

By: Rosenthal

H.B. No. 338

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a change of name and sex for certain persons and the  
3 issuance of associated vital records and documentation;  
4 authorizing a fee.

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

6 SECTION 1. Subchapter A, Chapter 192, Health and Safety  
7 Code, is amended by adding Section 192.0115 to read as follows:

8 Sec. 192.0115. CHANGING NAME AND SEX; ISSUANCE OF VITAL  
9 RECORDS AND DOCUMENTATION. (a) A person born in this state may  
10 apply for the issuance of a new birth certificate with a change to  
11 the person's name and sex incorporated into the certificate by  
12 providing to the state registrar:

13 (1) a sworn affidavit by a physician licensed to  
14 practice medicine in this state that includes:

15 (A) the physician's letterhead;

16 (B) the physician's full name;

17 (C) the physician's medical license number;

18 (D) the jurisdiction that issued the physician's  
19 medical license;

20 (E) a statement that a physician-patient  
21 relationship exists between the physician and the applicant; and

22 (F) a statement that the applicant has undergone  
23 a clinically appropriate treatment for the purpose of transitioning  
24 to another sex;

1           (2) a completed application on the form prescribed by  
2 the department under Subsection (i); and

3           (3) the fee described by Subsection (m).

4           (b) The state registrar may not require the person applying  
5 for a new birth certificate under this section to include a court  
6 order authorizing the name change.

7           (c) A person is ineligible to apply for a new birth  
8 certificate under this section if the person has been finally  
9 convicted of a felony offense under or has been subject to the  
10 registration requirements of Chapter 62, Code of Criminal  
11 Procedure. In this subsection, a person is considered finally  
12 convicted of a felony offense if for a felony offense:

13           (1) a sentence is imposed on the person;

14           (2) the person receives community supervision,  
15 including deferred adjudication; or

16           (3) the court defers final disposition of the person's  
17 case.

18           (d) A person who is ineligible under Subsection (c) to apply  
19 for a new birth certificate under this section may petition for a  
20 change of name in accordance with Chapter 45, Family Code.

21           (e) In processing an application under this section, the  
22 state registrar shall determine whether the applicant is ineligible  
23 under Subsection (c) to apply for a new birth certificate under this  
24 section.

25           (f) The state registrar shall issue a new birth certificate  
26 that incorporates the change of name and sex and attach to the birth  
27 certificate a change of name and sex certificate if the application

1 filed under this section complies with this section and rules  
2 adopted under this section. The new birth certificate may not  
3 include the applicant's name and sex from a prior birth certificate  
4 that are inaccurate for the new birth certificate.

5 (g) A change of name and sex certificate issued under this  
6 section must include:

7 (1) the name and sex of the person before the  
8 certificate is issued;

9 (2) the name and sex of the person after the  
10 certificate is issued;

11 (3) the date the certificate is issued;

12 (4) the person's social security number and any  
13 driver's license number; and

14 (5) the signature of the state registrar.

15 (h) A change of name and sex certificate issued under this  
16 section constitutes proof of the change of name and sex of the  
17 person named in the certificate.

18 (i) The department shall prescribe a form for applying for a  
19 new birth certificate under this section. The form must:

20 (1) plainly state the eligibility requirements to  
21 apply for a new birth certificate under this section;

22 (2) include a statement, to be signed by the  
23 applicant, or the applicant's parent, legal guardian, or managing  
24 conservator if the applicant is a minor, that to the best of the  
25 person's knowledge, the applicant is eligible to apply for a new  
26 birth certificate under this section; and

27 (3) require the written, signed consent of the

1 applicant's parent, legal guardian, or managing conservator if the  
2 applicant is a minor.

3 (j) The state registrar shall arrange, bind, and  
4 permanently preserve in a systematic manner change of name and sex  
5 certificates issued under this section and the application and  
6 supporting information submitted with the application filed under  
7 this section.

8 (k) A copy of a change of name and sex certificate issued  
9 under this section that is certified by the state registrar is prima  
10 facie evidence of the facts stated in the record.

11 (l) Subject to department rules controlling the  
12 accessibility of vital records, the state registrar shall supply to  
13 a properly qualified applicant, on request, a certified copy of a  
14 change of name and sex certificate issued under this section.

15 (m) The executive commissioner shall adopt rules to  
16 implement this section and set a fee for an application filed under  
17 this section in an amount reasonable and necessary for the  
18 department to administer this section.

19 SECTION 2. The heading to Section 191.028, Health and  
20 Safety Code, is amended to read as follows:

21 Sec. 191.028. GENERAL AMENDMENT OF CERTIFICATE.

22 SECTION 3. Section 191.028(a), Health and Safety Code, is  
23 amended to read as follows:

24 (a) A record of a birth, death, or fetal death accepted by a  
25 local registrar for registration may not be changed except as  
26 provided by Subsection (b) or Section 192.0115.

27 SECTION 4. The heading to Section 192.011, Health and

1 Safety Code, is amended to read as follows:

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

4           SECTION 5. As soon as practicable after the effective date  
5 of this Act, the executive commissioner of the Health and Human  
6 Services Commission shall adopt rules necessary to implement  
7 Section 192.0115, Health and Safety Code, as added by this Act.

8           SECTION 6. This Act takes effect September 1, 2021.