

CONSULTATION REPORT
AMENDMENTS TO THE
VITAL STATISTICS ACT
AND
CHANGE OF NAME ACT

May 2022

Department of Justice and Public Safety
Government of Prince Edward Island

Invitation to Provide Comment

**The Deadline for comments on the matters discussed in
this Report is June 30, 2022.**

The purpose of this Consultation Report is to allow interested persons an opportunity to consider proposed amendments to the *Vital Statistics Act* and *Change of Name Act*. Any comments sent to the Department of Justice and Public Safety will be considered in the development of new legislation on this topic.

You can contact us to provide your comments or questions about this document by mail or e-mail to:

Justice Policy
Department of Justice and Public Safety
95 Rochford Street
PO Box 2000
Charlottetown, PE C1A 7N8

Email: justicepolicy@gov.pe.ca

This consultation is a public process. **The Department of Justice and Public Safety assumes that comments received on this Consultation Report are not confidential unless specifically indicated.** The Department may quote from or refer to your comments in whole or in part. The Department may attribute comments provided by organizations. If you would like your comments to be treated confidentially, please request confidentiality in your response or submit your comments anonymously.

Any personal information received by the Department through this consultation process is subject to the *Freedom of Information and Protection of Privacy Act*. If you have any questions or concerns, please contact the Legislative Specialist by means of the contact information indicated above.

I. INTRODUCTION

The Department of Justice and Public Safety (“JPS”) is inviting Islanders to provide feedback on proposed amendments to the *Vital Statistics Act* and *Change of Name Act*.

The proposed amendments are intended to support a more inclusive gender designation process for Islanders, by making the following changes:

- a) Removing the requirement under the *Vital Statistics Act* for anyone 16 years of age and older to get a written statement from a medical practitioner to change the sex indicator on their birth certificate (the requirement will only apply to persons who are 15 years of age and younger); and
- b) Removing the requirement under the *Change of Name Act* for parental consent for persons who are 16 to 17 years of age (the requirement will only apply to persons who are 15 years of age and younger).

JPS is also proposing to reduce the fees payable when a person applies to record a change of gender designation and obtain an updated birth certificate.

II. CURRENT REQUIREMENTS

Vital Statistics Act

An adult (18 years of age or older) born in Prince Edward Island may apply to the Director of Vital Statistics to record a change of sex designation on the person’s registration of birth. A minor (12 years of age or older) may also apply, with written consent of the person’s parents (or legal custodian).

The application process involves submitting a completed form (adult or minor) and supporting documents, including a written statement from a medical practitioner (or nurse practitioner) confirming that the sex recorded on the person’s registration of birth does not correspond with the person’s gender identity. Additional information is available on the JPS website:

<https://www.princeedwardisland.ca/en/information/justice-and-public-safety/change-gender-designation>

Change of Name Act

An adult who has resided in PEI for at least three months can apply for a legal name change. A person cannot apply if they are in lawful custody, such as a Correctional Center. A person under the age of 18 who has resided in PEI for at least three months can apply with written consent of a parent or guardian.

The application process involves submitting a completed form (adult or minor) and supporting documents. Additional information is available on the JPS website at:

<https://www.princeedwardisland.ca/en/information/justice-and-public-safety/change-your-name-legally>

Fees

In order to record a change of name or gender designation, these fees apply:

- \$185 for a name change (\$91.85 processing; \$77.25 registry of deeds; \$15.90 *Royal Gazette*);
- \$25 for change of gender designation; and
- \$25 to obtain an updated birth certificate (or \$35 for an updated long form certificate).

If the person applying for a name and gender designation change at the same time, the gender designation fee does not need to be paid.

III. JURISDICTIONAL SCAN

JPS has reviewed what is required in other provinces and territories to record a change of name and gender designation. Each province/territory has its own age of consent and requirements for obtaining a medical practitioner's statement. Fees also vary between provinces/territories.

Atlantic Provinces

Nova Scotia, New Brunswick, and Newfoundland and Labrador have made changes to their legislation so that a parent or guardian's consent is not required to remove the requirement for parental (or legal custodian) consent when a person 16 or older to applies for a change of name or gender designation.

Nova Scotia and Newfoundland and Labrador have also removed the requirement for a person who is 16 or older to provide a medical practitioner's – such as a doctor or nurse practitioner – written statement. New Brunswick requires a medical practitioner's statement for all persons applying for a change of gender designation.

Nova Scotia, New Brunswick, and Newfoundland and Labrador do not charge fees to record a change of gender designation. Nova Scotia and New Brunswick also do not charge fees to obtain an updated birth certificate.

Each province charges fees for a legal name change (\$100 to \$165.70). The fees however do not include costs for other applications/transactions that a person may need to complete in the name change process. Additional applications and transactions might include such things as fees for *Royal Gazette* publication, filing notice with the provincial registry of deeds, or obtaining a criminal records check, fingerprinting or witnessing/notarizing of signature.

Non-Atlantic Provinces/Territories

In Ontario, Quebec, Yukon and the Northwest Territories a parent or guardian does not need to consent when a person is 16 or older (in Quebec the applicable age is 14). Saskatchewan and Manitoba also permit minors to apply for a change of gender designation but require medical certification regarding the applicant's capacity to make health decisions. Alberta and British Columbia require parental consent for a minor under the age of 18 and 19, respectively.

Ontario, Manitoba, Saskatchewan and the Northwest Territories require all persons applying for a change of gender designation to provide a medical practitioner's statement. Quebec requires a medical practitioner's statement when the application concerns a minor person (under the age of 18). Yukon requires a similar statement for anyone under the age of 16. Alberta and British Columbia require a medical practitioner's statement for applicants under the age of 12 (but both provinces require parental consent for minors under the age of 18 and 19, respectively, as noted above).

All non-Atlantic provinces/territories, except Quebec, require parental consent for a minor (under the age of 18 or 19) to apply for a legal name change.

The non-Atlantic provinces/territories charge fees to record a change of gender designation and legal name change. Some charge an additional fee (\$10 to \$60) to obtain an updated birth certificate while others do not. The total fees range from approximately \$70 to \$288.

Additional fees apply for other applications/transactions that a person may need to complete in the name change process, such as fees for *Royal Gazette* publication, filing notice with the provincial registry of deeds, or obtaining a criminal records check, fingerprinting or witnessing/notarizing of signature.

IV. PROPOSED CONTENT

To align with other provinces/territories, JPS is proposing the following changes:

1. Section 12(1)(b) of the *Vital Statistics Act* be amended to remove the requirement for anyone 16 years of age and older to obtain a medical practitioner’s statement when applying to record a change of gender designation. All persons who apply to record a change of gender designation will need to provide:
 - a) a completed application requesting the change of gender designation, including a written statement confirming the applicant has assumed, identifies with and intends to maintain the gender identity that corresponds with the change requested; and
 - b) a copy of their government issued photo ID.

Persons who are 15 years of age and younger will also still need to provide a medical practitioner’s statement and obtain written consent of a parent or guardian.

2. A new subsection 12(1.1) of the *Vital Statistics Act* be added to provide for the Supreme Court of Prince Edward Island to waive a parental consent requirement in the best interests of the applicant.
3. Sections 16(1), 20(1)(a), 24(5)(c) and 32(1)(f) of the *Vital Statistics Act* be amended to replace gender-specific language with gender-neutral language.
4. Sections 4(1) and 5(1) of the *Change of Name Act* be amended to lower the age at which a person may apply for a change of name from 18 to 16 years.

JPS also proposes removing the current \$25 fee to record a change of gender designation and the additional \$25 fee to obtain an updated birth certificate when applying for change of gender.

Please note, with regard to the proposed amendments to the *Change of Name Act*, JPS is currently in the process of developing enabling regulations to *Bill No. 13, An Act to Amend the Change of Name Act*, which the Legislative Assembly enacted on May 13, 2021. Consequential revisions will be made to the proposed amendments when Bill No. 13 comes into force.

V. INVITATION FOR COMMENT

We hope that this Consultation Report is useful in providing a summary of the background to the proposed amendments to the *Vital Statistics Act* and *Change of Name Act*. A copy of the proposed text of the Bills entitled *An Act to Amend the Vital Statistics Act* and *An Act to Amend the Change of Name Act* is available for your review on the Justice and Public Safety website at:

<https://www.princeedwardisland.ca/en/topic/justice-and-public-safety>.

We encourage you to provide comments on this Bill by **June 30, 2022** so that Government has an opportunity to consider all feedback prior to finalizing the Bills for consideration by the Legislative Assembly of Prince Edward Island. Comments may be provided as described in page 2 of this Consultation Report.