Identity Document Laws and Policies:
Birth Certificates

No updates required since November 22, 2021

For more information about each state’s process and requirements, see the National Center for Transgender Equality’s ID Documents Center.

Process categories and scoring system:
The process for changing the gender marker on a birth certificate involves:
(1) State issues new birth certificate and does not require surgery or a court order
(0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
(0) State has unclear, unknown, or unwritten policy regarding gender marker changes
(-1) State requires proof of “sex reassignment surgery” to change gender marker, or does not allow changing the gender marker at all

Option categories and scoring system:
(0.5) State allows individuals to mark M, F, or X on their birth certificate
(0) State only allows individuals to identify as male or female

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Alabama
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See Alabama Code § 22-9A-19(d) (1992) or Form ADPH-HS-33

Alaska
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See Department of Vital Records Gender Change Policy

Arizona
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Arkansas
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
California
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See Health and Safety Code, §§ 103425-103445 (2014) and Form VS 24

Colorado
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See H.B. 19-1039 (2019) and Department of Public Health’s Birth Certificate Gender Change Information

Connecticut
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate

Delaware
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female

District of Columbia
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female

Florida
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female

Georgia
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Hawai’i
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female
Idaho
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female
- Recent history: F.V. v. Barron (2018) required Idaho's Department of Health and Welfare to develop and implement a policy for issuing accurate birth certificates. The new policy was (1) state issued new birth certificate and did not require surgery or court order (see Idaho Gender Change Packet (2018)). However, HB509 (March 2020) changed the state's policy to -(1) does not allow for amending the gender marker on the birth certificate at all. F.V. v. Jeppesen (August 2020), overturned HB509, reverting to the state's earlier policy of (1) issuing new birth certificates and not requiring surgery or a court order.

Illinois
- (1) State issues new birth certificate and does not require surgery or a court order (2017)
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2020)
- See Illinois Vital Records Act (2017) and Illinois Department of Public Health forms

Indiana
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See Ind. Code Ann. § 16-37-2-10(b), IN Department of Health FAQ, and NCTE information

Iowa
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See Iowa Code Ann. § 144.23(3) (2004)

Kansas
- (1) State issues new birth certificate and does not require surgery or a court order (2017)
- (0) State only allows residents to identify as male or female
- See consent judgment in Foster v. Andersen (2019)

Kentucky
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Louisiana
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
Maine
• (1) State issues new birth certificate and does not require surgery or a court order
• (0.5) State allows individuals to mark M, F, or X on birth certificate
• See Maine Department of Health and Human Services 10-146 CMR ch. 16 (2020)

Maryland
• (1) State issues new birth certificate and does not require surgery or a court order
• (0) State only allows residents to identify as male or female

Massachusetts
• (1) State issues new birth certificate and does not require surgery or a court order
• (0) State only allows residents to identify as male or female

Michigan
• (1) State issues new birth certificate and does not require surgery or a court order
• (0.5) State allows individuals to mark M, F, or X on birth certificate
• State formerly required proof of sex reassignment surgery in order to change gender marker (see Mich. Comp. Laws Ann. § 333.2831(c) (2006)). In February 2021, the Michigan Department of Health and Human Services (MDHHS) formally requested guidance from the state’s Attorney General regarding the constitutionality of that requirement. In June 2021, the Attorney General issued Opinion 7313, finding that the requirement was unconstitutional. In July 2021, the state published a new process allowing for self-attestation with no requirement of medical documentation or a court order. See also Sex Designation Form, including “X” options.

Minnesota
• (1) State issues new birth certificate and does not require surgery or a court order
• (0) State only allows residents to identify as male or female

Mississippi
• (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
• (0) State only allows residents to identify as male or female
• See Miss. Admin. Code 15-5-85:3.21.2

Missouri
• (-1) State requires proof of “sex reassignment surgery” to change gender marker
• (0) State only allows residents to identify as male or female
Montana

- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See SB 280 (2021).
- Formerly, (1) state issued new birth certificate and did not require surgery or court order. See Montana Rule: 37.8.311 (2017).

Nebraska

- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Nevada

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate

New Hampshire

- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See NH RSA 5-C:87

New Jersey

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate

New Mexico

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See SB 20 (2019). Formerly (-1) required proof of “sex reassignment surgery.”

New York

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2020)
- See N.Y. Comp. Codes R. & Regs. Tit 10, § 35.2 (2014) and DOH’s Gender Designation Corrections information, “including requests for non-binary gender designations”

North Carolina

- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
North Dakota
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Ohio
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See Ohio Department of Health’s website (2021) and ACLU of Ohio’s FAQ for X option info. See also Form 30.0 “Application for Correction of Birth Record” (Aug 2021) to initiate court order.
- Prior to 2016, state (0.5) updated gender markers with a court order, consistent with state’s statutory process for other birth certificate changes. Beginning in 2016, state (-1) refused to change gender markers even under court order. This policy was ruled unconstitutional in Ray v. McCloud (Dec 2020), and the state announced in April 2021 that it would not challenge the ruling. The current policy (0.5) was announced in May 2021.

Oklahoma
- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
  - Note: the state issued its first nonbinary marker in Oct 2021, but the state’s Governor then issued Executive Order 2021-24 (Nov 2021) to prevent such options.
- Previously, Oklahoma had unclear, unknown, or unwritten policy regarding gender marker changes on birth certificates (0). In Oct 2021, the state’s Department of Health formalized a process for these changes (requiring a court order (0.5)) including the option of a nonbinary gender marker, all as part of a settlement in a federal lawsuit. In Nov 2021, the state’s Governor issued Executive Order 2021-24, not only preventing nonbinary options but also any changes of sex/gender markers on birth certificates (-1).

Oregon
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See HB 2673 (2017)

Pennsylvania
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See Pennsylvania Department of Health policy and Birth Certificate Correction Form

Rhode Island
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2019)
South Carolina
- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female
- See NCTE for more information.

South Dakota
- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female
- See S.D. Admin. R. 44:09:05:02, or NCTE for more information.

Tennessee
- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female

Texas
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See Form VS-170, TX Health & Safety Code § 192.011, and NCTE for more information

Utah
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate

Vermont
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See 18 Vt. Stat. § 5112 (2011)

Virginia
- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See SB 657 (2020)

Washington
- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See the Washington Department of Health’s policy
West Virginia
- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- State clearly allows for gender updates with a court order (see W. Va. Code § 16-5-25, § 64-32-12), but State Supreme Court of Appeals ruled in In re: G.M. (June 2020) that courts do not have the authority to order state’s Department of Health & Human Resources to change the gender marker on a birth certificate, in effect disallowing gender marker changes entirely. This ruling is being appealed by the ACLU in Hersom v. Crouch (filed August 2021). See also this coverage.
  - For info on previous policy/process, see also WV Department of Health & Human Resources “Correcting a Birth Certificate” page, and NCTE’s state page

Wisconsin
- (-1) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female

Wyoming
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See WY Rules and Regulations HLTH VR Ch. 10 s 4(e)(iii) (2004) or NCTE’s state page

U.S. Territories

American Samoa
- (0) Territory has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) Territory only allows residents to identify as male or female
- “The High Court of American Samoa has held that the alteration of a birth certificate is granted only to correct information that was erroneous at the time of recordation, or to reflect a name change due to adoption.” NCTE reports anecdotal cases of successfully updating gender markers on birth certificates, but there is no clear policy for doing so.

Guam
- (-1) Territory requires proof of “sex reassignment surgery” to change gender marker
- (0) Territory only allows residents to identify as male or female
- “In order to update the gender marker on a birth certificate, the requestor must provide a sworn statement from the physician having performed the surgery, thus certifying the sex of the requestor has been changed by surgical procedure.”
Commonwealth of the Northern Mariana Islands

- (0.5) Territory is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) Territory only allows residents to identify as male or female
- “In order to change a legal name on a birth certificate, the applicant must provide a court order for legal name and gender marker change to the Vital Statistics Office Division of Public Health.”

Puerto Rico

- (1) Territory issues new birth certificate and does not require surgery or a court order
- (0) Territory only allows residents to identify as male or female
- See Arroyo v. Rosselló (2018) or NCTE for more information.

U.S. Virgin Islands

- (0) Territory has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) Territory only allows residents to identify as male or female
- See NCTE for more information.