

No. 88. An act relating to amending a birth certificate to reflect gender identity.

(H.628)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. LEGISLATIVE INTENT AND PURPOSE

It is the intent of the General Assembly to promote equity by allowing all individuals, regardless of gender, to amend their vital records to accurately reflect and affirm their identities. There is a long history of discrimination and violence against the LGBTQIA+ community. This act serves to mitigate future harm through the creation of a simple and equitable system to provide for all gender marker changes on a Vermont birth certificate to be made through means such as self-attestation.

Sec. 2. 18 V.S.A. § 5112 is amended to read:

§ 5112. ISSUANCE OF NEW BIRTH CERTIFICATE; ~~CHANGE OF SEX~~

~~(a)(1) Upon receipt of an application for a new birth certificate and after receiving sufficient evidence to determine that an individual's sexual reassignment has been completed, the State Registrar shall update the Statewide Registration System and issue a new birth certificate to:~~

~~(A) show that the sex of the individual born in this State has been changed; and~~

~~(B) if the application is accompanied by a decree of the Probate Division authorizing a change of name associated with the change of sex, to reflect the change of name.~~

~~(2) The State Registrar shall record in the System the identity of the person requesting the new certificate, the nature and content of the change made, the person who made the change, and the date of the change.~~

~~(b)(1) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence to determine that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.~~

~~(2) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate under this section is warranted. If the court issues a decree ordering the issuance of a new birth certificate under this section, the State Registrar shall update the Statewide Registration System and issue a new birth certificate in accordance with subsection (a) of this section.~~

~~(e) A new certificate issued pursuant to subsection (a) of this section shall be substituted for the original birth certificate in official records. The new certificate shall not show that a change in name or sex, or both, has been made. The original birth certificate, the Probate Division change of name decree, if any, and any other records relating to the issuance of the new birth certificate shall be confidential and shall be exempt from public inspection and copying~~

~~under the Public Records Act; however an individual may have access to his or her own records and may authorize the State Registrar to confirm that he or she issued a new birth certificate to the individual that reflects a change in name or sex, or both.~~

~~(d) If an individual born in this State has an amended birth certificate showing that the sex of the individual has been changed, and the birth certificate is marked “Court Amended” or otherwise clearly shows that it has been amended, the individual may receive a new birth certificate from the State Registrar upon application.~~

(a) It is the policy of the State of Vermont to honor and acknowledge all gender identities and protect public health and dignity of all individuals in Vermont, irrespective of their gender. Accordingly, the State shall adopt a simple process by which an individual may amend the marker on a birth certificate to reflect the individual’s gender identity, including a third non-binary marker.

(b) Pursuant to 3 V.S.A. chapter 25, the Department shall adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this section.

(c) The Department may adopt rules to add gender pronouns to the list of markers on a birth certificate in order to foster a gender literate environment and reflect an individual’s gender identity.

(d) Except as otherwise required by law, records relating to the amendment of a birth certificate pursuant to this chapter shall be confidential and shall be exempt from public inspection and copying under the Public Records Act.

Sec. 3. EMERGENCY RULEMAKING AUTHORITY

Notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Health shall have the authority to adopt emergency rules for the purposes of implementing, administering, or enforcing the purposes of this act.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

Date Governor signed bill: April 6, 2022