



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

September 28, 2015

Dear Applicant:

Individuals who wish to change their gender designation and are seeking to change the gender designation on their birth certificate must make a request in writing to the New York State Department of Health, Bureau of Vital Records (the Department). Each case will be reviewed individually and determined based on the following documents:

(a) A completed Application for Correction of Certificate of Birth (DOH-297) signed by the applicant. This application indicates:

(i) the applicant's name, date of birth, parents' names on existing birth certificate, and place of birth, and

(ii) the change being requested, including the corrected gender designation and, if applicable, name change.

(b) A certified copy of the applicant's current birth certificate or a notarized affidavit from the applicant confirming that they are 18 years of age or older. In each case they need to submit a Notarized Affidavit of Gender Error, substantially similar to the one enclosed, attesting that the applicant has been living in their correct gender immediately preceding the application.

and either (c) or (d)

(c) A notarized affidavit from a physician (MD or DO) or nurse practitioner or physician assistant, confirming that surgical procedures have been performed on the applicant to complete sex reassignment.

(d) A notarized affidavit on professional letterhead from a physician (MD or DO) or nurse practitioner or physician assistant, licensed in the United States that have treated, or reviewed and evaluated, the gender-related medical history of the applicant. The notarized affidavit must include a statement noting that the provider is making his/her findings upon independent and unbiased review and evaluation and is not related to the applicant. The letter must include:

(i) the physician (MD or DO) or nurse practitioner or physician assistant's license number;

- (ii) language stating that the applicant has undergone appropriate clinical treatment for a person diagnosed with Gender Dysphoria as defined in the most current edition of the *Diagnostic and Statistical Manual of Mental Disorders* or language stating that the applicant has undergone appropriate clinical treatment for a person diagnosed with Transsexualism as defined in the most current edition of *International Statistical Classification of Diseases and Related Health Problems*; or as these diagnoses may be referred to in future editions.

If an applicant is incarcerated pursuant to a state sentence of imprisonment, the application for correction of certificate of birth must first be submitted through the appropriate state judicial or legal process, then through the New York State Department of Health, Bureau of Vital Records. If an incarcerated applicant's criminal history includes one or more felony convictions enumerated in Article 6 of the Civil Rights Law or its equivalent, if committed in another jurisdiction, the application shall for each such conviction specify such felony conviction, the date of such conviction or convictions, and the court in which such conviction or convictions were entered. At the same time that the application is submitted for consideration, the applicant shall serve, in like manner as a notice of a motion upon an attorney in an action, a copy of the application upon the district attorney of every county (or comparable jurisdiction) in which such person has been convicted of such felony and upon the court or courts in which the sentence for such felony was entered.

If the applicant is under community supervision, the applicant shall submit a letter from their department of correction and community supervision (or comparable entities), on official letterhead TO THE NEW YORK STATE DEPARTMENT OF HEALTH, BUREAU OF VITAL RECORDS, with knowledge of the applicant's history certifying that there are no public safety concerns with the application.

If the applicant is simultaneously requesting that their name be changed on their birth certificate, their written request to the Department must also include an original or certified copy of their legal name change order from a court of competent jurisdiction and a proof of publication of the assumed name, if required by law. The order must bear the court seal and be certified by the clerk of the court. Please be sure the order includes the following information needed to identify the individual named on the birth certificate: original name, date and place of birth.

As soon as all documentation is submitted, your request will be referred to Department of Health's legal and medical staff for review. Processing takes approximately three months.

If the aforementioned required documents are provided, the Department shall approve the applicant's request for a change in the gender designation. In reviewing the applicant's request, the Department shall not require proof of any particular treatment or request any documents other than those listed in sections (1)(a)-(d).

Upon the approval of a request to change the gender designation and, if applicable, the applicant's name, the Department will issue a new birth certificate reflecting the requested change(s). The new certificate will not indicate that there was a change in the original sex item designation or name, as the case may be.

When a birth certificate is amended to reflect a change in the gender designation, and, if applicable, name, the original birth certificate and all other documents relating to the change in the gender designation, will be retained in a sealed file. When a new certificate of birth is made, the Commissioner will substitute such new certificate for the certificate of birth then on file, if any, and will send the registrar of the district in which the birth occurred a copy of the new certificate of birth. The registrar will make a copy of the new certificate for the local record and hold the contents of the original local record confidential. The original state record and the local record will not be released or otherwise divulged except by order of a court of competent jurisdiction.

One certified copy will be provided following the amendment. Additional copies are \$30.00 each.

If you have any questions, please contact my office directly at (518) 474-5245.

Sincerely,

Guy Warner
Director
Bureau of Vital Records

Please mail all forms to:
New York State Department of Health
Director of Vital Records
Attention: Guy Warner
Personal and Confidential
800 North Pearl Street 2nd Floor
Albany, NY 12204

Enclosure