

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 363

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-245A, IDAHO CODE, TO RE-
VISE PROVISIONS REGARDING CORRECTIONS OR AMENDMENTS TO MATERIAL FACTS
ON CERTIFICATES OF BIRTH; AND DECLARING AN EMERGENCY AND PROVIDING AN
EFFECTIVE DATE.

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

SECTION 1. That Section 39-245A, Idaho Code, be, and the same is hereby
amended 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;

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

4 (viii) The failure to maintain accurate, quantitative vital sta-
5 tistics and legal definitions upon which the government and others
6 may with confidence rely constitutes a breach of the public trust;
7 and

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

12 (b) Based on the findings in paragraph (a) of this subsection, the leg-
13 islature directs that an Idaho certificate of birth shall document spe-
14 cific quantitative, material facts at the time of birth, as provided in
15 subsection (2) of this section.

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

20 (3) For purposes of this chapter, "sex" is as defined in section 73-114,
21 Idaho Code.

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

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

27 (b) Is signed by:

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

29 (ii) The child's legal guardian;

30 (c) Is signed by the physician or other person in attendance who pro-
31 vided the medical information and certified to the facts of birth; and

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

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

38 (5) In those instances in which an individual suffers from a physiolog-
39 ical disorder of sexual development and the individual's biological sex can-
40 not be recognized at birth as male or female based upon externally observable
41 reproductive anatomy, the physician shall make a presumptive determination
42 of the individual's sex, which may thereafter be amended based on the appro-
43 priate combination of genetic analysis and evaluation of the individual's
44 naturally occurring internal and external reproductive anatomy as provided
45 in subsection (4) of this section.

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

1 (7) A certificate of birth with material facts corrected or amended on
2 or after July 1, 2025, shall not be marked "amended" and shall not contain
3 markings identifying the specific correction or amendment. A certificate
4 of birth with material facts corrected or amended shall be identified on the
5 face of the certificate with a C1, C2, et seq., corresponding to the number of
6 corrections or amendments to material facts, and the evidence submitted to
7 document the material fact that was corrected or amended shall be kept in the
8 records of the office of the registrar. Corrections or amendments to mate-
9 rial facts resulting from clerical or data entry errors made by the hospital
10 shall not be marked on the face of the certificate.

11 SECTION 2. An emergency existing therefor, which emergency is hereby
12 declared to exist, this act shall be in full force and effect on and after
13 July 1, 2025.