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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent
16 and next friend Lizette Trujillo; Jane Doe, a
17 minor, by and through her parent and next
18 friend Susan Doe; and Helen Roe, a minor,
by and through her parent and next friend
Megan Roe,

19 Plaintiffs,

20 v.

21 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
22 Director of the State of Arizona’s
Department of Health Services; Thomas
23 Salow, in his official capacity as Branch
Chief of the State of Arizona’s Division of
24 Public Health Licensing Services at the
Department of Health Services; and Krystal
25 Colburn, in her official capacity as Bureau
Chief and Assistant State Registrar of the
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.
28

Case No. 4:20-cv-484-JAS

**REPLY BRIEF IN SUPPORT OF JANE
DOE’S MOTION FOR PRELIMINARY
INJUNCTION**

Date: December 3, 2020
Time: 9:00 a.m.
Judge: James A. Soto
Crtrm: 6A

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1 **I. INTRODUCTION**

2 As the Court correctly observed in its recent Order, Defendants concede most of the
3 facts central to Plaintiff Jane Doe’s Motion for Preliminary Injunction (“the Motion”) and
4 the underlying Complaint. They do not dispute that Plaintiffs are not eligible for, and may
5 never require, surgery to treat their gender dysphoria. They do not dispute that amending
6 Plaintiffs’ birth certificates to match their gender identities “is vital to their mental and
7 physical well-being.” Doc. 28 at 3. And they do not dispute that “failure to amend such
8 documents (such as birth certificates) improperly reveals a transgender minor’s status to
9 school officials and classmates, which results in discrimination and harassment based on
10 their transgender status, and this is detrimental to a transgender minor’s mental and physical
11 health.” *Id.* Given these admissions, Defendants in effect concede that the surgical
12 requirement in A.R.S. § 36-337(A)(3), which they continue to enforce against Plaintiffs,
13 serves no legitimate purpose and violates the Equal Protection and Due Process Clauses of
14 the U.S. Constitution. The Court should thus grant Jane’s Motion to enjoin their
15 enforcement of the surgical requirement.

16 Instead of defending the unconstitutional surgical requirement, Defendants rest their
17 entire opposition on a single faulty premise: that A.R.S. § 36-337(A)(4)—a separate
18 provision that establishes a different, more burdensome, and uncertain process—absolves
19 them of legal responsibility. It does not. The existence of a separate court-order process in
20 Subsection (A)(4) does not cure the constitutional defects in the administrative process in
21 Subsection (A)(3), which Defendants admit is not open to transgender young people
22 because they have not “undergone a sex change operation” and do not “have a chromosomal
23 count that establishes [their] sex as different than in their registered birth certificates.” Doc.
24 23 at 7. Defendants cite no authority to support their argument that excluding a class of
25 persons from a statutorily-created process in violation of the Fourteenth Amendment can
26 be remedied by the existence of a distinct, inferior, and more burdensome process. And
27 Defendants offer no governmental interest that justifies denying transgender children the
28 ability to amend the sex listed on their birth certificates through Subsection (A)(3).

1 Furthermore, Defendants fail to mention that, prior to this lawsuit, they insisted for
2 years that the surgical requirement *does* apply to court orders issued under Subsection
3 (A)(4), and therefore that transgender minors could not obtain amended birth certificates at
4 all under Arizona law. They provide no evidence to support their recent about-face other
5 than the vague assurance of Defendant Krystal Colburn, which is unsupported by the written
6 policy recently provided by the Arizona Department of Health Services (“ADHS”). And
7 the court-order process is not the magical solution that Defendants would have this Court
8 believe it is. For one thing, Defendants simply ignore that Arizona courts have adopted the
9 surgical requirement, in large part because of their prior assertion that proof of surgery is
10 an essential prerequisite. For another, the court-order process imposes significant burdens
11 on transgender young people, such as additional fees, delay, and paperwork, the
12 requirement of filing a petition in open court (which strips them of the very privacy they
13 are trying to secure), and, worse, the ever-present risk that the petition will fail—burdens
14 and risks that applicants would not face if they could seek an amendment directly from
15 ADHS. These burdens highlight the equal protection problem here, they do not cure it.
16 And Defendants do not explain, nor could they, why imposing these substantial additional
17 burdens and risks on transgender minors is warranted. Subsection (A)(4) is, at best, a
18 burdensome black box, and Defendant’s suggestion that it remedies the unconstitutionality
19 of the surgical requirement in Subsection (A)(3) has no merit.

20 **II. FACTUAL BACKGROUND**

21 **A. Defendants do not dispute Jane’s urgent need to amend her birth certificate.**

22 This Court recognized that Defendants do not contest the key facts alleged by
23 Plaintiffs and offered by Jane Doe in support of her Motion. Doc. 28 at 2–3. Therefore,
24 the Court should find that Jane is not currently eligible for and may never need surgery to
25 treat her gender dysphoria. The Court should also find that Jane “imminent[ly] needs to
26 obtain an amended birth certificate for her school registration,” Doc. 23 at 2, one that
27 accurately reflects her gender identity to maintain her privacy, protect her from
28 discrimination and harassment, and preserve her mental and physical well-being.

1 **B. Arizona’s birth certificate amendment laws.**

2 In 2004, the Arizona legislature created administrative processes for correcting
3 Arizona birth certificates in a variety of situations. *See* A.R.S. § 36-337(A)(1)–(4).¹ One
4 of those provisions, Subsection (A)(3), expressly applies to people seeking to amend the
5 sex listed on their birth certificates. It requires an applicant to submit a written application
6 accompanied by a letter from a physician verifying that the applicant or their minor child
7 has “undergone a sex change operation or has a chromosomal count that establishes the sex
8 of the person as different than in the registered birth certificate.” *Id.* § 36-337(A)(3).
9 Applicants under Subsection (A)(3) submit their materials directly to ADHS, A.A.C. R9-
10 19-208(O), and, once approved, those documents are automatically sealed along with the
11 initial birth certificate in order to maintain the applicant’s privacy, A.R.S. § 36-322(A).

12 In contrast, Subsection (A)(4) is a catchall provision that requires ADHS to accept
13 “[a] court order ordering an amendment to a birth certificate.” *Id.* § 36-337(A)(4).² The
14 statute is silent beyond that. Courts interpreting that provision have required families
15 petitioning for amendments to the sex listed on a transgender minor’s birth certificate to
16 comply with the surgical requirement in Subsection (A)(3). *See, e.g.*, Declaration of Lizette
17 Trujillo (“Trujillo Decl.”) ¶ 18, Exhibit A (“D.T. Order”) at 2. Courts have also declined
18 to rule on such petitions and, further, deferred ruling on requests to seal the related court
19 filings. Declaration of Megan Roe (“Megan Decl.”) ¶¶ 2–3; Trujillo Decl. ¶¶ 20, 22. For
20 the parents of transgender minors, these and other hurdles to petitioning a court are often
21 insurmountable, including the fear that their child will be outed irrevocably and publicly,
22 additional fees and costs, confusing and voluminous paperwork, and the added time and
23 effort it takes to persuade a court that their child needs an amended birth certificate, all with

24 _____
25 ¹ Defendants note that ADHS also possesses “broad authority to adopt rules to make
26 *corrections* to vital records” under A.R.S. § 36-323(C). Doc. 23 at 3. Under that authority,
27 ADHS corrects the sex listed on an applicant’s birth certificate when it receives “medical
28 records from the hospital” or, in the alternative, “a letter from [an applicant’s] family
physician (on the physician’s letterhead) stating the person was born a male/female.”
Declaration of Colin Proksel, Exhibit 4 at 54–55.

² Subsections (A)(1) and (A)(2) address amending the parents listed on a birth certificate
and are not relevant here.

1 an uncertain outcome. Reply Declaration of Susan Doe (“Susan Reply Decl.”) ¶¶ 3–7;
 2 Trujillo Decl. ¶¶ 17–18, 20–23; Megan Decl. ¶¶ 2–5. Only after obtaining a court order
 3 would the applicant be able to file an application with ADHS. A.A.C. R9-19-208(P)(2).³

4 **C. Defendants objected to courts ordering amendment of sex markers.**

5 On February 15, 2017, ADHS filed an objection to an Arizona court’s order that the
 6 agency amend the sex listed on a minor’s birth certificate. Declaration of Colin Proksel
 7 (“Proksel Decl.”) Exhibit 1 (“ADHS Objection”) at 2.⁴ ADHS objected “due to lack of
 8 jurisdiction and the failure of Petitioner to exhaust administrative remedies.” *Id.* at 3.

9 With respect to jurisdiction, ADHS stated that “[t]he Courts are not the proper venue
 10 for a person to initiate just any amendment to a vital record.” *Id.* at 4. ADHS took the
 11 position that Subsection (A)(4) did not “creat[e] a broad grant to the courts to amend birth
 12 certificates that would circumvent the procedures and standards established by [ADHS] for
 13 amendments.” *Id.* Therefore, according to ADHS, “[t]he existing statutory scheme for vital
 14 records and the attendant rules adopted by [ADHS] require that request to amend or correct
 15 birth certificates ordinarily be initiated by filing a request with [ADHS].” *Id.* at 5.

16 ADHS also stated that “the Petitioner must initiate the request to change the sex on
 17 the birth certificate by filing an application to [ADHS] requesting this change, in order that
 18 they exhaust the administrative remedies allotted by means of statute and rule.” *Id.* Among
 19 other things, ADHS informed the court *inter alia* that “[ADHS’s] expertise is essential” to
 20 decide such requests. *Id.* at 6. ADHS required applicants to “present the physician’s written
 21 statement as required” by Subsection (A)(3) because it “has historically recognized that the
 22 Arizona Legislature placed this very specific requirement in section (A)(3)(b) to ensure that
 23 this particular type of amendment is accurately documented.” *Id.* at 7. For those reasons,
 24 ADHS stated it “will not amend the birth certificate for [the] registrant and objects to the
 25 portion of this Court’s order regarding that amendment.” *Id.* at 8.

26 ADHS’s position is well known to Arizona courts. For example, the court that ruled

27 ³ Even if Jane could obtain relief under Subsection (A)(4)—which is by no means assured—
 28 she disagrees that she would be guaranteed do so here in time to enroll in her new school.

⁴ Page cites for Proksel Declaration Exhibits refer to the numbers in the lower right corner.

1 on Plaintiff D.T.’s petition for an amended birth certificate only granted his request for a
 2 change to the listed sex “upon compliance with the rules and regulations for gender change.”
 3 Trujillo Decl. ¶ 18; *see also* D.T. Order at 2. The judge who issued that order commented
 4 that she imposed that condition because ADHS instructed it. Trujillo Decl. ¶ 18. The court
 5 also declined to grant Plaintiff Helen Roe’s petition for an amendment to the sex listed on
 6 her birth certificate as recently as January 2020; instead, the court gave her mother a printout
 7 of A.R.S. § 36-337. Megan Decl. ¶ 2. And Arizona courts, like those in Maricopa County,
 8 maintain public websites instructing that people must first apply to ADHS for amendments
 9 to birth certificates before they petition the court. Proksel Decl. Exhibit 2 (“Maricopa
 10 Forms”) at 13 (stating petitioners “may use these forms if,” among other requirements,
 11 “[t]he Arizona Office of Vital Records was unable to make the correction”).

12 Plaintiffs were unable to find any documents or statements by ADHS that, prior to
 13 this litigation, publicly rescinded or countermanded its position on whether it would accept
 14 court orders amending the sex listed on birth certificates under Subsection (A)(4). When
 15 Susan Doe sought to apply to amend Jane’s birth certificate, she was “informed by an ADHS
 16 employee that Arizona requires proof of gender-confirming surgery before a transgender
 17 person can correct the sex listed on their birth certificate.” Doc. 3-6, Declaration of Susan
 18 Doe (“Susan Decl.”) ¶ 24; Susan Reply Decl. ¶ 4.⁵ Other knowledgeable sources confirmed
 19 ADHS would not accept court orders without proof of surgery. Susan Decl. ¶ 25; Susan
 20 Reply Decl. ¶ 5. An internal ADHS policy dated May 18, 2020, which “provide[s] guidance
 21 on how to review and process court orders and subpoenas,” does not contain any guidance
 22 on court orders regarding amendments to sex markers. Proksel Decl. ¶ 4 & Exhibit 3 at 41.

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 24 ⁵ Defendants’ argument that statements made to Susan Doe are inadmissible, Doc. 23 at 6,
 25 is immaterial because, “[d]ue to the urgency of obtaining a preliminary injunction at a point
 26 when there has been limited factual development, the rules of evidence do not apply strictly
 27 to preliminary injunction proceedings.” *Herb Reed Enters., LLC v. Florida Enters. Mgmt.,*
 28 *Inc.*, 736 F.3d 1239, 1250 n.5 (9th Cir. 2013). In any event, the ADHS employee’s
 statements are not hearsay because they were “by [Defendants’] agent or employee on a
 matter within the scope of that relationship and while it existed.” Fed. R. Evid.
 801(d)(2)(D). The statements by Dr. Chulani, Jane’s physician, are admissible as those for
 medical diagnosis or treatment. Fed. R. Evid. 803(4). And the statements by other parents
 are not offered for their truth, but rather to show Susan’s subsequent course of conduct;
 here, that she understood a petition would have been futile. *See* Fed. R. Evid. 801(c)(2).

1 **III. ARGUMENT**

2 **A. Jane seeks a prohibitory injunction, but succeeds under either standard.**

3 Defendants argue that a heightened “mandatory injunction” standard applies to
4 Jane’s motion. Doc. 23 at 8–10. They are mistaken. Jane seeks a prohibitory injunction
5 that would enjoin Defendant from enforcing the unconstitutional surgical requirement. The
6 fact that this injunction would ultimately result in ADHS providing Jane with an accurate
7 birth certificate does not transform it into a “mandatory injunction.” To the contrary,
8 “prevent[ing] future constitutional violations” is “a classic form of prohibitory injunction.”
9 *Hernandez v. Sessions*, 872 F.3d 976, 998 (9th Cir. 2017) (citing *Ariz. Dream Act Coal. v.*
10 *Brewer*, 757 F.3d 1053, 1060–61 (9th Cir. 2014)). For example, the Ninth Circuit did not
11 apply a heightened injunction standard when it enjoined a Medicaid regulation thereby
12 requiring the state pay for services that otherwise would have been denied. *M.R. Dreyfus*,
13 697 F.3d 706, 725–26 (9th Cir. 2012); *see also Newton-Nations v. Rogers*, 316 F.Supp.2d
14 883, 888 (D. Ariz. 2004) (applying prohibitory injunction standard to enjoin increase in co-
15 pays, which also required state agency to pay more).

16 Even if a heightened injunction standard applies, Jane satisfies it. Mandatory
17 injunctions “are permissible when extreme or very serious damage will result that is not
18 capable of compensation in damages, and the merits of the case are not doubtful.”
19 *Hernandez*, 872 F.3d at 999 (internal quotation marks omitted). A mandatory injunction is
20 appropriate where the status quo is “exactly what will inflict the irreparable injury.” *Id.*
21 Here, the merits of Jane’s case are far from “doubtful,” and she has established that without
22 an accurate birth certificate she will be subjected to serious educational and psychological
23 harms that would have both short- and long-term implications for her overall health and
24 well-being. None of those harms are “capable of compensation in damages,” a conclusion
25 that Defendants do not contest. Thus, regardless of the standard, a preliminary injunction
26 is warranted for the reasons set forth below, and in Jane’s Motion. Doc. 3 at 9–16.

27 **B. Jane is likely to succeed on the merits.**

28 There is no dispute that Subsection (A)(3) provides a relatively simple, inexpensive,

1 and confidential way for people to apply directly to ADHS for an amendment to the sex
2 listed on their birth certificates. There is just one problem: that administrative process is
3 not available to transgender minors because of the surgical requirement. Defendants do not
4 contest this fact, Doc. 23 at 12, and offer no justification for imposing a surgical requirement
5 as part of that administrative process. Plaintiffs’ inability to obtain corrected birth
6 certificates through this process thus violates both the Equal Protection and Due Process
7 Clauses of the Fourteenth Amendment. *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1141–42 (D.
8 Idaho 2018) (finding defendants “provide no justification for the policy” and holding “there
9 is no rational basis to support [it]”); Doc. 3 at 9–14.

10 Defendants’ opposition to providing Jane an amended birth certificate boils down to
11 their unfounded assertion that Subsection (A)(4) cures any constitutional problems created
12 by the surgical requirement. Doc. 23 at 10–14. They offer no authority that supports their
13 continued enforcement of an unconstitutional requirement simply because there exists a
14 different statutory procedure that is much more burdensome, risks the very privacy interests
15 Plaintiffs desire to protect, and is not guaranteed to result in the relief they seek. Nor is
16 such a distorted interpretation of the Fourteenth Amendment warranted. Laws that classify
17 based on transgender status discriminate on the basis of sex and therefore must have an
18 “exceedingly persuasive justification” to survive under the Equal Protection Clause. *Grimm*
19 *v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 607–09 (4th Cir. 2020); *see also* Doc. 3 at 9–
20 10. Here, Defendants offer no justification for leaving intact a discriminatory classification
21 simply because a transgender young person might (or might not) be able to accomplish the
22 same outcome by pursuing a different, more costly, and more burdensome avenue for relief.

23 Defendants are also wrong to suggest that a court order is all-but-guaranteed under
24 Subsection (A)(4) to all transgender young people who seek one. Doc. 23 at 10. In fact,
25 just the opposite is true. While Jane welcomes Defendants’ apparent change of position on
26 the availability of court orders for transgender young people, that was certainly not ADHS’s
27 position until very recently. ADHS Objection at 4–8. Partly (at least) because of ADHS’s
28 prior efforts in challenging the authority of the Arizona courts to grant petitions for

1 amending the sex listed on birth certificates, transgender minors have not succeeded when
2 they attempt it. Trujillo Decl. ¶¶ 20–23; Megan Decl. ¶ 2. Defendants’ proposal that an
3 ADHS “representative appear at a superior court hearing on a petition to amend the
4 sex/gender field on Jane Doe’s birth certificate,” Doc. 23 at 6–7, carries little value,
5 especially given that Defendants do not propose that ADHS would testify that the surgical
6 requirement is unnecessary and harmful, or that ADHS believes that courts should not apply
7 it. In addition, there is no guarantee that a court would enter an order to amend the birth
8 certificate, regardless of ADHS’s current position.

9 Even if the availability of a court-order process in Subsection (A)(4) were relevant
10 to the Equal Protection or Due Process analyses (and it is not), Defendants’ attempt to raise
11 it to shield the unconstitutional process in Subsection (A)(3) fails. Defendants argue that
12 the Arizona Legislature adopted this provision because “[t]he determination of whether
13 someone has undergone the transition process . . . is necessarily fact specific,” and “best
14 suited for the court” in order to “maintain[] an accurate statewide system of vital records.”
15 Doc. 23 at 13. Again, ADHS previously took the exact opposite position in another matter,
16 asserting that the “Arizona Legislature placed this very specific [surgical] requirement in
17 section (A)(3)(b) to ensure that this particular type of amendment is accurately
18 documented” and that courts were less desirable forums in part because “[ADHS’s]
19 expertise is essential” to handling amendments to the sex listed on birth certificates. ADHS
20 Objection at 6–7. Especially in light of these contradictory positions, Defendants cannot
21 satisfy rational basis, let alone intermediate scrutiny, which prohibits Arizona from relying
22 on justifications that are “hypothesized or invented *post hoc* in response to litigation.”
23 *United States v. Virginia*, 518 U.S. 515, 533 (1996).

24 Defendants proffer no reason why a fact-specific inquiry before a court is necessary
25 for every applicant who has not had surgery. ADHS regularly amends the sex listed on a
26 birth certificate based on a letter from a physician attesting that an applicant had a “sex
27 change operation” or a “chromosomal count” that is different than their sex assigned at
28 birth, and ADHS offers no rational explanation for why a similar attestation from a

1 physician would not be sufficient for transgender applicants whose medical care does not
2 involve surgery. In fact, when correcting the sex listed on birth certificates due to “a data
3 entry error involving the registrant’s gender,” ADHS accepts either “medical records from
4 the hospital” *or* “letter[s] from [an applicant’s] family physician (on the physician’s
5 letterhead) stating the person was born a male/female,” without proof of surgery. Proksel
6 Decl. Exhibit 4 at 54–55. And the policies of many other state and federal government
7 agencies—including the Arizona Department of Transportation—permit transgender young
8 people to correct the sex listed on their identity documents without surgery. *Id.* Exhibit 5
9 at 61 (requiring letter from physician attesting that applicant is “irrevocably committed to
10 the gender-change process.”); *see also, e.g., id.* Exhibit 6 at 64 (requiring physician’s letter
11 attesting to “appropriate clinical treatment for gender transition” to change gender marker
12 on U.S. Passports); *id.* Exhibit 7 at 67 (requiring same for U.S. Social Security records).

13 What is more, Defendants ignore that the court-order process is substantially more
14 complicated, expensive, time-consuming, and confusing than simply obtaining a
15 physician’s letter and applying under Subsection (A)(3). It requires filing fees, extra time,
16 numerous court documents that are filed publicly, appearing in open court, and additional
17 motion practice to protect a transgender child’s privacy (which, like the petition, may or
18 may not be granted). Susan Reply Decl. ¶¶ 3–7; Trujillo Decl. ¶¶ 17–18, 20–22; Megan
19 Decl. ¶¶ 2–3; Maricopa Forms. In many cases, it could also require the services of an
20 attorney, at considerable additional expense. Maricopa Forms at 13 (“Consulting a lawyer
21 before filing documents with the court may help prevent unexpected results.”). Defendants
22 do not explain why those extra burdens are justified for transgender minors.

23 In sum, there is no rational justification for Defendants’ enforcement of the surgical
24 requirement. This Court should grant the Motion, enjoin Defendants from enforcing the
25 surgical requirement, and instruct them to apply ADHS’s broad authority “to adopt rules
26 and implement a statewide system of vital records,” ADHS Objection at 3, in order to
27 “create and implement a constitutionally-sound rule,” *F.V.*, 286 F. Supp. at 1145. Such a
28 rule could be as simple as extending ADHS’s current policy to correct sex markers upon

1 receiving “a letter from [an applicant’s] family physician (on the physician’s letterhead)
 2 stating the person was born a male/female,” Proksel Decl. Exhibit 4 at 54–55, to include
 3 applications by transgender applicants that have not undergone surgery.⁶

4 **C. Jane will experience irreparable harm.**

5 Defendants do not contest that Jane will suffer irreparable harm if she must return to
 6 in-person learning at her current school (*i.e.* bullying, continued invasion of her privacy,
 7 lost educational opportunity, and decline in mental health) because she is unable to amend
 8 her birth certificate in time to enroll in a new school by January 4, 2021. Instead,
 9 Defendants attempt to sidestep Jane’s irreparable injury by contending, wrongly, that she
 10 could have obtained relief under Subsection (A)(4). Doc. 23 at 14–16. As an initial matter,
 11 Defendants fail to rebut that excluding Jane and other transgender minors from the ability
 12 to obtain a corrected birth certificate through the administrative process in Subsection
 13 (A)(3) is unconstitutional and, as such, constitutes an independent cause of her irreparable
 14 harm. Given Jane’s likelihood of success on those claims, she has satisfied her burden of
 15 proving irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

16 In addition, Defendants’ claim that Jane’s injuries are “self-inflicted” has no basis in
 17 fact or law. To be “self-inflicted” harm, a party’s actions must be the sole, direct cause of
 18 the injuries they seek to remedy through the requested injunction. *See, e.g., Al Otro Lado*
 19 *v. Wolf*, 952 F.3d 999, 1008 (9th Cir. 2020); *Caplan v. Fellheimer Eichen Braverman &*
 20 *Kaskey*, 68 F.3d 828, 839 (3d Cir. 1995). Here, the harm to Jane was caused solely by
 21 Defendants’ unconstitutional refusal to issue an amended birth certificate using the
 22 administrative process. That Jane might (or might not) have been able to obtain that
 23 amendment through a more burdensome, invasive, and public court process does not cure
 24 her constitutional injury, and it does not transform Jane’s injury into a self-inflicted one.

25 _____
 26 ⁶ Defendants also assert that, because Jane did not attempt to apply for an amended birth
 27 certificate under Subsection (A)(3) or file a petition under Subsection (A)(4), she “cannot
 28 succeed on her equal protection claim.” Doc. 23 at 12. This is not so. Susan asked, but
 was informed by ADHS directly that “proof of surgery” is required to amend the sex listed
 on Jane’s birth certificate, and had ADHS’s statement confirmed by multiple independent
 sources. Susan Decl. ¶¶ 24–25; Susan Reply Decl. ¶¶ 4–5. That is more than enough to
 show that Defendants’ enforcement of the surgical requirement made any attempt futile.

1 Nor are Jane’s harms remote or hypothetical. To the contrary, the harms inflicted by
2 her inability to obtain a corrected birth certificate are immediate and ongoing. Defendants’
3 suggestion that she try to petition a court ignores the harms that she would experience by
4 filing that petition, even if—as seems highly unlikely—it were to be successful. The most
5 significant among those harms is the loss of privacy because the petition would be a public
6 record, risking further disclosure of her transgender status and any medical information
7 presented in support of that petition. Thus, Jane will continue to experience irreparable
8 harm absent an injunction permitting her to obtain an accurate birth certificate.

9 **D. The balance of harms decisively favors Jane.**

10 Defendants assert two bases for shifting the balance of harms in their favor, Doc. 23
11 at 16–17; both lack merit. When considering whether to issue a preliminary injunction, the
12 Court considers the parties’ respective “competing claims of injury,” and “the effect on each
13 party of the granting or withholding of the requested relief.” *Arc of Cal. v. Douglas*, 757
14 F.3d 975, 991 (9th Cir. 2014). Defendants do not contest that Jane would experience
15 substantial and irreparable harm if she were unable to obtain an accurate birth certificate.
16 Defendants’ unsupported disagreement with Jane’s claim that the surgical requirement is
17 unconstitutional cannot—in and of itself—tilt the balance of harms in their favor.

18 Granting Jane a corrected birth certificate would not undermine the integrity of, or
19 otherwise “diminish the respect” for, Arizona’s system of vital records, as Defendants
20 suggest. Doc. 23 at 17. Quite the opposite. Defendants do not dispute that Jane is female;
21 amending the sex listed on her birth certificate to reflect that accepted fact would increase
22 its accuracy and ensure that all of her identity documents are consistent. Defendants also
23 do not disagree that Jane is entitled to a corrected birth certificate—they simply disagree
24 with how she should obtain it—so there is little risk that Defendants would ever need to
25 retract it, even in the unlikely event they prevail on the merits. Regardless, any minor
26 inconvenience to Defendants of voiding an amendment to single birth certificate pales in
27 comparison to the significant and irreparable harm that they concede Jane would experience
28 absent immediate injunctive relief. The balance of equities weighs heavily in favor of Jane.

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Dated: November 22, 2020

Respectfully submitted,

OSBORN MALEDON, P.A.

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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent
16 and next friend Lizette Trujillo; Jane Doe, a
17 minor, by and through her parent and next
18 friend Susan Doe; and Helen Roe, a minor,
by and through her parent and next friend
Megan Roe,

19 Plaintiffs,

20 v.

21 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
22 Director of the State of Arizona’s
Department of Health Services; Thomas
23 Salow, in his official capacity as Branch
Chief of the State of Arizona’s Division of
24 Public Health Licensing Services at the
Department of Health Services; and Krystal
25 Colburn, in her official capacity as Bureau
Chief and Assistant State Registrar of the
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.
28

Case No. 4:20-cv-484-JAS

**REPLY DECLARATION OF SUSAN DOE
IN SUPPORT OF JANE DOE’S MOTION
FOR PRELIMINARY INJUNCTION**

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1 I, Susan Doe, declare as follows:

2 1. I have personal knowledge of the matters stated in this declaration.

3 2. When I began looking into correcting the information on Jane's birth
4 certificate, there seemed to be two ways for me to amend the sex listed on her birth
5 certificate: submit an application directly to the Arizona Department of Health Services
6 ("ADHS") requesting the change or get a court order directing ADHS to change her sex
7 marker, which I could then take to ADHS. I hoped to apply for an amendment of the sex
8 listed on Jane's birth certificate without a court order.

9 3. I strongly preferred the administrative route for several reasons. Most
10 importantly, that process was far more private without the additional burdens of having to
11 request to seal the records or take other measure to protect Jane's privacy, all of which the
12 Court was under no obligation to grant. At the time, I could not imagine having to go into
13 a courtroom and talk in open court about Jane's medical treatment for gender dysphoria or
14 the appearance of her body. That experience would have been especially traumatic for Jane
15 who had such severe anxiety about her body that even going to the doctor resulted in a full-
16 blown panic attack. I also did not want there to be a public record documenting the
17 amendment of the sex on her birth certificate because it would be yet another document that
18 discloses that she is transgender. The whole purpose of correcting the sex listed on Jane's
19 birth certificate is that she wouldn't have to disclose that she is transgender.¹

20 4. As I noted in my prior declaration, I went to ADHS to inquire about what I
21 needed to provide to amend the sex on Jane's birth certificate without getting a court order.
22 The ADHS employee I spoke with reaffirmed that Jane would need to provide a letter from
23 a doctor as required by Arizona law. Given Jane's age, surgery was not medically
24 necessary, and therefore I knew I would not be able to change Jane's sex marker through
25 the private, administrative process I had hoped to use.

26
27 _____
28 ¹ While I was also worried about Jane's name change being public information, it worried
me less than the gender marker correction because she changed her name from a
traditionally male name to a gender-neutral name.

1 5. Because of Jane’s experiences at school—from the bullying and harassment
2 to her school records that routinely disclosed her transgender status to people who were
3 previously unaware that Jane is transgender—I knew it was critical to amend the sex on her
4 birth certificate so I researched how to get a court order. As I previously noted, I spoke
5 with Jane’s physician and parents of transgender children who had attempted to obtain court
6 orders to amend their own children’s birth certificates. They uniformly indicated that the
7 courts required proof of surgery as well. Despite searching, I was not able to find any
8 information to the contrary. The lack of information made the process of obtaining a court
9 order uncertain and risky because it could disclose Jane’s transgender status and deeply
10 traumatize her without any guarantee that it would be successful. I did not want to go into
11 court unless I knew I could protect Jane’s privacy and identity.

12 6. As I went through the process of changing Jane’s name, I realized there are
13 other differences between the court-order process for amending the sex on Jane’s birth
14 certificate and being able to simply submit an application to ADHS requesting that change.
15 For example, I would have had to pay the court-related fees, such as the filing fees and fees
16 to obtain a certified copy of the court order. Also, to keep her identity and transgender
17 status private, I would have had to figure out how to request that Jane and myself be allowed
18 to proceed under a pseudonym and that the court seal the court records, which are confusing
19 and overwhelming to understand and navigate as a non-lawyer.

20 7. Because ADHS has made it impossible to quietly and privately change the
21 sex listed on Jane’s birth certificate through an administrative process, we have been forced
22 to into exactly the situation we were trying to avoid: risking Jane’s privacy to obtain a
23 corrected birth certificate that is vital to her safety and well-being.

24
25 This declaration was executed this 22nd day of November, 2020, in Maricopa
26 County, Arizona.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DocuSigned by:
Susan Doe
By: _____
E84540E996FE424...
Susan Doe

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11 *Attorneys for Plaintiffs*

12 *Additional counsel listed on following page*

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent
16 and next friend Lizette Trujillo; Jane Doe, a
17 minor, by and through her parent and next
18 friend Susan Doe; and Helen Roe, a minor,
by and through her parent and next friend
Megan Roe,

19 Plaintiffs,

20 v.

21 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
22 Director of the State of Arizona’s
Department of Health Services; Thomas
23 Salow, in his official capacity as Branch
Chief of the State of Arizona’s Division of
24 Public Health Licensing Services at the
Department of Health Services; and Krystal
25 Colburn, in her official capacity as Bureau
Chief and Assistant State Registrar of the
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.
28

Case No. 4:20-cv-484-JAS

**DECLARATION OF MEGAN ROE IN
SUPPORT OF JANE DOE’S MOTION FOR
PRELIMINARY INJUNCTION**

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1 I, Megan Roe, declare as follows:

2 1. I am the mother of Helen Roe and I have personal knowledge of the matters
3 stated in this declaration.

4 2. In January 2020, we filed a petition to change Helen's birth name and amend
5 the sex on her records. Without hesitation, the court granted our request to change Helen's
6 birth name. Then, the court turned to our request to amend her records to reflect that Helen
7 is female. The judge informed us that she couldn't rule on that request and handed us a
8 printout of A.R.S. § 36-337. Although we were disappointed that the court did not grant
9 our request regarding the sex listed on Helen's records, we expected that to happen given
10 the experiences of other parents raising transgender children in our area.

11 3. Given the mistreatment Helen had already experience and our concern for her
12 safety in the future, we also asked the court to seal our petition at the hearing. The court
13 deferred a ruling on that request, explaining that the court would rule on the motion to seal
14 when we returned with proof that Helen met the surgical requirement to amend the sex
15 listed on her birth certificate.

16 4. Helen is a minor and therefore not eligible for gender-confirmation surgery
17 now. And because Helen will never experience male puberty, she may never need surgery
18 to treat her gender dysphoria. Regardless, she has nearly twelve years left before she could
19 have surgery and, in that time, people will have access to the petition we filed which
20 includes her birth name, current name, and our request that the court order an amendment
21 of her sex marker to female. The fact that we were not able to seal those records is, along
22 with the rest of the records that incorrectly list Helen as male, a source of ever-present worry
23 for her and me.

24 5. That is why it is vital for Helen, and transgender children like her, to be able
25 to amend the sex listed on their birth certificates by directly applying to the Arizona
26 Department of Health Services through the private administrative process established by
27 A.R.S. § 36-337(A)(3). I understand that process also automatically seals both the
28 application materials and initial birth certificate once the amendment is made. We would

1 have been able to not only get accurate identity documents for Helen, but would have also
2 avoided the distress and harm that is being caused in the meantime while she still must rely
3 on her current birth certificate.

4
5 This declaration was executed this 22nd day of November, 2020, in Pima County,
6 Arizona.

7 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
8 is true and correct.

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DocuSigned by:
Megan Roe
By: _____
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Megan Roe

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11 *Attorneys for Plaintiffs*

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13 **UNITED STATES DISTRICT COURT**
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16 and next friend Lizette Trujillo; Jane Doe,
a minor, by and through her parent and
17 next friend Susan Doe; and Helen Roe, a
minor, by and through her parent and next
18 friend Megan Roe,

19 Plaintiffs,

20 v.

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22 Director of the State of Arizona’s
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23 Salow, in his official capacity as Branch
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24 Public Health Licensing Services at the
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25 Colburn, in her official capacity as Bureau
Chief and Assistant State Registrar of the
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.
28

Case No. 4:20-cv-484-JAS

**DECLARATION OF LIZETTE TRUJILLO
IN SUPPORT OF JANE DOE’S MOTION
FOR PRELIMINARY INJUNCTION**

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1 I, Lizette Trujillo, declare as follows:

2 1. I am the mother of D.T., one of the plaintiffs in this case. I have personal
3 knowledge of the matters stated in this declaration.

4 2. When I was pregnant with D.T., I was excited at the thought of having a
5 daughter. I imagined us doing girl things together and having a very close mother-daughter
6 relationship. But when D.T. was born, I did not know the truth: that D.T. is a boy. Looking
7 back, from the moment that D.T. could express himself, around two years old, he was telling
8 us through his actions that he is a boy.

9 3. As a toddler, D.T. would gravitate to more masculine clothing and resist girls'
10 clothing. If I put him in a girls' outfit, he would take it off as soon as I turned around. As
11 a result, D.T. spent a lot of time in just his pull-ups. The few outfits he would wear were
12 more gender-neutral, like t-shirts and athletic shorts. My husband is a musician who often
13 wore a fedora hat and neckties, and sometimes we would discover D.T. wearing the hat and
14 a tie around the house. At first, we thought that D.T. was simply emulating his father, but
15 we have since realized that it was one way that D.T. was telling us that he is a boy.

16 4. When D.T. grew old enough to go to school, I would dress him in girls'
17 clothes in the morning. He would return from school, immediately remove the clothes, and
18 often cry for hours. It worried me to see him so upset, but at that time I did not understand
19 that his clothing was the cause of his distress. In first grade, D.T. asked me if he could wear
20 "sporty" clothes rather than "girly" things. But when I tried to buy him girls' athletic wear,
21 he rejected it. Instead, he asked if he could have clothing with boys' characters printed on
22 it, like Woody from *Toy Story* or Nemo from *Finding Nemo*. But I was hesitant to get him
23 clothing from the boys' section. I was still holding on to my dreams for a daughter, and I
24 was confused and did not want to do something that could be wrong for my child. I also
25 did not want D.T. to be teased by other children or for other adults to judge my parenting.

26 5. Prior to his transition, D.T. rarely smiled or expressed happiness. He was
27 almost always quiet and subdued. And he often appeared very anxious; he developed
28 breathing tics and would fidget nervously. When my husband and I tried to ask D.T. what

1 was wrong, he was unable to tell us exactly what he was feeling. He would grow
2 uncomfortable and shrug off our questions. On the few occasions that D.T. was able to
3 speak to us about his feelings, he told us that he was afraid of dying and that he had a secret
4 that he could not tell us. My husband and I were very worried because we thought we were
5 doing everything we could make sure D.T. felt safe, protected, and loved.

6 6. In August 2015, the day before D.T. began third grade, he and I stopped by
7 his classroom to drop off some supplies. D.T.'s best friend was also there with his mother.
8 D.T.'s friend pointed to D.T. and asked his mother: "Can he and I go play?" The mother
9 replied: "No, that's a she." Later, when I was driving D.T. home, I asked him about that
10 moment. "Your friend called you 'him.' Is that how you see yourself?" D.T. was silent
11 for a moment. I could see him gathering his thoughts in my rear-view mirror. He then said
12 to me: "I know my body is wrong. But in my insides, I'm a boy. My mind tells me I'm a
13 boy." I was speechless and emotional. After that, as my husband and I talked more to D.T.,
14 we came to realize this was the "secret" that D.T. had been keeping inside, and that he was
15 afraid that if his family found out that we would stop loving him. We promised that we
16 would never stop loving him, no matter what.

17 7. After D.T. told us that he is a boy, we affirmed him as our son and began to
18 use male pronouns when referring to him. In January 2016, we cut his hair short and bought
19 him boys' clothing. We learned that D.T. and his best friend had tried different boy names
20 for him when they were at school and that one had felt right. It was difficult for me to
21 accept that D.T. had chosen a new name because I was the one who had chosen his birth
22 name and was very attached to it. I resisted calling him "D." for a while, and I would cry
23 when I heard people call him that. But I eventually realized that this is who he is. My
24 husband and I have ever since called him by the name that he chose.

25 8. Ever since he has started to openly express his gender identity, D.T. has
26 become a different person. His anxiety decreased significantly, his breathing tics have
27 disappeared, and he fidgets no more than any other boy of his age. He is far more talkative
28 and he smiles and laughs like a young child should. D.T. is also very funny and now shares

1 his quirky sense of humor with us. His grades got better, and he's become very interested
2 in sports. D.T. is also interested in music and in learning how play the drums, which he
3 hadn't shared before.

4 9. In June 2016, I found and started connecting with some other families raising
5 transgender children in the area. Through those connections we were referred to healthcare
6 professionals with experience working with transgender young people who could provide
7 D.T. the care he needed and to help guide us in navigating how to raise a transgender son.

8 10. We first took D.T. to Dr. Andrew Cronyn, a pediatrician who specializes in
9 working with transgender young people. He then referred D.T. to Dr. Richard Muszynski,
10 a child psychologist with a similar specialty, for mental health care. D.T. has seen both
11 providers regularly since.

12 11. Drs. Cronyn and Muszynski confirmed that we were doing the right thing by
13 affirming D.T., using his name and male pronouns, cutting his hair short, and letting him
14 dress like a boy. Dr. Muszynski also has been instrumental in treating D.T.'s anxiety and
15 nervous tics.

16 12. Starting in August 2016, D.T. began attending school as a boy. We decided
17 to hold D.T. back the following year for a fresh start, and to make new friends. Most of
18 D.T.'s classmates have been accepting and affirming. Unfortunately, not all have been. His
19 best friend's family, the person D.T. first confided in that he is transgender, has prohibited
20 them from continuing to be friends. And, then last year, D.T. was harassed and assaulted
21 at school for being transgender. A student saw a yearbook with a photo of D.T. in girl's
22 clothing and began to harass D.T. about his gender identity. That harassment soon escalated
23 to verbal and physical threats; afraid for his safety D.T. initially delayed telling me about
24 what was happening. Once my husband and I found out, we immediately contacted the
25 school to handle the situation. It was a very difficult time and it was not easy to resolve.

26 13. My husband and I were already concerned for D.T.'s safety because of high
27 levels of harassment and discrimination transgender people experience, but the incident
28 with the other student terrified us. We realized that, to prevent D.T. from being harassed in

1 the future, or worse, it was important that he be able to maintain his privacy. A key part of
2 that is to make sure that D.T.'s identity documents have his correct name and gender marker.
3 We do not want people to misuse D.T.'s official documents to harm him, like the student
4 did with D.T.'s old yearbook photo. When D.T.'s current documents do not match his
5 identity, it causes people to ask questions, and the wrong person asking those questions
6 would cause D.T. serious emotional—if not physical—harm.

7 14. There are other important reasons for D.T. to get corrected identification
8 documents. For example, D.T. is developing a love for sports, especially basketball, and
9 needs his gender marker to ensure he can fully participate in sports and other activities.
10 During the summer between second and third grade, before he transitioned, we took D.T.
11 to a swim league and he seemed to truly enjoy it. The next summer, after third grade and
12 after D.T. had started his social transition, we re-enrolled D.T. in swimming. While the
13 league was generally supportive of D.T., unfortunately it distributed a roster to all families
14 at the beginning of the season that incorrectly listed D.T.'s gender marker as female. The
15 league later corrected the roster at my request, but the damage was done. Another parent
16 noticed the change and began to ask very uncomfortable and aggressive questions about
17 D.T. to the league and to any other parent who would listen. The parent instructed her
18 children not to speak to D.T. and her youngest son began to treat D.T. very roughly at
19 practice. D.T. finished the summer season, but we decided that he shouldn't return the
20 following year because of the parents' behavior and how D.T.'s teammates treated him, all
21 because his gender marker was listed incorrectly on the roster.

22 15. D.T. wants to keep playing sports, both in school and in recreational leagues.
23 Enrolling D.T. in recreational sports typically requires a birth certificate for, at a minimum,
24 proof of age. We are concerned he will not be allowed to play on the boys' team if we
25 cannot present the league with a corrected birth certificate. We are also worried that even
26 if he can play on the boys' team his birth certificate will lead to D.T. being outed without
27 his permission, like with the roster distributed by his swim league. I know that D.T. is
28 hesitating to participate in recreational basketball for those same reasons and it pains me to

1 see. He is being forced to miss out on important experiences because his birth certificate is
2 not accurate.

3 16. We would have preferred to be able to correct the sex listed on D.T.'s birth
4 certificate through the administrative process, without going to court, but quickly learned
5 that the Arizona Department of Health Services ("ADHS") would only accept our
6 application if we had proof that D.T. had undergone a "sex change operation." However,
7 D.T. is too young for surgery and, because he started taking puberty blockers before he
8 experienced any changes to his body—specifically, breast development—he may never
9 need surgery to treat his gender dysphoria. For those reasons, we could not, and still cannot,
10 use the administrative process for getting D.T. a corrected birth certificate.

11 17. With the administrative process not available to us, we looked around for
12 other option. There was little public information about what we could do, and what we
13 found was often conflicting or outdated. The only other option we found was to file a
14 petition in a court for a corrected birth certificate. We did not want to use this option,
15 because it required us to pay extra fees in the hundreds of dollars, it was time-consuming,
16 consisted of lots of confusing paperwork that we were not sure we had completed correctly,
17 and overall it forced us to file public documents in court with our son's private information
18 and transgender status. But we had no choice. Without any other options, we attempted to
19 obtain a court order correcting his gender marker.

20 18. When we went to the court, it thankfully gave us an order changing D.T.'s
21 name, but only granted his gender marker correction to male "upon compliance with the
22 rules and regulations for gender change." Attached as **Exhibit A** is a true and accurate copy
23 of the order the judge issued. The judge who issued the order informed us that the Attorney
24 General of Arizona had instructed her that ADHS would not accept court orders as grounds
25 to issue a corrected birth certificate for D.T. unless we provided proof that he had undergone
26 a surgery. Again, D.T. is too young now, and may never need to, have surgery. We were
27 back to square one, but this time we had no other options to correct D.T.'s birth certificate.

28 19. Thankfully, D.T.'s school still allowed us to use the court order to correct his

1 school records. Until this year, we thought that was sufficient, but D.T.'s experiences at
2 school and his hesitancy to play basketball have made clear that there is no substitute for
3 fully correcting his birth certificate. That is the only way to ensure that he treated as male
4 in every aspect of his life and give him the confidence he needs to participate in recreational
5 basketball, and any other sex-separated programs or activities that are such a big part of
6 being a kid. Further, every day that goes by is another day that D.T.'s personal information
7 might be revealed without his permission, and another day when more records are generated
8 with D.T.'s incorrect gender listed, which makes it more likely that he will be outed against
9 his will in the future, causing him unnecessary stress and anxiety, which will otherwise have
10 long-lasting implications for his well-being.

11 20. Over the past few years, I started taking a leadership role within the local
12 community of parents raising transgender children. In that role, I have spoken with
13 countless parents trying to navigate the process of correcting the sex listed on their
14 children's birth certificate. Most families are very private about their child's transgender
15 status out of a concern for their child's safety and well-being. As a result, families struggle
16 with going into court; not only do they have to talk about having a transgender child and
17 possibly answer any questions the judge may have, but they have to do all of that in open
18 court. Families also then have to worry about whether the court would agree to seal the
19 record of their petition. I know of several families who either did not know they could make
20 that request or the judge denied or deferred ruling on that request.

21 21. But because of the importance of having accurate identity documents, it is
22 often among the first steps parents take to support their child's transition and protect their
23 child's safety and well-being. Knowing that they will have to file a court petition to change
24 their child's name and that ADHS will not amend their child's sex without proof of surgery,
25 many families have attempted to get a court to order ADHS to change both at the same time.
26 I know of one family that was able to obtain an order changing their child's sex, but when
27 they took that order to ADHS, it still denied their application. That family appealed the
28 denial and was ultimately successful in correcting their child's birth certificate, but ADHS

1 continued to object and fight their application every step of the way.

2 22. After that family’s experience, judges have consistently granted the requested
3 name change and ignored the request to correct the child’s sex. More recently, judges
4 started handing families copies of A.R.S. § 36-337 and informing families that the courts
5 cannot order amendments to the child’s listed sex or that they can only do so under ADHS’s
6 requirement that applicants provide proof of surgery.

7 23. In light of our own experiences, and those of the many families I have worked
8 with, transgender young people are not able to get a court to order ADHS to amend the sex
9 listed on their child’s birth certificate without proof of surgery.

10
11 This declaration was executed this 22nd day of November, 2020, in Pima County,
12 Arizona.

13 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
14 is true and correct.

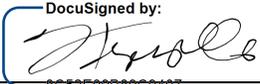
15
16 By: 
17 Lizette Trujillo
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Exhibit A

Document Submitted Under Seal

1 Patrick Gunn (*Pro Hac Vice* pending)
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5 Mary O’Grady (011434)
Colin Proksel (034133)
6 Payslie Bowman (035418)
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10 Email: pbowman@omlaw.com

11 *Attorneys for Plaintiffs*

12 *Additional counsel listed on following page*

13 **UNITED STATES DISTRICT COURT**
14 **FOR THE DISTRICT OF ARIZONA**

15 D.T., a minor, by and through his parent
and next friend Lizette Trujillo; Jane Doe, a
16 minor, by and through her parent and next
17 friend Susan Doe; and Helen Roe, a minor,
by and through her parent and next friend
18 Megan Roe,

19 Plaintiffs,

20 v.

21 Dr. Cara M. Christ, in her official capacity
as State Registrar of Vital Records and
22 Director of the State of Arizona’s
Department of Health Services; Thomas
23 Salow, in his official capacity as Branch
Chief of the State of Arizona’s Division of
24 Public Health Licensing Services at the
Department of Health Services; and Krystal
25 Colburn, in her official capacity as Bureau
Chief and Assistant State Registrar of the
26 State of Arizona’s Bureau of Vital Records,

27 Defendants.
28

Case No. 4:20-cv-484-JAS

**DECLARATION OF COLIN M. PROKSEL
IN SUPPORT OF JANE DOE’S REPLY IN
SUPPORT OF HER MOTION FOR
PRELIMINARY INJUNCTION**

1 Barrett J. Anderson (*Pro Hac Vice* pending)
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9 *Attorneys for Plaintiffs*

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1 I, Colin M. Proksel, declare as follows:

2 1. I am lawyer at Osborn Maledon, P.A., attorneys of record for Plaintiff Jane
3 Doe. I declare that the following statements are true to the best of my knowledge,
4 information, and belief, formed after a reasonable inquiry under the circumstances. If called
5 upon to testify, I could and would competently testify hereto.

6 2. Attached hereto as Exhibit 1 is a true and correct copy of the “Arizona
7 Department of Health Services’ Objection to Order to Amend Applicant’s Registered Birth
8 Certificate,” that Arizona Department of Health Services (“ADHS”) filed publicly in the
9 Superior Court of Arizona in Pima County.

10 3. Attached hereto as Exhibit 2 is a true and correct copy of the “FORMS and
11 INSTRUCTIONS” provided by the Superior Court of Arizona in Maricopa County to
12 “Amend/Correct Birth Certificate for a MINOR,” publicly available as of November 22,
13 2020, on the court’s website at [https://superiorcourt.maricopa.gov/media/2019/
14 cvabmlz.pdf](https://superiorcourt.maricopa.gov/media/2019/cvabmlz.pdf).

15 4. Attached hereto as Exhibit 3 is a true and correct copy of an ADHS policy
16 document with the filename “BIRTH 003 – Court Orders – 5-18-20.doc” on the subject of
17 “Court Orders and Subpoenas.” ADHS provided this document to me on October 27, 2020,
18 in response to a public records request under Arizona law.

19 5. Attached hereto as Exhibit 4 is a true and correct copy of an email with subject
20 line “Response to Court Order Policy Questions,” from Toni Miller, the Policy Manager &
21 Community Partner Liaison of the Bureau of Vital Statistics in the Arizona Department of
22 Health Services, and dated September 5, 2018. ADHS provided this document to me on
23 October 27, 2020, in response to a public records request under Arizona law.

24 6. Attached hereto as Exhibit 5 is a true and correct copy of Arizona Department
25 of Transportation Policy 3.1.1 titled “Customer Records.” ADOT provided this document
26 to me on August 17, 2020, in response to a public records request under Arizona law.

27 7. Attached hereto as Exhibit 6 is a true and correct copy of the instructions for
28 “Change of Sex Marker” for U.S. Passports, publicly available as of November 22, 2020,

1 on the website of the U.S. Department of State at [https://travel.state.gov/content/](https://travel.state.gov/content/travel/en/passports/need-passport/change-of-sex-marker.html)
2 [travel/en/passports/need-passport/change-of-sex-marker.html](https://travel.state.gov/content/travel/en/passports/need-passport/change-of-sex-marker.html).

3 8. Attached hereto as Exhibit 7 is a true and correct copy of the instructions for
4 “How do I change my gender on Social Security’s records?” publicly available as of
5 November 22, 2020, on the website of the U.S. Social Security Administration at
6 <https://faq.ssa.gov/en-us/Topic/article/KA-01453>.

7
8 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
9 is true and correct.

10 Executed on November 22, 2020.

11
12 By: /s/ Colin M. Proksel
13 Colin M. Proksel

D.T. ex rel Trujillo v. Christ
Case No. 4:20-cv-484-JAS

**INDEX OF EXHIBITS TO DECLARATION OF COLIN M. PROKSEL IN SUPPORT OF
 JANE DOE’S REPLY IN SUPPORT OF HER MOTION FOR PRELIMINARY INJUNCTION**

Exhibit No.	Description	Page No.
1.	“Arizona Department of Health Services’ Objection to Order to Amend Applicant’s Registered Birth Certificate,” that Arizona Department of Health Services (“ADHS”) filed publicly in the Superior Court of Arizona in Pima County.	1
2.	“FORMS and INSTRUCTIONS” provided by the Superior Court of Arizona in Maricopa County to “Amend/Correct Birth Certificate for a MINOR,” publicly available as of November 22, 2020, on the court’s website at https://superiorcourt.maricopa.gov/media/2019/cvabm1z.pdf .	11
3.	ADHS policy document with the filename “BIRTH 003 – Court Orders – 5-18-20.doc” on the subject of “Court Orders and Subpoenas.”	40
4.	“Response to Court Order Policy Questions,” from Toni Miller, the Policy Manager & Community Partner Liaison of the Bureau of Vital Statistics in the Arizona Department of Health Services, and dated September 5, 2018.	53
5.	Arizona Department of Transportation Policy 3.1.1 titled “Customer Records.”	56
6.	“Change of Sex Marker” for U.S. Passports, publicly available as of November 22, 2020, on the website of the U.S. Department of State at https://travel.state.gov/content/travel/en/passports/need-passport/change-of-sex-marker.html .	63
7.	“How do I change my gender on Social Security’s records?” publicly available as of November 22, 2020, on the website of the U.S. Social Security Administration at https://faq.ssa.gov/en-us/Topic/article/KA-01453 .	66

Exhibit 1

FILED
TONI L. HELLON
CLERK, SUPERIOR COURT
2/15/2017 1:09:48 PM
BY: ALAN WALKER
DEPUTY

1 MARK BRNOVICH
2 Attorney General
3 Firm Bar No. 14000

4 Patricia LaMagna (#021880)
5 Molly Bonsall (#032477)
6 Assistant Attorneys General
7 Education Health Section
8 1275 West Washington Street
9 Phoenix, Arizona 85007-2926
10 Telephone: (602) 542-8854
11 Fax: (602) 364-0700
12 E-mail: EducationHealth@azag.gov
13 *Attorneys for Arizona Department of Health Services,*
14 *Bureau of Vital Records*

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
12 IN AND FOR THE COUNTY OF PIMA

13 In re the Matter of:

14 [REDACTED], a minor,
15 Applicant

[REDACTED]

Arizona Department of Health Services’
Objection to Order to Amend Applicant’s
Registered Birth Certificate

(Honorable [REDACTED])

18 The Arizona Department of Health Services, Bureau of Vital Records
19 (“Department”), by and through its undersigned attorney, responds to the [REDACTED]
20 [REDACTED] Order issued by [REDACTED] of the Pima County Superior Court (“Order”), to
21 amend the sex on Applicant’s registered birth certificate. The Department informs this
22 Court, Petitioner, and Applicant that the Order is not sufficient to permit the
23 Department to amend the sex on Applicant’s Arizona birth certificate pursuant to
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25
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1 Arizona Revised Statutes (“A.R.S.”) § 36-337,¹ due to lack of jurisdiction and the
2 failure of Petitioner to exhaust administrative remedies.

3 MEMORANDUM OF FACTS AND LAW

4 I. Statutory Authority of the Department to Amend Birth Certificates

5 The statutes that established the Arizona vital records system give the authority
6 to the Department to adopt rules and implement a statewide system of vital
7 records. More specifically, A.R.S. § 36-323(A) provides that the state registrar shall
8 amend a registered certificate (birth or death) pursuant to Chapter 3 of Title 36 and the
9 rules adopted by the Department. The pertinent rules are found at Arizona
10 Administrative Code (A.A.C.) Title 9, Chapter 19. The rules establish the procedures
11 and standards for correcting and amending birth certificates. *See* A.A.C. R9-19-207
12 and -208. This process requires a request for a change or amendment be submitted to
13 the Department, together with required evidentiary documents supporting the correction
14 or amendment. *Id.* That application is reviewed regarding the established standards to
15 determine whether the requested amendment may be approved. Due process rights
16 attach if an application is denied; an administrative hearing is provided, if requested;
17 and ultimately, a final decision of the Department follows. A.R.S. § 41-1092, *et seq.* A
18 final decision of the Department is then subject to the appellate jurisdiction of the
19 Superior Courts pursuant to the Administrative Review Act. *See* A.R.S. Title 12,
20 Chapter 7, Article 6. While the Courts do have some original jurisdiction to order birth
21 certificate changes, e.g. adoption, paternity and name change, under the existing
22

24 ¹ Accordingly, the Department recognizes and respects that A.R.S. § 12-601 gives
25 specific jurisdiction to this Court to hear a petition for a name change and issue the
26 appropriate order allowing this amendment to a birth certificate.

1 statutory scheme for vital records, all other changes must first be submitted to the
2 Department, with Court jurisdiction only upon appeal.

3 **II. Superior Courts Have Limited Jurisdiction to Order Amendments to**
4 **Birth Certificates.**

5 The Courts are not the proper venue for a person to initiate just any amendment
6 to a vital record. As explained above, for most changes, the request must be initiated by
7 filing a request for the amendment with the Department. Absent specific authority, the
8 Court lacks original jurisdiction to amend or correct birth certificates. And where this
9 specific authority does exist, the courts are limited in the changes they are able to order
10 to birth and death certificates. Specifically, these areas are limited to determinations of
11 maternity and paternity under A.R.S. § 25-801 *et seq.*, adoptions pursuant to A.R.S. 80-
12 § 8-101 *et seq.*, and name changes under A.R.S. § 12-601 *et seq.* However, the superior
13 courts have appellate jurisdiction over all final decisions of the Department regarding
14 applications to amend or correct birth certificates pursuant to the Administrative
15 Review Act. *See* A.R.S. Title 12, Chapter 7, Article 6.

16 The Department believes the language at A.R.S. § 36-337(A)(4) that provides
17 that the Department “shall amend the birth certificate for a person born in this state
18 when the state registrar receives . . . [a] court order ordering an amendment to a birth
19 certificate” does not endow the courts with original jurisdiction to correct all errors or
20 omissions in birth certificates. It is the Department’s position that the language found
21 in (A)(4) is a “catchall” provision, in that it follows three enumerated circumstances
22 under which the Department shall amend a birth certificate. Rather than creating a
23 broad grant to the courts to amend birth certificates that would circumvent the
24 procedures and standards established by the Department for amendments and
25 corrections, the Department believes the provision only acknowledges that there may be
26

1 other provisions in law under which courts may have authority to amend birth
2 certificates and requires the Department to comply when presented with such orders.
3 An example of this is an order issued by the Superior Court to remove the “unknown”
4 designation from the “father” field in the case of a child conceived through anonymous
5 sperm.

6 A review of constitutional and statutory provisions regarding the jurisdiction of
7 the superior courts does not otherwise disclose a statement of original jurisdiction over
8 all requests by petitioners to amend or correct birth certificates. The existing statutory
9 scheme for vital records and the attendant rules adopted by the Department require that
10 requests to amend or correct birth certificates ordinarily be initiated by filing a request
11 with the Department.

12 **III. Exhaustion of Administrative Remedies**

13 A person desiring to make an amendment or correction to a birth certificate must
14 submit an application and provide the required documentary evidence in compliance
15 with A.R.S. Title 36, Chapter 3 and A.A.C. R9-19-207 and -208, unless otherwise
16 provided by law. In the present matter, the Petitioner must initiate the request to change
17 the sex on the birth certificate by filing an application to the Department requesting this
18 change, in order that they exhaust the administrative remedies allotted by means of
19 statute and rule.

20 In *Coconino County v. Antco, Inc.*, 214 Ariz. 82 (App. 2006), the Court of
21 Appeals stated:

22 The purpose of the exhaustion of remedies doctrine is “to
23 allow an administrative agency to perform functions within
24 its special competence-to make a factual record, to apply its
25 expertise, and to correct its own errors so as to moot judicial
26 controversies.” In this way, the exhaustion of remedies
doctrine promotes judicial economy as well as

1 administrative agency autonomy, preventing “premature
2 judicial intervention in inchoate administrative
proceedings.”

3 *Id.* at 86, ¶ 9(citing *Moulton v. Napolitano*, 205 Ariz. 506, 511, ¶ 10 (App.2003).

4 The Court also stated that when a statute grants an administrative agency original
5 jurisdiction over a dispute, the exhaustion of remedies doctrine requires the parties to
6 utilize all available administrative processes before seeking the aid of a court. *Id.* at 86,
7 ¶ 8. The Court pointed out that the doctrine does not apply “when the administrative
8 remedy prescribed by statute is merely permissive, when the jurisdiction of the agency
9 is being contested, when the agency's expertise is unnecessary, or when exhausting
10 administrative remedies would cause irreparable harm or be futile.” *Id.*

11 The administrative process and remedy provided in the State's vital records
12 statutes and rules and the Uniform Administrative Hearing Procedures are not
13 permissive, the Department's expertise is essential; and, there will be no irreparable
14 harm to the Petitioner and no futility in following the required procedures. Petitioner
15 must exhaust available administrative remedies regarding his request to amend or
16 correct a birth certificate before seeking relief from the Court.

17 According to A.R.S. § 36-337(A), the Department shall amend a registered
18 certificate when the Department receives the proper court order or documents to
19 support the amendment. Specifically, in order to amend the sex on a registered
20 certificate “[f]or a person who has undergone a sex change operation or has a different
21 chromosomal count that establishes their sex as different than the sex identified on the
22 registered birth certificate,” the Department must receive a written request from the
23 registrant, or a parent or legal guardian of a minor, and “[a] written statement by a
24 physician that verifies the sex change operation or chromosomal count.” *Id.*

1 The Department's position in accordance with amending the sex on a registered
2 certificate is to require the registrant, or their parent or guardian, to initially apply
3 directly with the Department and present the physician's written statement as required
4 in A.R.S. § 36-337(A)(3)(b).² The Department has historically recognized that the
5 Arizona Legislature placed this very specific requirement in section (A)(3)(b) to ensure
6 that this particular type of amendment is accurately documented. This aligns directly
7 with A.R.S. § 36-337(G) which directs the following: "If the state registrar amends a
8 registered birth certificate, the state registrar shall seal the previously registered birth
9 certificate and the evidentiary documents provided to amend the registered birth
10 certificate."

11 IV. The Application and Denial

12 [REDACTED] (Petitioner), mother of [REDACTED]
13 (Applicant), petitioned the Court to issue an Order Correcting Documents to reflect
14 Applicant's gender identity. Finding good cause to grant the petition, the Court issued
15 the Order requiring Applicant's name be changed [REDACTED]
16 [REDACTED]; and "that a birth certificate be issued showing
17 Applicant's new name and gender identity: male." Order at 1:20-24. Further, the Order
18 stated that "Petitioner and Applicant may correct the gender designation on Applicant's
19 birth certificate...to reflect his correct gender identity." *Id.* at 1:25-2:1.

20 On [REDACTED], Petitioner filed an Affidavit to Correct or Amend a Birth
21 Certificate with the Department to change Applicant's name and sex, along with a
22
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24 ² Indeed, Petitioner may still apply directly with the Department. The application is
25 available at [http://www.azdhs.gov/licensing/vital-records/index.php#corrections-
26 amendments-birth-certificate](http://www.azdhs.gov/licensing/vital-records/index.php#corrections-amendments-birth-certificate).

1 request for a copy of the new birth certificate.³ Due to the statutory limitations
2 referenced above, the Department could not comply with the Order or with Petitioner’s
3 request regarding the amendment of registrant’s sex from female to male.

4 While the Department has amended the birth certificate to reflect the name as
5 [REDACTED], they have not, and cannot, amend the sex as requested.
6 Petitioner has been notified of this fact as of the date of this Objection. As noted, supra,
7 the Petitioner has been informed in writing of their rights to appeal the denial of the
8 amendment and have a hearing before an Administrative Law Judge pursuant to A.R.S.
9 § 41-1092 *et seq.*

10 **Conclusion**

11 Based on the foregoing, the Department will not amend the birth certificate for
12 the registrant and objects to the portion of this Court’s order regarding that amendment.
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23 ³ The Department is acting on the application filed by Petitioner to amend the sex of the
24 Applicant’s birth certificate. However, in addition to the legal requirements of A.R.S. §
25 36-337(A)(3), an Arizona birth certificate requires the “sex” of the registrant, pursuant
26 to A.A.C. R9-19-201(A)(3). There is no field on an Arizona birth records regarding
“gender” or “gender identity” of the registrant.

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DATED this 15th day of February, 2017.

MARK BRNOVICH
Arizona Attorney General

/s/ Molly Bonsall
Patricia LaMagna
Molly Bonsall
Assistant Attorneys General
*Attorneys for Arizona Department of Health
Services/Bureau of Vital Records*

CERTIFICATE OF SERVICE

I certify that on this 15th day of January, 2017, I electronically transmitted a PDF version of this document to the Office of the Clerk of the Superior Court, Pima County, using the Arizona Turbo Court ECF System.

COPY of the foregoing mailed this 15th day of February, 2017, to:



COPY of the foregoing emailed this 15th day of February, 2017, to:

Clerk of the Department
Arizona Department of Health Services
ACR@azdhs.gov

Bureau of Vital Records
Krystal Colburn
Bureau Chief
Robin Rodriguez
Operations Office Chief
Arizona Department of Health Services
Krystal.Colburn@azdhs.gov
Robin.Rodriguez@azdhs.gov

By: /s/ Natasha Culbertson
Natasha Culbertson, Legal Secretary II

Doc: #5543667

Exhibit 2

AMEND/CORRECT BIRTH CERTIFICATE

for a **MINOR**

1

**To Request a Court Order to Correct an
Error on the Arizona Birth Record of a
Person Currently Under the Age of 18**

FORMS and INSTRUCTIONS

Law Library Resource Center

**PETITION FOR COURT ORDER
TO CORRECT (amend) A BIRTH CERTIFICATE
for a MINOR**

CHECKLIST

You may use these forms if . . .

- ✓ You are the parent or guardian of a minor child who was born in the state of Arizona, *and there is an error on the child's birth certificate **other than** the child's name* (or there is an error in the child's name **and** some other item of information about the child, the mother, or the father).**
- ✓ The Arizona Office of Vital Records was unable to make the correction, and you want the Court to issue an Order to correct the error(s).
- ✓ You are prepared to present a certified copy of the Arizona birth certificate that contains the *incorrect* information.
- ✓ You are able to present evidence supporting what you say is the correct information, AND
- ✓ You understand that if the evidence you present with this Petition or that you bring to court with you is not enough to satisfy the Court:
 - You may be ordered to return to court with more/other supporting information, or
 - Your request may **not** be granted and you will not receive a refund of any court fees.

X You may NOT use these forms to:

X CHANGE THE *IDENTITY* OF EITHER PARENT, OR

X ESTABLISH PATERNITY OR ADD THE NAME OF A FATHER, OR

X REQUEST A LEGAL NAME CHANGE.*

* Separate packets for "name change" are available from the Law Library Resource Center.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

**PETITION FOR COURT ORDER TO AMEND (CORRECT)
 A BIRTH CERTIFICATE – for a MINOR**

This packet contains court forms and instructions to file (fill in reason for forms and instructions). Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

Order	File Number	Title	# Pages
1	CVABM1K	Checklist: “ <i>You may use these forms if . . .</i> ”	1
2	CVABM1t	Table of Contents (this page)	1
3	CVABM10i	INSTRUCTIONS: How to Fill Out Forms to Request Court Order to Amend (correct) a Birth Certificate for a Minor	3
4	CV10f	“Civil Cover Sheet”	3
5	CVABM11f	“Petition for Court Order to Amend Birth Certificate of a Minor”	4
6	CVABM17f	“Consent of (other) Parent and Waiver of Notice”	2
7	CVABM18f	“Notice of Hearing”	1
8	CVABM24f	“Affidavit of Service by Certified Mail” (if required) *	1
9	CVABM25f	“Declaration Supporting Publication” (if required) *	2
10	CVABM81f	“Order to Amend Birth Certificate”	3
11	CVABM10p	PROCEDURES: What to do after you have completed all forms	5

* Read “INSTRUCTIONS” and “PROCEDURES” to determine if required.

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

LAW LIBRARY RESOURCE CENTER

**INSTRUCTIONS: HOW TO FILL OUT FORMS to REQUEST
A COURT ORDER TO CORRECT (AMEND) A BIRTH CERTIFICATE for a MINOR**

FOR ALL FORMS: TYPE OR WRITE CLEARLY. USE BLACK INK.

WARNING! These are NOT the proper papers to request a legal name change. This Petition and accompanying papers are ONLY to request correction of errors or omissions (items left "blank") that appear on an Arizona birth certificate.

IF YOUR ADDRESS OR OTHER CONTACT INFORMATION IS PROTECTED BY A COURT ORDER:

1. **INFORM** the Clerk at the filing counter that you have a protected address when you file your papers.
2. Write any protected information on a Sensitive Data Sheet supplied by the Clerk.
3. Write "Protected" in the blanks where the protected information is requested.
4. Do NOT write your address or other protected information on any other form in this packet!

CIVIL COVER SHEET

- **CASE NUMBER:** Leave blank. The case number will be stamped on the papers at the time of filing.
- **ATTORNEY NAME AND BAR NUMBER:** Fill in only if an attorney represents the Petitioner.
- **PLAINTIFF'S NAME:** Write in the name of the person needing the corrected (amended) birth certificate.
- **DEFENDANT'S NAME:** Leave blank. Does not apply.
- *On page 2*, check the box beside "**195(b) Amendment of Birth Certificate**".
- **Rule 26.2 DISCOVERY TIER, EMERGENCY ORDER SOUGHT, and COMMERCIAL COURT.**
Leave blank. Does not apply.

Note that you do not need to make extra copies of this form.

(Next Form)

PETITION FOR ORDER TO AMEND BIRTH CERTIFICATE of a MINOR (a person under 18 years old)

In the top left corner, write in the information requested about **you**, the parent or legal guardian filing the petition on behalf of the minor whose birth record needs correction.

In the Matter of . . . Write in the name of the minor whose birth record needs correction. Leave "**Case Number**" blank. This will be stamped on the papers at time of filing.

1. INFORMATION ABOUT THE PETITIONER: Write in the information requested about **you**, the parent or legal guardian filing the petition on behalf of the minor, including:

- Your full legal name.
- **IF** the address already listed at top-left is not your current or complete address, list it here. Check the box to indicate whether you are the minor's **mother/parent, father/parent, or legal guardian.**
- Your county of residence, date and place of birth ("date and place" not required for guardian).

2. INFORMATION ABOUT THE MINOR WHOSE BIRTH RECORD NEEDS CORRECTION:

Supply all information requested. It is important that this information be absolutely clear and legible (and in BLACK ink).

3. INFORMATION ABOUT THE BIRTH RECORD AND REQUESTS TO THE COURT:

Check the box for "A"	if there is an error in birth certificate information about	<u>the CHILD.</u>
Check the box for "B"		<u>the FATHER/PARENT.</u>
Check the box for "C"		<u>the MOTHER/PARENT.</u>

Then, in the separate (A)(B)(C) sections relating to the child, father/parent, and mother/parent, respectively, write in the **incorrect** information exactly as it appears on the current birth certificate. Below the listing of incorrect information, write in the **correct** information **EXACTLY AS IT SHOULD APPEAR** on the birth record.

IT IS VITALLY IMPORTANT THIS INFORMATION BE ABSOLUTELY CLEAR AND LEGIBLE.

REQUEST TO THE COURT: This asks the Court to Order the Arizona Office of Vital Records to:

1. Remove the information you have indicated is incorrect on the minor's birth record, and
2. Replace the incorrect information with the information you have indicated *is* correct.

SIGN THE PETITION in the presence of a Notary Public or a Deputy Clerk of Superior Court at the filing counter. By signing the Petition, you are stating to the Court that the information you have provided is true and correct under penalty of perjury.

(Next Form)

CONSENT OF (OTHER) PARENT AND WAIVER OF NOTICE:

If a parent ***other than the petitioner*** is living and his or her rights have not been permanently cut off (“severed”) **by court order**, have that parent (or legal guardian):

- Fill out section # 1 with his or her information,
- Read and sign the document in the presence of a Notary or Clerk of the Superior Court if he or she agrees to the requested change to the birth record and waives notice about court hearings regarding this request.

(Next (3) Forms:) **IF** you do not have the other parent’s or guardian’s signed and notarized “Consent and Waiver of Notice”, **WAIT:** the Judicial Officer (Judge or Commissioner) will let you know **if** you have to provide notice of your request to anyone else. **If you are instructed by the Court to provide notice**, read the last document in this packet (“**PROCEDURES**”), to determine whether any of these (3) affidavits are needed:

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL (A)
DECLARATION SUPPORTING PUBLICATION (B)
AFFIDAVIT OF PUBLICATION (C)

- (A) IF you provided notice by certified **mailing** of a copy of the “**Petition to Modify**” and “**Notice of Hearing**”, complete this form (A) to indicate to whom and to where and when you mailed the papers.
- (B) IF you provided notice by running a legal notice advertisement, complete form (B) to inform the court what steps you took before publication to try to locate and provide actual notice to the other party, and attach (C),
- (C) the **Affidavit of Publication** sent to you by the publisher after the ad has run the required number of times.

(Next Form)

ORDER TO AMEND BIRTH CERTIFICATE

- **Write in the case caption** (the name of the person whose birth record is to be corrected and the case number) as they appear on the Petition. Check the box to indicate if the person whose birth record is to be corrected is a MINOR.
- **Under “PRESENT NAME APPEARING ON THE SUBJECT BIRTH CERTIFICATE”:**
 - Write in the name of the person whose birth record is to be corrected **EXACTLY** as it appears on his or her current birth certificate.
 - Write in his or her date of birth.
 - Write in his or her place of birth (including city (or county, if no city), state and nation).

- “The Court finds information indicated below to be incorrect . . . “
 - Check the appropriate box(es) to indicate what and whose information on the birth certificate is INCORRECT.

“THE COURT ORDERS:”

1. Check the appropriate boxes to indicate the information that is to be corrected for:
 - (A) the Petitioner or Minor Child (or protected adult) whose birth certificate is to be corrected,
 - (B) the Father/Parent,
 - (C) the Mother/Parent.
2. If there are errors or omissions *other than* the name, date or place of birth, check the box for “Other” and write in the specific **incorrect** wording that appears on the current birth certificate.

NEXT: Write-in the correct information EXACTLY as it SHOULD appear on the birth certificate.

IT IS VITALLY IMPORTANT THIS INFORMATION BE ABSOLUTELY CLEAR AND LEGIBLE WITH NO CROSS-OUTS, NO WRITE-OVERS, NO ERASURES, NO CORRECTION FLUID (No “White Out”)!

3. Orders the State of Arizona’s **Office of Vital Records** to change the existing birth record. You may obtain a new birth certificate from Vital Records after the corrections are made. (You do not need to write anything here.)
4. **NOTICE:** Changing a person’s name (or other information) on a birth certificate does not affect that person’s legal rights, responsibilities or obligations. (You do not need to write anything here.)
5. **Other Orders.** Leave this section blank for the Court to fill out.

EVERY LETTER ON THIS FORM MUST BE ABSOLUTELY CLEAR AND LEGIBLE!

WHEN YOU HAVE COMPLETED THESE FORMS, GO TO THE “PROCEDURES” PAGE
(the last document in this packet) **AND FOLLOW THE STEPS LISTED.**

In the Superior Court of the State of Arizona
In and For the County of _____

Case Number _____

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney _____

Attorney Bar Number _____

Is Interpreter Needed? Yes No

If yes, what language(s):

Plaintiff's Name(s): (List all) Plaintiff's Address: Phone #: Email Address:

(List additional Plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All)

(List additional Defendants on page two and/or attach a separate sheet)

RULE 26.2 DISCOVERY TIER OR MONETARY RELIEF CLAIMED:

IMPORTANT: Any case category that has an asterisk (*) MUST have a dollar amount claimed or Tier selected. State the monetary amount in controversy or place an "X" next to the discovery tier to which the pleadings allege the case would belong under Rule 26.2.

Amount Claimed \$ _____ Tier 1 Tier 2 Tier 3

NATURE OF ACTION

Place an "X" next to the **one** case category that most accurately describes your primary case. **Any case category that has an asterisk (*) MUST have a dollar amount claimed or Tier selected as indicated above.**

100 TORT MOTOR VEHICLE:

101 Non-Death/Personal Injury* 102 Property Damage*
 103 Wrongful Death*

110 TORT NON-MOTOR VEHICLE:

- 111 Negligence*
- 112 Product Liability – Asbestos*
- 112 Product Liability – Tobacco*
- 112 Product Liability – Toxic/Other*
- 113 Intentional Tort*
- 114 Property Damage*
- 115 Legal Malpractice*
- 115 Malpractice – Other professional*
- 117 Premises Liability*
- 118 Slander/Libel/Defamation*
- 116 Other (Specify) _____*

120 MEDICAL MALPRACTICE:

- 121 Physician M.D.* 123 Hospital*
- 122 Physician D.O.* 124 Other*

130 & 197 CONTRACTS:

- 131 Account (Open or Stated)*
- 132 Promissory Note*
- 133 Foreclosure*
- 138 Buyer-Plaintiff*
- 139 Fraud*
- 134 Other Contract (i.e. Breach of Contract)*
- 135 Excess Proceeds-Sale*
- Construction Defects (Residential/Commercial)*
- 136 Six to Nineteen Structures*
- 137 Twenty or More Structures*
- 197 Credit Card Debt (Maricopa County Only)*

150-199 OTHER CIVIL CASE TYPES:

- 156 Eminent Domain/Condemnation*
- 151 Eviction Actions (Forcible and Special Detainers)*
- 152 Change of Name
- 153 Transcript of Judgment
- 154 Foreign Judgment

- 158 Quiet Title*
- 160 Forfeiture*
- 175 Election Challenge
- 179 NCC-Employer Sanction Action (A.R.S. §23-212)
- 180 Injunction against Workplace Harassment
- 181 Injunction against Harassment
- 182 Civil Penalty
- 186 Water Rights (Not General Stream Adjudication)*
- 187 Real Property *
- Special Action against Lower Courts
(See Lower Court Appeal cover sheet in Maricopa)
- 194 Immigration Enforcement Challenge
(A.R.S. §§1-501, 1-502, 11-1051)

150-199 UNCLASSIFIED CIVIL:

- Administrative Review
(See Lower Court Appeal cover sheet in Maricopa)
- 150 Tax Appeal
(All other tax matters must be filed in the AZ Tax Court)
- 155 Declaratory Judgment
- 157 Habeas Corpus
- 184 Landlord Tenant Dispute – Other*
- 190 Declaration of Factual Innocence (A.R.S. §12-771)
- 191 Declaration of Factual Improper Party Status
- 193 Vulnerable Adult (A.R.S. §46-451)*
- 165 Tribal Judgment
- 167 Structured Settlement (A.R.S. §12-2901)
- 169 Attorney Conservatorships (State Bar)
- 170 Unauthorized Practice of Law (State Bar)
- 171 Out-of-State Deposition for Foreign Jurisdiction
- 172 Secure Attendance of Prisoner
- 173 Assurance of Discontinuance
- 174 In-State Deposition for Foreign Jurisdiction
- 176 Eminent Domain– Light Rail Only*
- 177 Interpleader– Automobile Only*
- 178 Delayed Birth Certificate (A.R.S. §36-333.03)
- 183 Employment Dispute- Discrimination*

185 Employment Dispute-Other*

163 Other*

196 Verified Rule 45.2 Petition

(Specify)

195(a) Amendment of Marriage License

195(b) Amendment of Birth Certificate

EMERGENCY ORDER SOUGHT

Temporary Restraining Order

Provisional Remedy

OSC

Election Challenge

Employer Sanction

Other (Specify) _____

COMMERCIAL COURT (Maricopa County Only)

This case is eligible for the Commercial Court under Rule 8.1, and Plaintiff requests assignment of this case to the Commercial Court. More information on the Commercial Court, including the most recent forms, are available on the Court's website at:

<https://www.superiorcourt.maricopa.gov/commercial-court/>.

Additional Plaintiff(s):

Additional Defendant(s):

For Clerk's Use Only

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of: _____

Case Number: CV _____

PETITION TO AMEND BIRTH CERTIFICATE OF A MINOR (A.R.S. § 36-337)

Name of Minor whose birth record needs correction

UNDER PENALTY OF PERJURY

1. INFORMATION ABOUT THE PETITIONER (the person filing this request):

MY FULL NAME IS:

(First)

(Middle)

(Last)

Address is as listed at top left above, or *if not*, my address is:

I am the Minor's: Mother Father Legal Guardian

County of Residence: _____

Date of Birth*: _____

(Month / Day/ Year)

Place of Birth*: _____

(City or County, State, Nation)

* "Date" and "Place" of birth information not required for legal guardian.

2. INFORMATION ABOUT THE MINOR WHOSE BIRTH RECORD NEEDS CORRECTION:

MINOR'S NAME as it appears on the birth certificate:

(First)	(Middle)	(Last)

**Address is same as Petitioner's, or
 if not, minor's complete address is:**

County of Residence:

Date of Birth:

(Month / Day/ Year)

Place of Birth:

ARIZONA

(City, County)

A CERTIFIED COPY OF THE MINOR'S CURRENT ARIZONA BIRTH CERTIFICATE IS ATTACHED.

3. INFORMATION ABOUT THE BIRTH RECORD:

A. The birth record contains INCORRECT information about *the MINOR CHILD*:

CHILD'S NAME	appears <i>wrongly</i> as	<hr/>
DATE OF BIRTH	appears <i>wrongly</i> as	<hr/>
PLACE OF BIRTH	appears <i>wrongly</i> as	<hr/>
Other Information	appears <i>wrongly</i> as	<hr/> <hr/>
<p>Following is the CORRECT information about the MINOR CHILD. I ask that the birth record be ordered changed as indicated below:</p>		
CHILD'S NAME	should appear as	<hr/>
DATE OF BIRTH	should appear as	<hr/>
PLACE OF BIRTH	should appear as	<hr/>
Other Information	should appear as	<hr/> <hr/>

B. The birth record contains **INCORRECT** information about *the FATHER*:

FATHER'S NAME*	appears <i>wrongly</i> as	_____
DATE OF BIRTH	appears <i>wrongly</i> as	_____
PLACE OF BIRTH	appears <i>wrongly</i> as	_____
RACE	appears <i>wrongly</i> as	_____
Following is the CORRECT information about the FATHER. I ask that the birth records be ordered changed as indicated below:		
FATHER'S NAME*	should appear as	_____
DATE OF BIRTH	should appear as	_____
PLACE OF BIRTH	should appear as	_____
RACE	should appear as	_____

* to correct error in name of the father – not to change identity / paternity.

C. The birth record contains **INCORRECT** information about *the MOTHER*:

MOTHER'S NAME*	appears <i>wrongly</i> as	_____
DATE OF BIRTH	appears <i>wrongly</i> as	_____
PLACE OF BIRTH	appears <i>wrongly</i> as	_____
RACE	appears <i>wrongly</i> as	_____
MARITAL STATUS	appears <i>wrongly</i> as	_____
RESIDENTIAL ADDRESS	appears <i>wrongly</i> as	_____
Following is the CORRECT information about the MOTHER. I ask that the birth records be ordered changed as indicated below:		
MOTHER'S NAME*	should appear as	_____

DATE OF BIRTH	should appear as	_____
PLACE OF BIRTH	should appear as	_____
RACE	should appear as	_____
MARITAL STATUS	should appear as	_____
RESIDENTIAL ADDRESS	should appear as	_____

* to correct error in name of the mother – not to change identity / maternity.

REQUEST TO THE COURT:

I request the Arizona Office of Vital Records be ordered to remove and replace the incorrect information on the subject birth record with the correct information as indicated above.

UNDER OATH OR BY AFFIRMATION

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Date

Signature

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public



Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of:

Case Number: CV _____

CONSENT OF (OTHER) PARENT* TO AMENDMENT OF BIRTH CERTIFICATE OF A MINOR and WAIVER OF NOTICE *or LEGAL GUARDIAN

Minor whose birth certificate needs
correction

UNDER OATH OR BY AFFIRMATION

1. REQUIRED INFORMATION ABOUT THE PARENT* or LEGAL GUARDIAN other than
the one filing the "*Petition to Amend Birth Certificate*" of the minor.

My Full Name is: _____

Address: _____

Telephone: _____ Email: _____

I am the Minor's MOTHER FATHER Legal Guardian.

(Information below for parent only. Not required for legal guardian.)

Date of Birth: _____ Place of Birth: _____
Month / Date / Year City or County, State, Nation

- 2. I have read the Petition to Amend a Birth Certificate for a Minor and consent to the corrections specified in the Petition concerning the minor child named above.
- 3. I waive notice of all further proceedings in this matter.

UNDER PENALTY OF PERJURY

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Date

Signature of **Non-Petitioner** Parent or Guardian

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Mailing Address: _____
City, State, Zip: _____
Day/Evening Phone: _____ / _____
Person Filing is: SELF (No Attorney) OR Attorney
If Attorney, Bar No.: _____ Atty. Phone: _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of: _____
Name of Minor whose birth record needs correction

Case Number: _____

NOTICE OF HEARING REGARDING PETITION for CORRECTION/AMENDMENT of BIRTH CERTIFICATE of A MINOR

READ THIS NOTICE CAREFULLY. An important court proceeding that affects your rights has been scheduled. If you do **not** understand this Notice or the other court papers, contact an attorney for legal advice.

- 1. **NOTICE:** A **Petition to Amend a Birth Certificate** of the Minor named above has been filed with the Court. A hearing has been scheduled where the Court will consider whether to grant or deny the requested change. If you wish to be heard on this issue, you must appear at the hearing at the date and time indicated below.
- 2. **COURT HEARING.** A court hearing has been scheduled to consider the Application as follows:

DATE: _____ **TIME:** _____

BEFORE:

Commissioner _____
125 W. Washington Street
Courtroom _____
Phoenix, AZ 85003

Commissioner _____
18380 North 40th Street
Courtroom _____
Phoenix, AZ 85032

Commissioner _____
14264 W. Tierra Buena Lane
Courtroom _____
Surprise, AZ 85374

Commissioner _____
222 E. Javelina Avenue
Courtroom _____
Mesa, AZ 85210

Commissioner _____
101 W. Jefferson , ___ floor
Courtroom _____
Phoenix, AZ 85003

Commissioner _____
201 W. Jefferson , ___ floor
Courtroom _____
Phoenix, AZ 85032

DATED: _____
(Month/Day/Year)

Petitioner's Signature



Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the matter of:

Case Number: CV _____

AFFIDAVIT OF SERVICE BY CERTIFIED MAIL

Name of Minor whose birth certificate needs correction

1. I am familiar with the facts stated in this Affidavit, and I make this Affidavit to show that I have served copies of the ***"Petition to Amend Birth Certificate for a Minor"*** and the ***"Notice of Hearing Regarding Petition to Amend Birth Certificate for a Minor"*** on the person named below by certified mail/restricted delivery, return receipt requested.

Person served (name of other party): _____

Address where other party was served: _____

Date of receipt by the other party: _____

2. The **Application** and **Notice** listed above were received by the other party as shown by the receipt, the original of which is attached to this Affidavit on a separate piece of paper.

UNDER PENALTY OF PERJURY

The contents of this document are true and correct to the best of my knowledge and belief.

Date

Signature of Sender

Printed Name of Sender

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

(notary seal)

Deputy Clerk or Notary Public

Name of Person Filing Document: _____

Your Address: _____

Your City, State, Zip Code: _____

Your Telephone Number: _____

Attorney Bar Number (if applicable): _____

Representing Self (Without a Lawyer) OR Attorney for _____

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of:

Case Number: CV _____

DECLARATION SUPPORTING PUBLICATION Regarding Amendment of Birth Certificate of a Minor

A Minor

1. I am the Petitioner and I make this Affidavit to show the circumstances why notice by publication was used, and to show how service by publication was done.

2. Notice of this matter was given by publication to:

Name: _____

Last Known Address: _____

Relation to the Minor: _____

3. Service by publication is the best way of providing notice because the person named above is:

Avoiding service of process, so I mailed a copy of the "*Petition to Amend*" and the "*Notice of Hearing*" to the last known mailing address (listed above), or to:

Which is the address of: _____

OR

The other party's residence is unknown and I have not mailed copies of the "*Petition*" and "*Notice*" to any address because: _____.

Case Number: _____

4. I made a diligent search to find out the residence and location of all persons entitled to notice, but the search has failed to reveal any information concerning the residence or location of the person named above. Actions I have taken include:

- Searching the phone book Checking voter registration records
- Searching the Internet Checking jails and the prisons
- Contacting last known employer: _____
- Contacting friends or relatives listed below: (List name and relation to person entitled to notice.)

Name	Relation

5. The other party is not in the military service of the United States.

6. **ABOUT THE PUBLICATION:**

NOTICE OF HEARING was published on the following dates.

A. ___ / ___ / ___, B. ___ / ___ / ___, C. ___ / ___ / ___, D. ___ / ___ / ___.

PROOF OF PUBLICATION is attached. (Attach an **Affidavit of Publication** supplied by the newspaper that published the notice.)

By signing this document, I state to the Court that the information presented is true and correct to the best of my knowledge and belief, under penalty of perjury.

Date Signed

Petitioner's Signature

Attach the original **Affidavit of Publication** supplied to you by the newspaper that published notice after the required number of publications.

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

For Clerk's Use Only

In the Matter of:

Person whose birth certificate is to be corrected
(as listed on the Petition to Amend)

Case Number CV: _____

ORDER AMENDING BIRTH CERTIFICATE OF A MINOR A.R.S. § 36-337

THE COURT FINDS:

1. This case has come before this Court to correct errors or omissions on the birth certificate of the person named above.
2. Pursuant to A.R.S. §36-337, this Court has jurisdiction to order that the birth record be amended.
3. Good cause exists to grant the petition to amend the birth certificate as requested.
4. The name, date and place of birth of the person whose birth record is to be corrected appears on his or her Arizona birth certificate as follows:

THE PRESENT NAME APPEARING ON THE SUBJECT BIRTH CERTIFICATE:

First	Middle	Last

Date of Birth:

Month

Day

Year

Place of Birth:

City

State

Nation

Case No. _____

5. The Court finds information indicated below to be incorrect on the present birth certificate:

PETITIONER / MINOR CHILD'S

MOTHER'S

FATHER'S

NAME

NAME

NAME

DATE of BIRTH

DATE of BIRTH

DATE of BIRTH

PLACE of BIRTH

PLACE of BIRTH

PLACE of BIRTH

OTHER: _____

OTHER: _____

OTHER: _____

THE COURT ORDERS:

1. THE INFORMATION ON THE SUBJECT BIRTH CERTIFICATE SHALL BE CHANGED REGARDING:

A. Petitioner or Minor Child's (or protected or incapacitated adult's)

NAME, which shall be corrected to read EXACTLY as written below:

--	--	--

DATE of BIRTH shall be corrected to: _____

PLACE of BIRTH shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

B. FATHER'S: NAME, which shall be corrected to read EXACTLY as written below:

--	--	--

DATE of BIRTH shall be corrected to: _____

PLACE of BIRTH shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

Case No. _____

C. MOTHER'S: NAME, which shall be corrected to read EXACTLY as written below:

--	--	--

DATE of BIRTH shall be corrected to: _____

PLACE of BIRTH shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

OTHER: _____ shall be corrected to: _____

2. THAT THE SUBJECT BIRTH RECORDS BE CHANGED TO CORRECT THE FOLLOWING ERRORS OR OMISSIONS:

3. For a person born in the State of Arizona, the Office of Vital Records is ordered to amend the birth record to reflect the corrected information as ordered above.

4. This Order does not release the Petitioner or protected or incapacitated person or minor child on whose behalf the underlying petition was filed from any obligations incurred or harm any rights of property or action in any previous name.

5. Other orders: _____

DONE IN OPEN COURT: _____
Date

Judicial Officer

LAW LIBRARY RESOURCE CENTER

PROCEDURES: HOW TO FILE TO CORRECT/AMEND A BIRTH CERTIFICATE OF A MINOR

STEP 1: Fill out the *“Petition to Amend/Correct Birth Certificate”* and make 2 copies.

STEP 2: Fill out the top portion of page 1 of the *“Civil Cover Sheet”*. Write in **your** name as “Plaintiff”.
On page 2, check box **195(b)** for **“Amendment of Birth Certificate.”**

STEP 3: FILE THE PAPERS AT THE COURT:

WHO: Who may file the Petition to Amend a Birth Certificate of a Minor?

A parent or legal guardian of the minor or an attorney for a parent or legal guardian of the minor, **or** an emancipated minor or an attorney for an emancipated minor. An emancipated minor is a person under the age of 18 who has been declared legally “an adult” by court order or according to law.

GO TO: THE CLERK OF COURT TO FILE YOUR PAPERS: The Court is open from 8:00 a.m.-5:00 p.m., Monday-Friday. **You should go to the Court at least two hours before it closes.** You may file your court papers at the following Superior Court locations:

Central Court Building
201 West Jefferson, 1st floor
Phoenix, Arizona 85003

Southeast Court Facility
222 East Javelina Avenue, 1st floor
Mesa, Arizona 85210

Northwest Court Facility*
14264 West Tierra Buena Lane
Surprise, Arizona 85374

Northeast Regional Court Center
18380 North 40th Street
Phoenix, AZ 85032

* You may file here but your hearing will be set at a different location.

FEES: A list of current fees is available from the Law Library Resource Center and from the Clerk of Court’s website.

If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Law Library Resource Center.

PAPERS: Hand all three (3) sets of your court papers to the Clerk along with the filing fee.

STEP 4: SCHEDULE A JUDICIAL REVIEW OF YOUR REQUEST:

At least **four** business days after you filed your *Petition*, contact Civil Court Administration to obtain the Commissioner’s Name and the date, time and place of your appointment for judicial review by calling the telephone number listed below *between the hours of:*

9:00 a.m. - 12:00 noon or 1:00 – 4:00 p.m., Monday through Friday.

If you filed the Petition in: **Mesa** at 222 E Javelina Avenue, call: **602-506-2023**
Surprise at 14264 W Tierra Buena Lane, call **602-506-3397***
Phoenix at 18380 N 40th Street (40th St. & Union Hills) **602-506-3397**
or **Phoenix** at 201 W Jefferson, call:

*Applications may be filed at Northwest Court Facility, but the hearings will be held at one of the other locations.

STEP 5: CONSENT OR NOTICE:

A. IF THE OTHER PARENT AGREES WITH THE CHANGE: GET A SIGNED CONSENT

1. Give him/her a court-stamped copy of the *Petition* and a **“Consent of (other) Parent to Amendment of Birth Certificate of a Minor and Waiver of Notice”**.
2. Have the parent complete the **“Consent of (other) Parent to Amendment of Birth Certificate of a Minor and Waiver of Notice”** form and
3. Have it notarized.
4. Bring the signed and notarized **“Consent of (other) Parent to Amendment of Birth Certificate of a Minor and Waiver of Notice”** to the review (and to any hearing that might be scheduled later).

IF THE OTHER PARENT WILL NOT (or is not available to) SIGN A CONSENT, go to your appointment for review and wait for instruction from the Court. IF the court decides the other parent (or legal guardian) must be notified before the Court makes a decision, a hearing will be scheduled, and you will need to:

1. Contact Civil Court Administration to obtain the Commissioner's Name and the date, time and place of your hearing by calling the appropriate telephone number listed in Step 4 above to ask to schedule a hearing.
2. Complete the **“Notice of Hearing”** form included in this packet with the information received from Court Administration. The completed **“Notice of Hearing”** form *must then be filed* with the Clerk of the Court at one of the locations listed above.

A Note about Response Times

If you serve an interested party notice by personal service or they agree to signing and notarizing an “Acceptance of Service,” the party will have twenty (20) days after service to file a response. However, if you ask a party to sign and notarize a “Waiver of Notice” and they agree, the party is allowed more time to respond. The party has sixty (60) days to respond after the request for waiver was sent, or ninety (90) days after it was sent outside the United States. A.R.C.P. (12)(a)(1)(A). The “Affidavit of Service,” “Acceptance of Service” or “Waiver of Notice” must be signed and filed with the court as proof.

B. GIVE NOTICE TO THE OTHER PARENT (or Guardian) (IF required by the Court):

1. Provide him or her a stamped copy of the *Petition* and the completed **“Notice of Hearing”**.
2. **Have the parent sign an “Acceptance of Service” in front of a notary public or a Clerk of the Superior Court.** Signing the “Acceptance” does not indicate agreement—it only serves as proof of receipt of notice.

3. **Bring the signed and notarized “Acceptance of Service” to the hearing;**

OR

1. Send by Certified Mail, return-receipt requested - with restricted delivery, a clerk-stamped copy of the **Petition** and the completed **“Notice of Hearing”**, **to the other parent**.
2. Delivery should be restricted so that only the person entitled to receive notice is allowed to sign the receipt.
3. This must be done at least **30** days before the hearing.
4. Bring the return receipt card and a completed **“Affidavit of Service by Certified Mail” to the hearing**.

C. IF YOU CANNOT DELIVER NOTICE: GIVE NOTICE BY PUBLICATION

- May be used only if you do not have a current address for the other party, and the court is satisfied that you have taken *every reasonable step* to find the other party and have the court papers delivered to them directly, but have been unable to do so.
- Requires you to pay the cost of publishing unless you may apply and qualify for a *deferral or waiver* (to pay later or not pay at all) *and* publish in the paper that has contracted with the court to handle fee-deferred matters.
- Can be expensive and may delay your court case.
- Should be your “last resort.”

IF LAST KNOWN ADDRESS IN MARICOPA COUNTY OR IN U.S. OTHER THAN ARIZONA:

A Notice of Hearing (a legal notice classified advertisement) that shows the date, time, and place of your hearing must be published in a newspaper of general circulation in Maricopa County at least once a week for four (4) consecutive weeks before the hearing.

IF LAST KNOWN ADDRESS IN ARIZONA COUNTY OTHER THAN MARICOPA COUNTY: A

Notice of Hearing (a legal notice classified advertisement) that shows the date, time, and place of your hearing must be published in a newspaper of general circulation in Maricopa County and in the Arizona county of last known address at least once a week for four (4) consecutive weeks before the hearing.

AFTER publication has been completed, you must:

1. Obtain and file an **“Affidavit of Publication”** from the newspaper indicating publication was completed.
2. File a **“DECLARATION SUPPORTING PUBLICATION”** explaining in detail exactly what efforts you made to locate and give actual notice **before** resorting to publication.
3. Bring the **“DECLARATION SUPPORTING PUBLICATION”** with you to the hearing.

STEP 6: ATTEND THE HEARING. Who should attend?

- **The petitioner.** The adult requesting to amend the birth certificate for the minor child **MUST** be present at the hearing.
- **If** the minor whose birth certificate is to be corrected is **14 or over**, he or she **MAY** attend the court hearing, but does **not** have to attend unless required by the Judge.

BRING THESE DOCUMENTS TO THE HEARING:

- **2** copies of **“Order Amending Birth Certificate”** for the Judge to sign. One copy will go in the Court file and the other will be prepared for certification and returned to you.
- Photo identification for the person who filed the *Petition to Amend*.
- A Clerk-stamped copy of all filed documents
- Proof of Notice as described above in Step 5.
- Notarized consent from the *other* parent or proof that the other parent was served with notice of the Petition and the Hearing, **OR** a copy of a Court Order terminating parental rights of the other parent (If applicable).
- Any previous Name Change orders (if applicable)
- A (preferably “certified”) copy of the child’s official, government-issued birth certificate. A HOSPITAL BIRTH CERTIFICATE IS **NOT** SUFFICIENT.
- Adoption decree (If applicable)
- Proof of Guardianship (If applicable)

- ◆ **You MUST bring a copy of the child’s GOVERNMENT-ISSUED birth certificate.**
- ◆ **The Court will not change a birth certificate without first seeing a copy.**
- ◆ **Hospital-issued birth certificates generally will not satisfy Court requirements.**
- ◆ **The Court requires GOVERNMENT-ISSUED birth certificates.**

Always make a copy of any document you submit to the Court and keep a copy for your records.

If you want a new, corrected birth certificate, you may purchase one for a fee after you present a CERTIFIED COPY* of the Court Order to either:

1. The State of Arizona's Office of Vital Records, or
2. The Maricopa County Office of Vital Registration (only for children born 1997 or later).

TO GET A CERTIFIED COPY OF YOUR COURT ORDER:

- You will need to present your Judge-signed copy to the Filing Counter within 48 hours along with the "certification fee".
- If you need additional copies after that time, you will need to go to the Court's Customer Service Center at 601 W. Jackson Street in Phoenix.
- A list of current fees is available from the Law Library Resource Center and from the Clerk of Court's website.

The State Vital Records Office at 1818 W. Adams, Phoenix, AZ. 85007, is only available for mail-in service. Vital Records general telephone number is 602-364-1300. Please call for another walk-in location. A fee is required for a change to any birth certificate.

The Maricopa County Office of Vital Registration is located at 3221 N. 16th Street, 1st Floor, Phoenix, AZ 85016 for birth certificate corrections/amendments *for birth years from 1997 to the present*. Hours of operation are 8:00 A.M. to 4:30 P.M., Monday through Friday. **Free parking and the main entrance are located at the rear of building. You may also telephone Maricopa County Vital Registration at **602-506-6805**.**

Exhibit 3

 ARIZONA DEPARTMENT OF HEALTH SERVICES	LEVEL	SECTION	NUMBER	DATE
		Birth Registry	003	
SUBJECT: Court Orders and Subpoenas				

SUPERSESSON:	This policy supersedes the policy dated 8-29-19.
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PURPOSE

To provide guidance on how to review and process court orders and subpoenas.

AUTHORITY

Arizona Revised Statute (A.R.S.)
 §§8-102; 12-282(D),14-8101; 25-812(B); 36-301(7); 36-334; §36-336; 36-337(A)(4), (B)(1)

Arizona Administrative Code (A.A.C.)
 R9-19-102; R9-19-208; R9-19-211

APPLICABILITY

This policy applies to employees of the Bureau of Vital Records (BVR) and County Vital Records.

DEFINITIONS

Amend - to make a change, other than a correction, to a registered certificate by adding, deleting or substituting information on that certificate.

Court Order – a written decision issued by: a) The superior court, an appellate court or the Supreme Court or an equivalent court in this state or another state; b) A commissioner or judicial hearing officer of the superior court; c) A judge of a tribal court in this state.

Note: Please fax non-Arizona tribal court orders to the BVR Registry team for review and further direction.

Custody - legal authority to act on behalf of a child.

Evidentiary document – written information used to prove the fact for which it is presented.

Legally Presumed Father – an individual presumed to be the father of a child pursuant to ARS §25-814.

Name - a designation that identifies a person, including a first name, middle name, last name or suffix.

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Paternity – the legal act of establishment of fatherhood.

Seal – to bar from access.

Subpoena - is a formal request for the production of documents, or the formal request to appear in court or other legal proceeding such as a deposition. It is a command, issued under the power of a court, tribunal or, sometimes, a government agency that essentially requires you to *act*, such as providing documents and/or testimony that may help support the facts that are at issue in a pending case. The term "subpoena" literally means "under penalty". A person or entity that receives a subpoena but does not comply with its terms may be subject to civil or criminal penalties, such as fines, jail time, or both.

Vital Record - means a registered birth certificate or a registered death certificate.

Waiver of Paternity – a document used to acknowledge the legally presumed father is not the biological father of a child.

DIVISION PRIMARY POSITION OF RESPONSIBILITY

Bureau Chief, Assistant State Registrar, Bureau of Vital Records

POLICY

A court order used as an evidentiary document must be an original certified copy (raised seal or ink stamp) or an electronically certified copy (as per A.R.S. §12-282(D)). A copy of the order shall be retained by the Bureau of Vital Records (BVR) or County Vital Records and be placed in a sealed record. The copy must be marked “original seen” and initialed and dated. Court ordered paternities mailed directly from the court to the BVR or County Vital Records are exempt from the certification requirement.

County Vital Records offices are not authorized to amend birth records due to an adoption, or process corrections or amendments to delayed birth, foreign born birth records, in-state birth records registered prior to 1997 or amend a registrant’s year of birth.

All surrogacy orders must be submitted to the BVR for review.

All subpoenas must be forwarded to the BVR for review and response. Subpoenas must be an original certified copy (raised seal or ink stamp).

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Court orders containing alterations may be verified with the court that issued the court order. Verbal affirmation is acceptable. Documentation concerning the date, name of court personnel and verbal affirmation of information shall be captured in the applicable area of the birth or death record (e.g. if completing a modification, add documentation to the modification comments, etc.). Documentation (hard copy) may be printed and attached to the copy of the birth or death record (copy prior to the amendment) and evidentiary documents.

Court orders may be accepted with or without staples as long as all pages of the court order are provided and, if applicable, the aforementioned verification instructions are followed.

PROCEDURE

A. Reviewing Court Orders

- 1) The following are some reasons why a court order may not be accepted:
 - a) Registrant's information cannot be found in the electronic registry system (no match).
 - b) Court order is illegible.
 - c) Name on order is not the same name that appears on the vital record.
 - d) Alterations made to the court order have not been initialed by the judge or a letter from the court has not been attached to verify the alterations were made by the judge, commissioner or clerk of the court.
 - e) Court order states to amend the registrant's birth year to a later year than originally recorded on the birth record. *Note: Customers requesting to change the birth year on a birth record must submit their request to the BVR. The BVR shall review the registration/file date on the birth record and search the registry for any siblings related to the registrant.*

- 2) A court order shall not be rejected if:
 - a) The registrant's date of birth or date of death is not listed or if listed, *the date is incorrect. The court order can be processed as long as the following procedures are followed:

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- i. The Affidavit to Correct is submitted and provides the applicable date (date of birth or death).
- ii. An additional evidentiary document is provided listing the date (e.g., minute entry or the petition from the court that issued the court order).
- iii. If applicable, the date is provided on the written request (e.g. birth/death application submitted with the court order).
- iv. Use additional search methods in the electronic registry system to locate the record containing the date.

Consult with your immediate supervisor or manager if unclear whether or not a court order can be accepted.

**Incorrect date – The supervisor or manager may request a revised court order that contains the correct date.*

B. Types of Court Orders

1) **Guardianship Orders** – There are two types of guardianship orders:

- a) Temporary – The court may grant a temporary guardianship order. The following is required before the order can be accepted to support a request to register, correct, amend or issue a vital record.
 - i. The guardian’s name
 - ii. Registrant’s name
 - iii. The timeframe in which the individual has guardianship of the registrant listed in the order. (e.g., the request to change a birth record is submitted on May 24, 2018, and the guardianship order states the timeframe of guardianship as January 1, 2018 to June 30, 2018).
- b) Permanent - The court may grant a permanent guardianship indefinitely. The following shall be listed in the court order before it can be accepted to support a request to register, correct, amend or issue a vital record.

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- i. The guardian's name
- ii. The registrant's name
- iii. The order must state that permanent guardianship is granted.

Note: If the guardianship order has a review hearing date and that date has passed, asked for the updated guardianship order or documentation of the results of the hearing.

2) Court Ordered Name Change (Registrant)

Court Ordered Name Changes should contain the specific information in the registrant's registered birth record to be amended (e.g. information to be added or deleted) such as the following:

- a) Registrant's name that is currently listed on the birth or death record*
- b) Registrant's new name to be listed on the birth record or death record
- c) Registrant's date of birth**

**The supervisor or manager shall use discretion and may provide approval to accept a court order that at minimum provides the registrant's first and last name listed on the birth record.*

***Note: If not listed in the court order and a match can be made with the information provided on the Affidavit to Correct or written request (application), the order can be processed. Also a court order may be accepted if the checkbox that orders the Vital Records to make the change is not checked.*

3) Court Ordered Name Change (Parent)

A parent's name change on the registrant's (child's) birth record should contain the specific information in the individual's registered birth record to be amended (e.g. information to be added or deleted) such as the following:

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- a) Parent's name that is currently listed on the birth record
- b) Parent's new name to be listed on the registrant's birth record
- c) Parent's date of birth*
- d) If a parent is requesting to change their name on the registrant's vital record and the name is completely different (first, middle, last name prior to first marriage) from the name listed on the registrant's record, please consult with a supervisor or the BVR.

**Note: If not listed in the court order and a match can be made with the information provided on the Affidavit to Correct or written request (application), the order can be processed. Also a court order may be accepted if the checkbox that orders the Vital Records to make the change is not checked.*

4) Federal District Court Ordered Name Change

The court order contains:

- a) The current name (note: Usually this is a parent of a registrant)
- b) Mailing address
- c) Country of citizenship or nationality
- d) Date of birth
- e) Alien registration number
- f) New name
- g) Signature of petitioner and date signed
- h) Certification of name change to include the date the order was finalized, clerk and deputy clerk's name.

The Federal District Court issues court orders that grant a legal name change of an individual who was born in a foreign country after the individual has been naturalized/granted citizenship. This order is acceptable to use to amend the name of a

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parent. The Certificate of Naturalization may be submitted with the order but not required.

5) Administrative Order or Court Order Establishing Paternity

An administrative order or court order may be submitted to add a father’s name to a birth record. The order shall be certified by the issuing entity. The following information may be submitted as part of the administrative order or court order establishing paternity or in a Department-provided format:

- a) Registrant’s name currently listed on the record;
- b) Registrant’s date of birth;
- c) Registrant’s mother’s name prior to first marriage;
- d) If known, the:
 - i. Registrant’s sex;
 - ii. The state file number;
 - iii. Town or city of the registrant’s birth;
 - iv. County of the individual’s birth;
 - v. Hospital where the registrant was born, if applicable;
 - vi. Name of the registrant’s father; and
 - vii. Dates of birth of the individual’s parents; and
- e) The specific information in the registrant’s birth record to be amended (added or deleted);
- f) The name and mailing address of the person requesting the amendment; and
- g) The following information about the father to be added to the registrant’s birth record:
 - i. Name;

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- ii. Date of birth;
- iii. State, territory or foreign country where the father was born; and
- iv. If the person requesting the amendment is not the issuing entity (e.g., court):
 1. Social Security Number;
 2. Race;
 3. Hispanic Origin; and
 4. Highest degree of education completed by the father at the time of the registrant's birth.

Note: If person requesting the amendment is not the issuing entity (court), a completed, notarized Affidavit to Correct or Amend a Birth Certificate form may be accepted to collect the additional information required to amend the birth record.

If a court order of paternity is received and does not acknowledge that the mother was married at the time of birth/conception, add the father listed in the court order to the birth record regardless if her husband is listed on the birth record or not.

The order also does not need to order Vital Records to remove the existing father. If another man is listed on the birth record as the father based on an Acknowledgment of Paternity (AOP) and a court order is submitted to Vital Records naming another man as the father, remove the father added by AOP and the AOP date, and add the father listed in the court order. Please reference the "How to Process Court Order of Paternity Amendments in Electronic Birth Registry System (EBRS)" instruction guide located on the Support Link in EBRS.

6) Certificate of Adoption

All certificate of adoptions are processed by the BVR.

The BVR has two types of certificate of adoption forms: 1) Juvenile and 2) Adult. These forms are located on the Arizona Department of Health Services Vital Records Manual website at <https://azdhs.gov/vital-records/manuals/index.php#forms>.

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Please reference A.A.C. R9-19-208(M) and (N) for requirements that must be submitted to request an amendment to a birth record after an adoption is finalized. Adoptive parents of the opposite sex may be listed as the adoptive parents or parents of the same sex may be listed as the adoptive parents.

Pursuant A.R.S. §8-102, only a child (birth to less than 18 years of age), or foreign-born person who is twenty-one years (21) of age or less and is not an illegal alien and who is present within this state at the time the petition for adoption is filed may be adopted.

Adult adoptions are covered under A.R.S. §14-8101. The statute states an adult who is at least 18 years of age and not more than 21 years of age, who consents to the adoption may be adopted. There is also reference to an exception to the age limit under certain circumstance specified in the statute. Note: The BVR's legal counsel's interpretation of the exception in A.R.S. §14- 8101 states the age limit requirement is trumped by the familial relationship if the adult person being adopted is a stepchild, niece, nephew, cousin or grandchild of the adopting person. Also a foster parent may adopt an adult who was placed in the foster parent's care when the adult was a juvenile if the foster parent has maintained a continuous familial relationship with that person for five or more years.

- a) The Certificate of Adoption is an adoption order used by the State of Arizona to record the final outcome of an adoption proceeding in a Superior Court.
 - i. This form may be used by the Superior Court to record domestic or foreign adoptions.
 - ii. Review the order to determine if all fields have been completed and the applicable statutes have been followed.
 - iii. An insufficient letter may be sent to the adoptive parents if determined the Certificate of Adoption contains incorrect, inconsistent or critical information is not listed on the form.

Note: Courts in Arizona are required to send all adoption orders to the Bureau of Vital Records by the tenth day of the month for adoptions finalized in the preceding month.

- b) Adoption Decree

All adoption decrees are processed by the BVR.

The adoption decree may be used to amend a birth record.

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- i. The Adoption Worksheet must be submitted with the adoption decree to collect the adoptive parent's information not contained in the decree, such as their date of birth, place of birth, address and other requirements according to A.A.C. R9-19-208(M).
 - ii. The same applies to adoption decrees finalized in other states for individuals born in Arizona.
- c) Report of Adoption
- All Report of Adoptions are processed by the BVR.***
- Each state has a form approved by the state's registrar which is used to record adoptions. The Report of Adoption is used as a court order to record the adoption. This order is accepted by Arizona to amend birth records.
- d) Pursuant to A.R.S 36-337.D and A.A.C. R9-19-208(M)(2)(f) through (3), the state registrar shall retain the information on a person's registered birth certificate after the adoption is finalized if the following is submitted:
- i. A written request to retain the information signed by the adoptive parent or a court order containing a request to retain the information on the registered birth certificate.
 - ii. A written statement agreeing to retain the mother's name on the person's registered birth certificate, signed by the mother, or if the mother is deceased, a certified copy of a registered death certificate for the mother.
 - iii. If there is a father's name stated on the registered birth certificate, a written statement agreeing to retain the father's name on the person's registered birth certificate, signed by the father, or if the father is deceased, a certified copy of a registered death certificate for the father.

Note: The original birth facts such as the birth city, county and the date of birth must remain on the amended birth record. The exact location of the birth such as the hospital name may be omitted from the amended birth record as long as the request is made in the court order.

7) Divorce Decree/Order of Dissolution of Marriage

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The divorce decree or dissolution of marriage court order may be used to establish paternity if stated in the court order or may be used to waive paternity of the legally presumed father. If the mother was married and the order states the registrant was not a product of the marriage or other appropriate waiver language, the order may be used to remove the legally presumed father from the birth record. Scenarios may vary, please consult with your supervisor. If further assistance is required, contact the BVR.

8) Custody Order

Custody orders may be submitted to support an individual's request to establish a founding registration. Most cases involve children that are in the custody of the Arizona Department of Child Safety.

- a) This order must list registrant's name
- b) Date of birth
- c) The name of the custodial agency

Note: The most current version of the custody order shall be presented.

9) Maternity/Surrogacy Orders

Pursuant to Arizona Revised Statute 36-334, the name of the woman who gave birth to the child on the birth record as the child's mother unless otherwise provided by law or court order.

A court order involving surrogacy shall:

- a) State the surrogate parent(s) name(s) and shall order the entity responsible for registering the birth (hospital, midwife) to enter the surrogate parents' information on the birth record.
- b) List the name of the child, if known
- c) List the birth mother's name
- d) Be finalized prior to the birth of the child in order for the surrogate parents to be listed on the birth record at the time the child is born.
- e) Be certified by the court issuing the court order.

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- f) A copy of the order must be submitted to the BVR for review and approval prior to registration of the birth record when applicable.

Note: There are various scenarios regarding surrogacy. Please consult the BVR concerning other scenarios.

10) Termination of Parental Rights/Severance Orders

An order that terminates parental rights can be used to remove the parent from a birth record if the order states the Bureau of Vital Records shall remove the father/mother from the birth record.

11) Subpoenas

- a) *Subpoena duces tecum*, requires the receiving entity to produce documents, materials, or other tangible evidence (e.g. birth or death certificates, etc.).
- b) *Subpoena ad testificandum*, requires the receiving entity to testify before a court, or other legal authority.
- c) If possible, do not accept service of a subpoena and direct all subpoenas pertaining to vital records to the BVR for review and response. The subpoenas shall be submitted to the BVR Operations Office Chief.
- d) If a County Vital Records Office accepts the subpoena from the process server, a copy of the subpoena shall be e-mailed or faxed to the BVR Operations Office Chief immediately upon receipt and the original shall be forwarded by mail. *All subpoenas addressed to the County Vital Records Office or the Bureau of Vital Records regarding vital records must be forwarded to the BVR for review and response.*

Approved:	Date:
<hr/> Krystal Colburn, Bureau Chief, Assistant State Registrar	<hr/>

Exhibit 4

From: [Toni Miller](#) on behalf of [Toni Miller <toni.miller@azdhs.gov>](#)
To: [Luana Pallanes](#)
Cc: [Robin Rodriguez](#); [Richard McKenney](#); [Marcellina Lopez](#); [Julia Mora](#); [Bianca Soto](#); [John Jimenez](#); [Holly Baker](#)
Bcc: [krystal.colburn@azdhs.gov](#)
Subject: Response to Court Order Policy Questions
Date: Wednesday, September 5, 2018 3:30:04 PM

Hi Luana,

Thank you for the opportunity to respond to your inquiries. The purpose of this e-mail is to follow up on our discussion by phone today and capture the responses provided in writing.

1. Page 3, 1c-Reviewing Court Orders. Question: What if the CO reads change **from** Nancy Wright **to** Nancy Jo Smith but in EBRS, the record reads Nancy Jo Wright. Can we make the change? At one point we were told if the name listed “**from**” does not need to be exact but if name listed “**to**” we need to change it according to what it reads exactly. Does this apply still?

BVR Response: This requires use of critical thinking skills here. As long as the first and last name match, the date of birth match and if there is other information provided in the court order, affidavit, etc. that match the birth record then the order can be used to amend the birth record. The birth record should be amended as directed in the court order.

2. Page 10, 7-just to be clear, if it states on a divorce decree that the husband is the father and in EBRS his name is not listed, we can add his name on the birth certificate? Affidavit to Correct plus a certified divorce decree.

BVR Response: Yes.

3. Page 11, 10 Termination of Parental Rights-does it have to say exactly “states BVR shall remove the father/mother from the birth record” or can it also read “terminate parental rights and remove father/mother from the birth record”?

BVR Response: Yes, either is acceptable.

4. Should you add Court Order Sex change on this list to refer to BVR? Most orders that we see are changing the name and the sex, do we refer is scenario to BVR?

*BVR Response: No, the sex changes would not be added to the court order policy. A court order is not required to amend the sex of the registrant according Arizona Administrative Code R9-19-208(O). **Yes, changes to the registrant’s gender involving a sex change operation or change in chromosomal count should be referred to the Bureau of Vital Records until further notice.***

Note: If there was a data entry error involving the registrant’s gender, a correction letter from the hospital along with the worksheet or medical record from the hospital (if applicable) can be used to correct the gender. If the hospital record cannot be obtained or it was not a hospital birth, the affidavit along with a letter from their family physician (on the

physician's letterhead) stating the person was born a male/female is acceptable to amend the gender in this case. If you have any questions regarding these scenarios, please contact the BVR Registry team.

Please let me know if I can assist your further.

Have a great afternoon!

--

Toni Miller

Policy Manager & Community Partner Liaison

Arizona Department of Health Services

Bureau of Vital Records

1818 W. Adams, Phoenix, Arizona 85007

Phone: 602-364-1737

e-mail: Toni.Miller@azdhs.gov

Health and Wellness for all Arizonans

Exhibit 5



Mail Drop 530M
PO Box 2100
Phoenix AZ 85001

POLICY
3.1.1

CUSTOMER RECORDS

Summary of Changes

Section Q was amended to reflect that an amended Arizona birth certificate may be accepted to change the gender on a record in addition to a signed statement from a licensed physician.

Purpose

To provide information regarding the Customer Database and to establish guidelines for Customer Record requirements.

Policy

A. The Customer Database stores information for all customers conducting business with the Division. Each customer is assigned a customer record. Since the Division does business with different types of customers, the Division utilizes the following types of customer records:

- Dealer
- Estate
- Government
- Individual
- Lienholder
- Organization
- Transporter
- Trust

B. Customer Records are required in order to:

1. Issue a:

- a. License (driver license, commercial driver license, identification license, and/or instruction permit)
- b. Arizona Certificate of Title (title) and/or Registration

2. Record:

- a. A Customer Characteristic
- b. A citation or warrant
- c. A fee paid
- d. A withdrawal action
- e. An activity alert
- f. An out-of-state vision screening and/or road test results

CUSTOMER RECORDS

Page 2 of 6

C. The Customer Record must contain, at a minimum, the following information:

1. Customer Number, may be a combination of alpha and/or numeric characters.
2. Full legal name.
3. Residence address (includes city, state, zip code, county and country).
4. Mailing address, when applicable (includes city, state, zip code, county and country).
5. Gender.
6. Date of birth (DOB).
7. Any information required for the specific customer record type, see Sections H through Y.

D. The Customer Number may be:

1. A system-generated number
2. A Federal Employer Identification Number (FEIN or EIN)
3. A Social Security Number (SSN)
 - While the Division no longer allows the assignment of an SSN as the customer number, the SSN may display as the customer number on records created prior to October 1, 2000.

E. The Customer Record is divided into segments, each of which contains specific information relating to that particular customer. The Division utilizes the following customer record segments:

- DM0 - Customer Record (basic information, name, customer number, address, physical description, etc.)
 - Status codes displaying on the DM0 segment are used to indicate a specific status, action, or fee due, see the Motor Vehicle Division (MVD) Chart:
Driver License Status Code Definitions
- DM01 - Previous License
- DM02 - Conviction (citations)
- DM03 - Comment
- DM05 - Driver Improvement
- DM06 - Traffic Survival School
- DM07 - Financial Responsibility Suspension
- DM08 - Financial Responsibility Proof SR22
- DM09 - Mail Address (address history, both residence and mailing)
- DM10 - Suspension (traffic complaints)
- DM11 - Additional Permits/License (instruction permit and identification license, current and previously issued)
- DM12 - Accidents on File (commercial driver license accident history, out-of-state, only)
- DM13 - Aliases (AKA)
- DM14 - NRV FTA/FTC/FTP Reporting (reports from another state for failures to appear, comply, or pay)
- DM15 - Dishonored Check (nonsufficient funds (NSF))

CUSTOMER RECORDS

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- DM16 - Business Relationship
- DM17 - Policy Holder
- DM18 - Credential (ADOT/MVD employee)
- DM20 - Customer Fees (fees collected)
- DM24 - Customer Characteristics
- DM25 - Out-of-State Withdrawal (limited access)
- DM26 - Medical Review Information (commercial driver, limited access)
- DM27 - Medical Review Requirements (limited access)
- DM29 - ATP Drivers License Training Completion

F. In general, with the exception of a customer who is applying for a first-time Arizona license, Arizona Certificate of Title, and/or Registration, a customer record should already exist on the customer database.

Note: To avoid the creation of inconsistent or duplicate customer records and to prevent unnecessary delay in the delivery of services, the Customer Service Representative (CSR) must first perform a proper search (for an existing customer record) before creating a new customer record.

G. When multiple records exist on the system, the CSR shall determine which record is valid. The valid customer record shall be used to complete the customer's transaction.

Note: When multiple records exist for the same person, the CSR shall complete a Combined Records Request, form #96-0130. The Combined Records Request form and screen prints of the multiple records are forwarded to the Records Unit. The Records Unit agent will conduct the necessary research and, if there are enough matching criteria to ensure that the records belong to the same individual, the Records Unit agent will combine all related records into one record.

Motor Vehicle Division
Records Unit, Mail Drop 533M
PO Box 2100
Phoenix, AZ 85001

Exception: Authorized Third Party Providers must forward the documentation to the Third Party Management Support Unit (TPMSU), who will then forward the documentation to the Records Unit.

Dealer Customer Record

H. A Dealer Customer Record is assigned to a licensed auto recycler, broker, distributor, motor vehicle dealer, manufacturer, and/or title service company. The Dealer Customer Record reflects the dealer's license number.

I. A Dealer Customer Record is created and/or updated by Dealer Licensing Unit personnel only. The CSR may query the Dealer Customer Record to determine whether the dealer was currently licensed at the time of the sale and the types of vehicles the dealer is licensed to sell.

CUSTOMER RECORDS

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- J. The Dealer License Number must be recorded in the Dealer License Number area on the title. Valid Arizona Dealer License Numbers begin with an "L" and cannot be used as a customer number to record a lien or vehicle ownership.

Estate, Organization and Trust Customer Records

- K. An Estate, Organization, and Trust Customer Record are assigned to any estate, organization or trust applying for a title and/or registration on behalf of the estate, organization or trust.
- L. At the estate, organization or trust's option, the Customer Number may be the estate, organization or trust's FEIN or a unique system-generated number.

Government Customer Record

- M. A Government Customer Record is assigned to any of the following (when a title and/or registration is requested):

1. A city, town, county, state, or federal agency.
2. A political subdivision of this state.
3. A tribal agency.
4. An ambulance, fire fighting or rescue services provider.
 - A privately owned ambulance company is not considered to be a government vehicle
5. Certain nonprofit organizations.

- N. A Government Customer Record is created and/or updated by MVD Electronic Lien and Title (ELT) Help Desk personnel only. The Government Customer Record has a unique system-generated number. In most cases, a Government Customer Record should already exist on the customer database. When the CSR is unable to locate a Government Customer Record, the CSR shall contact the MVD ELT Help Desk at (602) 712-5080, who will determine whether a record already exists or a new record should be created. Authorized Third Party Providers will need to contact TPMSU via email at TPMSU@azdot.gov for assistance with a Government Customer Record.

Individual Customer Record

- O. An Individual Customer Record is assigned to a person. The Individual Customer Record will include the following information:
1. Customer number
 2. Full legal name
 3. Residence address
 4. Mailing address, when applicable
 5. Physical description (includes gender, weight, height, eye and hair color)
 6. DOB (01011901 is used when the DOB is unknown and the CSR is creating a title and registration customer record)

CUSTOMER RECORDS

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- P. When the Individual Customer Record is created specifically for the purpose of issuing a license, the customer record must include the customer's:
1. Physical description:
 - a. Weight must be described in pounds.
 - b. Height must be described in feet and/or inches.
 - c. Natural hair and eye color.
 2. Date of Birth
 3. Social Security Number
 - Customer records displaying a Type F license, Title and Registration customer records, a DL issued prior to 10-01-2000, and/or an ID issued prior to 7-3-2002 may not display an SSN.
 4. Prior license information (class, type, issue date, expiration date, etc.), as applicable.
 5. Current license information (class, type, issue date, expiration date, endorsements, restrictions, medical alert, etc.), as applicable.
- Q. A customer may request that the gender noted on the record be changed. To accomplish this change, the customer must apply for a new license (duplicate). It is *not* necessary for the customer to have completed the surgical gender-change procedure. **An amended Arizona birth certificate reflecting the gender change or** a signed statement from a licensed physician is required. The signed statement must:
1. Include a statement to the effect that the customer is irrevocably committed to the gender-change process.
 2. Include the physician's license number.
 3. Be presented within three months from the date the statement was signed by the physician.

Lienholder Customer Record

- R. A Lienholder Customer Record is assigned to a lending agency, bank or organization that is listed as a lienholder on the Arizona title, Title and Registration Application, form #48-0509A, #48-0509T, or #96-0236, or out-of-state title.
- S. At the lienholder's option, the Lienholder Customer Number may be the lienholder's FEIN or a unique system-generated number.
- T. In addition to the minimum information required, the Lienholder Customer Record will display the following information:
- Main office/branch
 - "Aliases" segment (DM13)
 - When the lienholder has an out-of-state address, the Lienholder Customer Record will display a partial address, partial city, and the state abbreviation.

CUSTOMER RECORDS

Page 6 of 6

- U. When a vehicle/mobile home record contains the Unverified Lienholder Number (E00150683), the CSR will make every attempt to locate the valid Lienholder Customer Number.
- V. When the CSR is unable to locate a Lienholder Customer Record, the CSR's supervisor or lead shall contact the MVD ELT Help Desk at (602) 712-5080 or TPMSU at TPMSU@azdot.gov when it is an Authorized Third Party Provider. The MVD ELT Help Desk personnel will determine whether a record already exists or a new record should be created.

Transporter Customer Record

- W. A Transporter Customer Record is assigned to a licensed transporter.
 - The Transporter Customer Record has a unique system-generated number
- X. A Transporter Customer Record is created and/or updated by Fleet Services Unit personnel only.
 - The CSR may query the Transporter Customer Record

Date 15 January 2015


STACEY K. STANTON
Division Director

Attachment:

Authority: **Administrative Revision April 2016**, A.R.S. §§ 28-2132, 28-2133, 28-2134, 28-3158, 28-3165, and 28-3166.

Steps: [Create Simple Indivl Cus Rec for T&R](#), [Create Indivl Rec for Iss of a Credential](#), [Creating An Org – Trust - Estate Cus Rec](#), [Original – Single Legal Name](#)

Exhibit 6

STEP March 22, 2020	Enroll in STEP (Smart Traveler Enrollment Program)
COVID-19 Travel August 6, 2020	For COVID-19 Travel Information click here
COVID-19 Alert November 3, 2020	Update on U.S. Passport Operations



- U.S. Passports**
 - Need a Passport
 - Already Have a Passport
 - Get My Passport Fast
 - How to Apply
 - Passport Help
 - Legal Matters
- International Travel
- U.S. Visas
- Intercountry Adoption
- International Parental Child Abduction
- Records and Authentications

Travel.State.Gov > U.S. Passports > Need a Passport > Change of Sex Marker

- Apply in Person
- Children Under 16
- Applicants Age 16 and 17
- Apply Outside the United States
- Apply for a Passport Card
- Application Status
- Respond to a Letter or Email
- Change of Sex Marker**
- Crossing the U.S. - Mexico Border by Land

Change of Sex Marker

Passports are valid for different lengths of time depending on whether you have completed your transition or are still in the process of transition.

Status of Transition	Validity of Passport
You have had appropriate clinical treatment for transition from male to female or female to male*	10 years (Adult) 5 years (Child under 16)
You are in the process of getting appropriate clinical treatment for transition from male to female or female to male	2 years

*Your physician determines appropriate clinical treatment.

Requirements

You must apply using [Form DS-11](#), unless you are replacing a limited-validity passport in your new sex within two years of its issuance date (see below). In addition to the regularly-required documents*, submit the following:

1. ID that resembles your current appearance
2. Passport photo that resembles your current appearance
3. A medical certification that indicates you have had appropriate clinical treatment for transition to male or female, or are in the process of transition to male or female
4. Proof of legal name change (if applicable)

*See [Apply in Person](#) for all regularly-required passport documents.

Medical Certification

A signed, original statement from a licensed physician must be on office letterhead and include:

- Physician's full name, address, and telephone number
- Medical license or certificate number
- Issuing state or other jurisdiction of medical license/certificate
- Language stating that:
 - He or she has treated you, or has reviewed and evaluated your medical history
 - You have had appropriate clinical treatment for transition to male or female, or are in the process of transition to male or female
- The statement must include, "I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct."
- Medical certification **requirements are the same for a minor** as an adult.

A [template medical certification](#) is available for download here.

A description of specific treatments is not required in the medical certification. The certification is based on your physician's clinical assessment of your treatment. The certification meets the standards and recommendations of the [World Professional Association for Transgender Health](#) which is recognized by the [American Medical Association](#).

Replacing a Limited-Validity Passport

You may have received a limited-validity passport because your transition was in process at the time of your application. To replace a limited-validity passport with a full-validity passport, submit [Form DS-5504](#) (at no additional cost). To use this form, you must apply within two years of your previous passport's issuance date, and you must have completed your transition when you apply.

Submit the following:

- Your limited passport book
- Passport photo that resembles your current appearance
- A [medical certification](#) indicating you have had appropriate clinical treatment for transition to male or female

If your transition is still in process two years after the issuance date of your limited-validity passport, you must submit a new [Form DS-11](#) and satisfy the requirements for another limited-validity passport including a medical certification indicating you are in the process of transition to male or female.

ALL +/-

Frequently Asked Questions

- Do I need to have the sex on my birth certificate and/or driver's license changed before I can get it changed on my passport?
- What is "appropriate clinical treatment"?
- Is there a specific requirement needed to get a 10-year passport vs. a 2-year passport?
- Do I need to apply using Form DS-11?
- How do I update the sex marker on a passport for my child?

- Print
- Email
- Facebook
- Twitter
- More

Helpful Links for Change of Sex Marker Page

- [Apply in Person](#)
- [Passport Forms](#)
- [Passport Photos](#)
- [LGBTI Travel Information](#)

WHERE TO APPLY

Enroll in STEP



Subscribe to get up-to-date safety and security information and help us reach you in an emergency abroad.

Recommended Web Browsers: Internet Explorer 11 with compatibility view or Google Chrome.

- Can my therapist, psychologist, naturopath, etc. submit a medical certification? +
- If I get a 2-year passport, do I have to submit a new photo when I extend to a 10-year passport? +
- If my birth certificate, driver's license, etc have already been updated to a new sex marker, do I still need a medical certification? Why? +
- If I have a court order approving a change in my sex or gender, do I still need to obtain a medical certification from a physician? Why? +
- If I identify neither as male nor female, or I have a birth certificate, driver's license, court order or other documents in non-binary, can I have a passport issued with a non-binary or no sex marker? +
- I followed the requirements on this page, but I got a letter requesting more information. What do I do now? +
- Will anyone ask me questions about my medical history besides what is stated in my medical certification? +
- Does my ID have to be in my current name? +
- I had a bad customer experience. How can I complain? +

Travel.State.Gov

- Travel.State.Gov
- U.S. Passports
- International Travel
- U.S. Visas
- Intercountry Adoption
- International Parental Child Abduction
- Records and Authentications

Popular Links

- Home
- Travel Advisories
- Newsroom
- About Us
- Contact Us
- Careers
- MyTravelGov
- Find U.S. Embassies & Consulates

Stay Connected



Legal Resources

- Legal Information
- Info for U.S. Law Enforcement

Exhibit 7



Last Modified: January 30, 2019

FAQ Home > Social Security Number and Card > General Questions > KA-01453

How do I change my gender on Social Security's records?



Views: 36655

To change your gender on Social Security's records:

Step 1: Gather documents proving your:

- Identity**

We can accept only certain documents as proof of identity. An acceptable document must be current (not expired) and show your name, identifying information (date of birth or age) and, preferably, a recent photograph. For example, as proof of identity Social Security must see your

- o U.S. driver's license;
- o State-issued non-driver identification card; or
- o U.S. passport.

If you don't have one of these specific documents, or you can't get a replacement for one of them within 10 days, we'll ask to see other documents, including

- o Employee identification card;
- o School identification card;
- o Health insurance card (not a Medicare card); or
- o U.S. military identification card.

- Gender**

We'll need to see a

- o Full-validity, 10-year U.S. passport showing the new gender;
- o State-issued amended birth certificate showing the new gender;
- o Court order directing legal recognition of change of gender; or
- o Medical certification of appropriate clinical treatment for gender transition in the form of an original letter from a licensed physician.

The document must have enough biographical data (e.g., name and date of birth) to clearly identify you.

- U.S. citizenship**

If you haven't established your citizenship with us, and you were born in the US, we need to see proof of U.S. citizenship. We can only accept certain documents as proof of U.S. citizenship. These documents include

- o U.S. birth certificate; or
- o U.S. passport.

If you haven't established your citizenship with us, and you are foreign-born, we need to see proof of U.S. citizenship. We can only accept certain documents as proof of U.S. citizenship. These documents include:

- o U.S. passport
- o Certificate of Naturalization (N-550/N-570)
- o Certificate of Citizenship (N-560/N-561)
- o Certification of Report of Birth (DS-1350)
- o Consular Report of Birth Abroad (FS-240), CRBA

- Immigration status** (if you aren't a U.S. citizen).

To prove your U.S. immigration status, you must show us your

- o Current U.S. immigration document, such as Form I-551 (Lawful Permanent Resident Card, Machine Readable Immigrant Visa) with your unexpired foreign passport;
- o I-766 (Employment Authorization Document, EAD, work permit); or
- o I-94 (Arrival/Departure Record) or admission stamp in the unexpired foreign passport.

If you're an F-1 or M-1 student, you also must show us your I-20 (Certificate of Eligibility for Nonimmigrant Student Status).

If you're a J-1 or J-2 exchange visitor, you must show us your DS-2019 (Certificate of Eligibility for Exchange Visitor Status).

Step 2: Complete an Application for a Social Security Card.

Step 3: Take or mail your completed application and documents to your local Social Security office or your local Social Security Card Center.

All documents must be either originals or copies certified by the issuing agency. We can't accept photocopies or notarized copies of documents. We'll return any documents you mail to us, along with a receipt.

Give Us Feedback.

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