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Identity Document Laws and Policies: Gender Markers on Birth Certificates

No updates required since October 15, 2024

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Recommended citation:

Movement Advancement Project. [Year of access]. “Equality Maps: Identity Document Laws.”
www.mapresearch.org/equality-maps/identity_documents. Accessed [Date of access].



Background

Birth certificate laws govern the process by which a state changes (or refuses to change) a gender marker on a person's birth certificate. Many transgender people choose to revise the gender marker on their identity documents so that it matches the gender they live every day. Accurate and consistent gender markers on identity documents helps transgender people gain access to public spaces and resources, as well as dramatically reducing the risk they will face violence, discrimination, or harassment. For more information, see [here](#).

Process categories and scoring system:

The process for changing the gender marker on a birth certificate involves:

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (-0.75) State requires proof of "sex reassignment surgery" to change gender marker
- (-1) State does not allow changing the gender marker at all

Option categories and scoring system:

- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- (0) State only allows individuals to identify as male or female

Equality Map & Additional Resources

- See our [Equality Map: Birth Certificate Policies](#), which is updated and maintained in real time alongside this document.
- See our [Equality Map: Driver's License Policies](#) and [Equality Map: Name Change Policies](#) for related identity document policies.
- MAP's 2022 report [The ID Divide: How Barriers to ID Impact Different Communities and Affect Everyone](#), detailing the ways that barriers to obtaining an accurate ID significantly impact people's ability to move through their daily lives and how these obstacles harm specific communities.
 - See the related [Fact Sheet: Identity Documents & Transgender and Nonbinary Communities](#) (2022)
- For more information about each state's process and requirements, see also the Advocates for Transgender Equality (A4TE, formerly known as NCTE and TLDEF) [ID Documents Center](#).
- See the CDC's National Center for Health Statistics "[Where to Write for Vital Records](#)" for links to the relevant agencies in all 50 states, D.C., and five U.S. territories.



Summary Table

Category	States	
States that issue new birth certificates and do not require sex reassignment surgery or court orders to change gender marker <i>(25 states, 1 territory, + D.C.)</i>	Alaska California Colorado Connecticut Delaware District of Columbia Hawai'i Idaho Illinois Maine Maryland Massachusetts Michigan	Minnesota Nevada New Jersey New Mexico New York North Carolina Oregon Pennsylvania Puerto Rico Rhode Island Vermont Virginia Washington West Virginia
States that are unclear regarding medical requirements and/or may require a court order to change gender marker <i>(3 states + 1 territory)</i>	Ohio Mississippi Northern Mariana Islands Wyoming	
States that have unclear, unknown, or unwritten policy regarding gender marker changes <i>(3 states + 2 territories)</i>	American Samoa Indiana South Carolina South Dakota U.S. Virgin Islands	
States that require proof of sex reassignment surgery in order to change gender marker on birth certificate <i>(12 states + 1 territory)</i>	Alabama Arizona Arkansas Georgia Guam Iowa Kentucky Louisiana Missouri Nebraska New Hampshire Utah Wisconsin	
States that do not allow for updating the gender marker on a birth certificate at all <i>(7 states)</i>	Florida Kansas Montana North Dakota Oklahoma Tennessee Texas	



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State-by-State Sources & More Detail

Alabama

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Alabama Code § 22-9A-19\(d\)](#) (1992), [Form ADPH-HS-33](#), and [A4TE state page](#)

Alaska

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Department of Vital Records Gender Change Policy](#) and [A4TE state page](#)

Arizona

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Ariz. Rev. Stat. § 36-337 \(A\)\(3\)](#) (2006), [Form VS-41](#), and [A4TE state page](#)

Arkansas

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Ark. Code Ann. §§ 20-18-307\(d\)](#) (1995) and [A4TE state page](#)

California

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See [Hlth. and Safety Code, §§ 103425-103445](#) (2014), Form VS 24B ([English](#); [Spanish](#)), and [A4TE state page](#)

Colorado

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See [H.B. 19-1039](#) (2019), [5 CCR 1006-1](#), Department of Public Health’s [Correct or Change a Birth Certificate page](#) and [Sex Designation Form](#), and [A4TE state page](#)

Connecticut

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See [Conn. Gen. Stat. § 7-51](#), § 7-36 defining amendment to include matters pertaining to gender change, [HB 7006 / Public Act 15-132](#) (2015), [DPH website](#) and [instructions](#), and [A4TE state page](#)



Delaware

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female
- See [Del. Administrative Code Title 16 § 4205](#) (2017), DHSS [List of Required Documents](#) (including [Requester's Affidavit](#) and [Physician Affidavit](#)), and [A4TE state page](#)
- Formerly, (-0.75) state required a court order showing proof of surgical procedure.

District of Columbia

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on their birth certificate
- See [D.C. Law 20-37](#) (2013), [Gender Designation Application](#) (2021), and [A4TE state page](#)

Florida

- (-1) State does not allow for amending the gender marker on the birth certificate at all
 - As [reported](#) in July 2024, the state is no longer processing gender marker changes on birth certificates. While the state has not publicly provided a new policy to this effect (as of Sept 2024), such changes continue to be denied. This map and factsheet will be updated as more information becomes available.
- (0) State only allows individuals to identify as male or female
- See above, and [A4TE state page](#)
- Formerly, (1) state issued new birth certificate and did not require surgery or a court order. See <https://www.floridanamechange.org> (as early as 2018).

Georgia

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Ga. Code Ann. § 31-10-23\(e\)](#) (as early as [2006](#)) and [A4TE state page](#)

Hawai`i

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female
- See [Haw. Rev. Stat. Ann. § 338-17.7\(a\)\(4\)\(B\)](#), Act 226 (2015), [State Instructions for Sex Designation Change](#), and [A4TE state page](#)



Idaho

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows individuals to identify as male or female
- See [F.V. v. Jeppesen](#) (August 2020), [IDHW Instructions to Change the Indicator of Sex on an Idaho Birth Certificate](#), and [A4TE state page](#)
- Recent history:
 - [F.V. v. Barron](#) (2018) required Idaho’s Department of Health and Welfare to develop and implement a policy for issuing accurate birth certificates. The new policy was (1) state issued new birth certificate and did not require surgery or court order (see [Idaho Gender Change Packet](#) (2018)).
 - However, [HB509](#) (March 2020) changed the state’s policy to (-1) not allow for amending the gender marker on the birth certificate at all.
 - Then, [F.V. v. Jeppesen](#) (August 2020) overturned HB509, reverting to the state’s earlier policy of (1) issuing new birth certificates and not requiring surgery or a court order.

Illinois

- (1) State issues new birth certificate and does not require surgery or a court order (2017)
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2020)
- See [Illinois Vital Records Act \(2017\)](#), [Illinois Department of Public Health forms](#), and [A4TE state page](#)

Indiana

- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female
- In [Dec 2014](#), an Indiana court ruled that the state’s existing statute (16-37-2-10(b)) allowed for state courts to issue court orders to change the gender marker on a birth certificate (score of 0.5). This was affirmed again by a later court ruling in [2017](#). However, appellate court rulings in [May 2022](#) and [Dec 2022](#) argued that existing statute does not apply to gender marker changes and therefore that state courts have no authority to issue court orders to change gender markers on birth certificates. In [May 2023](#), the state Supreme Court declined to hear those cases, leaving the question unresolved. This means that, while some judges continue to issue gender marker changes in the state, others may choose not to, leading to potentially unclear or inconsistent experiences for transgender Hoosiers.
- See [Ind. Code Ann. § 16-37-2-10\(b\)](#), [IN Department of Health FAQ](#), and [A4TE state page](#)

Iowa

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Iowa Code Ann. § 144.23\(3\)](#), Iowa [DHHS Vital Records, Amendment form](#), and [A4TE state page](#)



Kansas

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See below, and [A4TE state page](#)
- Recent history:
 - Formerly, state issued new birth certificate and did not require surgery or a court order, as required by a [consent judgment in *Foster v. Andersen*](#) (2019). See also [Form VS624](#) on [department website](#), including [this FAQ](#) on updating the gender on birth certificates.
 - In August 2023, a federal court [vacated parts of the consent judgment](#), after the state enacted a new law defining sex throughout state law based on sex assigned at birth. That federal court decision left the legal availability of gender marker changes uncertain.
 - On [September 15, 2023](#), the state Department of Health [announced](#) it would no longer issue any gender marker changes to birth certificates, due to the new state law.

Kentucky

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Ky. Rev. Stat. Ann. § 213.121\(5\)](#) (as early as 1990), [VS-15GR](#) (dated 2015), and [A4TE state page](#)

Louisiana

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [La. Rev. Stat. Ann. § 40:62](#), [LA Dept of Health](#) and [Application to Amend](#), [LA Trans Advocates page](#), and [A4TE state page](#)

Maine

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [Maine Department of Health and Human Services 10-146 CMR ch. 16](#) (2020), Maine DHHS [Gender Marker Change on Birth Certificates FAQ](#), Maine DHHS [Application](#), and [A4TE state page](#)

Maryland

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Md. Code Ann, \[Health - Gen.\] § 4-214](#), Maryland DOH [Change Sex Designation page](#) and [Application for Change in Sex Designation](#), and [A4TE state page](#)

Massachusetts

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Mass Gen. Laws Ann. ch. 46, § 13\(e\)](#), amended by [H4800/Act 140, §§ 77-79](#) (2024; effective July 1, 2024), Mass. Vital Records [Amend a Birth Certificate for Sex page](#), [Fact Sheet](#), and [Application/Affidavit](#), and [A4TE state page](#)



Michigan

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See below, [Sex Designation Form](#), and [A4TE state page](#)
- State formerly required proof of sex reassignment surgery in order to change gender marker (see [Mich. Comp. Laws Ann. § 333.2831\(c\)](#) (2006)). In February 2021, the Michigan Department of Health and Human Services (MDHHS) [formally requested](#) guidance from the state's Attorney General regarding the constitutionality of that requirement. In June 2021, the Attorney General issued [Opinion 7313](#), finding that the requirement was unconstitutional. In July 2021, the state published a [new process](#) allowing for self-attestation with no requirement of medical documentation or a court order. See also [Sex Designation Form](#), including "X" options.

Minnesota

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Minn. Stat. Ann. § 144.218](#), [Minn. Rules 4601.1100](#), Minn. DOH [Change a Birth Record](#) page ("Changing sex/gender indicators"), [Supporting Documents for Amendments](#) page ("For changing gender," either a physician's letter or a court order), and [A4TE state page](#)

Mississippi

- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See [Miss. Admin. Code 15-5-85:3.21.2](#), and [A4TE state page](#)
- Note that the amended birth certificate will show the updated sex as a "marginal notation," meaning the birth certificate will show both gender markers.

Missouri

- (-0.75) State requires proof of "sex reassignment surgery" to change gender marker
- (0) State only allows residents to identify as male or female
- See [Mo. Ann. Stat. § 193.215\(9\)](#) (2006), and [A4TE state page](#)



Montana

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See [Rule 37.8.311](#) (Initially implemented May 2022; formally adopted September 2022; blocked June 2023; [reinstated](#) February 2024), prohibiting any changes to the gender marker. See also [A4TE state page](#).
- Recent history:
 - Formerly, state issued new birth certificate and did not require surgery or court order (see Rule 37.8.311 ([2017 version](#)) and [archived Gender Designation Form](#)).
 - In 2021, the state enacted [SB280](#), adding requirements for proof of surgery and a court order before updating the birth certificate.
 - In July 2021, a [lawsuit](#) was filed against this discriminatory law.
 - In April 2022, a district court issued a preliminary injunction temporarily blocking enforcement of the law and ordering the state to its previous 2017 process while the court case continued.
 - In May 2022, despite the court order, the state health department issued an “[emergency order](#)” that prohibits any update to the gender marker on the birth certificate under any circumstance, even with proof of surgery and a court order.
 - On Sept 9, 2022, this emergency order was [formally adopted](#) as an administrative rule (Rule 37.8.311).
 - On Sept 15, 2022, the court again ordered the state to revert to its 2017 process and to stop violating the court’s instructions. Hours later, the state [responded](#) by saying it would continue to enforce its new rule, but the following week the state said it would [comply](#) with the court order and accept applications for birth certificate updates. A [Gender Designation Form](#) is now available on the state website, but given the hostility of the state, it is unknown whether such applications will actually be processed or approved.
 - On Sept 26, 2022, the Montana health department [asked](#) the Montana Supreme Court to suspend the district court’s order so the health department can resume its rule prohibiting any gender marker changes.
 - In January 2023, the Montana Supreme Court [ruled](#) the state health department should have been issuing updates according to the 2017 procedures during the injunction period. However, the ruling also stated that the new 2022 administrative rules (banning updates under any circumstance) would need to be addressed separately. LGBTQ advocates filed a motion to address that 2022 rule separately.
 - In June 2023, the district court order [ruled](#) SB280 unconstitutional, permanently blocked both SB280 [and the 2022 administrative rule](#), and further found the state in contempt for disregarding the court’s repeated orders to follow the 2017 process. This meant that gender marker changes were available under the 2017 rule process.
 - In February 2024, the state [reinstated](#) the 2022 administrative rule—banning gender marker changes under any circumstances—citing a new state law passed in 2023 defining “sex” to enable discrimination against transgender people.



Nebraska

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Neb. Rev. Stat. § 71-604.01 \(1994\)](#) and [A4TE state page](#)

Nevada

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [Nev. Admin. Code. Ch. 440, § 030, Application for Correction of a Record](#) packet, [Changing Your Gender in Nevada](#) guide, and [A4TE state page](#)

New Hampshire

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [NH RSA 5-C:87](#) and [A4TE state page](#)

New Jersey

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [N.J. Stat. Ann. § 26:8-40.12 \(2018\)](#), [S 478 \(2018\)](#), and [A4TE state page](#)
- Formerly, (-1) state required proof of ‘sex reassignment surgery’ from a licensed physician. See earlier version of [N.J. Stat. Ann. § 26:8-40.12 \(1984-2018\)](#).

New Mexico

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [SB 20 \(2019\)](#), NM Health’s [Gender Designation Change on a Birth Certificate](#) page, [Change Gender Designation on a Birth Certificate](#) form, and [A4TE state page](#)
- Formerly (-1) required proof of “sex reassignment surgery.”

New York

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2020)
- See [NYCCRR Title 10 Section 35.2 \(2014\)](#), [DOH’s Gender Designation Corrections information](#) “including requests for non-binary gender designations,” [Form DOH-5305 \(January 2023\)](#), and [A4TE state page](#).



North Carolina

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Birth Certificate Modification Application](#) (p6) with multiple routes to access updated birth certificate. See also [A4TE state page](#).
- Formerly, [N.C. Gen. Stat. §§ 130A-118\(b\)\(4\)](#) (since at least [2005](#)) required proof of “sex reassignment surgery.” However, a [2022 case brought by Lambda Legal](#) resulted in a consent judgement that the state must provide accurate birth certificates without requiring surgery.

North Dakota

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See [HB1297](#) (2023) banning any sex/gender marker changes to birth certificates, and [HB1139](#) (2023) requiring birth certificates to include a sex marker and banning the use of any marker other than male or female. See also [A4TE state page](#).
- Previously, state allowed changes, but required proof of “sex reassignment surgery” to change gender marker. See [ND Cent. Code §23-02.1-25](#) (2005), [ND Admin. Code §33-04-12-02](#) (2006),

Ohio

- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See [Ohio Department of Health’s website](#) (2021, [ACLU of Ohio’s FAQ](#), [Form 30.0 “Application for Correction of Birth Record”](#) (Aug 2021) to initiate court order, and [A4TE state page](#).
- Prior to 2016, state (0.5) updated gender markers with a court order, consistent with state’s statutory [process for other birth certificate changes](#). Beginning in 2016, state (-1) refused to change gender markers even under court order. This policy was ruled unconstitutional in [Ray v. McCloud](#) (Dec 2020), and the state [announced](#) in April 2021 that it would not challenge the ruling. The current policy (0.5) was announced in May 2021.

Oklahoma

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See [Executive Order 2021-24](#) (Nov 2021), [SB1100](#) (2022), and [A4TE state page](#)
- Previously, Oklahoma had unclear, unknown, or unwritten policy regarding gender marker changes on birth certificates (0). In [Oct 2021](#), the state’s Department of Health formalized a process for these changes (requiring a court order (0.5)) including the option of a nonbinary gender marker, all as part of a settlement in a federal lawsuit. The state issued its first nonbinary marker in [Oct 2021](#), but in [Nov 2021](#), the state’s Governor issued [Executive Order 2021-24](#), not only preventing nonbinary options but also *any* changes of sex/gender markers on birth certificates (-1).
- A lawsuit has been filed against this policy. See [Fowler v. Stitt](#) (filed March 2022). While a court initially dismissed the lawsuit (June 2023), Lambda Legal appealed the ruling to the Tenth Circuit, and this dismissal was reversed (June 2024). The case now awaits trial.



Oregon

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [HB 2673](#) (2017), [OAR 333-011-0265](#) (eff. Jan 1, 2018), [OHA 2673 Application](#) (must be notarized), and [A4TE state page](#)

Pennsylvania

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [Pennsylvania Department of Health policy](#) (2016), [Birth Certificate Correction Forms](#) (must be notarized), and [A4TE state page](#) (including a sample physician statement)

Rhode Island

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate (2019)
- See [R.I. Gen. Laws § 23-3-21](#), DOH [Changes to the Sex Field on a Rhode Island Birth Certificate](#) page, R.I. Code R. 14 170 001 §§ 35-37 (2004), and [A4TE state page](#)

South Carolina

- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female
- See [A4TE state page](#) for more information

South Dakota

- (0) State has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) State only allows residents to identify as male or female
- See [S.D. Admin. R. 44:09:05:02](#), or [A4TE state page](#) for more information

Tennessee

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See [Tenn. Code Ann. § 68-3-203\(d\)](#) (since at least [2010](#)) and [A4TE state page](#)

Texas

- (-1) State does not allow for amending the gender marker on the birth certificate at all
- (0) State only allows residents to identify as male or female
- See [reporting, confirmed by TX Health and Human Services](#), that as of Aug 2024, the state would no longer allow changes to the gender marker on birth certificates. See also [A4TE state page](#).
- Formerly (0.5), state required a court order. See archived captures of [TX Health and Human Services website](#), [Form VS-170](#), [TX Health & Safety Code § 192.011](#), and [NCTE for more information](#).



Utah

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [SB93](#) (2023), requiring a court order, which can only be granted “if the court determines by clear and convincing evidence that” the individual has met a long list of criteria including that they have transitioned, and further mentions that the court “shall consider...evidence of medical history, care, or treatment related to sex transitioning.” See also [A4TE state page](#) with additional guidance including sample forms.
- Formerly, state required a court order (0.5) to change the birth certificate, but did not specify any medical or other requirements to do so. See [Utah Code Ann. § 26-2-11](#) (2004). This was changed by SB93 (2023).

Vermont

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See [H 111/Act 46](#) (2017, effective July 1, 2019), [H 628/Act 88](#) (2022, effective July 1, 2022), [18 V.S.A. § 5112](#), DOH [Application to Correct or Amend a Vermont Birth Certificate](#), and [A4TE state page](#)
- Formerly, (0.5) state required a court order. See [18 Vt. Stat. § 5112](#) (2011-2019).

Virginia

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
- See [SB 657](#) (2020), [Form VS-42](#) (2020), and [A4TE state page](#)

Washington

- (1) State issues new birth certificate and does not require surgery or a court order
- (0.5) State allows individuals to mark M, F, or X on birth certificate
- See the [Washington Department of Health's policy](#), DOH [Form 422-143: Change of Gender Designation Request](#) (must be notarized), and [A4TE state page](#)



West Virginia

- (1) State issues new birth certificate and does not require surgery or a court order
- (0) State only allows residents to identify as male or female
 - Note: the state explicitly bans the use of gender-neutral or nonbinary markers on birth certificates. See [HB4233](#) (2024).
- See [Sex Designation Form](#) (May 2022), West Virginia Department of Health & Human Resources [Correct or Amend a Certificate](#) page, [HB4233](#) (2024), and [A4TE state page](#)
- Recent history: State clearly allowed for gender updates with a court order (see [W. Va. Code § 16-5-25](#), [§ 64-32-12](#)) (MAP score of 0.5), but in June 2020 the State Supreme Court of Appeals ruled in [In re: G.M.](#) that courts do not have the authority to order state’s Department of Health & Human Resources to change the gender marker on a birth certificate, in effect disallowing gender marker changes entirely (MAP score of -1). In August 2021, this ruling was appealed by the ACLU in [Hersom v. Crouch](#); see also [this coverage](#). In May 2022, the state Department of Health & Human Resources issued a new form allowing individuals to update their birth certificates (see above), and the court case is now on temporary pause (“in abeyance”) while the parties discuss potential settlement.

Wisconsin

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) State only allows residents to identify as male or female
- See [Wis. Stat. Ann. § 69.15\(4\)](#) (since at least) and [A4TE state page](#)

Wyoming

- (0.5) State is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) State only allows residents to identify as male or female
- See [WY Rules and Regulations HLTH VR Ch. 10 s 4\(e\)\(iii\)](#) (2004) or [A4TE’s state page](#)

U.S. Territories

American Samoa

- (0) Territory has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) Territory only allows residents to identify as male or female
- [“The High Court of American Samoa has held that the alteration of a birth certificate is granted only to correct information that was erroneous at the time of recordation, or to reflect a name change due to adoption.”](#) NCTE reports anecdotal cases of successfully updating gender markers on birth certificates, but there is no clear policy for doing so.

Guam

- (-0.75) State requires proof of “sex reassignment surgery” to change gender marker
- (0) Territory only allows residents to identify as male or female



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- [“In order to update the gender marker on a birth certificate, the requestor must provide a sworn statement from the physician having performed the surgery, thus certifying the sex of the requestor has been changed by surgical procedure.”](#)

Commonwealth of the Northern Mariana Islands

- (0.5) Territory is unclear regarding surgical/clinical requirements and/or requires a court order
- (0) Territory only allows residents to identify as male or female
- [“In order to change a legal name on a birth certificate, the applicant must provide a court order for legal name and gender marker change to the Vital Statistics Office Division of Public Health.”](#)

Puerto Rico

- (1) Territory issues new birth certificate and does not require surgery or a court order
- (0) Territory only allows residents to identify as male or female
- See [Arroyo v. Rosselló](#) (2018) or [NCTE](#) for more information.

U.S. Virgin Islands

- (0) Territory has unclear, unknown, or unwritten policy regarding gender marker changes
- (0) Territory only allows residents to identify as male or female
- See [NCTE for more information.](#)