



AN ACT REVISING VITAL STATISTICS LAWS REGARDING THE AMENDMENT OF BIRTH CERTIFICATE SEX DESIGNATIONS AND THE ISSUANCE OF REPLACEMENT BIRTH CERTIFICATES; PROVIDING THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY AMEND A BIRTH CERTIFICATE SEX DESIGNATION ONLY ON RECEIPT OF A COURT ORDER INDICATING THAT THE SEX OF A PERSON HAS BEEN CHANGED BY SURGICAL PROCEDURE; DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO AMEND ADMINISTRATIVE RULES IN CONFORMITY WITH THIS ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

WHEREAS, in December 2017, the Department of Public Health and Human Services (DPHHS) adopted MAR Notice No. 37-807, which amended ARM 37.8.102 and 37.8.311 to allow an individual to correct the gender designation on the individual's birth certificate by providing to DPHHS a correction affidavit accompanied by: (1) a completed gender designation form certifying that the individual has undergone gender transition or has an intersex condition; (2) a government-issued identification displaying the correct gender designation; or (3) a certified copy of a court order indicating that the gender of the individual born in Montana has been changed; and

WHEREAS, prior to the adoption of MAR Notice No. 37-807, the sex designation on a birth certificate could only be amended if DPHHS received a certified copy of an order from a court indicating that the sex of an individual born in Montana had been changed by surgical procedure; and

WHEREAS, accurate vital statistics play an important role in society, and the rulemaking adopted in MAR Notice No. 37-807 should have been contemplated in the Legislature rather than through DPHHS rulemaking; and

WHEREAS, the Legislature intends to repeal the rulemaking adopted in MAR Notice No. 37-807 and enact into law the substance of the administrative rule existing prior to the adoption of MAR Notice No. 37-807.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Sex change designation on birth certificate. (1) The sex of a person designated on a birth certificate may be amended only if the department receives a certified copy of an order from a court with appropriate jurisdiction indicating that the sex of the person born in Montana has been changed by surgical procedure.

(2) The order must contain sufficient information for the department to locate the original birth certificate. If the person's name is to be changed, the order must indicate the person's full name as it appears on the original birth certificate and the full name to which it is to be amended.

(3) If the order directs the issuance of a new birth certificate that does not show amendments, the new birth certificate may not indicate on its face that it was amended.

(4) This section does not apply if the sex of a person was designated incorrectly on the original birth certificate due to a data entry error.

Section 2. Direction to department of public health and human services. The department of public health and human services shall amend ARM 37.8.102 and 37.8.311 in conformity with this act.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 50, chapter 15, part 2, and the provisions of Title 50, chapter 15, part 2, apply to [section 1].

Section 4. Effective date -- applicability. [This act] is effective on passage and approval and applies to amendments to sex designations in birth certificates that are received by the department of public health and human services on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 280, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 280

INTRODUCED BY C. GLIMM, K. BOGNER, B. BROWN, J. ELLSWORTH, C. FRIEDEL, G. HERTZ, S. HINEBAUCH, B. HOVEN, B. KEENAN, M. LANG, T. MANZELLA, T. MCGILLVRAY, R. OSMUNDSON, D. SALOMON, J. SMALL, C. SMITH, G. VANCE, D. BARTEL, J. FULLER, S. GALLOWAY, D. LOGE, T. MOORE, M. NOLAND, B. TSCHIDA, B. USHER

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