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# A BILL FOR AN ACT

RELATING TO MARRIAGE.

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

1           SECTION 1. The legislature finds that, according to a 2016  
2 report by the Williams Institute on Sexual Orientation and  
3 Gender Identity Law and Public Policy, Hawaii has the highest  
4 percentage of transgender-identifying individuals in the United  
5 States. The legislature notes that, in general, a transgender-  
6 identifying individual experiences high levels of discrimination  
7 in all aspects of the individual's life. The legislature also  
8 notes that Hawaii has been at the forefront of implementing  
9 policies to protect transgender persons and believes that the  
10 State should continue to take proactive measures.

11           The legislature further finds that, according to a 2013  
12 report by the university of Hawaii, gender-stereotypical  
13 policies and norms continue to stigmatize and exclude  
14 transgender persons in the State. Additionally, according to  
15 the 2018 sexual and gender minority health report by the  
16 department of health, the stigmatized minority status of  
17 transgender individuals is causing negative and disproportionate



1 health outcomes, fewer economic opportunities, and less  
2 sociopolitical power.

3       The legislature recognizes that Act 148, Session Laws of  
4 Hawaii 2019, expanded the gender identity options available on  
5 Hawaii driver's licenses and state identification cards,  
6 enabling transgender and gender-nonconforming persons to avoid  
7 invasive questioning and discriminatory treatment. Accordingly,  
8 as of July 1, 2020, any person may specify the person's gender  
9 designation as "F", "M", or "X" on a Hawaii driver's license or  
10 state identification card. However, under current law, a  
11 transgender-identifying person is limited in changing the  
12 person's gender designation on a marriage certificate. Name  
13 changes are permitted only within a four-week period after the  
14 marriage or through a court order. This makes it difficult and  
15 expensive for a transgender-identifying person to update a  
16 marriage certificate to reflect the person's identity, causing  
17 confusion and stress when the person is asked to produce this  
18 documentation.

19       Accordingly, the purpose of this Act is to require the  
20 department of health to issue a new marriage certificate when



1 necessary to reflect a change in name or gender, upon receipt of  
2 the required supporting documentation.

3 SECTION 2. Chapter 338, Hawaii Revised Statutes, is  
4 amended by adding a new section to part I to be appropriately  
5 designated and to read as follows:

6 "§338- New certificates of marriage; issuance; gender  
7 and sex identifiers. (a) The department of health shall permit  
8 any person who possesses a valid certificate of marriage that  
9 has been filed with the department and that includes gender and  
10 sex identifiers for the person that differ from the person's  
11 changed gender and sex identifiers and, if applicable, changed  
12 name, to apply for a new certificate of marriage; provided that  
13 the department shall require the applicant to submit the  
14 following:

15 (1) An application for a new certificate of marriage  
16 providing the applicant's requested:

17 (A) Designation as "bride", "groom", "partner", or  
18 "spouse"; and

19 (B) Name, if applicable;

20 (2) A copy of one of the following documents:



- 1           (A) The applicant's new certificate of birth
- 2                   reflecting the applicant's change of gender and
- 3                   sex identifier;
- 4           (B) A government-issued identification document
- 5                   reflecting the applicant's change of gender and
- 6                   sex identifier, including any change of gender
- 7                   accomplished by an order of any court of any
- 8                   state or territory of the United States, the
- 9                   District of Columbia, or any foreign court; or
- 10          (C) An affidavit attesting, under penalty of perjury,
- 11                   that the request for a change of the designation
- 12                   of the applicant as "bride", "groom", "partner",
- 13                   or "spouse" is to conform to the applicant's
- 14                   gender identity and is not made for any
- 15                   fraudulent purpose;
- 16          (3) If the applicant requests that the new certificate of
- 17                   marriage reflect a different name for the applicant
- 18                   than what is provided on the original certificate of
- 19                   marriage, a certified copy of the applicant's change
- 20                   of name order obtained under section 574-5(a)(1) or



1           (5), including a certified English translation, if  
2           applicable; and

3           (4) A notarized letter from the current non-applicant  
4           spouse consenting to the changes to be made to the  
5           original certificate of marriage; provided that the  
6           notarized letter shall substantially contain the  
7           following language:

8           "I, (non-applicant spouse's full name), stipulate to  
9           an issuance of a new certificate of marriage for  
10           myself that reflects my spouse's legal gender, sex,  
11           and, if applicable, name."

12           (b) Each new certificate of marriage issued pursuant to  
13 this section shall:

14           (1) Reflect the applicant's changed:

15           (A) Designation as "bride", "groom", "partner", or  
16           "spouse"; and

17           (B) Name, if applicable; and

18           (2) Replace the original certificate of marriage.

19           (c) No new certificate of marriage issued pursuant to this  
20 section shall:

21           (1) Be marked as amended; or



1       (2) Reveal the language of the original certificate of  
2       marriage that was changed.

3       (d) The department of health shall establish fees pursuant  
4       to chapter 91 to be paid for the issuance of a new certificate  
5       of marriage pursuant to this section.

6       (e) Upon receipt of the documents submitted pursuant to  
7       subsection (a) and the applicant's payment of the fees  
8       established pursuant to subsection (d), the department of health  
9       shall:

10       (1) Issue to the applicant a new certificate of marriage;  
11       and

12       (2) Seal and file any documents evidencing the preparation  
13       of the new certificate of marriage, including the  
14       original certificate of marriage; provided that these  
15       documents shall only be opened pursuant to an order of  
16       any court of competent jurisdiction within a state,  
17       territory, or possession of the United States, or by  
18       request of the marriage registrant.

19       (f) The department of health shall issue a new certificate  
20       of marriage to any applicant who satisfies the requirements of  
21       this section regardless of the date of the applicable marriage."



1 SECTION 3. Section 572-13, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Certified copies of certificate of marriage. The  
4 department of health shall deliver one certified copy of the  
5 certificate of marriage or the contents or any part thereof as  
6 provided in section 338-13 to the persons married. ~~[The~~  
7 ~~certificate shall be prima facie evidence of the fact of~~  
8 ~~marriage in any proceeding in any court.~~

9 ~~The]~~ Upon request, the department of health shall ~~[upon~~  
10 ~~request,]~~ furnish to any applicant additional certified copies  
11 of the certificate of marriage or any part thereof.

12 ~~[Copies]~~ Except for any certificate of marriage replaced,  
13 sealed, and filed pursuant to section 338- , copies of the  
14 contents of any certificate on file ~~[in the department,]~~ with,  
15 and certified by, the department shall be considered the same as  
16 the original for all purposes ~~[the same as the original].~~

17 The department may prescribe reasonable fees, if any, to be  
18 paid for certified copies of certificates."

19 SECTION 4. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

2



**Report Title:**

Department of Health; Certificates of Marriage; Changes; Gender and Sex Identifiers

**Description:**

Provides for the replacement of certificates of marriage for individuals who have changed their gender, sex, and, if applicable, name. (HD3)

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

