

**Introduced by Senator Wiener****(Coauthors: Senators Cabaldon, Cervantes, Laird, Padilla, and Pérez)****(Coauthors: Assembly Members Mark González, Jackson, Lee, Solache, Ward, and Zbur)**January 8, 2025

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An act to amend Section 103437 of the Health and Safety Code, relating to vital records, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 59, as introduced, Wiener. Change of gender and sex identifier.

Existing law authorizes a person to file a petition with the superior court seeking a judgment recognizing their change of gender to female, male, or nonbinary, including a person who is under 18 years of age. Existing law authorizes a person to file a single petition to simultaneously change the petitioner's name and recognize the change to the petitioner's gender and sex identifier, as specified. Existing law requires a petition for a change of gender and sex identifier or a petition for a change of gender, sex identifier, and name filed by a person under 18 years of age, and any papers associated with the proceeding, to be kept confidential by the court. Existing law requires the court to limit access to these records to specified individuals, including, among others, the minor, the minor's parents, and their attorneys.

This bill would expand that confidentiality provision to apply to all filed petitions for a change of gender and sex identifier or filed petitions for a change of gender, sex identifier, and name, and any papers associated with the proceeding, regardless of the age of the person who filed the petition. The bill would require the court to limit access to

court records in those proceedings, as specified. This bill would make this provision retroactive and require the Judicial Council to ensure that all courts have implemented a method to ensure the court maintains the confidentiality of those petitions and associated papers that were filed prior to the effective date of this act. The bill would require the court to immediately take steps to make a record confidential if an interested party or the court discovers that a court record in the proceeding is not being kept confidential. The bill would prohibit those records from being posted publicly, on the internet or otherwise, by anyone other than the petitioner.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 103437 of the Health and Safety Code  
 2     is amended to read:  
 3     ~~103437. If a person who seeks a change of gender and sex~~  
 4     ~~identifier pursuant to Section 103430 or a single petition for change~~  
 5     ~~to the petitioner's name and to recognize the change of the~~  
 6     ~~petitioner's gender and sex identifier pursuant to Section 103435~~  
 7     ~~is under 18 years of age, the~~  
 8     103437. (a) The petition and any papers associated with the  
 9     ~~proceeding~~ *a proceeding for a change of gender and sex identifier*  
 10    ~~pursuant to Section 103430, for a single petition for change to the~~  
 11    ~~petitioner's name and to recognize the change to the petitioner's~~  
 12    ~~gender and sex identifier pursuant to Section 103435, or for a~~  
 13    ~~change of name to conform the petitioner's name to the petitioner's~~  
 14    ~~gender identity pursuant to Section 1277.5 of the Code of Civil~~  
 15    ~~Procedure shall be kept confidential by the court. The court shall~~  
 16    ~~limit access to the court records in the proceeding, including the~~  
 17    ~~register of actions, to the minor, any adult who signed the petition,~~

1 ~~the minor's parents or guardians or guardians ad litem, any~~  
2 ~~individual who is subject to an order to show cause related to the~~  
3 ~~petition, and any attorneys representing these individuals.~~

4 *(1) Until a judgment is issued, the court shall limit access to*  
5 *the court records in the proceeding, including the register of*  
6 *actions, to the petitioner, an adult who signed the petition, the*  
7 *petitioner's parents, guardians, or guardians ad litem, if the*  
8 *petitioner was a minor at the time the petition was filed, an*  
9 *individual who is subject to service of an order to show cause*  
10 *related to the petition, and an attorney representing those*  
11 *individuals.*

12 *(2) Upon granting the judgment, the court shall limit access to*  
13 *the court records in the proceeding, including the register of*  
14 *actions, to the petitioner, an adult who signed the petition, and an*  
15 *attorney representing those individuals.*

16 *(b) This section is retroactive and applies to all petitions and*  
17 *papers associated with a proceeding described in subdivision (a),*  
18 *regardless of the date of filing, including those that were filed*  
19 *prior to the effective date of the act that added this subdivision.*  
20 *The Judicial Council shall ensure that all courts have implemented*  
21 *a method to ensure the court maintains the confidentiality of all*  
22 *petitions and papers associated with the proceedings described in*  
23 *subdivision (a), regardless of the date of filing, including those*  
24 *that were filed prior to the effective date of the act that added this*  
25 *subdivision.*

26 *(1) If an interested party or the court discovers that a court*  
27 *record in the proceeding, including the register of actions, is not*  
28 *being kept confidential by the court, the court shall immediately*  
29 *take steps to make such a record confidential as soon as it is*  
30 *brought to the court's attention and without a fee or requirement*  
31 *for a court order directing the correction.*

32 *(2) A confidential record pursuant to this section shall not be*  
33 *posted publicly, on the internet or otherwise, by a person other*  
34 *than the petitioner.*

35 SEC. 2. The Legislature finds and declares that Section 1 of  
36 this act, which amends Section 103437 of the Health and Safety  
37 Code, imposes a limitation on the public's right of access to the  
38 meetings of public bodies or the writings of public officials and  
39 agencies within the meaning of Section 3 of Article I of the  
40 California Constitution. Pursuant to that constitutional provision,

1 the Legislature makes the following findings to demonstrate the  
2 interest protected by this limitation and the need for protecting  
3 that interest:

4 It is in the best interest for the public to keep these records  
5 confidential to ensure the privacy and safety of transgender and  
6 nonbinary individuals who have experienced, and continue to  
7 experience, a growing epidemic of harassment and violence in  
8 California and across the country. According to the UCLA School  
9 of Law's Williams Institute, in 2021 transgender people were over  
10 four times more likely to experience violent victimization,  
11 including rape, assault, and aggravated or simple assault, than their  
12 cisgender peers. In 2022, the U.S. Transgender Survey found that  
13 nearly one-third (30 percent) of transgender respondents reported  
14 that they were verbally harassed in the last 12 months because of  
15 their gender identity or expression and, according to the Hate Crime  
16 in California 2023 report by the Department of Justice, between  
17 2022 and 2023, hate crime events motivated by antitransgender  
18 bias increased by 10.2 percent. Being outed and having their  
19 personal information exposed puts transgender and nonbinary  
20 individuals at greater risk for harassment, discrimination, and  
21 violence. It also significantly increases their risk of mental health  
22 harms and suicide. According to a joint study conducted by  
23 researchers at Columbia University, Harvard University, the  
24 Williams Institute, and the Fenway Institute at Fenway Health,  
25 transgender adults are seven times more likely to contemplate  
26 suicide, four times more likely to attempt it, and eight times more  
27 likely to engage in nonsuicidal self-injury than cisgender adults.  
28 Allowing transgender individuals to choose when and how they  
29 decide to share their personal information is vital in protecting  
30 their mental and physical health.

31 SEC. 3. This act is an urgency statute necessary for the  
32 immediate preservation of the public peace, health, or safety within  
33 the meaning of Article IV of the California Constitution and shall  
34 go into immediate effect. The facts constituting the necessity are:

35 To address the increase in discrimination, violence, harassment,  
36 and hate crimes motivated by antitransgender bias, in order to  
37 prevent their personal information being exposed by being

1 nonconsensually outed, it is necessary that this act take effect  
2 immediately.

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