

### Rose - by any other name...

According to a decades-old statute (which was among the first of its kind) Louisiana law provides for a procedure whereby transgendered individuals may petition the Court to have their birth certificate changed to reflect their post-sex reassignment surgery gender. While the statute is rather simplistic in its form and requirements, the procedure, in practice, is not without its difficulties.

Take the case of “Ross“ for example, who after completing sex reassignment surgery, now goes by the name of “Rose.” Rose desires to have all of her identification, including her Louisiana driver’s license, birth certificate, and passport, reflect her chosen name and current gender. Louisiana Revised Statute 40:62 requires that Rose file a petition against the Louisiana State Registrar Department of Vital Records, as well as the district attorney in either the parish of her birth, or in the parish where she currently resides. The statute states that the “court shall require such proof as it deems necessary to be convinced that the petitioner was properly diagnosed as a transsexual or pseudo-hermaphrodite, that sex reassignment or corrective surgery has been properly performed upon the petitioner, and that as a result of such surgery and subsequent medical treatment the anatomical structure of the sex of the petitioner has been changed to a sex other than that which is stated on the original birth certificate of the petitioner.”

Although the statute clearly states that it is within the *Court’s* discretion to determine the evidence and proof that *it* deems necessary to render a judgment ordering the issuance of a new birth certificate reflecting the change in the sex of the petitioner, the Department of Vital Records has been charged with the duty of protecting the State’s

records from any fraud or misrepresentation. Therefore, the burden of proof required by Vital Records is appropriately high.

Perhaps reeling from the recent much-publicized case of the “man” giving birth, the Department of Vital Records maintains a high burden of proof in order to ensure that the petitioner can provide substantial proof that their sex has been changed from that which appears on their original certificate of birth. The Department has required, among other things: that medical records related to the sex reassignment surgery be submitted; that if the surgeon is unavailable for testimony, a Louisiana physician conduct a physical examination on the petitioner to “substantiate” the medical records; that the petitioner prove through photographic identification, such as former school pictures, driver’s licenses, etc., that the petitioner is the same person listed on the original birth certificate; that physician or psychiatric records note that the petitioner was “properly diagnosed as a transsexual or pseudo-hermaphrodite; and, that the surgery transforming the gender of the petitioner was “properly performed.”

Once the judgment has been rendered by the Court, the Department of Vital Records changes the birth certificate. It is important to note that in Louisiana, the “scratch-out” or “line-through” method is not utilized in the alteration of the original birth certificate. Rather, a new birth certificate is generated, indicating the current sex of the petitioner, and the old (or original) birth certificate is sealed and placed in archives, only to be opened upon demand of the petitioner through a Court Order.

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