

Law on the change of the first names and the determination of sexual affiliation in special cases
(Transsexuellengesetz, TSG)

Date: September 10th, 1980

Location: BGB II 1980, 1654

Text registered since Sept. 17th, 1980

(+++ stand: Change by Article 13 of the Constitution from May 4th, 1998; I 833 +++)

Preamble

The Bundestag has passed the following law with consent of the Bundesrat:

Section one: Change of first names

§ 1 Requirement

(1) the first names of a person who, due to his transsexual nature, no longer feels to belong to the sex specified in his birth registration, but rather feels to belong to the opposite sex, and has lived under the compulsion for at least three years that he must live in accordance with his ideas, can be changed by the court on application, if,

1. he is German according to the constitution, a stateless person or homeless foreigner, or a person entitled to asylum or a foreign refugee with his place of residence within the jurisdiction of this law,
2. if it is with a high degree of probability that his sense of belonging on the other sex will not change
3. he is at least twenty-five years old.

(2) In the request the applicant shall give the first names which he wants to carry in the future.

§ 2 Responsibilities

(1) Decisions on applications according to § 1 lie solely in the responsibility of lower courts which have a seat at the location of a district court. Its district covers in this respect the district of the district court. If several lower courts have seats at the location of the district court, then the state government by statutory order determines the responsible court in so far as the responsible court is not already determined by state law. The state government also can determine that a lower court is responsible for the districts of several district courts. The state can transfer by statutory order the authorization to the state justice administration according to rules 3 and 4.

(2) The responsible court is the court in the district where the applicant's place of residence is located, or where, if such is absent in the jurisdiction of this law, the location of his ordinary stay; the time at which the application is submitted is determinative. If the applicant is German and he has neither place of residence nor ordinary stay in the jurisdiction of this law, so is the court of Schöneberg in Berlin responsible; it can pass the case on to another court for important reasons; the transmittance order resides with this court.

§ 3 Competency in proceedings, persons involved

(1) For a legally incompetent person the court proceedings are to be undertaken by a legal guardian. The legal representative needs the approval of a court dealing with matters relating to guardianship for an application according to § 1.

(2), The only parties involved in the proceedings are

1. the applicant,
2. the representative of the public interest.

(3) The representative of the public interest in proceedings according to this law is determined by the state government through statutory order.

§ 4 Court procedure

(1) In the legal proceedings the regulations mentioned in the Law about the Matters of Voluntary Jurisdiction are to be applied in so far as this law does not specify something else.

(2) The court hears the applicant personally.

(3) The court only may grant an application according to § 1 after it has received the opinions of two experts who are sufficiently familiar with the special problems of transsexualism as indicated by their education and professional experience. The experts must be involved independently of each other; in their reports they have to give comment whether, according to the knowledge of medical science, to a high probability the applicant's sense of belonging won't change any more.

(4) The participants may file a claim against the decision by which an application is granted according to § 1 immediately. The decision becomes effective only upon legal validation.

§ 5 Prohibition of disclosure

(1) Once the decision through which the first names of the applicant are changed is final, the first names carried at the time of the decision may not be revealed or investigated without consent of the applicant unless there exist special reasons of public interest that require this or a legal interest is made credible.

(2) Former spouses, the parents, the grandparents and the descendants of the applicant are only then obliged to provide the new first names when this is required for the management of public books and registers. This does not apply to children whom the applicant has adopted after the legal validity of a decision according to § 1.

(3) In the birth registration of a child of the applicant, or a child who has been adopted prior to the legal validity of the decision according to § 1, the first names of the applicant which were in use prior to the legal validity of the decision according to § 1 shall be given.

§ 6 Abrogation of the application

(1) The decision through which the first names of the applicant have been changed shall be canceled by the court upon request of the applicant should he feel that he belongs to the sex indicated in his birth registration again.

(2) §§ 2 to 4 are applicable correspondingly. In the decision it shall also be proclaimed that the applicant in the future again carries the first names which he had at the time the decision through which his names were changed. The court can upon request of the applicant change these first names if this is required for serious reasons in regard to the welfare of the applicant.

§ 7 Voiding

(1) The decision through which the first names of the applicant have been changed becomes null and void, if

1. after the expiration of three hundred days after the legal validity of the decision, a child of the applicant is born, with the day of the birth of the child, or when
2. after expiration of three hundred days after the legal validity of the decision, the recognition the descent of a child of the applicant is acknowledged or is legally declared, with the day this determination becomes effective, or when
3. the applicant, entering into a marriage, gives witness according to § 1310 para. 1 of the civil code.

(2) The applicant in the future carries the first names again which he had in the time of the decision by which his first names had been changed. These first names are

1. in the case of para. 1 no. 1 and 2 in the birth registry,
2. in the case of para. 1 no. 3 to be entered in the family book to be created upon closure of marriage.

(3) In cases of the para. 1 no. 1 the court can change the first names of the applicant again upon application to the first names which he carried up to the negation of the decision, if it is determined that the child is not descended from the applicant, or the applicant has other serious reasons to the effect that he does not feel to belong to the sex corresponding to his birth registration. The §§ 2, 3, 4 para. 1, 2 and 4 as well as § 5 para. 1 are correspondingly valid.

Second Section: Determination of the sexual affiliation

§ 8 Prerequisites

(1) Upon application of a person, for reason of his transsexual character no longer feels that he belongs to the sex which is indicated in his birth registration but rather the other one, and has lived for at least three years under the compulsion that he must live according to this idea, is to be ruled to belong to the other sex by the court, if he

1. satisfies the prerequisites of § 1 para. 1 no. 1 to 3,
2. is not married,
3. is permanently incapable of reproduction and
4. has undergone an operation changing his external sexual appearance so that they clearly approach the phenotype of the other sex.

(2) In the request the applicant shall give the first names which he wants to carry in future; this is not required if his first names have already been changed according to § 1.

§ 9 Legal procedure

(1) If the application can not be granted simply because the applicant has not undergone an operation changing the outer sexual characteristics, is not yet incapable of reproduction or is still married, the court shall make a ruling in advance. Against the decision the applicant is entitled to immediate complaint.

(2) The decision in accordance with para. 1 rule 1 is incontestable and if the impediments mentioned have been removed, the court shall make a decision according to § 8. Hereby is the court bound to its observations in the decision after para. 1 rule 1.

(3) §§ 2 to 4 and 6 apply correspondingly; the opinions are to cover whether the prerequisites according to § 8 para. 1 no. 3 and 4 are met. In the decision according to § 8 and in the final decision according to paragraph 2, the first names of the applicant shall also be changed, unless they have already been changed according to § 1.

§ 10 Effects of the decision

(1) Upon the legal validity of the decision that the applicant to be seen as belonging to the other sex, his rights and duties conform to the new sex as far as a law specifies nothing else.

(2) § 5 is analogously valid.

§ 11 Parent-child relationships

The decision, that the applicant can be considered as belonging to the other sex, leaves the legal relationship between the applicant and his parents as well as between the applicant and his children unchanged, by adopted children, however, in so far as these have been adopted before the legal validity of the decision. The same is valid in relation to the descendants of these children.

§ 12 Pensions and comparable recurring benefits

(1) The decision that the applicant can be seen as belonging to the other sex, leaves upon the legal validity of the decision his claims to pensions and comparable recurring benefits untouched. Benefits which directly follow out of the same legal relationship, insofar as these are determined by sex, are further to be assessed on the basis of which the benefits were established upon the legal validity of the decision.

(2) Claims to benefits from the insurance or pensions of a former spouse are not justified by the decision that the applicant can be seen as belonging to the other sex.

Third Section: Changes to laws

§§ 13 to 15

Fourth Section: Transitional and final provisions

§ 16 Provisional regulations

(1) Before the coming into force of this law, upon ground of § 47 of the Personal Status Law, it is effectively ordered, that the gender specification has to be changed in the birth registration of a person because this person can be considered as now belonging to the other sex, §§ 10 to 12 also apply for this person as well as § 61 para. 4 and § 65a para. 2 of the Personal Status Law in the version of § 15 no. 2 and 4 of this law.

(2) Is the person at the time of the order of the court married and the marriage has not been declared void, annulled or divorced, so is the marriage regarded as dissolved with the coming into force of this law. The consequences of the dissolution are to be determined according to the regulations about divorce.

(3) Has a person prior to the coming into effect of this law, applied to the according to § 50 of the Personal Status Law appropriate court, for an order that the gender specification be changed in his birth registration because the person can now be considered as belonging to the other sex, and is an effective order upon the coming into effect of this law not yet issued, so has the court occupied with the case to turn it over to the court responsible according to § 9, para. 3, in connection with § 2 of this law; the regulations of this law apply to further proceedings.

§ 17 Berlin clause

This law applies in accordance with the measures of § 13 para. 1 of the Third Law of Transition also in Berlin.

§ 18 Coming into effect

§ 2 para. 1 rule 3 to 5, § 3, para. 3, and § 9, para. 3, rule 1 as far as it refers to § 2 para. 1 rule 3 to 5 and § 3 come into effect on the day after the proclamation. As for the rest the law becomes effective on January 1st, 1981.