

## Emergency Filing - Coversheet

### **Instructions:**

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

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**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). Act 88 (2022) Sec. 3 requires the Department of Health to adopt an emergency rule for the purposes of implementing, administering, or enforcing the purposes of the Act prior to regular rulemaking.

I approve the contents of this filing entitled:

Vital Records Emergency Rule

/s/ Todd W. Daloz

(signature)

, on 5/13/2022

(date)

Printed Name and Title:

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Todd W. Daloz  
Deputy Secretary, Agency of Human Services

1. TITLE OF RULE FILING:

Vital Records Emergency Rule

2. ADOPTING AGENCY:

Department of Health

3. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Natalie Weill

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7312 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://www.healthvermont.gov/about-us/laws-regulations/public-comment>

4. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: David Englander

Agency: Department of Health

Mailing Address: 108 Cherry Street, Burlington, VT 05402

Telephone: 802 863 - 7280 Fax: 802 951 - 1275

E-Mail: ahs.vdhrules@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

Act 88 (2022) Sec. 3, 18 V.S.A. § 5112 (b), and 3 V.S.A. § 801(b) (11).

**7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

Act 88 (2022) Sec. 3 states "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."

18 V.S.A. § 5112 (b) states: "the Department shall adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this section."

**8. CONCISE SUMMARY (150 WORDS OR LESS):**

This rulemaking implements a process for individuals to amend the marker on their birth certificate to reflect the individual's gender identity. Specifically, it does the following:

- 1) Defines the term "non-binary" to describe the additional gender identities that may be reflected on a birth certificate.
- 2) Creates a process for registrants to file their Affidavit of Gender Identity with the Department.

**9. EXPLANATION OF WHY THE RULE IS NECESSARY:**

Act 88 (2022) Sec. 3 requires the Department to adopt emergency rules for the purposes of implementing, administering, or enforcing the 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.

**10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):**

This rulemaking is not arbitrary because it brings the rule in compliance with law. The rulemaking is

rationaly connected to Act 88 (2022) Sec. 3, requiring the Department to adopt emergency rules for the purposes of implementing, administrating, or enforcing the 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.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Persons born in Vermont who wish to amend their birth certificate; the Vermont Department of Health Vital Records Office.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

There is no anticipated economic impact.

13. A HEARING IS NOT SCHEDULED.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 7/1/2022

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

12/28/2022

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Vital Records

Birth Certificates

Gender Identity

Registrants

Sex

Gender

280 State Drive - Center Building  
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY  
TEL: (802) 241-0440  
FAX: (802) 241-0450


JENNEY SAMUELSON  
SECRETARY

TODD W. DALOZ  
DEPUTY SECRETARY

STATE OF VERMONT  
AGENCY OF HUMAN SERVICES

MEMORANDUM

**TO:** Jim Condos, Secretary of State

**FROM:** Jenney Samuelson, Secretary, Agency of Human Services 

**DATE:** April 1, 2022

**SUBJECT:** Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3 V.S.A. § 801 et seq.

Cc: Todd W. Daloz

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

Vital Records Emergency Rule

2. ADOPTING AGENCY:

Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS# 19-069 entitled: Vital Records Rule; effective  
01/01/2020



State of Vermont  
Agency of Administration  
Office of the Secretary  
Pavilion Office Building  
109 State Street, 5<sup>th</sup> Floor  
Montpelier, VT 05609-0201  
[www.aoa.vermont.gov](http://www.aoa.vermont.gov)

[phone] 802-828-3322  
[fax] 802-828-2428

*Kristin L. Clouser, Secretary*

MEMORANDUM

**TO:** Jim Condos, Secretary of State  
**FROM:** Douglas Farnham, ICAR Chair  
**DATE:** May 16, 2022  
**RE:** Emergency Rule Titled 'Vital Records Emergency Rule' by the Agency of Human Services, Department of Health

Douglas  
Farnham

Digitally signed by  
Douglas Farnham  
Date: 2022.05.16  
11:11:12 -04'00'

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The use of rulemaking procedures under the provisions of 3 V.S.A. §844 is appropriate for this rule. I have reviewed the proposed rule titled 'Vital Records Emergency Rule', provided by the Agency of Human Services, Department of Health, and agree that emergency rulemaking is necessary.

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## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

Vital Records Emergency Rule

#### 2. ADOPTING AGENCY:

Department of Health

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

Persons born in Vermont who wish to amend their gender-markers on their birth certificates.

The Vermont Department of Health Vital Records Office:  
Removing the lengthy process currently required to change a gender marker improves efficiency in State

government. There is a de minimis cost to the Department to establish the Affidavit of Gender Identity and to update the electronic Statewide Registration System to include a non-binary option on vital records. The Department will establish this into the normal workflow built into the duties of the Vital Records Office.

4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

No impact.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

No impact.

6. IMPACT ON SMALL BUSINESSES:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

No impact.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable.

8. COMPARISON:

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

This rulemaking is necessary to ensure compliance and consistency with statute. Therefore, there is no alternative to this rule.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Department has provided the information that is available.

## Environmental Impact Analysis

### **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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#### 1. TITLE OF RULE FILING:

Vital Records Emergency Rule

#### 2. ADOPTING AGENCY:

Department of Health

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*  
No impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*  
No impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*  
No impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*  
No impact.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*  
No impact.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*  
No impact.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*  
Because there is no impact, this analysis is sufficient.

## Public Input Maximization Plan

### **Instructions:**

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. **TITLE OF RULE FILING:**

Vital Records Emergency Rule

2. **ADOPTING AGENCY:**

Department of Health

3. **PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

The Department worked with the LGBTQIA Alliance of VT to draft the rule. The Department plans to begin formal rulemaking in the coming months and will obtain public input.

4. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

LGBTQIA Alliance of VT, Outright Vermont, and the Pride Center of Vermont.

During the regular rulemaking, there will be public notice, a public comment period, and a public hearing.

## Chapter 4– Health Surveillance

## Subchapter 7 – Vital Records

## Vital Records Rule

**1.0 Authority**

This rule is adopted pursuant to 18 V.S.A. § 5000 (e)(8) and (f) and Act 88 (2022).

**2.0 Purpose**

The purpose of this rule is to establish the specific requirements for obtaining, creating, amending, and storing birth and death certificates in Vermont.

**3.0 Definitions**

3.1 “Affidavit of Gender Identity” means the form published by the Department that is used to self-attest to an individual’s gender identity for the purpose of amending a birth certificate. The affidavit must be signed by the registrant and if applicable, the registrant’s parent or legal guardian.

3.13.2 “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a person experiencing homelessness for the purposes of obtaining a certified birth certificate. The affidavit must be signed by both the applicant and the homeless services provider. The affidavit is available on the Department’s website.

3.23.3 “Alternate means of identification” means two documents (exempting 3.34.12 and 3.34.13 when only one form of identification is needed) that between them shall contain a current address and a signature of the applicant. Alternate acceptable documents are:

3.2.13.3.1 Employment Identification Card with photo, accompanied by a pay stub or U.S. Internal Revenue W-2 form;

3.2.23.3.2 School, university, or college identification card with photo, accompanied by a report card or other proof of current school enrollment;

3.2.33.3.3 Federal or state identification issued by departments, bureaus, or agencies of corrections or prisons;

3.2.43.3.4 Social Security/Medicare Card that contains the bearer’s signature;

3.2.53.3.5 Pilot’s License;

3.2.63.3.6 Car registration or title with current address;

3.2.73.3.7 U.S. Selective Service Card;

3.2.83.3.8 Voter Registration Card;

3.2.93.3.9 Filed Federal tax form that contains current address and signatures;

3.2.103.3.10 Bank statement, property or utility bill (e.g. gas, water, electric, sewer, phone) with current address;

3.2.113.3.11 U.S. or state court documents with current address;



- ~~3.2.123.3.12~~ Documentation provided by the Vermont Department of Corrections substantiating the identity of the eligible person;
- ~~3.2.133.3.13~~ A valid State of Vermont Employee identification, —when the application for a birth and/or death certificate is a bona fide request made within the scope of employment with the State;
- ~~3.2.143.3.14~~ A receipt from a licensed healthcare provider with name and current address; or
- ~~3.2.153.3.15~~ First class mail with name and current address.

~~3.33.4~~ “Applicant” means an eligible party seeking to obtain the vital records of a registrant.

~~3.5~~ “Custodian” means any person or entity who maintains official copies of vital records for access and inspection by the public, or any lawful purpose, including the Department of Health, Vermont State Archives and Records Administration and town clerks.

~~3.43.6~~ “Department” means the Vermont Department of Health.

~~3.53.7~~ “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):

- ~~3.5.13.7.1~~ The registrant; or their spouse, child, grandchild, parent, sibling, grandparent, or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator; or the legal representative of any of these;
- ~~3.5.23.7.2~~ A specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant’s legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right;
- ~~3.5.33.7.3~~ An employee of a public agency authorized by the State Registrar as defined in 1 V.S.A § 317; or
- ~~3.5.43.7.4~~ In the case of a death certificate only, additionally to:
  - ~~3.5.4.13.7.4.1~~ the individual with authority for final disposition as provided 18 V.S.A. § 5227, or a funeral home or crematorium acting on the individual's behalf;
  - ~~3.5.4.23.7.4.2~~ the Social Security Administration;
  - ~~3.5.4.33.7.4.3~~ the U.S. Department of Veterans Affairs; or
  - ~~3.7.4.4~~ the deceased’s insurance carrier, if such carrier provides benefits to the decedent’s survivors or beneficiaries.

~~3.8~~ “Gender marker” reflected on a birth certificate as “Sex” means:

- ~~3.8.1~~ “F” to represent female;
- ~~3.8.2~~ “M” to represent male; and
- ~~3.8.3~~ “X” to represent non-binary.

~~3.63.9~~ “Generational identifier” means JR, SR, or numerals to designate the number of generations. Generational identifiers may not take the form of commonly conferred academic honorifics such as, but not limited to: MD, JD, DO, Esq., BA,

BS, MA, MS, or PhD, or other designations not commonly used as generational identifiers.

**3.73.10** "Homeless services provider" means:

**3.7.13.10.1A** governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a person experiencing homelessness or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.

**3.7.23.10.2** An attorney licensed to practice law in Vermont and who is representing a client for whom the request for a certified birth certificate is being made.

**3.7.33.10.3A** local educational agency liaison for homeless children and youth, or a school social worker.

**3.7.43.10.4A** human services provider or public social services provider funded by the State of Vermont to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, public assistance, or employment services.

**3.83.11** "Issuing agent" means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.

**3.12** "Non-binary" means a person whose gender identity is not exclusively male or female, including, but not limited to, a person whose gender identity is intersex, agender, amalggender, androgynous, bigender, demigender, genderfluid, genderqueer, gender non-conforming, neutrois, non-binary, pangender, third sex, transgender, Two-Spirit, or otherwise unspecified by the person.

**3.93.13** "Person experiencing homelessness" and "Homeless," mean the same as the definition found in 42 USC § 11302 for a "homeless individual".

**3.103.14** "Registrant" means the individual who is the subject of a vital record event certificate.

**3.113.15** "Secure facility" means a building or room equipped with locks or other security devices that does not permit access during non-working or non-business hours.

**3.123.16** "Valid government-issued identification" means a document that shall contain an expiration date that has not passed, a photograph, a current address, a signature and a unique number or barcode such as a driver's license, or valid passport, assigned to the person. The following forms of government-issued identification are acceptable:

**3.12.13.16.1** United States issued Driver's License or Identification card;

**3.12.23.16.2** United States Territories Driver's License or Identification card;

**3.12.33.16.3** Tribal Identification Card that contains the bearer's signature;

**3.12.43.16.4** U.S. Military Identification Card that contains the bearer's signature;

**3.12.53.16.5** Passport issued by the United States, or by a foreign country recognized by the United States government;

~~3.12.63.16.6~~ Visa issued by the United States and that is included within a passport and the bearer's signature is on the passport and not on the Visa;

~~3.12.73.16.7~~ U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or U.S. Employment Authorization Document / Card (Form I-765 or successor form).

#### **4.0 Documents Needed to Obtain a Birth or Death Certificate**

**4.1** An applicant is required to provide a valid government-issued identification document or alternate means of identification and must present the identification at time of signing the Vermont application for a certified copy of a birth or death certificate.

**4.2** An applicant may establish their identity by providing a minimum of two alternate means of identification (exempting ~~3.34.12~~ and ~~3.34.13~~ when only one form of identification is needed). The Office of Vital Records may request additional evidence as necessary for the positive identification of the applicant.

**4.24.3** A person experiencing homelessness may establish their identity necessary to be eligible to receive a certified birth certificate by providing a completed Affidavit of Homeless Status, available on the Department's website. The Affidavit must be signed by both the applicant and the homeless services provider. The Office of Vital Records may request additional documentation as necessary for the positive identification of the applicant.

#### **5.0 Applications for Certified Copies of Birth and Death Certificates**

**5.1** The Vermont application for a certified copy of birth or death certificate must be submitted by an eligible party to:

- 5.1.1 the Vermont Office of Vital Records;
- 5.1.2 the Vermont State Archives and Records Administration;
- 5.1.3 a statutorily authorized issuing agent, such as town clerk's office;
- 5.1.4 a contractor of the State of Vermont that is providing application; or processing services on behalf of the Vermont Office of Vital Records.

#### **6.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees**

**6.1** Town clerks and their designees shall certify a birth or death certificate copy using one of the following methods:

- 6.1.1 Use of a town seal that does not include the town clerk's name, and ensures all documents are signed by either the town clerk, assistant town clerk, or another designated assistant clerk pursuant to state statute; or
- 6.1.2 Use of a town seal that includes the town clerk's name, and ensures all documents using that seal are signed by the town clerk whose name is on the seal.

**7.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption**

**7.1** The State Registrar may temporarily suspend the requirement for issuing agents to utilize the statewide registration system for the issuance of certified copies of birth and death certificates. The reasons for a temporary suspension are limited to:

7.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;

7.1.2 A technical event with the statewide registration system that results in the system being inaccessible to issuing agents for a period that exceeds 48 hours.

**7.2** During a period in which a temporary suspension has been issued, the State Registrar shall provide instruction to the issuing agents for the methods to be used to issue and track all certified copies, and for later recording in the statewide registration system when service has been restored.

**8.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates**

**8.1** Activities to support the creation, storage, and issuance of certified copies of Vermont birth and death certificates shall occur in secure, government-operated buildings. The area of the building that houses the Vermont birth and death certificates, and materials utilized to create, modify, or access the certificates, and the computers used to access the statewide registration system, shall meet the following requirements:

8.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke, or other emergencies;

8.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;

8.1.3 Is a secure facility;

8.1.4 Employee workspace is separated from the public, such as by service counter, service window, locked door, or other physical barrier;

8.1.5 Non-employees, such as, but not limited to, visitors, vendors, delivery personnel, and cleaning staff, must identify themselves to the town clerk or their designee, and request access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system, providing a valid and reasonable reason for such access. These non-employees shall be escorted to the designated area. If cleaning is done during nonworking hours, only preapproved cleaning personnel shall be permitted access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system;

8.1.6 All materials used for certification of the birth and death certificates, such as, but not limited to, equipment (computers, printers, town seal),

security paper, and any other documents or confidential files/records, shall be locked in a secure area or cabinets accessible only to the town clerk and their designees;

8.1.7 Visitors shall be accompanied when such visitors may have access to the materials used for certification of birth and death certificates, or access to the statewide registration system.

**8.2** If an existing government-operated building does not have a fireproof safe or vault as specified in 18 V.S.A. § 5001(b), the town clerk shall ensure that these rules are complied with and confirm in writing to the State Registrar that all reasonable precautions and safeguards have been implemented to protect the birth and death certificate materials, the birth and death certificates, and the computer used to access the statewide registration system.

**8.3** The public shall be allowed access to view or inspect birth and death certificates stored at issuing agent's offices during the standard business hours of the office. Issuing agents may implement reasonable precautions to protect the certificates from potential harm or theft, such as, but not limited to:

8.3.1 Monitoring visitors;

8.3.2 Requiring visitors to view/inspect certificates at a designated table or office;

8.3.3 Retrieving only the birth and death certificates requested by the visitor rather than providing unlimited access to all certificates;

8.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or

8.3.5 Requiring visitors to show the contents of any bags, briefcases, or other storage methods prior to departing the office.

**9.0 Criteria for Acceptance of Child's Name on Birth Certificates**

**9.1** In order to be valid, names on birth certificates shall:

9.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;

9.1.2 Not contain symbols other than:

9.1.2.1 Numerals used for generational identifiers;

9.1.2.2 Common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, and periods in generational identifiers or when an initial or abbreviation is used as part of a name; or

9.1.2.3 Special characters that are commonly used, such as accent marks and tildes.

9.1.3 Not exceed a total of 50 characters in length for each of First, Middle, and Last Name. The count of maximum allowable characters shall include hyphens, apostrophes, and periods when used as part of the name.

9.1.4 Contain a last name.

9.1.5      Contain no more than one generational identifier after the last name.

**10.0 Amending a Gender Marker on a Birth Certificate**

**10.1 A registrant born in Vermont may amend the gender marker on their birth certificate.**

~~9.1.6~~**10.1.1 Any person 16 years or older may amend their gender marker.**

**10.1.2 Any person under the age of 16 may amend their gender marker with signed consent from a parent or legal guardian.**

**10.2 A registrant may amend their gender marker to reflect their identity through self-attestation by filing the Affidavit of Gender Identity available on the Department's website.**

**10.3 To file for an amendment under Section 10.0, registrants shall submit the following by mail or in-person to the Vermont Department of Health, Vital Records Office:**

**10.3.1 An Affidavit of Gender Identity, signed by the registrant, and if applicable, the registrant's parent or legal guardian; and**

**10.3.2 A valid government-issued identification or alternate means of identification.**

**10.3.2.1 Submissions by mail must contain a photocopy of a valid government-issued identification or alternate means of identification.**

~~9.1.6~~**10.4 A new certificate issued pursuant to 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.**

## Chapter 4– Health Surveillance

### Subchapter 7 – Vital Records

#### Vital Records Rule

##### 1.0 Authority

This rule is adopted pursuant to 18 V.S.A. § 5000 (e)(8) and (f) and Act 88 (2022).

##### 2.0 Purpose

The purpose of this rule is to establish the specific requirements for obtaining, creating, amending, and storing birth and death certificates in Vermont.

##### 3.0 Definitions

- 3.1 “Affidavit of Gender Identity” means the form published by the Department that is used to self-attest to an individual’s gender identity for the purpose of amending a birth certificate.
- 3.2 “Affidavit of Homeless Status” means the form published by the Department that can be used to verify an individual’s status as a person experiencing homelessness for the purposes of obtaining a certified birth certificate.
- 3.3 “Alternate means of identification” means two documents (exempting 3.3.12 and 3.3.13 when only one form of identification is needed) that between them shall contain a current address and a signature of the applicant. Alternate acceptable documents are:
- 3.3.1 Employment Identification Card with photo, accompanied by a pay stub or U.S. Internal Revenue W-2 form;
  - 3.3.2 School, university, or college identification card with photo, accompanied by a report card or other proof of current school enrollment;
  - 3.3.3 Federal or state identification issued by departments, bureaus, or agencies of corrections or prisons;
  - 3.3.4 Social Security/Medicare Card that contains the bearer’s signature;
  - 3.3.5 Pilot’s License;
  - 3.3.6 Car registration or title with current address;
  - 3.3.7 U.S. Selective Service Card;
  - 3.3.8 Voter Registration Card;
  - 3.3.9 Filed Federal tax form that contains current address and signatures;
  - 3.3.10 Bank statement, property or utility bill (e.g. gas, water, electric, sewer, phone) with current address;
  - 3.3.11 U.S. or state court documents with current address;
  - 3.3.12 Documentation provided by the Vermont Department of Corrections substantiating the identity of the eligible person;

- 3.3.13 A valid State of Vermont Employee identification when the application for a birth and/or death certificate is a bona fide request made within the scope of employment with the State;
  - 3.3.14 A receipt from a licensed healthcare provider with name and current address; or
  - 3.3.15 First class mail with name and current address.
- 3.4** “Applicant” means an eligible party seeking to obtain the vital records of a registrant.
- 3.5** “Custodian” means any person or entity who maintains official copies of vital records for access and inspection by the public, or any lawful purpose, including the Department of Health, Vermont State Archives and Records Administration and town clerks.
- 3.6** “Department” means the Vermont Department of Health.
- 3.7** “Eligible party” means the same as defined in 18 V.S.A. § 5016(b)(2):
- 3.7.1 The registrant; or their spouse, child, grandchild, parent, sibling, grandparent, or guardian; a person petitioning to open a decedent's estate; a court-appointed executor or administrator; or the legal representative of any of these;
  - 3.7.2 A specific person pursuant to a court order finding that a noncertified copy is not sufficient for the applicant’s legal purpose and that a certified copy of the birth or death certificate is needed for the determination or protection of a person's right;
  - 3.7.3 An employee of a public agency authorized by the State Registrar as defined in 1 V.S.A § 317; or
  - 3.7.4 In the case of a death certificate only, additionally to:
    - 3.7.4.1 the individual with authority for final disposition as provided 18 V.S.A. § 5227, or a funeral home or crematorium acting on the individual's behalf;
    - 3.7.4.2 the Social Security Administration;
    - 3.7.4.3 the U.S. Department of Veterans Affairs; or
    - 3.7.4.4 the deceased’s insurance carrier, if such carrier provides benefits to the decedent’s survivors or beneficiaries.
- 3.8** “Gender marker” reflected on a birth certificate as “Sex” means:
- 3.8.1 “F” to represent female;
  - 3.8.2 “M” to represent male; and
  - 3.8.3 “X” to represent non-binary.
- 3.9** “Generational identifier” means JR, SR, or numerals to designate the number of generations. Generational identifiers may not take the form of commonly conferred academic honorifics such as, but not limited to: MD, JD, DO, Esq., BA, BS, MA, MS, or PhD, or other designations not commonly used as generational identifiers.
- 3.10** “Homeless services provider” means:



- 3.10.1 A governmental or nonprofit agency receiving federal, state, or municipal funding to provide services to a person experiencing homelessness or that is otherwise sanctioned to provide those services by a local homeless continuum of care organization.
- 3.10.2 An attorney licensed to practice law in Vermont and who is representing a client for whom the request for a certified birth certificate is being made.
- 3.10.3 A local educational agency liaison for homeless children and youth, or a school social worker.
- 3.10.4 A human services provider or public social services provider funded by the State of Vermont to provide homeless children or youth services, health services, mental or behavioral health services, substance use disorder services, public assistance, or employment services.
- 3.11** “Issuing agent” means a town clerk or duly authorized representative of the State Registrar who issues certified and noncertified copies of vital records.
- 3.12** “Non-binary” means a person whose gender identity is not exclusively male or female, including, but not limited to, a person whose gender identity is intersex, agender, amalgagender, androgynous, bigender, demigender, genderfluid, genderqueer, gender non-conforming, neutrois, nonbinary, pangender, third sex, transgender, Two-Spirit, or otherwise unspecified by the person.
- 3.13** “Person experiencing homelessness” and “Homeless,” mean the same as the definition found in 42 USC § 11302 for a “homeless individual”.
- 3.14** “Registrant” means the individual who is the subject of a vital record event certificate.
- 3.15** “Secure facility” means a building or room equipped with locks or other security devices that does not permit access during non-working or non-business hours.
- 3.16** “Valid government-issued identification” means a document that shall contain an expiration date that has not passed, a photograph, a current address, a signature and a unique number or barcode such as a driver’s license, or valid passport, assigned to the person. The following forms of government-issued identification are acceptable:
  - 3.16.1 United States issued Driver’s License or Identification card;
  - 3.16.2 United States Territories Driver’s License or Identification card;
  - 3.16.3 Tribal Identification Card that contains the bearer’s signature;
  - 3.16.4 U.S. Military Identification Card that contains the bearer’s signature;
  - 3.16.5 Passport issued by the United States, or by a foreign country recognized by the United States government;
  - 3.16.6 Visa issued by the United States and that is included within a passport and the bearer’s signature is on the passport and not on the Visa;
  - 3.16.7 U.S. Resident Alien Card, also known as the U.S. Green Card or the U.S. Permanent Resident Card (Form I-551); or U.S. Employment

**4.0 Documents Needed to Obtain a Birth or Death Certificate**

- 4.1 An applicant is required to provide a valid government-issued identification document or alternate means of identification and must present the identification at time of signing the Vermont application for a certified copy of a birth or death certificate.
- 4.2 An applicant may establish their identity by providing a minimum of two alternate means of identification (exempting 3.3.12 and 3.3.13 when only one form of identification is needed). The Office of Vital Records may request additional evidence as necessary for the positive identification of the applicant.
- 4.3 A person experiencing homelessness may establish their identity necessary to be eligible to receive a certified birth certificate by providing a completed Affidavit of Homeless Status, available on the Department's website. The Affidavit must be signed by both the applicant and the homeless services provider. The Office of Vital Records may request additional documentation as necessary for the positive identification of the applicant.

**5.0 Applications for Certified Copies of Birth and Death Certificates**

- 5.1 The Vermont application for a certified copy of birth or death certificate must be submitted by an eligible party to:
  - 5.1.1 the Vermont Office of Vital Records;
  - 5.1.2 the Vermont State Archives and Records Administration;
  - 5.1.3 a statutorily authorized issuing agent, such as town clerk's office;
  - 5.1.4 a contractor of the State of Vermont that is providing application; or processing services on behalf of the Vermont Office of Vital Records.

**6.0 Certification of Birth and Death Certificates by Town Clerks and Their Designees**

- 6.1 Town clerks and their designees shall certify a birth or death certificate copy using one of the following methods:
  - 6.1.1 Use of a town seal that does not include the town clerk's name, and ensures all documents are signed by either the town clerk, assistant town clerk, or another designated assistant clerk pursuant to state statute; or
  - 6.1.2 Use of a town seal that includes the town clerk's name, and ensures all documents using that seal are signed by the town clerk whose name is on the seal.

**7.0 Issuance of Certified Copies of Births and Deaths During a Declared State of Emergency or Other Disruption**

- 7.1 The State Registrar may temporarily suspend the requirement for issuing agents to utilize the statewide registration system for the issuance of certified copies of birth and death certificates. The reasons for a temporary suspension are limited to:

- 7.1.1 A declared state of emergency that covers the State of Vermont when the period has exceeded 48 hours;
- 7.1.2 A technical event with the statewide registration system that results in the system being inaccessible to issuing agents for a period that exceeds 48 hours.
- 7.2 During a period in which a temporary suspension has been issued, the State Registrar shall provide instruction to the issuing agents for the methods to be used to issue and track all certified copies, and for later recording in the statewide registration system when service has been restored.

## **8.0 Physical Security Requirements for Creation and Storage of Birth and Death Certificates**

- 8.1 Activities to support the creation, storage, and issuance of certified copies of Vermont birth and death certificates shall occur in secure, government-operated buildings. The area of the building that houses the Vermont birth and death certificates, and materials utilized to create, modify, or access the certificates, and the computers used to access the statewide registration system, shall meet the following requirements:
  - 8.1.1 Contains appropriate sensor, warning systems, or controls in place to monitor for fire, smoke, or other emergencies;
  - 8.1.2 Contains a fire suppression method, which may be dry- or wet-suppression, and/or fire extinguishers;
  - 8.1.3 Is a secure facility;
  - 8.1.4 Employee workspace is separated from the public, such as by service counter, service window, locked door, or other physical barrier;
  - 8.1.5 Non-employees, such as, but not limited to, visitors, vendors, delivery personnel, and cleaning staff, must identify themselves to the town clerk or their designee, and request access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system, providing a valid and reasonable reason for such access. These non-employees shall be escorted to the designated area. If cleaning is done during nonworking hours, only preapproved cleaning personnel shall be permitted access to the space that contains the birth and death certificate materials, the certificates themselves, and/or the computers used to access the statewide registration system;
  - 8.1.6 All materials used for certification of the birth and death certificates, such as, but not limited to, equipment (computers, printers, town seal), security paper, and any other documents or confidential files/records, shall be locked in a secure area or cabinets accessible only to the town clerk and their designees;

- 8.1.7 Visitors shall be accompanied when such visitors may have access to the materials used for certification of birth and death certificates, or access to the statewide registration system.
- 8.2 If an existing government-operated building does not have a fireproof safe or vault as specified in 18 V.S.A. § 5001(b), the town clerk shall ensure that these rules are complied with and confirm in writing to the State Registrar that all reasonable precautions and safeguards have been implemented to protect the birth and death certificate materials, the birth and death certificates, and the computer used to access the statewide registration system.
- 8.3 The public shall be allowed access to view or inspect birth and death certificates stored at issuing agent's offices during the standard business hours of the office. Issuing agents may implement reasonable precautions to protect the certificates from potential harm or theft, such as, but not limited to:
- 8.3.1 Monitoring visitors;
  - 8.3.2 Requiring visitors to view/inspect certificates at a designated table or office;
  - 8.3.3 Retrieving only the birth and death certificates requested by the visitor rather than providing unlimited access to all certificates;
  - 8.3.4 Requiring visitors to sign in and out when requesting access to birth and death certificates; and/or
  - 8.3.5 Requiring visitors to show the contents of any bags, briefcases, or other storage methods prior to departing the office.

**9.0 Criteria for Acceptance of Child's Name on Birth Certificates**

- 9.1 In order to be valid, names on birth certificates shall:
- 9.1.1 Not contain pictographs or ideographs or writing that is not part of the standard twenty-six letter English alphabet;
  - 9.1.2 Not contain symbols other than:
    - 9.1.2.1 Numerals used for generational identifiers;
    - 9.1.2.2 Common punctuation such as hyphens for hyphenated names, apostrophes used as part of a given name or surname, and periods in generational identifiers or when an initial or abbreviation is used as part of a name; or
    - 9.1.2.3 Special characters that are commonly used, such as accent marks and tildes.
  - 9.1.3 Not exceed a total of 50 characters in length for each of First, Middle, and Last Name. The count of maximum allowable characters shall include hyphens, apostrophes, and periods when used as part of the name.
  - 9.1.4 Contain a last name.
  - 9.1.5 Contain no more than one generational identifier after the last name.

**10.0 Amending a Gender Marker on a Birth Certificate**

- 10.1** A registrant born in Vermont may amend the gender marker on their birth certificate.
- 10.1.1 Any person 16 years or older may amend their gender marker.
- 10.1.2 Any person under the age of 16 may amend their gender marker with signed consent from a parent or legal guardian.
- 10.2** A registrant may amend their gender marker to reflect their identity through self-attestation by filing the Affidavit of Gender Identity available on the Department's website.
- 10.3** To file for an amendment under Section 10.0, registrants shall submit the following by mail or in-person to the Vermont Department of Health, Vital Records Office:
- 10.3.1 An Affidavit of Gender Identity, signed by the registrant, and if applicable, the registrant's parent or legal guardian; and
- 10.3.2 A valid government-issued identification or alternate means of identification.
- 10.3.2.1 Submissions by mail must contain a photocopy of a valid government-issued identification or alternate means of identification.
- 10.4** A new certificate issued pursuant to 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.

**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.~~

~~(c) 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

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 18 : Health

### Chapter 104 : Birth Records

(Cite as: 18 V.S.A. § 5112)

#### § 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.

(c) 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. (Added 2011, No. 35, § 4, eff. May 18, 2011; amended 2015, No. 23, § 10; 2017, No. 46, § 38, eff. July 1, 2019.)

VERMONT **GENERAL ASSEMBLY**

# The Vermont Statutes Online

## Title 3 : Executive

### Chapter 025 : Administrative Procedure

#### Subchapter 002 : Contested Cases

(Cite as: 3 V.S.A. § 810)

#### § 810. Rules of evidence; official notice

In contested cases:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The Rules of Evidence as applied in civil cases in the Superior Courts of this State shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(3) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(4) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (Added 1967, No. 360 (Adj. Sess.), § 10, eff. July 1, 1969; amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974.)



# Proposed Rules Postings

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#### Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

#### Rule Details

Rule Number:	22-E11
Title:	Vital Records Emergency Rule.
Type:	Emergency
Status:	Adopted
Agency:	Department of Health, Agency of Human Services
Legal Authority:	Act 88 (2022) Sec. 3, 18 V.S.A. § 5112 (b), and 3 V.S.A § 801(b) (11).
Summary:	This rulemaking implements a process for individuals to amend the marker on their birth certificate to reflect the individual's gender identity. Specifically, it does the following: 1) Defines the term "non-binary" to describe the additional gender

identities that may be reflected on a birth certificate.  
 2) Creates a process for registrants to file their Affidavit of Gender Identity with the Department.  
 Persons born in Vermont who wish to amend their birth certificate; the Vermont Department of Health Vital Records Office.

Persons Affected:                      There is no anticipated economic impact.

Economic Impact:                      May 16,2022

Posting date:                              May 16,2022

## Hearing Information

There are not Hearings scheduled for this Rule

## Contact Information

### Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.**

Level:       Primary  
 Name:       Natalie Weill  
 Agency:     Department of Health, Agency of Human Services  
 Address:    108 Cherry Street  
 City:        Burlington  
 State:       VT  
 Zip:         05401  
 Telephone:  802-863-7312  
 Fax:         802-951-1275  
 Email:      [ahs.vdhrules@vermont.gov](mailto:ahs.vdhrules@vermont.gov)

[SEND A COMMENT](#)

Website     <https://www.healthvermont.gov/about-us/laws-regulations/public-comment>  
 Address:    [VIEW WEBSITE](#)

### Information for Secondary Contact

**SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FILINGS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.**

Level:       Secondary  
 Name:       David Englander  
 Agency:     Department of Health, Agency of Human Services  
 Address:    108 Cherry Street  
 City:        Burlington

State: VT  
Zip: 05401  
Telephone: 802-863-7280  
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[SEND A COMMENT](#)

## Keyword Information

Keywords:

Vital Records  
Birth Certificates  
Gender Identity  
Registrants  
Sex  
Gender

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