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S.B. No. 1121

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. 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 under Section 192.052, an eligible person born in this state may apply for the issuance of a new birth certificate to reflect and incorporate into the new birth certificate a change to the person's name and sex or only to the person's sex by providing to the state registrar:

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

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

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

(C) a statement that the physician has treated the applicant or has reviewed and evaluated the applicant's medical history;

1           (D) a statement that the applicant received or is  
2 in the process of receiving appropriate medical treatments or  
3 procedures to transition from the applicant's sex as assigned at  
4 birth; and

5           (E) a statement based on the physician's  
6 professional medical judgment that it is in the applicant's best  
7 interests to transition from the applicant's sex as assigned at  
8 birth;

9           (2) a completed application on the form prescribed by  
10 department rule under Subsection (b);

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

14           (4) an application fee described by Subsection (c),  
15 unless the application fee is waived under that subsection due to  
16 the applicant's inability to pay.

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

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

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

27           (3) for an applicant who is 16 years of age or younger

1 and who is not otherwise emancipated by marriage or court order,  
2 include a space to be signed by the applicant's parent, guardian, or  
3 managing conservator consenting to the issuance of the new birth  
4 certificate.

5 (c) The executive commissioner by rule shall set an  
6 application fee for an application filed under this section. The  
7 rules must:

8 (1) set the amount of fee in the amount reasonable and  
9 necessary for the department to administer this subchapter; and

10 (2) allow for a person to request a waiver from the fee  
11 if the person, as determined by department rules, is unable to pay  
12 the fee.

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

15 (1) "Criminal history record information" has the  
16 meaning assigned by Section 411.082, Government Code.

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

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

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

23 (2) received community supervision, including  
24 deferred adjudication, for a felony offense;

25 (3) is subject to deferred disposition of a felony  
26 offense; or

27 (4) is subject to the registration requirements of

1 Chapter 62, Code of Criminal Procedure.

2 (c) A person described by Subsection (b)(1), (b)(2), or  
3 (b)(3) is eligible to apply for the issuance of a new birth  
4 certificate under Section 192.051 only if the person provides to  
5 the state registrar, in addition to the items required by Section  
6 192.051(a), proof that the person has notified the appropriate  
7 local law enforcement authority of the proposed change to the  
8 person's name and sex or only to the person's sex, as applicable,  
9 and the person:

10 (1) for the felony offense for which the person is  
11 ineligible under Subsection (b)(1), (b)(2), or (b)(3), as  
12 applicable, has:

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

15 (B) received a certificate of discharge by the  
16 Texas Department of Criminal Justice or completed a period of  
17 community supervision or juvenile probation ordered by a court and  
18 at least two years have elapsed from the date the discharge was  
19 received or community supervision or juvenile probation was  
20 completed; or

21 (2) is seeking to change the person's name or sex to  
22 the primary name or sex used in the person's criminal history record  
23 information.

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

27 (1) provides to the state registrar, in addition to

1 the items required by Section 192.051(a), proof that the person has  
2 notified the appropriate local law enforcement authority of the  
3 proposed change to the person's name and sex or only to the person's  
4 sex, as applicable; and

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

9 (e) For each person described by this section to whom the  
10 state registrar issues a new birth certificate, the state registrar  
11 shall provide to the applicable local law enforcement authority a  
12 copy of the new birth certificate and accompanying certificate of  
13 change issued under Section 192.053.

14 Sec. 192.053. ISSUANCE OF NEW BIRTH CERTIFICATE AND  
15 SUPPORTING DOCUMENTATION. (a) As soon as practicable after  
16 receiving a complete application for a new birth certificate under  
17 Section 192.051, the state registrar shall issue to the applicant a  
18 new birth certificate that incorporates the changed name and sex or  
19 only the changed sex, as applicable. The new birth certificate may  
20 not include the applicant's name or sex from a prior birth  
21 certificate that is inaccurate for the new birth certificate.

22 (b) The state registrar shall issue with the new birth  
23 certificate a separate certificate of change document that  
24 includes:

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

27 (2) the name and sex of the person after the new birth

1 certificate is issued;

2 (3) each of the person's federal and state  
3 identification numbers, including the person's driver's license  
4 number, passport number, and military identification number, as  
5 applicable; and

6 (4) the signature of the state registrar.

7 (c) The state registrar shall:

8 (1) arrange, bind, and permanently preserve in a  
9 systematic manner a new birth certificate and accompanying  
10 certificate of change issued to a person under this section and the  
11 application and supporting documentation submitted for the new  
12 birth certificate; and

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

17 (d) Subject to department rules controlling the  
18 accessibility of vital records, the state registrar shall supply to  
19 a properly qualified applicant, on request, a certified copy of the  
20 new birth certificate and accompanying certificate of change issued  
21 to a person under this section.

22 Sec. 192.054. LIABILITIES AND RIGHTS UNAFFECTED. A  
23 person's change of name or sex under this subchapter does not  
24 release the person from any liability incurred or defeat any right  
25 the person had under the person's previous name or sex.

26 Sec. 192.055. LEGAL RIGHTS ASSOCIATED WITH VITAL RECORDS  
27 ISSUED UNDER SUBCHAPTER. (a) A copy of a new birth certificate and

1 accompanying certificate of change issued to a person under Section  
2 192.053 that is certified by the state registrar is prima facie  
3 evidence of the facts stated in the record and constitutes  
4 sufficient proof for:

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

8 (A) driver's license;

9 (B) voter registration card; and

10 (C) state-issued professional license; and

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

14 (b) A person who is issued a new birth certificate and  
15 accompanying certificate of change under Section 192.053 may manage  
16 the property owned by the person before issuance of those documents  
17 using either the person's prior name or sex, as it may appear on any  
18 title or other ownership record associated with the property, or  
19 the person's changed name or sex under the new birth certificate.

20 Sec. 192.056. CONSTRUCTION OF SUBCHAPTER; OPTION FOR COURT  
21 ORDERED NAME OR SEX CHANGE UNAFFECTED. Nothing in this subchapter  
22 shall be construed to restrict a person's ability to seek from a  
23 court of competent jurisdiction, or to limit the authority of that  
24 court under other law to issue, an order changing the person's name  
25 or sex.

26 Sec. 192.057. RULES. The executive commissioner shall  
27 adopt rules and procedures to implement and administer this

1 subchapter, including rules and procedures to:

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

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

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

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

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

15 Sec. 191.028. GENERAL AMENDMENT OF CERTIFICATE.

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

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

21 SECTION 4. The heading to Section 192.011, Health and  
22 Safety Code, is amended to read as follows:

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

25 SECTION 5. As soon as practicable after the effective date  
26 of this Act, the executive commissioner of the Health and Human  
27 Services Commission shall adopt rules necessary to implement

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1 Subchapter C, Chapter 192, Health and Safety Code, as added by this  
2 Act.

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