

Updated April 2020

Process: Does the state require a court order or can you go directly to the vital records agency to update the gender marker?

31 states + 2 territories + DC + NYC have administrative process:

Alaska, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Guam, Hawaii, Idaho,** Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Maine, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, New York City, North Carolina, North Dakota, Oregon, Pennsylvania, Puerto Rico, Rhode Island, Washington, West Virginia, Virginia.

17 states and one territory require a court order:

Alabama, Arkansas, Colorado, Georgia, Indiana, Louisiana, Missouri, Mississippi, New Hampshire, Northern Mariana Islands, Oklahoma, South Carolina, South Dakota, Texas, Utah, Vermont, Wisconsin, and Wyoming.

2 territories have no clear process:

American Samoa, US Virgin Islands.

2 states do not allow amendments of the gender marker on a birth certificate:

Tennessee by statute, Ohio by agency policy.

Standard: Does the state require medical evidence to update the gender marker?

10 states + NYC do not require provider signature:

California,* Colorado,* Idaho,** Montana, Nevada,* New Jersey,* New Mexico,* New York, Oregon,* and Washington,* and New York City.*

13 states + DC + Puerto Rico require “appropriate” treatment for the individual (no surgery):

Alaska, Connecticut,* Delaware, District of Columbia, Florida, Hawaii, Illinois, Kansas, Maryland, Massachusetts, Minnesota, Pennsylvania, Puerto Rico, Rhode Island,* Vermont, and Virginia.

11 states + 1 territory require proof of surgery in the statute:

Alabama, Arizona, Arkansas, Georgia, Guam, Kentucky, Louisiana, Michigan, Missouri, Nebraska, North Carolina, and Wisconsin.

4 states require proof of surgery by written policy or actual practice by the agency:

Iowa, Maine, North Dakota, and West Virginia.

9 states + 3 territories have no specific policy or practice and the judge or policy official determines:

American Samoa, Indiana, Northern Mariana Islands, Mississippi, New Hampshire, Oklahoma, South Carolina, South Dakota, Texas, Utah,* US Virgin Islands and Wyoming.

2 states do not allow amendments of the gender marker on a birth certificate:

Tennessee by statute, Ohio by agency policy.

* - 10 states and NYC allow for a gender neutral designation, typically “X,” on the certificate.

** - Idaho SB509 was signed into law with an effective date of July 1, 2020 and would prohibit birth certificate gender changes. However, implementation of this new law barred by a 2018 court order.