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HOUSE BILL 25-1109

BY REPRESENTATIVE(S) McCormick and Brown, Bacon, Boesenecker, Camacho, Clifford, Duran, Froelich, Garcia, Gilchrist, Joseph, Lindsay, Sirota, Smith, Stewart R., Story, Titone, Valdez;
also SENATOR(S) Weissman and Wallace, Amabile, Bridges, Cutter, Gonzales J., Hinrichsen, Kipp, Kolker, Michaelson Jenet, Rodriguez, Snyder, Sullivan, Winter F., Coleman.

CONCERNING THE DESIGNATION OF A DECEDENT'S GENDER IDENTITY ON THE
DECEDENT'S CERTIFICATE OF DEATH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 25-2-102, **add** (1.5) and (2.6) as follows:

25-2-102. Definitions. As used in this article 2, unless the context otherwise requires:

(1.5) "DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER" OR "DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY" INCLUDES ANY OF THE FOLLOWING:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

- (a) A COURT ORDER APPROVING A LEGAL NAME OR GENDER CHANGE;
- (b) WRITTEN INSTRUCTIONS FROM THE DECEDENT;
- (c) A HEALTH-CARE DIRECTIVE;
- (d) PROOF OF CLINICAL TREATMENT FOR A GENDER TRANSITION;
- (e) DOCUMENTATION OF A CHANGE TO THE GENDER MARKER ON THE DECEDENT'S BIRTH CERTIFICATE; OR
- (f) A DRIVER'S LICENSE.

(2.6) "GENDER IDENTITY" MEANS AN INDIVIDUAL'S INNATE SENSE OF THE INDIVIDUAL'S OWN GENDER, WHICH MAY OR MAY NOT CORRESPOND WITH THE INDIVIDUAL'S SEX ASSIGNED AT BIRTH AND IS DESIGNATED ON A CERTIFICATE OF DEATH AS MALE, FEMALE, OR "X", WHICH IS A SEX DESIGNATION THAT IS NEITHER MALE NOR FEMALE.

SECTION 2. In Colorado Revised Statutes, 25-2-110, **amend** (1)(c); and **add** (1)(e) and (1)(f) as follows:

25-2-110. Certificates of death - amended certificate of death following a change in gender - definition. (1) (c) Once a certificate of death has been filed pursuant to ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION, a verification of death document may be used by local offices of vital statistics and ~~the office of the state registrar of vital statistics~~ when verifying a vital event to a person ~~or organization~~ that has requested a verification of fact-of-death. A verification of death document must include the name and address of the decedent, the date of death, the place of death, THE GENDER OF THE DECEDENT, the date the document is filed, the state file number, and the name of any spouse of the decedent. A verification of death document is not required to contain a social security number of the deceased as is otherwise required of a certificate of death under ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION.

(e) (I) IN DOCUMENTATION OF THE DECEDENT'S GENDER ON THE CERTIFICATE OF DEATH, THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH SHALL RECORD THE DECEDENT'S GENDER TO REFLECT THE

DECEDENT'S GENDER IDENTITY. IF THE DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IS NOT PROVIDED TO THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH, THE DECEDENT'S NEXT OF KIN OR THE BEST QUALIFIED INDIVIDUAL OR SOURCE AVAILABLE TO PROVIDE THE DECEDENT'S GENDER MAY PROVIDE THAT INFORMATION.

(II) (A) IF THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH IS PRESENTED WITH A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY, THE INDIVIDUAL COMPLETING THE DEATH CERTIFICATE SHALL RECORD THE DECEDENT'S GENDER TO REFLECT THE GENDER IDENTITY INDICATED IN THE DOCUMENT.

(B) IF MORE THAN ONE DOCUMENT IS PRESENTED TO THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH PURSUANT TO SUBSECTION (1)(e)(II)(A) OF THIS SECTION OR TO THE STATE REGISTRAR PURSUANT TO SUBSECTION (1)(f)(I) OF THIS SECTION AND THE DOCUMENTS CONFLICT REGARDING THE DECEDENT'S GENDER IDENTITY, THE MOST RECENT DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY, REGARDLESS OF EXPIRATION DATE, IF ANY, PREVAILS.

(III) NOTWITHSTANDING SUBSECTION (1)(e)(I) OF THIS SECTION, IF A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY IS NOT PRESENTED PURSUANT TO SUBSECTION (1)(e)(II)(A) OF THIS SECTION AND THE INDIVIDUAL WITH THE RIGHT, OR A MAJORITY OF INDIVIDUALS WITH THE RIGHT, TO CONTROL THE DISPOSITION OF THE DECEDENT'S REMAINS PURSUANT TO SECTION 15-19-106 OBJECTS TO THE GENDER RECORDED BY THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH PURSUANT TO SUBSECTION (1)(e)(I) OF THIS SECTION, THE INDIVIDUAL OR MAJORITY OF INDIVIDUALS DESCRIBED IN THIS SUBSECTION (1)(e)(III) MAY STATE THEIR OBJECTION TO THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH BEFORE THE CERTIFICATE OF DEATH IS FILED WITH THE STATE REGISTRAR, AND THE INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH SHALL RECORD THE DECEDENT'S GENDER AS THE GENDER IDENTITY REPORTED BY THE INDIVIDUAL OR MAJORITY OF INDIVIDUALS DESCRIBED IN THIS SUBSECTION (1)(e)(III).

(f) (I) IF A DECEDENT DIED IN THE STATE AND THE STATE REGISTRAR IS PRESENTED WITH A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY THAT REFLECTS A GENDER THAT IS NOT CONSISTENT WITH THE GENDER RECORDED ON THE CERTIFICATE OF DEATH FILED WITH THE STATE

REGISTRAR PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, THE STATE REGISTRAR SHALL ISSUE AN AMENDED CERTIFICATE OF DEATH TO CHANGE THE DECEDENT'S GENDER DESIGNATION TO REFLECT THE GENDER IDENTITY INDICATED IN THE DOCUMENT.

(II) IF THE STATE REGISTRAR ISSUES AN AMENDED CERTIFICATE OF DEATH AND THE APPROPRIATE LEGAL NAME CHANGE DOCUMENTATION IS SUBMITTED TO THE STATE REGISTRAR, THE STATE REGISTRAR SHALL AMEND THE CERTIFICATE OF DEATH TO REFLECT A LEGAL NAME CHANGE MADE BEFORE, OR SIMULTANEOUS TO, THE DECEDENT'S CHANGE IN GENDER IDENTITY.

(III) IN ISSUING AN AMENDED CERTIFICATE OF DEATH, THE STATE REGISTRAR SHALL NOT:

(A) REQUEST ADDITIONAL INFORMATION OR RECORDS OTHER THAN A DOCUMENT MEMORIALIZING THE DECEDENT'S GENDER IDENTITY; OR

(B) DISCLOSE INFORMATION RELATING TO A GENDER CORRECTION, INCLUDING TO OTHER GOVERNMENT EMPLOYEES, UNLESS THE DISCLOSURE IS LEGALLY REQUIRED TO CONDUCT OFFICIAL BUSINESS.

(IV) NOTWITHSTANDING SECTION 25-2-115, THE AMENDED CERTIFICATE OF DEATH ISSUED PURSUANT TO SUBSECTION (1)(f)(I) OF THIS SECTION SUPERSEDES THE ORIGINAL CERTIFICATE OF DEATH AS THE OFFICIAL PUBLIC RECORD AND MUST NOT BE MARKED AS AMENDED OR INDICATE IN ANY OTHER MANNER THAT THE GENDER OR LEGAL NAME ON THE CERTIFICATE OF DEATH HAS BEEN CHANGED.

(V) (A) AN INDIVIDUAL DESCRIBED IN SUBSECTION (1)(e)(III) OF THIS SECTION MAY FILE A CLAIM IN THE COURT OF THE COUNTY WHERE A DECEDENT RESIDED AT THE TIME OF THE DECEDENT'S DEATH OR WHERE THE DECEDENT'S REMAINS ARE LOCATED, WHICH CLAIM NAMES AS A PARTY THE INDIVIDUAL OR INDIVIDUALS DESCRIBED IN SUBSECTION (1)(e)(III) OF THIS SECTION AND SEEKS AN ORDER OF THE COURT AMENDING THE GENDER RECORDED ON THE DECEDENT'S CERTIFICATE OF DEATH.

(B) AN INDIVIDUAL COMPLETING THE CERTIFICATE OF DEATH IS NOT LIABLE FOR DAMAGES OR COSTS RESULTING FROM CLAIMS RELATED TO THE INFORMATION OF THE DECEDENT AS RECORDED ON THE CERTIFICATE OF

DEATH UNLESS THE INDIVIDUAL KNOWINGLY AND WILLFULLY RECORDED THE INCORRECT INFORMATION ON THE CERTIFICATE OF DEATH.

SECTION 3. In Colorado Revised Statutes, **add** 25-2-113.9 as follows:

25-2-113.9. Gender selection for death certificates. ON OR BEFORE JANUARY 1, 2026, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ADD A GENDER FIELD TO THE CERTIFICATE OF DEATH FORM AND THE ELECTRONIC DEATH REGISTRATION SYSTEM THAT IS REQUIRED TO BE UTILIZED BY A QUALIFIED INDIVIDUAL PURSUANT TO SECTION 25-2-110.

SECTION 4. In Colorado Revised Statutes, 25-2-115, **amend** (1) as follows:

25-2-115. Alteration of reports and certificates - amended reports and certificates. (1) A vital statistics report or certificate shall not ever be altered in any way except in accordance with this article 2 and applicable rules. Except for amended birth certificates issued pursuant to section 25-2-113.8 AND AMENDED CERTIFICATES OF DEATH ISSUED PURSUANT TO SECTION 25-2-110 (1)(f), the date of alteration and a summary description of the evidence submitted in support of the alteration must be endorsed on or made a part of each vital statistics certificate that is altered. Every vital statistics report or certificate that is altered in any way must be marked "Amended", except for amended birth certificates issued pursuant to section 25-2-113.8; AMENDED CERTIFICATES OF DEATH ISSUED PURSUANT TO SECTION 25-2-110 (1)(f); the birth report or certificate of a child altered by the addition of a father's name pursuant to section 25-2-112 (3), in which case, upon request of the parents, the surname of the child shall be changed on the report and certificate to that of the father; or additions and minor corrections made within one year after the date of the statistical event as may be specified by applicable rules. A child's surname may be changed upon affidavit of the parent that the change is being made to conform the child's surname to the parent's legal surname.

SECTION 5. Applicability. This act applies to offenses committed on or after the effective date of this act.

SECTION 6. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO