



**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**Notice of Public Hearing and Opportunity to Comment on
Proposed Amendment to Provisions of Article 207 of the New York City Health Code**

What are we proposing? The New York City Department of Health and Mental Hygiene (“Department” or “DOHMH”) is proposing that the Board of Health (“Board”) amend Article 207 of the New York City Health Code (“Health Code”) to allow an application for correction of a birth certificate to be made on behalf of a minor by the government agency responsible for the custody and care of the minor.

When and where is the hearing? The New York City Department of Health and Mental Hygiene will hold a public hearing on the proposed rule. The public hearing will take place at 10:00AM to 12:00PM on Tuesday, December 6, 2022. The hearing will be conducted by video conference accessible via internet or telephone:

- **Internet.** To participate in the public hearing, enter to register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=m354d5a9ab5daeeb3e958ec94d920d9d6>
If prompted to provide an event number or password, please enter the following:
Webinar number: **2346 166 4151**, Password: **egMa9PqZK68** (34629779 from phones)
- **Phone:** For access, dial: **(646) 992-2010** or **(408) 418-9388**; then please enter the following
Access code: **234 616 64151**.

How do I comment on the proposed amendments? Anyone can comment on the proposed amendments by:

- **Website:** You can submit comments to the Department through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email:** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail:** You can mail written comments to:
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, 14th Floor, CN 30
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to the Department at 347-396-6087.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or by emailing resolutioncomments@health.nyc.gov before the hearing begins at 10AM on Tuesday, December 6, 2022. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? Written comments must be received on or before December 6, 2022, at 5:00 pm.

What if I need assistance to participate in the hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078 or by emailing resolutioncomments@health.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by November 22, 2022.

Can I review the comments made on the proposed amendment? You may review the comments made online at <http://rules.cityofnewyork.us/> on the proposed amendments by going to the website at <http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time by the Department's Office of the General Counsel.

What authorizes the Department to make this amendment? Section 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 558(c) of the Charter authorizes the Board to include in the Health Code provisions related to maintaining a registry of births and deaths. Section 556(c)(1) of the Charter authorizes the Department to supervise and control the registration of births and deaths. Section 1043(a) of the Charter grants rulemaking powers to the Department. The Department did not include the proposed amendment in its regulatory agenda for this fiscal year because it did not contemplate this amendment at the time.

Where can I find the Department's rules? The Department's rules and the Health Code are located in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

Statement of Basis and Purpose of Proposed Rule

Section 207.01 of the Health Code allows the Department to correct or amend birth certificates of minors upon application of their parents, surviving parent, or legal guardians in limited instances. Pursuant to Section 207.01, all applications must be accompanied by supporting documentation and no application may be approved unless the Department is satisfied that the evidence submitted shows the true facts and that an error or omission was made at the time of preparing and filing of the certificate or confidential medical report of birth or that the name of a person named in a birth certificate has been changed pursuant to court order. New corrected birth certificates are issued when the change is made within one year of birth.

This seemingly simple process for a name change does not work for the roughly 75 to 80 child welfare cases a year where parental rights have not been terminated and a child has been placed in the care and custody of the Administration for Children's Services (ACS), such as when a child has been placed in foster care. Currently, Section 207.01 does not allow ACS or any other social services agency to apply for a name change in these circumstances. The need for a birth certificate correction is most pressing when a placeholder such as "Baby Boy," "Girl," or "No Name Given," is on a birth certificate, because without an actual first name, it is difficult to establish the child's identity for services, including Social Security and Medicaid coverage. Social services agencies must therefore obtain a court order to permit the Department to correct a birth certificate, which adds time and expense to an already lengthy process of placing children in foster care families, while also delaying the children's access to social services.

To address this issue, the Department proposes to amend Section 207.01(a) to allow a government agency—ACS in New York City, the Office of Children and Family Services in the rest of New York State, and social services agencies of other states and localities—to apply for corrections to a birth certificate, on behalf of a child, when a court has granted care and custody of that child to the agency. With this amendment, the needs of children entering the foster care system will more readily and seamlessly be met.

The proposed amendment is as follows:

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

RESOLVED, that subdivision (a) of section 207.01 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

- (a) The Commissioner or the Commissioner's designee may approve the amendment of a birth, termination of pregnancy or death certificate, or of a confidential medical report of birth, spontaneous termination of pregnancy or death. Application shall be made on a form furnished by the Department. Application for amendment of a birth certificate [shall] may be made only by the person whose birth certificate is to be corrected if such person is 18 years of age or over, or by the parents or surviving parent of a child that is deceased, [or] by the legal guardian of the person whose birth certificate is to be corrected, or by an agency in accordance with subdivision (e) of this section [or by the person] if such person is under 18 years of age[or over]. Application for amendment of a spontaneous termination of pregnancy shall be made by the parents or surviving parent. Application for amendment of a death certificate, or of a confidential medical report of death shall be made by the person in control of disposition as defined in Article 205 of this Code or by the person identified on the death certificate as providing the personal particulars pursuant to Article 205 of this Code.

RESOLVED, that a new subdivision (e) be added to section 207.01 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, to read as follows:

- (e) When a court of competent jurisdiction has remanded or placed a child to the care and custody of the Administration for Children's Services or an authorized government social services agency outside of the City of New York responsible for the welfare of a child, as determined by the department, such agency may make an application for correction of a first name when none or a placeholder was provided on the original birth certificate.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Birth Certificates (Health Code Article 207)

REFERENCE NUMBER: DOHMH-126

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 13, 2022
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Birth Certificates (Health Code Article 207)

REFERENCE NUMBER: 2022 RG 083

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 13, 2022