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FISCAL IMPACT REPORT

SPONSOR Candelaria ORIGINAL DATE 2/12/18
LAST UPDATED _____ HB _____
SHORT TITLE Sex Designation on Vital Records SB 184
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 184 makes changes to the Vital Records statute, Section 24-14-25 NMSA 1978, to make it less complicated and arduous to change sex designation on birth certificates. Current statute indicates that a person changing sex designation must prove with a physician's statement that a surgical sex-change procedure had been done; with the proposed legislation, a licensed medical or mental health provider's certification (using a form to be prescribed by Vital Records) that the applicant's sex has changed according to the best current evidence would be sufficient. The legislation does not specify what "best current evidence" would be required, but one might assume that that could be a physician or mental health provider's assessment that the person considered himself or herself a member of the opposite sex as is indicated on the person's birth certificate, and that a surgical operation would not be necessary.

If the person requesting the sex designation change also wishes a name change on the certificate, that would require a certified copy of a court order to do so.

Further, if the sex indication on the birth certificate is changed using this methodology, the birth certificate is not to be marked "amended."

FISCAL IMPLICATIONS

No appropriation is made. AOC indicates that there would be a "minimal administrative cost for statewide update, distribution and documentation of statutory changes." If name change were to

be accomplished more easily using this mechanism, there might be a small decrease in court costs.

SIGNIFICANT ISSUES

The Transgender Resource Center of New Mexico has produced a document covering current procedure, entitled “Name and Gender Change Guide for Residents of New Mexico (<https://static1.squarespace.com/static/5569e88ce4b06d83cf7ac8fc/t/588b9d9ebe6594d3ef22bc32/1485544886603/Name%26GenderChangeNMEng.pdf>)” The steps enumerated (and discussed in more detail are as follows:

To change one’s name:

1. Prepare “Petition for change of name.”
2. File that petition with the clerk of the District Court.
3. After the clerk has assigned the case to a judge, request a hearing date from the judge’s administrative assistant.
4. Publish notice of change in newspaper in your county or nearest county if there is no newspaper in your county.
5. Return to court on the day set aside for that.
6. File court’s order with clerk of court.
7. File the order for change of name with the county clerk
8. Use the court order to update legal name in all appropriate places, including for a revised birth certificate with the New Mexico Department of Vital Records.

To change the sex on the birth certificate

1. Submit birth certificate request form
2. Submit certified copy of court-ordered name change, if applicable
3. Submit signed statement from physician or facility indicating surgical procedure for sex reassignment has been performed.

AOC notes that the proposed legislation would allow the person changing sex designation would be able to pursue name change on the birth certificate as well, but only if that person wanted to do so. “This is significant in that the court-ordered name change process is expensive and lengthy,” according to AOC.

TECHNICAL ISSUES

AOC notes that Subsection F provides for all changed birth certificates to be marked “amended” except those in Subsection C (those where an acknowledgement of paternity has been signed by a parent, resulting in a change of the name of the father noted on the birth certificate), whereas Subsection F should state that birth certificate changes under both Subsections C and D would be reasons not to mark the new birth certificate “amended.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Transgender individuals would still be required to complete the multi-step procedures outlined in order to change name and sex on the birth certificate, a medical provider’s or facility’s affidavit stating that a sex-change operation operation had been performed would be required, and the birth certificate would still be marked “amended.”