IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 509

BY STATE AFFAIRS COMMITTEE

AN ACT
RELATING TO VITAL STATISTICS; AMENDING SECTION 39-240, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-245A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN FACTS INCLUDED IN AND AMENDMENTS TO BIRTH CERTIFICATES; AND AMENDING CHAPTER 7, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-279, IDAHO CODE, TO PROVIDE SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-240, Idaho Code, be, and the same is hereby amended to read as follows:

39-240. SHORT TITLE -- LEGISLATIVE FINDINGS. (1) This act shall be known and may be cited as the "Idaho Vital Statistics Act."
(2) The legislature finds:
(a) As early as 1632, government officials began tracking vital statistics, specifically births, deaths, and marriages;
(b) Today, state and local vital records offices record over eleven million (11,000,000) vital events annually in the United States;
(c) Material facts included in vital records include the date of birth, the individual's sex, the location of birth, the parents' identities, and the date of death;
(d) The purpose of documenting factual information on vital records is to help the government fulfill one of its most basic duties: protecting the health and safety of its citizens;
(f) According to the national research council committee on national statistics, factual information contained in vital records is used to help diagnose and solve problems that impact national health, including tracking and diagnosing disparities in mortality rates based on age and...
sex, identifying factors that account for the significant differences
in life expectancy between males and females, measuring and seeking so-
lutions to socioeconomic inequalities in health based on sex and age,
and studying infant death rates based on sex, location, birth weight,
and other information collected from vital records;
(g) Factual information from vital records is also necessary for na-
tional security. It is used to identify potential disease epidemics,
such as the zika virus, that may disproportionately impact one sex over
the other; expose covert bioterrorist attacks, such as determining
whether a sudden increase in certain symptoms in a population is due to
random chance or should be further investigated; and identify criminals
and terrorists, where vital records can be used to uncover fraudulently
obtained driver's licenses or passports; and
(h) Allowing individuals to alter their vital records, including birth
certificates, based upon subjective feelings or experiences undermines
the government's interest in having accurate vital records.

SECTION 2. That Chapter 2, Title 39, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 39-245A, Idaho Code, and to read as follows:

39-245A. CERTIFICATES OF BIRTH -- MATERIAL FACTS INCLUDED -- AMEND-
MENTS.
(1)(a) The legislature finds that:
(i) There is a compelling interest in maintaining accurate, quan-
titative, biology-based material facts on Idaho certificates of
birth that provide material facts fundamental to the performance
of government functions that secure the public health and safety,
including but not limited to identifying public health trends,
assessing risks, conducting criminal investigations, and helping
individuals determine their biological lineage, citizenship, or
susceptibility to genetic disorders;
(ii) The equal protection clause of the fourteenth amendment to
the United States constitution prohibits purposeful discrimina-
tion, not facially neutral laws of general applicability, such as
a biology-based definition of sex that has been consistently ap-
plied since our nation's founding;
(iii) Decades of court opinion have upheld the argument that bio-
logical distinctions between male and female are a matter of sci-
entific fact, and biological sex is an objectively defined cate-
gory that has obvious, immutable, and distinguishable character-
istics;
(iv) Identification of biological sex on a birth certificate im-
pacts the health and safety of all individuals. For example, the
society for evidence based gender medicine has declared that the
conflation of sex and gender in health care is alarming, subjects
hundreds of thousands of individuals to the risk of unintended
medical harm, and will greatly impede medical research;
(v) Vital statistics are defined in section 39-241(21), Idaho
Code, as data, being the plural of datum, which is a known fact;
(vi) Idaho certificates of birth are of an evidentiary character and prima facie evidence of the facts recited therein, according to section 39-274, Idaho Code;

(vii) Age and sex, unlike the names of natural parents whose rights have been terminated, are legally applicable facts fundamental to the performance of public and private policies and contracts;

(viii) The failure to maintain accurate, quantitative vital statistics and legal definitions upon which the government and others may with confidence rely constitutes a breach of the public trust; and

(ix) The government has a compelling interest in maintaining the public trust and confidence and a duty to fulfill, to the best of its ability, those functions that rely on accurate vital statistics.

(b) Based on the findings in paragraph (a) of this subsection, the legislature directs that an Idaho certificate of birth shall document specific quantitative, material facts at the time of birth, as provided in subsection (2) of this section.

(2) Any certificate of birth issued under the provisions of this chapter shall include the following quantitative statistics and material facts specific to that birth: time of birth, date of birth, sex, birth weight, birth length, and place of birth.

(3) For purposes of this chapter, "sex" means the immutable biological and physiological characteristics, specifically the chromosomes and internal and external reproductive anatomy, genetically determined at conception and generally recognizable at birth, that define an individual as male or female.

(4) The quantitative statistics and material facts identified in subsection (2) of this section may be amended within one (1) year of the filing of the certificate by submitting to the registrar a notarized affidavit of correction that:

(a) Is on a form prescribed by the registrar;

(b) Is signed by:

(i) The parents identified on the certificate of birth; or

(ii) The child's legal guardian;

(c) Is signed by the physician or other person in attendance who provided the medical information and certified to the facts of birth; and

(d) Declares that the information contained on the certificate of birth incorrectly represents a material fact at the time of birth.

After one (1) year, the quantitative statistics and material facts identified in subsection (2) of this section may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the party challenging the acknowledgment.

(5) In those instances in which an individual suffers from a physiological disorder of sexual development and the individual's biological sex cannot be recognized at birth as male or female based upon externally observable reproductive anatomy, the physician shall make a presumptive determination of the individual's sex, which may thereafter be amended based on the appropriate combination of genetic analysis and evaluation of the individual's
naturally occurring internal and external reproductive anatomy as provided in section (4) of this section.

(6) Notwithstanding any provision of this section to the contrary, a hospital may correct a birth certificate for a clerical or data entry error at any time by submitting a notarized affidavit on a form specified by the registrar with any appropriate supporting documentation.

SECTION 3. That Chapter 2, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 39-279, Idaho Code, and to read as follows:

39-279. SEVERABILITY. The provisions of this chapter are hereby declared to be severable, and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.