

# HOUSE BILL 361

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HB 370/22 – HGO

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By: **Delegates Smith, Acevero, Boyce, Charkoudian, Edelson, Fair, Kaiser, Lehman, R. Lewis, Palakovich Carr, Simpson, Solomon, Stewart, Vogel, and Wells**

Introduced and read first time: January 26, 2023  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Certificates of Birth – Issuance of New Certificates – Sex Designation**  
3 **(Birth Certificate Modernization Act)**

4 FOR the purpose of altering the circumstances under which the Secretary of Health is  
5 required to make a new certificate of birth due to the change of a sex designation of  
6 an individual; establishing requirements and a prohibition related to the making of  
7 new certificates of birth; and generally relating to the issuance of new certificates of  
8 birth.

9 BY repealing and reenacting, with amendments,  
10 Article – Health – General  
11 Section 4–211  
12 Annotated Code of Maryland  
13 (2019 Replacement Volume and 2022 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Health – General**

17 4–211.

18 (a) Except as provided in subsection [(d)] **(E)** of this section, the Secretary shall  
19 make a new certificate of birth for an individual if the Department receives satisfactory  
20 proof that:

21 (1) The individual was born in this State; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 (2) Regardless of the location, one of the following has occurred:

2 (i) The previously unwed parents of the individual have married  
3 each other after the birth of the individual;

4 (ii) A court of competent jurisdiction has entered an order as to the  
5 parentage, legitimation, or adoption of the individual; or

6 (iii) If a parent who did not give birth to the individual is not named  
7 on an earlier certificate of birth:

8 1. The parent who did not give birth to the individual has  
9 acknowledged himself or herself by affidavit to be a parent of the individual; and

10 2. The mother of the individual has consented by affidavit to  
11 the acknowledgment.

12 (b) Except as provided in subsection [(d)] (E) of this section, the Secretary shall  
13 make a new certificate of birth for an individual if the Department receives satisfactory  
14 proof that:

15 (1) The individual was born in this State; and

16 (2) Regardless of the location, one of the following has occurred:

17 (i) [1. A licensed health care practitioner who has treated or  
18 evaluated the individual has determined that the individual's sex designation should be  
19 changed because the individual has undergone treatment appropriate for the purpose of  
20 sex transition or has been diagnosed with an intersex condition;

21 2.] The individual, or if the individual is a minor or disabled  
22 person under guardianship, the individual's parent, guardian, or legal representative, has  
23 made a written request, **UNDER PENALTY OF PERJURY**, for a new certificate of birth with  
24 a sex designation that differs from the sex designated on the original certificate of birth;  
25 [and

26 3. The licensed health care practitioner has signed a  
27 statement, under penalty of perjury, that:

28 A. The individual has undergone surgical, hormonal, or other  
29 treatment appropriate for the individual, based on generally accepted medical standards;  
30 or

31 B. The individual has an intersex condition and, in the  
32 professional opinion of the licensed health care practitioner, based on generally accepted  
33 medical standards, the individual's sex designation should be changed accordingly;]

1 (ii) A court of competent jurisdiction has issued an order indicating  
2 that the sex of an individual born in this State has been changed; or

3 (iii) Before October 1, 2015, the Secretary, as provided under  
4 regulations adopted by the Department, amended an original certificate of birth on receipt  
5 of a certified copy of an order of a court of competent jurisdiction indicating the sex of the  
6 individual had been changed.

7 **(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE**  
8 **SECRETARY SHALL MAKE A NEW CERTIFICATE OF BIRTH FOR AN INDIVIDUAL IF THE**  
9 **DEPARTMENT RECEIVES SATISFACTORY PROOF THAT:**

10 **(1) THE INDIVIDUAL WAS BORN IN THIS STATE; AND**

11 **(2) REGARDLESS OF THE LOCATION, ONE OF THE FOLLOWING HAS**  
12 **OCCURRED:**

13 **(I) THE INDIVIDUAL, OR, IF THE INDIVIDUAL IS A MINOR OR**  
14 **DISABLED PERSON UNDER GUARDIANSHIP, THE INDIVIDUAL'S PARENT, GUARDIAN,**  
15 **OR LEGAL REPRESENTATIVE, HAS MADE A WRITTEN REQUEST, UNDER PENALTY OF**  
16 **PERJURY, FOR A NEW CERTIFICATE OF BIRTH WITH A DESIGNATION FOR THE**  
17 **PARENT AS "MOTHER", "FATHER", OR "PARENT" THAT DIFFERS FROM THE**  
18 **DESIGNATION ON THE ORIGINAL CERTIFICATE OF BIRTH; OR**

19 **(II) A COURT OF COMPETENT JURISDICTION HAS ISSUED AN**  
20 **ORDER INDICATING THAT THE NAME OF A PARENT LISTED ON THE INDIVIDUAL'S**  
21 **CERTIFICATE OF BIRTH HAS BEEN CHANGED.**

22 **[(c)] (D)** Except as provided in subsection **[(d)] (E)** of this section, the Secretary  
23 may make a new certificate of birth for an individual who was born outside the United  
24 States if one of the following occurred in this State:

25 (1) The previously unwed parents of the individual have married each  
26 other after the birth of the individual;

27 (2) A court of competent jurisdiction in this State has entered an order as  
28 to parentage or legitimation; or

29 (3) The parent who did not give birth to the individual acknowledged  
30 himself or herself by affidavit to be a parent of the individual and the mother of the  
31 individual has consented by affidavit to the acknowledgment.

32 **[(d)] (E)** The Secretary may not make a new certificate of birth in connection  
33 with an order of a court of competent jurisdiction relating to the adoption of an individual,

1 if one of the following so directs the Secretary:

2 (1) The court that decrees the adoption;

3 (2) The adoptive parents; or

4 (3) The adopted individual, if an adult.

5 **[(e)] (F)** A new certificate of birth shall be prepared on the following basis:

6 (1) The individual shall be treated as having at birth the status that later  
7 is acquired or established and of which proof is submitted.

8 (2) (i) If the parents of the individual were not married and parentage  
9 is established by legal proceedings, the name of the parent who did not give birth to the  
10 individual shall be inserted.

11 (ii) The legal proceeding should request and report to the Secretary  
12 that the surname of the subject of the record be changed from that shown on the original  
13 certificate, if a change is desired.

14 (3) If the individual is adopted, the name of the individual shall be that set  
15 by the decree of adoption, and the adoptive parents shall be recorded as the parents of the  
16 individual.

17 (4) The new certificate of birth shall contain wording that requires each  
18 parent shown on the new certificate to indicate his or her own Social Security number.

19 **[(f)] (G)** (1) When a new certificate of birth is made under subsection (b) of  
20 this section:

21 (i) The sex designation of the individual on the new certificate of  
22 birth shall be the sex designation for which satisfactory proof has been submitted in  
23 accordance with subsection (b) of this section; and

24 (ii) If the name of the individual has been changed at any time, the  
25 name of the individual on the new certificate of birth shall be the name that was last  
26 established and for which appropriate documentation has been submitted to the  
27 Department.

28 (2) A new certificate of birth made under subsection (b) of this section may  
29 not:

30 (i) Be marked “amended”; or

31 (ii) Show on its face that a change has been made to:

- 1                   1.     A sex designation; or
- 2                   2.     If applicable, a [change of] name.

3                   **(3) WHEN ISSUING A NEW CERTIFICATE OF BIRTH UNDER**  
4 **SUBSECTION (B) OF THIS SECTION, THE SECRETARY:**

5                   **(I) MAY NOT BE LIMITED TO DESIGNATING THE SEX OF THE**  
6 **INDIVIDUAL AS “MALE” OR “FEMALE”; AND**

7                   **(II) SHALL, WHEN REQUESTED UNDER PENALTY OF PERJURY,**  
8 **DESIGNATE THE SEX OF THE INDIVIDUAL ON THE NEW CERTIFICATE OF BIRTH AS**  
9 **NONBINARY, OTHER, OR UNSPECIFIED.**

10                  **(H) (1) WHEN A NEW CERTIFICATE OF BIRTH IS MADE UNDER**  
11 **SUBSECTION (C) OF THIS SECTION:**

12                  **(I) THE DESIGNATION FOR THE PARENT ON THE NEW**  
13 **CERTIFICATE OF BIRTH SHALL BE THE DESIGNATION FOR WHICH SATISFACTORY**  
14 **PROOF HAS BEEN SUBMITTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS**  
15 **SECTION AND THAT IS REQUESTED BY THE INDIVIDUAL UNDER PENALTY OF**  
16 **PERJURY; AND**

17                  **(II) IF THE NAME OF THE PARENT HAS BEEN CHANGED AT ANY**  
18 **TIME:**

19                    1.     **THE NAME OF THE PARENT ON THE NEW CERTIFICATE**  
20 **OF BIRTH SHALL BE THE NAME THAT WAS LAST ESTABLISHED AND FOR WHICH**  
21 **APPROPRIATE DOCUMENTATION HAS BEEN SUBMITTED TO THE DEPARTMENT; AND**

22                    2.     **EXCEPT ON REQUEST OF THE INDIVIDUAL, OR, IF THE**  
23 **INDIVIDUAL IS A MINOR OR DISABLED PERSON UNDER GUARDIANSHIP, THE**  
24 **INDIVIDUAL’S PARENT, GUARDIAN, OR LEGAL REPRESENTATIVE, THE NEW**  
25 **CERTIFICATE OF BIRTH MAY NOT INCLUDE ANY PRIOR LEGAL NAME OF THE PARENT.**

26                  **(2) A NEW CERTIFICATE OF BIRTH MADE UNDER SUBSECTION (C) OF**  
27 **THIS SECTION MAY NOT:**

28                    **(I) BE MARKED “AMENDED”; OR**

29                    **(II) SHOW ON ITS FACE THAT A CHANGE HAS BEEN MADE TO:**

- 30                    1.     **A SEX DESIGNATION; OR**

**2. IF APPLICABLE, A NAME.**

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- 2 **[(g)] (I)** (1) If a new certificate of birth is made, the Secretary shall:
- 3 (i) Substitute the new certificate of birth for any certificate then on  
4 file; and
- 5 (ii) Place the original certificate of birth and all records that relate  
6 to the new certificate of birth under seal.
- 7 (2) The seal may be broken only:
- 8 (i) On order of a court of competent jurisdiction;
- 9 (ii) If it does not violate the confidentiality of the record, on written  
10 order of a designee of the Secretary; or
- 11 (iii) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the  
12 Family Law Article.
- 13 (3) A certified copy of the certificate of birth that later is issued shall be a  
14 copy of the new certificate of birth, unless:
- 15 (i) A court of competent jurisdiction orders the issuance of a copy of  
16 the original certificate of birth; or
- 17 (ii) Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article  
18 provides for the issuance of a copy of the original certificate of birth.
- 19 **[(h)] (J)** Each clerk of court shall send to the Secretary, on the form that the  
20 Secretary provides, a report of:
- 21 (1) Each decree of adoption;
- 22 (2) Each adjudication of parentage, including the parent's Social Security  
23 number; and
- 24 (3) Each revocation or amendment of any decree of adoption or  
25 adjudication of paternity that the court enters.
- 26 **[(i)] (K)** Upon receipt of a report or decree of annulment of adoption, the original  
27 certificate of birth shall be restored to its place in the files, and the adoption certificate and  
28 any accompanying documents are not subject to inspection except upon order of a court of  
29 competent jurisdiction or as provided by regulation.
- 30 **[(j)] (L)** If no certificate of birth is on file for the person for whom a new birth  
31 certificate is to be established under this section, and the date and place of birth have not

1 been determined in the adoption or paternity proceedings:

2 (1) A delayed certificate of birth shall be filed with the Secretary as  
3 provided in § 4-210 of this subtitle before a new certificate of birth is established; and

4 (2) The new birth certificate shall be prepared on the delayed birth  
5 certificate form.

6 **[(k)] (M)** (1) The Secretary shall, on request, prepare and register a certificate  
7 in this State for an individual born in a foreign country and who was adopted:

8 (i) Through a court of competent jurisdiction in this State; or

9 (ii) 1. Under the laws of a jurisdiction or country other than the  
10 United States and has been granted an IR-3 or IH-3 visa by the [United States  
11 Immigration and Naturalization Service] **U.S. CITIZENSHIP AND IMMIGRATION  
12 SERVICES** under the Immigration and Nationality Act; and

13 2. By an adopting parent who is a resident of this State.

14 (2) Except as provided in paragraph (3) of this subsection, the certificate  
15 shall be established on receipt of:

16 (i) A certificate of adoption from the court decreeing the adoption;

17 (ii) Proof of the date and place of the child's birth; and

18 (iii) A request from the court, the adopting parents, or the adopted  
19 person if 18 years of age or over that the certificate be prepared.

20 (3) If the child was adopted under the laws of a jurisdiction or country other  
21 than the United States and has been granted an IR-3 or IH-3 visa by the [United States  
22 Immigration and Naturalization Service] **U.S. CITIZENSHIP AND IMMIGRATION  
23 SERVICES** under the Immigration and Nationality Act, the certificate shall be established  
24 on receipt of:

25 (i) An official copy of the decree from the jurisdiction or country in  
26 which the child was adopted;

27 (ii) A certified translation of the foreign adoption decree;

28 (iii) Proof of the date and place of the child's birth;

29 (iv) Proof of IR-3 or IH-3 visa status;

30 (v) A request from the court, the adopting parents, or the adopted

1 person if 18 years of age or over that the certificate be prepared; and

2 (vi) Proof that the adopting parent is a resident of this State.

3 (4) The certificate shall be labeled "Certificate of Foreign Birth" and shall  
4 show the actual country of birth.

5 (5) A statement shall also be included on the certificate indicating that it  
6 is not evidence of United States citizenship for the child for whom it is issued.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2023.