize and exclude transgender people in the State. According to the 2018 sexual and gender minority health report by the department of health, the stigmatized minority status of transgender individuals is causing negative and disproportionate health outcomes, economic opportunities, and sociopolitical power.

Currently, driver's licenses are sex-marked. The legislature finds that sex markers on identification documents enable sex-identity and gender-identity discrimination and are not rationally related to a legitimate policy goal. Mandatory binary classification does not accommodate the wide range of natural biological variations or gender expressions. Additionally, it is overly burdensome for transgender individuals to obtain a new sex or gender marker on a driver's license.

The purpose of this Act is to allow transgender and gender-nonconforming individuals to avoid invasive questioning and discriminatory treatment by expanding gender options applicable to driver's licenses and state identification cards.

SECTION 2. Section 286-109, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Upon payment of the required fee and upon demonstrating the ability to operate a certain category or categories of motor vehicles to the satisfaction of the examiner of drivers, an applicant for a driver's license shall be issued a single license of a design approved by the director of transportation upon which is made a notation of:

- (1) The person's full legal name, date of birth, gender designation, residence address, and license number;
- [4] (2) The category or categories of motor vehicles the applicant may operate;
- [2] (3) Any restrictive provisions to which the license is subject;
- [3] (4) Veteran status, if desired by the applicant; provided that the notation shall be on the front of the license and shall not include any designation other than the term "veteran"; and
- [4] (5) When the license is issued to a person under twenty-one years of age, a statement, in clearly legible print that shall contrast with the other information appearing on the license, which indicates the date on which the person will attain the age of twenty-one years.

As used in this subsection[;]:

"Gender designation" includes the options of F, M, or X.

["veteran"] "Veteran" means any person who served in any of the uniformed services of the United States, including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens, and was discharged under conditions other than dishonorable."

SECTION 3. Section 286-111, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Every application shall state the full name, date of birth, [sex,] gender designation, occupation, veteran status if applicable (including veterans of the Korean conflict and persons who served in the armed forces of the Republic of Korea, who fought under the command of the United Nations led by the United States, during the Korean conflict and are currently United States citizens) and desired by the applicant, social security number if the applicant is eligible for a social security number, the residence address, and business address, if any, of the applicant, shall briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and in what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, or refusal.

The examiner of drivers shall not require documentation for an applicant's selection of gender designation or an applicant's request for an amendment to a gender designation other than the applicant's self-certification of their chosen gender designation; provided that the examiner of drivers shall not be prohibited from requiring documentation that may incidentally show an applicant's birth sex category if such documentation is necessary to establish that the applicant is legally entitled to a license.

For purpose of this subsection, "gender designation" shall have the same meaning as in section 286-109(a)."

SECTION 4. Section 286-303, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Every application for an identification card or duplicate of an identification card shall be made on a form developed by the director and furnished by the examiner of drivers, signed by the applicant, and signed by the applicant's parent or guardian if the applicant is under eighteen years of age. The application shall contain the following information:

- (1) Name and complete address, including the number and street name, of the applicant's permanent residence;

- (2) The applicant's occupation and any pertinent data relating thereto;
- (3) The applicant's citizenship status;
- (4) The applicant's veteran status if applicable and desired by the applicant;
- (5) The applicant's date and place of birth;
- (6) General description of the applicant, including the applicant's gender[;] designation, height, weight, hair color, and eye color;
- (7) The applicant's left and right index fingerprints or, if clear impressions cannot be obtained, other identifying imprints as specified by rules of the director;
- (8) The social security number of the applicant; and
- (9) A digitized frontal photograph of the applicant's full face.

Each applicant shall present documentary evidence as required by the examiner of drivers of the applicant's age and identity, and the applicant shall swear or affirm that all information given is true and correct[;]; provided that an applicant shall not be required to provide documentation to prove the applicant's gender designation other than the applicant's self-certification of their chosen gender designation; provided further that documentation that may incidentally show an applicant's birth gender may be required if necessary to establish that the applicant is legally entitled to an identification card.

For purposes of this subsection, "gender designation" shall have the same meaning as in section 286-109(a)."

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2020.

(Approved June 26, 2019.)