

EXPLANATORY NOTES

B I L L

No. 27

An Act to amend *The Vital Statistics Act, 2009*

Clause of Bill

1 *The Vital Statistics Amendment Act, 2016.*

2 *The Vital Statistics Act, 2009*

3 **Existing Provision**

Change of sex designation

31(1) An individual who has undergone gender reassignment surgery may apply to the registrar to have the designation of sex on the individual's statement amended to be consistent with the results of the surgery.

(2) An application pursuant to subsection (1) must be made on a form approved by the registrar and accompanied by:

(a) the fee set by the corporation;

(b) a certificate of a physician who is licensed to practise in the jurisdiction in which the surgery was carried out and who performed the surgery on the applicant or assisted in performing that surgery:

(i) explaining the surgical procedures carried out;

(ii) certifying that he or she performed or assisted in performing the surgical procedures on the applicant; and

(iii) certifying that, as a result of the surgery, the designation of the sex of the applicant should be changed;

(c) a certificate of a physician who did not perform the surgery on the applicant or assist in performing that surgery, certifying:

(i) that he or she has examined the applicant;

(ii) that the results of the examination verify that gender reassignment

surgery has been performed on the applicant; and

(iii) that, as a result of the surgery, the designation of the sex of the applicant should be changed; and

(d) any other evidence that the registrar may require.

(3) If the certificate required by clause (2)(b) cannot be obtained, the registrar may require an applicant to provide any other evidence with respect to the matters described in subclauses (2)(b)(i) to (iii) that the registrar considers necessary.

(4) If the registrar is satisfied, on the basis of the evidence submitted in support of an application, that the designation of the sex of the applicant on the applicant's statement should be changed to be consistent with the results of gender reassignment surgery, the registrar may amend the applicant's statement accordingly.

2009, c.V-7.21, s.31.

Explanation

New section 31 will remove the requirement that an individual undergo gender reassignment surgery prior to changing their designation of sex.

New subsection (1) defines a "health care professional" for the purpose of the new application process to amend a designation of sex.

New subsection (2) sets out the new application requirements for adult individuals to amend their designation of sex.

New subsection (3) allows the registrar to consider a letter of support from a health care professional practising in a jurisdiction outside of Canada if the applicant resides outside of Canada.

New subsection (4) provides that the registrar shall amend the applicant's birth statement where the requirements of subsection (2) are met and the registrar is satisfied that the application is made in good faith.

New subsection (5) allows the registrar to amend the designation of sex on an individual's birth statement in accordance with any alternative criteria prescribed in the regulations.

4 **Existing Provision**

Regulations

104 The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) for the purposes of subsection 6(2):
 - (i) designating any category of records as part of the vital statistics registry; or
 - (ii) excluding any category of records from inclusion in the vital statistics registry;
- (c) for the purposes of clause 8(1)(e), assigning additional functions or duties to the registrar;
- (d) for the purposes of clause 8(3)(c), prescribing duties or powers of the registrar that cannot be delegated;
- (e) for the purposes of subsection 11(3), governing the disposition of original records for which an electronic version has been prepared for permanent retention;
- (f) governing the electronic submission of documents to the registrar;
- (g) respecting the registration of events;
- (h) prescribing additional particulars of an event that are required to be set out in a statement;
- (i) prescribing the types of evidence that must be provided in support of an application for late registration of an event;
- (j) governing the giving of notice of live births pursuant to clause 21(2)(a);
- (k) **Repealed.** 2015, c.26, s.17.
- (l) for the purposes of subsection 42(3), prescribing the number of copies of a burial permit that are to be provided to a common carrier and that a common carrier must have in order to transport a body lawfully;

(m) **Repealed.** 2015, c.26, s.17.

(n) for the purposes of clause 63(7)(a), respecting authorizations;

(o) for the purposes of clause 63(7)(d), prescribing classes of persons as eligible persons;

(p) establishing classes of certificates not otherwise provided for in this Act and governing eligibility to obtain those certificates;

(q) governing the conduct of searches and the issuance of certificates, copies and extracts;

(r) prescribing purposes for which a search, certificate, copy or extract may be provided to a government official pursuant to clause 64(2)(b);

(s) for the purposes of clause 64(2)(c):

(i) prescribing law enforcement agencies and investigative bodies; and

(ii) for the purposes of subclause 64(2)(c)(iii), prescribing any requirements that must be met by members of police forces, prescribed law enforcement agencies and prescribed investigative bodies;

(t) for the purposes of clause 64(2)(d), prescribing classes of persons to whom, and purposes for which, the registrar may issue a certificate, copy or extract with respect to an event;

(u) for the purposes of clause 66(2)(g), prescribing classes of persons to whom, and purposes for which, the registrar may disclose information respecting the cause of death set out in a medical certificate of death;

(v) for the purposes of clause 66(2)(h), prescribing circumstances in which the registrar may disclose information respecting the cause of death set out in a medical certificate of death;

(w) for the purposes of clause 67(3)(f), prescribing classes of persons to whom, and purposes for which, the registrar may disclose information respecting the cause of stillbirth set out in a medical certificate of stillbirth;

(x) for the purposes of clause 67(3)(g), prescribing circumstances in which the registrar may disclose information respecting the cause of stillbirth set out in a medical certificate of stillbirth;

(y) for the purposes of subsection 69(2):

- (i) prescribing law enforcement agencies and investigative bodies pursuant to clause 69(2)(a);
- (ii) prescribing other classes of persons or bodies for whom the registrar may waive the requirements of clauses 69(1)(a) and (b); and
- (iii) prescribing circumstances in which, the registrar may waive the requirements of clauses 69(1)(a) and (b);

(z) for the purposes of subsection 71(1), prescribing public agencies;

(aa) for the purposes of section 72, prescribing:

- (i) the information that may be included in a genealogical index; and
- (ii) any period mentioned in subsection 72(1);

(bb) respecting administrative, technical and physical safeguards to protect vital statistics information and the records of the registrar;

(cc) for the purposes of clause 77(2)(c), prescribing classes of persons and agencies to whom, and purposes for which, the registrar may grant physical access to the records of the registrar;

(dd) for the purposes of clause 78(3)(d), prescribing purposes for which the ministry may use vital statistics information;

(ee) for the purposes of clause 79(1)(c), prescribing classes of persons whose health services numbers may be required to be provided and the events, circumstances or purposes for which those health services numbers may be required to be provided;

(ff) for the purposes of clause 82(2)(f), prescribing public agencies with which the registrar and the corporation may enter into disclosure and use agreements and prescribing purposes for which vital statistics information may be used pursuant to a disclosure and use agreement;

(gg) for the purposes of section 98, governing the making of notations;

(hh) respecting applications to the registrar;

(ii) prescribing the forms of certificates;

(jj) governing the printing of printouts;

(kk) governing the preparation of copies in an electronic form and the certification of copies prepared in an electronic form;

(ll) providing for the waiver of payment of any fees in favour of any person or class of persons;

(mm) governing the service of documents;

(nn) respecting any matter or thing that the Lieutenant Governor in Council considers necessary to facilitate the transfer of responsibilities from division registrars to the registrar pursuant to *The Vital Statistics Administration Transfer Act*;

(oo) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(pp) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2009, c.V-7.21, s.104; 2015, c.26, s.17.

Explanation

New clause 104(k.1) will grant the Lieutenant Governor in Council authority to make regulations prescribing matters respecting an application to change a designation of sex in accordance with new section 31.

5 Coming into force.

Prepared by the Ministry of Justice