

## **How can Trans Persons Change the Sex Designation on their Birth Certificate?**

This guide is focused on issues relating to how trans persons can change the sex designation on their birth certificates. For information on how trans persons can legally change the name used on their identification documents, see this guide.

This page is intended to help trans persons with issues related to changing the sex designation on their birth certificates. As such, some of this information may not be helpful to those seeking to change their birth certificates for another reason.

Note: Every effort has been made to ensure comprehensiveness and accuracy (as of May 2015). However, this FAQ may not fully reflect the current state of the law.

We use the term “trans” to include anyone who does not identify with the sex designation they were assigned at birth.

### **Questions addressed in this FAQ:**

- *Why might I want to change the sex designation on my birth certificate?*
- *Should I have to have surgery in order to change the sex designation on my birth certificate?*
- *Are sex designations on birth certificates even necessary?*
- *How can I change the sex designation on my birth certificate?*
- *Where do I apply to change the sex designation on my birth certificate?*
- *What proof do I need to show in order to change the sex designation on my birth certificate? Do I need to show proof of surgery?*
- *Can I apply if I am younger than 18 or 19?*
- *Can I apply even if I was born outside of my current province/territory?*

### **Why might I want to change the sex designation on my birth certificate?**

Many trans persons consider the sex they were assigned at birth to be inaccurate. If this is you, changing the sex designation on your birth certificate may be important for your well-being. It is also important for legal reasons as well.

In order to enjoy a greater degree of safety and freedom from discrimination, you may want to have identification documents that match the gender with which you identify and present yourself. The information on most identification documents is drawn from birth certificates, so changing your birth certificate is often a necessary first step. “Sex” is a

category on most driver's licenses, passports and health cards, and so you may find yourself being forced to discuss your gender identity – sometimes even your genitals – with a stranger. This is even worse when that stranger is empowered to make decisions that greatly affect you, such as whether to write you a traffic ticket, offer you a job, refer you for medical treatment, or let you enter the country.

Trans persons face widespread discrimination and high rates of violence. Of trans Ontarians [surveyed](#) by the Trans PULSE Project, 26% reported being hit or beaten up because they were trans, 73% reported being made fun of, and 39% reported being turned down for a job. In 2010, Trans PULSE [estimated](#) that 50% of trans Ontarians had seriously considered suicide at some point in their lives because of the discrimination they faced. Involuntary outing on a regular basis, such as by having an inaccurate gender specified on your identification documents, eliminates one of the few mechanisms you may have to protect yourself from transphobia.

In 2014, a judge in Alberta considered the constitutionality of the provincial law that regulated gender markers on birth certificates. The judge [struck down](#) that law, because it was contrary to the *Canadian Charter of Rights and Freedoms*. In doing so, the judge cited a [prior decision](#) of the Ontario Human Rights Tribunal. That decision detailed some of the discrimination faced by trans persons (referred to here as “transgendered” [sic]):

“[T]ransgendered persons as a group tend to face very high rates of verbal harassment and physical assault and are sometimes even murdered because of their transgendered status. [...] [I]t is very difficult for a transgendered person to find employment, [...] there are very high rates of unemployment among transgendered people generally, and [...] many transgendered people are fired once they are exposed in the workplace as being transgendered.”

These concerns also extend to young trans persons, who may be forced to endure bullying by their peers if the sex designation on school records does not match their gender identity.

### **Should I have to have surgery in order to change the sex designation on my birth certificate?**

Many trans persons want the benefits of official documents that correspond to their identity but may not want to undergo surgery. They may be content with the use of hormones or simply by presenting themselves consistently with their gender identity.

Gender reassignment surgery can be expensive, difficult to access, and carries the risks associated with any surgery. In addition, it has been reported to [typically cause sterility](#). Gabrielle Bouchard of the Montreal-based Centre for Gender Advocacy has said the surgical requirement in order for official documents to be changed [amounts to mandatory sterilization](#). The surgery requirement also emphasizes biological sex characteristics

rather than gender identity. Even after surgery has been performed, a second doctor must sometimes “confirm” the surgery. C.F., the plaintiff in the [Alberta](#) court case mentioned earlier, [told the \*Edmonton Journal\*](#):

“What this legislation requires is that you not only submit to dangerous, risky surgery, but then actually attend for a humiliating genital inspection before two separate physicians, both of whom will make a value judgment about whether your genitals are sufficiently female[.] It’s like something from ages gone by. It’s very disturbing stuff.”

Due to these types of concerns, there have been and continue to be legal challenges to the various provincial legislation that require reassignment surgery in order to change sex designation. In the [Ontario](#) and [Alberta](#) decisions discussed earlier, the requirement for gender reassignment surgery was found to be discriminatory. As a result of these rulings, several provinces, including Alberta, British Columbia, Manitoba, Ontario, and Quebec, have taken steps to amend their laws to remove reassignment surgery from the requirements necessary in order for you to change your sex designation. Nova Scotia has also indicated that it plans to amend its legislation to remove the surgery requirement.

### **Are sex designations on birth certificates even necessary?**

Some activists have argued for the removal of sex designations from identification documents altogether, on the basis that gender identity is not a binary classification. The binary does not accommodate people who do not identify with a binary gender classification.

Ongoing cases challenging legislation in [British Columbia](#), [Saskatchewan](#) and [Quebec](#) are seeking the removal of sex designations from birth certificates. So far, although several provinces have removed the surgery requirement, no province has taken the step of removing sex designations altogether or providing for a third non-binary option.

In contrast, several countries, including [Australia and Germany](#), now allow persons to designate their sex on their passport with an “X”. However, some trans rights advocates argue that the “X” continues to out trans persons, and is used as an excuse for not eliminating the surgery requirement. An [Australian](#) court has ordered the government to register a third category of sex designations on birth certificates and name change certificates.

For more on the possibility of non-binary gender designations, see the BC Law Institute’s [report](#), where the Institute highlights the implications and consequences of different solutions to providing a non-binary sex designation in Canada.

### **How can I change the sex designation on my birth certificate?**

All provinces and territories except Nunavut have procedures for changing sex designations when a person has undergone gender reassignment surgery.

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The rules for changing the sex designation on a birth certificate vary from province to province. They are also changing rapidly. In all provinces except Quebec, where the *Civil Code* governs these issues, the law concerning birth registration is found in the provincial *Vital Statistics Act* and associated regulations. These laws and regulations can be consulted for free on <http://canlii.org>. Note that a province may have policies that are not in the legislation. For more information about requirements, check with the government agency responsible for birth certificates in your province or territory (listed below), or with a trans advocacy organization, such as [Egale Canada](#).

Many provinces require letters from a mental health professional in order to change a person's gender marker or name. Such a letter may also be required to access sex reassignment surgery.

### **Where do I apply to change the sex designation on my birth certificate?**

Online government information is limited outside British Columbia, Manitoba and Ontario. Where specific information regarding change of sex designation is unavailable on a province's website, the links below provide contact information for the appropriate agency.

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Alberta	<a href="#">Service Alberta</a>
British Columbia	<a href="#">Vital Statistics Agency</a>
Manitoba	<a href="#">Vital Statistics Agency</a>
New Brunswick	<a href="#">Service New Brunswick</a>
Newfoundland and Labrador	<a href="#">Service NL</a>
Nova Scotia	<a href="#">Service Nova Scotia</a>
Ontario	<a href="#">Service Ontario</a>
Prince Edward Island	<a href="#">Department of Health and Wellness (Vital Statistics)</a>
Quebec	<a href="#">Directeur de l'état civil</a> (in English, see bottom of the webpage)
Saskatchewan	<a href="#">eHealth Saskatchewan (Vital Statistics)</a>
Northwest Territories	<a href="#">Health and Social Services (Vital Statistics)</a>
Nunavut	<a href="#">Department of Health</a> (only general information is available; Nunavut does not have a law that allows for changing the sex designation on your birth certificate)
Yukon	<a href="#">Health and Social Services (Vital Statistics)</a>

### **What proof do I need to show in order to change the sex designation on my birth certificate? Do I need to show proof of surgery?**

Until recently, all provinces and territories required you to have gender reassignment surgery if you wanted to change the sex designation on your birth certificate. Ontario became the first province to drop this requirement in 2012 when, as mentioned previously, its human rights tribunal [ruled](#) the requirement was discriminatory. The Alberta Court of Queen's Bench handed down a similar [ruling](#) in April 2014. Ontario has not officially amended their legislation, but are now registering changes without proof of surgery as a matter of policy. British Columbia, Alberta and Manitoba are the only provinces that have formally amended their legislation to eliminate the surgery requirement. In Alberta, the new requirements are set out in [regulations](#).

New Brunswick, Newfoundland and Labrador, PEI and Saskatchewan all require applicants to document that they have undergone gender reassignment surgery, usually by

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having at least two physicians – the surgeon who performed the surgery and another who did not – certify that fact. Quebec and Nova Scotia also currently require proof of surgery, but changes to the law are on their way (see below). In Quebec, the second physician must practice medicine in Quebec. In New Brunswick and the Northwest Territories, the second physician must be licensed in any Canadian jurisdiction.

The law in this area is changing rapidly as legislation is amended and court challenges are brought regarding surgery requirements. Consulting the relevant statutes will not always give a full picture of the current requirements or upcoming amendments. For current information, contact a trans advocacy organization, such as [Egale Canada](#).

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Alberta	<p>No proof of surgery required;</p> <p>You must provide:</p> <ol style="list-style-type: none"><li>1. A declaration, which provides your date of birth, and states that you identify with and maintain the gender identity that corresponds with your desired sex designation; and</li><li>2. Confirmation from a licensed doctor or psychologist licensed in Alberta or another jurisdiction that the sex designation on your birth certificate does not correspond with your gender identity</li></ol>
British Columbia	<p>No proof of surgery required;</p> <p>You must provide:</p> <ol style="list-style-type: none"><li>1. A declaration, which states you have assumed, identify with and intend to maintain the gender identity that corresponds with your desired sex designation; and</li><li>2. Confirmation from a doctor or psychologist licensed in BC or the province or territory where you live that the sex designation on your birth certificate does not correspond with your gender identity</li></ol>

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Manitoba	<p>No proof of surgery required;</p> <p>You must provide:</p> <ol style="list-style-type: none"> <li>1. A declaration, which states you identify with the requested sex designation, you are currently living full-time in a manner consistent with the requested sex designation and you intend to continue doing so; and</li> <li>2. A supporting letter from a health care professional licensed in Canada or where you live that your gender identity corresponds with the requested sex designation</li> </ol>
New Brunswick	Proof of surgery required
Newfoundland and Labrador	Proof of surgery required
Nova Scotia	<p>Proof of surgery still required, but a bill to eliminate the requirement has received royal assent. Under the new law, which is not yet in force, you will written statements from themselves and a member of a profession to be prescribed in the regulations that confirm your gender identity.</p>
Ontario	<p>No proof of surgery required;</p> <p>You must provide:</p> <ol style="list-style-type: none"> <li>1. A declaration, which states your gender identity); and</li> <li>2. A note from a doctor or psychologist licensed to practice in Canada that confirms your gender identity</li> </ol>
Prince Edward Island	Proof of surgery required



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Quebec	Proof of surgery required, but change is pending; The requirements under the new law have not been set yet.
Saskatchewan	Proof of surgery required
Northwest Territories	Proof of surgery required
Yukon	Proof of surgery required
Nunavut	There is no provision in the <i>Vital Statistics Act</i> for changing sex designation, even with surgery

### Can I apply if I am younger than 18 or 19?

Sex reassignment surgery is generally not performed on those under the provincial age of majority, as all clinics in Canada that currently perform reassignment surgery conform to the recognized [Standards of Care](#). These Standards, which are regarding health care for trans persons, forbid irreversible interventions (such as surgery) on patients before they reach the age of majority. As a result, if you are a minor in Canada, you generally cannot change your sex designation in provinces or territories where proof of surgery is required.

In provinces that do not require surgery, the age requirements vary:

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Alberta	No age minimum, but if you are under the age of majority (18), you must have parental/guardian permission
British Columbia	No age minimum, but if you are under the age of majority (19), you must have parental/guardian permission
Manitoba	No age minimum, but health care professional must attest to your capacity to make health care decisions
New Brunswick	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (19), you must have parental/guardian permission
Newfoundland and Labrador	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (19), you must have parental/guardian permission
Nova Scotia	<p><i>Under current law:</i> No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (19), you must have parental/guardian permission.</p> <p><i>Under new law (not yet in force):</i> No age minimum, but if you are under 16, you must have parental/guardian permission or apply to the Supreme Court of Nova Scotia for an order dispensing with the requirement of parental consent.</p>
Ontario	No age minimum, but if you are under 16, you must have parental/guardian permission
Prince Edward Island	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (18), you must have parental/guardian permission

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Quebec	Age minimum is 18.
Saskatchewan	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (18), you must have parental/guardian permission
Northwest Territories	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (19), you must have parental/guardian permission
Nunavut	There is no provision in the <i>Vital Statistics Act</i> for changing sex designation
Yukon	No age minimum, but surgery is required and will not be performed if you are under 18; in addition, if you are under the age of majority (19), you must have parental/guardian permission

Note that legal challenges to the minimum age requirements are currently proceeding in several provinces, including [Quebec](#) and [Saskatchewan](#). Click [here](#) to listen to an interesting radio interview with a 10 year old who would like to change the sex designation on her birth certificate.

### **Can I apply even if I was born outside of my current province/territory?**

British Columbia, Ontario and Northwest Territories will change sex designations only for births registered in their respective provinces. Some provinces will register a change of sex and then transmit it to the jurisdiction where the birth was registered.

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Alberta	No explicit requirement that the applicant was born in Alberta
British Columbia	Legislation requires that the applicant was born in British Columbia
Manitoba	Legislation requires that the applicant was born in Manitoba. Changes permitting applications from Canadian citizens who have resided in Manitoba for at least one year (the latter will receive a “change of sex designation” certificate, not a new birth certificate) are not yet in force.
New Brunswick	No explicit requirement that the applicant was born in New Brunswick
Newfoundland and Labrador	No explicit requirement that the applicant was born in Newfoundland and Labrador
Nova Scotia	<i>Under current law:</i> Applicants born outside of Nova Scotia may apply, and the province will transmit their request to the jurisdiction where their birth was registered. <i>Under new law (not yet in force):</i> Legislation requires that the applicant was born in Nova Scotia.
Ontario	Legislation requires that the applicant was born in Ontario
Prince Edward Island	Applicants born outside of Prince Edward Island may apply, and the province will transmit their request to the jurisdiction where their birth was registered.
Saskatchewan	No explicit requirement that the applicant was born in Saskatchewan
Quebec	<i>Under the new law (not yet in force):</i> Legislation requires that the applicant was born in Canada and resides in Quebec, or that the applicant was born in Quebec and resides in a place where change of sex designation is unavailable or impossible

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Northwest Territories	Legislation requires that the applicant was born in Northwest Territories
Nunavut	There is no provision in the <i>Vital Statistics Act</i> for changing sex designation
Yukon	Applicants born outside of Yukon may apply, and the province will transmit their request to the jurisdiction where their birth was registered

### **For more information:**

The Trans PULSE Project prepared a report for the Canadian Human Rights Commission on sex designation in federal and provincial IDs in 2012. The report was prepared for hearings on Bill C-279, a proposal to add gender identity and expression to the *Canadian Human Rights Act* and to hate crime provisions of the *Criminal Code*. The report can be found [here](#).

In 2014, the British Columbia Law Institute prepared a report for the Uniform Law Conference of Canada on the state of the Canadian law regarding change of sex designation, and regarding options for reform in 2014. The report can be found [here](#).