

HOUSE BILL 370

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By: **Delegate Belcastro**

Introduced and read first time: January 19, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Certificates of Birth – Issuance of New Certificates – Sex Designation**

3 FOR the purpose of altering the circumstances under which the Secretary of Health is
4 required to make a new certificate of birth due to the change of a sex designation of
5 an individual; establishing requirements and a prohibition related to the making of
6 the new certificates of birth; and generally relating to the issuance of new certificates
7 of birth.

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 4–211
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2021 Supplement)

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

15 **Article – Health – General**

16 4–211.

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

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

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

22 (i) The previously unwed parents of the individual have married

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 each other after the birth of the individual;

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

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

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

8 2. The mother of the individual has consented by affidavit to
9 the acknowledgment.

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

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

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

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

19 2.] The individual, or if the individual is a minor or disabled
20 person under guardianship, the individual's parent, guardian, or legal representative, has
21 made a written request, **UNDER PENALTY OF PERJURY**, for a new certificate of birth with
22 a sex designation that differs from the sex designated on the original certificate of birth;
23 [and

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

26 A. The individual has undergone surgical, hormonal, or other
27 treatment appropriate for the individual, based on generally accepted medical standards;
28 or

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

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

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

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

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

9 (2) REGARDLESS OF THE LOCATION, ONE OF THE FOLLOWING HAS
10 OCCURRED:

11 (I) THE INDIVIDUAL, OR, IF THE INDIVIDUAL IS A MINOR OR
12 DISABLED PERSON UNDER GUARDIANSHIP, THE INDIVIDUAL'S PARENT, GUARDIAN,
13 OR LEGAL REPRESENTATIVE, HAS MADE A WRITTEN REQUEST, UNDER PENALTY OF
14 PERJURY, FOR A NEW CERTIFICATE OF BIRTH WITH A DESIGNATION FOR THE
15 PARENT AS "MOTHER", "FATHER", OR "PARENT" THAT DIFFERS FROM THE
16 DESIGNATION ON THE ORIGINAL CERTIFICATE OF BIRTH; OR

17 (II) A COURT OF COMPETENT JURISDICTION HAS ISSUED AN
18 ORDER INDICATING THAT THE NAME OF A PARENT LISTED ON THE INDIVIDUAL'S
19 CERTIFICATE OF BIRTH HAS BEEN CHANGED.

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

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

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

27 (3) The parent who did not give birth to the individual acknowledged
28 himself or herself by affidavit to be a parent of the individual and the mother of the
29 individual has consented by affidavit to the acknowledgment.

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

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

1 **(3) WHEN ISSUING A NEW CERTIFICATE OF BIRTH UNDER**
2 **SUBSECTION (B) OF THIS SECTION, THE SECRETARY:**

3 **(I) MAY NOT BE LIMITED TO DESIGNATING THE SEX OF THE**
4 **INDIVIDUAL AS “MALE” OR “FEMALE”; AND**

5 **(II) SHALL, WHEN REQUESTED UNDER PENALTY OF PERJURY,**
6 **DESIGNATE THE SEX OF THE INDIVIDUAL ON THE NEW CERTIFICATE OF BIRTH AS**
7 **NONBINARY, OTHER, OR UNSPECIFIED.**

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

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

15 **(II) IF THE NAME OF THE PARENT HAS BEEN CHANGED AT ANY**
16 **TIME:**

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

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

24 **(2) A NEW CERTIFICATE OF BIRTH MADE UNDER SUBSECTION (C) OF**
25 **THIS SECTION MAY NOT:**

26 **(I) BE MARKED “AMENDED”; OR**

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

28 **1. A SEX DESIGNATION; OR**

29 **2. IF APPLICABLE, A NAME.**

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

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

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

5 (2) The seal may be broken only:

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

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

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

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

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

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

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

19 (1) Each decree of adoption;

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

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

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

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

31 (1) A delayed certificate of birth shall be filed with the Secretary as

1 provided in § 4–210 of this subtitle before a new certificate of birth is established; and

2 (2) The new birth certificate shall be prepared on the delayed birth
3 certificate form.

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

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

7 (ii) 1. Under the laws of a jurisdiction or country other than the
8 United States and has been granted an IR–3 or IH–3 visa by the [United States
9 Immigration and Naturalization Service] **U.S. CITIZENSHIP AND IMMIGRATION**
10 **SERVICES** under the Immigration and Nationality Act; and

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

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

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

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

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

18 (3) If the child was adopted under the laws of a jurisdiction or country other
19 than the United States and has been granted an IR–3 or IH–3 visa by the [United States
20 Immigration and Naturalization Service] **U.S. CITIZENSHIP AND IMMIGRATION**
21 **SERVICES** under the Immigration and Nationality Act, the certificate shall be established
22 on receipt of:

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

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

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

27 (iv) Proof of IR–3 or IH–3 visa status;

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

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

1 (4) The certificate shall be labeled “Certificate of Foreign Birth” and shall
2 show the actual country of birth.

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2022.