

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

STACIE RAY, et al.	)	CASE NO.: 2:18-cv-00272-MHW-CMV
	)	
Plaintiffs,	)	JUDGE MICHAEL WATSON
	)	
vs.	)	MAGISTRATE JUDGE CHELSEY
	)	VASCURA
AMY ACTON, et al.	)	
	)	
Defendants.	)	

**DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, Defendants Amy Acton, in her official capacity as Director of the Ohio Department of Health, Karen Sorrell, in her official capacity as Chief of the Office of Vital Statistics, and Judith Nagy, in her official capacity as State Registrar of the Office of Vital Statistics (collectively “Defendants”), request this Court grant summary judgment in favor of Defendants and against Plaintiffs Stacie Ray, Basil Argento, Jane Doe, and Ashley Breda (collectively “Plaintiffs”).

Plaintiffs are four transgender individuals. Plaintiffs allege that Defendants are violating the U.S. Constitution because Defendants will not change the sex identifier included on their Ohio birth certificates. None of Plaintiffs’ claims have merit. Ohio law does not permit the type of change requested by Plaintiffs. And nothing in the U.S. Constitution requires a state to change its records to reflect an individual’s transgender status. For these reasons, and as explained in greater detail in the supporting memorandum filed herewith, the Court should enter summary judgment in favor of Defendants.

Dated: January 16, 2020

Respectfully submitted,

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Defendants.	)	

**MEMORANDUM IN SUPPORT OF DEFENDANTS’  
MOTION FOR SUMMARY JUDGMENT**

**I. INTRODUCTION**

This matter arises out of a constitutional challenge to Ohio’s birth record laws. Plaintiffs are four transgendered individuals who maintain that they should be permitted to have their gender identity reflected on their birth certificates. Ohio birth records do not reflect or track gender identity. Nevertheless, Plaintiffs allege that Defendants’ refusal to make the requested modification is a violation of the First Amendment, the Due Process Clause, and the Equal Protection Clause of the U.S. Constitution. None of Plaintiffs’ claims have merit.

As this Court is well aware, Defendants previously moved to dismiss each of Plaintiffs’ claims. Without examining the sufficiency of Plaintiffs’ First Amendment or Equal Protection Clause claims, this Court denied the motion to dismiss finding that Plaintiffs had raised a cognizable Due Process claim. Doc. 47 at 32. In reaching that conclusion, this Court assumed for the purposes of Defendants’ motion to dismiss that Plaintiffs’ allegations regarding the “perceived likely threat” of serious harm from the disclosure of their birth records were true. *Id.* at 19. This Court also assumed for the purposes of the motion to dismiss that “gender identity is the critical determinant of sex.” *Id.* at 11. Now that discovery is over, there is no genuine issue of material fact that both of those assumptions were incorrect.

As to Plaintiffs' alleged harm, each of the Plaintiffs admitted during deposition that they did not fear harm when they disclosed their birth records. Indeed, in one instance the disclosure of a birth record actually prevented a Plaintiff from undergoing an invasive strip search. In other instances, the Plaintiffs proudly, publicly announced their transgendered status to literally hundreds of people. None of the Plaintiffs are ashamed or embarrassed of their status as a transgender individual. And as for any supposed linkage between sex and gender, Plaintiffs' own expert admitted, unequivocally, that sex and gender are distinct. Unlike sex, there is no test, medical or otherwise, which can determine a person's gender identity. And, unlike sex, there is no way to identify a person's gender at the time of birth.

Ohio birth certificates record the sex of a child as reported at birth, not gender. The circumstances under which a person can correct the sex marker on his or her birth certificate, or update other information reported and recorded on Ohio-issued birth certificates, is governed by a detailed statutory regime set forth in Ohio Rev. Code § 3705.01 et seq. Specifically, Ohio law allows a person to correct inaccurately reported information in a birth record, including inaccurate information regarding a person's sex. Ohio law does not permit updates to sex based on gender identity. Ohio's legislature was well within its authority when it defined the contours of Ohio's birth-record laws. Birth certificates serve an important purpose and Ohio has a substantial interest in ensuring their accuracy, including an accurate record of a person's sex as reported at birth.

As described in further detail below, Plaintiffs have no constitutional right to change their birth certificates in the manner they request. This Court should grant Defendants' motion for summary judgment.

## **II. SUMMARY OF THE ARGUMENT**

Plaintiffs desire to change the sex identifier on their birth certificates because their gender identity does not match the sex that was accurately recorded by Defendants at the time of birth.

Ohio law prohibits such modifications to birth records. Nevertheless, Plaintiffs claim that Defendants' refusal to make the requested change violates the First Amendment, the Due Process Clause, and the Equal Protection Clause of the United States Constitution. Plaintiffs' constitutional claims seek to overturn Ohio law regarding maintenance of Ohio birth records. Accordingly, Plaintiffs' claims constitute a facial challenge to Ohio law. The United States Supreme Court places a high burden on parties seeking to establish a facial challenge. Each of Plaintiffs' constitutional claims fail to meet that heightened standard and should be denied.

First, Ohio's recording of a child's sex at birth on the birth certificate does not constitute government-compelled speech and therefore cannot support a First Amendment challenge. Indeed, the birth certificate is government speech that is a historical reflection of what was reported at the time of a child's birth, not an opinion, objectionable viewpoint, or ideology.

Second, Plaintiffs' Due Process claim, based on "informational privacy," also fails. Ohio's birth certificates are public records, and public records cannot form the basis for an informational privacy claim. Moreover, Plaintiffs have failed to allege a recognized fundamental right that would entitle them to relief under the Due Process Clause. Finally, Plaintiffs' informational privacy claim does not fit within the exceedingly narrow parameters set out by the Sixth Circuit.

Third, Plaintiffs' Equal Protection claim fails because the challenged law is facially neutral—that is, Plaintiffs have failed to identify disparate treatment—and Plaintiffs have admitted that they have no evidence that the State's birth record laws were enacted with the discriminatory intent necessary for a disparate-impact claim. Also, because Plaintiffs are not part of a protected class, Ohio's birth-record laws must be analyzed under rational basis review—a threshold that the law easily exceeds. Even if transgender people are treated as a protected class subjected to heightened scrutiny, Ohio has a substantial interest in ensuring the accuracy of its birth records, so any equal protection claim must fail.

The statutory scheme enacted by Ohio’s legislature regarding birth certificates is, like the laws in all 50 states, a result of careful state-specific policy considerations. The proper forum for Plaintiffs to address this issue is in the state legislature, where competing state interests and policies can be fully vetted and tailored to best serve the needs of all Ohioans. As discussed more fully below, the Court should grant Defendants’ motion for summary judgment.

### **III. UNDISPUTED FACTS**

#### **A. Ohio Statutes Allow Corrections to Birth Records Only in Limited Circumstances.**

Two Ohio statutes allow birth-record errors to be corrected. Ohio Rev. Code § 3705.15 allows probate courts to issue an order directing the Ohio Department of Health to correct birth record information that “has not been properly and accurately recorded”:

Whoever claims to have been born in this state, and whose registration of birth is not recorded, or has been lost or destroyed, *or has not been properly and accurately recorded*, may file an application for registration of birth or correction of the birth record in the probate court of the county of the person’s birth or residence or the county in which the person’s mother resided at the time of the person’s birth. If the person is a minor the application shall be signed by either parent or the person’s guardian.

An application to correct a birth record shall set forth all of the available facts required on a birth record and the reasons for making the application, and shall be verified by the applicant.... The application shall be supported by the affidavit of the physician or certified nurse-midwife in attendance. If an affidavit is not available, the application shall be supported by the affidavits of at least two persons having knowledge of the facts stated in the application, by documentary evidence, or by other evidence the court deems sufficient.

Ohio Rev. Code § 3705.15(A) (emphasis supplied).

Ohio Rev. Code § 3705.22 also authorizes the Ohio Department of Health to correct birth-certificate errors, where supported by appropriate evidence:

*Whenever it is alleged that the facts* stated in any birth, fetal death, or death record filed in the department of health *are not true*, the director [of the Ohio Department of Health] may require satisfactory

evidence to be presented in the form of affidavits, amended records, or certificates to establish the alleged facts. When established, the original record or certificate shall be supplemented by the affidavit or the amended certificate or record information.

...

A certified copy of a certificate or record issued by the department of health shall show the information as originally given and the corrected information, except that an electronically produced copy need indicate only that the certificate or record was corrected and the item that was corrected.

Ohio Rev. Code § 3705.22 (emphasis supplied).

Both statutes allow birth records to be corrected if information in them was incorrectly reported or mistakenly recorded at the time of birth. *Id.* Other Ohio laws specifically allow changes to a birth record to address an incorrect date of birth (§ 3505.15(D)(2)), a name change (§ 3705.13), or an adoption (§ 3705.124). Nothing in Ohio law explicitly authorizes a change to the sex reported on a birth certificate based on a later-announced gender identity that differs from the sex recorded at birth.

There is no evidence that Defendants mistakenly recorded Plaintiffs' "sex" at birth. Nevertheless, Plaintiffs allege that Ohio violates the constitution by maintaining a "categorical bar to changing gender markers on the birth certificates of transgender people...." Doc. 1 at ¶ 47. Plaintiffs admit that their birth certificates do not contain a "gender marker" and that Ohio does not record gender. *See, e.g.*, D.E. 65, Deposition of Ashley Breda ("Breda Depo.") at 99:6–8, 101:18–102:5; D.E. 64, Deposition of Basil Argento ("Argento Depo.") at 53:18–54:1, 61:6–17; D.E. 67, Deposition of Stacie Ray ("Ray Depo.") at 25:4–12; D.E. 66, Deposition of Jane Doe ("Doe Depo.") at 96:15–22, 100:1–7. And Plaintiffs' own expert admits that the medical providers present at the time of birth accurately identified and recorded each Plaintiffs' sex. D.E. 56, Deposition of Randi Ettner, Ph.D. ("Ettner Dep.") at 206:17–21.

**B. Ohio’s Birth Records Record the Sex Reported at Birth, and Do Not Contain a “Gender Marker” That Purports to Show Gender Identity.**

An Ohio birth certificate is made shortly after birth, and records information and vital statistics reported to the Ohio Department of Health. Affidavit of Judith Nagy (“Nagy Aff.”) at ¶ 3, attached hereto as Exhibit 1. Ohio is a passive gatherer of the birth record information and merely inputs the information that is reported to it. *Id.* at ¶ 4. The form used by the Ohio Department of Health to record birth record information contains over 300 topics, ranging from the date of birth to the educational background of the parents to the mother’s smoking history. *Id.* at ¶ 5; Exhibit 2, Ohio Vital Statistics Birth Occurrence File Layout. That information then forms the basis of the historical birth record for the child, including the short and long form of birth records, as well as the more familiar Certification of Birth. Exh. 1, Nagy Aff. at ¶ 6; Exhibit 3, Certification of Birth Abstract. Ohio does not collect information related to a child’s “gender marker” or “gender identity.” Exh. 1, Nagy Aff. at ¶ 7. Nor do Ohio’s birth records, including the Certification of Birth, reflect such information. *See* Exhs. 2 and 3. Instead, Ohio’s birth certificates record the child’s “sex” as reported at the time of birth. Exh. 1, Nagy Aff. at ¶ 8. The forms used by Ohio allow entries only for male, female, or undetermined. *Id.* at ¶ 9.<sup>1</sup>

The scientific community distinguishes biological sex from gender identity. *See F.V. v. Barron*, 286 F. Supp. 3d 1131, 1136–37 (D. Idaho 2018). “There is scientific consensus that biological sex is determined by numerous elements, which can include chromosomal composition, internal reproductive organs, external genitalia, hormone prevalence, and brain structure.” *Id.* at 1136. This position is echoed by the American Psychology Association, which defines sex as “one’s biological status as either male or female....” *See id.* at 1136, n.5 (citing Transgender

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<sup>1</sup> “Undetermined” is used when a child’s sex cannot be determined, such as when the child is born with intersex conditions. Exh. 1, Nagy Aff. at ¶ 10.

People, Gender Identity and Gender Expression, American Psychological Association (2018), <http://www.apa.org/topics/lgbt/transgender.aspx>).

Gender, on the other hand, “is the intrinsic sense of being male, female, or an alternative gender.” *Id.* at 1136 (citing World Professional Association for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* at 96 (7th Version, 2011)) (“WPATH *Standards of Care*”). “[T]ransgender is an adjective used to describe a person who has a gender identity that differs, in varying degrees, from the sex observed and assigned at birth.” *Id.* (citing WPATH *Standards of Care* at 97).

Plaintiffs also acknowledge the distinction between “gender” and “sex.” *See, e.g.*, Doc. 1 at ¶ 22 (stating that Plaintiffs seek to bring their “gender identity” and “sex” into “alignment”); *id.* at ¶ 23 (distinguishing “gender identity” from “sex”); *id.* at ¶ 26 (noting the “discordance between [] gender identity and birth-assigned sex”). Indeed, there is no dispute that sex and gender are entirely different concepts. Plaintiffs’ own expert, Dr. Randi Ettner, who opined on many topics including the distinction between sex and gender, testified:

Q. And you agree that sex, what the APA says here is that “sex is assigned at birth and refers to one’s biological status as either male or female.” You agree with that?

A. Yes.

Q. You recognize the distinction between sex and gender, right?

...

A. I recognize a distinction between sex and gender identity.

D.E. 56, Ettner Dep. at 179:1–12. That sex and gender are distinct is echoed by Defendants’ expert, Dr. Quentin Van Meter, who testified that:

[W]e know that gender is a psychologically based concept. It has no biology. And that sex is biology. The American Psychological Association, the APA, DCM5, stated absolutely and utterly clearly

gender identity is a very fluid thing. People go in and out of that, on and off, throughout their lives. People don't go in and out of a sex.

D.E. 57, Deposition of Quentin Van Meter, M.D. ("Van Meter Dep.") at 110:7–15. Thus, there is no dispute that sex and gender are distinct.

Moreover, all of the experts (including both of Plaintiffs' experts) agree that, unlike sex, there is no test that can be used to determine an individual's gender:

Dr. Ettner, Plaintiffs' psychologist expert, testified that there is in fact no way to determine an individual's gender at the time of birth:

Q. Because there's no way to determine whether a person is transgender at the time birth, right?

A. Correct.

...

Q. There's no test, medical or psychological, to diagnose transsexualism. Would you agree with that sentence?

A. Yes.

D.E. 56, Ettner Depo. at 137:12–23. Dr. Ryan Gorton, Plaintiffs' medical rebuttal expert, concurred with Dr. Ettner's opinion that there was no test capable of determining a person's gender. As Dr. Gorton testified, you "can't figure that out with a blood test" and you "can't do an MRI on somebody and say your gender identity is male." D.E. 58, Ryan Gorton ("Gorton Depo.") at 96:21–97:6, 144:18–145:4.

Defendants' medical expert, Dr. Van Meter, agreed and testified that there is no genetic component to gender identity and that there is no relationship between gender and inherited traits. *See* D.E. 57, Van Meter Dep. at 228:7–13. Logically, if there is no test that can be used to determine an individual's gender, then what the medical providers report at birth, and what Defendants record on the birth record, is sex and not gender.

Nonetheless, Plaintiffs ask this Court to conflate gender and sex and treat the sex designation recorded by Defendants at the time of birth as a “gender identity” marker. Ohio’s birth records indicate a baby’s “sex” at the time of birth. Exh. 1, Nagy Aff. at ¶ 8. The State of Ohio does not ask for, nor does the birth certificate record, a gender identity marker. *Id.* at ¶ 7. Absent a showing that an individual’s “sex” was incorrectly recorded at birth, Ohio law does not permit the birth certificate change that Plaintiffs seek. *Id.* at ¶ 11.

**C. Plaintiffs Only Disclosed Their Birth Certificates in Limited Circumstances Where There Was No Legitimate Fear or Threat of Bodily Harm.**

Plaintiffs in this case have only disclosed their birth certificates in limited circumstances related to employment or interaction with governmental agencies. In each of these instances, Plaintiffs acknowledge that they either did not fear the disclosure, or that their apprehension over disclosure was unfounded.

**1. Ashley Breda**

Defendant Ashley Breda (“Breda”) testified that the only times she had to disclose her birth certificate was when she had to apply for a job or when she sporadically interacted with certain government agencies. D.E. 65, Breda Depo. at 117:3–11. She also testified that the only time she felt fear of harm was when the individuals she had to disclose her birth certificate were wearing President Trump campaign paraphernalia. *Id.* 118:25–120:4. However, Breda admitted that those individuals never did anything to confirm her fear and ultimately testified that she had never received bodily harm from the disclosure of her birth certificate:

Q. Okay. And have you ever been or received bodily harm or anything like bodily harm based on the disclosure of your birth certificate?

A. No.

*Id.* 120:5–13.

**2. Basil Argento**

Defendant Basil Argento (“Argento”) testified that he was only required to disclose his birth certificate to one employer and a few government agencies. *See* D.E. 64, Argento Depo. at 89:14–90:2 (Colorado Bureau of Motor Vehicles); 98:5–12 (Italian Consulate); 116:16–19 (Social Security Administration); 120:22–121:2 (Marriage license official); 122:21–123:1 (U.S. Passport Agency); 124:23–25 (Kroger). Argento admitted that he never feared harm during any of those encounters. *Id.* In fact, Argento testified that he never feared disclosing his birth certificate to any government official:

Q. And when you presented the birth certificate to the folks in connection with obtaining your U.S. passport, you did not fear bodily harm, did you?

A. Like I said, I don’t fear bodily harm from government officials.

*Id.* at 122:21–123:1.

### 3. Stacie Ray

Defendant Stacie Ray (“Ray”), although offering somewhat conflicting testimony, eventually admitted that she did not fear harm from disclosing her birth certificate to her employer. D.E. 67, Ray Depo. at 117:14–24. And Ray had no concerns or issues with the other, limited, instances where she disclosed her birth certificate. *Id.* 130:25–131:10 (Transportation Security Administration); 146:25–147:4 (car dealership). In fact, in at least one instance the presence of the “M” designation on Ray’s birth certificate prevented her from undergoing a strip search, which Ray testified would have been harmful. *Id.* at 147:16–23. The incident occurred when she was travelling thorough airport security. *Id.* at 147:5–15. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Ray was able to produce a copy of her

birth certificate, which identified her sex as male, and she was let through security without a strip search. D.E. 67, Ray Depo. at 157:11–21.

**4. Jane Doe**

Defendant Jane Doe (“Doe”) unequivocally testified that she has never experienced bodily harm as a result of disclosing her birth certificate:

Q. Has your disclosure of your birth certificate ever led to bodily harm?

A. No.

D.E. 66, Doe Depo. 88:19–21. And Doe could only recall three instances when she had to disclose her birth certificate, none of which caused her to fear bodily harm. *Id.* at 125:17–25 (Social Security Administration); 128:5–11 (U.S. Passport Agency); D.E. 62, Sealed Deposition of Jane Doe at 128:22–129:3 (██████████ court). Indeed, Doe admitted that having the sex identifier changed on her birth certificate would not have prevented any harassment that she receives as a transgender individual.

Q. So having the sex identifier changed on your birth certificate would not have prevented the harassment that you’re currently experience in your workplace, right?

...

A. I doubt it. I think they would have harassed me anyway.

*Id.* at 121:16–24.

Thus, Plaintiffs have only been required to disclose their birth certificates in limited circumstances (either to employers or government officials) and none of the Plaintiffs have held any legitimate, particularized fear of harm in those instances.

**D. Plaintiffs Admit That They Are Proud of Their Transgender Status.**

Each of the Plaintiffs admitted during deposition that they were not humiliated by their status as a transgender individual. In fact, Plaintiffs are proud of their transgender status.

Breda testified that she was not ashamed of her transgender status:

Q. It's not something you're ashamed of, right?

A. No.

D.E. 65, Breda Dep. at 84:7–11. Indeed, Breda takes little or no measures to conceal her transgender status from the public. She came out to her Facebook friends, which measure in the hundreds. *Id.* at 30:13–31:9. Additionally, Breda's Facebook account is public, which means anyone can view the information on it, including her status as “trans.” *Id.* at 33:22–34:19. The same is true for Breda's Twitter account, which also advertises her status as a transgender individual. *Id.* at 36:1–25. Breda has no idea how many people have viewed her Twitter account:

Q. And like your Facebook page, this Twitter page is available for anyone, including me, to go and see right?

A. That's correct.

Q. Do you have any idea how many people have gone onto your Twitter page and seen that you are a—identified as a trans [individual]?

...

A. I have absolutely no idea.

*Id.* at 39:11–21.

Ultimately, Breda concluded that the number of people who know about her being transgendered is in the hundreds, if not more:

Q. So I guess with regards to a question I asked previously, you know, the number—trying to put a finger on the number of people you've told that you're transgendered. You can't really be certain but if you include Facebook friends and potential people who viewed your Twitter page, that could be in the hundreds, if not higher, is that fair to say?

...

A. I would speculate that's true.

*Id.* at 41:18–42:5.

Similarly, Argento admitted that being transgender was not humiliating. D.E. 64 Argento Dep. at 40:4–13. As Argento testified:

Q. Okay. And being transgendered isn't something that you're ashamed about, right?

A. No.

...

Q. You're proud of your status as a transgendered person, right?

A. Yes.

*Id.* at 40:14–22. And Argento also testified that “he had no idea” how many people that he has told about his status as a transgender individual, but he estimates that it is somewhere between 50 and 100. *Id.* at 37:13–38:6.

Likewise, Ray also admitted that she was proud of her transgender status. As she testified:

Q. Well, do you—are you ashamed of being a member of the transgender community?

...

A. No.

...

Q. Right. Okay. And that was going to be my next question, right. It's a point—it's not something that you particularly feel ashamed or humiliated about despite what other people may try to project on you, but you yourself feel proud, right?

...

A. I am proud of the choices that I am currently making in my life and who I am.

D.E. 67, Ray Depo. at 61:3–62:10.

Even Doe, who opted to keep her identity anonymous for this litigation, testified that she was neither humiliated nor ashamed of her status as a transgender person:

Q. You are a transgender individual, correct?

A. Correct.

Q. Does that fact humiliate you?

...

A. If you mean on an everyday basis do I get up in the morning and say I'm transgender and I feel humiliated, no.

Q. The fact that you're a transgender individual does not []shame you, correct?

A. Correct.

D.E. 66, Doe Depo. at 89:20–90:7.

Thus, none of the Plaintiffs find their transgender status humiliating or shameful.

#### **IV. ARGUMENT**

Summary judgment should be awarded in favor of Defendants because Plaintiffs' challenges to Ohio's birth record laws under the First Amendment, the Due Process Clause, and the Equal Protection Clause of the U.S. Constitution are legally invalid and unsupported by the undisputed facts. Summary judgment must be granted where "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The moving party need not negate the non-moving party's claim, but can succeed by pointing out that "there is an absence of evidence to support the nonmoving party's case." *Moore v. Philip Morris Cos.*, 8 F.3d 335, 340 (6th Cir. 1993) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)). Once the moving party has met its burden, the nonmoving party must "do more than show that there is some metaphysical doubt as to the material facts. It must present significant probative evidence in support of its complaint to defeat the motion for

summary judgment.” *Id.* (internal citations omitted). Importantly, “conclusory statements unadorned with supporting facts are insufficient to establish a factual dispute that will defeat summary judgment.” *See, e.g., Alexander v. CareSource*, 576 F.3d 551, 560 (6th Cir. 2009).

**A. Plaintiffs’ Constitutional Challenges Constitute a Facial Challenge to Ohio’s Birth Record Laws.**

Plaintiffs seek an order from this Court that the United States Constitution requires Defendants to change the sex identifier on Ohio’s birth records based on Plaintiffs’ gender identity. Such modification to Ohio’s birth records is prohibited by Ohio Rev. Code §§ 3705.15 and 3705.22. *See Bd. of Educ. of the Highland Local Sch. Dist. v. United States Dep’t of Educ.*, 208 F. Suppl. 3d 850, 866 n.3 (S.D. Ohio 2016 (citing Ohio Rev. Code §§ 3705.15 and 3705.22)); *In re Declaratory Relief for Ladrach*, 513 N.E.2d 828, 831 (Ohio Ct. Com. Pl. 1987) (holding that the birth record statute is a “correction” only statute and cannot be used to modify the sex designation on a person’s birth certificate except where the sex marker was inaccurately reported or recorded).

In its Order denying Defendants’ motion to dismiss, this Court expressly declined to decide whether Plaintiffs’ constitutional challenges to Ohio law constituted a facial challenge, or an “as applied” challenge. Doc. 47 at 11–12. Plaintiffs’ constitutional claims attempt to upend the entire statutory scheme put in place by Ohio regarding Defendants’ maintenance of Ohio’s birth records. *See Rev. Code §§ 3705.15 and 3705.22.* Accordingly, this Court should find that Plaintiffs are raising a facial challenge to Ohio law. Defendants recognize that this Court was hesitant in its prior Order to find that Ohio law prohibits Plaintiffs’ requested modification to their birth records. Doc. 47 at 12. The Court expressed its doubts in part based on the construction of Tennessee and Idaho statutes. *Id.* at 11–12. However, the Court need not refer to out-of-state case law and statutes to decide this issue as every Court interpreting sections 3705.15 and 3705.22 has found that “[u]nder Ohio law, a person may not change the sex recorded on his or her birth certificate, and therefore, a birth certificate reflects the sex a person has been assigned at birth.” *Bd. of Educ. of*

*the Highland Local Sch. Dist.*, 208 F. Supp. 3d, 866 n. 3; *In re Declaratory Relief for Ladrach*, 513 N.E.2d at 831. Thus, to grant the relief requested by Plaintiff (*i.e.*, changing the sex marker on Ohio’s birth certificates to reflect gender identity), this Court would need to invalidate existing Ohio law.

As this Court is well-aware, facial challenges carry greater consequences than as-applied challenges, *i.e.*, invalidating an entire law, and the Supreme Court places a high burden on parties seeking to establish a facial challenge. *See United States v. Stevens*, 559 U.S. 460, 472 (2010). To prevail, Plaintiffs must establish either “that no set of circumstances exists under which [Ohio’s birth-record laws] would be valid,” *United States v. Salerno*, 481 U.S. 739, 745 (1987), or that the statutes are devoid of any “legitimate sweep.” *Washington v. Glucksberg*, 521 U.S. 702, 740, n. 7 (1997) (Stevens, J., concurring) (internal quotation marks omitted). As shown below, Plaintiffs cannot meet this high burden, so all of Plaintiffs’ claims should be dismissed.

But even if this Court construes Plaintiffs’ constitutional attack on Ohio law as an as-applied challenge, Plaintiffs’ claims still fail since, as detailed below, the undisputed facts demonstrate that summary judgment for Defendants is appropriate in this case.

**B. Plaintiffs’ First Amendment Claim Is Legally Deficient And Should Be Dismissed.**

Plaintiffs’ First Amendment claim is predicated on their assertion that Ohio’s birth certificate statutes “prevent[] [them] from accurately expressing their gender,” and “force them ... to endorse the government’s position as to their gender,” and therefore violate the First Amendment. Doc. 1 at ¶¶ 127–28. Plaintiffs’ First Amendment claim fails because Ohio birth certificates are government speech and are not subject to analysis under the First Amendment as a matter of law. Moreover, Ohio’s birth certificates do not express a viewpoint or ideology about Plaintiffs’ gender. There is no evidence to the contrary. Accordingly, Plaintiffs’ First Amendment claim should be dismissed.

**1. The information contained in Ohio’s birth records constitutes government speech, and such government speech is not subject to challenge under the First Amendment.**

Plaintiffs’ First Amendment claim fails because the information contained in Ohio’s birth records constitutes governmental speech. “When government speaks, it is not barred by the Free Speech Clause from determining the content of what it says.” *Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 135 S. Ct. 2239, 2245 (2015) (citation omitted). “[G]overnment actions and programs that take the form of speech [] do not normally trigger the First Amendment rules designed to protect the marketplace of ideas.” *Id.* at 2245–46 (citation omitted). As the Supreme Court reasoned in *Walker*, “it is not easy to imagine how government could function if it lacked th[e] freedom to select the messages it wishes to convey.” *Id.* at 2246 (citation and quotations omitted). In general, “when the government speaks it is entitled to promote a program, to espouse a policy, or to take a position. In doing so, it represents its citizens and it carries out its duties on their behalf.” *Id.*

The *Walker* Court went to great lengths analyzing whether the speech was likely to be associated with the state or the private individual. *Walker*, 135 S. Ct. at 2249-52. As the Supreme Court held:

Texas license plates are, essentially, government IDs. And issuers of ID “typically do not permit” the placement on their IDs of “message[s] with which they do not wish to be associated.” Consequently, “persons who observe” designs on IDs “routinely—and reasonably—interpret them as conveying some message on the [issuer’s] behalf.”

*Id.* at 2249 (quoting *Pleasant Grove City v. Sumnum*, 555 U.S. 460, 471 (2009)).

Using that analysis, the Supreme Court in *Walker* easily concluded that the specialty license plates issued by Texas constituted governmental speech and that the censorship of potentially offensive content on them did not violate First Amendment rights. *Id.* at 2253. In finding that the content of the license plates was governmental speech not subject to First

Amendment scrutiny, the Supreme Court recognized that license plates served a vital governmental purpose as identification, that the license plates had “TEXAS” written on them, that every license plate was issued by the state, that the license plates were designed by the state, and that the state maintained control over what could be written on the license plates. *Id.* at 2248–50.

Applying the factors laid out in *Walker*, the Ohio birth certificates indisputably constitute government speech. First, as Plaintiffs admit, birth certificates in Ohio serve a vital governmental purpose as a form of identification. *See* D.E. 64, Argento Dep. at 30:2–4; D.E. 65, Breda Dep. at 22:5–10; D.E. 67, Ray Dep. at 18:3–20; *see also* Doc. 47 at 5–6. Second, Ohio birth records reflect a host of objective and demographic data that existed at the time of birth, including the child’s name, date of birth, the name of the child’s mother and father, a state file number, place of birth, and sex. Exh. 1, Nagy Aff. at ¶ 12; Exh. 3, Certification of Birth Abstract. Third, the state is speaking through the birth record. All birth certificates include, in large letters, the following caption “STATE OF OHIO OFFICE OF VITAL STATISTICS.” *See* Ex. 3, Certification of Birth Abstract. The birth certificates also include the Ohio Department of Health seal, and the word “OHIO” is written approximately 70 times on the document. *Id.* Further, the signature of the State Registrar of Vital Statistics appears on the face of the document, together with her certification that the information on the birth certificate is true. *Id.* Finally, the State maintains absolute control over what information can be displayed on birth certificates, as Defendants are the only ones who can create, issue, and correct the Certifications of Birth. Exh. 1, Nagy Aff. at ¶ 13. Accordingly, under the analysis set forth in *Walker*, Ohio’s birth certificates constitute government speech and cannot support a First Amendment claim.

2. **Ohio’s birth records reflect a child’s sex as reported by the medical provider at the time of birth and such records are not a viewpoint or ideology.**

Plaintiffs' First Amendment claim also fails because Ohio's birth records do not reflect a viewpoint or ideology which Plaintiffs are forced to adopt regarding their gender identity. Ohio's birth certificates are records made by the State soon after the time of birth based on certain vital and biographical information reported to officials at the Ohio Department of Health. *Id.* at ¶ 3. While more information is reported to and maintained by Defendants, only a limited subset is recorded on the Certification of Birth. *See id.* at ¶¶ 5–6. The limited information contained on the birth certificate, *i.e.* the child's name, the date of birth, the place of birth, the parents' names and birth places, and the sex of the child, are objective and historical facts that are reported to Defendants. *Id.* at ¶¶ 3, 12. In recording that data, Defendants have no room for interpretation, no opportunity to express a viewpoint, and no reason (or ability) to color that information with an ideological stance. *Id.* at ¶ 14.

Nevertheless, Plaintiffs contend that Ohio's birth certificates prevent them from "accurately expressing their gender" and "convey[] the state's ideological message that gender is determined solely by the appearance of external genitals . . . ." Doc. 1 at ¶¶ 127–28. Not so. Ohio's birth records do not include a marker for "gender" or "gender identity." *See* Exh. 3, Certification of Birth Abstract. Indeed, Defendants do not collect information about a person's gender. Exh. 1, Nagy Aff. at ¶ 7. Defendants only record the sex of an individual. *Id.* at ¶ 8. Plaintiffs' own expert admits that sex and gender are not the same thing. D.E. 56, Ettner Dep. at 179:1–12. Plaintiffs' expert also admits that Ohio's birth records accurately recorded each Plaintiffs' sex. *Id.* at 206:17–21. If any Plaintiffs' sex was mistakenly identified at birth, *e.g.*, in the case of a disorder of sex differentiation or chromosomal disorder, then Defendants would change the sex identifier on the birth record under one of the correction statutes contained in Revised Code §§ 3705.15 or 3705.22. Exh. 1, Nagy Aff. at ¶ 15. However, there is no evidence any of the Plaintiffs has a disorder of sex differentiation or a chromosomal abnormality.

Defendants’ accurate recording of the sex of a child on a birth record does not affect a transgender person’s ability to express his or her gender identity, or force them to identify with a gender, or require them to espouse some ideological viewpoint about gender identity. *Id.* at ¶ 16. Plaintiffs are free to choose how, what, when, and whether to express their gender identity. *Id.* at Aff. at ¶ 17.

For these reasons, there is an utter lack of evidence to support Plaintiffs’ First Amendment claim. Ohio’s birth records do not make any statement as to Plaintiffs’ gender identity, much less prove, under any set of facts, that Ohio birth records inaccurately express such gender identity. This Court should grant Defendants’ motion for summary judgment and dismiss Plaintiffs’ First Amendment claim.

**C. Ohio’s Birth-Record Laws Fully Comply with the Due Process Clause of the U.S. Constitution.**

Ohio’s birth-record laws are consistent with the Due Process Clause of the Fourteenth Amendment. Plaintiffs allege that Defendants violated the Due Process Clause by causing “transgender people to involuntarily disclose their transgender identity” and that such activity constitutes a violation of “the right to live in accordance with one’s gender identity.” *See* Doc. 1 at ¶¶ 120, 122. This claim fails as a matter of law and fact.

**1. Plaintiffs cannot maintain an informational right to privacy over public records.**

Plaintiffs’ claim sounds in what the Sixth Circuit has described as an “informational right to privacy.” *See Bloch v. Ribar*, 156 F.3d 673, 683 (6th Cir. 1998). The informational right to privacy “protects an individual’s right to control the nature and extent of information released about that individual.” *Id.* (citing *Whalen v. Roe*, 429 U.S. 589, 599–600 (1977)). It is well established that an informational right to privacy does not exist over information that is already in the public record, and for that reason alone, Plaintiffs’ due process claim must fail. *See Cox*

*Broadcasting Corp. v. Cohn*, 420 U.S. 469, 495 (1975); *Lambert v. Hartman*, 517 F.3d 433, 442–46 (6th Cir. 2008); *Does v. Munoz*, 507 F.3d 961, 965 (6th Cir. 2007); *G.B. v. Rogers*, 2009 U.S. Dist. LEXIS 44055, at \*29–30 (S.D. Ohio May 11, 2009). Under Ohio law, and as this Court has already held, birth certificates are public records. See D.E. 47 at 24 (citing *State ex rel. Hammons v. Chisholm*, 792 N.E.2d 1120 (Ohio 2003)); Ohio Rev. Code § 3705.23(A)(1). Plaintiffs’ sex designation on their birth certificates has been available for public view since birth, so changing the birth record neither claws back nor updates information that may have already been accessed and aggregated by others, such as those who gather such data for online databases. Thus, even if Plaintiffs were permitted to change their birth records to reflect their gender identity, Plaintiffs’ information privacy objectives would still be unachievable.

**2. Plaintiffs’ informational privacy claim fails because it does not fit into the Sixth Circuit’s narrow construction of informational privacy rights.**

Plaintiffs’ claim also fails as a matter of law because the Sixth Circuit narrowly construes informational privacy rights “to interests that implicate a fundamental liberty interest.” *Bloch*, 156 F.3d at 684 (citing *J.P. v. DeSanti*, 653 F.2d 1080, 1090 (6th Cir. 1981)). The Sixth Circuit applies a two-part test to determine whether the disclosure of private information warrants constitutional protection: “(1) the interest at stake must implicate either a fundamental right or one implicit in the concept of ordered liberty; and (2) the government’s interest in disseminating the information must be balanced against the individual’s interest in keeping the information private.” *Id.* (citation omitted). The “balancing test should be employed only if fundamental or traditional rights are implicated.” *Id.* As the Sixth Circuit has recognized, “identifying a new fundamental right subject to the protections of substantive due process is often an uphill battle, as the list of fundamental rights is short.” *Munoz*, 507 F.3d at 965.

The Sixth Circuit has recognized a constitutional right to informational privacy only in two circumstances: “(1) where the *release* of personal information could lead to bodily harm [], and (2) where the information *released* was of a sexual, personal, and humiliating nature [].” *Lambert*, 517 F.3d at 440 (citations omitted) (emphasis added). In both circumstances, it is the government that releases the private information. *See id.* at 440–41; *see also Beck v. Muskingum County*, 2012 U.S. Dist. LEXIS 146014, at \*12–13 (S.D. Ohio Oct. 10, 2012) (dismissing informational privacy claim because there was no evidence detailing the information allegedly disclosed by the government). Moreover, courts in the Sixth Circuit further narrow the right to privacy in the context of bodily harm “to circumstances where the information disclosed was particularly sensitive and the persons to whom it was disclosed were particularly dangerous . . . .” *Barber v. Overton*, 496 F.3d 449, 456 (6th Cir. 2007).

None of the circumstances described in *Bloch* are present here.

- i. Plaintiffs have failed to identify a fundamental right and Defendants are not responsible for the release of private information.

Plaintiffs have failed to identify a fundamental right that is being violated. The gravamen of Plaintiffs’ due process claim is that they have a fundamental right to change the sex accurately recorded on their birth certificate based on their gender identity. Defendants do not track or record gender identity. Exh. 1, Nagy Aff. at ¶ 8. As testified by Plaintiffs’ own expert, gender identity and sex are distinct categories. D.E. 56, Ettner Dep. at 179:1–12. And it is undisputed that there is no test to determine gender either at birth or later in life. *Id.* at 137:12–23; D.E. 58, Gorton Dep. at 96:21–97:6, 144:18–145:4. Neither the Sixth Circuit nor the Supreme Court recognizes a fundamental right in this context. Maintaining secrecy over basic vital statistics maintained by the state, and already in the public domain for decades, does not implicate a “fundamental right” or “the concept of ordered liberty.” *See Bloch*, 156 F.3d. at 684.

Moreover, the Sixth Circuit recognizes a right to informational privacy only when the government is responsible for releasing the protected information. *See Lambert*, 517 F.3d at 440. Plaintiffs have only disclosed their birth certificates in limited circumstances, none of which involved Defendants prompting or requiring the disclosure. And there is no evidence that Defendants have taken affirmative steps to publish or advertise Plaintiffs' birth certificates or their status as transgendered individuals. To the contrary, it was Plaintiffs, not Defendants, who have disclosed this information to third parties. *See supra* Section III.C. Moreover, at least one of the Plaintiffs, Breda, has told hundreds of people about her transgender status by posting that information on her public Facebook and Twitter accounts. D.E. 65, Breda Dep. at 41:18–42:5. And another Plaintiff, Argento, admitted that he has told somewhere between 50 and 100 people about being a transgender individual. D.E. 64, Argento Dep. at 37:13–38:6.

- ii. Plaintiffs' gender identity is not the type of information protected from disclosure and such information was not disclosed to dangerous individuals.

Even if Plaintiffs have a fundamental liberty interest in concealing their sex at birth (which they do not) and even if Defendants were responsible for disclosing Plaintiffs' gender identity (which they are not) Plaintiffs' informational privacy claim still fails because, under Sixth Circuit law, the private information disclosed must be of a "sexual, personal, and humiliating nature," and specifically disclosed to "particularly dangerous" individuals. *Compare Lambert*, 517 F.3d at 440; *with Barber*, 496 F.3d at 456. Neither circumstance is present in this case.

Plaintiffs readily admit that they are not ashamed or humiliated by their transgender status. *See supra* Section III.D. And, as pointed out by Plaintiffs' expert, Dr. Ettner, gender identity has nothing to do with sexuality. D.E. 56, Ettner Dep. at 55:12–24 (explaining transgender and sexuality are often conflated). As detailed by Plaintiffs' expert while distinguishing sexuality and gender:

[T]ranssexualism was no longer a term that was in common parlance because it conflated sex which for lay people means sexual orientation, sexual behavior with gender.

*Id.* at 188:8–11. Dr. Ettner further testified that:

Transsexualism conflates sex, be it sexual orientation, sexual behaviors or sexual activity with gender, and lay people in particular confuse sexuality with gender leading to some serious negative connotations for people who are transgender.

*Id.* at 227:12–17. Thus, even Plaintiffs admit that information about a person’s gender does not convey information that is sexual in nature.

Nor is there any record evidence that information about Plaintiffs’ gender identity was conveyed to “particularly dangerous” individuals. The only time Plaintiffs disclosed their birth certificates was to employers or government agencies. *See supra* Section III.C. Plaintiffs admit that they were never harmed and, in fact, did not fear harm when they disclosed their birth certificates. *Id.* In fact, in the case of one Plaintiff, disclosure of her birth certificate actually prevented a harmful and invasive strip search by the TSA. D.E. 67, Ray Dep. at 157:11–21. Another Plaintiff testified that he never feared harm from disclosing his birth certificate. D.E. 64, Argento Dep. at 122:21–123:1. And Doe testified that disclosure of her birth certificate was not the cause of her harassment. D.E. 66, Doe Dep. at 121:16–24.

Plaintiffs testified at length regarding the harassment they have endured from various employers and other agencies due to their gender identity. To be clear, Defendants do not condone the discriminatory conduct by third parties against Plaintiffs. However, workplace harassment and administrative delay do not give rise to the exceedingly narrow right of informational privacy under the Due Process Clause of the U.S. Constitution.

The Sixth Circuit’s holding in *Barber* is instructive. In *Barber*, the social security numbers and birth dates of correctional officers were released to several prisoners who had a history of violence towards other prisoners and staff. 496 F.3d at 450. Despite the release of that sensitive

information to clearly dangerous people, the court in *Barber* rejected the informational privacy claim in that case. *Id.* at 456. Analyzing and distinguishing the ground-breaking decision in *Kallstrom v. City of Columbus*, the Sixth Circuit noted that in that case:

[T]he officers' privacy interest implicated an important liberty interest; to wit, an interest in preserving their and their families' personal security and bodily integrity. That is, it held that the released information was sensitive enough to put their lives at risk. This liberty interest was implicated for two reasons: (1) the gang member had a propensity for violence and intimidation and (2) those members were likely to seek revenge.

*Id.* at 455. The Sixth Circuit went on to describe what the decision in *Kallstrom* did not do:

It did not create a broad right protecting plaintiffs' personal information. Rather, *Kallstrom* created a narrowly tailored right, limited to circumstances where the information disclosed was particularly sensitive and the persons to whom it was disclosed were particularly dangerous *vis-à-vis the plaintiffs*.

*Id.* at 456 (italics in original). The Sixth Circuit held that the for the analysis in *Kallstrom* to apply, the relationship between the plaintiffs and the individuals receiving the sensitive information must be "defined by [] clear animosity . . . ." *Id.* at 457. The court concluded its analysis by stating that "the right we created in *Kallstrom* was exceeding[ly] narrow." *Id.*

If *Barber* did not implicate the right to information privacy, where correctional officers' sensitive information was provided to dangerous prisoners, then Plaintiffs' claims certainly fall outside the exceedingly narrow exception created by *Kallstrom*. Whatever the relationship between Plaintiffs, their employers, and various government agencies, it is not defined by the "clear animosity" at issue in *Kallstrom*—*i.e.*, violent gangs and the undercover police charged with infiltrating them. It strains credulity to equate the violent Short North Posse with the HR

department at Zulily.<sup>2</sup> Similarly, one cannot ascribe “particularly dangerous” tendencies to the Social Security Administration, or the TSA, or the U.S. Passport Agency. *See supra* Section III.C.

It is undisputed that Defendants neither record nor disclose Plaintiffs’ gender identity. And Plaintiffs admit that such information, even if released, is neither harmful, nor humiliating, nor sexual in nature. Plaintiffs’ sex is accurately recorded and already part of the public record. None of Plaintiffs’ information is disclosed to individuals who are “particularly dangerous” and there is no record evidence to support that contention. The Sixth Circuit’s narrow application of the informational right to privacy does not apply. Accordingly, this Court should dismiss the Due Process claim.

**D. Plaintiffs Have No Evidence to Support Their Equal Protection Claim, Which Fails as a Matter of Law.**

Ohio’s birth-record laws fully comply with the Equal Protection Clause of the U.S. Constitution. This is true for at least two reasons: (1) the laws governing the issuance of birth certificates in Ohio are facially neutral, so the claim is based on disparate impact rather than disparate treatment, and Plaintiffs have no evidence that Ohio’s birth record laws are enacted or enforced with discriminatory intent; and (2) transgender people are not a protected class, and Ohio has a legitimate interest in maintaining the accuracy of its birth records. Plaintiffs’ Equal Protection claim must be dismissed.

**1. Ohio’s birth-record laws are facially neutral and Plaintiffs have no evidence of discriminatory intent which is required to support a claim for disparate impact.**

Ohio’s birth-record laws are facially neutral. Ohio’s laws do not mention gender identity or record any other information related to gender. *See* Ohio Rev. Code §§ 3705.15 and 3705.22.

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<sup>2</sup> The Short North Posse was the gang at issue in *Kallstrom*. *See Barber*, 496 F.3d at 454. Zulily is an e-commerce company that sells clothing, footwear, toys and home products and is one of the employers Plaintiff Ray showed her birth certificate to. *See* D.E. 67, Ray Dep. at 117:14–24. Ray ultimately admitted that she did not fear harm from Zulily. *Id.*

No person, regardless of his or her gender identity, is permitted to change the “sex” on their birth certificate for any reason other than to correct a mistake made at the child’s birth. Exh. 1, Nagy Aff. at ¶ 18. Plaintiffs’ transgender status does not limit their ability to take advantage of the correction statutes, nor does their status confer upon them rights or obligations that other Ohio-born people do not also have. *Id.* at ¶ 19. If there was a mistake made recording any Plaintiffs’ sex at the time of birth, then the correction statutes are available to remedy the error—regardless of their gender identity. *Id.* at ¶ 15. However, there is no record evidence indicating that any Plaintiffs’ sex was inaccurately recorded. Indeed, Plaintiffs’ own expert testified that the birth certificates were accurately recorded. D.E. 56, Ettner Dep. at 206:17–21. Because Plaintiffs’ birth certificates accurately recorded their sex at birth, Plaintiffs are not permitted to retroactively change that fact. Exh. 1, Nagy Aff. at ¶ 20. Thus, Ohio’s laws governing the issuance and correction of its birth records are facially neutral and do not discriminate against any class of people, including transgender people. In other words, no one born in Ohio has an open-ended right to amend the sex accurately recorded at birth on a birth certificate. *Id.*

Plaintiffs nonetheless argue that this equal treatment affects them unequally, because only transgender individuals would want to change their sex based on their gender identity. Aside from the fact that there is no evidence to support that speculative argument, Plaintiffs’ claim is one of disparate *impact*, not disparate *treatment*. Plaintiffs’ disparate impact claim fails as a matter of law and fact.

It is well-established that “[t]he Equal Protection Clause forbids only intentional discrimination.” *Horner v. Kentucky High Sch. Athletic Ass’n*, 43 F.3d 265, 276 (6th Cir. 1994) (citing *Washington v. Davis*, 426 U.S. 229 (1976)). “When a facially neutral rule is challenged on equal protection grounds, the plaintiff must show that the rule was promulgated or reaffirmed *because of*, not merely in spite of, its adverse impact on persons in the plaintiff’s class.” *Id.* (citing

*Personnel Adm’r v. Feeney*, 442 U.S. 256, 279 (1979)) (emphasis in original). Thus, for Plaintiffs to succeed on their disparate impact claim, Plaintiffs must prove not only that the facially neutral laws have a disparate impact on Plaintiffs’ class, but also that the law’s intended purpose was to discriminate against such class. *See Davis*, 426 U.S. at 241 (“A statute, otherwise neutral on its face, must not be applied so as invidiously to discriminate....”). Put another way, mere disproportionate impact is not enough. *Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.*, 429 U.S. 252, 264–65 (1977). “Proof of [] discriminatory intent or purpose is required to show a violation of the Equal Protection Clause.” *Id.* at 265. The kind of impact necessary to show “intentional discrimination is that which is significant, stark, and unexplainable on other grounds.” *Horner*, 43 F.3d at 276 (citing *Arlington*, 429 U.S. at 279).

There is no evidence that Ohio’s birth-record laws were enacted with discriminatory purpose. Indeed, Plaintiffs admit that they have no evidence regarding the enactment of the very laws they challenge. D.E. 64, Argento Dep. at 49:19–50:11; D.E. 65, Breda Dep. at 89:5–18; D.E. 66, Doe Dep. at 91:1–93:19; D.E. 67, Ray Dep. at 72:21–73:18. Plaintiffs’ failure to identify any discriminatory purpose in enacting Ohio’s facially neutral birth-record is fatal to their Equal Protection Clause claim. *See Bailey v. Carter*, 15 Fed. Appx 245, 251 (6th Cir. 2001) (dismissing Equal Protection claim because there was no allegation that the agency had a discriminatory purpose in enacting a facially neutral rule).

Accordingly, this Court should dismiss the equal protection claim in Count I of Plaintiffs’ Complaint.

**2. Transgender people are not a protected class entitled to heightened scrutiny and, in any event, Ohio has a substantial interest in enforcing its birth-record laws.**

This Court should also dismiss Plaintiffs’ claim under the Equal Protection Clause because Plaintiffs are not a protected class and because Defendants have a rational basis to enforce Ohio’s

birth-record laws. Neither the Supreme Court nor the Sixth Circuit have added transgender status to the suspect classifications entitled to heightened scrutiny under the Equal Protection Clause. Indeed, many courts have found that transgender people are not a protected class, so no heightened scrutiny applies. *See, e.g., Johnston v. Univ. of Pittsburgh of the Commonwealth Sys. of Higher Educ.*, 97 F.Supp.3d 657, 668 (W.D. Pa. 2015) (noting that transgender status has not been recognized as a suspect classification and applying rational-basis review); *Braninburg v. Coalinga State Hosp.*, 2012 U.S. Dist. LEXIS 127769, at \*22 (E.D. Cal. 2012) (“[I]t is not apparent that transgender individuals constitute a ‘suspect’ class.”); *Jamison v. Davue*, 2012 U.S. Dist. LEXIS 40266, at \*10 (E.D. Cal. 2012) (“[T]ransgender individuals do not constitute a ‘suspect’ class, so allegations that defendants discriminated against him based on his transgender status are subject to a mere rational basis review.”); *Kaeo-Tomaselli v. Butts*, 2013 U.S. Dist. LEXIS 13280, at \*13 (D. Haw. 2013) (finding that the plaintiff's status as a transgender female did not qualify her as a member of a protected class and explaining the court could find no “cases in which transgender individuals constitute a ‘suspect’ class”); *Lopez v. City of New York*, 2009 U.S. Dist. LEXIS 7645, at \*13 (S.D.N.Y. 2009) (explaining that transgender individuals are not a protected class for the purpose of Fourteenth Amendment analysis, and claims that a plaintiff was subjected to discrimination based on her status as transgender are subject to rational basis review).

The only cases in either the Supreme Court or Sixth Circuit addressing special legal protections for transgender people have done so within the context of Title VII. *See EEOC v. R.G.*, 884 F.3d 560 (6th Cir. 2018); *Smith v. City of Salem*, 378 F.3d 566 (6th Cir. 2004). But the *statutory* standard of Title VII does not apply to this Court’s equal-protection analysis. *See Davis*, 426 U.S. at 239 (1976). Further, the analysis in those cases is not that “transgender” is the named protected class in Title VII, but that a transgender individual who does not conform to the expectations of his or her sex as recorded at birth is subjected to sex stereotyping, and is thus

subject to sex discrimination. *See EEOC*, 884 F.3d at 573–74 (*citing Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989)). And the few out-of-circuit and district courts that have addressed the issue under the Equal Protection Clause are not binding on this Court. *See H.R. v. Medtronic, Inc.*, 996 F. Supp. 2d 671, 678 n.5 (S.D. Ohio 2014) (“In matters concerning federal law a District Court is bound only by the decisions of the Court of Appeals for the Circuit in which it sits and by the decisions of the United States Supreme Court...not...fellow district court judges.”) (citation omitted). In any event, as set forth below, whether transgender people constitute a protected class is not dispositive in this case because Plaintiffs cannot allege a viable equal protection claim under either circumstance.

When the state action does not impact a protected class, Equal Protection Clause claims are reviewed under a rational basis standard. *See Heller v. Doe*, 509 U.S. 312, 319 (1993). Under this standard, “[a] classification must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification.” *Heller*, 509 U.S. at 320. The face of the Complaint shows that, as a matter of law, Plaintiffs cannot survive application of a rational basis review to their Equal Protection claim. Ohio can show an irrebuttable rational basis to enforce its birth record statutes. Moreover, Ohio’s interest in enforcing such statutes is so substantial that even if this Court were to find that transgender people are a protected class, requiring the application of heightened scrutiny (which this Court should not do) Plaintiffs’ equal protection claim still fails.

In Ohio, birth records are historical records used not only to record a person’s birth, but also to verify a person’s death. As set forth in Ohio Rev. Code § 3705.27:

The director of health may match birth records and death records in accordance with written standards which he shall promulgate in order to *protect the integrity of vital records and prevent the fraudulent use of birth records of deceased person, to prove beyond a reasonable doubt the fact of death*, and to post the facts of death

to the appropriate birth record. Copies made of birth records marked “deceased” shall be similarly marked “deceased.”

Ohio Rev Code § 3705.27 (emphasis added). Thus, Ohio law recognizes not only a rational basis, but also several substantial interests in maintaining the accuracy of Ohio’s birth records, including proving the fact of death and preventing fraud. Ohio’s substantial interest in the accuracy of its records is echoed by numerous courts across the country. *See, e.g., In re Michaela R.*, 253 Conn. 570, 602, n.30 (2000) (“The state, therefore, has a substantial interest in limiting alterations and amendments [to birth certificates] that potentially may jeopardize the accuracy of the records.”); *United States v. Machinski*, 2017 U.S. Dist. LEXIS 93286, at \*16 (N.D. Cal. June 16, 2017) (finding that the Department of Education had a substantial interest in the accuracy of student-loan documents); *State v. Schaefer*, 239 Mont. 437, 441 (1989) (finding the state had a substantial interest in maintaining accurate records of certain sales transactions).

Indeed, Ohio’s interest in maintaining the accuracy of its birth records is heightened because, unlike nearly every other state, Ohio is an open-records state. Exh. 1, Nagy Aff. at ¶ 21. As an open records state, any individual can go to any county health department and request the birth record for any person with or without justification. *Id.* at ¶ 22. The requesting person does not need precise details on the person’s name, place of birth, or date of birth. *Id.* So long as the health department official has enough information to identify a small set of records, some or all of those records can be retrieved and provided to the requesting person. *Id.*

Unsurprisingly, given the ease at which Ohio birth records can be obtained, Ohio birth certificates are commonly used by criminals to fabricate or steal identities. *Id.* at ¶ 23. For this reason, birth certificates are known as “breeder documents” because, unlike other records, birth records are used to apply for and create other forms of state identification. *Id.* Defendants routinely cooperate with other agencies (both state and federal) in verifying the accuracy of birth records as part of criminal investigations. *Id.* at ¶ 24. Maintaining the accuracy of Ohio’s birth

records is a critical part of Defendants’ responsibilities. *Id.* at ¶ 25. This is why even when a name change is approved, the birth certificate prominently states, “Legal name change on file” and provides a file reference number. *Id.* Recording and tracking these fundamental changes to the biographical information on the birth record is a paramount state interest. *Id.* Judicially creating additional ways in which Ohio’s birth records can be modified, particularly without a statutory scheme in place to regulate and track such modifications, heightens the potential for fraud and illegality. *Id.* at ¶ 26.

Even Plaintiffs’ expert, Dr. Ettner, testified that the State has an important interest in recording a child’s sex at birth. D.E. 56, Ettner Dep. at 127:5–21. Specifically, Dr. Ettner stated “that it’s important to have some vital statistics on our citizens.” *Id.* at 127:15–17. And Dr. Ettner acknowledged that compiling this information was useful for gathering statistical data about each sex. *Id.* at 127:18–21. Defendants’ expert, Dr. Van Meter, amplified this point:

Q. So on like identity documents and forms, just to be clear, you think that the sex marked on a birth certificate, the original birth certificate, should be what’s on those documents?

A. The purpose is to collect data on births to look at population, okay, to establish and anchor of identity, but more important to look at sex. Say percentage of males, percentage of females. Accidents involving—epidemiologist studies involving males and females. If that’s changed, then you skew the data, and you all the sudden lose the biologic proportion of male-to-females, and if you’re looking at laws and discrimination, et cetera, et cetera, you’re going to lose all the benefit of being able to quantify your population. And this is a government document establishing biologic population.

D.E. 57, Van Meter Dep. at 217:10–218:3. So, experts for Plaintiffs and Defendants recognize the unique and important interest states have in maintaining accurate records of an individual’s sex.

For these reasons, the accuracy of Ohio’s birth records is paramount in the well-ordered operation of the state’s vital recordkeeping and the prevention of fraud. Because Ohio is uniquely an open-records state, the correction-only statutes are narrowly tailored to serve the State’s vital

interests. Accordingly, Ohio's statutes survive regardless of whether this Court applies rational basis review or heightened scrutiny. Nothing in Plaintiffs' pleadings overcomes that finding. Because Plaintiffs' equal protection claim fails under either analysis, this Court should grant Defendants' motion for summary judgment and dismiss Plaintiffs' Equal Protection Clause claim.

**E. Other Compelling Reasons Exist To Grant Summary Judgment in Favor of Defendants.**

Plaintiffs ask this Court to strike at least two (and potentially more) statutes contained in Ohio's vital statistics laws. As the Supreme Court has previously held, a facial attack on the law is "strong medicine." *See Broadrick v. Oklahoma*, 413 U.S. 601, 613 (1973). Judicial restraint is cautioned in facial challenges "because such efforts do not seek to invalidate laws in concrete, factual settings but to 'leave nothing standing.'" *Fieger v. Michigan Supreme Court*, 553 F.3d 955, 960 (6th Cir. 2009) (citing *Warshak v. United States*, 532 F.3d 521, 528 (6th Cir. 2008) (en banc)). Indeed "[c]laims of facial invalidity often rest on speculation[,] . . . raise the risk of premature interpretation[,] . . . run contrary to the fundamental principle of judicial restraint[,] . . . [and] threaten to short-circuit the democratic process." *Id.* (citing *Washington State Grange v. Washington State Republican Party*, 128 S. Ct. 1184, 1191 (2008)) (internal quotes and citations omitted). Plaintiffs' facial challenge to Ohio's birth-record laws "is a remedy that courts employ 'sparingly and only as a last resort.'" *Id.* (citing *Broadrick*, 413 U.S. at 613).

Invalidate Ohio's law would not only violate traditional judicial-restraint principles but would also upend a comprehensive legislative scheme with many intertwined parts. Various aspects of numerous statutes would also be jeopardized if, as Plaintiffs seek to do here, reference to a person's sex as reported at birth could be indelibly altered. *See, e.g.*, Ohio Rev. Code § 3109.19, et seq. (parentage determinations); Ohio Rev. Code § 3345.32 (selective service requirements); Ohio Rev. Code § 5123.01 (residency definitions under the Department of Developmental Disabilities); Ohio Rev. Code § 5147.18 (regulating the use of prisoners for hard

labor); Ohio Rev. Code § 125.65 (incentivizing female entrepreneurs); Ohio Rev. Code § 2151.16 (appointing female referees for trials of females); Ohio Rev. Code § 341.05 (employing females at prisons).

In light of the many statutes that would be immediately affected by striking Ohio's birth-record laws, Plaintiffs' Complaint implicates core federalism concerns. When considering remedial measures, the Supreme Court has warned that courts "must take into account the interest of state and local authorities in managing their own affairs, consistent with the Constitution." *Milliken v. Bradley*, 433 U.S. 267, 280–81 (1977). Overriding validly enacted state law usurps Ohio's legislative prerogative in an area of governance that is reserved to the states.

Moreover, Plaintiffs not only seek to strike Ohio law, but also seek affirmative relief from this Court to allow Plaintiffs the ability to update their sex designation based solely on gender identity. To provide Plaintiffs the remedy they seek, this Court would have to create detailed rules outlining the circumstances under which a transgender person would be entitled to change the sex marker on his or her birth certificate. Among other things, the Court would need to consider whether the applicant needed to have sex-change surgery before a birth certificate change could occur. If so, how much surgery would be required? Would hormone therapy be needed? If so, for how long? Would a doctor's affidavit be required to prove that a person had transitioned? Would a psychological exam be needed to confirm whether a person's gender identity conflicts with his or her sex reported at birth? Despite Plaintiffs' attempt to color Ohio's as an outlier as it relates to birth record changes, no national consensus exists on these issues, as states have varied approaches to these questions. *See, e.g., State-by-State Overview*, available at <https://transgenderlawcenter.org/resources/id/state-by-state-overview-changing-gender-markers-on-birth-certificates> (last visited January 15, 2020). Indeed, these are complicated policy choices

that implicate numerous state and individual interests. Federalism principles dictate that this Court leave this task to the reasoned consideration of Ohio's legislature.

Finally, Ohio's laws regarding the ability to update a sex marker on a birth certificate are narrowly tailored. Birth certificates are historical records of a child's birth and contain certain immutable facts such as the date, time, location, and child's sex as reported at birth. On the other hand, Ohio law does allow Plaintiffs to change other public records to correspond with their gender identity. For example, as Plaintiffs allege, the Ohio Bureau of Motor Vehicles already allows transgender people to change the sex designation on their driver's license or state identification card to match their gender identity. Doc. 1 at ¶ 47. Driver's licenses and state issued identification cards are reflections of the present. They are renewed periodically and updates to name, address, weight, and even sex, are allowed. Accordingly, rather than serving as a reason to find Ohio's birth-record laws unconstitutional, those examples show the ease with which transgender people can update their "sex" on their other state-issued forms of identification, rendering implausible Plaintiffs' allegations regarding Ohio's supposed animus towards transgender people.

In sum, Plaintiffs' complaint is with legislative policy choices in a controversial area, and that is a matter for state legislatures, not for federal courts to impose a one-size-fits-all policy mandate.

## **V. CONCLUSION**

For the foregoing reasons, Defendants' motion for summary judgment should be granted. Plaintiffs' First Amendment, Due Process Clause, and Equal Protection Clause claims should be dismissed.

Dated: January 16, 2020

Respectfully submitted,

*/s/ Albert J. Lucas*

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 16, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's system.

*/s/ Albert J. Lucas*

\_\_\_\_\_  
One of the Attorneys for Defendants

# **EXHIBIT 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

STACIE RAY, et al.	)	CASE NO.: 2:18-cv-00272-MHW-CMV
	)	
Plaintiffs,	)	JUDGE MICHAEL WATSON
	)	
vs.	)	MAGISTRATE JUDGE CHELSEY
	)	VASCURA
AMY ACTON, et al.	)	
	)	
Defendants.	)	

**AFFIDAVIT OF JUDITH NAGY**

STATE OF OHIO :  
: SS  
COUNTY OF FRANKLIN :

JUDITH NAGY, having been duly sworn, deposes and states as follows:

1. I am over the age of 18 and unless stated otherwise herein, have personal knowledge of the matters set forth below. I make this affidavit of my own free will, and the affidavit is a true and accurate statement.
  
2. I am the State Registrar of the State of Ohio, Department of Health, Office of Vital Statistics.
  
3. Ohio birth certificates are made shortly after birth and record biographical information and vital statistics reported to the Ohio Department of Health.
  
4. Ohio is a passive gatherer of the birth record information and merely inputs the information reported.
  
5. The form used by the Ohio Department of Health to record birth information contains over 300 topics. The information recorded is extensive and ranges from the date of birth to the educational background of the parents to the mother's smoking history. A true and

accurate copy of the Ohio Vital Statistics Birth Occurrence File Layout, which is the form used to record this information, is attached as Exhibit 2 to Defendants' Motion for Summary Judgment.

6. The information contained in the Ohio Vital Statistics Birth Occurrence File Layout forms the basis of the historical birth record of the child, including the short and long form of the birth records, as well as the more familiar Certificate of Birth. A true and accurate copy of the Certification of Birth Abstract is attached as Exhibit 3 to Defendants' Motion for Summary Judgment.

7. Ohio does not ask for, collect, or record information relating to a child's gender marker or gender identity.

8. Ohio birth certificates record the sex of a child as reported at birth.

9. The birth record forms used by Ohio allow only for entries for "male," "female," or "undetermined."

10. "Undetermined" is used when a child's sex cannot be determined, such as when the child is born with intersex conditions.

11. Absent a showing that an individual's sex was incorrectly recorded at birth, Ohio law does not permit the birth certificate change.

12. Ohio birth records reflect a host of objective and demographic data that existed at the time of birth, including the name of the child, the date and time of birth, the location of the birth, the name of the mother and father, and a state file number among other items.

13. The State of Ohio maintains absolute control over what information can be displayed on birth certificates, as Defendants are the only ones who can create, issue, and correct the Certifications of Birth.

14. However, the State of Ohio and the Ohio Department of Health cannot change the objective and historical facts reported to Defendants. And Defendants have no room for interpretation, no opportunity to express a viewpoint, and no reason (or ability) to color that information with an ideological stance.

15. If any Plaintiffs' sex was mistakenly identified at birth, *e.g.*, in the case of a disorder of sex differentiation or chromosomal disorder, then Defendants would change the sex identifier on the birth record under one of the correction statutes contained in Revised Code §§ 3705.15 or 3705.22. Defendants would make this correction regardless of Plaintiffs gender identity.

16. Defendants' accurate recording of the sex of a child on a birth record does not affect a transgender person's ability to express his or her gender identity, or force them to identify with a gender, or require them to espouse some ideological viewpoint about gender identity.

17. Plaintiffs are free to choose how, what, when, and whether to express their gender identity.

18. Importantly, no person, regardless of his or her gender identity, is permitted to change the "sex" on their birth certificate for any reason other than to correct a mistake made at the child's birth.

19. Plaintiffs' transgender status does not limit their ability to take advantage of the correction statutes, nor does their status confer upon them rights or obligations that other Ohio-born people do not also have.

20. However, because Plaintiffs' birth certificates accurately recorded their sex at birth, Plaintiffs are not permitted to retroactively change that fact.

21. Ohio's interest in maintaining the accuracy of its birth records is heightened because, unlike nearly every other state, Ohio is an open-records state.

22. As an open records state, any individual can go to any county health department and request the birth record for any person with or without justification. The requesting person does not need precise details on the person's name, place of birth or date of birth. The health department official only needs enough information to identify a small set of records to retrieve and provide to the requesting person.

23. Given the ease at which Ohio birth records can be obtained, Ohio birth certificates are commonly used by criminals to fabricate or steal identities. For this reason, birth certificates are known as "breeder documents" because, unlike other records, birth records are used to apply for and create other forms of state identification.

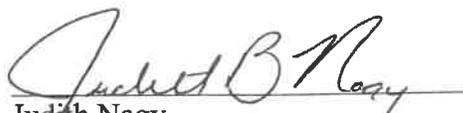
24. Defendants routinely cooperate with other state and federal agencies in verifying the accuracy of birth records as part of criminal investigations.

25. Maintaining the accuracy of Ohio's birth records is a critical part of Defendants' responsibilities. This is why even when a name change is approved, the birth certificate prominently states, "Legal name change on file" and provides a file reference number. Recording and tracking these fundamental changes to the biographical information on the birth record is a paramount state interest.

26. Creating additional ways in which Ohio's birth records can be modified, particularly without a statutory scheme in place to regulate and track such modifications, heightens the potential for fraud and illegality.

Further affiant sayeth naught.

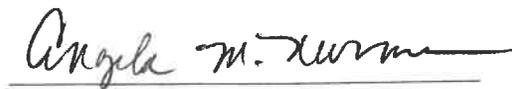
Executed on this 14<sup>th</sup> day of January 2020

  
Judith Nagy

Sworn to and subscribed in my presence this 14<sup>th</sup> day of January 2020.



**ANGELA M. NEWMAN**  
Notary Public, State of Ohio  
My Commission Expires 1-31-2023

  
Notary Public

# **EXHIBIT 2**

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
Date of Birth (Infant)--Year	4	A	IDOB_YR	4 digit year; current data year
State of Birth		B	BSTATE	Ohio births = OH or see FIPS codes document
Certificate Number		C	FILENO	000001-999999
Void flag		D	VOID	0 = default valid record, 1 = VOID
Auxiliary State file number		E	AUXNO	0000000001-9999999999; alternate ODH File Num
Time of Birth	2	F	TB	0000-2359, 9999
Sex	3	G	ISEX	M, F, U
Date of Birth (Infant)--Month	4	H	IDOB_MO	1 - 12
Date of Birth (Infant)--Day	4	I	IDOB_DY	1 - 31 (based on month)
County of Birth code	7	J	CNTYO	See FIPS codes document
Place Where Birth Occurred	26	K	BPLACE	1 Hospital 2 Freestanding Birth Center 3 Home (Intended) 4 Home (Not Intended) 5 Home (Unknown if Intended) 6 Clinic/Doctor's Office 7 Other 9 Unknown
Facility ID (NPI)	17	L	FNPI	blank
Facility ID (State-Assigned)		M	SFN	Birth Facility codes (see ODH facility code document)
Date of Birth (Mother)--Year	8b	N	MDOB_YR	4 digit year, or 9999 = Unknown
Date of Birth (Mother)--Month	8b	O	MDOB_MO	1-12, 99 = Unknown
Date of Birth (Mother)--Day	8b	P	MDOB_DY	1-31 (based on month), 99 = Unknown
Date of Birth (Mother)--Edit Flag		Q	MAGE_BYPASS	0 = Edit Passed, 1 = Data Queried
Birthplace--State	8d	R	BPLACEC_ST_TER	See FIPS codes document. ZZ = Unknown, XX = Foreign
Birthplace--Country	8d	S	BPLACEC_CNT	See FIPS codes document. ZZ = Unknown
Residence of Mother--City	9c	T	CITYC	See FIPS codes document.
Residence of Mother--County	9b	U	COUNTYC	See FIPS codes document.
Residence of Mother--State	9a	V	STATEC	See FIPS codes document.
Residence of Mother--Country	9a	W	COUNTRYC	See FIPS codes document.
Residence of Mother--Inside City Limits	9g	X	LIMITS	Y, N, U
Date of Birth (Father)--Year	10b	Y	FDOB_YR	Unknown = 9999
Date of Birth (Father)--Month	10b	Z	FDOB_MO	1-12, 99 = Unknown
Date of Birth (Father)--Day	10b	AA	FDOB_DY	1-31 (based on month), 99 = Unknown
Date of Birth (Father)--Edit Flag		AB	FAGE_BYPASS	0 = Edit Passed, 1 = Data Queried
Mother Married?--Ever		AC	MARE	U (NCHS deleted this item 2015)
Mother Married?-- At Conception, at Birth or any Time in Between	15	AD	MARN	Y, N, U
Mother Married?--Acknowledgement of Paternity Signed		AE	ACKN	Y, N, U, X = Not Applicable
Mother's Education	20	AF	MEDUC	1 8th grade or less 2 9th through 12th grade; no diploma 3 High School Graduate or GED Completed 4 Some college credit, but no degree 5 Associate Degree 6 Bachelor's Degree 7 Master's Degree 8 Doctorate Degree or Professional Degree 9 Unknown
Mother's Education--Edit Flag		AG	MEDUC_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Mother of Hispanic Origin?--Mexican	21	AH	METHNIC1	N, U, or H = Yes
Mother of Hispanic Origin?--Puerto Rican	21	AI	METHNIC2	N, U, or H = Yes
Mother of Hispanic Origin?--Cuban	21	AJ	METHNIC3	N, U, or H = Yes

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
Mother of Hispanic Origin?--Other	21	AK	METHNIC4	N, U, or H = Yes
Mother of Hispanic Origin?--Other Literal	21	AL	METHNIC5	literal or blank
Mother's Race--White	22	AM	MRACE1	Y, N
Mother's Race--Black or African American	22	AN	MRACE2	Y, N
Mother's Race--American Indian or Alaska Native	22	AO	MRACE3	Y, N
Mother's Race--Asian Indian	22	AP	MRACE4	Y, N
Mother's Race--Chinese	22	AQ	MRACE5	Y, N
Mother's Race--Filipino	22	AR	MRACE6	Y, N
Mother's Race--Japanese	22	AS	MRACE7	Y, N
Mother's Race--Korean	22	AT	MRACE8	Y, N
Mother's Race--Vietnamese	22	AU	MRACE9	Y, N
Mother's Race--Other Asian	22	AV	MRACE10	Y, N
Mother's Race--Native Hawaiian	22	AW	MRACE11	Y, N
Mother's Race--Guamanian or Chamorro	22	AX	MRACE12	Y, N
Mother's Race--Samoan	22	AY	MRACE13	Y, N
Mother's Race--Other Pacific Islander	22	AZ	MRACE14	Y, N
Mother's Race--Other	22	BA	MRACE15	Y, N
Mother's Race--First American Indian or Alaska Native Literal	22	BB	MRACE16	literal or blank
Mother's Race--Second American Indian or Alaska Native Literal	22	BC	MRACE17	literal or blank
Mother's Race--First Other Asian Literal	22	BD	MRACE18	literal or blank
Mother's Race--Second Other Asian Literal	22	BE	MRACE19	literal or blank
Mother's Race--First Other Pacific Islander Literal	22	BF	MRACE20	literal or blank
Mother's Race--Second Other Pacific Islander Literal	22	BG	MRACE21	literal or blank
Mother's Race--First Other Literal	22	BH	MRACE22	literal or blank
Mother's Race--Second Other Literal	22	BI	MRACE23	literal or blank
Race Tabulation Variables are returned from NCHS according to 2003 Natality Multiple Race Record Format		BJ - BQ	MRACE1E - MRACE8E	see <a href="http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf">http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf</a> for codes
		BR - BY	MRACE16C - MRACE23C	see <a href="http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf">http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf</a> for codes
Father's Education	23	BZ	FEDUC	1 8th grade or less
				2 9th through 12th grade; no diploma
				3 High School Graduate or GED Completed
				4 Some college credit, but no degree
				5 Associate Degree
				6 Bachelor's Degree
				7 Master's Degree
				8 Doctorate Degree or Professional Degree
				9 Unknown
Father's Education--Edit Flag		CA	FEDUC_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Father of Hispanic Origin?--Mexican	24	CB	FETHNIC1	N, U, or H = Yes
Father of Hispanic Origin?--Puerto Rican	24	CC	FETHNIC2	N, U, or H = Yes
Father of Hispanic Origin?--Cuban	24	CD	FETHNIC3	N, U, or H = Yes
Father of Hispanic Origin?--Other	24	CE	FETHNIC4	N, U, or H = Yes
Father of Hispanic Origin?--Other Literal	24	CF	FETHNIC5	literal or blank
Father's Race--White	25	CG	FRACE1	Y, N
Father's Race--Black or African American	25	CH	FRACE2	Y, N
Father's Race--American Indian or Alaska Native	25	CI	FRACE3	Y, N
Father's Race--Asian Indian	25	CJ	FRACE4	Y, N
Father's Race--Chinese	25	CK	FRACE5	Y, N
Father's Race--Filipino	25	CL	FRACE6	Y, N
Father's Race--Japanese	25	CM	FRACE7	Y, N
Father's Race--Korean	25	CN	FRACE8	Y, N
Father's Race--Vietnamese	25	CO	FRACE9	Y, N

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
Father's Race--Other Asian	25	CP	FRACE10	Y, N
Father's Race--Native Hawaiian	25	CQ	FRACE11	Y, N
Father's Race--Guamanian or Chamorro	25	CR	FRACE12	Y, N
Father's Race--Samoan	25	CS	FRACE13	Y, N
Father's Race--Other Pacific Islander	25	CT	FRACE14	Y, N
Father's Race--Other	25	CU	FRACE15	Y, N
Father's Race--First American Indian or Alaska Native Literal	25	CV	FRACE16	literal or blank
Father's Race--Second American Indian or Alaska Native Literal	25	CW	FRACE17	literal or blank
Father's Race--First Other Asian Literal	25	CX	FRACE18	literal or blank
Father's Race--Second Other Asian Literal	25	CY	FRACE19	literal or blank
Father's Race--First Other Pacific Islander Literal	25	CZ	FRACE20	literal or blank
Father's Race--Second Other Pacific Islander Literal	25	DA	FRACE21	literal or blank
Father's Race--First Other Literal	25	DB	FRACE22	literal or blank
Father's Race--Second Other Literal	25	DC	FRACE23	literal or blank
Race Tabulation Variables are returned from NCHS according to 2003 Natality Multiple Race Record Format		DD - DK	FRACE1E - FRACE8E	see <a href="http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf">http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf</a> for codes
		DL - DS	FRACE16C - FRACE23C	see <a href="http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf">http://www.cdc.gov/nchs/data/dvs/RaceCodeList.pdf</a> for codes
Attendant	27	DT	ATTEND	1 MD 2 DO 3 CNM/CM 4 Other Midwife 5 Other (Specify) 9 Unknown
Mother Transferred?	28	DU	TRAN	Y, N, U
Date of First Prenatal Care Visit--Month	29a	DV	DOFP_MO	1-12, 88 = None, or 99 = Unknown
Date of First Prenatal Care Visit--Day	29a	DW	DOFP_DY	1-31 (based on month), 88 = None, or 99 = Unknown
Date of First Prenatal Care Visit--Year	29a	DX	DOFP_YR	4 digit year, or 8888 = None, or 9999 = Unknown
Date of Last Prenatal Care Visit--Month	29b	DY	DOLP_MO	1-12, 88 = None, or 99 = Unknown
Date of Last Prenatal Care Visit--Day	29b	DZ	DOLP_DY	1-31 (based on month), 88 = None, or 99 = Unknown
Date of Last Prenatal Care Visit--Year	29b	EA	DOLP_YR	4 digit year, or 8888 = None, or 9999 = Unknown
Total Number of Prenatal Care Visits	30	EB	NPREV	0-98, or 99 = Unknown
Total Number of Prenatal Care Visits--Edit Flag		EC	NPREV_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Mother's Height--Feet	31	ED	HFT	1-8, 9 = Unknown
Mother's Height--Inches	31	EE	HIN	0-11, 99 = Unknown
Mother's Height--Edit Flag		EF	HGT_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Mother's Prepregnancy Weight	32	EG	PWGT	50-500, 999 = Unknown
Mother's Prepregnancy Weight--Edit Flag		EH	PWGT_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Mother's Weight at Delivery	33	EI	DWGT	50-500, 999 = Unknown
Mother's Weight at Delivery--Edit Flag		EJ	DWGT_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Did Mother get WIC Food for Herself?	34	EK	WIC	Y, N, U
Previous Live Births Now Living	35a	EL	PLBL	0-30, 99 = Unknown
Previous Live Births Now Dead	35b	EM	PLBD	0-30, 99 = Unknown
Previous Other Pregnancy Outcomes	36a	EN	POPO	0-30, 99 = Unknown
Date of Last Live Birth--Month	35c	EO	MLLB	01-12, 88 = None, or 99 = Unknown
Date of Last Live Birth--Year	35c	EP	YLLB	4 digit year, or 8888 = None, or 9999 = Unknown
Date of Last Other Pregnancy Outcome--Month	36b	EQ	MOPO	1-12, 88 = None, or 99 = Unknown
Date of Last Other Pregnancy Outcome--Year	36b	ER	YOPO	4 digit year, or 8888 = None, or 9999 = Unknown
Number of Cigarettes Smoked in 3 months prior to Pregnancy	37	ES	CIGPN	0-98, or 99 = Unknown
Number of Cigarettes Smoked in 1st 3 months	37	ET	CIGFN	0-98, or 99 = Unknown
Number of Cigarettes Smoked in 2nd 3 months	37	EU	CIGSN	0-98, or 99 = Unknown
Number of Cigarettes Smoked in third trimester	37	EV	CIGLN	0-98, or 99 = Unknown

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018				
Variable	NCHS Item #	Download Column	Name	Code structure description				
Principal source of Payment for this delivery (also see payor in column VK)	38	EW	PAY	1 Medicaid				
				2 Private Insurance				
				3 Self-pay / Uninsured				
				5 CHAMPUS/TRICARE				
				6 Other Government (Fed, State, Local)				
				8 Other				
				9 Unknown				
				Date Last Normal Menses Began--Year	39	EX	DLMP_YR	4 digit year, or 8888 = None, or 9999 = Unknown
				Date Last Normal Menses Began--Month	39	EY	DLMP_MO	1-12, 88 = None, or 99 = Unknown
Date Last Normal Menses Began--Day	39	EZ	DLMP_DY	1-31 (based on month), 88 = None, or 99 = Unknown				
Risk Factors--Prepregnancy Diabetes	41	FA	PDIAB	Y, N, U				
Risk Factors--Gestational Diabetes	41	FB	GDIAB	Y, N, U				
Risk Factors--Hypertension Prepregnancy	41	FC	PHYPE	Y, N, U				
Risk Factors--Hypertension Gestational, including pre-eclampsia	41	FD	GHYPE	Y, N, U (*See additional Hypertension data in column IE)				
Risk Factors--Previous Preterm Births, live birth < 37 weeks	41	FE	PPB	Y, N, U				
Risk Factors--Poor Pregnancy Outcomes	41	FF	PPO	Y, N, U (includes perinatal death, intrauterine growth restricted birth)				
Risk Factors--Vaginal Bleeding	41	FG	VB	U (*Removed per NCHS in 2004)				
Risk Factors--Infertility Treatment	41	FH	INFT	Y, N, U (*See additional infertility data in columns IF - IG, MQ-MT)				
Risk Factors--Previous Cesarean	41	FI	PCES	Y, N, U				
Risk Factors--Number Previous Cesareans	41	FJ	NPCES	0-30, 99 = Unknown				
Risk Factors--Number Previous Cesareans--Edit Flag		FK	NPCES_BYPASS	0 = Edit Passed, 1 = Data Queried				
Infections Present--Gonorrhea	42	FL	GON	Y, N, U				
Infections Present--Syphilis	42	FM	SYPH	Y, N, U				
Infections Present--Herpes	42	FN	HSV	Y, N, U				
Infections Present--Chlamydia	42	FO	CHAM	Y, N, U				
Infections Present--Hepatitis B	42	FP	HEPB	Y, N, U				
Infections Present--Hepatitis C	42	FQ	HEPC	Y, N, U				
Obstetric Procedures--Cervical Cerclage	43	FR	CERV	Y, N, U				
Obstetric Procedures--Tocolysis	43	FS	TOC	Y, N, U				
Obstetric Procedures--Successful External Cephalic Version	43	FT	ECVS	Y, N, U				
Obstetric Procedures--Failed External Cephalic Version	43	FU	ECVF	Y, N, U				
Onset of Labor--Premature Rupture of Membranes	44	FV	PROM	Y, N, U				
Onset of Labor--Precipitous Labor (< 3 hours)	44	FW	PRIC	Y, N, U				
Onset of Labor--Prolonged Labor (>= 20 hours)	44	FX	PROL	Y, N, U				
Characteristics of Labor & Delivery--Induction of Labor	45	FY	INDL	Y, N, U				
Characteristics of Labor & Delivery--Augmentation of Labor	45	FZ	AUGL	Y, N, U				
Characteristics of Labor & Delivery--Non-vertex Presentation	45	GA	NVPR	Y, N, U				
Characteristics of Labor & Delivery--Steroids (glucocorticoids)	45	GB	STER	Y, N, U				
Characteristics of Labor & Delivery--Antibiotics	45	GC	ANTB	Y, N, U				
Characteristics of Labor & Delivery--Chorioamnionitis	45	GD	CHOR	Y, N, U				
Characteristics of Labor & Delivery--Meconium	45	GE	MECS	Y, N, U				
Characteristics of Labor & Delivery--Fetal Intolerance	45	GF	FINT	Y, N, U				
Characteristics of Labor & Delivery--Epidural / Anesthesia	45	GG	ESAN	Y, N, U				
Method of Delivery--Attempted Forceps	46a	GH	ATTF	Y, N, U				
Method of Delivery--Attempted Vacuum	46b	GI	ATTV	Y, N, U				
Method of Delivery--Fetal Presentation	46c	GJ	PRES	1 Cephalic				
				2 Breech				
				3 Other				
				9 Unknown				

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
Method of Delivery--Route and Method of Delivery	46d	GK	ROUT	1 Spontaneous
				2 Forceps
				3 Vacuum
				4 Cesarean
				9 Unknown
Method of Delivery--Trial of Labor Attempted	46d	GL	TLAB	Y, N, U, or X = Not applicable
Maternal Morbidity--Maternal Transfusion	47	GM	MTR	Y, N, U
Maternal Morbidity--3rd or 4th degree Perineal Laceration	47	GN	PLAC	Y, N, U
Maternal Morbidity--Ruptured Uterus	47	GO	RUT	Y, N, U
Maternal Morbidity--Unplanned Hysterectomy	47	GP	UHYS	Y, N, U
Maternal Morbidity--Admit to Intensive Care	47	GQ	AINT	Y, N, U
Maternal Morbidity--Unplanned Operation	47	GR	UOPR	Y, N, U
Birthweight (grams)	49	GS	BWG	1-9999 (*see also column IS, and categorical fields in JH-JI)
Birthweight--Edit Flag		GT	BW_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Obstetric Estimation of Gestation	50	GU	OWGEST	00-98, 99 = Unknown (see also column JE and IT)
Obstetric Estimation of Gestation--Edit Flag		GV	OWGEST_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Apgar Score at 5 Minutes	51	GW	APGAR5	0-10, 99 = Unknown
Apgar Score at 10 Minutes	51	GX	APGAR10	0-10, 88, 99 = Unknown
Plurality	52	GY	PLUR	1-16, 99 = Unknown
Set Order	53	GZ	SORD	1-16, 99 = Unknown
Number of Live Born		HA	LIVEB	1-16, 99 = Unknown
Matching Number		HB	MATCH	1-999999
Plurality--Edit Flag		HC	PLUR_BYPASS	0 = Edit Passed, 1 = Data Verified, 2 = Not Verified
Abnormal Conditions of the Newborn--Assisted Ventilation following delivery	54	HD	AVEN1	Y, N, U
Abnormal Conditions of the Newborn--Assisted Ventilation for more than 6 hours	54	HE	AVEN6	Y, N, U
Abnormal Conditions of the Newborn--Admission to NICU	54	HF	NICU	Y, N, U
Abnormal Conditions of the Newborn--Surfactant	54	HG	SURF	Y, N, U
Abnormal Conditions of the Newborn--Antibiotics	54	HH	ANTI	Y, N, U
Abnormal Conditions of the Newborn--Seizures	54	HI	SEIZ	Y, N, U
Abnormal Conditions of the Newborn--Birth Injury	54	HJ	BINJ	Y, N, U
Congenital Anomalies of the Newborn--Anencephaly	55	HK	ANEN	Y, N, U
Congenital Anomalies of the Newborn--Meningomyelocele/Spina Bifida	55	HL	MNSB	Y, N, U
Congenital Anomalies of the Newborn--Cyanotic heart disease	55	HM	CCHD	Y, N, U
Congenital Anomalies of the Newborn--Congenital diaphragmatic hernia	55	HN	CDH	Y, N, U
Congenital Anomalies of the Newborn--Omphalocele	55	HO	OMPH	Y, N, U
Congenital Anomalies of the Newborn--Gastroschisis	55	HP	GAST	Y, N, U
Congenital Anomalies of the Newborn--Limb Reduction	55	HQ	LIMB	Y, N, U
Congenital Anomalies of the Newborn--Cleft Lip with or without Cleft Palate	55	HR	CL	Y, N, U
Congenital Anomalies of the Newborn--Cleft Palate Alone	55	HS	CP	Y, N, U
Congenital Anomalies of the Newborn--Down Syndrome	55	HT	DOWT	C = Confirmed, P = Pending, N = No, U = Unknown
Congenital Anomalies of the Newborn--Suspected Chromosomal disorder	55	HU	CDIT	C = Confirmed, P = Pending, N = No, U = Unknown
Congenital Anomalies of the Newborn--Hypospadias	55	HV	HYPH	Y, N, U
Was Infant Transferred Within 24 Hours of Delivery?	56	HW	ITRAN	Y, N, U
Is Infant Living at Time of Report?	57	HX	ILIV	Y, N, U = Infant Transferred, Status Unknown
Is Infant Being Breastfed at discharge?	58	HY	BFED	Y, N, U
NCHS USE ONLY: Receipt date -- Year		HZ	R_YR	
NCHS USE ONLY: Receipt date -- Month		IA	R_MO	01-12
NCHS USE ONLY: Receipt date -- Day		IB	R_DY	01-31 (based on month)
Mother's Reported Age (calculated from mother + child DOB when known)		IC	MAGER	00-98, 99
Father's Reported Age (calculated from father + child DOB when known)		ID	FAGER	00-98, 99
Risk Factors--Hypertension Eclampsia	41	IE	EHYPE	Y, N, U (blank if not added)

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Variable	NCHS Item #	Download Column	Name	Code structure description
Risk Factors--Infertility: Fertility Enhancing Drugs	41	IF	INFT_DRG	Y, N, U, or X = Not applicable (see additional infertility data MQ-MT)
Risk Factors--Infertility: Asst. Rep. Technology	41	IG	INFT_ART	Y, N, U, or X = Not applicable
<b>NCHS layout ends here. ODH transformed and calculated fields begin below.</b>				
Occurrence County of Birth-Ohio codes (1-88)		IH	PRDN_COUNTY	1-88 for Ohio Counties, 90 if birth occurred outside Ohio
Mother's calculated age from her birth date and child's birthdate		II	MOM_AGE	10-98, 99
Father's calculated age from his birth date and child's birthdate		IJ	DAD_AGE	10-98, 99
Ohio resident indicator for mother-Ohio traditional code		IK	OHIO_IND	9 if mother is Ohio resident, 0 if not Ohio resident
County of residence for mother-Ohio traditional codes		IL	ODH_COUNTY	1-88 for Ohio Counties, 90 if mother resident of other state
Zip		IM	ZIP	Blank, now in geocode section
Tract		IN	TRACT	Blank, now in geocode section
Mother's race code (Ohio codes)		IO	MOM_RACE	1 = White
this is a race code derived from the .nre file bridged race value when available				2 = African American (Black)
or from the checkboxes in columns AM-BA when .nre file is not available				3 = Native American (American Indian, includes Alaskan, Aleut, Eskimo)
no imputation in this field after 2009				4 = Chinese
prior to 2009 this field was given imputed known values when mother's race was unknown				5 = Japanese
				6 = Hawaiian (includes part Hawaiian) and Pacific Islander
				7 = Filipino
				8 = Other Asian
				9 = Other/Unknown
Father's race code (Ohio codes)		IP	DAD_RACE	see above
Marital status - Ohio's traditional code		IQ	MSTAT	1=married, 2=not married
Month of first prenatal visit (mapping new data to old values)		IR	PREN_MONTH	0=none, 1-9 (month), '-'=not classifiable (dash)
Birth weight in grams of infant		IS	WEIGHT	227-8165, 9999 (if weight <227 or >8165 grams then edited to 9999)
Combined estimate of gestation (edited from calculated and clinical gestation)		IT	GEST_COMB	17-47, 99 = Unknown
Method of delivery (traditional codes) method known indicator		IU	DEL_METH	1 if a method reported, 0 if no method reported
Method of delivery (traditional codes) method unknown indicator		IV	DEL_METH_UNK	1 if a method not reported, 0 if method reported
Method of delivery (traditional codes) vaginal birth indicator		IW	DEL_METH_VAG	1 if method reported, 0 if method not reported
Method of delivery (traditional codes) vaginal birth after C-section indicator		IX	DEL_METH_VBAC	1 if method reported, 0 if method not reported
Method of delivery (traditional codes) primary C-section indicator		IY	DEL_METH_PCS	1 if method reported, 0 if method not reported
Method of delivery (traditional codes) repeat C-section indicator		IZ	DEL_METH_RCS	1 if method reported, 0 if method not reported
Method of delivery (traditional codes) forceps delivery indicator		JA	DEL_METH_FORCEPS	1 if method reported, 0 if method not reported
Method of delivery (traditional codes) vacuum delivery indicator		JB	DEL_METH_VACUUM	1 if method reported, 0 if method not reported
Live birth order (total) indicates what number the present birth indicates		JC	TOTAL_ORDER	1-25, 99 = Unknown
Birth interval in months (number of elapsed months since previous live birth)		JD	INTERVAL	0-500, 777 = none, 999 = Unknown
Calculated gestation from mother's last menses date and birth date		JE	GEST_CALC	17-47, 99 = Unknown
Mother's Hispanic ethnicity status (traditional codes)		JF	HISP_MOM	Y=Hispanic, N=not Hispanic, U=unknown
Father's Hispanic ethnicity status (traditional codes)		JG	HISP_DAD	Y=Hispanic, N=not Hispanic, U=unknown
Low birth weight indicator (uses WEIGHT in column IS above)		JH	LowBirthWeightIndCD	L=low birth weight (<2500 g) N=not low birth weight (2500g+, excepting 9999) U=unknown birth weight
Birthweight category indicator (uses WEIGHT in column IS above)		JI	BirthWeightCatgCD	1=very low birth weight (<1500g) 2=low birth weight (1500-2499g) 3=normal birthweight (2500-3999g) 4=high birth weight (4000+g) 5=unknown birth weight
Delivery method category indicator (uses method codes in IW-IZ above)		JJ	DelMethodCD	1=vaginal birth after C-section (VBAC) 2=vaginal birth (not VBAC) 3=primary C-section 4=repeat C-section 5=unknown method

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Mother's bridged race code from NCHS race recoded file 683-684		JK	MRaceBRG	01=White 02=Black 03=American Indian or Alaska Native 04=Asian Indian 05=Chinese 06=Filipino 07=Japanese 08=Korean 09=Vietnamese 10=Other Asian 11=Native Hawaiian 12=Guamanian or Chamorro 13=Samoan 14=Other Pacific Islander 15=Other/Unknown 21=Bridged multiple specified race: White 22=Bridged multiple specified race: Black 23=Bridged multiple specified race: American Indian or Alaska Native 24=Bridged multiple specified race: Asian or Pacific Islander 99=Unknown
Father's bridged race code		JL	FRaceBRG	see codes immediately above for MRaceBRG
Edited Mother's Hispanic Origin Code		JM	MethnicE	<a href="http://www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf">www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf</a> for codes
Edited Mother's Hispanic Origin Code for literal		JN	Methnic5C	<a href="http://www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf">www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf</a> for codes
Edited Father's Hispanic Origin Code		JO	FethnicE	<a href="http://www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf">www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf</a> for codes
Edited Father's Hispanic Origin Code for literal		JP	Fethnic5C	<a href="http://www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf">www.cdc.gov/nchs/data/dvs/HispanicCodeTitles.pdf</a> for codes
Race for tabulation in Public Information Warehouse		JQ	Race_Category	1=White 2=Black 3=Native American 4=Asian 5=Pacific Islander/Hawaiian 9=Other/Unknown
<b>Quality codes for evaluating returned geocode info</b>				
Quality indicator -- Match		JR	Match	High quality geocode values begin with A, otherwise original CityC and CountyC values reported by the birth facility will be used.
Quality indicator -- LocQual		JS	LocQual	
Quality indicator -- LocConf		JT	LocConf	
<b>Geocode results from DAS for statistical use</b>				
State FIPS Code		JU	State	39 = Ohio
Ohio county FIPS code		JV	OHCountyCd	See FIPS codes document
Ohio county name		JW	OHCountyName	
School district Code		JX	SchDist	See school district codes document
GDTMP -- GDT municipality		JY	GDTMP	
Ohio township		JZ	ODOTTWP	
OH House seat in 2000's		KA	OHHouse2002	
OH Senate seat in 2000's		KB	OHSenate2002	
OH Congressional seat 2000's		KC	OHCongress2002	
OH House seat in 2010's		KD	OHHouse2012	
OH Senate seat in 2010's		KE	OHSenate2012	
OH Congressional seat 2010's		KF	OHCongress2012	
Census tract 2000 version		KG	Tracts00	
Census block 2000 version		KH	Blocks00	
Census tract 2010 version		KI	Tracts10	

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Variable	NCHS Item #	Download Column	Name	Code structure description
Census block 2010 version		KJ	Blocks10	
Residence address latitude		KK	lat	
Residence address longitude		KL	lon	
<b>Returned (transformed) street addresses from DAS</b>				
DAS transformed residence street address from certificate		KM	address_out	
DAS transformed residence city name from certificate		KN	city_out	
DAS transformed residence state name from certificate		KO	state_out	
DAS transformed residence zip code from certificate		KP	zip_out	
Record number		KQ	CERTKEY	4 digit year + State abbreviation + 6 digit cert
Birth state		KR	RDACT_BSTATE	OH
Occurrence county		KS	RDACT_CNTYO	See FIPS codes document
Birth facility number		KT	RDACT_SFN	Birth Facility codes (see ODH facility code document)
PRDN		KU	RDACT_PRDN	
Child's last name		KV	NAME_LAST	
Child's first name		KW	NAME_FIRST	
Mother's last name		KX	MOTHER_NAME_LAST	
Mother's first name		KY	MOTHER_NAME_FIRST	
Mother's middle initial		KZ	MOTHER_NAME_MIDINIT	
Mother transferred to facility		LA	MOTHER_TRANS_FAC	Facility name if transferred
Infant transferred to facility		LB	INFANT_TRANS_FAC	Facility name if transferred
Characteristics of Labor & Delivery--Abruptio placenta		LC	ABRUPT_PLAC	Y, N
Congenital anomalies--Encephalocele		LD	ENCEPHALOCELE	Y, N
Risk factors--Polyhydraminos / Oligohydraminos		LE	HYDRAM_OLIGO	Y, N
Hydrocephalus		LF	HYDROCEPHALUS	Y, N
Congenital anomalies--Microcephalus		LG	MICROCEPHALUS	Y, N
Characteristics of Labor & Delivery--Excessive bleeding		LH	EXCESS_BLEED	Y, N
Characteristics of Labor & Delivery--Placenta previa		LI	PLAC_PREVIA	Y, N
In utero infections (TORCHS)		LJ	TORCHS	Y, N
Mother's medical record number		LK	MotherMedicalRec	
Child's medical record number		LL	ChildMedicalRec	
Principal source of pay text string		LM	PrincipalPaySource	
OEI jurisdiction		LN	OEIJurisdiction	
Residence city		LO	ResidenceCity	
Gestation days		LP	GESTATION_DAYS	0 - 9
Was infant breastfed exclusively		LQ	INFANT_BREASTFED_EXCL	Y, N
Risk factors--IUGR (suspected prenatally)		LR	MR_IUGR	Y, N
Risk factors--Renal (kidney) disease		LS	MR_RENAL_DISEASE	Y, N
Risk factors--Cholestasis		LT	MR_CHOLESTASIS	Y, N
Risk factors--Blood group Allo-immunization		LU	MR_BLOOD_ALLOIMMUN	Y, N
Risk factors--Prior non-pregnant uterine surgery		LV	MR_PRIOR_UTER_SURGERY	Y, N
Risk factors--Previous ces incision		LW	MR_PREV_CES_INCISION	Y, N
Progesterone		LX	OB_PROGESTERONE	Y, N
Age in hours at CCHD screening 1		LY	CCHD_AGE	0 - 99
Pulse Ox saturation results - % hand		LZ	CCHD_SCREEN1_PULSEOX_HAND	0 - 99
Pulse Ox saturation results - % foot		MA	CCHD_SCREEN1_PULSEOX_FOOT	0 - 99
Screening result 1		MB	CCHD_SCREEN1_INIT	Pass or (blank)
Age in hours at CCHD screening 2		MC	CCHD_SCREEN2_AGE	0 - 99
Pulse Ox saturation results - % hand		MD	CCHD_SCREEN2_PULSEOX_HAND	0 - 99
Pulse Ox saturation results - % foot		ME	CCHD_SCREEN2_PULSEOX_FOOT	0 - 99
Screening result 2		MF	CCHD_SCREEN2_RESULT	Pass or (blank)
Age in hours at CCHD screening 3		MG	CCHD_SCREEN3_AGE	0 - 99

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Variable	NCHS Item #	Download Column	Name	Code structure description
Pulse Ox saturation results - % hand		MH	CCHD_SCREEN3_PULSEOX_HAND	0 - 99
Pulse Ox saturation results - % foot		MI	CCHD_SCREEN3_PULSEOX_FOOT	0 - 99
Screening result 3		MJ	CCHD_SCREEN3_RESULT	Pass or (blank)
Was baby transported		MK	CCHD_TRANSPORTED	
To which facility		ML	CCHD_TRANSPORTED_FACILITY	
Echo test performed		MM	CCHD_ECHO_PERFORMED	
Echo test result		MN	CCHD_ECHO_RESULTS	
Reason not screened		MO	CCHD_NOT_SCREEN_REASON	
Other reason not screened		MP	CCHD_NOT_SCREEN_OTHER	
Risk factor--Infertility drugs		MQ	MR_INFERTILITY_DRUGS	Y, N (see additional infertility data in columns F-H, IF-IG)
Risk factor--NCHS infertility drugs		MR	NCHS_MR_INFERT_DRUG	Y, N
Risk factor--Infertility tech		MS	MR_INFERTILITY_TECH	Y, N
Risk factor--NCHS infertility tech		MT	NCHS_MR_INFERT_TECH	Y, N
Pregnancy / ultrasound dating		MU	PREG_MENSES_DATE	1 Ultrasound BEFORE or = to 20 weeks gestation 2 Ultrasound AFTER 20 weeks gestation 3 NO ultrasound performed
HIV infection		MV	INF_HIV	Y, N
CCHD completed date		MW	CCHD_COMPLETE	(blank) or YES or NO
Risk factor--Prior low transverse or LTCS		MX	MR_CES_INCISION_LTCS	Y, N
Risk factor--Prior classical or vertical CS		MY	MR_CES_INCISION_CS	Y, N
Risk factor--Prior Uterine rupture		MZ	MR_CES_INCISION RUPTURE	Y, N
Risk factor--Prior uterine window		NA	MR_CES_INCISION_WINDOW	Y, N
Risk factor--No cesarean incisions		NB	MR_CES_INCISION_NONE	Y, N
Mother's birth state		NC	MOTHER_BIRTH_STATE	
Mother's birth country		ND	MOTHER_BIRTH_COUNTRY	
Father's birth state		NE	FATHER_BIRTH_STATE	
Father's birth country		NF	BIRTH_FATHER_BIRTH_COUNTRY	
Mother's mailing address PO box		NG	MOTHER_MAIL_PO_BOX	
Mother's mailing address Address		NH	MOTHER_MAIL_ADDR1	
Mother's mailing address Zip		NI	MOTHER_MAIL_ZIP	
Mother's mailing address County		NJ	MOTHER_MAIL_COUNTY	
Mother's mailing address City		NK	MOTHER_MAIL_CITY	
Mother's mailing address State		NL	MOTHER_MAIL_STATE	
Mother's mailing address Country		NM	MOTHER_MAIL_COUNTRY	
Was SSN requested for child?		NN	SSN_CHILD_REQUESTED	Y, N
Attendant full name		NO	ATTENDANT_NAME_LFM	
Attendant NPI		NP	ATTENDANT_NPI	
Attendant Date signed		NQ	ATTENDANT_DATE_SIGNED	
Registrar signed date		NR	REGISTRAR_SIGNED_DATE	
Hearing Screening section begins: Caregiver first name		NS	CAREGIVER_FIRST	
Caregiver last name		NT	CAREGIVER_LAST	
Caregiver phone		NU	CAREGIVER_PHONE	
Caregiver type		NV	CAREGIVER_TYPE	
Hearing screening 1 Date		NW	HS1_DATE	
Hearing screening 1 Method		NX	HS1_METHOD	
Hearing screening 1 Result left		NY	HS1_RESULT_L	
Hearing screening 1 Result right		NZ	HS1_RESULT_R	
Hearing screening 1 screener first name		OA	HS1_SCREENER_NAME_F	
Hearing screening 1 screener last name		OB	HS1_SCREENER_NAME_L	
Hearing screening 2 date		OC	HS2_DATE	
Hearing screening 2 method		OD	HS2_METHOD	

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Hearing screening 2 result left		OE	HS2_RESULT_L	
Hearing screening 2 result right		OF	HS2_RESULT_R	
Hearing screening 2 screener first name		OG	HS2_SCREENER_NAME_F	
Hearing screening 2 screener last name		OH	HS2_SCREENER_NAME_L	
deceased		OI	HTEST_DECEASED	Y, N
early discharge		OJ	HTEST_EARLY_DISCH	Y, N
equipment malfunction		OK	HTEST_EQUIP_MALFUNCT	Y, N
missed		OL	HTEST_MISSED	Y, N
objected		OM	HTEST_OBJECTED	Y, N
physical anomaly prevented		ON	HTEST_PHYSICAL_ANOM	Y, N
transferred		OO	HTEST_TRANSFERRED	Y, N
Infant's Hepatitis B immune globulin (HBIG): immunization date		OP	IM_HBIG_DATE	
lot number		OQ	IM_HBIG_LOT	
brand manufacturer		OR	IM_HBIG_MANUFACT	
Infant's Hepatitis B vaccine: date		OS	IM_HBV_DATE	
HBV lot		OT	IM_HBV_LOT	
HBV manufacturer		OU	IM_HBV_MANUFACT	
HBV VIS edition date		OV	IM_HBV_VIS_REVDATE	
Mother's Hep-B surfact antigen date of testing		OW	IM_HEPB_DATE	
Hepatitis B results of testing		OX	IM_HEPB_RESULT	
Infant transferred from state		OY	INF_TRANS_FRMO_STATE	
Infant transferred from facility		OZ	INF_TRANS_FROM_FAC	
Infant transferred to facility		PA	INF_TRANS_TO_FAC	
Infant transferred to state		PB	INF_TRANS_TO_STATE	
Out of state facility number		PC	OOS_SFN	
Primary care provider information (box 9)		PD	PCP_NAME_FIRST	
last name		PE	PCP_NAME_LAST	
middle initial		PF	PCP_NAME_MI	
suffix		PG	PCP_NAME_SUFFIX	
address (street)		PH	PCP_PRACTICE_ADDR	
city		PI	PCP_PRACTICE_CITY	
practice name where infant will receive care		PJ	PCP_PRACTICE_NAME	
practice phone		PK	PCP_PRACTICE_PHONE	
practice state		PL	PCP_PRACTICE_ST	
practice zip		PM	PCP_PRACTICE_ZIP	
provider title		PN	PCP_TITLE	
Risk factor for hearing loss				
craniofacial anomalies		PO	RISK_CRANIOFACIAL_ANOM	Y,N
family history		PP	RISK_FAM_HISTORY	Y,N
child in NICU for 48 hours		PQ	RISK_ILLNESS_NICU	Y,N
in utero infection		PR	RISK_IN_UTERO_INFECT	Y,N
ototoxic medications		PS	RISK_OTOTOXIC_MED	Y,N
stigmata or other finding associated with hearing loss		PT	RISK_STIGMATA_HL	Y,N
not known		PU	RISK_UNKNOWN	Y,N
Hearing screening completed?		PV	SCREEN_COMPLETED	
Birth weight units		PW	BIRTH_WEIGHT_UNITS	G = grams, P = pounds
Birth state literal value		PX	BSTATE_LITERAL	OHIO

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Death match information: date of death		PY	DATE_OF_DEATH	
death matched		PZ	DEATH_MATCHED	
death occurred yes/no question		QA	DEATH_OCCURRED	Y,N
units of age at death		QB	DEATH_AGE_UNITS	
age at death		QC	DEATH_AGE	
Death state file number out of state		QD	DEATH_OOS_SFN	
Death state file number in Ohio		QE	DEATH_SFN	
Death state		QF	DSTATE	
Death registration date		QG	DEATH_REG_DATE	
Facility state		QH	FACILITY_STATE	1 Hospital / birthing center
Facility type code old		QI	FACILITY_TYPE_CODE_OLD	2 Freestanding birth center
Facility type name		QJ	FACILITY_TYPE_NAME	3 Home (intended)
Facility zip		QK	FACILITY_ZIP	4 Home (not intended)
				6 Clinic / doctor's office
				7 Other
Father's birth state ID number		QL	FATHER_BIRTH_STATEID	8 En route
Father's date of birth		QM	FATHER_DOB	
Congenital anomalies (see also columns HK - HV, LD, LG)				
amniotic bands		QN	ANOM_AMNIOTIC_BANDS	Y,N
bladder exstrophy		QO	ANOM_BLADDER_EXSTRO	Y,N
Other chromosomal anomaly karyotype confirmed		QP	ANOM_CHR_KARYO_CONFIRM	Y,N
Other chromosomal anomaly karyotype pending		QQ	ANOM_CHR_KARYO_PENDING	Y,N
congenital cataract		QR	ANOM_CONG_CATARACT	Y,N
congenital hip dislocation		QS	ANOM_CONGENITAL_HIP	Y,N
craniofacial anomalies		QT	ANOM_CRANIOFACIAL	Y,N
Down's karyotype confirmed		QU	ANOM_DOW_KARYO_CONFIRM	Y,N
Down's karyotype pending		QV	ANOM_DOW_KARYO_PENDING	Y,N
Hirshsprung's disease		QW	ANOM_HIRSHSPRUNG	Y,N
rectal/large intestine atresia/stenosis		QX	ANOM_RECTAL_ATRESIA	Y,N
tetralogy of Fallot		QY	ANOM_TETRALOGY_FALLOT	Y,N
none		QZ	ANOM_NONE	Y,N
Characteristics of Labor & Delivery--Route of birth				
Characteristics of Labor & Delivery--Cephalopelvic disproportion		RA	BIRROUTE_DESC	
Characteristics of Labor & Delivery--Cord prolapse		RB	CHAR_CEPHALOPELVIC	Y,N
Characteristics of Labor & Delivery--Epidural or anesthesia		RC	CHAR_CORD_PROLAPSE	Y,N
Characteristics of Labor & Delivery--Epidural or anesthesia		RD	CHAR_EPIDURAL	Y,N
Infections (see also columns FL - FQ, LJ)				
Bacterial vaginosis		RE	INF_BACT_VAGINOSIS	Y,N
CMV		RF	INF_CMV	Y,N
Measles		RG	INF_MEASLES	Y,N
Mumps		RH	INF_MUMPS	Y,N
PID		RI	INF_PID	Y,N
Rubella		RJ	INF_RUBELLA	Y,N
Strep B		RK	INF_STREP_B	Y,N
Toxoplasmosis		RL	INF_TOXOPLASMOSIS	Y,N
Trichomoniasis		RM	INF_TRICHINOSIS	Y,N
Unknown		RN	INF_UNKNOWN	
Varicella		RO	INF_VARICELLA	Y,N
Drinks consumed first 3 months of pregnancy		RP	MOTHER_DRINKS_FIRST	0 - 99
Drinks consumed last 3 months of pregnancy		RQ	MOTHER_DRINKS_LAST	0 - 99
Drinks consumed during 3 months prior to pregnancy		RR	MOTHER_DRINKS_PREV	0 - 99
Drinks consumed second 3 months of pregnancy		RS	MOTHER_DRINKS_SECOND	0 - 99

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Risk factors (see also columns FA - FK)				
Anemia		RT	MR_ANEMIA	Y,N
Cardiac disease		RU	MR_CARDIAC_DISEASE	Y,N
Hemoglobinopathy		RV	MR_HEMOGLOBINOPATHY	Y,N
Acute or chronic lung disease		RW	MR_LUNG_DISEASE	Y,N
Relationship of informant to child		RX	OTHER_PERS_RELATION	
Fetal deaths in this delivery		RY	THIS_DELIVERY_FETAL_DEATH	0 -99
Metabolic kit number		RZ	METABOLIC_KIT_NUM	
Mother's birth country ID		SA	MOTHER_BIRTH_COUNTRYID	
Mother's birth state ID		SB	MOTHER_BIRTH_STATEID	
Mother's date of birth string		SC	MOTHER_DOB_STRING	
Mother's mailing address same as residence		SD	MOTHER_MAIL_SAME_AS_RES	Y,N
Date paternity completed		SE	PATERNITY_COMPLETED_DATE	
Date sent to PRAMS		SF	PRAMS_DATE_SENT	
Ready for PRAMS		SG	PRAMS_READY	Y, N, X
Primary language of mother		SH	PRIMARY_LANGUAGE	
Name of prophylactic used in eyes		SI	PROPHYLACTIC_NAME	
Birth record status		SJ	RECORD_STATUS	
Date completed by registrar		SK	REGISTRAR_COMPLETE_DATE	
Date filed by registrar		SL	REGISTRAR_FILED_DATE	
Time of birth		SM	TIME_OF_BIRTH	HHMM
Time of birth unit		SN	TIME_OF_BIRTH_UNIT	AM or PM
User location		SO	USER_LOCATION	See ODH birth facility code document
Date completed by VS		SP	VS_COMPLETE_DATE	
Providers practice name		SQ	PROV_PRAC_NAME	
Name of Hearing Screener 1		SR	SCRN_FL_NAME_1	
Name of Hearing Screener 2		SS	SCRN_FL_NAME_2	
Mother's education level		ST	MOTHER_ED	
Mother's race unknown		SU	MOTHER_RACE_UNKNOWN	
Packs of cigarettes smoked daily 3 months before pregnancy		SV	MOTHER_CIG_PREV_PACK	0 - 99
Packs of cigarettes smoked daily during first 3 months of pregnancy		SW	MOTHER_CIG_FIRST_PACK	0 - 99
Packs of cigarettes smoked daily during second 3 months of pregnancy		SX	MOTHER_CIG_SECOND_PACK	0 - 99
Packs of cigarettes smoked daily during third trimester of pregnancy		SY	MOTHER_CIG_LAST_PACK	0 - 99
Father's birth country		SZ	FATHER_BIRTH_COUNTRY	
Father's education level		TA	FATHER_ED	
Local registrar code		TB	LOC_REGISTRAR_CODE	
Primary registration district number		TC	PRDN	
Did mother receive prenatal care		TD	PRENATAL_YESNO	Y, N
Date of last live birth		TE	LIVE_BIRTHS_DATE_STRING	88/88/8888 = none, 99/99/9999 = unknown
Date of previous pregnancy outcome		TF	PREG_OUTCOME_DATE_STRING	88/88/8888 = none, 99/99/9999 = unknown
Complications - onset of labor Unknown (see also columns FV - FX)		TG	CLD_UNKNOWN	
Date of birth		TH	DATE_OF_BIRTH	MM/DD/YYYY
Birth present desc		TI	BIRPRESENT_DESC	Breech, Cephalic, Other, or Unknown
Central Paternity Registry number		TJ	CPR_PROCESS_NUMBER	
Central Paternity Registry processed date		TK	CPR_PROCESS_DATE	MM/DD/YYYY
Do not contact		TL	DO_NOT_CONTACT	
Internal flag		TM	BACK_FILE_RELEASE_FLAG	
Birth weight pounds		TN	BIRTH_WEIGHT_LBS	99 = Unknown (see column GS for grams)
Birth weight ounces		TO	BIRTH_WEIGHT_OZ	0-15, 99 = Unknown
Name of local registrar		TP	REGISTRAR_NAME	LAST, FIRST
Local registrar number		TQ	LOCAL_REG_NUMBER	4 digit district number - 10 digit local registrar file number

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
User location description		TR	USER_LOCATION_DESC	
Facility number		TS	FACILITY_NUMBER	See ODH birth facility code document or column M
Prenatal ID key		TT	PRENATALID_KEY	IPHIS matching number to prenatal record
Registration type		TU	REG_TYPE_CODE	
Plurality match number		TV	PLURALITY_MATCH	
Plurality		TW	PLURALITY	1 = Singleton birth
Birth order		TX	BIRTH_ORDER	99 = Not applicable
Anesthetic complications		TY	CHAR_ANESTHETIC_COMP	Y, N
Child's middle name		TZ	NAME_MIDDLE	
Child's suffix		UA	NAME_SUFFIX	
Facility county		UB	FACILITY_COUNTY_NAME	
Facility municipality		UC	FACILITY_MUN_NAME	
Facility name		UD	FACILITY_NAME	
Mother's name suffix		UE	MOTHER_NAME_SUFFIX	
Mother's last name prior to marriage		UF	MOTHER_NAME_LAST_P	
Mother's residential apartment number		UG	MOTHER_RES_APT	
Mother's residential address		UH	MOTHER_RES_ADDR1	
Mother's residential zip		UI	MOTHER_RES_ZIP	
Mother's residential county		UJ	MOTHER_RES_COUNTY	
Mother's residential municipality		UK	MOTHER_RES_MUN	
Mother's residential state		UL	MOTHER_RES_STATE	
Mother's residential country		UM	MOTHER_RES_COUNTRY	
Father's first name		UN	FATHER_NAME_FIRST	
Father's middle name		UO	FATHER_NAME_MIDDLE	
Father's last name		UP	FATHER_NAME_LAST	
Father's suffix		UQ	FATHER_NAME_SUFFIX	
Phone primary		UR	PHONE_PRIMARY	
Phone secondary		US	PHONE_SECONDARY	
Phone secondary type		UT	PHONE_SEC_TYPE	
<b>Calculated fields from Maternal and Child Health program at ODH</b>				
Mother smoking status -- Prior 3 months		UU	MotherSmokedPriorThreeMonths	Y, N, U
Mother smoking status -- First trimester		UV	MotherSmokedFirstTrimester	Y, N, U
Mother smoking status -- Second trimester		UW	MotherSmokedSecondTrimester	Y, N, U
Mother smoking status -- Last trimester		UX	MotherSmokedLastTrimester	Y, N, U
Mother smoking status -- Any time during pregnancy		UY	MotherSmokedAnyTimeDuring	Y, N, U
Mother smoking status -- Smoked prior but quit by first trimester		UZ	MotherSmokedBeforeQuitByFirstTrimes	Y, N, U *note long character length of field name, issues in SAS
Mother smoking status -- Smoked prior but quit by second trimester		VA	MotherSmokedBeforeQuitBySecondTrin	Y, N, U *note long character length of field name, issues in SAS
Mother smoking status -- Smoked prior but quit by third trimester		VB	MotherSmokedBeforeQuitByThirdTrime	Y, N, U *note long character length of field name, issues in SAS
Mother smoking status -- Smoked in first trimester but quit by third trimester		VC	MotherSmokedFirstTrimesterQuitByThir	Y, N, U *note long character length of field name, issues in SAS
Mother smoking status -- First trimester		VD	SmokingStatusFirstTrimester	1 Non-smoker 2 Quit smoking 3 Non-heavy smoker 4 Heavy smoker 9 Unknown
Mother smoking status -- Second trimester		VE	SmokingStatusSecondTrimester	"
Mother smoking status -- Third trimester		VF	SmokingStatusThirdTrimester	"
Birth quarter		VG	BirthQuarter	

Ohio Vital Statistics Birth Occurrence File Layout				Revised: 01/19/2018
Variable	NCHS Item #	Download Column	Name	Code structure description
Gestation category		VH	GestationCatg2Cd	1 Extremely preterm (<28 weeks)
				2 Very preterm (28 to <32 weeks)
				3 Moderate to late preterm (32 to <37 weeks)
				4 Early term (37 to <39)
				5 Term (39-41)
				6 Post Term (42+)
				9 Unknown
Education category		VI	EducationCatg2Cd	1 Less than 12 years (did not complete HS)
				2 High school graduate or GED completed
				3 More than high school
				9 Unknown
Primary payor category		VJ	PrimaryPayorCatg2Cd	1 Medicaid
				2 Private Insurance
				3 Self-Pay
				4 Other
				9 Unknown
Race ethnicity category		VK	RaceEthnicityCatgCd	1 NH White
				2 NH Black
				3 NH Asian or Pacific Islander
				4 NH American Indian or Alaska Native
				5 Hispanic
				6 Unknown
Age group category		VL	AgeGroupCatg2Cd	1 < 21
				2 21 +
				9 Unknown
Tobacco saturation county category		VM	TobaccoSaturationCountyCatgCd	1 2014 +
				2 2016 +
				9 Other
<b>Important: the 'data view' is a smaller file, with much fewer fields as compared to the large 'download' file</b>				

# **EXHIBIT 3**



DETACH AT PERFORATION

VERIFY PRESENCE OF ODH WATERMARK HOLD TO LIGHT TO VIEW



# STATE OF OHIO OFFICE OF VITAL STATISTICS

## CERTIFICATION OF BIRTH

STATE FILE NUMBER

DATE RECORD FILED

NAME

DATE OF BIRTH

SEX

BIRTHPLACE

MOTHER'S NAME

FATHER'S NAME

MAIDEN NAME

MOTHER'S BIRTHPLACE

FATHER'S BIRTHPLACE

Note:

This is a true certification of the name and birth facts as recorded in the Office of Vital Statistics, Columbus, Ohio. Witness my signature and seal of the Department of Health this 9th day of June, 2014.

State Registrar of Vital Statistics

H5334659



REV. 6/2009

VOID WITHOUT WATERMARK OR IF ALTERED OR ERASED  
VERIFY PRESENCE OF ODH WATERMARK HOLD TO LIGHT TO VIEW