

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**SENATE, No. 478**

## **STATE OF NEW JERSEY 218th LEGISLATURE**

DATED: FEBRUARY 9, 2018

### SUMMARY

- Synopsis:** Revises procedure for issuance of amended birth certificate for person who has undergone change in gender.
- Type of Impact:** State and local cost increase; State revenue increase
- Agencies Affected:** Department of Health. Local registrars of vital statistics in county and municipal governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual Impact</u></b>
<b>State Cost and Revenue</b>	Indeterminate increase – see comments below.
<b>Local Cost</b>	Indeterminate increase – see comments below.

- The Office of Legislative Services (OLS) estimates that the bill would have indeterminate State and local fiscal impact. Due to the likely low number of applicable cases, the revenue and cost increases will occur in small amounts.

### BILL DESCRIPTION

Senate Bill No. 478 (1R) of 2018 revises the requirements for obtaining an amended birth certificate due to a change in sex. The bill requires that the State registrar of vital statistics in the Department of Health (DOH) is to issue an amended certificate of birth to a person born in this State who submits a request for an amended certificate of birth showing the name and gender of the person, as it has been changed. Under current law, the State registrar is to issue an amended certificate of birth only upon receipt of a medical certificate from the person's physician indicating that the person's sex has been changed through surgical procedure (known as sex reassignment surgery). This bill would change the requirement to provide that a person need only submit a form, provided by the State registrar and completed by the person, or the person's guardian, which affirms the following language: "I, (petitioner's full name), hereby attest under penalty of perjury that the request for a change in gender to (female, male, or undesignated/non-

binary) is to conform my legal gender to my gender identity and is not for any fraudulent purpose.”

Current law further requires the State registrar to place the original certificate of birth and all papers pertaining to the amended certificate of birth under seal, which is not to be broken except by order of a court of competent jurisdiction. This bill would permit the seal to be broken upon the request of the person who is the subject of the certificate of birth, or upon the request of the parent or guardian, if the person is a minor.

The bill also provides that in the case of a resident of this State who was born in another state or a foreign jurisdiction, if such other state or foreign jurisdiction requires a court order in order to amend a certificate of birth to reflect a change in gender, a court in this State would have jurisdiction to issue an order declaring the person’s gender upon receipt of a statement affirming under penalty of perjury that the request for a declaration of female, male, or undesignated/non-binary gender is to conform with gender identity and not for any fraudulent purpose

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill would have an indeterminate State or local fiscal impact. There are to be likely a low number of applicable cases that would cause cost and revenue increases.

The bill broadens criteria under which the State is to issue amended birth certificates. As more individuals are likely to qualify for amended birth certificates under the broadened criteria, it is possible that the number of requests for amended birth certificates would increase.

However, the OLS believes that any increase in requests for amended birth certificates is likely to be limited, given that the number of applicable individuals is likely to be relatively small. An analysis by scholars at the Williams Institute at the University of California, Los Angeles School of Law<sup>1</sup> estimates that there are approximately 30,100 transgender individuals residing in New Jersey. The actual number of such individuals applying for amended birth certificates in a given year, considering that some might not apply for various reasons and that some have already received an amended birth certificate in conjunction with a change of sex by surgical procedure, is likely to be a small percentage of this total.

Moreover, pursuant to P.L.1984, c.191, the DOH is authorized to charge a \$6.00 fee when issuing amended birth certificates to individuals whose sex has been changed by surgical procedure, and the bill would continue to authorize this fee. (Available information from the Office of Vital Statistics and Registry in the DOH indicates that, in practice, a State fee of \$25.00 is currently charged to process and issue an amended birth certificate for individuals who have undergone sex reassignment surgery, and an additional State fee of \$2.00 is charged to process a legal name change, with no additional fees charged by local registrars of vital statistics for either action.) OLS is uncertain whether these fees largely offset the administrative costs of processing

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<sup>1</sup> Flores, A.R.; Herman, J.L.; Gates, G.J.; and Brown, T.N.T. (2016) *How Many Adults Identify as Transgender in the United States?* Los Angeles, CA: The Williams Institute.

amended birth certificates, due to lack of information on such revenues and the average and marginal costs of issuing amended birth certificates.

The OLS also estimates that local costs incurred by county and municipal governments as a result of local registrars processing additional amended birth certificates, are also indeterminate. The OLS assumes that any increase in the number of amended birth certificates would be distributed across the State's local registrars, and that relatively few amended birth certificates, as a proportion of the local population, might therefore be processed by any given local registrar. Thus, the cost for the few additional cases processed by any given registrar may not result in any marginal costs.

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).