

HOUSE COMMITTEE ON JUDICIARY

Subcommittee 3

April 13, 1981

1:30 p.m.

350 State Capitol

MEMBERS PRESENT: Rep. Joyce Cohen, Chairperson
Rep. Ted Bugas (arrived 2:00 p.m.)
Rep. Peter Courtney
Rep. Margie Hendricksen
Rep. Norm Smith
Rep. Dick Springer
Rep. Tom Mason (excused 1:55 p.m., returned 2:50 p.m.)

STAFF PRESENT: Steve Griffith, Legal Counsel
Lee Mosher, Committee Assistant

WITNESSES: Rep. Mae Yih, District 36, Oregon Legislature
Janice Stevens, citizen, Albany, Oregon
Carol Herzog, American Civil Liberties Union
Don Dugan, Home Federal Savings
Rep. Margie Hendricksen, District 40, Oregon Legislature
Joe Carney, Oregon Registrar
Billy Wasson, Marion County Community Corrections
Rep. Peg Jolan, District 44, Oregon Legislature
John Bradley, Oregon District Attorneys Association
Nely Johnson, Public Defender's Office, et al
Martha Bullard, Lane Interagency Rape Team
Judge John Beatty, Judicial Conference
Marcia Morgan, Lane Interagency Rape Team, et al
Gail Wiemann, Rape Crisis Network
Merris Simrall, Women's Right Collision
Robin Moran, Oregon Architectural Barriers Council
Allison Smith, District Attorneys Association
Loren Simonds, Eugene, Oregon

TAPES: H-81-JUD-251, H-81-JUD-252 and H-81-JUD-253

MEASURES: HB 2586 - Relating to sexual offenses
HB 2963 - Relating to release on personal recognizance
HJR 37 - Proposes amendment to Oregon Constitution:
bail refusal for rape, sodomy
HB 3098 - Relating to sex change
HB 2885 - Relating to handicapped person
HB 3116 - Relating to criminal assault

TAPE H-81-JUD-251, SIDE A

PUBLIC HEARING

003

CHAIRPERSON COHEN convened the meeting at 1:40 p.m.

HB 3098 - Relating to sex change

- 018 REP. MAE YIH, District 36, Oregon Legislature, testified in favor of the bill and introduced her constituent, Janice Stevens who requested the bill (Exhibit A, HB 3098).
- 039 JANICE STEVENS testified in favor of the bill. She is employed by Applied Economics, Inc., Home Federal Savings and parttime faculty member of Linn-Benton Community College, Albany, Oregon. She stated she had received input from members of the medical profession in support of the bill.
- 068 In response to question, Ms. Stevens stated Mr. Carney has done a lot of work on the bill and could answer how the bill fits into the law.
- 091 In response to questions, Rep. Yih stated the bill would allow for a change in the legal sex of the person, and if applicable, a change of name; the bill was drafted under LC 2278, 2-8-81.
- 130 MS. STEVENS briefly covered the contents of the input she had received from Keith J. Rohrbough, attorney, Glen C. Bending, M.D., Louis H. McCraw, Jr., M.D. and Mercedes F. Altizer, M.D. She stated information from Jim Walton, attorney, would be forthcoming to the committee.
- 154 CAROL HERZOG, ACLU, testified in favor of the bill. She stated there is a need for avenue of changing legal status to indicate a sex change. Without this these people cannot get a passport, only one of the problems involved.
- 173 DON DUGAN, Home Federal Savings, Albany, Oregon, testified in favor of the bill and stated he was appearing on behalf of Janice Stevens, her personality and position in their community.
- 198 CHAIRPERSON COHEN stated the hearing on this bill would be closed temporarily and reopened when Mr. Carney arrived.

HB 2963 - Relating to release on personal recognizance

- 206 REP. MARGIE HENDRIKSEN, District 40, Oregon Legislature, testified in favor of the bill (Exhibit A, HB 2963).

HB 2586 - Relating to sexual offenses

- 272 REP. HENDRIKSEN testified in favor of the bill (Exhibit A, HB 2586).

HJR 37 - Proposes amendment to Oregon Constitution

- 327 REP. HENDRIKSEN testified in favor of the bill and explained that the provision adds to murder, treason, rape or sodomy committed by forcible compulsion to the Constitution and would be submitted to the vote of the people.
- 344 REP. HENDRIKSEN concluded by pointing out that HB 2963, HB 2586 and HJR 37 all relate to the fact that the community needs protection in this respect and that these kinds of assaults that are taking place in Oregon need to be recognized by the Criminal Code.
- 367 In response to questions, she stated that HJR 37 is necessary because we are limited and we should not exceed constitutional authority; she did not know what other states have done on these offenses; forcible sexual penetration should be included in the bill.

HB 3098 - Relating to sex change

- 442 JOE CARNEY Oregon Registrar, testified in favor of the bill. He stated he had checked with registrars in the states of Utah, Washington and California and offered provisions provided by these states regarding sex change.

TAPE H-81-JUD-252, SIDE A

- 034 MR. CARNEY concluded that the bill does contain the basic structure of the model vital statistics regulations and model vital statistics act on a national basis.
- 043 In response to questions, records are filed by place of occurrence rather than by residence; when the maiden name is requested, it is basically for identification; and he stated he saw no problem in his agency with the bill as drafted.

HB 2963 - Relating to release on personal recognizance

- 092 BILLY WASSON, Marion County Community Corrections, testified in opposition to the bill. He had the question, does the bill prohibit by any means a release or is pretrial release possible.
- 103 REP. HENDRIKSEN replied yes.
- 112 MR. WASSON expressed the danger of misinterpretation and has concern with selecting out a group of population and basically limiting their access to pretrial release on the basis that the person is only charged with a crime and not convicted.

448 In response to a question, he stated that there is no statute now and if this bill passed it would probably be incorporated in the ORS 600.000 series although it could go in Chapter 8 or in Chapter 182 but that would be up to Legislative Counsel.

TAPE H-81-JUD-253, SIDE A

014 LOREN SIMONDS, Eugene, Oregon, testified in favor of the bill, stating he is also a member of the Oregon Architectural Barriers Council. He detailed cases where a complaint is pursued there is a fear of retaliation and this bill would be a safeguard.

WORK SESSION

HB 3098

040 MOTION: REP. COURTNEY moved HB 3098 to the full committee with a "do pass" recommendation.

The motion passed 5 - 0 with Rep. Bugas, Courtney, Smith, Springer and Cohen voting aye. Rep. Hendriksen and Mason were excused.

PUBLIC HEARING

HB 3116 - Relating to criminal assault

056 JOHN BRADLEY requested that when this bill is rescheduled that HB 3058 be scheduled at the same time.

HB 2885 - Relating to handicapped persons

071 CHAIRPERSON COHEN stated this bill would be scheduled for work session after contact with the Attorney General.

074 REP. SPRINGER was concerned about the discretionary language and response should be invited from the district attorneys.

080 CHAIRPERSON COHEN adjourned the meeting at 3:40 p.m.

Respectfully submitted,



Lee Mosher

Committee Assistant

TAPE LOG: H-81-JUD-251, SIDE A & B
H-81-JUD-252, SIDE A & B
H-81-JUD-253, SIDE A

TAPE 298, side A

101 REP. SMITH asked that the memo from legal counsel to himself be read into the record (Exhibit D, HB 2685, May 14).

105 MOTION: REP. SMITH moved HB 2685 to the floor with a "do pass" recommendation.

The motion carried 6 - 0 with Rep. Cohen, Courtney, Springer, Smith, Rutherford and Mason voting aye. Rep. Bugas, Hendriksen and Lombard were excused.

REP. SMITH volunteered to carry the bill on the floor.

HB 3098

118 REP. COHEN reviewed the bill and she saw no problem with the bill.

123 REP. SMITH noted testimony from the Health Department was being distributed (Exhibit B, HB 3098).

127 MOTION: REP. SMITH moved HB 3098 to the floor with a "do pass" recommendation.

The motion carried 6 - 0 with Rep. Cohen, Courtney, Springer, Smith, Rutherford and Mason voting aye. Rep. Bugas, Hendriksen and Lombard were excused.

REP. SMITH volunteered to carry the bill on the floor if REP. MAE YIH did not wish to do so.

HB 3125

137 MS. ZUCKERMAN reviewed the bill and the work done to date.

168 FRANK BRODER, Oregon Savings League and Oregon Bankers Association, testified that Section 3 should be deleted for two reasons, i.e. it is not needed and the possible of impact on commercial real estate loans which are tied to prime. He suggested deletion from the amendments of after line 19 insert.

186 MOTION: REP. RUTHERFORD moved the deletion of Section 3 found on the document entitled "proposed amendments to HB 3125" and the section to be deleted beginning at line 19 insert "Section 3 (1) mortgage instruments may provide"

There being no objection the motion was approved.

201 Discussion followed between committee members, legal counsel, and witnesses.

TESTIMONY BY STATE REPRESENTATIVE MAE YIH BEFORE THE
HOUSE JUDICIARY COMMITTEE
APRIL 13, 1981

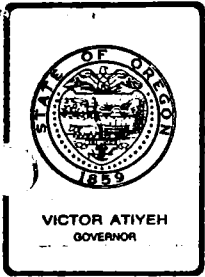
Chairperson Cohen and Members of the Committee:

For the record I am Mae Yih, State Representative from District 36. I am here to support House Bill 3098 and to introduce my constituent Janice Stevens, who requested this bill. Janice asked me to introduce this bill during the interim. She indicated that the bill is needed to provide for a change in an individual's birth certificate when a court order is issued, just as we allow a change of names for children with adopted parents. The department of vital statistics supports this and I understand Mr. Carney from the department is here today.

Ms. Stevens has lived in Albany for the past five years. She works for Applied Econometrics, Inc., designing and writing computer programs for economic forecasting. She has been head of economics and marketing research for Home Federal Savings for 3 years, and Mr. Donald Dugan, Vice President of Home Federal Savings is also here today. Additionally, Janice is a part-time faculty member of Linn-Benton Community College in science technology and computer programming.

House Bill 3098 is a simple bill that is needed to implement court orders when they are issued. I would appreciate the committee's understanding and support.

I give you Miss Stevens.



Department of Human Resources
HEALTH DIVISION

1400 S.W. 5th AVENUE, PORTLAND, OREGON 97201 PHONE

HOUSE JUDICIARY COMMITTEE
Full Committee, Apr. 22, 1981
Exhibit B, HB 3098, 2 pages
Health Division, testimony

April 21, 1981

Presentation of Legislative Testimony

To: House Justice Committee
From: Joe Carney, State Registrar
Oregon State Health Division

HB3098 Sex Change on Birth Record

This written testimony was given verbally on April 13, 1981.

HB3098 would require the Health Division to make changes on birth certificates, on request, when change of sex has occurred. Although the Health Division did not sponsor this bill, we support these changes.

I checked with the vital statistics registrars in three of our neighboring states concerning how each of those states handled this issue.

Mr. John Brockert, State Registrar of Vital Statistics in Utah, indicated that Utah has had legislation similar to that under consideration in this bill for a period of four years. During that four year period the state has had two requests to make the sex change on the birth certificate.

California also has legislation in this area. The legislation in that state goes into much more detail than HB3098 since it prescribes specific procedures for the court to follow and time limits for filing the change order. Mr. Merle Shields, State

AN EQUAL OPPORTUNITY EMPLOYER

Mailing Address: P.O. Box 231, Portland, Oregon 97207
EMERGENCY PHONE (503) 229-5599

Registrar for California, estimated a request rate of 8 to 10 certificate changes per year.

The state of Washington does not have legislation or administrative rules covering this type of amendment. Mr. Tom Steinburn, State Registrar for Washington, however, stated that this type of amendment is covered by an office policy which follows the same basic structure as HB3098. An estimate of five to six changes per year was given as the experience for the State of Washington.

Based on these estimates and the variance in Oregon's population relative to the other three states, I would estimate that we could expect between one and two requests per year. Such a low level of requests - although very important to the individuals involved - would have virtually no fiscal or organizational impact on the operation of vital statistics in Oregon's State Health Division.

I was happy to note that House Bill 3098 closely follows the section of the "Model State Vital Statistics Act" which pertains to the amendment of the birth certificate following a surgical change of sex. The "Model Act" has been endorsed by a number of national organizations including the Committee on Suggested State Legislation of the Council of State Governments.

In summary, then, the proposed legislation comes with the endorsement of the experience in other states and the review of the Committee on Suggested State Legislation. The Division estimates that it can implement the procedures required without hardship and without any fiscal or personnel adjustments.

001 MEETING WAS CALLED TO ORDER BY SENATOR JAN WYERS, CHAIRPERSON at 3:10 p.m. in Hearing Room B.

MEMBERS PRESENT: Senator Walt F. Brown
Edward Fadeley (arrived at 3:25 p.m.)
Jim Gardner
Kenneth Jernstedt
Ted Kulongoski (arrived at 3:35 p.m.)
Robert F. Smith, Vice-Chairperson
Jan Wyers, Chairperson

Tape 214A

022 HOUSE BILL 3098 - Relating to Sex Change

023 REPRESENTATIVE MAE YIH, District 36, testified in favor of the bill. (EXHIBIT A).

CAROL HERZOG, Legislative Representative, American Civil Liberties Union, submitted written testimony in favor of the bill. (EXHIBIT B).

038 MOTION: SENATOR GARDNER moved HB 3098 to the floor with a Do Pass recommendation.

VOTE: In a roll call vote the motion carried 5-0 with Senators Brown, Gardner, Jernstedt, Smith and Wyers voting AYE. Senator Fadeley and Kulongoski excused.

051 SENATE BILL 543 - Relating to Controlled Substances

055 COUNSEL LA MAR explained the proposed amendments. (EXHIBIT C). The amendments were submitted by Mr. Pearlman from the Attorney Generals Office. SENATOR SMITH stated that the question he had with Section 11 regarding the expansion to 50 states had been eliminated by introduction of another bill and that he urged the Committee to vote the bill out.

100 SENATOR WYERS stated that the bill deletes the Committee on Controlled Substances that had been created in the 1977 session and requires that the Board of Pharmacy be the decision maker.

137 MOTION: SENATOR SMITH moved SB 543 from the table.

VOTE: There being no objection the motion was so ordered.

MOTION: SENATOR WYERS moved the amendments in Exhibit C.

VOTE: There being no objection the motion was so ordered.

MOTION: SENATOR SMITH moved SB 543 to the floor with a Do Pass as Amended recommendation.

TESTIMONY BY STATE REPRESENTATIVE MAE YIH

SENATE JUSTICE COMMITTEE

JUNE 4, 1981

Mr. Chairman and Members of the Committee:

For the record I am Mae Yih, State Representative from District 36. I am here to support House Bill 3098 and to introduce my constituent Janice Stevens, who requested this bill. Janice asked me to introduce this bill during the interim. She indicated that the bill is needed to provide for a change in the record when a court order is issued, just as we allow a change of names for children with adopted parents. The department of vital statistics supports this and I understand Mr. Carney from the department is here today.

Miss Stevens has lived in Albany for the past five years. She works for Applied Econometrics, Inc., designing and writing computer programs for economic forecasting. She has been head of economics and marketing research for Home Federal Savings for 3 years, and Mr. Donald Dugan, Vice President of Home Federal Savings is also here today. Additionally, Janice is a part-time faculty member of Linn-Benton Community College in science technology and computer programming.

House Bill 3098 is a simple bill that is needed to implement court orders when they are issued. I would appreciate the committee's understanding and support.

I give you Miss Stevens.

- - -

American Civil Liberties Union
601 Willamette Bldg.
534 S.W. Third Ave.
Portland, OR 97204

MEMORANDUM

FROM: Carol Herzog, Legislative Representative

RE: HB 3098

The ACLU of Oregon supports HB 3098, which would allow a person to obtain legal documentation of change of sex in a manner similar to that provided for legal change of name.

Transsexuals feel they have been trapped in the body of one sex while they have identified with the other. They presently have, or have had, a legitimate medical problem, which can be overcome by corrective surgery and counseling. These people deserve to be treated seriously and with dignity, not as social outcasts or sideshow freaks.

One of the major problems transsexuals encounter after the surgery which changes their physical status, is the inability to change their legal status. Imagine the attendant difficulties of having the appearance and demeanor of one sex while carrying conflicting identification. One would be unable to cash a check, buy a drink, or rent a car. In addition, U.S. Immigration and Naturalization Services requires a citizen to present a legal order of sex change before it will issue a new passport. The inability to procure such a legal order thus interferes with many aspects of a person's life, including his/her right to travel.

Over a dozen states have passed laws allowing transsexuals to obtain a legal change of sex. Medical authorities today agree that the best treatment for the transsexual is surgery, and part of the therapy should be a legal recognition of the patient's new status, so that psychological problems do not persist. See 7 Conn. L. Rev. 288; 30 Hastings L.J. 1075.

It is time to recognize this problem and take steps to deal with it. We urge you to support HB 3098.

PLEASE GIVE THE ASSISTANT FIFTEEN (15) COPIES OF WRITTEN TESTIMONY.

Exhibit F
Senate Justice
HB 3098 - 6/4/81
1 page

WITNESS REGISTRATION

Senate Committee on JUSTICE

Date: 6/4/81 Time: 3:00 P.M. Room: B

Public Hearing on HB 3098 - Relating to sex change
Measure No.

Please register if you wish to testify on the above-named measure.

Name and address	Representing	For	Against
JOE CARNEY STATE OFFICE BLDG	CENTER FOR HEALTH STATISTICS O.S.H.D.	✓	
XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX		XXXX
Mae Yin	Dist. 36 State Rep.	✓	
Janice Stevens	Albany, Or.	✓	
Carol Herzog	ACLU	✓	
XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX		XXXX