



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
LANSING

ELIZABETH HERTEL  
DIRECTOR

**February 18, 2021**

**Request for Opinion**

Attorney General Nessel,

I respectfully request your opinion under MCL 14.32 regarding the constitutionality of MCL 333.2831(c). That statute, last amended in 1996, provides:

The state registrar shall establish a new certificate of birth for an individual born in this state when the registrar receives . . . [a] request that a new certificate be established to show a sex designation other than that designated at birth. The request shall be accompanied by an affidavit of a physician certifying that sex-reassignment surgery has been performed.

The state registrar is an officer in the Michigan Department of Health and Human Services (MDHHS).

Specifically, I seek your opinion whether MCL 333.2831(c) violates the constitutional rights of Michigan-born persons who seek to amend their birth certificate to alter their sex designation assigned at birth to reflect their present gender identity. Presently, if such an applicant has not received “sex-reassignment surgery,” or cannot provide proof of that surgery in the form of a sworn physician’s affidavit, MCL 333.2831(c) requires that MDHHS deny their application to amend their birth certificate. Please review this request and process as soon as practicable. I appreciate your time and attention to this matter.

Date: February 18, 2021

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Elizabeth Hertel, Director  
Michigan Department of Health and Human Services

- c: AAG James Long, Corporate Oversight Division Chief  
AAG Joe Potchen, Senior Executive Attorney, Bureau of Consumer & Regulatory Enforcement  
AAG Josh Booth, Opinions Division Chief