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## A BILL FOR AN ACT

RELATING TO CERTIFICATES OF BIRTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 338-17.7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§338-17.7 Establishment of new certificates of birth,**  
4 **when.** (a) The department of health shall establish, in the  
5 following circumstances, a new certificate of birth for a person  
6 born in this State who already has a birth certificate filed  
7 with the department and who is referred to below as the "birth  
8 registrant":

9           (1) Upon receipt of an affidavit of paternity, a court  
10 order establishing paternity, or a certificate of  
11 marriage establishing the marriage of the natural  
12 parents to each other, together with a request from  
13 the birth registrant, or the birth registrant's parent  
14 or other person having legal custody of the birth  
15 registrant, that a new birth certificate be prepared  
16 because previously recorded information has been  
17 altered pursuant to law;



1           (2) Upon receipt of a certified copy of a final order,  
2                    judgment, or decree of a court of competent  
3                    jurisdiction that determined the nonexistence of a  
4                    parent and child relationship between a person  
5                    identified as a parent on the birth certificate on  
6                    file and the birth registrant;

7           (3) Upon receipt of a certified copy of a final adoption  
8                    decree, or of an abstract of the decree, pursuant to  
9                    sections 338-20 and 578-14;

10          (4) Upon receipt of ~~[an affidavit of a physician that the~~  
11                   ~~physician has examined the birth registrant and has~~  
12                   ~~determined the following:~~

13           ~~(A) The birth registrant's sex designation was~~  
14                   ~~entered incorrectly on the birth registrant's~~  
15                   ~~birth certificate; or~~

16           ~~(B) The birth registrant has had a sex change~~  
17                   ~~operation and the sex designation on the birth~~  
18                   ~~registrant's birth certificate is no longer~~  
19                   ~~correct; provided that the director of health may~~  
20                   ~~further investigate and require additional~~



1 ~~information that the director deems necessary,~~  
2 ~~or]~~

3 a statement from a licensed medical or social service  
4 provider attesting that the current birth certificate  
5 record does not align with the birth registrant's  
6 gender identity and that in the provider's  
7 professional opinion the birth registrant's gender  
8 designation should be changed accordingly; or

9 (5) Upon request of a law enforcement agency certifying  
10 that a new birth certificate showing different  
11 information would provide for the safety of the birth  
12 registrant; provided that the new birth certificate  
13 shall contain information requested by the law  
14 enforcement agency, shall be assigned a new number and  
15 filed accordingly, and shall not substitute for the  
16 birth registrant's original birth certificate, which  
17 shall remain in place.

18 (b) When a new certificate of birth is established under  
19 this section, it shall be substituted for the original  
20 certificate of birth. The new certificate shall not be marked  
21 as amended and shall in no way reveal the original language



1 changed by any amendment. Thereafter, the original certificate  
2 and the evidence supporting the preparation of the new  
3 certificate shall be sealed and filed. Such sealed [~~document~~]  
4 documents shall be opened only by an order of a court of  
5 record[-] or by request of the birth registrant.

6 (c) If a new certificate of birth is established under  
7 subsection (a)(4), it shall reflect, or shall be reissued to  
8 reflect, any legal name change made before, simultaneously, or  
9 after the change in gender designation; provided appropriate  
10 documentation of the name change is submitted.

11 (d) If a new certificate of birth is established under  
12 subsection (a)(4), the department shall not require any  
13 additional medical information or records other than those  
14 required by subsection (a)(4).

15 (e) Upon the department's refusal to issue a new birth  
16 certificate under this section, the birth registrant shall have  
17 a cause of action in a court of competent jurisdiction to  
18 petition for the new certificate. The department shall give the  
19 birth registrant written notice of this right."

20 SECTION 2. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Clean D

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JAN 23 2015



# H.B. NO. 631

**Report Title:**

New Birth Certificate; Gender Designation

**Description:**

Establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a gender designation change. Establishes birth registrant's cause of action to petition for new certificate when Department refuses to issue a new certificate.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

