

---

# 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 and choice of terminology:

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

17 (B) 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", "partner",  
10           or "spouse" is to conform to the applicant's  
11           gender identity and is not made for any  
12           fraudulent purpose;

13           (3) If the applicant desires that the new certificate of  
14           marriage reflect a different name for the applicant  
15           than what is reflected on the original certificate of  
16           marriage, a certified copy of the applicant's change  
17           of name order obtained under section 574-5(a)(1) or  
18           (5), including a certified English translation, if  
19           applicable; and

20           (4) A notarized letter from the current non-applicant  
21           spouse consenting to the changes to be made to the



1 original certificate of marriage; provided that the  
2 notarized letter shall substantially contain the  
3 following language:

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

10 (1) Reflect the applicant's changed:

11 (A) Designation as "bride", "groom", "partner", or  
12 "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 pursuant  
2 to chapter 91 to be paid for the issuance of a new certificate  
3 of marriage pursuant to 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; 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. Effective 6/30/3000. (HD2)

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

