

Enrolled House Bill 2673

Sponsored by Representatives NOSSE, GREENLICK, Senator MONNES ANDERSON, Representative WILLIAMSON; Representatives FAHEY, GOMBERG, KENY-GUYER, LININGER, MARSH, MCLAIN, PARRISH, POWER, SMITH WARNER, Senators BURDICK, DEMBROW, DEVLIN, GELSER, MANNING JR, RILEY, ROBLAN, STEINER HAYWARD, TAYLOR (at the request of Basic Rights Oregon) (Presession filed.)

CHAPTER

AN ACT

Relating to processes required to change information by which a person may be identified; creating new provisions; amending ORS 33.420, 33.460, 109.360, 432.235 and 432.245; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 432.235 is amended to read:

432.235. (1) A vital record registered under this chapter must be amended or corrected in accordance with this section or rules adopted by the State Registrar of the Center for Health Statistics for the purpose of protecting the integrity and accuracy of vital records.

(2)(a) A vital record that is amended **or corrected** under this section shall indicate that it has been amended **or corrected**, except as otherwise provided in this section or by rule of the state registrar.

(b) The state registrar shall keep and maintain:

(A) Documentation that identifies the evidence upon which an amendment or correction is based;

(B) The date of the amendment or correction; and

(C) The identity of the individual authorized by the Center for Health Statistics that made the amendment or correction.

[(3) Upon receipt of a certified copy of an order of a court of competent jurisdiction changing the name of a person born in this state, and upon the request of a person 18 years of age or older or, if a person is younger than 18 years of age and is not an emancipated minor, by the person's parent, legal guardian or legal representative, the state registrar shall amend the record of live birth to show a new name.]

(3)(a) Upon the request of an applicant who is 18 years of age or older or an emancipated minor, or if the applicant is not 18 years of age or older or an emancipated minor, upon the request of an applicant's parent, legal guardian or legal representative, the state registrar shall amend a record of live birth that occurred in this state to change the name of the applicant if:

(A) The state registrar receives a certified copy of an order from a court of competent jurisdiction changing the name of the applicant; or

(B) The state registrar receives a request, on a form prescribed by the state registrar, from the applicant to change the name that includes:

(i) Documentation sufficient, as prescribed by the state registrar by rule, to allow the state registrar to confirm the identity of the applicant and identify the correct record of live birth to be amended; and

(ii) A statement signed by the applicant in which the applicant attests, as prescribed by the state registrar by rule, to making the request for the purpose of affirming the applicant's gender identity.

(b) Upon request, the state registrar shall amend a record of live birth that occurred in this state to change the sex of an applicant if the applicant is 18 years of age or older or an emancipated minor, or if the applicant is not 18 years of age or older or an emancipated minor, the applicant's parent, legal guardian or legal representative makes the request, and if:

(A) The state registrar receives a certified copy of an order from a court of competent jurisdiction changing the sex of the applicant; or

(B) The state registrar receives a request, on a form prescribed by the state registrar, from the applicant to change the sex that includes:

(i) Documentation sufficient, as prescribed by the state registrar by rule, to allow the state registrar to confirm the identity of the applicant and identify the correct record of live birth to be amended;

(ii) A statement signed by the applicant in which the applicant attests, as prescribed by the state registrar by rule, to making the request for the purpose of affirming the applicant's gender identity; and

(iii) Any other documentation as required by the state registrar by rule.

[(4)] (4)(a) When an applicant to amend a vital record does not submit the minimum documentation required to make an amendment, or when the state registrar has cause to question the validity or adequacy of [the] an application to amend a vital record, the state registrar, in the state registrar's discretion, may refuse to amend the vital record. [and shall enter an order to that effect, stating the reasons for the action. The state registrar shall advise the applicant of the right to appeal under ORS 183.484.] If the state registrar refuses to amend a vital record under this subsection, the state registrar shall:

(A) Enter an order denying the amendment and stating the reasons for the denial; and

(B) Advise the applicant of the applicant's right to appeal the order under ORS 183.484.

(b) The state registrar may not amend a record of live birth to change the name of an applicant under subsection (3)(a)(B) or the sex of an applicant under subsection (3)(b)(B) of this section more than once.

(5) When an amendment is made to a record of marriage or a record of domestic partnership by the county clerk or other county official who issues marriage licenses and registers domestic partnerships [or, if], or when an amendment changes the name, date of birth or birthplace of a party, by the court that entered the] to a judgment or final order of a dissolution of marriage or dissolution of domestic partnership by a court of competent jurisdiction, copies of the amendment must be forwarded to the state registrar and the state registrar shall amend the related record.

(6) If a judgment or final order of dissolution of marriage or dissolution of domestic partnership is set aside by [the court that entered the judgment or order] a court of competent jurisdiction, a copy of the notice setting aside the judgment or order must be forwarded to the state registrar and the state registrar shall void the related record.

SECTION 2. ORS 432.245 is amended to read:

432.245. (1) For a person born in this state, the State Registrar of the Center for Health Statistics shall amend a record of live birth and establish a replacement for the record of live birth if the state registrar receives one of the following:

(a) A report of adoption as provided in ORS 432.223 or a certified copy of the judgment of adoption **from a court of competent jurisdiction**, with the information necessary to identify the original record of live birth and to establish a replacement for the record **of live birth**, unless the court ordering the adoption requests that a replacement for the record **of live birth** not be established;

(b) A request that a replacement **for the** record of live birth be prepared to establish parentage, as prescribed by the state registrar by rule, or **as** ordered by a court of competent jurisdiction [*in this state*] that has determined the **parentage or biological** paternity of a person;

(c) A written and notarized request[,] **that a replacement for the record of live birth be prepared to establish parentage, if the request includes an acknowledgment of paternity** signed by both **biological** parents[, *acknowledging paternity; or*];

(d) A certified copy of a judgment [*that indicates that an individual born in this state has completed sexual reassignment and that the sex on the record of live birth must be changed.*] **from a court of competent jurisdiction changing a person's sex and, if applicable, name; or**

(e) A request approved by the state registrar under ORS 432.235 (3)(b)(B).

(2) To change a person's name under subsection (1) of this section, the request or court order must include **both** the name that [*currently*] appears **on** the record of live birth **at the time of the request** and the [*new*] name to be designated on the replacement for the record **of live birth**. The [*new*] **designated** name of the person [*shall be shown*] **must appear** on the replacement for the record **of live birth**.

(3) Upon receipt of a certified copy of a court order to change the name of a person born in this state as authorized by 18 U.S.C. 3521 et seq., the state registrar shall create a replacement for [*a*] **the** record of live birth to show the new information as specified in the court order.

(4) When a replacement for a record of live birth is prepared, the city, county and date of live birth must be included in the replacement **for the record of live birth**. The replacement for the record **of live birth** must be substituted for the original record of live birth. The original record of live birth and all evidence submitted with the request or court order for the replacement for the record **of live birth** must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

(5) Upon receipt of an amended judgment of adoption, the record of live birth shall be amended by the state registrar as provided by the state registrar by rule.

(6) Upon receipt of a report of annulment of adoption or a court order annulling an adoption, the original record of live birth must be restored. The replacement for the record of live birth is not subject to inspection, except upon the order of a court of competent jurisdiction in this state or as provided by rule of the state registrar.

[*(7) If there is no record of live birth for a person for whom a replacement for the record is sought under this section and the court issues an order indicating a date of live birth more than one year from the date submitted to the Center for Health Statistics, the replacement for the record of live birth shall be created as a delayed record of live birth.*]

[*(8) (7) The state registrar shall prepare and register a record of foreign live birth for a person born in a foreign country who is not a citizen of the United States and for whom a judgment of adoption was issued by a court of competent jurisdiction in this state if the court, the parents adopting the child or the adopted person, if the adopted person is 18 years of age or older, requests the record. The record must be labeled "Record of Foreign Live Birth" and shall show the actual country of live birth. After registering the record of foreign live birth in the new name of the adopted person, the record must be placed under seal and is not subject to inspection, except upon the order of a court of competent jurisdiction [*in this state*] or as provided by rule of the state registrar.*]

(8) If there is no record of live birth for a person for whom a replacement for the record of live birth is sought under this section, and if the court order indicates a date of live birth more than one year from the date submitted to the Center for Health Statistics, the replacement for the record of live birth must be created as a delayed record of live birth.

(9) A replacement **for the** record of live birth may not be created under this section if the date and place of live birth have not been [*determined by the*] **indicated in the court order.**

SECTION 3. ORS 33.460 is amended to read:

33.460. (1) [A court that has jurisdiction to determine an application for change of name of a person under ORS 33.410 and 33.420] **Application for legal change of sex of a person may be heard and determined by any circuit court in this state. A circuit court** may order a legal change of sex and enter a judgment indicating the change of sex [*of a person if the court determines that the individual has undergone surgical, hormonal or other treatment appropriate for that individual for the purpose of gender transition and that sexual reassignment has been completed.*] **if the individual attests that the individual has undergone surgical, hormonal or other treatment appropriate for the individual for the purpose of affirming gender identity.**

(2) The court may order a legal change of sex and enter the judgment in the same manner as that provided for change of name of a person under ORS 33.410 [*and 33.420*].

(3) If a person applies for a change of name under ORS 33.410 [*and 33.420*] at the time the person applies for a legal change of sex under this section, the court may order change of name and legal change of sex at the same time and in the same proceeding.

SECTION 4. ORS 33.420 is amended to read:

33.420. [(1) *Before entering a judgment for a change of name, except as provided in ORS 109.360, the court shall require public notice of the application to be given, that all persons may show cause why the same should not be granted. The court shall also require public notice to be given of the change after the entry of the judgment.*]

[(2)] (1) **Except as provided in ORS 109.360,** before entering a judgment for a change of name in the case of a minor child, the court shall require that[, *in addition to the notice required under subsection (1) of this section,*] written notice be given to the parents of the child, both custodial and noncustodial, and to any legal guardian of the child.

[(3)] (2) Notwithstanding subsection [(2)] (1) of this section, notice of an application for the change of name of a minor child [*need not*] **does not need to** be given to a parent of the child if the other parent of the child files a verified statement in the change of name proceeding that asserts that the minor child has not resided with the other parent and that the other parent has not contributed or **has not** tried to contribute to the support of the child.

[(4)(a) *Upon the request of an applicant, the court shall waive the requirement of public notice of the application for or judgment for a change of name under subsection (1) of this section if the applicant is a certified adult program participant in the Address Confidentiality Program under ORS 192.826, unless the court issues an order pursuant to a finding of good cause under ORS 192.848.*]

[(b) *If the court grants an applicant's request to waive the public notice requirement under this subsection, the court shall seal the record of the case.*]

[(c) *If the court denies an applicant's request to waive the public notice requirement under this subsection, the court shall seal the record of the case unless the court finds that the interest of the public in the case outweighs the safety concerns of the applicant.*]

(3)(a) **In a case to determine an application for change of name of a person under ORS 33.410, if an applicant who is a certified adult program participant in the Address Confidentiality Program under ORS 192.826 requests the court to seal the record of the case, the court shall seal the record of the case unless the court issues an order pursuant to a finding of good cause under ORS 192.848.**

[(d)] (b) This subsection does not apply to an adult applicant appearing as a guardian ad litem for a minor child.

(4) **In a case to determine an application for legal change of sex of a person under ORS 33.460, if an applicant requests the court to seal the record of the case, the court shall seal the record of the case.**

SECTION 5. ORS 109.360 is amended to read:

109.360. If in a petition for the adoption of a child a change of the child's name is requested, the court, upon entering a judgment granting the adoption, may also provide in the judgment for the change of the name without the [notices] notice required by ORS 33.420.

SECTION 6. The amendments to ORS 33.420, 33.460 and 109.360 by sections 3, 4 and 5 of this 2017 Act apply to proceedings commencing on or after the operative date specified in section 7 of this 2017 Act.

SECTION 7. (1) The amendments to ORS 33.420, 33.460, 109.360, 432.235 and 432.245 by sections 1 to 5 of this 2017 Act become operative on January 1, 2018.

(2) The Oregon Health Authority and the circuit courts of this state may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority and the courts to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, powers and functions conferred on the authority and the courts by the amendments to ORS 33.420, 33.460, 109.360, 432.235 and 432.245 by sections 1 to 5 of this 2017 Act.

SECTION 8. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by House March 15, 2017

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 10, 2017

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2017

Approved:

.....M.,....., 2017

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2017

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Dennis Richardson, Secretary of State