Identity Document Laws and Policies:
Birth Certificates

No updates required since June 30, 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

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
<table>
<thead>
<tr>
<th>State</th>
<th>Requirements</th>
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</thead>
</table>
| 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 Hlth. 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             
|            | • See Del. Administrative Code Title 16 § 4205 (2017).                        |
| 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             
|            | • See D.C. Law 20-37 (2013) or Gender Designation Packet (2014)              |
| 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              
|            | • See Ga. Code Ann. § 31-10-23(e) (2005)                                     |
| 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
<table>
<thead>
<tr>
<th>State</th>
<th>(1) State issues new birth certificate and does not require surgery or a court order</th>
<th>(0.5) State allows individuals to mark M, F, or X on birth certificate</th>
<th>See <a href="https://www.maine.gov/health/healthcareinductionfunds/policy/2016rule20060628.pdf">Maine Department of Health and Human Services 10-146 CMR ch. 16</a> (2020)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maine</td>
<td>(1) State issues new birth certificate and does not require surgery or a court order</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://law.maryland.gov/laws/rg/2006/04/214/214b5.html">Md. Code Ann, [Health - Gen.] § 4-214(b)(5)</a> (2006)</td>
</tr>
<tr>
<td>Maryland</td>
<td>(1) State issues new birth certificate and does not require surgery or a court order</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://www.mass.gov/regs/2006/ch46/13e.html">Mass Gen. Laws Ann. ch. 46, § 13(e)</a> (2006)</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>(1) State issues new birth certificate and does not require surgery or a court order</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://www.lega.gov/docs/mich/333-2831-c.pdf">Mich. Comp. Laws Ann. § 333.2831(c)</a> (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 <a href="https://www.michigan.gov/attorneygeneral/0,2108,7-116-7276_59901--,00.html">Opinion 7313</a>, finding that the requirement was unconstitutional. The state does not yet have a new process, so the state is currently listed as having an unknown policy until such time as it announces and implements a replacement policy.</td>
</tr>
<tr>
<td>Michigan</td>
<td>(0) State has unclear, unknown, or unwritten policy regarding gender marker changes</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://www.michigan.gov/regs/2006/ch193/215-9.html">Mo. Ann. Stat. § 193.215(9)</a> (2006)</td>
</tr>
<tr>
<td>Michigan</td>
<td>(0) State has unclear, unknown, or unwritten policy regarding gender marker changes</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://laws.mississippi.gov/adminrule/15-5-85-3.21.2">Miss. Admin. Code 15-5-85-3.21.2</a></td>
</tr>
<tr>
<td>Mississippi</td>
<td>(0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order</td>
<td>(0) State only allows residents to identify as male or female</td>
<td>See <a href="https://laws.mississippi.gov/adminrule/15-5-85-3.21.2">Miss. Admin. Code 15-5-85-3.21.2</a></td>
</tr>
</tbody>
</table>
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
- 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
- (0) State has unclear, unknown or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female

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) 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.

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 may require 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
- (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 W. Va. Code § 16-5-25, 64-32-12, 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.