

HB 446 - FINAL VERSION

14Mar2019... 0801h
05/15/2019 1854s

2019 SESSION

19-0762
05/01

HOUSE BILL **446**

AN ACT relative to initiating amendments and corrections to birth records.

SPONSORS: Rep. Cannon, Straf. 18; Rep. Cushing, Rock. 21; Rep. Butler, Carr. 7; Rep. Bunker, Rock. 18; Rep. Le, Rock. 31; Rep. MacKay, Merr. 14; Rep. Muscatel, Graf. 12; Sen. Watters, Dist 4

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill provides a procedure for an individual to obtain a new birth certificate to reflect a sex designation other than that which was assigned at birth.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to initiating amendments and corrections to birth records.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Vital Records; Initiating Amendments and Corrections to Birth Records; Gender Identity.
2 RSA 5-C:87, V is repealed and reenacted to read as follows:

3 V. If an individual requests a birth record reflecting a gender designation other than that
4 which was assigned at birth, a new birth record shall be prepared to reflect a change in the
5 individual's gender upon receipt of a notarized certification affirming the individual's gender
6 designation by a licensed and qualified health care provider.

7 (a) The notarized certification shall be signed by a licensed and qualified health care
8 provider under the penalty of RSA 5-C:14. It shall provide that the named individual is currently or
9 was previously under the signing health care provider's care, and that in the health care provider's
10 professional opinion the individual's gender is (1) male, (2) female, or (3) neither male nor female,
11 and can be reasonably expected to continue as such for the foreseeable future.

12 (b) The application shall be signed by the applicant under the penalty of RSA 5-C:14.
13 This signature shall certify that the request for change of gender is for the purpose of ensuring that
14 the applicant's birth record accurately reflects the applicant's gender, and that the request is not for
15 any fraudulent or unlawful purpose. If the applicant is a minor who is at least 14 years of age but
16 less than 18 years of age, the application shall be signed by the applicant and by each parent listed
17 on the minor's birth certificate or the minor's legal guardian. If a parent listed on the birth
18 certificate cannot be found, the applicant also shall submit a certified copy of a court order stating
19 that the consent of only one parent is required. If a parent is deceased, a certified copy of the death
20 certificate shall be submitted with the application.

21 (c) The individual shall surrender any prior birth record issued by the state of New
22 Hampshire in the individual's possession. The original birth record shall be retained by the city or
23 town of birth. The city or town clerk shall submit the individual's application, the health care
24 provider's certification, and a certified copy of the original birth record to the state registrar for
25 review. Upon approval by the state registrar, the city or town clerk shall issue a new birth record
26 with a marginal note indicating that the record has been amended in accordance with this
27 paragraph. The birth records shall reflect the gender as male, female, or neither.

28 (d) The fee to amend a birth record pursuant to this paragraph shall be the same as the
29 fee to amend a birth record pursuant to RSA 5-C:10, III. Any subsequent amendment to the birth
30 record regarding gender designation shall require a court order.

1 (e) In this paragraph, "licensed and qualified health care provider" means a treating and
2 licensed physician, physician assistant, psychologist, advanced practice registered nurse, clinical
3 social worker, or clinical mental health counselor.

4 2 Effective Date. This act shall take effect January 1, 2020.

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6 VETOED July 19, 2019

7 Veto Sustained September 18, 2019

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HB 446- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2019-1854s)

AN ACT relative to initiating amendments and corrections to birth records.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$100,000	\$0	\$0	\$0
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Vital Records Improvement Fund (RSA 5-C:15)			

LOCAL:

Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	\$0	\$0	\$0

METHODOLOGY:

This bill allows an individual to request a birth certificate reflecting a sex designation other than that which was assigned at birth. The fee to amend a birth certificate would be the same as the existing fee to correct or amend a birth certificate, or \$10, kept by the municipality pursuant to RSA 5-C:10, III. The New Hampshire Municipal Association does not know how many applications are likely to be submitted in any municipality in a given year due to this legislation and is unable to estimate if there would be any additional total revenue. The Secretary of State's Office indicates there would be a one-time cost for the Division of Vital Records for modification of forms and associated programming for data exchange with the Department of Health and Human Services.

AGENCIES CONTACTED:

New Hampshire Municipal Association and Department of State