



# **BILL NO. 42**

*Government Bill*

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*2nd Session, 63rd General Assembly  
Nova Scotia  
67 Elizabeth II, 2018*

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## **An Act to Amend Chapter 494 of the Revised Statutes, 1989, the Vital Statistics Act**

CHAPTER 44  
ACTS OF 2018

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
OCTOBER 11, 2018**

The Honourable Geoff MacLellan  
*Minister of Service Nova Scotia*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 494  
of the Revised Statutes, 1989,  
the Vital Statistics Act**

Be it enacted by the Governor and Assembly as follows:

**1 Section 2 of Chapter 494 of the Revised Statutes, 1989, the *Vital Statistics Act*, as amended by Chapter 8 of the Acts of 1998, Chapter 29 of the Acts of 2000, Chapter 31 of the Acts of 2001 and Chapter 48 of the Acts of 2011, is further amended by**

**(a) striking out clause (l);**

**(b) striking out clause (o) and substituting the following clause:**

(o) “Minister” means the Minister of Service Nova Scotia;

**(c) striking out clause (q) and substituting the following clause:**

(q) “prescribed” means prescribed by or under this Act or the regulations;

**and**

**(d) adding immediately after clause (s) the following clause:**

(t) “sex indicator” means a notation on a registration made under this Act showing

(i) a person’s sex as identified at birth, or

(ii) a person’s gender identity, if it does not correspond with the person’s sex as identified at birth;

**2 (1) Subsection 4(2) of Chapter 494, as amended by Chapter 8 of the Acts of 1998 and Chapter 48 of the Acts of 2004, is further amended by**

**(a) striking out “subsections (5) or (7) or” in the second line of subclause (b)(ii) and substituting “subsection (5) or (7) or not”; and**

**(b) striking out “persons referred to in clauses (a) or (b) are” in the first line of clause (c) and substituting “mother and father referred to in clause (a) are incapable or the mother referred to in clause (b) is”.**

**(2) Subsection 4(6) of Chapter 494 is amended by striking out “the surname of the mother as the surname of the child” in the third and fourth lines and substituting “as the surname of the child the surname chosen by the mother”.**

**(3) Subsection 4(9) of Chapter 494 is amended by striking out “the surname of the mother of the child as the surname of the child” in the fourth, fifth and sixth lines and substituting “as the surname of the child the surname chosen by the mother”.**

**3 The heading immediately before Section 25 and Section 25 of Chapter 494 are repealed and the following heading and Sections substituted:**

CHANGE OF GENDER IDENTITY

25 (1) A person whose birth is registered in the Province may apply to the Registrar to change the sex indicator on the person's birth registration to correspond with the person's gender identity.

(2) A person whose birth is not registered in the Province and who has been ordinarily resident in the Province for at least three months may apply to the Registrar to register a change of the person's gender identity.

(3) An application may be made under subsection (1) or (2) by providing to the Registrar

(a) an application in the prescribed form;

(b) a statutory declaration by the applicant that the applicant identifies with

(i) in the case of an application under subsection (1), the gender identity that corresponds with the sex indicator requested, or

(ii) in the case of an application under subsection (2), the gender identity to be registered; and

(c) in the case of an applicant under the age of sixteen years,

(i) a written statement from a person who is a member of a prescribed profession and practises the profession

(A) in the Province, or

(B) where the applicant is habitually resident outside the Province, in or outside the Province,

that the person has treated or evaluated the applicant and that, in the person's opinion,

(C) the sex indicator on the applicant's birth registration, whether the birth was registered in the Province or elsewhere, does not correspond with the applicant's gender identity, and

(D) the applicant has the capacity to make an informed decision about whether to make an application under this Section, and

(ii) the written consent of every person who has care and custody of the applicant.

(4) The Registrar, on payment of the prescribed fee, shall grant an application made under subsection (1) or (2) if the Registrar is satisfied that

(a) the requirements of subsection (3) have been satisfied; and

(b) the application was made in good faith.

(5) Where a judge of the Supreme Court of Nova Scotia is satisfied that a person whose consent is required under subclause (ii) of clause (c) of subsection (3)

- (a) is dead;
- (b) is of unsound mind;
- (c) is missing or cannot be found;
- (d) has deserted or neglected to provide proper care and maintenance for the applicant; or
- (e) is a person whose consent in all the circumstances of the case ought to be dispensed with,

the judge may order that the person's consent be dispensed with, if it is in the interest of the applicant to do so.

25A (1) Where an application made under subsection (1) of Section 25 is granted, the Registrar shall cause a notation of the change of sex indicator to be made on the birth registration of the applicant.

(2) Where an application made under subsection (2) of Section 25 is granted, the Registrar shall register the change of the applicant's gender identity.

(3) Where the Registrar has made a notation of the change of sex indicator on the birth registration of a person or registered a change of a person's gender identity, the Registrar shall cause a notation of the change to be made on every other registration in the Registrar's office pertaining to the person.

(4) Where

(a) a person's birth is registered under the laws of another jurisdiction and the sex indicator on the person's birth registration is changed under those laws; or

(b) a person's birth is registered in the Province and a change of the person's gender identity is registered under the laws of another jurisdiction,

the Registrar, on production to the Registrar of proof of the change and evidence satisfactory to the Registrar as to the identity of the person, shall cause a notation of the change to be made on every registration in the Registrar's office pertaining to the person.

(5) Every birth, marriage, gender identity or domestic partnership certificate issued after the making of a notation or the registration of a change of gender identity under this Section shall be issued as if the registration had been made of the sex indicator that corresponds with the person's gender identity.

**4 (1) Clause 37(2A)(d) of Chapter 494 is repealed.**

**(2) Subsection 37(2B) of Chapter 494 is repealed and the following subsection substituted:**

(2B) A birth certificate may contain any of the following:

- (a) the names and places of birth of the parents;

(b) the sex indicator for the person.

**(3) Section 37 of Chapter 494, as amended by Chapter 29 of the Acts of 2000 and Chapters 5 and 45 of the Acts of 2001, is further amended by adding immediately after subsection (6) the following subsection:**

(6A) Subject to the regulations, a certificate of gender identity for a person in respect of whom the Registrar has made a notation of the change of sex indicator on the birth registration of the person or registered a change of the person's gender identity may be issued by the Registrar, on application in the prescribed form and on payment of the prescribed fee, to

- (a) the person;
- (b) where the person is under sixteen years of age, any other person who has care and custody of the person; and
- (c) any other person who has been given written authorization by a person referred to in clause (a) or (b) to be issued the certificate of gender identity.

**5 Chapter 494 is further amended by adding immediately after Section 46 the following Section:**

46A The Minister may prescribe the forms to be used for the purpose of this Act.

**6 Subsection 51(1) of Chapter 494, as amended by Chapter 8 of the Acts of 1998, Chapter 29 of the Acts of 2000, Chapters 5 and 45 of the Acts of 2001, Chapter 15 of the Acts of 2006, Chapter 48 of the Acts of 2011 and Chapter 13 of the Acts of 2015, is further amended by**

- (a) striking out clause (a);
- (b) striking out "shown" in the second line of clause (fc) and substituting "indicator";
- (c) striking out clause (fd);
- (d) striking out "clause (c) of subsection (2)" in the second line of clause (fe) and substituting "subclause (i) of clause (c) of subsection (3)"; and
- (e) striking out clauses (n) and (o) and substituting the following clause:
  - (n) exempting persons or classes of persons from the application of all or part of this Act;

**7 Clause 59(1)(b) of Chapter 494 is repealed.**

**8 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.**