

HOUSE BILL 1203

D4, J1

11r1895
CF 11r3027

By: **Delegate Belcastro**

Introduced and read first time: February 8, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Certificates of Birth and Marriage Certificates – Issuance of New Certificates**
3 **– Sex Designation**

4 FOR the purpose of requiring the Secretary of Health to make a new certificate of birth for
5 an individual under certain circumstances for the purpose of changing a certain
6 designation relating to a parent of the individual; providing that the Secretary, when
7 issuing a new certificate of birth under a certain provision of law, is not limited to
8 designating the sex of an individual in a certain manner and is required, under
9 certain circumstances, to designate the sex of the individual in a certain manner;
10 establishing certain requirements and a certain prohibition related to information
11 about a certain parent that is included in a new certificate of birth made under a
12 certain provision of this Act; requiring a certain clerk who has issued a marriage
13 license to issue a new marriage certificate that includes a different sex designation
14 and, if appropriate, name for a party to the marriage under certain circumstances;
15 prohibiting a marriage certificate from reflecting certain changes under certain
16 circumstances; requiring a clerk to update certain records and files; requiring a clerk
17 to transmit a copy of a new marriage certificate to the Secretary in a certain manner;
18 requiring a clerk to place certain documents under seal; providing for the
19 circumstances under which the seal may be broken; prohibiting the issuance of an
20 original marriage certificate except by court order under certain circumstances;
21 altering certain terminology; making conforming changes; and generally relating to
22 the issuance of new certificates of birth and marriage certificates.

23 BY repealing and reenacting, with amendments,
24 Article – Health – General
25 Section 4–211
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2020 Supplement)

28 BY adding to
29 Article – Family Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–411
2 Annotated Code of Maryland
3 (2019 Replacement Volume and 2020 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
5 That the Laws of Maryland read as follows:

6 **Article – Health – General**

7 4–211.

8 (a) Except as provided in subsection [(d)] (E) of this section, the Secretary shall
9 make a new certificate of birth for an individual if the Department receives satisfactory
10 proof that:

11 (1) The individual was born in this State; and

12 (2) Regardless of the location, one of the following has occurred:

13 (i) The previously unwed parents of the individual have married
14 each other after the birth of the individual;

15 (ii) A court of competent jurisdiction has entered an order as to the
16 parentage, legitimation, or adoption of the individual; or

17 (iii) If a parent who did not give birth to the individual is not named
18 on an earlier certificate of birth:

19 1. The parent who did not give birth to the individual has
20 acknowledged himself or herself by affidavit to be a parent of the individual; and

21 2. The [mother of] **PARENT WHO GAVE BIRTH TO** the
22 individual has consented by affidavit to the acknowledgment.

23 (b) Except as provided in subsection [(d)] (E) of this section, the Secretary shall
24 make a new certificate of birth for an individual if the Department receives satisfactory
25 proof that:

26 (1) The individual was born in this State; and

27 (2) Regardless of the location, one of the following has occurred:

28 (i) 1. A licensed health care practitioner who has treated or
29 evaluated the individual has determined that the individual's sex designation should be
30 changed because the individual has undergone treatment appropriate for the purpose of
31 sex transition or has been diagnosed with an intersex condition;

1 2. The individual, or if the individual is a minor or disabled
2 person under guardianship, the individual's parent, guardian, or legal representative, has
3 made a written request for a new certificate of birth with a sex designation that differs from
4 the sex designated on the original certificate of birth; and

5 3. The licensed health care practitioner has signed a
6 statement, under penalty of perjury, that:

7 A. The individual has undergone surgical, hormonal, or other
8 treatment appropriate for the individual, based on generally accepted medical standards;
9 or

10 B. The individual has an intersex condition and, in the
11 professional opinion of the licensed health care practitioner, based on generally accepted
12 medical standards, the individual's sex designation should be changed accordingly;

13 (ii) A court of competent jurisdiction has issued an order indicating
14 that the sex of an individual born in this State has been changed; or

15 (iii) Before October 1, 2015, the Secretary, as provided under
16 regulations adopted by the Department, amended an original certificate of birth on receipt
17 of a certified copy of an order of a court of competent jurisdiction indicating the sex of the
18 individual had been changed.

19 **(C) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE**
20 **SECRETARY SHALL MAKE A NEW CERTIFICATE OF BIRTH FOR AN INDIVIDUAL IF THE**
21 **DEPARTMENT RECEIVES SATISFACTORY PROOF THAT:**

22 **(1) THE INDIVIDUAL WAS BORN IN THIS STATE; AND**

23 **(2) REGARDLESS OF THE LOCATION, ONE OF THE FOLLOWING HAS**
24 **OCCURRED:**

25 **(i) 1. A LICENSED HEALTH CARE PRACTITIONER WHO HAS**
26 **TREATED OR EVALUATED A PARENT LISTED ON THE INDIVIDUAL'S CERTIFICATE OF**
27 **BIRTH HAS DETERMINED THAT THE DESIGNATION OF THE PARENT ON THE**
28 **CERTIFICATE OF BIRTH AS "MOTHER", "FATHER", OR "PARENT" SHOULD BE**
29 **CHANGED BECAUSE THE PARENT HAS UNDERGONE TREATMENT APPROPRIATE FOR**
30 **THE PURPOSE OF SEX TRANSITION OR HAS BEEN DIAGNOSED WITH AN INTERSEX**
31 **CONDITION;**

32 **2. THE INDIVIDUAL, OR IF THE INDIVIDUAL IS A MINOR**
33 **OR DISABLED PERSON UNDER GUARDIANSHIP, THE INDIVIDUAL'S PARENT,**
34 **GUARDIAN, OR LEGAL REPRESENTATIVE, HAS MADE A WRITTEN REQUEST FOR A**
35 **NEW CERTIFICATE OF BIRTH WITH A DESIGNATION FOR THE PARENT AS "MOTHER",**

1 “FATHER”, OR “PARENT” THAT DIFFERS FROM THE DESIGNATION ON THE ORIGINAL
2 CERTIFICATE OF BIRTH; AND

3 3. THE LICENSED HEALTH CARE PRACTITIONER HAS
4 SIGNED A STATEMENT, UNDER PENALTY OF PERJURY, THAT:

5 A. THE PARENT HAS UNDERGONE SURGICAL,
6 HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THE PARENT, BASED ON
7 GENERALLY ACCEPTED MEDICAL STANDARDS; OR

8 B. THE PARENT HAS AN INTERSEX CONDITION AND, IN
9 THE PROFESSIONAL OPINION OF THE LICENSED HEALTH CARE PRACTITIONER,
10 BASED ON GENERALLY ACCEPTED MEDICAL STANDARDS, THE PARENT’S
11 DESIGNATION SHOULD BE CHANGED ACCORDINGLY;

12 (II) A COURT OF COMPETENT JURISDICTION HAS ISSUED AN
13 ORDER INDICATING THAT THE SEX OF A PARENT LISTED ON THE INDIVIDUAL’S
14 CERTIFICATE OF BIRTH HAS BEEN CHANGED; OR

15 (III) THE SEX OF A PARENT LISTED ON THE INDIVIDUAL’S
16 CERTIFICATE OF BIRTH HAS BEEN CHANGED ON THE PARENT’S OWN CERTIFICATE
17 OF BIRTH, UNITED STATES PASSPORT, OR PERMANENT RESIDENCE CARD OR IN THE
18 SOCIAL SECURITY ADMINISTRATION’S RECORDS.

19 [(c)] (D) Except as provided in subsection [(d)] (E) of this section, the Secretary
20 may make a new certificate of birth for an individual who was born outside the United
21 States if one of the following occurred in this State:

22 (1) The previously unwed parents of the individual have married each
23 other after the birth of the individual;

24 (2) A court of competent jurisdiction in this State has entered an order as
25 to parentage or legitimation; or

26 (3) The parent who did not give birth to the individual acknowledged
27 himself or herself by affidavit to be a parent of the individual and the [mother of] PARENT
28 WHO GAVE BIRTH TO the individual has consented by affidavit to the acknowledgment.

29 [(d)] (E) The Secretary may not make a new certificate of birth in connection
30 with an order of a court of competent jurisdiction relating to the adoption of an individual,
31 if one of the following so directs the Secretary:

32 (1) The court that decrees the adoption[.];

33 (2) The adoptive parents[.]; OR

1 (3) The adopted individual, if an adult.

2 [(e)] (F) A new certificate of birth shall be prepared on the following basis:

3 (1) The individual shall be treated as having at birth the status that later
4 is acquired or established and of which proof is submitted.

5 (2) (i) If the parents of the individual were not married and parentage
6 is established by legal proceedings, the name of the parent who did not give birth to the
7 individual shall be inserted.

8 (ii) The legal proceeding should request and report to the Secretary
9 that the surname of the subject of the record be changed from that shown on the original
10 certificate, if a change is desired.

11 (3) If the individual is adopted, the name of the individual shall be that set
12 by the decree of adoption, and the adoptive parents shall be recorded as the parents of the
13 individual.

14 (4) The new certificate of birth shall contain wording that requires each
15 parent shown on the new certificate to indicate his or her own Social Security number.

16 [(f)] (G) (1) When a new certificate of birth is made under subsection (b) of
17 this section:

18 (i) The sex designation of the individual on the new certificate of
19 birth shall be the sex designation for which satisfactory proof has been submitted in
20 accordance with subsection (b) of this section; and

21 (ii) If the name of the individual has been changed at any time, the
22 name of the individual on the new certificate of birth shall be the name that was last
23 established and for which appropriate documentation has been submitted to the
24 Department.

25 (2) A new certificate of birth made under subsection (b) of this section may
26 not:

27 (i) Be marked "amended"; or

28 (ii) Show on its face that a change has been made to:

29 1. A sex designation; or

30 2. If applicable, a change of name.

31 (3) WHEN ISSUING A NEW CERTIFICATE OF BIRTH UNDER

1 SUBSECTION (B) OF THIS SECTION, THE SECRETARY:

2 (I) IS NOT LIMITED TO DESIGNATING THE SEX OF THE
3 INDIVIDUAL AS “MALE” OR “FEMALE”; AND

4 (II) SHALL, WHEN REQUESTED AND ON RECEIVING
5 SATISFACTORY PROOF, DESIGNATE THE SEX OF THE INDIVIDUAL ON THE NEW
6 CERTIFICATE OF BIRTH AS NONBINARY, OTHER, OR UNSPECIFIED.

7 (H) (1) WHEN A NEW CERTIFICATE OF BIRTH IS MADE UNDER
8 SUBSECTION (C) OF THIS SECTION:

9 (I) THE DESIGNATION FOR THE PARENT ON THE NEW
10 CERTIFICATE OF BIRTH SHALL BE THE DESIGNATION FOR WHICH SATISFACTORY
11 PROOF HAS BEEN SUBMITTED IN ACCORDANCE WITH SUBSECTION (C) OF THIS
12 SECTION AND THAT IS REQUESTED BY THE INDIVIDUAL; AND

13 (II) IF THE NAME OF THE PARENT HAS BEEN CHANGED AT ANY
14 TIME:

15 1. THE NAME OF THE PARENT ON THE NEW CERTIFICATE
16 OF BIRTH SHALL BE THE NAME THAT WAS LAST ESTABLISHED AND FOR WHICH
17 APPROPRIATE DOCUMENTATION HAS BEEN SUBMITTED TO THE DEPARTMENT; AND

18 2. EXCEPT ON REQUEST OF THE INDIVIDUAL, OR IF THE
19 INDIVIDUAL IS A MINOR OR DISABLED PERSON UNDER GUARDIANSHIP, THE
20 INDIVIDUAL’S PARENT, GUARDIAN, OR LEGAL REPRESENTATIVE, THE NEW
21 CERTIFICATE OF BIRTH MAY NOT INCLUDE ANY PRIOR LEGAL NAME OF THE PARENT.

22 (2) A NEW CERTIFICATE OF BIRTH MADE UNDER SUBSECTION (B) OF
23 THIS SECTION MAY NOT:

24 (I) BE MARKED “AMENDED”; OR

25 (II) SHOW ON ITS FACE THAT A CHANGE HAS BEEN MADE TO:

26 1. A SEX DESIGNATION; OR

27 2. IF APPLICABLE, A CHANGE OF NAME.

28 [(g)] (I) (1) If a new certificate of birth is made, the Secretary shall:

29 (i) Substitute the new certificate of birth for any certificate then on
30 file; and

1 (ii) Place the original certificate of birth and all records that relate
2 to the new certificate of birth under seal.

3 (2) The seal may be broken only:

4 (i) On order of a court of competent jurisdiction;

5 (ii) If it does not violate the confidentiality of the record, on written
6 order of a designee of the Secretary; or

7 (iii) In accordance with Title 5, Subtitle 3A or Subtitle 4B of the
8 Family Law Article.

9 (3) A certified copy of the certificate of birth that later is issued shall be a
10 copy of the new certificate of birth, unless:

11 (i) A court of competent jurisdiction orders the issuance of a copy of
12 the original certificate of birth; or

13 (ii) Title 5, Subtitle 3A or Subtitle 4B of the Family Law Article
14 provides for the issuance of a copy of the original certificate of birth.

15 **[(h)] (J)** Each clerk of court shall send to the Secretary, on the form that the
16 Secretary provides, a report of:

17 (1) Each decree of adoption;

18 (2) Each adjudication of parentage, including the parent's Social Security
19 number; and

20 (3) Each revocation or amendment of any decree of adoption or
21 adjudication of paternity that the court enters.

22 **[(i)] (K)** Upon receipt of a report or decree of annulment of adoption, the original
23 certificate of birth shall be restored to its place in the files, and the adoption certificate and
24 any accompanying documents are not subject to inspection except upon order of a court of
25 competent jurisdiction or as provided by regulation.

26 **[(j)] (L)** If no certificate of birth is on file for the person for whom a new birth
27 certificate is to be established under this section, and the date and place of birth have not
28 been determined in the adoption or paternity proceedings:

29 (1) A delayed certificate of birth shall be filed with the Secretary as
30 provided in § 4-210 of this subtitle before a new certificate of birth is established; and

31 (2) The new birth certificate shall be prepared on the delayed birth

1 certificate form.

2 **[(k)] (M)** (1) The Secretary shall, on request, prepare and register a certificate
3 in this State for an individual born in a foreign country and who was adopted:

4 (i) Through a court of competent jurisdiction in this State; or

5 (ii) 1. Under the laws of a jurisdiction or country other than the
6 United States and has been granted an IR-3 or IH-3 visa by the United States Immigration
7 and Naturalization Service under the Immigration and Nationality Act; and

8 2. By an adopting parent who is a resident of this State.

9 (2) Except as provided in paragraph (3) of this subsection, the certificate
10 shall be established on receipt of:

11 (i) A certificate of adoption from the court decreeing the adoption;

12 (ii) Proof of the date and place of the child's birth; and

13 (iii) A request from the court, the adopting parents, or the adopted
14 person if 18 years of age or over that the certificate be prepared.

15 (3) If the child was adopted under the laws of a jurisdiction or country other
16 than the United States and has been granted an IR-3 or IH-3 visa by the United States
17 Immigration and Naturalization Service under the Immigration and Nationality Act, the
18 certificate shall be established on receipt of:

19 (i) An official copy of the decree from the jurisdiction or country in
20 which the child was adopted;

21 (ii) A certified translation of the foreign adoption decree;

22 (iii) Proof of the date and place of the child's birth;

23 (iv) Proof of IR-3 or IH-3 visa status;

24 (v) A request from the court, the adopting parents, or the adopted
25 person if 18 years of age or over that the certificate be prepared; and

26 (vi) Proof that the adopting parent is a resident of this State.

27 (4) The certificate shall be labeled "Certificate of Foreign Birth" and shall
28 show the actual country of birth.

29 (5) A statement shall also be included on the certificate indicating that it
30 is not evidence of United States citizenship for the child for whom it is issued.

Article – Family Law

2-411.

(A) ON REQUEST OF AN INDIVIDUAL WHO IS A PARTY TO A MARRIAGE, THE CLERK WHO ISSUED THE LICENSE FOR THE MARRIAGE SHALL ISSUE A NEW MARRIAGE CERTIFICATE IN ACCORDANCE WITH THIS SECTION IF THE CLERK RECEIVES SATISFACTORY PROOF THAT:

(1) A LICENSED HEALTH CARE PRACTITIONER WHO HAS TREATED OR EVALUATED THE INDIVIDUAL HAS:

(I) DETERMINED THAT THE SEX DESIGNATION OF THE INDIVIDUAL LISTED ON THE MARRIAGE CERTIFICATE SHOULD BE CHANGED BECAUSE THE INDIVIDUAL HAS UNDERGONE TREATMENT APPROPRIATE FOR THE PURPOSE OF SEX TRANSITION OR HAS BEEN DIAGNOSED WITH AN INTERSEX CONDITION; AND

(II) SIGNED A STATEMENT UNDER PENALTY OF PERJURY THAT THE INDIVIDUAL:

1. FOR THE PURPOSE OF SEX TRANSITION, HAS UNDERGONE SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THE INDIVIDUAL, BASED ON GENERALLY ACCEPTED MEDICAL STANDARDS; OR

2. HAS AN INTERSEX CONDITION AND, IN THE PROFESSIONAL OPINION OF THE LICENSED HEALTH CARE PRACTITIONER, BASED ON GENERALLY ACCEPTED MEDICAL STANDARDS, THE INDIVIDUAL'S SEX DESIGNATION SHOULD BE CHANGED ACCORDINGLY;

(2) A COURT OF COMPETENT JURISDICTION, REGARDLESS OF LOCATION, HAS ISSUED AN ORDER THAT THE SEX OF THE INDIVIDUAL HAS BEEN CHANGED; OR

(3) THE SEX OF THE INDIVIDUAL HAS BEEN CHANGED ON THE INDIVIDUAL'S CERTIFICATE OF BIRTH, UNITED STATES PASSPORT, OR PERMANENT RESIDENCE CARD, OR IN THE SOCIAL SECURITY ADMINISTRATION'S RECORDS.

(B) (1) A NEW MARRIAGE CERTIFICATE ISSUED TO AN INDIVIDUAL UNDER THIS SECTION SHALL STATE:

(I) IF THE MARRIAGE CERTIFICATE DESIGNATES THE SEX OF THE PARTIES, THE SEX DESIGNATION OF THE INDIVIDUAL FOR WHICH

1 SATISFACTORY PROOF HAS BEEN SUBMITTED IN ACCORDANCE WITH SUBSECTION
2 (A) OF THIS SECTION; AND

3 (II) IF THE NAME OF THE INDIVIDUAL HAS BEEN CHANGED AT
4 ANY TIME, THE NAME THAT WAS LAST ESTABLISHED AND FOR WHICH APPROPRIATE
5 DOCUMENTATION HAS BEEN SUBMITTED TO THE CLERK.

6 (2) A NEW MARRIAGE CERTIFICATE ISSUED UNDER SUBSECTION (A)
7 OF THIS SECTION MAY NOT:

8 (I) BE MARKED "AMENDED"; OR

9 (II) SHOW ON ITS FACE THAT A CHANGE HAS BEEN MADE TO:

10 1. A SEX DESIGNATION; OR

11 2. IF APPLICABLE, A CHANGE OF NAME.

12 (C) (1) IF A NEW MARRIAGE CERTIFICATE IS ISSUED, THE CLERK SHALL:

13 (I) SUBSTITUTE THE NEW MARRIAGE CERTIFICATE FOR ANY
14 CERTIFICATE THEN ON FILE;

15 (II) UPDATE THE MARRIAGE LICENSE BOOK KEPT IN
16 ACCORDANCE WITH § 2-501 OF THIS TITLE WITH THE INFORMATION ON THE NEW
17 MARRIAGE CERTIFICATE;

18 (III) REPORT AND TRANSMIT A COPY OF THE NEW MARRIAGE
19 CERTIFICATE TO THE SECRETARY OF HEALTH IN ACCORDANCE WITH § 2-503 OF
20 THIS TITLE; AND

21 (IV) PLACE THE ORIGINAL MARRIAGE CERTIFICATE AND ALL
22 RECORDS THAT RELATE TO THE NEW MARRIAGE CERTIFICATE UNDER SEAL.

23 (2) THE SEAL MAY BE BROKEN ONLY:

24 (I) ON ORDER OF A COURT OF COMPETENT JURISDICTION; OR

25 (II) IF IT DOES NOT VIOLATE THE CONFIDENTIALITY OF THE
26 RECORD, ON WRITTEN ORDER OF A DESIGNEE OF THE CLERK.

27 (3) AFTER THE ISSUANCE OF A NEW MARRIAGE CERTIFICATE UNDER
28 THIS SECTION, ANY CERTIFIED COPY OF THE MARRIAGE CERTIFICATE THAT IS

1 ISSUED SHALL BE A COPY OF THE NEW MARRIAGE CERTIFICATE, UNLESS A COURT
2 OF COMPETENT JURISDICTION ORDERS THE ISSUANCE OF A COPY OF THE ORIGINAL
3 MARRIAGE CERTIFICATE.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2021.