

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO BIRTH CERTIFICATES.

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

1           SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§338-17.7 Establishment of new certificates of birth,**  
4 **when.** (a) The department of health shall establish, in the  
5 following circumstances, a new certificate of birth for a person  
6 born in this State who already has a birth certificate filed  
7 with the department and who is referred to below as the "birth  
8 registrant":

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



- 1           (2) Upon receipt of a certified copy of a final order,  
2                    judgment, or decree of a court of competent  
3                    jurisdiction that determined the nonexistence of a  
4                    parent and child relationship between a person  
5                    identified as a parent on the birth certificate on  
6                    file and the birth registrant;
- 7           (3) Upon receipt of a certified copy of a final adoption  
8                    decree, or of an abstract of the decree, pursuant to  
9                    sections 338-20 and 578-14;
- 10          (4) Upon receipt of [~~an affidavit of a physician that the~~  
11                    ~~physician has examined the birth registrant and has~~  
12                    ~~determined~~] the following[+] documents:
- 13           [~~(A) The birth registrant's sex designation was~~  
14                    ~~entered incorrectly on the birth registrant's~~  
15                    ~~birth certificate; or~~
- 16           ~~(B) The birth registrant has had a sex change~~  
17                    ~~operation and the sex designation on the birth~~  
18                    ~~registrant's birth certificate is no longer~~  
19                    ~~correct; provided that the director of health may~~  
20                    ~~further investigate and require additional~~  
21                    ~~information that the director deems necessary;~~  
22                    ~~or~~]



- 1           (A) A written request from the birth registrant,  
2                           signed under penalty of perjury, that the  
3                           department issue a birth certificate with a  
4                           gender designation that differs from the gender  
5                           designated on the birth registrant's original  
6                           birth certificate;
  
- 7           (B) A notarized statement from the birth registrant's  
8                           licensed treating or evaluating physician stating  
9                           that:
  - 10                   (i) The birth registrant's sex designation was  
11                           entered incorrectly on the birth  
12                           registrant's original birth certificate; or
  - 13                   (ii) The birth registrant has undergone surgical,  
14                           hormonal, or other treatment appropriate for  
15                           that individual for the purpose of gender  
16                           transition, and that in the physician's  
17                           opinion the birth registrant's gender  
18                           designation should be changed accordingly;  
19                           and
  
- 20           (C) If the birth registrant is requesting a name  
21                           change on the new certificate, an official copy  
22                           of the legal name change document; or



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

10           (b) When a new certificate of birth is established under  
11           this section, it shall be substituted for the original  
12           certificate of birth. The new certificate shall not be marked  
13           as having been amended and shall in no way reveal the original  
14           language changed by the amendment. Thereafter, the original  
15           certificate and the evidence supporting the preparation of the  
16           new certificate shall be sealed and filed. [~~Such sealed~~  
17           ~~document~~] The sealed documents shall be opened only by an order  
18           of a court of record[~~-~~] or by request of the birth registrant.

19           (c) For a new certificate of birth established pursuant to  
20           subsection (a) (4), the department shall not require any  
21           additional medical information or records.



1        (d) Upon the department's refusal to establish a new birth  
2 certificate under this section, the birth registrant shall have  
3 a cause of action in a court of competent jurisdiction to  
4 petition for the new certificate. The department shall give the  
5 birth registrant written notice of this right."

6        SECTION 2. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8        SECTION 3. This Act shall take effect upon its approval.  
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**Report Title:**

New Birth Certificates; Transgender

**Description:**

Provides amended birth certificates for persons who have undergone a gender transition.

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

