

First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 25-0567.01 Josh Schultz x5486

HOUSE BILL 25-1109

HOUSE SPONSORSHIP

McCormick and Brown,

SENATE SPONSORSHIP

Weissman,

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE DESIGNATION OF A DECEDENT'S GENDER IDENTITY
102 ON THE DECEDENT'S CERTIFICATE OF DEATH.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires an individual who completes a certificate of death to record the decedent's sex to reflect the decedent's gender identity.

If an individual who completes a certificate of death is presented with a document memorializing the decedent's gender identity (gender identity document), the individual must record the decedent's sex to reflect the gender identity indicated in the gender identity document.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

If a gender identity document is not presented and an individual with the right to control the disposition of the decedent's remains objects to the sex recorded by the individual who completes the certificate of death, the individual with the right to control the disposition of the decedent's remains may state their objection to the individual who completes a certificate of death before the certificate of death is filed, and the individual who completes the certificate of death must record the sex as the gender identity reported by the individual with the right to control the disposition of the decedent's remains.

If a gender identity document is presented to the office of state registrar of vital statistics in the department of public health and environment (state registrar) for a decedent that died in the state, the state registrar must issue an amended certificate of death for the decedent that changes the decedent's sex to reflect the gender identity indicated in the gender identity document. The state registrar must also amend the certificate of death to reflect a legal name change if the appropriate legal name change documentation is submitted to the state registrar.

An individual with the right to control the disposition of a decedent's remains may file a claim seeking an order of the court to amend the information recorded on the decedent's certificate of death.

An individual who knowingly and willfully violates these requirements commits a class 2 misdemeanor.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-2-102, **add** (1.5)
3 and (2.6) as follows:

4 **25-2-102. Definitions.** As used in this article 2, unless the context
5 otherwise requires:

6 (1.5) "DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER
7 IDENTITY" INCLUDES ANY OF THE FOLLOWING:

8 (a) A COURT ORDER APPROVING A LEGAL NAME OR GENDER
9 CHANGE;

10 (b) WRITTEN INSTRUCTIONS FROM THE DECEDENT;

11 (c) A HEALTH-CARE DIRECTIVE;

12 (d) PROOF OF CLINICAL TREATMENT FOR A GENDER TRANSITION;

13 (e) DOCUMENTATION OF A CHANGE TO THE GENDER MARKER ON

1 THE DECEDENT'S BIRTH CERTIFICATE;

2 (f) A DRIVER'S LICENSE;

3 (g) A PASSPORT; OR

4 (h) A SOCIAL SECURITY RECORD.

5 (2.6) "GENDER IDENTITY" MEANS AN INDIVIDUAL'S INNATE SENSE
6 OF THE INDIVIDUAL'S OWN GENDER, WHICH MAY OR MAY NOT CORRESPOND
7 WITH THE INDIVIDUAL'S SEX ASSIGNED AT BIRTH AND IS DESIGNATED ON
8 A CERTIFICATE OF DEATH AS MALE, FEMALE, OR "X", WHICH IS A SEX
9 DESIGNATION THAT IS NEITHER MALE NOR FEMALE.

10 **SECTION 2.** In Colorado Revised Statutes, 25-2-110, **amend**
11 (1)(c); and **add** (1)(e), (1)(f), and (1)(g) as follows:

12 **25-2-110. Certificates of death - amended certificate of death**
13 **following a change in gender identity - misdemeanor - definition.**

14 (1) (c) Once a certificate of death has been filed pursuant to ~~paragraph~~
15 ~~(a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, a
16 verification of death document may be used by local offices of vital
17 statistics and ~~the office of the state registrar of vital statistics~~ when
18 verifying a vital event to a person ~~or organization~~ that has requested a
19 verification of fact-of-death. A verification of death document must
20 include the name and address of the decedent, the date of death, the place
21 of death, THE GENDER IDENTITY OF THE DECEDENT, the date the document
22 is filed, the state file number, and the name of any spouse of the decedent.
23 A verification of death document is not required to contain a social
24 security number of the deceased as is otherwise required of a certificate
25 of death under ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF
26 THIS SECTION.

27 (e) (I) IN DOCUMENTATION OF THE DECEDENT'S SEX ON THE

1 CERTIFICATE OF DEATH, THE INDIVIDUAL COMPLETING THE CERTIFICATE
2 OF DEATH SHALL RECORD THE DECEDENT'S SEX TO REFLECT THE
3 DECEDENT'S GENDER IDENTITY. THE DECEDENT'S GENDER IDENTITY MUST
4 BE OBTAINED FROM THE DECEDENT'S NEXT OF KIN OR THE BEST QUALIFIED
5 INDIVIDUAL OR SOURCE AVAILABLE TO PROVIDE THE DECEDENT'S GENDER
6 IDENTITY.

7 (II) (A) IF THE INDIVIDUAL COMPLETING THE CERTIFICATE OF
8 DEATH IS PRESENTED WITH A DOCUMENT MEMORIALIZING THE DECEDENT'S
9 GENDER IDENTITY, THE INDIVIDUAL COMPLETING THE DEATH CERTIFICATE
10 SHALL RECORD THE DECEDENT'S SEX TO REFLECT THE GENDER IDENTITY
11 INDICATED IN THE DOCUMENT.

12 (B) IF MORE THAN ONE DOCUMENT IS PRESENTED TO THE
13 INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH PURSUANT TO
14 SUBSECTION (1)(e)(II)(A) OF THIS SECTION OR TO THE STATE REGISTRAR
15 PURSUANT TO SUBSECTION (1)(f)(I) OF THIS SECTION AND THE DOCUMENTS
16 CONFLICT REGARDING THE DECEDENT'S GENDER IDENTITY, THE MOST
17 RECENT DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY
18 PREVAILS.

19 (III) NOTWITHSTANDING SUBSECTION (1)(e)(I) OF THIS SECTION,
20 IF A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY IS
21 NOT PRESENTED PURSUANT TO SUBSECTION (1)(e)(II)(A) OF THIS SECTION
22 AND THE INDIVIDUAL WITH THE RIGHT, OR A MAJORITY OF INDIVIDUALS
23 WITH THE RIGHT, TO CONTROL THE DISPOSITION OF THE DECEDENT'S
24 REMAINS PURSUANT TO SECTION 15-19-106 OBJECTS TO THE SEX
25 RECORDED BY THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH
26 PURSUANT TO SUBSECTION (1)(e)(I) OF THIS SECTION, THE INDIVIDUAL OR
27 MAJORITY OF INDIVIDUALS DESCRIBED IN THIS SUBSECTION (1)(e)(III) MAY

1 STATE THEIR OBJECTION TO THE INDIVIDUAL COMPLETING THE
2 CERTIFICATE OF DEATH BEFORE THE CERTIFICATE OF DEATH IS FILED WITH
3 THE STATE REGISTRAR, AND THE INDIVIDUAL COMPLETING THE
4 CERTIFICATE OF DEATH SHALL RECORD THE DECEDENT'S SEX AS THE
5 GENDER IDENTITY REPORTED BY THE INDIVIDUAL OR MAJORITY OF
6 INDIVIDUALS DESCRIBED IN THIS SUBSECTION (1)(e)(III).

7 (f) (I) IF A DECEDENT DIED IN THE STATE AND THE STATE
8 REGISTRAR IS PRESENTED WITH A DOCUMENT MEMORIALIZING THE
9 DECEDENT'S GENDER IDENTITY THAT REFLECTS A GENDER IDENTITY THAT
10 IS NOT CONSISTENT WITH THE SEX RECORDED ON THE CERTIFICATE OF
11 DEATH FILED WITH THE STATE REGISTRAR PURSUANT TO SUBSECTION
12 (1)(a) OF THIS SECTION, THE STATE REGISTRAR SHALL ISSUE AN AMENDED
13 CERTIFICATE OF DEATH TO CHANGE THE DECEDENT'S SEX DESIGNATION TO
14 REFLECT THE GENDER IDENTITY INDICATED IN THE DOCUMENT.

15 (II) IF THE STATE REGISTRAR ISSUES AN AMENDED CERTIFICATE OF
16 DEATH AND THE APPROPRIATE LEGAL NAME CHANGE DOCUMENTATION IS
17 SUBMITTED TO THE STATE REGISTRAR, THE STATE REGISTRAR SHALL
18 AMEND THE CERTIFICATE OF DEATH TO REFLECT A LEGAL NAME CHANGE
19 MADE BEFORE, OR SIMULTANEOUS TO, THE DECEDENT'S CHANGE IN
20 GENDER IDENTITY.

21 (III) IN ISSUING AN AMENDED CERTIFICATE OF DEATH, THE STATE
22 REGISTRAR SHALL NOT:

23 (A) REQUEST ADDITIONAL INFORMATION OR RECORDS OTHER
24 THAN A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY;
25 OR

26 (B) DISCLOSE INFORMATION RELATING TO A GENDER CORRECTION,
27 INCLUDING TO OTHER GOVERNMENT EMPLOYEES, UNLESS THE DISCLOSURE

1 IS LEGALLY REQUIRED TO CONDUCT GOVERNMENT BUSINESS.

2 (IV) NOTWITHSTANDING SECTION 25-2-115, THE AMENDED
3 CERTIFICATE OF DEATH ISSUED PURSUANT TO SUBSECTION (1)(f)(I) OF THIS
4 SECTION SUPERSEDES THE ORIGINAL CERTIFICATE OF DEATH AS THE
5 OFFICIAL PUBLIC RECORD AND MUST NOT BE MARKED AS AMENDED OR
6 INDICATE IN ANY OTHER MANNER THAT THE SEX OR LEGAL NAME ON THE
7 CERTIFICATE OF DEATH HAS BEEN CHANGED.

8 (V) (A) AN INDIVIDUAL DESCRIBED IN SUBSECTION (1)(e)(III) OF
9 THIS SECTION MAY FILE A CLAIM IN THE COURT OF THE COUNTY WHERE A
10 DECEDENT RESIDED AT THE TIME OF THE DECEDENT'S DEATH OR WHERE
11 THE DECEDENT'S REMAINS ARE LOCATED, WHICH CLAIM NAMES AS A
12 PARTY THE INDIVIDUAL OR INDIVIDUALS DESCRIBED IN SUBSECTION
13 (1)(e)(III) OF THIS SECTION AND SEEKS AN ORDER OF THE COURT
14 AMENDING THE SEX RECORDED ON THE DECEDENT'S CERTIFICATE OF
15 DEATH.

16 (B) AN INDIVIDUAL IS NOT LIABLE FOR DAMAGES OR COSTS
17 RESULTING FROM CLAIMS RELATED TO THE INFORMATION OF THE
18 DECEDENT AS RECORDED ON THE CERTIFICATE OF DEATH UNLESS THE
19 INDIVIDUAL KNOWINGLY AND WILLFULLY RECORDED THE INCORRECT
20 INFORMATION ON THE CERTIFICATE OF DEATH.

21 (g) AN INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FAILS TO
22 COMPLY WITH THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND
23 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

24 **SECTION 3.** In Colorado Revised Statutes, 25-2-115, **amend** (1)
25 as follows:

26 **25-2-115. Alteration of reports and certificates - amended**
27 **reports and certificates.** (1) A vital statistics report or certificate shall

1 not ever be altered in any way except in accordance with this article 2 and
2 applicable rules. Except for amended birth certificates issued pursuant to
3 section 25-2-113.8 AND AMENDED CERTIFICATES OF DEATH ISSUED
4 PURSUANT TO SECTION 25-2-110 (1)(f), the date of alteration and a
5 summary description of the evidence submitted in support of the
6 alteration must be endorsed on or made a part of each vital statistics
7 certificate that is altered. Every vital statistics report or certificate that is
8 altered in any way must be marked "Amended", except for amended birth
9 certificates issued pursuant to section 25-2-113.8; AMENDED
10 CERTIFICATES OF DEATH ISSUED PURSUANT TO SECTION 25-2-110 (1)(f);
11 the birth report or certificate of a child altered by the addition of a father's
12 name pursuant to section 25-2-112 (3), in which case, upon request of the
13 parents, the surname of the child shall be changed on the report and
14 certificate to that of the father; or additions and minor corrections made
15 within one year after the date of the statistical event as may be specified
16 by applicable rules. A child's surname may be changed upon affidavit of
17 the parent that the change is being made to conform the child's surname
18 to the parent's legal surname.

19 **SECTION 4. Applicability.** This act applies to offenses
20 committed on or after the effective date of this act.

21 **SECTION 5. Safety clause.** The general assembly finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety or for appropriations for
24 the support and maintenance of the departments of the state and state
25 institutions.