

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 1097 (Laird)
Version: March 18, 2024
Hearing Date: April 23, 2024
Fiscal: Yes
Urgency: No
ID

SUBJECT

Veterans: military and veterans: gender-neutral terms

DIGEST

This bill changes numerous provisions throughout the Military and Veterans Affairs Code to make them gender neutral, expands provisions relating to veterans' spouses to their domestic partners, and closes a loophole on when militia members in active military service can be exempt from jury service.

EXECUTIVE SUMMARY

Gender-neutral language is important for reducing discrimination of and bias toward women and Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) individuals. Gender-neutral language and the use of an individuals' proper pronouns helps LGBTQ people who identify as a gender other than male or female or the gender they were assigned at birth feel seen and included, and reduces psychological distress from misgendering. This bill replaces gendered terms and titles from various provisions of the Military and Veterans Affairs Code. It also extends various provisions relating to benefits available to a military service member or veteran's spouse to a domestic partner, recognizing that the term "domestic partner" was used in California for LGBTQ couples who were not allowed to access the institution of marriage prior to the legalization of same-sex marriage. Lastly, this bill makes minor changes to provisions of the code relating to when active militia members are exempt from paying certain taxes, jury service, and from service on a posse comitatus. SB 1097 is author-sponsored, and the Committee has received no timely support or opposition. This bill is being heard in the Senate Military and Veterans Affairs Committee on Monday, April 22, 2023, which is the day before this bill will be heard in this Committee. Therefore, the prior Committee's votes are not yet available.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Contains outdated terminology and gendered terms in the Military and Veterans Affairs Code. (Military & Vet. Affairs Code § 50 et seq.)
- 2) Exempts from specified limitations on education benefits as a dependent of a veteran the veteran's spouse or a dependent widow. (Military & Vet. Code § 891.)
- 3) Provides that an indigent and dependent widow, minor child, or father or mother of any indigent veteran may be granted financial assistance, relief, or support by an organization that provides county funds for assistance to indigent veterans. (Military & Vet. Code § 928.)
- 4) Provides that when a deceased veteran or a widow of a veteran has been interred other than by the individual designated by the county to intern veterans or the widow, except as specified, the designated person may pay \$350 toward the burial expenses of the person otherwise entitled to interment under the act. (Military & Vet. Affairs Code § 944.)
- 5) Provides that claims for compensation for individuals interred other than by the designated person shall be paid by the county in which the veteran or widow dies. (Military & Vet. Affairs Code § 946.)
- 6) Provides that veterans' homes for aged or disabled veterans are available for such individuals who are eligible for health care benefits, hospitalization, or domiciliary care in a veterans' facility, and for their spouses or domestic partners under specified conditions. (Military & Vet. Affairs Code § 1012.)
- 7) Permits the board of supervisors of any county to sell property contiguous to an existing cemetery that it acquired for the benefit of a veterans association or similar organization to the owners of a private cemetery if the buyers use the property exclusively for the burial of veterans or widows of veterans. (Military & Vet. Affairs Code § 1265.)
- 8) Specifies that every member of the active militia shall be exempt from any road tax and head tax, from jury duty (except for members of the National Guard who are not on active duty), and from service on any posse comitatus, if the member furnishes the certificate of their immediate commanding officer that they have performed the duties required for the year immediately preceding a summons to act as a juror, or during the period of the member's service if less than one year.

This bill:

- 1) Makes changes to various provisions of the Military and Veterans Affairs Code to make the code gender neutral, and makes other non-substantive changes.
- 2) Extends the above-listed provisions that include spouses to domestic partners of military service members or veterans.
- 3) Specifies that every member of the active militia, on active military orders, shall be exempt from any road tax and head tax, from jury duty, and from service on any posse comitatus, if the member furnishes a copy of their active military orders or a letter from their immediate commanding officer or the Office of Staff Judge Advocate.
- 9) Specifies that any section of any act enacted by the Legislature during the 2024 year that takes effect on or before January 1, 2025 and that amends, adds, or repeals a section amended or amended and renumbered by this bill, as specified, shall prevail over the amended provisions specified in this bill.

COMMENTS

1. Author's statement

According to the author:

California is leading in efforts to promote diversity, equity, and equality, but our laws have not kept pace. It is time we change archaic references within state law, and ensure we promote gender neutral language that adequately represents those who dedicate themselves to our state. Our militia and veterans consist of members of all genders, and it is important our laws reflect this to properly represent and honor these individuals for their service.

2. Gender Identity and the importance of language

Gender is a social construct based on a set of societal expectations and cultural and historical norms about people based on their sex. Gender identity, which is an individual's innermost concept of self as their gender, encompasses many different identities beyond male and female.¹ For most people, their gender identity aligns with the sex they were assigned at birth and fits within the male or female categories. However, others do not. An individual may identify as non-binary, or they may

¹ Laurel Wamsley, A Guide to Gender Identity Terms, National Public Radio (Jun. 2, 2021), available at <https://www.npr.org/2021/06/02/996319297/gender-identity-pronouns-expression-guide-lgbtq#agender>.

identify as genderqueer, agender, gender fluid, or another term. Non-binary individuals' gender identity does not fit within the male-female traditional gender binary. Genderqueer is an umbrella term that includes those whose gender is outside of the gender binary or who have a non-normative experience of their gender.² An individual who identifies as agender may not identify as any gender.³ A gender-fluid person does not identify with a single fixed gender or has a fluid gender identity.⁴

People who identify with one of these identities that are beyond male or female may not use, or may prefer, using pronouns and salutations that are gender-neutral to refer to themselves in a way that better reflects their gender identity. While there are not concrete estimates of the numbers of individuals in California or the United States for every gender identity, United States Census Bureau data estimate that there are 2.7 million LGBT people in California, and one survey has estimated that there are 1.2 million LGBTQ people who identify as non-binary.⁵ A recent survey of pronoun use among 40,000 Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) youths by the Trevor Project, a nonprofit dedicated to preventing suicide among LGBTQ youth, found that 25 percent used non-binary pronouns.⁶

3. Gender-neutral language in the law

As recognition of diverse gender identities has increased in California, the state has implemented a variety of changes to the law to acknowledge the diversity of gender identity and support those who do not identify as male or female. In 2017, the Legislature enacted SB 179 (Atkins, Ch. 853, Stats. 2017), a landmark piece of legislation to recognize "nonbinary" as a third gender marker in California's codes, allowing people in the state to obtain a new birth certificate, driver's license or identification card reflecting their gender as nonbinary without having to obtain a court order. (Atkins, Ch. 853, Stats. 2017) In addition, in 2018 the Legislature passed ACR 260 (Low, Res. Ch. 190, Stats. 2018), calling for a coordinated effort among state agencies to draft laws, policies, regulations, and other state agency guidance in a manner that is inclusive of transgender people and people who do not identify with the gender binary. Various writing style guides, including the *Chicago Manual of Style* and the *Associated Press Stylebook*, recently have adopted the use of "they" or "them" as a singular pronoun in certain cases. The Office of Legislative Counsel has issued similar drafting guidelines to

² Human Rights Campaign, Glossary of Terms (May 31, 2023), available at <https://www.hrc.org/resources/glossary-of-terms>.

³ Wamsley, *supra* note 1.

⁴ Human Rights Campaign, *supra* note 2.

⁵ Hans Johnson, California's LGBT Population, Public Policy Institute of California (Jun. 28, 2022), available at <https://www.ppic.org/blog/californias-lgbt-population/>; Bianca D.M. Wilson & Ilan H. Meyer, Nonbinary LGBTQ Adults in the United States, UCLA School of Law Williams Institute (June 2021), available at <https://williamsinstitute.law.ucla.edu/publications/nonbinary-lgbtq-adults-us/>.

⁶ *Research Brief: Pronouns Usage Among LGBTQ Youth* (Jul. 29, 2020) <https://www.thetrevorproject.org/2020/07/29/research-brief-pronouns-usage-among-lgbtq-youth/> (as of Apr. 10, 2021).

direct the drafting of bill language with gender-neutral terms. Moreover, this Committee's Rules have been drafted to use "their" in lieu of "his or her," recognizing the diversity of gender identity and that language should reflect that diversity. To be clear, gender-neutral language does not diminish those who use gendered terms and pronouns to refer to themselves, nor does it prohibit them from using such pronouns themselves.

4. The importance of gender-neutral language

Utilizing and recognizing gender-neutral language is important to recognize the diversity of gender identity, as well as to increase inclusion and societal acceptance of LGBTQ individuals. Research has found that gender-neutral language reduces gender stereotypes, and bias and discrimination against women and LGBTQ individuals.⁷ Additionally, when transgender, non-binary, or other gender diverse individuals experience misgendering, where they are referred to or called by the incorrect pronoun for their gender, they experience psychological distress and depression.⁸

Considering these important affects, and the state's recent progress in recognizing and adopting gender-neutral language, SB 1097 makes changes to the Military and Veterans Affairs Code to conform its language with gender-neutral terminology. This includes changing reference to "his or her" with "their," and utilizing gender neutral titles.

5. Other changes in SB 1097

In addition to adopting gender-neutral language, SB 1097 incorporates domestic partners into various provisions relating to veterans' or military members' spouses. This change recognizes that many LGBTQ couples, prior to the *Obergefell* Supreme Court decision that guaranteed the constitutional right to marriage equality, could not access the institution of marriage. Instead, many in California entered into domestic partnerships, which are considered by the state as similar but separate from marriage. There is no reason that a military service member or veteran's partner should be excluded from benefits or recognition simply on the basis that they were not afforded the right of marriage or otherwise entered into a domestic partnership instead of

⁷ See, Sabine Sczesny et al, Can Gender-Fair Language Reduce Gender Stereotyping and Discrimination?, *Frontiers in Psychology*, Vol. 7 (2016), available at <https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2016.00025/full>; Margit Tavits & Efren O. Perez, Language influences mass opinion toward gender and LGBT equality, *PNAS* Vol. 116, No. 34, 16781 (Aug. 5, 2019), available at <https://www.pnas.org/doi/full/10.1073/pnas.1908156116>; DeFranza, D. et al, How language shapes prejudice against women: An examination across 45 world languages, *Journal of Personality and Social Psychology* Vol. 119 No. 1, (2020), available at <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fpspa0000188>.

⁸ Sabra L. Katz-Wise, Misgendering: What it is and why it matters, Harvard Health Publishing (Jul. 23, 2021), available at <https://www.health.harvard.edu/blog/misgendering-what-it-is-and-why-it-matters-202107232553>.

marriage. Thus, SB 1097 clarifies that domestic partners are included in various provisions that reference or relate to military service members' or veterans' partners.

Lastly, SB 1097 makes a clarifying change to provisions relating to when a member of the active militia on active military orders is exempt from certain taxes, jury duty, and service on any posse comitatus.

SUPPORT

None received

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 1899 (Cervantes, 2024) requires that, if a jury commissioner requires a prospective juror to complete a questionnaire, the questionnaire must ask certain questions regarding their identity, including their pronouns, and requires that questions in such questionnaire be phrased in a gender-neutral manner.

Prior Legislation:

SB 272 (Laird, Ch. 133, Stats. 2021) amended provisions of various state codes to utilize gender-neutral language.

AB 378 (Bauer-Kahan, Ch. 50, Stats. 2021) eliminates gendered terms from various provisions of the California Codes that relate to elected officials and the Fair Political Practices Act.

AB 1817 (Judiciary, Ch. 115, Stats. 2019) removed gendered terms throughout the Family Code.

ACR 260 (Low, Res. Ch. 190, Stats. 2018) called for a coordinated effort among state agencies to draft laws, policies, regulations, and other state agency guidance in a manner that is inclusive of transgender people and people who do not identify with the gender binary.

PRIOR VOTES:

Senate Military and Veterans Affairs Committee (Votes not available at the time of publishing this analysis)
