

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **Senate Bill 517**

By Senators Takubo, Smith, Roberts, Grady, Stuart,

Rucker, and Karnes

[Introduced January 23, 2024; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §16-5-9 and §16-5-25 of the Code of West Virginia, 1931, as  
 2 amended, relating to birth certificates; requiring the biological sex designation on a birth  
 3 certificate to be male or female; prohibiting a nonbinary sex designation on a birth  
 4 certificate; providing that the biological sex on a birth certificate shall only be amended for a  
 5 person who has a chromosomal count that establishes the sex of the person as different  
 6 than in the registered birth certificate; setting forth evidence for amendment; and providing  
 7 for an effective date.

*Be it enacted by the Legislature of West Virginia: \_*

**ARTICLE 5. VITAL STATISTICS.**

**§16-5-9. Content of certificates and reports.**

1 (a) To promote uniformity in the system of vital statistics, in addition to the items required by  
 2 state law, the forms of certificates, reports and other returns required by this article or by rules  
 3 promulgated pursuant to this article shall include the items recommended by the federal agency  
 4 responsible for national vital statistics, subject to the commissioner's approval or modification.

5 (b) The State Registrar shall approve the form and format for each certificate, report, and  
 6 other documents required by this article.

7 (c) All vital records shall contain the date of filing.

8 (d) Information required in certificates, forms, records, or reports authorized by this article  
 9 may be filed, verified, registered and stored by photographic, electronic, or other means as  
 10 prescribed by the state Registrar.

11 (e) Notwithstanding any other provision to the contrary, beginning on the effective date of  
 12 this section, the biological sex designation on a certificate of birth issued under this chapter shall  
 13 either be male or female and shall not be nonbinary or any symbol representing a nonbinary  
 14 designation including but not limited to the letter "X" and shall only be amended consistent with the  
 15 provisions of §16-5-25 of this code.

**§16-5-25. Correction and amendment of vital records.**

1 (a) In order to protect the integrity and accuracy of vital records, a certificate or report  
2 registered under this article may be amended only in accordance with the provisions of this article  
3 or legislative rule.

4 (b) A certificate or report that is amended under this section must indicate that it has been  
5 amended, except as otherwise provided in this section or by legislative rule: *Provided*, That the  
6 department shall prescribe by legislative rule the conditions under which additions or corrections  
7 of minor deficiencies, including, but not limited to, the omission or misspelling of a first name, may  
8 be made to certificates or records within one year of the event without the certificate indicating that  
9 it has been amended.

10 (c) The State Registrar shall maintain a record which identifies the evidence upon which  
11 the amendment was based, the date of amendment, and the identity of the person making the  
12 amendment.

13 (d) Upon receipt of a certified copy of a court order of a court of competent jurisdiction  
14 changing the name of a person born in this state, and upon request of the person whose name is to  
15 be changed or his or her parent, guardian or legal representative, the state Registrar shall amend  
16 the certificate of birth to reflect the new name.

17 (e) If the required evidentiary documentation is not filed with the application for amending a  
18 vital record or the state Registrar has cause to question the validity or adequacy of the evidentiary  
19 documentation, the state Registrar may not amend the vital record and shall advise the applicant  
20 of his or her right to seek an order from a court of competent jurisdiction.

21 (f) When the state Registrar amends a certificate or report, he or she shall report the  
22 amendment to any other custodian of the vital record.

23 (g) When an amendment is made to a certificate of marriage or record of divorce or  
24 annulment, the local official issuing the marriage license or the court ordering the divorce or  
25 annulment shall forward copies of the amendment to the state Registrar.

26 (h) In addition to providing the information necessary to amend a certificate or record, a

27 person whose name is to appear on the amended certificate as a parent shall furnish the social  
28 security number or numbers, issued to the parent, which must be forwarded to the state Registrar  
29 along with the information required for the amended certificate.

30 (i) The biological sex on a birth certificate shall only be amended for a person who has a  
31 chromosomal count that establishes the sex of the person as different than in the registered birth  
32 certificate following:

33 (1) A written request for an amended birth certificate from the person or, if the person is a  
34 child, from the child's parent or legal guardian; or

35 (2) A written statement by a physician that verifies the chromosomal count.

NOTE: The purpose of this bill is to require the biological sex to be limited to male or female and to require that nonbinary birth certificates not be issued. The bill also provides circumstances when an amended birth certificate may be issued to change gender. This may be issued based upon a chromosomal count that does not match the sex as different in the registered birth certificate. The bill states the evidence required to amend the birth certificate.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.