

State-by-State Overview: Rules for Changing Gender Markers on Birth Certificates

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The policies for changing gender markers on birth certificates vary state by state, resulting in a complicated patchwork of processes across the country. Below, we overview which states have a process for updating gender markers on birth certificates, and provide the basic outline of what those states' policies look like.

Note that court-ordered gender changes are only available in the state of residence, not the state of birth, that they are not available in all states, and that these requirements also vary by state.

Does the state allow a gender marker change on birth certificates?

Alabama: Yes, with a court order "indicating that the sex of an individual born in this state has been changed by surgical procedure." See § 22-9A-19 at <https://www.adph.org/vitalrecords/assets/VitalStatsLaw.pdf>

Alaska: Law does not explicitly provide for gender marker correction, but the Dept. of Vital Records will correct; there is no surgical requirement. See <http://www.transequality.org/documents/state/alaska>

Arizona: Yes, with a letter from a physician stating the applicant "has undergone a sex change operation." See 36-337.A.3 at <http://www.azleg.gov/ars/36/00337.htm>

Arkansas: Yes, with a court order "indicating that the sex of an individual born in this state has been changed by surgical procedure." See § 20-18-307(d) at <http://law.justia.com/codes/arkansas/2010/title-20/subtitle-2/chapter-18/subchapter-3/20-18-307>

California: Yes, with a doctor's letter; there is no surgical requirement. See CA HSC Sec. 103426 at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=103001-104000&file=103425-103445>

Colorado: Yes, with a court order "indicating that the sex of an individual born in this state has been changed by surgical procedure." See 25-2-115 at [http://tornado.state.co.us/gov_dir/leg_dir/olls/2013TitlePrintouts/CRS%20Title%2025%20\(2013\).pdf](http://tornado.state.co.us/gov_dir/leg_dir/olls/2013TitlePrintouts/CRS%20Title%2025%20(2013).pdf)

Connecticut: Yes, with a doctor's letter; there is no surgical requirement. See Public Act 15-132 at <http://www.ct.gov/dph/cwp/view.asp?a=3132&q=388134#Amend>

District of Columbia: Yes, with a doctor's letter; there no surgical requirement. See D.C. Act 20-27 at <http://lims.dccouncil.us/Download/29298/B20-0142-SignedAct.pdf>

Delaware: Yes, with a court order "indicating that the sex of an individual born in this state has been changed by surgical procedure." See 10.9.4 at <http://dhss.delaware.gov/DPH/hp/vsregs.html>

Florida: Law does not explicitly provide for gender marker correction, but it is possible with a doctor's letter. See 64V-1.003 at <https://www.flrules.org/gateway/RuleNo.asp?ID=64V-1.003> and, for more info, <http://www.transequality.org/documents/state/florida>

Georgia: Yes, with a court order "indicating that the sex of an individual born in this state has been changed by surgical procedure." See § 31-10-23(e) at <http://law.justia.com/codes/georgia/2010/title-31/chapter-10/31-10-23>

Hawaii: Yes, with a doctor's letter; there is no surgical requirement. See §338-17.7(a)(4)-(5) at http://www.capitol.hawaii.gov/hrscurrent/vol06_ch0321-0344/hrs0338/hrs_0338-0017_0007.htm

Idaho: Law generally provides for correction, but Idaho Office of Vital Statistics reports that they do not currently amend birth certificates for gender transition. See <http://www.lambda-legal.org/know-your-rights/article/trans-changing-birth-certificate-sex-designations>

Illinois: Yes, with a doctor's letter; surgery may not be required. See <http://www.idph.state.il.us/vitalrecords/births/Pages/gender-reassignment.htm>

Indiana: Law does not explicitly provide for gender marker correction, but it is possible; it requires a court order. IC 16-37-2-10(b) at https://iga.in.gov/static-documents/c/d/8/c/cd8cd418/TITLE16_AR37_ch2.pdf and, for more information, <http://www.transequality.org/documents/state/indiana>

Iowa: Yes, with a doctor's letter; surgery may not be required. See § 144.23(3) at <https://www.legis.iowa.gov/docs/code/2015/144.23.pdf>

Kansas: Law generally provides for correction of gender marker, but Kansas Division of Vital Statistics claims that they do not have the authority to amend birth certificates for gender transition. Transgender Law Center is currently suing the state of Kansas over this stance: <https://transgenderlawcenter.org/archives/12543>.

Kentucky: Yes; requires "a sworn statement by a licensed physician indicating that the gender of an individual born in the Commonwealth has been changed by surgical procedure." See Ky. Rev. Stat. Ann. 213.121 at <http://www.lrc.ky.gov/Statutes/statute.aspx?id=8741>

Louisiana: Yes; surgery is required. See La. R.S. 40:62 at <http://law.justia.com/codes/louisiana/2006/48/98725.html>

Maine: Law does not explicitly provide for gender marker correction, but it is possible; it requires a doctor's letter, but surgery may not be required. Title 22, § 2705 at <http://legislature.maine.gov/statutes/22/title22sec2705.html> and, for more information, <http://www.transequality.org/documents/state/maine>

Maryland: Yes, with a doctor's letter or court order; there is no surgical requirement. See SB0743 at <http://mgaleg.maryland.gov/2015RS/bills/sb/sb0743T.pdf> and the fact sheet available at <http://dhmh.maryland.gov/vsa/Documents/Sex%20change%20instructions.pdf>

Massachusetts: Yes, with a doctor's letter; there is no surgical requirement. See the fact sheet available at <http://www.mass.gov/eohhs/docs/dph/vital-records/r-117-fact-sheet-birth-certificate-amendment-following-sex-reassignment.pdf>

Michigan: Yes, with a doctor's letter certifying that "sex-reassignment surgery has been successfully completed." See Public Health Code Section 333.2831-2832 at [http://www.legislature.mi.gov/\(S\(nbk11bg02seok5elm3v5t4yt\)\)/mileg.aspx?page=getobject&objectname=mcl-333-2831](http://www.legislature.mi.gov/(S(nbk11bg02seok5elm3v5t4yt))/mileg.aspx?page=getobject&objectname=mcl-333-2831) and the MDHHS webpage at http://www.michigan.gov/mdhhs/0,5885,7-339-71551_4645_4933-13952--,00.html

Minnesota: Yes, with a doctor's letter; there is no surgical requirement. See 4601.1100 at <https://www.revisor.mn.gov/rules/?id=4601.1100> and the MDH website at <http://www.health.state.mn.us/divs/chs/osr/reqdocs.html>

Mississippi: Name and gender marker corrections can be added as marginal notations, with a court order and a doctor's letter. See Rule 3.21.2 at <http://www.sos.ms.gov/AC-Code/00000202c.pdf>

Missouri: Yes, with a court order "indicating the sex of an individual born in this state has been changed by surgical procedure," but it may be possible to receive a court order without surgery. See Mo. Ann. Stat. § 193.215(9) at <http://www.moga.mo.gov/mostatutes/stathtml/19300002151.HTML> but also <http://transascity.org/missouri-transition-information/>

Montana: Yes, with a court order "indicating that the sex of an individual born in Montana has been changed by surgical procedure." See ARM 37.8.311(5) at <http://www.mtrules.org/gateway/ruleno.asp?RN=37.8.311>

Nebraska: Yes, with a doctor's letter certifying that sex-reassignment surgery has been successfully completed. See Neb. Rev. Stat. § 71-604.01 at <http://nebraskalegislature.gov/laws/statutes.php?statute=71-604.01> and, for more information, <http://www.transequality.org/documents/state/nebraska>

Nevada: Yes, with a court order; there are no specific procedures mentioned in state law. See NAC 440.130 at <https://www.leg.state.nv.us/nac/NAC-440.html#NAC440Sec130>

New Hampshire: Yes, with a court order; there are no specific procedures mentioned in state law. See RSA 5-C:87 (V) at <http://law.justia.com/codes/new-hampshire/2010/titlei/chapter5-c/section5-c-87>

New Jersey: Yes, with "a medical certificate from the person's licensed physician which indicates the sex of the person has been changed by surgical procedure." See N.J. Stat. Ann. § 26:8-40.12 at <http://law.justia.com/codes/new-jersey/2013/title-26/section-26-8-40.12>

New Mexico: Yes, with a doctor's letter "indicating that the sex of an individual born in this state has been changed by surgical procedure." See N.M. Stat. Ann. § 24-14-25(D) at <http://law.justia.com/codes/new-mexico/2011/chapter24/article14/section24-14-25>

New York: Yes, with a doctor's letter; there is no surgical requirement. See Tit 10, § 35.2 at [https://govt.westlaw.com/nycrr/Document/I4fbdbee7cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I4fbdbee7cd1711dda432a117e6e0f345?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) and <http://www.transequality.org/documents/state/new-york>

North Carolina: Yes, after surgery, with a doctor's letter. See N.C. Gen. Stat. §§ 130A-118(b) (4), (e) at http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_130A/GS_130A-118.pdf

North Dakota: Yes, with a doctor's letter stating that an "operation" has been "performed" on the person; in practice it may be possible to amend a BC without surgery. See N.D. Admin. Code § 33-04-12-02 at <http://www.legis.nd.gov/information/acdata/pdf/33-04-12.pdf> but also <http://www.transequality.org/documents/state/north-dakota>

Ohio: Yes, with a court order, but due to an Ohio court decision, state courts will not issue gender change orders. It's possible to apply for an emended BC with a court order from out of state. See <http://www.transequality.org/documents/state/ohio>

Oklahoma: Law does not explicitly provide for gender marker correction, but it is possible with a court-ordered gender change. See OK Admin. Code 310-105-3 at http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=_75tnm2shfcdnm8pb-4dthj0chedppmbcq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00_ and, for more info, <http://www.transequality.org/documents/state/oklahoma>

Oregon: Yes, with a court order; there is no surgical requirement. See Admin. R. 333-011-0275(1)(e) at http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_333/333_011.html and Or. Rev. Stat. § 33.460 at <http://www.oregonlaws.org/ors/33.460>

Pennsylvania: Yes, with a doctor's letter; there is no surgical requirement. See <http://www.transequality.org/sites/default/files/docs/PA-BC-Policy.pdf>

Rhode Island: Yes, with a doctor's letter; there is no surgical requirement. See R23-3-VR IX 35.5 at <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DOH/7895.pdf> and <http://www.glad.org/rights/toolkit/rhode-island-birth-certificate-tool-kit>

South Carolina: Law does not explicitly provide for gender marker correction, but it is possible with a court-ordered gender change. See S.C. Code Ann. § 44-63-150 at <http://www.scstatehouse.gov/code/t44c063.php> and <http://www.transequality.org/documents/state/south-carolina>

South Dakota: Law does not explicitly provide for gender marker correction, but it is possible with a court-ordered gender change. See S.D. Admin. R. 44:09:05:02 at <http://www.sd-legislature.gov/rules/DisplayRule.aspx?Rule=44:09:01:05> and <http://www.transequality.org/documents/state/south-dakota>

Tennessee: Statute specifically forbids the correction of sex designations on birth certificates for transgender people. See Tenn. Code Ann. § 68-3-203(d) at <http://law.justia.com/codes/tennessee/2010/title-68/chapter-3/part-2/68-3-203>

Texas: Law does not explicitly provide for gender marker correction. It may be possible with a doctor's letter and/or a court-ordered gender change, but historically has been difficult to acquire. See Tex. Health & Safety Code § 191.028 at <http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.191.htm>, Tex. Health & Safety Code Ann. § 192.011 at <http://www.statutes.legis.state.tx.us/Docs/HS/htm/HS.192.htm>, <http://www.lambdalegal.org/know-your-rights/article/trans-changing-birth-certificate-sex-designations>, <http://www.transequality.org/documents/state/texas>

Utah: Yes, with a court order; there are no specific procedures mentioned. See Utah Code Ann. § 26-2-11 at https://le.utah.gov/xcode/Title26/Chapter2/26-2-S11.htm?v=C26-2-S11_1800010118000101

Vermont: Yes, with a court order; there is no surgical requirement. See 18 Vt. Stat. § 5112 at <http://law.justia.com/codes/vermont/2011/title18/chapter104/section5112> and <http://www.transequality.org/documents/state/vermont>

Virginia: Yes, with a court order; different VA state codes appear to differ on the question of whether surgery is required to obtain a court order. See Va. Code Ann. § 32.1-269(E) at <http://law.justia.com/codes/virginia/2006/toc3201000/32.1-269.html> and 12 VAC 5-550-320 at <http://register.dls.virginia.gov/vol19/iss06/v19i06.pdf> and <http://www.transequality.org/documents/state/virginia>

Washington: Yes, with a doctor's letter; there is no surgical requirement. See <http://www.doh.wa.gov/LicensesPermitsandCertificates/BirthDeathMarriageandDivorce/GenderChange>

West Virginia: Law does not explicitly provide for gender marker correction, but it is possible with a surgeon's letter stating that the applicant's gender "has been permanently altered." See W. Va. Code § 16-5-25 at <http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=16&art=5> and W. Va. Code St. R. § 64-32-12 at <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=8490&Format=PDF> and, for more info, <http://www.transequality.org/documents/state/west-virginia>

Wisconsin: Yes, with a court order to change the sex designation on the birth certificate "due to a surgical sex-change procedure." See Wis. Stat. Ann. § 69.15 at <http://docs.legis.wisconsin.gov/statutes/statutes/69/I/15> and <https://www.dhs.wisconsin.gov/vitalrecords/amendments.htm>

Wyoming: Yes, with a court order; there are no specific procedures mentioned. See WY Rules and Regulations HLTH VR Ch. 10 s 4(e)(iii) at <https://rules.wyo.gov/Search.aspx>

Guam: Yes, with a sworn statement from the physician performing the surgery certifying the sex of an individual has been changed by surgical procedure. See 10 GCA, Div. 1, Chap. 3, Art. 2, §3222(c) at <http://www.guamcourts.org/compileroflaws/GCA/10gca/10gc003.PDF> and <http://www.transequality.org/documents/state/guam>

Puerto Rico: The territory does not allow gender marker changes on birth certificates. See court judgment in *Ex Parte Alexis Delgado Hernandez*, 2005 T.S.P.R. 95 (P.R. 2005) at <http://www.ramajudicial.pr/opiniones/2005/2005TSPR95.pdf> and <http://www.transequality.org/documents/state/puerto-rico>