



To: Members of the State Board of Health

From: A. Alex Quintana, State Registrar, CHED
Gabriel Thorn, Vital Records Operations Manager, CHED

Through: Chris Wells, Division Director, CHED *CW*

Date: September 1, 2021

Subject: Request for a Rulemaking Hearing concerning 5 CCR 1006-1

The department is implementing SENATE BILL 20-166 (Short Title “Simplifying Requirements for New Birth Certificate”) which updates the requirements for minors when submitting a request to change their sex as presented on their birth certificates. The new requirements supersede those which previously required minors to provide a statement from a professional medical or health care provider stating that the minor had undergone treatment for gender transition. The new requirements only state that the minor must present a statement from a healthcare provider attesting that the “sex designation on the birth certificate does not align with the minor’s gender identity.”

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for New Rule
Senate Bill 20-166
CRS 25-2-113.8

Basis and Purpose.

The Vital Statistics Act of 1984 (Title 25, Article 2), hereinafter “Act,” governs the administration of vital event registration and vital statistics reporting. The Act contains specific requirements for the department and its designees. The Act also authorizes the Board of Health to promulgate any rules needed to implement the statute. Overall, the rule does not repeat the statutory requirements; rather, the rule elaborates upon the statute to provide direction and clarity for those performing these public health services. To the extent the statute is repeated, this occurs to ensure the program maintains alignment between current and best practices, and the statutory directive.

The department reviewed the rule pursuant to Section 24-4-103.3, C.R.S. Several technical edits to improve readability and update the rule to align with current practice are proposed. These changes:

- Remove language that contradicts the revised statute: 25-2-113.8

The proposed rule also includes substantive changes. These include:

- The current rule concerning birth certificate sex change for minors is being updated. Under the rule, minors needed to obtain a statement from licensed healthcare provider which stated that the minor had undergone “surgical, hormonal, or other treatment in order to obtain the birth certificate sex change.” Under the changes brought about by SB 20-166, minors only need a statement signed by a healthcare provider in good standing stating that the sex designation on their birth certificate does not align with the minor’s gender identity. This will be a change to Section 5.5 C. 2. c. I. of 5 CCR 1006-1.

The proposed rule updates the language to ensure that it reflects the updated requirements in C.R.S. 25-2-113.8.

Specific Statutory Authority.

Statutes that require or authorize rulemaking: C.R.S. 25-2-103

Is this rulemaking due to a change in state statute?

Yes, the bill number is SB20-166. Rules are authorized
 required.
 No

Does this rulemaking include proposed rule language that incorporate materials by reference?

Yes URL
 No

Does this rulemaking include proposed rule language to create or modify fines or fees?

Yes

No

Does the proposed rule language create (or increase) a state mandate on local government?

No.

- The proposed rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed;
- The proposed rule requires a local government to perform or increase a specific activity because the local government has opted to perform an activity, or;
- The proposed rule reduces or eliminates a state mandate on local government.

Yes.

This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service.

The state mandate is categorized as:

- Necessitated by federal law, state law, or a court order
- Caused by the State's participation in an optional federal program
- Imposed by the sole discretion of a Department

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate? Yes No. If "yes," please explain why there is disagreement in the categorization.

Please elaborate as to why a rule that contains a state mandate on local government is necessary.

REGULATORY ANALYSIS

1. A description of the classes of persons affected by the proposed rule, including the classes that will bear the costs and the classes that will benefit from the proposed rule.

Group of persons/entities Affected by the Proposed Rule	Size of the Group	Relationship to the Proposed Rule Select category: C/CLG/S/B
<ul style="list-style-type: none"> • Clerk and Recorder Offices • U.S. Department of State • Colorado Department of Motor Vehicles • LGBTQ individuals and advocacy organizations 	64	S S S B

While all are stakeholders, groups of persons/entities connect to the rule and the problem being solved by the rule in different ways. To better understand those different relationships, please use this relationship categorization key:

- C = individuals/entities that implement or apply the rule.
 S = individuals/entities that do not implement or apply the rule but are interested in others applying the rule.
 B = the individuals that are ultimately served, including the customers of our customers. These individuals may benefit, be harmed by or be at-risk because of the standard communicated in the rule or the manner in which the rule is implemented.

More than one category may be appropriate for some stakeholders.

2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The only economic impact anticipated is reduced costs upon the families of minors seeking to change sex designation on birth certificates due to no longer requiring surgical, hormonal or other treatments.

Economic outcomes

Summarize the financial costs and benefits, include a description of costs that must be incurred, costs that may be incurred, any Department measures taken to reduce or eliminate these costs, any financial benefits.

C and CLG: Clarifies by legislation how Vital Records should process change of sex birth certificate change requests. As Vital Records was already processing change requests in a similar fashion, this should have minimal economic impact on the department.

Please describe any anticipated financial costs or benefits to these individuals/entities.

S: NA

B: NA

Non-economic outcomes

Summarize the anticipated favorable and non-favorable non-economic outcomes (short-term and long-term), and, if known, the likelihood of the outcomes for each affected class of persons by the relationship category.

C: Slight increase in Vital Records workload due to easing the ability to change minor birth certificates

S: DMV and Department of State are interested in the change in fraud potential for changing sex on birth certificates. While any additional ability to change a portion of a birth certificate opens up additional danger for fraud, there is no evidence to show that allowing transgender individuals to change sex on a birth certificate places any greater danger for fraud than any other ability to change any other portion that has been made in the past.

B: The new rule eases the process for minors to change their sex designation on their birth certificate. The only concern that remains even with the updated requirements is that this change can only be made once without a court order, and so minors need to understand this is the case before making this decision.

3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

Anticipated increases in operating costs are negligible, and are covered by standard Birth Modification fees

Anticipated CDPHE Revenues:

N/A

B. Anticipated personal services, operating costs or other expenditures by another state agency:

Anticipated Revenues for another state agency:

N/A

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Along with the costs and benefits discussed above, the proposed revisions:

Comply with a statutory mandate to promulgate rules.

Comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.

Maintain alignment with other states or national standards.

- Implement a Regulatory Efficiency Review (rule review) result
- Improve public and environmental health practice.
- Implement stakeholder feedback.

Advance the following CDPHE Strategic Plan priorities (select all that apply):

<p>1. Reduce Greenhouse Gas (GHG) emissions economy-wide from 125.716 million metric tons of CO₂e (carbon dioxide equivalent) per year to 119.430 million metric tons of CO₂e per year by June 30, 2020 and to 113.144 million metric tons of CO₂e by June 30, 2023.</p> <p><input type="checkbox"/> Contributes to the blueprint for pollution reduction</p> <p><input type="checkbox"/> Reduces carbon dioxide from transportation</p> <p><input type="checkbox"/> Reduces methane emissions from oil and gas industry</p> <p><input type="checkbox"/> Reduces carbon dioxide emissions from electricity sector</p>
<p>2. Reduce ozone from 83 parts per billion (ppb) to 80 ppb by June 30, 2020 and 75 ppb by June 30, 2023.</p> <p><input type="checkbox"/> Reduces volatile organic compounds (VOC) and oxides of nitrogen (NO_x) from the oil and gas industry.</p> <p><input type="checkbox"/> Supports local agencies and COGCC in oil and gas regulations.</p> <p><input type="checkbox"/> Reduces VOC and NO_x emissions from non-oil and gas contributors</p>
<p>3. Decrease the number of Colorado adults who have obesity by 2,838 by June 30, 2020 and by 12,207 by June 30, 2023.</p> <p><input type="checkbox"/> Increases the consumption of healthy food and beverages through education, policy, practice and environmental changes.</p> <p><input type="checkbox"/> Increases physical activity by promoting local and state policies to improve active transportation and access to recreation.</p> <p><input type="checkbox"/> Increases the reach of the National Diabetes Prevention Program and Diabetes Self-Management Education and Support by collaborating with the Department of Health Care Policy and Financing.</p>
<p>4. Decrease the number of Colorado children (age 2-4 years) who participate in the WIC Program and have obesity from 2120 to 2115 by June 30, 2020 and to 2100 by June 30, 2023.</p> <p><input type="checkbox"/> Ensures access to breastfeeding-friendly environments.</p>
<p>5. Reverse the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p><input type="checkbox"/> Reverses the downward trend and increase the percent of kindergartners protected against measles, mumps and rubella (MMR) from 87.4% to 90% (1,669 more kids) by June 30, 2020 and increase to 95% by June 30, 2023.</p> <p><input type="checkbox"/> Performs targeted programming to increase immunization rates.</p> <p><input type="checkbox"/> Supports legislation and policies that promote complete immunization and exemption data in the Colorado Immunization Information System (CIIS).</p>

<p>6. Colorado will reduce the suicide death rate by 5% by June 30, 2020 and 15% by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Creates a roadmap to address suicide in Colorado. <input checked="" type="checkbox"/> Improves youth connections to school, positive peers and caring adults, and promotes healthy behaviors and positive school climate. <input type="checkbox"/> Decreases stigma associated with mental health and suicide, and increases help-seeking behaviors among working-age males, particularly within high-risk industries. <input type="checkbox"/> Saves health care costs by reducing reliance on emergency departments and connects to responsive community-based resources.
<p>7. The Office of Emergency Preparedness and Response (OEPR) will identify 100% of jurisdictional gaps to inform the required work of the Operational Readiness Review by June 30, 2020.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conducts a gap assessment. <input type="checkbox"/> Updates existing plans to address identified gaps. <input type="checkbox"/> Develops and conducts various exercises to close gaps.
<p>8. For each identified threat, increase the competency rating from 0% to 54% for outbreak/incident investigation steps by June 30, 2020 and increase to 92% competency rating by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Uses an assessment tool to measure competency for CDPHE's response to an outbreak or environmental incident. <input type="checkbox"/> Works cross-departmentally to update and draft plans to address identified gaps noted in the assessment. <input type="checkbox"/> Conducts exercises to measure and increase performance related to identified gaps in the outbreak or incident response plan.
<p>9. 100% of new technology applications will be virtually available to customers, anytime and anywhere, by June 20, 2020 and 90 of the existing applications by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Implements the CDPHE Digital Transformation Plan. <input type="checkbox"/> Optimizes processes prior to digitizing them. <input type="checkbox"/> Improves data dissemination and interoperability methods and timeliness.
<p>10. Reduce CDPHE's Scope 1 & 2 Greenhouse Gas emissions (GHG) from 6,561 metric tons (in FY2015) to 5,249 metric tons (20% reduction) by June 30, 2020 and 4,593 tons (30% reduction) by June 30, 2023.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reduces emissions from employee commuting <input type="checkbox"/> Reduces emissions from CDPHE operations
<p>11. Fully implement the roadmap to create and pilot using a budget equity assessment by June 30, 2020 and increase the percent of selected budgets using the equity assessment from 0% to 50% by June 30, 2023.</p>

Used a budget equity assessment

Advance CDPHE Division-level strategic priorities.

The costs and benefits of the proposed rule will not be incurred if inaction was chosen. Costs and benefits of inaction not previously discussed include:

These changes are required to bring the rules into alignment with changes made by Senate Bill 20-166.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Rulemaking is proposed when it is the least costly method or the only statutorily allowable method for achieving the purpose of the statute. The specific revisions proposed in this rulemaking were developed in conjunctions with stakeholders. The benefits, risks and costs of these proposed revisions were compared to the costs and benefits of other options. The proposed revisions provide the most benefit for the least amount of cost, are the minimum necessary or are the most feasible manner to achieve compliance with statute.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The changes are required by Senate Bill 20-166, no other alternatives were considered.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

This rulemaking is required by Senate Bill 20-166. Consequences of not undertaking this rulemaking would result in the department not meeting its statutory obligations.

STAKEHOLDER ENGAGEMENT
For New Rule
Senate Bill 20-166
CRS 25-2-113.8

State law requires agencies to establish a representative group of participants when considering to adopt or modify new and existing rules. This is commonly referred to as a stakeholder group.

Early Stakeholder Engagement:

The following individuals and/or entities were invited to provide input and included in the development of these proposed rules:

Stakeholder	Representative
One Colorado	Michael Crews
U.S Department of State	Lanissa Larson, Fraud Program Manager
Colorado Division of Motor Vehicles	Francine Gonzalez, Chief Investigations
Colorado Clerk and Recorders	Email distribution
The GLBT Community Center of Colorado	Susan Doontz
The Gender Identity Center of Colorado	Sable Schultz
PFLAG Denver	Levi Teachey, Board President
Trans Youth Education & Support	info@youthseen.org
State Senator Dominick Moreno	State Senator Dominick Moreno
State Representative Daneya Esgar	State Senator Daneya Esgar

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

Not applicable. This is a Request for Rulemaking Packet. Notification will occur if the Board of Health sets this matter for rulemaking.

Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

This rule is being directed by the Colorado State Legislature, and as such they have debated the policy merits and benefits and passed it on to the State Registrar to carry out.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking.

Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

X	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.		Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.	X	Reduces occupational hazards; improves an individual’s ability to secure or maintain employment; or, increases stability in an employer’s workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
	Increases a child’s ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.		Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
	Other: _____ _____		Other: _____ _____

An Act

SENATE BILL 20-166

BY SENATOR(S) Moreno, Bridges, Donovan, Fenberg, Fields, Ginal, Gonzales, Hansen, Lee, Pettersen, Rodriguez, Story, Todd, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Esgar, Arndt, Bird, Buentello, Caraveo, Cutter, Duran, Froelich, Gonzales-Gutierrez, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Tipper, Titone, Valdez A., Weissman, Woodrow, Young, Becker.

CONCERNING SIMPLIFYING THE REQUIREMENTS FOR A MINOR TO OBTAIN A
NEW BIRTH CERTIFICATE FROM THE STATE REGISTRAR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-2-113.8, **amend** (3)(b)(II) and (9) as follows:

25-2-113.8. Birth certificate modernization act - new birth certificate following a change in gender designation - short title.
(3) The state registrar shall issue a new birth certificate to a person who was born in this state and who has a gender different from the sex denoted on that person's birth certificate when the state registrar receives:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(b) (II) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the state registrar, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating ~~that: THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (3)(b)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.~~

~~(A) The minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or~~

~~(B) The minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly.~~

(9) When the state registrar receives the documentation described in ~~subsection (3)~~ SUBSECTION (3) OR (4) of this section, the state registrar shall issue a new birth certificate reflecting the new gender designation and, if applicable, the person's new name. Notwithstanding section 25-2-115 (1), the new birth certificate supersedes the original as the official public record and must not be marked as amended or indicate in any other manner that the gender designation or name on the certificate has been changed.

SECTION 2. In Colorado Revised Statutes, 42-2-107, amend (2)(a)(II) as follows:

42-2-107. Application for license or instruction permit - anatomical gifts - donations to Emily Keyes - John W. Buckner organ and tissue donation awareness fund - legislative declaration - rules - annual report - repeal. (2) (a) (II) The department shall issue a new driver's license to a person who has a gender different from the sex denoted on that person's driver's license when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(A) A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's driver's license does not align with the person's gender identity; and

(B) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or~~ THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (2)(a)(II)(B) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(C) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 3. In Colorado Revised Statutes, 42-2-302, **amend** (2.5)(a) as follows:

42-2-302. Department may or shall issue - limitations - rules.

(2.5) (a) The department shall issue a new identification card to a person who has a gender different from the sex denoted on that person's identification card when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(I) ~~(A)~~ A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's identification card does not align with the person's gender identity; and

~~(B)~~ (II) If the person is a minor under the age of eighteen, a

statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards; and, in the provider's professional opinion, the minor's gender designation should be changed accordingly; or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly;~~ or THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (2.5)(a)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(II) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 4. In Colorado Revised Statutes, 42-2-505, amend (1.5)(a) as follows:

42-2-505. Identification documents - individuals not lawfully present - rules. (1.5) (a) The department shall issue a new identification document to a person who has a gender different from the sex denoted on that person's identification document when the department receives A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION 25-2-113.8 OR WHEN THE DEPARTMENT RECEIVES:

(I) ~~(A)~~ A statement, in a form or format designated by the department, from the person, or from the person's parent if the person is a minor, or from the person's guardian or legal representative, signed under penalty of law, confirming the sex designation on the person's identification document does not align with the person's gender identity; and

~~(B)~~ (II) If the person is a minor under the age of eighteen, a statement, in a form or format designated by the department, signed under penalty of law, from a professional medical or mental health care provider licensed in good standing in Colorado or with an equivalent license in good standing from another jurisdiction, stating that ~~the minor has undergone surgical, hormonal, or other treatment appropriate for that person for the purpose of gender transition, based on contemporary medical standards;~~

~~and, in the provider's professional opinion, the minor's gender designation should be changed accordingly, or the minor has an intersex condition, and, in the provider's professional opinion, the minor's gender designation should be changed accordingly;~~ or THE SEX DESIGNATION ON THE BIRTH CERTIFICATE DOES NOT ALIGN WITH THE MINOR'S GENDER IDENTITY. THIS SUBSECTION (1.5)(a)(II) DOES NOT REQUIRE A MINOR TO UNDERGO ANY SPECIFIC SURGERY, TREATMENT, CLINICAL CARE, OR BEHAVIORAL HEALTH CARE.

~~(II) A new birth certificate issued pursuant to section 25-2-113.8.~~

SECTION 5. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.



Leroy M. Garcia
PRESIDENT OF
THE SENATE



KC Becker
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

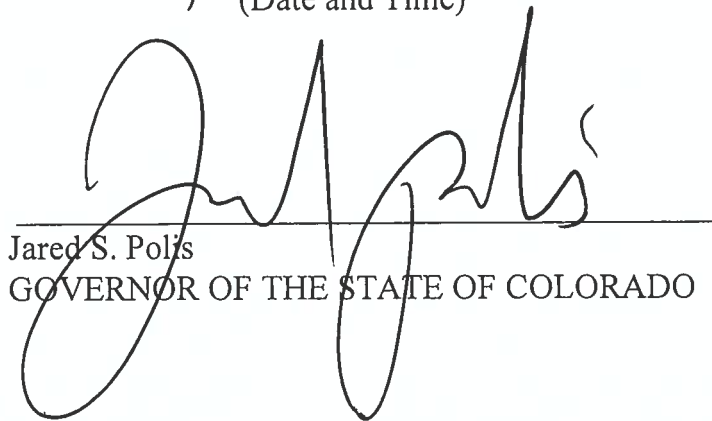


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED July 13, 2020 at 1:40 pm
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

2 **Center for Health and Environmental Data**

3 **VITAL STATISTICS**

4 **5 CCR 1006-1**

5 *[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

6 _____
7 **Adopted by the Board of Health on September 18, 2019; Effective January 1, 2020.**

8 ***

9 **SECTION 5.5 Amendment of the Sex Designation**

10 Before changing the sex designation on the birth certificate, the State Registrar must:

- 11 A. Confirm the registrant is eighteen years of age or older, or an emancipated minor, or, if the
12 registrant is under the age of eighteen, confirm that the person requesting the amendment is a
13 parent on the birth record, a legal guardian, or an attorney or other authorized agent, as
14 determined by the State Registrar.
- 15 B. Confirm the name on the birth certificate and the name of the individual for whom the amendment
16 is requested match, or can be linked through the submitted documentation in instances such as
17 where the registrant is changing their name and sex designation at the same time, and
- 18 C. 1. Receive: a certified copy of an order of a court of competent jurisdiction changing the sex
19 of the applicant, or
- 20 2. a. A written request from the person, or from the person's parent, if the person is a
21 minor, or from the person's guardian or legal representative, signed under penalty of law,
22 to issue a new birth certificate with a gender designation that differs from the sex
23 designated on the person's original birth certificate; and,
- 24 b. A statement, in a form or format designated by the State Registrar, from the
25 person or from the person's parent, if the person is a minor, or from the person's
26 guardian or legal representative, signed under penalty of law, confirming the sex
27 designation on the person's birth certificate does not align with the person's
28 gender identity; and,
- 29 c. If the person is a minor under the age of eighteen, a statement, in a form or
30 format designated by the State Registrar, signed under penalty of law, from a
31 professional medical or mental health care provider licensed in good standing in
32 Colorado or an equivalent license in good standing from another jurisdiction,
33 stating that: ~~the sex designation on the birth certificate does not align with the~~
34 ~~minor's gender identity.~~
- 35 ~~I. The minor has undergone surgical, hormonal, or other treatment~~
36 ~~appropriate for that person for the purpose of gender transition, based on~~
37 ~~contemporary medical standards, and, in the provider's professional~~
38 ~~opinion, the minor's gender designation should be changed accordingly;~~
39 ~~or,~~

40 ~~II. The minor has an intersex condition, and, in the provider's professional~~
41 ~~opinion, the minor's gender designation should be changed accordingly.~~

42 3. The State Registrar shall change the sex designation pursuant to a request made under
43 Section 5.5(C)(2) only once during an individual's lifetime. Any further amendment to the
44 sex designation on a birth record or certificate requires a court order pursuant to Section
45 5.5(C)(1).

46 4. Pursuant to Section 25-2-113.8(7), C.R.S., if a new birth certificate is issued pursuant to
47 this Section 5.5, the certificate will also be amended to reflect any legal name change
48 made before or simultaneous with the change in gender designation, as long as
49 appropriate documentation of the name change is submitted.

50 ***