

**CHAPTER 33-04-12  
CORRECTION AND AMENDMENT OF VITAL RECORDS**

Section	
33-04-12-01	Amendment of Minor Errors on Birth Records During the First Year
33-04-12-02	Amendments as a Result of <del>Gender Identity Change</del> <u>Sex Reassignment Surgery</u>
33-04-12-03	All Other Amendments
33-04-12-04	Who May Apply
33-04-12-05	Amendment of Registrant's Given Names on Birth Record Within the First Year
33-04-12-06	Addition of Given Names
33-04-12-07	Medical Items
33-04-12-08	Amendment of the Same Item More Than Once
33-04-12-09	Methods of Amending Records

**SECTION 1.** Section 33-04-12-01 is amended as follows:

**33-04-12-01. Amendment of minor errors on birth records during the first year.**

Amendment of obvious errors, transposition of letters in words of common knowledge, or omissions on birth records may be made by the state registrar within the first year after the date of birth either by the state registrar's own observation or query or upon request of ~~a person~~an individual with a direct and tangible interest in the record as defined in section 33-04-13-01. When such additions or minor amendments are made by the state registrar, a notation as to the source of the information together with the date the change was made and the initials of the authorized agent making the change shall be made on the record in such a way as not to become a part of any record issued. The record is not to be marked as "amended".

**History:** Amended effective January 1, 2008; January 1, 2024.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-25(2)

**SECTION 2.** Section 33-04-12-02 is amended as follows:

**33-04-12-02. Amendments as a result of ~~gender identity changes~~sex reassignment surgery.**

1. **Evidence and documents required.** The birth record of ~~a person~~an individual born in this state who has undergone ~~aan acceptable sex conversion operation~~reassignment surgery, where the sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider, may be amended as follows:
  - a. Upon written request of the ~~person~~individual who has undergone

the ~~operations~~surgery;

- b. ~~An affidavit~~A notarized form, provided by the department, signed by a physician that the physician has performed an~~the operations~~surgery on the person~~individual~~, and that by reason of the ~~operations~~surgery, the sex designation of such person's birth record should be ~~the individual has been~~changed to the anatomically correct genitalia of the identified sex; and
  - c. An order of a court of competent jurisdiction decreeing a legal change in name, if one is so desired.
2. **New record.** Pursuant to such amendment, a new record of birth will be created by the state registrar showing original data as transcribed from the original record excepting those items that have been amended. The new record will be clearly marked in the upper margin with the word "amended" and a description of the amended items may be added to the certified copy for clarification.
  3. **Sealing of original record.** The original record shall be then placed in a special file and shall not be open to inspection except by order of a court of competent jurisdiction or by the state registrar for purpose of carrying out the provisions of North Dakota Century Code chapter 23-02.1 and properly administering the vital records registration program.
  4. **Acceptable sex reassignment surgeries.** The vital records office shall maintain a list of acceptable sex reassignment surgeries that must be routinely reviewed to ensure the list is updated as any new acceptable surgeries meeting the criteria become available. The acceptable sex reassignment surgeries must change an individual's sex with the correct genitalia of the new identified sex and remove the sexual function of the previous sex.

**History:** Amended effective January 1, 2008; January 1, 2024.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-04

**SECTION 3.** Section 33-04-12-04 is amended as follows:

**33-04-12-04. Who may apply.**

1. To amend a birth record, application may be made by one of the parents, the guardian, or the registrant if at least eighteen years of age.
2. To amend a death or fetal death record, application may be made by the next of kin or the funeral director or ~~person~~an individual acting as such.

Applications to amend the medical certification of cause of death shall be made by the attending physician or coroner.

**History:** Amended effective January 1, 2008; January 1, 2024.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-25(3)

**SECTION 4.** Section 33-04-12-07 is amended as follows:

**33-04-12-07. Medical items.**

All items in the medical certification or of a medical nature may be amended only upon receipt of a signed statement from those ~~persons~~ individuals responsible for the completion of such items. The state registrar may require documentary evidence to substantiate the requested amendment.

**History:** Amended effective January 1, 2024.

**General Authority:** NDCC 23-02.1-04, 28-32-02

**Law Implemented:** NDCC 23-02.1-04