

An Act

ENROLLED SENATE
BILL NO. 1100

By: Bergstrom, Bullard,
Merrick, Jett, Pemberton,
Daniels, Stephens, and
Pederson of the Senate

and

Dills, Crosswhite Hader,
West (Kevin), Hardin
(David), Olsen, Bashore,
West (Josh), Roberts
(Dustin), McDugle, and
Roberts (Sean) of the House

An Act relating to vital records; amending 63 O.S. 2021, Sections 1-311, 1-313, 1-316, and 1-321, which relate to certificates of birth; limiting biological sex designation on certificate of birth to male or female; prohibiting nonbinary designation; making language gender neutral; updating statutory language; and declaring an emergency.

SUBJECT: Birth certificates

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2021, Section 1-311, is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the State Registrar of Vital Statistics, within seven (7) days after the birth.

B. When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, and secure the signatures required by the certificate. The physician in attendance shall

certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence or inability of the father or mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of birth, or married at any time during the three hundred (300) calendar days before the birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction or a husband's denial of paternity form has been filed along with an affidavit acknowledging paternity, in which case the name of the father as determined by the court or affidavit acknowledging paternity shall be entered.

2. If the mother was not married at the time of birth, nor married at any time during the three hundred (300) calendar days before the birth, the name of the father shall be entered on the certificate of birth only if:

- a. a determination of paternity has been made by an administrative action through the Department of Human Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or
- b. the mother and father have signed an acknowledgement of paternity pursuant to Section 1-311.3 of this title, or substantially similar affidavit from another state and filed it with the State Registrar of Vital Statistics.

E. Either of the parents of the child shall sign the certificate of live birth worksheet to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

F. If the live birth results from a process in which the delivering mother was carrying the child of another woman by way of a prearranged legal contract, the original birth certificate shall be filed with the personal information of the woman who delivered the child. A new birth certificate will be placed on file once the State Registrar receives both a court order and a completed form prescribed by the State Registrar which identifies the various parties and documents the personal information of the intended parents necessary to complete the new birth certificate.

G. Beginning on the effective date of this act, the biological sex designation on a certificate of birth issued under this section shall be either male or female and shall not be nonbinary or any symbol representing a nonbinary designation including but not limited to the letter "X".

SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-313, is amended to read as follows:

Section 1-313. ~~(a)~~ A. When the birth of a person born in this state has not been registered, a certificate may be filed in accordance with regulations of the State ~~Board~~ Commissioner of Health. Such certificate shall be registered subject to such evidentiary requirements as the ~~Board~~ Commissioner shall by regulation prescribe, to substantiate the alleged facts of birth.

~~(b)~~ B. Certificates of birth registered one year or more after the date of occurrence shall be marked "delayed" and show on their face the date of the delayed registration.

~~(c)~~ C. A summary statement of the evidence submitted in support of the delayed registration shall be endorsed on the certificate.

~~(d)~~ D. When an applicant does not submit the minimum documentation required in the regulations for delayed registration, or when the State Commissioner of Health finds reason to question

the validity or adequacy of the documentary evidence, the Commissioner shall not register the delayed certificate and shall advise the applicant of the reasons for his or her action.

E. Beginning on the effective date of this act, the biological sex designation on a certificate of birth issued under this section shall be either male or female and shall not be nonbinary or any symbol representing a nonbinary designation including but not limited to the letter "X".

SECTION 3. AMENDATORY 63 O.S. 2021, Section 1-316, is amended to read as follows:

Section 1-316. A. The State Commissioner of Health shall establish a new certificate of birth for a person born in this state, when the Commissioner receives the following:

1. An adoption certificate as provided in the Oklahoma Adoption ~~Act~~ Code, or a certified copy of the decree of adoption together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; except that a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person; and

2. A request that a new certificate be established and such evidence as required by regulation proving that such person has been legitimated, or that a court of competent jurisdiction has determined the paternity of such a person.

B. When a new certificate of birth is established, the actual place and date of birth shall be shown. It shall be substituted for the original certificate of birth:

1. Thereafter, the original certificate and the evidence of adoption, paternity, or legitimation shall not be amended, nor shall it be subject to inspection except upon order of a court of competent jurisdiction or as otherwise specifically provided by law; and

2. Upon receipt of notice of annulment of adoption, the original certificate of birth shall be restored to its place in the

files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction. The original certificate shall be restored and may be amended in accordance with Section 1-321 of this title.

C. Beginning on the effective date of this act, the biological sex designation on a new certificate of birth issued under this section shall be either male or female and shall not be nonbinary or any symbol representing a nonbinary designation including but not limited to the letter "X".

SECTION 4. AMENDATORY 63 O.S. 2021, Section 1-321, is amended to read as follows:

Section 1-321. A. A certificate or record registered under this article may be amended only in accordance with this article and regulations thereunder adopted by the State Commissioner of Health to protect the integrity and accuracy of vital statistics records.

B. A certificate that is amended under this section shall be marked "amended", except as provided in subsection ~~(d)~~ D of this section. The date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The Commissioner shall prescribe by regulation the conditions under which additions or minor corrections shall be made to birth certificates within one (1) year after the date of birth without the certificate being considered as amended.

C. Upon receipt of a certified copy of a court order, from a court of competent jurisdiction, changing the name of a person born in this state and upon request of such person or his or her parent, guardian, or legal representative, the State Commissioner of Health shall amend the certificate of birth to reflect the new name.

D. When a child is born out of wedlock, the Commissioner shall amend a certificate of birth to show paternity, if paternity is not currently shown on the birth certificate, in the following situations:

1. Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents;

2. Upon receipt of a certified copy of a court order adjudicating paternity; or

3. Upon receipt of an electronic record from the Department of Human Services indicating that an acknowledgement of paternity has been signed by both parents or a court order adjudicating paternity.

E. For a child born out of wedlock, the Commissioner shall also change the surname of the child on the certificate:

1. To the specified surname upon receipt of acknowledgment of paternity signed by both parents, upon receipt of a certified copy of a court order directing such name be changed or upon receipt of an electronic record from the Department of Human Services indicating that an acknowledgement of paternity has been signed by both parents or a court order directs such name change. Such certificate amended pursuant to this subsection shall not be marked "amended"; or

2. To the surname of the mother on the birth certificate in the event the acknowledgment of paternity is rescinded.

F. The Commissioner shall have the power and duty to promulgate rules for situations in which the State Registrar of Vital Statistics receives false information regarding the identity of a parent.

G. If within sixty (60) days of the initial issuance of a certificate of death, a funeral director, or a person acting as such, requests a correction to any portion of the death record except the information relating to the medical certification portion, due to a scrivener's error, misspelling or other correction of information, the Commissioner of Health, through the State Registrar of Vital Statistics, shall amend the record, provided ~~said~~ the request is made in writing or through an electronic system and is accompanied by documentation disclosing the correct information or by a sworn statement of the funeral director. The funeral director, or person acting as such, shall be responsible for any and all amendment fees that may be imposed by the Commissioner of Health for ~~said~~ the correction. Up to ten certified copies containing the erroneous original information may be exchanged for certified copies containing the corrected information at no additional cost.

H. Beginning on the effective date of this act, the biological sex designation on a certificate of birth amended under this section shall be either male or female and shall not be nonbinary or any symbol representing a nonbinary designation including but not limited to the letter "X".

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 21st day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____