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**To:** Senate Human Services Committee  
**From:** Christopher Dodson, Executive Director  
**Subject:** House Bill 1139 - Requirements for Birth Records  
**Date:** March 7, 2023

The North Dakota Catholic Conference supports House Bill 1139. The bill will codify into law that a birth record must include the child's sex and that the report of sex is based on the biological presentation of sex at birth.

North Dakota Century Code does not require birth records/certificates to record the child's sex. The administrative rules concerning birth registration are set out in Article 33-04 of the Administrative Code. They also do not require designating recording the child's sex. Section 33-04-12-02 of the Administrative Code sets forth the requirements and process for obtaining an amended birth record following a sex conversion operation. (A copy of the rule is attached to this testimony.) Still, there is nothing in the law requiring the recording of sex in the first place.

The Department of Health and Human Services does, however, use an electronic reporting system according to the 2003 Birth Certificate Standard of the National Center of Health Statistics. That system requires reporting biological sex according to the three options presented in SB 1139 — male, female, not yet determined. Accordingly, the Department previously testified that HB 1139 would merely codify existing practice.

Nor would it change the existing practice regarding children with disorders of sexual development (DSD). If the sex cannot be determined at birth due to one of these disorders, the Department's current reporting system requires an entry of "not yet determined." HB 1139 adds no requirements that are not already required by the Department through its reporting system.

Birth records are not personal documents. They are official state documents legally recording a particular event. This information is not only important for legal purposes, but it also provides essential public health data. At a minimum, the records should include medically accurate sex designations.

Discussions about sex and gender designations on birth certificates and when they can be changed have arisen around the country and in this assembly. This is not one of those bills. This bill merely establishes the basic requirement that birth certificates include the child's biological sex when it can be determined.

Please give a **Do Pass** recommendation to House Bill 1139.

**CHAPTER 33-04-12**  
**CORRECTION AND AMENDMENT OF VITAL RECORDS**

Section

33-04-12-01	Amendment of Minor Errors on Birth Records During the First Year
33-04-12-02	Amendments as a Result of Gender Identity Change
33-04-12-03	All Other Amendments
33-04-12-04	Who May Apply
33-04-12-05	Amendment of Registrant's Given Names on Birth Record Within the First Year
33-04-12-06	Addition of Given Names
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**33-04-12-01. Amendment of minor errors on birth records during the first year.**

Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on birth records may be made by the state registrar within the first year after the date of birth either by the state registrar's own observation or query or upon request of a person with a direct and tangible interest in the record as defined in section 33-04-13-01. When such additions or minor amendments are made by the state registrar, a notation as to the source of the information together with the date the change was made and the initials of the authorized agent making the change shall be made on the record in such a way as not to become a part of any record issued. The record is not to be marked as "amended".

**History:** Amended effective January 1, 2008.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-25(2)

**33-04-12-02. Amendments as a result of gender identity change.**

1. **Evidence and documents required.** The birth record of a person born in this state who has undergone a sex conversion operation may be amended as follows:
  - a. Upon written request of the person who has undergone the operation;
  - b. An affidavit by a physician that the physician has performed an operation on the person, and that by reason of the operation, the sex designation of such person's birth record should be changed; and
  - c. An order of a court of competent jurisdiction decreeing a legal change in name.
2. **New record.** Pursuant to such amendment, a new record of birth will be created by the state registrar showing original data as transcribed from the original record excepting those items that have been amended. The new record will be clearly marked in the upper margin with the word "amended" and a description of the amended items may be added to the certified copy for clarification.
3. **Sealing of original record.** The original record shall be then placed in a special file and shall not be open to inspection except by order of a court of competent jurisdiction or by the state registrar for purpose of carrying out the provisions of North Dakota Century Code chapter 23-02.1 and properly administering the vital records registration program.

**History:** Amended effective January 1, 2008.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-04