

BILL ANALYSIS

Senate Research Center
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S.B. 162
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current state statute on birth certificates leaves the contents of the birth certificate up to the Department of State Health Services (DSHS) with the exception of the parent's social security numbers. Current rule at DSHS require birth certificates to include a number of other criteria, including "sex" if known.

The current process to change the sex listed on a birth certificate in Texas requires a court order. However, Texas statute does not specify what is required to be submitted to a judge and it is up to individual judges to decide what documents are required.

S.B. 162 requires by statute, birth certificates list the biological sex of the newborn. The doctor or person responsible for filing the paperwork must ensure that the biological sex of the child is listed.

If it is determined by the physician that the child was born intersex, the sex does not have to be listed at that time.

S.B. 162 prohibits the sex listed on the birth certificate of a minor from being changed unless the change is to correct a clerical error, or to complete the birth certificate if the sex was not listed, or if the child is intersex and the sex is later determined.

As proposed, S.B. 162 amends current law relating to the required inclusion of a person's sex on a birth certificate and prohibited change of sex on the birth certificate of certain minors.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 192.002, Health and Safety Code, by adding Subsection (c-1), to require that the form of a birth certificate include a space for recording the biological sex of a child as either male or female.

SECTION 2. Amends Section 192.003, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Requires a person required to file a birth certificate under Section 192.003 (Birth Certificate Filed or Birth Reported), subject to Subsection (g), to ensure the biological sex of a child, as determined by the sex organs, chromosomes, or endogenous profile of the child, is listed in the appropriate space on the birth certificate. Requires a person required to report a birth under this section to report the child's biological sex to the local registrar, and requires the local registrar to list the biological sex in the appropriate space on the birth certificate.

(g) Provides that a person is not required to list on the birth certificate or report to the local registrar the biological sex of a child whose biological sex is not determined at birth

because the child, as determined by the physician, has atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female. Authorizes the birth certificate to be amended under Section 192.011 (Amending Birth Certificate) at any time after the child's sex is determined to complete the information of the certificate by including the child's determined sex.

SECTION 3. Amends Section 192.011, Health and Safety Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Creates an exception under Subsection (d).

(d) Prohibits the state registrar, local registrar, or other person who issues a birth certificate under this section from issuing, and a court from ordering the issuance of, a birth certificate that incorporates the completed or corrected biological sex information for a minor unless:

(1) the certificate corrects a clerical error on the original birth certificate;

(2) the original birth certificate does not list the minor's biological sex as required by Section 192.003(f) and the certificate completes the information by listing the minor's biological sex; or

(3) for a minor who at birth had atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female and whose sex is later determined, the certificate:

(A) corrects the biological sex information listed as either male or female on an original birth certificate by listing the minor's determined sex as the other biological sex; or

(B) completes the biological sex information not previously listed on an original birth certificate by listing the determined sex.

SECTION 4. Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this act.

SECTION 5. Effective date: September 1, 2023.