

By: Rosenthal

H.B. No. 752

A BILL TO BE ENTITLED

AN ACT

relating to a change of name and sex for certain persons and the issuance of associated birth records and documentation; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 191.028, Health and Safety Code, is amended to read as follows:

Sec. 191.028. GENERAL AMENDMENT OF CERTIFICATE.

SECTION 2. Section 191.028(a), Health and Safety Code, is amended to read as follows:

(a) A record of a birth, death, or fetal death accepted by a local registrar for registration may not be changed except as provided by Subsection (b) or Subchapter C, Chapter 192.

SECTION 3. The heading to Section 192.011, Health and Safety Code, is amended to read as follows:

Sec. 192.011. AMENDING BIRTH CERTIFICATE FOR COMPLETION OR CORRECTION.

SECTION 4. Chapter 192, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CHANGE OF NAME AND SEX

Sec. 192.051. APPLICATION FOR CHANGE OF NAME OR SEX ON BIRTH CERTIFICATE. (a) Subject to the eligibility requirements prescribed by Section 192.052, an eligible person born in this state may apply for the issuance of a new birth certificate

1 reflecting and incorporating into the new birth certificate a
2 change to the person's name and sex or only to the person's sex by
3 providing to the state registrar:

4 (1) a signed statement from a physician on the
5 physician's official letterhead that includes:

6 (A) the physician's contact information,
7 including full name, work address, telephone number, and e-mail
8 address;

9 (B) the physician's medical license number and
10 the state or other jurisdiction of licensure;

11 (C) the physician's acknowledgment that the
12 physician treated the applicant or reviewed and evaluated the
13 applicant's medical history;

14 (D) the physician's acknowledgment that the
15 applicant received or is in the process of receiving appropriate
16 medical treatments or procedures to transition from the applicant's
17 sex as assigned at birth; and

18 (E) the physician's acknowledgment, based on the
19 physician's professional medical judgment, that the applicant's
20 transitioning from the applicant's sex as assigned at birth is in
21 the applicant's best interests;

22 (2) a completed application on the form prescribed
23 under Subsection (b);

24 (3) for a minor applicant who is subject to the
25 continuing, exclusive jurisdiction of a court under Chapter 155,
26 Family Code, a copy of the court order regarding the applicant; and

27 (4) an application fee described by Subsection (c),

1 unless the fee is waived under that subsection due to the
2 applicant's inability to pay.

3 (b) The executive commissioner by rule shall prescribe an
4 application form for a person to apply for the issuance of a new
5 birth certificate under this section. The form must:

6 (1) plainly state the eligibility requirements to
7 apply for a new birth certificate;

8 (2) include a statement to be signed by the applicant
9 or the parent, guardian, or managing conservator of a minor
10 applicant that, to the best of the signor's knowledge, the
11 applicant is eligible to apply for the new birth certificate; and

12 (3) for an applicant who is 16 years of age or younger
13 and who is not otherwise emancipated by marriage or court order,
14 include a statement to be signed by the applicant's parent,
15 guardian, or managing conservator consenting to the issuance of the
16 new birth certificate.

17 (c) The executive commissioner by rule shall set a fee for
18 an application filed under this section. The rules must:

19 (1) set the fee in the amount reasonable and necessary
20 for the department to administer this subchapter; and

21 (2) allow for a person to request a waiver from the fee
22 if the person, as determined in accordance with department rules,
23 is unable to pay the fee.

24 Sec. 192.052. ELIGIBILITY REQUIREMENTS FOR CHANGE OF NAME
25 OR SEX. (a) In this section:

26 (1) "Criminal history record information" has the
27 meaning assigned by Section [411.082](#), Government Code.

1 (2) "Local law enforcement authority" has the meaning
2 assigned by Article 62.001, Code of Criminal Procedure.

3 (b) Except as otherwise provided by this section, a person
4 is ineligible to apply for the issuance of a new birth certificate
5 under Section 192.051 if the person:

6 (1) has been finally convicted of a felony offense;

7 (2) received community supervision, including
8 deferred adjudication, for a felony offense;

9 (3) is subject to deferred disposition of a felony
10 offense; or

11 (4) is subject to the registration requirements of
12 Chapter 62, Code of Criminal Procedure.

13 (c) A person described by Subsection (b)(1), (b)(2), or
14 (b)(3) is eligible to apply for the issuance of a new birth
15 certificate under Section 192.051 only if the person provides to
16 the state registrar, in addition to the items required by Section
17 192.051(a), proof that the person has notified the appropriate
18 local law enforcement authority of the proposed change to the
19 person's name and sex or only to the person's sex, as applicable,
20 and the person:

21 (1) for the felony offense for which the person is
22 ineligible under Subsection (b)(1), (b)(2), or (b)(3), as
23 applicable, has:

24 (A) been pardoned and had the record of the
25 offense expunged from the person's record; or

26 (B) received a certificate of discharge by the
27 Texas Department of Criminal Justice or completed a period of

1 community supervision or juvenile probation ordered by a court and
2 at least two years have elapsed from the date of the discharge or of
3 the completion of community supervision or juvenile probation; or
4 (2) is seeking to change the person's name or sex to
5 the primary name or sex used in the person's criminal history record
6 information.

7 (d) A person described by Subsection (b)(4) is eligible to
8 apply for the issuance of a new birth certificate only if the
9 person:

10 (1) provides to the state registrar, in addition to
11 the items required by Section 192.051(a), proof that the person has
12 notified the appropriate local law enforcement authority of the
13 proposed change to the person's name and sex or only to the person's
14 sex, as applicable; and

15 (2) is seeking to change the person's name or sex to
16 the primary name or sex used in the person's criminal history record
17 information and as it appears on the person's registration under
18 Chapter 62, Code of Criminal Procedure.

19 (e) For each person described by this section to whom the
20 state registrar issues a new birth certificate, the state registrar
21 shall provide to the applicable local law enforcement authority:

22 (1) a copy of the new birth certificate; and

23 (2) the accompanying certificate of change issued
24 under Section 192.053.

25 Sec. 192.053. ISSUANCE OF NEW BIRTH CERTIFICATE AND
26 SUPPORTING DOCUMENTATION. (a) As soon as practicable after
27 receiving a complete application for a new birth certificate under

1 Section 192.051, the state registrar shall issue to the applicant a
2 new birth certificate that incorporates the changed name and sex or
3 only the changed sex, as applicable. The new birth certificate may
4 not include the applicant's name or sex from a prior birth
5 certificate that is inaccurate for the new birth certificate.

6 (b) The state registrar shall issue with the new birth
7 certificate a separate certificate of change that includes:

8 (1) the name and sex of the person before the new birth
9 certificate is issued;

10 (2) the name and sex of the person after the new birth
11 certificate is issued;

12 (3) each of the person's federal and state
13 identification numbers, including the person's driver's license
14 number, passport number, and military identification number, as
15 applicable; and

16 (4) the signature of the state registrar.

17 (c) The state registrar shall:

18 (1) arrange, bind, and permanently preserve in a
19 systematic manner a new birth certificate and accompanying
20 certificate of change issued to a person under this section and the
21 application and supporting documentation submitted for the new
22 birth certificate; and

23 (2) ensure that a copy of the new birth certificate and
24 accompanying certificate of change issued under this section is
25 maintained in the central record file described by Chapter 108,
26 Family Code.

27 (d) Subject to department rules controlling the

1 accessibility of vital records, the state registrar shall supply to
2 a properly qualified applicant, on request, a certified copy of the
3 new birth certificate and accompanying certificate of change issued
4 to a person under this section.

5 Sec. 192.054. LIABILITIES AND RIGHTS UNAFFECTED. A
6 person's change of name or sex under this subchapter does not
7 release the person from any liability incurred or defeat any right
8 the person had under the person's previous name or sex.

9 Sec. 192.055. LEGAL RIGHTS ASSOCIATED WITH VITAL RECORDS
10 ISSUED UNDER SUBCHAPTER. (a) A copy of a new birth certificate and
11 accompanying certificate of change issued to a person under Section
12 192.053 that is certified by the state registrar is prima facie
13 evidence of the facts stated in the record and constitutes
14 sufficient proof for:

15 (1) the person to correct or amend the person's name or
16 sex on any government-issued identification to reflect the person's
17 changed name or sex, including the name or sex on the person's:

18 (A) driver's license;

19 (B) voter registration card; and

20 (C) state-issued professional license; and

21 (2) the person's name or sex for each state and local
22 governmental entity in this state, including a school or
23 university.

24 (b) A person who is issued a new birth certificate and
25 accompanying certificate of change under Section 192.053 may manage
26 the property owned by the person before issuance of those documents
27 using either the person's prior name or sex, as it may appear on any

1 title or other ownership record associated with the property, or
2 the person's changed name or sex under the new birth certificate.

3 Sec. 192.056. CONSTRUCTION OF SUBCHAPTER; OPTION FOR
4 COURT-ORDERED NAME OR SEX CHANGE UNAFFECTED. Nothing in this
5 subchapter shall be construed to restrict a person's ability to
6 seek from a court of competent jurisdiction, or to limit the
7 authority of that court under other law to issue, an order changing
8 the person's name or sex.

9 Sec. 192.057. RULES. The executive commissioner shall
10 adopt rules and procedures to implement and administer this
11 subchapter, including rules and procedures to:

12 (1) establish for both adults and minors applying for
13 a new birth certificate the same requirements for the physician's
14 statement under Section 192.051(a)(1);

15 (2) ensure a person applying for a new birth
16 certificate is not required to include in the application a court
17 order authorizing a change to the person's name or sex;

18 (3) prescribe the appropriate forms and processes for
19 a person seeking a waiver from the application fee required under
20 Section 192.051(c), as provided by that section; and

21 (4) prescribe the form of a certificate of change
22 issued with a new birth certificate under Section 192.053.

23 SECTION 5. As soon as practicable after the effective date
24 of this Act, the executive commissioner of the Health and Human
25 Services Commission shall adopt rules necessary to implement
26 Subchapter C, Chapter 192, Health and Safety Code, as added by this
27 Act.

1 SECTION 6. This Act takes effect September 1, 2023.