

---

---

## A BILL FOR AN ACT

RELATING TO VITAL STATISTICS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that Act 148, Session  
2 Laws of Hawaii 2019, expanded gender markers for Hawaii's  
3 driver's licenses and state identification cards. The  
4 legislature notes that Act 148 successfully went into effect on  
5 July 1, 2020. The legislature further finds that other states,  
6 such as Washington, have also permitted the third gender-to be  
7 used for other official documents, such as birth certificates.  
8 This ensures that an individual's gender markers match on all  
9 the individual's official documents.

10           The purpose of this Act is to add the gender marker "X" as  
11 a third gender option on birth certificates and permit  
12 individuals to submit an application for a change in sex  
13 designation on their birth certificates that reflects this third  
14 gender option.

15           SECTION 2. Section 338-17.7, Hawaii Revised Statutes, is  
16 amended to read as follows:



1           **"§338-17.7 Establishment of new certificates of birth,**

2 **when.** (a) The department of health shall establish, in the  
3 following circumstances, a new certificate of birth for a person  
4 born in this State who already has a birth certificate filed  
5 with the department and who is referred to below as the "birth  
6 registrant":

7           (1) Upon receipt of an affidavit of paternity, a court  
8           order establishing paternity, or a certificate of  
9           marriage establishing the marriage of the natural  
10          parents to each other, together with a request from  
11          the birth registrant, or the birth registrant's parent  
12          or other person having legal custody of the birth  
13          registrant, that a new birth certificate be prepared  
14          because previously recorded information has been  
15          altered pursuant to law;

16          (2) Upon receipt of a certified copy of a final order,  
17          judgment, or decree of a court of competent  
18          jurisdiction that determined the nonexistence of a  
19          parent and child relationship between a person  
20          identified as a parent on the birth certificate on  
21          file and the birth registrant;



- 1           (3) Upon receipt of a certified copy of a final adoption  
2           decreed, or of an abstract of the decree, pursuant to  
3           sections 338-20 and 578-14;
- 4           (4) Upon receipt of an affidavit [~~from a United States~~  
5           ~~licensed physician attesting that:~~
- 6           ~~(A) The physician has a bona fide physician-patient~~  
7           ~~relationship with the birth registrant;~~
- 8           ~~(B) The physician has treated and evaluated the birth~~  
9           ~~registrant and has reviewed and evaluated the~~  
10          ~~birth registrant's medical history;~~
- 11          ~~(C) The birth registrant has had appropriate clinical~~  
12          ~~treatment for gender transition to the new gender~~  
13          ~~and has completed the transition to the new~~  
14          ~~gender; and~~
- 15          ~~(D) The new gender does not align with the sex~~  
16          ~~designation on the birth registrant's birth~~  
17          ~~certificate; ~~or~~] and request for a change in sex~~  
18          designation on the birth registrant's birth  
19          certificate, if the birth registrant is an adult,  
20          or for a change in sex designation of a minor  
21          birth registrant's birth certificate by the minor



1                   birth registrant's parent or legal guardian,  
2                   pursuant to the requirements under subsection  
3                   (c); or

4           (5) Upon request of a law enforcement agency certifying  
5           that a new birth certificate showing different  
6           information would provide for the safety of the birth  
7           registrant; provided that the new birth certificate  
8           shall contain information requested by the law  
9           enforcement agency, shall be assigned a new number and  
10          filed accordingly, and shall not substitute for the  
11          birth registrant's original birth certificate, which  
12          shall remain in place.

13          (b) When a new certificate of birth is established under  
14          this section, it shall be substituted for the original  
15          certificate of birth. The new certificate shall not be marked  
16          as amended and shall in no way reveal the original language  
17          changed by any amendment. Thereafter, the original certificate  
18          and the evidence supporting the preparation of the new  
19          certificate shall be sealed and filed. The sealed documents  
20          shall be opened only by an order of a court of record or, for



1 those documents amended pursuant to [~~subsection~~] subsections  
2 (a) (4) [~~7~~] and (c), by request of the birth registrant.  
3 (c) A new certificate of birth shall be established  
4 pursuant to subsection (a) (4); provided that:  
5 (1) The request for a new certificate of birth shall be  
6 submitted to the department of health along with a  
7 completed, signed, and dated sex designation change  
8 application provided by the state registrar that  
9 includes, at a minimum, the following information for  
10 the birth registrant:  
11 (A) Full name listed on the birth certificate;  
12 (B) Date of birth;  
13 (C) Place of birth;  
14 (D) Both parents' full names as listed on the birth  
15 certificate;  
16 (E) Contact information; and  
17 (F) Sex designation requested (male, female, or X);  
18 (2) If an adult birth registrant or parent or legal  
19 guardian of a minor birth registrant cannot provide  
20 the information in paragraph (1) due to special  
21 circumstances, the adult birth registrant or parent or



1 legal guardian of a minor birth registrant shall  
2 submit a written explanation of the circumstances to  
3 the state registrar. The department of health may  
4 change the sex designation on the birth certificate  
5 if, in the state registrar's judgment, these  
6 circumstances prevent the adult birth registrant or  
7 parent or legal guardian of the minor birth registrant  
8 from knowing one or more of the required items;

9 (3) A sex designation change application for an adult  
10 birth registrant shall only be submitted by the adult  
11 birth registrant and shall be notarized and signed  
12 under penalty of perjury; and

13 (4) A sex designation change application for a minor birth  
14 registrant shall only be submitted by the parent or  
15 legal guardian of the minor birth registrant and shall  
16 be accompanied by a signed statement by the minor  
17 birth registrant's licensed health care provider  
18 attesting that:

19 (A) The minor birth registrant identified on the  
20 application is under the care of the health care  
21 provider; and



1           (B) The health care provider has determined the  
2           request for a change in sex designation on the  
3           minor birth registrant's birth certificate is  
4           consistent with the minor birth registrant's  
5           identity;  
6           provided that only a licensed health care provider  
7           whose scope of practice allows for attestation of a  
8           sex designation change shall provide the attestation  
9           required under this paragraph.

10          ~~[(e)]~~ (d) If a new certificate of birth is established  
11 under ~~[subsection]~~ subsections (a)(4) [7] and (c), it shall  
12 reflect, or shall be reissued to reflect, any legal name change  
13 made before, simultaneously, or after the change in sex  
14 designation; provided appropriate documentation of the name  
15 change is submitted.

16          ~~[(d)]~~ (e) If a new certificate of birth is established  
17 under ~~[subsection]~~ subsections (a)(4) [7] and (c), the department  
18 shall not require any additional medical information or records  
19 other than those required by ~~[subsection]~~ subsections (a)(4) [7]  
20 and (c).

21          (f) For purposes of this section:



1 "Adult" means a person eighteen years of age or older or an  
2 emancipated minor as deemed pursuant to section 577-25.

3 "X" means a third non-binary gender option."

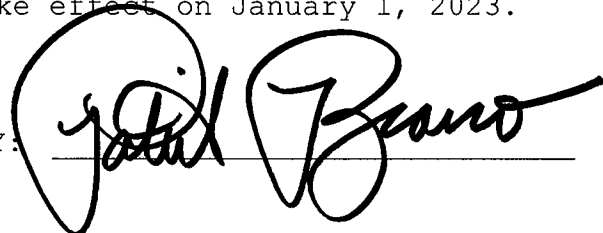
4 SECTION 3. The department of health shall create and make  
5 available the necessary forms for the application for a new  
6 certificate of birth established pursuant to section 2 of this  
7 Act.

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval;  
11 provided that section 2 shall take effect on January 1, 2023.

12

INTRODUCED BY: \_\_\_\_\_



JAN 26 2022





# H.B. NO. 2451

**Report Title:**

Vital Statistics; Birth Certificates; Establishment of New Birth Certificates; Gender Markers

**Description:**

Beginning 01/01/2023, adds the gender marker "X" as a third gender option on birth certificates and permits individuals to submit an application for a change in sex designation on their birth certificates that reflects this third gender option.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

