

Utah lawmaker wants to erase transgender identities from birth certificate records

Utah would join a shrinking club of states with such limitations.

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<https://thinkprogress.org/utah-anti-transgender-birth-certificate-bill-059a558343fd/>

Utah state Rep. Merrill Nelson (R) wants his state to join a small handful of others with significant restrictions that prevent transgender people from updating their birth certificates to reflect their gender identity.

This week, Nelson will introduce [HB 0153](#), which adds strict definitions of the sexes to Utah's vital statistics law. It would enforce a very narrow sexual binary of "male" and "female" with biological definitions more specific than any other anti-trans bill that has been introduced nationwide.

According to the bill:

- "Sex" means male or female, the innate and immutable characteristics established at conception and that can be confirmed before or at birth.
- "Female" means an individual with ovaries who is confirmed before or at birth to have external anatomical characteristics that appear to have the purpose of performing the natural reproductive function of providing eggs and receiving sperm from a male donor.
- "Male" means an individual with testes who is confirmed before or at birth to have external anatomical characteristics that appear to have the purpose of performing the natural reproductive function of providing and delivering sperm to a female recipient.

These definitions leave little room to account for the ambiguity or irregularities that many babies are born with. In recent years, [New York City](#) and [the state of Colorado](#) have actually taken the step of issuing birth certificates that correctly identify individuals as intersex — or, neither male nor female. Nelson's legislation does state that birth certificates should document "the sex of the child as male or female or, if the sex cannot be factually determined at birth, undetermined." But it would repeal language currently in the law that allows trans people to update their birth certificates after a "name change" or "sex change." That's replaced with a far narrower provision for amending birth certificates, which leaves out any mechanism for changing the sex designation.

It's thus unclear whether someone whose sex was designated as "undetermined" at birth could ever update the designation. Transgender people, however, would clearly be unable to obtain documentation that reflects their lived experience.

medical fact that an individual's sex is determined at conception by chromosomal make-up and is not subject to change or self-determination later in life."

Sen. Ralph Okerlund (R), a sponsor of the bill, added that the restriction "just makes sense to me," calling the sex designation a "physical fact at birth" that "should stay at all times of life."

Detractors have highlighted that it's a false premise that birth certificates have to honor such strict parameters. Sen. Todd Weiler, a Republican, [pointed out on Twitter](#), "We change birth certificates every day in Utah" to recognize adoptive parents. He added that over 300 transgender Utahns have already received updated birth certificates as well as driver's licenses.

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Despite current language in the law allowing trans people to seek updates to their birth certificate sex designation, judges have inconsistently applied the provision, denying many of the requests. As a result, the Utah Supreme Court is [currently considering an appeal](#) from two individuals who were denied updates by judges who expressed some anti-trans sentiments in their decisions.

If Nelson's bill passes, Utah would join a small and shrinking group of states with anti-trans birth certificate restrictions. Last year, there were four until a federal court [ruled against](#) Idaho's ban in March, declaring that it violated trans people's equal protection under the U.S. Constitution. "There is medical consensus that gender identity plays a role in an individual's determination of their own sex," wrote U.S. Magistrate Judge Candy Dale. Idaho agreed to change its policy, bringing the total down to three: Kansas, Ohio, and Tennessee.

Fresh off of that victory, Lambda Legal filed a [new lawsuit](#) challenging Kansas' law. Like in Utah, Kansas birth certificates are frequently updated to reflect name changes and adoptions and even incorrect sex markers, but transgender people are consistently denied the opportunity to update theirs to reflect their gender identity.

The ACLU has called Nelson's bill unconstitutional, [and warned](#) that its passage would lead to both lawsuits and a national economic backlash.