
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 people and believes that Hawaii
10 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 polices
13 and norms continue to stigmatize and exclude transgender people
14 in the State. Additionally, according to the 2018 sexual and
15 gender minority health report by the department of health, the
16 stigmatized minority status of transgender individuals is



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

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

18 Accordingly, the purpose of this Act is to require the
19 department of health to issue new marriage certificates to
20 reflect changes in both name and gender upon receipt of the
21 required supporting documentation.



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

4 "§338- New certificates of marriage; issuance; gender
5 and sex identifiers. (a) The department of health shall permit
6 any person who possesses a valid certificate of marriage that
7 has been filed with the department and that includes gender and
8 sex identifiers for the person that differ from the person's
9 changed gender and sex identifiers and, if applicable, a changed
10 name, to apply for a new certificate of marriage; provided that
11 the department shall require the applicant to submit the
12 following:

13 (1) An application for a new marriage license to reflect
14 the applicant's change:

15 (A) To the designation of the person as "bride",
16 "groom", or "spouse"; and

17 (B) Of name, if applicable;

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

19 (A) The applicant's new certificate of birth
20 reflecting the applicant's change of gender and
21 sex identifier;



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



1 letter shall substantially contain the following
2 language:

3
4 "I, (non-applicant spouse's full name), stipulate to
5 an issuance of a new marriage certificate for myself
6 that reflects my spouse's legal gender, sex, and, if
7 applicable, name."

8
9 (b) Each new certificate of marriage issued pursuant to
10 this section shall:

- 11 (1) Reflect the applicant's changed:
12 (A) Designation as "bride", "groom", or "spouse"; and
13 (B) Of name, if applicable; and

14 (2) Replace the original certificate of marriage.

15 (c) No new certificate of marriage issued pursuant to this
16 section shall:

- 17 (1) Be marked as amended; or
18 (2) Reveal the language of the original certificate of
19 marriage that was changed in the new certificate of
20 marriage.



1 (d) The department of health shall establish fees to be
2 paid for issuance of a new certificate of marriage pursuant to
3 this section.

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

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

17 (f) The department of health shall issue a new certificate
18 of marriage to any applicant who has satisfied the requirements
19 of this section regardless of the date of the applicable
20 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 on June 30, 3000.

2



Report Title:

Department of Health; Vital Statistics; Certificates of Marriage; Issuance; 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. Effective 6/30/3000. (HD1)

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