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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 This law expanded gender markers for Hawai'i's driver's licenses  
4 and state identification cards. The legislature further  
5 acknowledges that on July 1, 2020, that law went into effect  
6 smoothly. In other states, such as Washington, the third gender  
7 marker has also been instated for other official documents, such  
8 as birth certificates. This ensures that an individual's gender  
9 markers match on the individual's driver's license, state  
10 identification card, and other official documents. The purpose  
11 of this Act is to add the third gender marker "X" as a third  
12 gender option on birth certificates.

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

15           "(a) The department of health shall establish, in the  
16 following circumstances, a new certificate of birth for a person  
17 born in this State who already has a birth certificate filed



1 with the department and who is referred to below as the "birth  
2 registrant":

- 3 (1) Upon receipt of an affidavit of paternity, a court  
4 order establishing paternity, or a certificate of  
5 marriage establishing the marriage of the natural  
6 parents to each other, together with a request from  
7 the birth registrant, or the birth registrant's parent  
8 or other person having legal custody of the birth  
9 registrant, that a new birth certificate be prepared  
10 because previously recorded information has been  
11 altered pursuant to law;
- 12 (2) Upon receipt of a certified copy of a final order,  
13 judgment, or decree of a court of competent  
14 jurisdiction that determined the nonexistence of a  
15 parent and child relationship between a person  
16 identified as a parent on the birth certificate on  
17 file and the birth registrant;
- 18 (3) Upon receipt of a certified copy of a final adoption  
19 decree, or of an abstract of the decree, pursuant to  
20 sections 338-20 and 578-14;



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

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

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

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

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

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



# H.B. NO. 805

- 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 paragraph (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, these  
8           circumstances prevent the adult, or parent or  
9           legal guardian, from knowing one or more of the  
10           required items;
- 11           (E) The sex designation change application of an  
12           adult shall be notarized and signed under penalty  
13           of perjury;
- 14           (F) The sex designation change application of a minor  
15           shall include a signed statement by the minor's  
16           licensed health care provider attesting that:
  - 17           (i) The minor identified on the application is  
18           under the care of the provider; and
  - 19           (ii) The provider has determined the request to  
20           change sex designation on the birth



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

3           (G) Only licensed health care providers whose scope  
4           of practice allows for attestation of a sex  
5           designation change may provide this attestation;

6           (H) As used in this paragraph:

7                   "Adult" means a person who is at least  
8                   eighteen years of age or older, or is an  
9                   emancipated minor under chapter 577-25; and

10                   "X" means a third non-binary gender option;

11                   or

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





# H.B. NO. 805

**Report Title:**

Vital Statistics; Birth Certificate; Gender Marker

**Description:**

Beginning 1/1/2024, 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 beginning 7/1/2023.

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

