



To: Members of the State Board of Health

From: Gabriel Thorn, Operations Manager, Vital Records
A. Alex Quintana, State Registrar, Vital Records

Through: Chris Wells, Division Director, CHED

Date: September 18, 2019

Subject: Rulemaking Hearing concerning 5 CCR 1006-1, Vital Statistics

The department is implementing HOUSE BILL 19-1039 (Short Title "Jude's Law"). HB 19-1039 modifies the sex designation entered at the time of birth and the process for amending an individual's sex designation. The proposed rules align the rule with the law that will take effect on January 1, 2020.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
For Amendments to
5 CCR 1006-1, Vital Statistics

Basis and Purpose.

The Vital Statistics Act of 1984 (Title 25, Article 2), hereinafter “Act,” governs the administration of vital event registration and vital statistics reporting. The Act authorizes the Board of Health to promulgate any rules needed to implement the statute.

Remove Rule References to Intersex

- Per HB 19-1039, at the time of birth, a birth certificate must identify the person’s sex as male or female, see Section 25-2-113.8(2)(a), C.R.S. The current rule must be changed because Section 4.1 allows a person to identify as male, female or intersex at the time of birth.
- Per HB 19-1039, a person may change their sex designation to male, female or X, Section 25-2-113.8(2)(b), C.R.S.. The current rule must be changed because Section 4.1 allows a person to change their sex designation to male, female, intersex or “X.”

Modify the Process for Amending Sex Designation

- Under the current rule, a request to change a minor’s sex designation on the birth certificate needed to include a letter from a licensed treating medical or behavioral health provider confirming the sex designation on the birth certificate does not accurately reflect the patient’s gender identity. The rule expressly stated that the rule should not be read to require the minor to undergo any specific surgery, treatment, clinical care or behavioral health care, Section 5.5(C). Under the new statute, the minor must submit a statement, signed by a professional medical or mental health provider licensed in good standing from Colorado or another jurisdiction, that the minor has 1) undergone surgical, hormonal or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider’s professional opinion, the minor’s gender designation should be changed accordingly, or 2) the minor has an intersex condition and in the provider’s professional opinion, the minor’s gender designation should be changed accordingly. Section 5.5(C)(2)(b) has been modified to align with Section 25-2-113.8(3)(b)II), C.R.S.
- Though the remainder of the process for requesting a change to one’s sex designation was substantively similar to the requirements delineated in the current rule at Section 5.5, the rule was reformatted and the wording modified to align with HB 19-1039.
- Though the rule was structured to support registrants that sought a name change simultaneous with their change in sex designation, to clarify this for end-users of the rule a new subparagraph (4) was added to Section 5.5(C). Subparagraph repeats the language now found at Section 25-2-113.8(7).

Modify the General Requirements for Amended Birth Certificates

- Section 25-2-115(1), C.R.S. delineated the requirements for marking an amended birth certificate as “Amended.” Section 25-2-115(1), C.R.S., also required that a summary description of the evidence submitted in support of the amendment be endorsed on or made part of each amended certificate. HB 19-1039 amended Section 25-2-115(1),

C.R.S. by exempting amendments to sex designation. HB 19-1039 requires that a new certificate be issued. Because it is a new certificate and not an amended certificate, the certificate will not include the endorsement or inclusion of a summary description. Section 5.1(E) of the rule was amended to incorporate the statutory language found at Sections 25-2-113.8(9) and 25-2-115(1), C.R.S.

- Unlike new birth certificates issued under the Vital Statistics Office administrative process, Section 25-2-113.8, C.R.S., does not expressly state that a new certificate issued due to a court order should or should not be marked "amended" or include a summary description. The proposed rule applies the new certificate standard to any birth certificate modified to the registrant's sex designation and, if applicable, the registrant's name, regardless of whether the Vital Statistics Office administrative process or a court order process was utilized. In making this determination, the department relied upon the following:
 - Section 25-2-113.8(4), C.R.S., states birth certificates issued as a result of a court order are "new,"
 - Section 25-2-113.8(9), C.R.S., omits reference to subsection (4) but subsection (9) could reasonably be interpreted as further directing the Vital Statistics Office administrative process where further direction for court orders was unnecessary when reading the statutes as a whole, and
 - The language in Section 25-2-115(1), C.R.S. expressly states no birth certificates issued pursuant to Section 25-2-113.8, C.R.S., will be marked amended or otherwise include a summary description.

Effective Date.

An effective date of January 1, 2020 is requested to align with the effective date of the new law.

Specific Statutory Authority.

Statutes that require or authorize rulemaking: Section 25-2-103, C.R.S.

Is this rulemaking due to a change in state statute?

Yes, the bill number is HB 19-1039. Rules are authorized required.
 No

Does this rulemaking include proposed rule language that incorporate materials by reference?

Yes URL
 No

Does this rulemaking include proposed rule language to create or modify fines or fees?

Yes
 No

Does the proposed rule language create (or increase) a state mandate on local government?

No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

REGULATORY ANALYSIS
For Amendments to
5 CCR 1006-1, Vital Statistics

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
<ul style="list-style-type: none"> • *Local Vital Records Offices • Birthing Hospitals • *Clerk and Recorder Offices • U.S. Department of State • Colorado Department of Motor Vehicles • Colorado Department of Public Health and Environment programs engaged in disease control, disease prevention and public health emerging issues for the LGBT community including but not limited to linkages to care, increased risk for homelessness, STI/HIV, and suicide. • LGBT advocacy organizations • LGBT registrants seeking to change their sex designation 	<p>60</p> <p>61</p> <p>64</p> <p>1</p> <p>1</p> <p>1</p>	<p>C</p> <p>C</p> <p>C</p> <p>S</p> <p>S</p> <p>S</p> <p>S</p> <p>B</p>

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
- CLG = local governments that must implement the rule in order to remain in compliance with the law.
- S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
- B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C: The process delineated in HB 19-1039 is comparable to the current process. As such, this should have minimal economic impact on the department and Local Vital Record Offices.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: None

B: None as an administrative pathway to change a registrant's sex designation was already available in the rule.

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: Possible short-term increased workload as this is a highly publicized bill that could increase birth corrections despite the department already doing things in a similar manner

S: It is unknown if governmental stakeholders will find the new birth certificate requirement challenging particularly for registrants that already have receive their services. Importantly, the statute does require the Department notify the Department of Revenue and this will support registrants seeking new issuance documents such as a driver license.

B: To the extent a registrant seeks to have the birth certificate reflect intersex, Vital Records offices will not be able to accommodate the request. "X" was an option under the current rule. There is no change for adult registrants seeking "X." For minor registrant's seeking a change to their sex designation, the statute requires the minor underwent surgical, hormonal or other treatment. This is a change from the current process that may be significant for minor registrants when engaging their medical or mental health providers.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

It is anticipated that any workload increase associated with these changes would be minimal and any impact can be absorbed by the program.

Anticipated CDPHE Revenues:

NA

B. Anticipated personal services, operating costs or other expenditures by another state agency:

NA

Anticipated Revenues for another state agency:

NA

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

- Comply with a statutory mandate to promulgate rules.
- Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.
- Maintain alignment with other states or national standards.
- Implement a Regulatory Efficiency Review (rule review) result
- Improve public and environmental health practice.
- Implement stakeholder feedback.
- Advance the following CDPHE Strategic Plan priorities
- Advance CDPHE Division-level strategic priorities.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

NA

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Rulemaking is the only statutorily allowable method for achieving the purpose of the statute. The specific revisions proposed in this rulemaking were developed to implement HB 19-1039.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

NA- rulemaking is necessary to implement HB 19-1039

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

NA

STAKEHOLDER ENGAGEMENT
For Amendments to
5 CCR 1006-1, Vital Statistics

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

<u>Organization</u>	<u>Representative and if known, Title</u>
Local Vital Records Offices	Email distribution
Birthing Hospitals and Birth Centers	Email distribution
One Colorado	Daniel Ramos
U.S Department of State	Lanissa Larson, Fraud Program
Colorado Division of Motor Vehicles	Francine Gonzalez, Chief of
Colorado Clerk and Recorders	Email distribution
American Academy of Pediatrics, Colorado Chapter	ebrilliant@aap.net
Colorado Medical Society	Susan Doontz
The GLBT Community Center of Colorado	Sable Schultz
The Gender Identity Center of Colorado	Jessie Goodwin
PFLAG Denver	pflagden@gmail.com
Trans Youth Education & Support	info@youthseen.org
State Senator Dominick Moreno	State Senator Dominick Moreno
State Representative Daneya Esgar	State Representative Daneya Esgar
Emma Shinn	Emma Shinn
John McHugh	John McHugh
CDHS and Colorado Adoption Intermediary Commission	Larry Desbien
U.S. Department of Homeland Security, Immigration and	Jeffery Hamilton
Social Security Administration	Lina Rivera
Colorado Department of Public Safety, Colorado Information Analysis Center	Cdps_ciac@ciac.state.co.us
Colorado Genealogical Society	David Coward
U.S. Department of State, Diplomatic Secret Service	Angela Brenner
Colorado Attorney General	Paul Goodman, Criminal Investigator

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

No major factual or policy issues were encountered during the stakeholder process. The one comment received concerned the statutory change related to new certificates.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

X	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.		Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	X	Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.		Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
	Other: _____ _____		Other: _____ _____

An Act

HOUSE BILL 19-1039

BY REPRESENTATIVE(S) Esgar, Jaquez Lewis, Titone, Valdez A., Galindo, Herod, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Froelich, Garnett, Gonzales-Gutierrez, Gray, Hooton , Jackson, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Weissman, Becker, Arndt, Hansen, Valdez D.; also SENATOR(S) Moreno, Ginal, Bridges, Court, Danielson, Donovan, Fenberg, Fields, Gonzales, Lee, Pettersen, Story, Todd, Winter, Zenzinger, Garcia.

CONCERNING IDENTITY DOCUMENTS FOR TRANSGENDER PERSONS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add 25-2-113.8** as follows:

25-2-113.8. Birth certificate modernization act - new birth certificate following a change in gender designation - short title.
(1) THE SHORT TITLE OF THIS SECTION IS "JUDE'S LAW".

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(2) (a) A BIRTH CERTIFICATE ISSUED AT THE TIME OF BIRTH MUST IDENTIFY THE PERSON'S SEX AS MALE OR FEMALE.

(b) AN AMENDED BIRTH CERTIFICATE MAY BE ISSUED TO CHANGE THE SEX DESIGNATION OF THE PERSON TO MALE, FEMALE, OR "X" PURSUANT TO THE REQUIREMENTS OF THIS SECTION. "X" IS A DESIGNATION THAT IS NEITHER MALE NOR FEMALE.

(3) THE STATE REGISTRAR SHALL ISSUE A NEW BIRTH CERTIFICATE TO A PERSON WHO WAS BORN IN THIS STATE AND WHO HAS A GENDER DIFFERENT FROM THE SEX DENOTED ON THAT PERSON'S BIRTH CERTIFICATE WHEN THE STATE REGISTRAR RECEIVES:

(a) A WRITTEN REQUEST FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, TO ISSUE A NEW BIRTH CERTIFICATE WITH A GENDER DESIGNATION THAT DIFFERS FROM THE SEX DESIGNATED ON THE PERSON'S ORIGINAL BIRTH CERTIFICATE; AND

(b) (I) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE STATE REGISTRAR, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX DESIGNATION ON THE PERSON'S BIRTH CERTIFICATE DOES NOT ALIGN WITH THE PERSON'S GENDER IDENTITY; AND

(II) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE STATE REGISTRAR, SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL MEDICAL OR MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD STANDING IN COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING FROM ANOTHER JURISDICTION, STATING THAT:

(A) THE MINOR HAS UNDERGONE SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THAT PERSON FOR THE PURPOSE OF GENDER TRANSITION, BASED ON CONTEMPORARY MEDICAL STANDARDS, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

(B) THE MINOR HAS AN INTERSEX CONDITION, AND, IN THE

PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY.

(4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, THE STATE REGISTRAR SHALL ISSUE A NEW BIRTH CERTIFICATE TO A PERSON WITH A COURT ORDER INDICATING THE SEX OR GENDER OF THE PERSON BORN IN THE STATE OF COLORADO HAS BEEN CHANGED.

(5) THE STATE REGISTRAR MAY ONLY AMEND A GENDER DESIGNATION FOR AN INDIVIDUAL'S BIRTH CERTIFICATE ONE TIME UPON THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE INDIVIDUAL FOR ADDITIONAL GENDER DESIGNATION CHANGES REQUIRE THE SUBMISSION OF A COURT ORDER INDICATING THAT THE GENDER DESIGNATION CHANGE IS REQUIRED.

(6) THE STATE REGISTRAR IS AUTHORIZED TO CONTACT THE MEDICAL OR MENTAL HEALTH CARE PROVIDER TO VERIFY A STATEMENT MADE PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION.

(7) IF A NEW BIRTH CERTIFICATE IS ISSUED PURSUANT TO THIS SECTION, THE BIRTH CERTIFICATE MUST REFLECT, OR BE REISSUED TO REFLECT, ANY LEGAL NAME CHANGE MADE BEFORE OR SIMULTANEOUS TO THE CHANGE IN GENDER DESIGNATION, AS LONG AS APPROPRIATE DOCUMENTATION OF THE NAME CHANGE IS SUBMITTED.

(8) THE STATE REGISTRAR SHALL NOT REQUEST ANY ADDITIONAL INFORMATION OR RECORDS OTHER THAN THOSE REQUIRED BY SUBSECTION (3) OR (4) OF THIS SECTION TO PROCESS A REQUEST TO MODIFY A GENDER DESIGNATION. THE STATE REGISTRAR SHALL NOT DISCLOSE INFORMATION RELATING TO A GENDER CORRECTION, INCLUDING TO OTHER GOVERNMENT EMPLOYEES, UNLESS REQUIRED IN ORDER TO CONDUCT OFFICIAL BUSINESS.

(9) WHEN THE STATE REGISTRAR RECEIVES THE DOCUMENTATION DESCRIBED IN SUBSECTION (3) OF THIS SECTION, THE STATE REGISTRAR SHALL ISSUE A NEW BIRTH CERTIFICATE REFLECTING THE NEW GENDER DESIGNATION AND, IF APPLICABLE, THE PERSON'S NEW NAME. NOTWITHSTANDING SECTION 25-2-115 (1), THE NEW BIRTH CERTIFICATE SUPERSEDES THE ORIGINAL AS THE OFFICIAL PUBLIC RECORD AND MUST NOT BE MARKED AS AMENDED OR INDICATE IN ANY OTHER MANNER THAT THE GENDER DESIGNATION OR NAME ON THE CERTIFICATE HAS BEEN CHANGED.

(10) IN THE CASE OF A PERSON WHO IS A RESIDENT OF THIS STATE AND WAS BORN IN ANOTHER STATE OR IN A FOREIGN JURISDICTION, IF THE OTHER STATE OR FOREIGN JURISDICTION REQUIRES A COURT DECREE IN ORDER TO AMEND A BIRTH CERTIFICATE TO REFLECT A CHANGE IN GENDER, THE COURTS IN THIS STATE HAVE JURISDICTION TO ISSUE SUCH A DECREE.

(11) THE STATE REGISTRAR SHALL PROMPTLY NOTIFY THE DEPARTMENT OF REVENUE WHEN AN INDIVIDUAL IS ISSUED A NEW BIRTH CERTIFICATE PURSUANT TO THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 25-2-115, **amend** (1); and **repeal** (4) as follows:

25-2-115. Alteration of reports and certificates - amended reports and certificates. (1) A vital statistics report or certificate shall not ever be altered in any way except in accordance with this article 2 and applicable rules. ~~The~~ EXCEPT FOR AMENDED BIRTH CERTIFICATES ISSUED PURSUANT TO SECTION 25-2-113.8, THE date of alteration and a summary description of the evidence submitted in support of the alteration must be endorsed on or made a part of each vital statistics certificate that is altered. Every vital statistics report or certificate that is altered in any way must be marked "Amended", except FOR AMENDED BIRTH CERTIFICATES ISSUED PURSUANT TO SECTION 25-2-113.8; the birth report or certificate of a child altered by the addition of a father's name pursuant to section 25-2-112 (3), in which case, upon request of the parents, the surname of the child shall be changed on the report and certificate to that of the father; ~~and also except~~ OR additions and minor corrections made within one year after the date of the statistical event as may be specified by applicable rules. A child's surname may be changed upon affidavit of the parent that the change is being made to conform the child's surname to the parent's legal surname.

~~(4) Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual born in this state has been changed by surgical procedure and that such individual's name has been changed, the certificate of birth of such individual shall be amended as prescribed by regulation.~~

SECTION 3. In Colorado Revised Statutes, 42-2-107, **amend** (2)(a) as follows:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Keyes - John W. Buckner organ and tissue donation awareness fund - legislative declaration - rules - annual report - repeal. (2) (a) (I) Every application shall state the full name, date of birth, sex, and residence address of the applicant; briefly describe the applicant; be signed by the applicant with such applicant's usual signature; have affixed thereon the applicant's fingerprint; and state whether the licensee has ever been licensed as a minor driver or driver and, if so, when and by what state or country and whether any such license has ever been denied, suspended, or revoked, the reasons therefor, and the date thereof. These statements shall be verified by the applicant's signature thereon.

(II) THE DEPARTMENT SHALL ISSUE A NEW DRIVER'S LICENSE TO A PERSON WHO HAS A GENDER DIFFERENT FROM THE SEX DENOTED ON THAT PERSON'S DRIVER'S LICENSE WHEN THE DEPARTMENT RECEIVES:

(A) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX DESIGNATION ON THE PERSON'S DRIVER'S LICENSE DOES NOT ALIGN WITH THE PERSON'S GENDER IDENTITY; AND

(B) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL MEDICAL OR MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD STANDING IN COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING FROM ANOTHER JURISDICTION, STATING THAT THE MINOR HAS UNDERGONE SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THAT PERSON FOR THE PURPOSE OF GENDER TRANSITION, BASED ON CONTEMPORARY MEDICAL STANDARDS, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY, OR THE MINOR HAS AN INTERSEX CONDITION, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

(C) A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8.

(III) THE DEPARTMENT MAY ONLY AMEND A SEX DESIGNATION FOR AN INDIVIDUAL'S DRIVER'S LICENSE ONE TIME UPON THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE INDIVIDUAL FOR ADDITIONAL SEX DESIGNATION CHANGES REQUIRE THE SUBMISSION OF A COURT ORDER INDICATING THAT THE SEX DESIGNATION CHANGE IS REQUIRED.

~~(H)~~ (IV) In addition to the information required by ~~subparagraph (f) of this paragraph~~ (a) SUBSECTION (2)(a)(I) OF THIS SECTION, every application shall include the opportunity for the applicant to self-identify his or her race or ethnicity. The race or ethnicity information that may be identified on the application shall not be printed on the driver's license but shall be maintained in the stored information as defined by section 42-2-114 (1)(b). That information must be accessible to a law enforcement officer through magnetic or electronic readers.

SECTION 4. In Colorado Revised Statutes, 42-2-302, **add** (2.5) as follows:

42-2-302. Department may or shall issue - limitations - rules.
(2.5) (a) THE DEPARTMENT SHALL ISSUE A NEW IDENTIFICATION CARD TO A PERSON WHO HAS A GENDER DIFFERENT FROM THE SEX DENOTED ON THAT PERSON'S IDENTIFICATION CARD WHEN THE DEPARTMENT RECEIVES:

(I) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX DESIGNATION ON THE PERSON'S IDENTIFICATION CARD DOES NOT ALIGN WITH THE PERSON'S GENDER IDENTITY; AND

(II) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL MEDICAL OR MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD STANDING IN COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING FROM ANOTHER JURISDICTION, STATING THAT THE MINOR HAS UNDERGONE SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THAT PERSON FOR THE PURPOSE OF GENDER TRANSITION, BASED ON CONTEMPORARY MEDICAL STANDARDS, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY, OR THE MINOR

HAS AN INTERSEX CONDITION, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

(III) A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8.

(b) THE DEPARTMENT MAY ONLY AMEND A SEX DESIGNATION FOR AN INDIVIDUAL'S IDENTIFICATION CARD ONE TIME UPON THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE INDIVIDUAL FOR ADDITIONAL SEX DESIGNATION CHANGES REQUIRE THE SUBMISSION OF A COURT ORDER INDICATING THAT THE SEX DESIGNATION CHANGE IS REQUIRED.

SECTION 5. In Colorado Revised Statutes, 42-2-505, **add** (1.5) as follows:

42-2-505. Identification documents - individuals not lawfully present - rules. (1.5) (a) THE DEPARTMENT SHALL ISSUE A NEW IDENTIFICATION DOCUMENT TO A PERSON WHO HAS A GENDER DIFFERENT FROM THE SEX DENOTED ON THAT PERSON'S IDENTIFICATION DOCUMENT WHEN THE DEPARTMENT RECEIVES:

(I) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX DESIGNATION ON THE PERSON'S IDENTIFICATION DOCUMENT DOES NOT ALIGN WITH THE PERSON'S GENDER IDENTITY; AND

(II) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT, SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL MEDICAL OR MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD STANDING IN COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING FROM ANOTHER JURISDICTION, STATING THAT THE MINOR HAS UNDERGONE SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THAT PERSON FOR THE PURPOSE OF GENDER TRANSITION, BASED ON CONTEMPORARY MEDICAL STANDARDS, AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY, OR THE MINOR HAS AN INTERSEX CONDITION, AND, IN THE PROVIDER'S PROFESSIONAL

OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

(III) A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8.

(b) THE DEPARTMENT MAY ONLY AMEND A SEX DESIGNATION FOR AN INDIVIDUAL'S IDENTIFICATION DOCUMENT ONE TIME UPON THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE INDIVIDUAL FOR ADDITIONAL SEX DESIGNATION CHANGES REQUIRE THE SUBMISSION OF A COURT ORDER INDICATING THAT THE SEX DESIGNATION CHANGE IS REQUIRED.

SECTION 6. In Colorado Revised Statutes, 13-15-102, **add** (4) as follows:

13-15-102. Publication of change. (4) A PETITIONER NEED NOT GIVE PUBLIC NOTICE OF A NAME CHANGE AS REQUIRED BY SUBSECTION (1) OF THIS SECTION IF THE PETITIONER IS CHANGING THE PETITIONER'S NAME TO CONFORM WITH THE PETITIONER'S GENDER IDENTITY.

SECTION 7. Appropriation. For the 2019-20 state fiscal year, \$58,500 is appropriated to the department of revenue for use by the division of motor vehicles. This appropriation is from the licensing services cash fund created in section 42-2-114.5 (1), C.R.S. To implement this act, the division may use this appropriation for DRIVES maintenance and support.

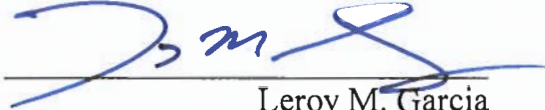
SECTION 8. Effective date. This act takes effect January 1, 2020.

SECTION 9. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Leroy M. Garcia
PRESIDENT OF
THE SENATE

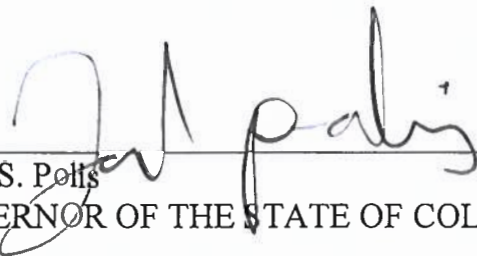


Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED May 31, 2019 at 9:46 A.M.
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Center for Health and Environmental Data**

3 **VITAL STATISTICS**

4

5 **5 CCR 1006-1**

6

7 Adopted by the Board of Health on _____; effective _____.

8 *****

9 **SECTION 4 REGISTRATION OF BIRTH**

10 **SECTION 4.1 Sex Designation**

11 The record and certificate may identify the sex designation as female, ~~intersex~~, or male at the time of birth
12 and may be amended pursuant to Section 5.5 to identify the sex designation as female, ~~intersex~~, male or
13 "X".

14 *****

15 **SECTION 5 AMENDING RECORD OR CERTIFICATES**

16

17 *****

18

19 **SECTION 5.1 General Requirements for Amending Certificates**

20

21 *****

22

23 E. 1. _____ Amended certificates shall only be amended to the extent necessary to modify the
24 Information included in the report or court decree. The remainder of the information
25 shown on the original certificate shall remain unchanged. The certificate will be identified
26 as "amended" or "delayed" when required by law.

27

28 2. _____ When a registrant's sex designation is amended pursuant to Section 5.5, a new
29 certificate is issued. The new certificate will not be marked as amended or otherwise
30 indicate that the gender designation or any name change accompanying the gender
31 designation change, occurred.

32

33 *****

34 **SECTION 5.5 Amendment of the Sex Designation**

35 Before changing the sex designation on the birth certificate, the State Registrar must:

36 A. Confirm the registrant is eighteen years of age or older, or an emancipated minor, or, if the
37 registrant is under the age of eighteen, confirm that the person requesting the amendment is a
38 parent on the birth record, a legal guardian, or an attorney or other authorized agent, as
39 determined by the State Registrar.

40 B. Confirm the name on the birth certificate and the name of the individual for whom the amendment
41 is requested match, or can be linked through the submitted documentation in instances such as
42 where the registrant is changing their name and sex designation at the same time, and

- 43 C. 1. Receive: a certified copy of an order of a court of competent jurisdiction changing the sex
44 of the applicant, or
- 45 2. a. A written request from the person, or from the person's parent, if the person is a
46 minor, or from the person's guardian or legal representative, signed under
47 penalty of law, to issue a new birth certificate with a gender designation that
48 differs from the sex designated on the person's original birth certificate; and,
- 49 b. A statement, in a form or format designated by the State Registrar, from the
50 person or from the person's parent, if the person is a minor, or from the person's
51 guardian or legal representative, signed under penalty of law, confirming the sex
52 designation on the person's birth certificate does not align with the person's
53 gender identity; and,
- 54 c. If the person is a minor under the age of eighteen, a statement, in a form or
55 format designated by the State Registrar, signed under penalty of law, from a
56 professional medical or mental health care provider licensed in good standing in
57 Colorado or an equivalent license in good standing from another jurisdiction,
58 stating that:
- 59 I. The minor has undergone surgical, hormonal, or other treatment
60 appropriate for that person for the purpose of gender transition, based on
61 contemporary medical standards, and, in the provider's professional
62 opinion, the minor's gender designation should be changed accordingly;
63 or,
- 64 II. The minor has an intersex condition, and, in the provider's professional
65 opinion, the minor's gender designation should be changed accordingly.
- 66 ~~a. For a registrant that is an adult, receive from the registrant, in the form and~~
67 ~~manner prescribed by the State Registrar, a notarized, self-attestation that identifies the~~
68 ~~requested change to the sex designation.~~
- 69 ~~b. For a registrant that is a minor, receive, in the form and manner prescribed by the~~
70 ~~State Registrar, a letter from a licensed treating medical or behavioral health~~
71 ~~provider, which also includes the provider's medical license or certificate number~~
72 ~~and the issuing U.S. State/Foreign Country of license/certificate, signed under~~
73 ~~the penalty of perjury, confirming the sex designation on the birth certificate does~~
74 ~~not accurately reflect the patient's gender identity.~~
- 75 ~~This requirement should not be read to require an individual to undergo any~~
76 ~~specific surgery, treatment, clinical care or behavioral health care.~~
- 77 3. The State Registrar shall change the sex designation pursuant to a request made under
78 Section 5.5(C)(2) only once during an individual's lifetime. Any further amendment to the
79 sex designation on a birth record or certificate requires a court order pursuant to Section
80 5.5(C)(1).
- 81 4. Pursuant to Section 25-2-113.8(7), C.R.S., if a new birth certificate is issued pursuant to
82 this Section 5.5, the certificate will also be amended to reflect any legal name change
83 made before or simultaneous with the change in gender designation, as long as
84 appropriate documentation of the name change is submitted.

87