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H.P. 623

House of Representatives, March 8, 2021

An Act Regarding the Issuance of a Birth Certificate Following a Gender Marker Change

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §2705, sub-§5**, as amended by PL 1989, c. 818, §3, is further
3 amended to read:

4 **5. Amendment following adoption or, legitimation or gender marker change.**
5 Amendment of a certificate following adoption or, legitimation or gender marker change
6 is governed by section 2765, ~~subsection~~ subsections 2-A and 2-B.

7 **Sec. 2. 22 MRSA §2765**, as amended by PL 2017, c. 402, Pt. C, §§47 and 48 and
8 affected by PL 2019, c. 417, Pt. B, §14, is further amended by amending the section
9 headnote to read:

10 **§2765. New certificate of birth following adoption or, legitimation or gender marker**
11 **change**

12 **Sec. 3. 22 MRSA §2765, sub-§1, ¶B**, as amended by PL 1993, c. 686, §6 and
13 affected by §13, is further amended to read:

14 B. A request that a new certificate be established and such evidence as the department
15 may require by rule proving that the person has been legitimated-; and

16 **Sec. 4. 22 MRSA §2765, sub-§1, ¶C** is enacted to read:

17 C. An application for gender marker change.

18 **Sec. 5. 22 MRSA §2765, sub-§2-A**, as amended by PL 2009, c. 601, §20, is further
19 amended to read:

20 **2-A. Certificate after adoption or, legitimation or gender marker change.** This
21 subsection governs birth certificates after adoption or, legitimation or gender marker
22 change.

23 A. When a new birth certificate is established after adoption pursuant to subsection 1,
24 paragraph A, or subsection 1-A, the actual place and date of birth, the names and
25 personal data of the adoptive parents at the time of the child's birth and the name of the
26 child after adoption must be entered on the new birth certificate.

27 (1) At the request of an adopted person who is at least 18 years of age or of the
28 adoptive parents of an adopted child under 18 years of age, the new certificate must
29 carry a notation that it has been amended, all items that have been revised pursuant
30 to the adoption decree must be identified, and the notation "court action" and the
31 date of the adoption decree must be shown on the new certificate.

32 (2) If the birth certificate has been annotated pursuant to subparagraph (1), the
33 annotation may be deleted in accordance with department regulations at the request
34 of an adopted person who is at least 18 years of age or of the adoptive parents of
35 an adopted child under 18 years of age.

36 B. When a new certificate is established after legitimation pursuant to subsection 1,
37 paragraph B, the actual place and date of birth, the name of the child and the names
38 and personal data of both parents at the time of birth must be shown. Notwithstanding
39 section 2705, the new certificate may not be marked "amended." The new certificate
40 must be filed with all other birth certificates and is not subject to the provisions of
41 section 2761, subsection 4.

1 C. When a new certificate of birth is established following adoption or legitimization
2 or gender marker change, it must be substituted for the original certificate of birth.
3 After that substitution, the original certificate of birth and the evidence of adoption or
4 application for gender marker change are not subject to inspection except upon order
5 of the Probate Court or the Superior Court or pursuant to section 2768. The application
6 for legitimization may be released to persons listed on the original birth certificate upon
7 completion of written application to the State Registrar of Vital Statistics or the
8 registrar's designee.

9 **Sec. 6. 22 MRSA §2765, sub-§2-B** is enacted to read:

10 **2-B. Certificate after gender marker change.** When a new birth certificate is
11 established after changes are made to the gender marker pursuant to subsection 1, paragraph
12 C or subsection 2-A, the requested gender marker and, if requested at the same time, the
13 first and middle names as they appear on the application must be entered on the new birth
14 certificate. A new birth certificate may be requested by a parent on behalf of a minor.

15 The new birth certificate may not be marked "amended." The new birth certificate must be
16 filed with all other birth certificates.

17 Additional requirements may be specified in rules adopted by the department.

18 SUMMARY

19 This bill amends the laws regulating the amendment of vital statistics records and the
20 issuance of new certificates of birth to allow application for gender marker change.