

Rule: 37.8.311

Rule Title:

37.8.311 ADOPTIONS, NAME CHANGES, AND GENDER CHANGES

(1) The department will replace the original birth certificate with a new one without indicating that the information was amended in cases of adoption, a determination of paternity, an acknowledgment of paternity, or legitimation.

(2) In order to establish the replacement certificate, the department must be provided with the following:

(a) For an adoption:

- (i) a certified copy of the certificate of adoption; and
- (ii) a certified copy of the final order of adoption.

(b) For a legitimation:

- (i) a notarized Acknowledgement of Paternity for Legitimation; and
- (ii) a certified copy of the marriage certificate.

(c) For a court order establishing paternity:

(i) a certified copy of the court order establishing paternity under [40-6-123](#), MCA, which must contain:

- (A) the child's name as it appears on the original certificate;
- (B) the child's date and county of birth; and
- (C) the full name, date of birth, and place of birth of the father being placed on the certificate.

(d) For an acknowledgement of paternity when the last name of the child is being changed:

- (i) a notarized Acknowledgement of Paternity signed by both parents; and
- (ii) a notarized request for a new certificate signed by both parents.

(3) Once paternity has been established, the registrant's last name may only be changed through an adoption, legitimation, or court order.

(4) Except in the cases specified in ARM [37.8.108](#), the amendment of a registrant's given name or surname on a birth certificate may be made only if the department receives a certified copy of an order from a court with appropriate jurisdiction. The court order that directs the name change must include the registrant's name as it appears on the certificate, the registrant's date of birth, the county of birth, if available, and information sufficient to locate and identify the record to be amended. If the court order directs the issuance of a new certificate, the record will not show amendments, and the new certificate will not indicate on its face that it was amended. The procedure to add a first name, middle name, or both, to a birth record that is more than one year old, as in the case when a child is not named at birth, is regulated under ARM [37.8.108](#).

(5) The gender of a registrant as cited on a certificate may be corrected if the department receives:

(a) a correction affidavit accompanied by a completed gender designation form issued by the department certifying under penalty of law that that the individual has undergone gender transition or has an intersex condition and that the gender designation on their birth certificate should be changed accordingly, and the request for gender designation is for the purpose of ensuring the birth certificate accurately reflects their gender and is not for any fraudulent or other unlawful purpose; or

(b) a correction affidavit accompanied by presentation of a government-issued identification displaying the correct gender designation; or

(c) a correction affidavit accompanied by a certified copy of an order from a court with appropriate jurisdiction indicating that the gender of an individual born in Montana has been changed. The order must contain sufficient information for the department to locate the original record. If the registrant's name is also to be changed, the order must indicate the full name of the registrant as it appears on the original birth certificate and the full name to which it is to be amended.

(6) A new certificate issued pursuant to (5) will not show amendments, will not indicate on its face that it was amended, and the old certificate will be placed in a sealed file. If the gender of an individual was listed incorrectly on the original certificate due to a data entry error, refer to ARM [37.8.108](#).