

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1100

By: Bergstrom

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5  
6 AS INTRODUCED

7 An Act relating to vital statistics; amending 63 O.S.  
8 2021, Sections 1-311, 1-313, 1-316 and 1-321, which  
9 relate to certificates of birth; limiting sex or  
10 gender designation on certificate of birth to male or  
11 female; prohibiting nonbinary designation; making  
12 language gender-neutral; updating statutory language;  
13 and declaring an emergency.

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

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

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

20 B. When a birth occurs in an institution, the person in charge  
21 of the institution or a designated representative shall obtain the  
22 personal data, prepare the certificate, and secure the signatures  
23 required by the certificate. The physician in attendance shall  
24 certify to the facts of birth and provide the medical information  
25 required by the certificate within five (5) days after the birth.

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

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

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

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

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

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

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

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

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

23 G. Beginning on the effective date of this act, the sex or  
24 gender designation on a certificate of birth issued under this

1 section shall be either male or female and shall not be nonbinary or  
2 any symbol representing a nonbinary designation including but not  
3 limited to the letter "X".

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

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

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

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

17 ~~(d)~~ D. When an applicant does not submit the minimum  
18 documentation required in the regulations for delayed registration,  
19 or when the State Commissioner of Health finds reason to question  
20 the validity or adequacy of the documentary evidence, the  
21 Commissioner shall not register the delayed certificate and shall  
22 advise the applicant of the reasons for his or her action.

23 E. Beginning on the effective date of this act, the sex or  
24 gender designation on a certificate of birth issued under this

1 section shall be either male or female and shall not be nonbinary or  
2 any symbol representing a nonbinary designation including but not  
3 limited to the letter "X".

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

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

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

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

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

23 1. Thereafter, the original certificate and the evidence of  
24 adoption, paternity, or legitimation shall not be amended, nor shall

1 it be subject to inspection except upon order of a court of  
2 competent jurisdiction or as otherwise specifically provided by law;  
3 and

4 2. Upon receipt of notice of annulment of adoption, the  
5 original certificate of birth shall be restored to its place in the  
6 files and the new certificate and evidence shall not be subject to  
7 inspection except upon order of a court of competent jurisdiction.  
8 The original certificate shall be restored and may be amended in  
9 accordance with Section 1-321 of this title.

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

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

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

21 B. A certificate that is amended under this section shall be  
22 marked "amended", except as provided in subsection ~~(d)~~ D of this  
23 section. The date of amendment and a summary description of the  
24 evidence submitted in support of the amendment shall be endorsed on

1 or made a part of the record. The Commissioner shall prescribe by  
2 regulation the conditions under which additions or minor corrections  
3 shall be made to birth certificates within one (1) year after the  
4 date of birth without the certificate being considered as amended.

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

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

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

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

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

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

23 1. To the specified surname upon receipt of acknowledgment of  
24 paternity signed by both parents, upon receipt of a certified copy

1 of a court order directing such name be changed or upon receipt of  
2 an electronic record from the Department of Human Services  
3 indicating that an acknowledgement of paternity has been signed by  
4 both parents or a court order directs such name change. Such  
5 certificate amended pursuant to this subsection shall not be marked  
6 "amended"; or

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

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

13 G. If within sixty (60) days of the initial issuance of a  
14 certificate of death, a funeral director, or a person acting as  
15 such, requests a correction to any portion of the death record  
16 except the information relating to the medical certification  
17 portion, due to a scrivener's error, misspelling or other correction  
18 of information, the Commissioner of Health, through the State  
19 Registrar of Vital Statistics, shall amend the record, provided ~~said~~  
20 the request is made in writing or through an electronic system and  
21 is accompanied by documentation disclosing the correct information  
22 or by a sworn statement of the funeral director. The funeral  
23 director, or person acting as such, shall be responsible for any and  
24 all amendment fees that may be imposed by the Commissioner of Health

1 for ~~said~~ the correction. Up to ten certified copies containing the  
2 erroneous original information may be exchanged for certified copies  
3 containing the corrected information at no additional cost.

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

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

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