

JAN 17 2025

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# 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 in 2019, it passed  
2 H.B. No. 1165, which the governor signed into law as Act 148,  
3 Session Laws of Hawaii 2019. This law expanded gender markers  
4 for Hawai'i's driver's licenses and state identification cards.  
5 The legislature further acknowledges that on July 1, 2020, that  
6 law went into effect smoothly. In other states, such as  
7 Washington, the third gender marker has also been instated for  
8 other official documents, such as birth certificates. This  
9 ensures that an individual's gender markers match on the  
10 individual's driver's license, state identification card, and  
11 other official documents.

12       The purpose of this Act is to add the third gender marker  
13 "X" as a third gender option on birth certificates.

14       SECTION 2. Section 338-17.7, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16       "(a) The department of health shall establish, in the  
17 following circumstances, a new certificate of birth for a person



1 born in this State who already has a birth certificate filed  
2 with the department and who is referred to below as the "birth  
3 registrant":

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

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

19 (3) Upon receipt of a certified copy of a final adoption  
20 decree, or of an abstract of the decree, pursuant to  
21 sections 338-20 and 578-14;



(4) Upon receipt of an affidavit ~~[from a United States licensed physician or physician assistant attesting that:~~

~~(A) The physician or physician assistant has a bona fide provider patient relationship with the birth registrant;~~

~~(B) The physician or physician assistant has treated and evaluated the birth registrant and has reviewed and evaluated the birth registrant's medical history;~~

~~(C) The birth registrant has had appropriate clinical treatment for gender transition to the new gender and has completed the transition to the new gender; and~~

~~(D) The new gender does not align with the sex designation on the birth registrant's birth certificate;]~~

for a change in sex designation on a person's own birth certificate by an adult, or for a change in sex designation of a minor's birth certificate by a minor's parent or legal guardian; provided that:



- 1           (A) Only an adult may apply for a change in sex
- 2           designation on a certificate for oneself;
- 3           (B) Only the parent or legal guardian of a minor may
- 4           apply for a change of sex designation on the
- 5           minor's birth certificate;
- 6           (C) To change sex designation on a birth certificate,
- 7           an adult, or parent or legal guardian of a minor,
- 8           shall submit to the department a completed,
- 9           signed, and dated application provided by the
- 10           state registrar that includes, at a minimum, the
- 11           following information for the person named on the
- 12           birth certificate:
- 13           (i) Full name listed on the birth certificate;
- 14           (ii) Date of birth;
- 15           (iii) Place of birth;
- 16           (iv) Both parents' full names as listed on the
- 17           birth certificate;
- 18           (v) Contact information; and
- 19           (vi) Sex designation requested (male, female, or
- 20           X);



1           (D) If an adult, or parent or legal guardian, cannot  
2           provide the information in subparagraph (C), the  
3           adult, or parent or legal guardian, shall submit  
4           a written explanation of the circumstances to the  
5           state registrar. The department may change the  
6           sex designation on the birth certificate if, in  
7           the state registrar's judgment, the circumstances  
8           prevent the adult, or parent or legal guardian,  
9           from knowing one or more of the required items;

10          (E) The sex designation change application of an  
11          adult shall be notarized and signed under penalty  
12          of perjury;

13          (F) The sex designation change application of a minor  
14          shall include a signed statement by a licensed  
15          health care provider whose scope of practice  
16          allows for attestation of a sex designation  
17          change attesting that:

18            (i) The minor identified on the application is  
19            under the care of the provider; and

20            (ii) The provider has determined the request to  
21            change sex designation on the birth



1 certificate is consistent with the minor's  
2 identity; and

3 (G) For the purpose of this paragraph:

4 "Adult" means a person who is at least  
5 eighteen years of age or older, or is an  
6 emancipated minor under chapter 577-25; and  
7 "X" means a third non-binary gender option;

8 or

9 (5) Upon request of a law enforcement agency certifying  
10 that a new birth certificate showing different  
11 information would provide for the safety of the birth  
12 registrant; provided that the new birth certificate  
13 shall contain information requested by the law  
14 enforcement agency, ~~[shall]~~ be assigned a new number  
15 and filed accordingly, and ~~[shall]~~ not substitute for  
16 the birth registrant's original birth certificate,  
17 which shall remain in place."

18 SECTION 3. The department of health shall create and make  
19 available the necessary forms for the application for the  
20 establishment of a new certificate of birth for all categories  
21 listed in section 338-17.7, Hawaii Revised Statutes.



1       SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3       SECTION 5. This Act shall take effect on July 1, 2025;  
4 provided that section 2 shall take effect on January 1, 2026.

5

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

*Karl Rhoads*



**Report Title:**

Vital Statistics; Birth Certificate; Gender Marker

**Description:**

Beginning 1/1/2026, allows a qualified applicant to change their sex designation on their birth certificate. Establishes information required for an applicant to change their sex designation on their birth certificate. Requires the Department of Health to create and make available necessary forms.

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

