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LATE

TESTIMONY BY:

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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

Wednesday, February 26, 2020
1:10 PM
State Capitol, Room 211

S.B. 568
RELATING TO DRIVER'S LICENSES

Senate Committee(s) on Ways and Means and Judiciary

The Department of Transportation is providing **comments** to S.B. 568 which excludes gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses.

This bill will require computer system modifications to the City and County of Honolulu's driver's license computer system and to the limited purpose driver's license card producing vendor's programs. We recommend that the bill's effective date be revised to become effective on October 1, 2020 or thereafter.

Thank you for the opportunity to provide testimony.



SB568

RELATING TO DRIVER'S LICENSES

Ke Kōmike 'Aha Kenekoa o ka Ho'okolokolo
Ke Kōmike 'Aha Kenekoa o ke Ki'ina Hana a me nā Kumuwaiwai

Pepeluali 26, 2020

1:10 p.m.

Lumi 211

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB568, which would remove gender markers from limited purpose driver's licenses and provisional driver's licenses, providing meaningful accommodation for transgender and gender nonconforming individuals, and reducing the risks of invasive questioning, discrimination, harassment, and even violence that transgender, gender non-binary, and other gender non-conforming individuals may face when identified as a particular gender on their state identification.

Transgender and gender non-conforming people have deep roots in traditional Hawaiian society, and remain a significant but often under acknowledged part of Hawai'i's community today. Hawaiian culture has a rich history of gender diversity and acceptance of those who would now be considered transgender or gender non-conforming. In pre-colonial Hawaiian culture and society, aikāne and māhū were revered and maintained special roles in society and in certain cultural practices.¹ Currently, Hawai'i ranks first in the nation with the highest proportion of its population composed of transgender adults,² and three percent of Hawai'i's high-school-aged youth identify as transgender.³ Native Hawaiians are also strongly represented among this young transgender population, representing 25% percent of our transgender youth.⁴ Unfortunately, our modern society does not meaningfully acknowledge and accommodate our transgender and gender non-conforming communities, resulting in various forms of systemic and invidious discrimination not reflective of Hawai'i's cultural history and traditional values.

Government forms of identification, such as driver's licenses, that mandate gender markers can have a great impact on transgender and gender non-conforming peoples'

¹ See, e.g., Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. (2004); Lilikalā Kame'eleihiwa, *Le'ale'a o nā Kūpuna: Traditional Hawaiian Sexuality*, Ke Ola Mamo Conference (1999); and Keith Bettinger, *Historically Speaking: A quick look at homosexuality and gender roles in pre-contact Hawai'i*, HONOLULU WEEKLY (Jun. 20-26, 2007).

² WILLIAMS INSTITUTE, HOW MANY ADULTS IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 3 (2016).

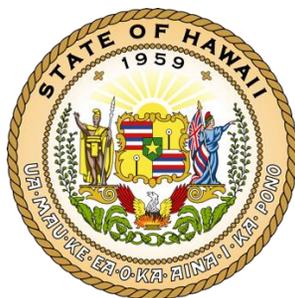
³ HAWAII STATE DEPARTMENT OF HEALTH, HAWAII SEXUAL AND GENDER MINORITY HEALTH REPORT 2018: A FOCUS ON TRANSGENDER YOUTH, 24 (2018) available at <https://health.hawaii.gov/surveillance/files/2018/09/HawaiiSexualandGenderMinorityHealthReport2018.pdf>.

⁴ *Id.*

safety and emotional well-being. For example, a driver's license showing a binary gender may "out" such individuals in any situation requiring proof of identity; as a result, routine activities like travelling, applying for a job or a school, entering public establishments, or attempting to obtain benefits can be anxiety-inducing ordeals for these individuals. Identification documents that do not match a person's lived gender can also expose them to negative attention in a variety of forms, including invasive questioning; verbal harassment and physical violence; unnecessary scrutiny by law enforcement; and discrimination in housing, employment, healthcare, and public benefits.

Removing gender markers on limited purpose and provisional driver's licenses, consistent with previous legislation removing gender markers from standard driver's licenses, will allow māhū, transgender, and gender non-conforming people seeking such licenses to avoid having to compromise their personal and cultural identities, and mitigate the prejudicial treatment and harms they may otherwise face.

Therefore, OHA urges the Committees to **PASS** SB568. Mahalo nui loa for the opportunity to testify on this important measure.



Testimony on behalf of the
Hawai'i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the Senate Committee on WAM & JDC

In Support of SB568
Wednesday, February 26, 2020, at 1:10 p.m. in Room 211

Dear Chairs Dela Cruz and Rhoads, and Honorable Members,

The Hawai'i State Commission on the Status of Women wishes to mahalo you for holding this hearing today and for the opportunity to testify in **strong support** of SB568, which would eliminate gender or sex markers from limited purpose driver's licenses and limited purpose provisional licenses.

Hawai'i has the largest percentage of transgender individuals in the United States. Gender and sex markers on state driver's licenses cause difficulty and invasive questioning in everyday transactions for this community. Indeed, sex and gender markers **increase the likelihood of discrimination** for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Sex and gender are distinct concepts although the state uses the terms inconsistently and often interchangeably, which exacerbates mythological binaries. The federal REAL ID Act requires that state driver's licenses mark "the person's gender." At present, Hawai'i's regular driver's license is technically non-compliant with the REAL ID Act because lists "sex." Sex implies chromosomes and particular body parts relevant to reproduction. Gender is the story that a society tells about sex differences.

These stories are currently "steeped in stereotypes of female inferiority," and are so deeply ingrained that we experience them as if they are biological.¹ Gender (expectations and stereotypes) is at the heart of the subordinate status of women and all people who exhibit a

¹ Fogg Davis, H., *Beyond Trans: Does Gender Matter?*, Jun. 2017.

feminine rather than typically masculine appearance or bearing. In most states, non-binary genders are not legally recognized.

SB568 would align our identification documents with the reality that gender is a mutable, performative characteristic that is personally changeable at any moment.² All people may present themselves at any time in a way that associates them with the “wrong” sex or gender, and can be misgendered by state administrators such as law enforcement.

Neither sex or gender markers are needed for administrators in identifying an individual. The Commission asserts that the state does not have a legitimate interest maintaining sex or gender markers to advance the legitimate policy goal of personal identity verification. U.S. passports did not bear a sex marker until the 1980s and the Hawai'i state identification card did not bear a sex or gender marker until five years ago.

Further, it is overly burdensome to “correct” sex and gender identity for non-binary people. In order to update name and gender on a Hawai'i ID, the applicant must first change name with the Social Security Administration and then submit (1) a court order certifying the name change and (2) a Gender Designation Form completed by a medical or social professional stating the new gender. This process amounts to policing gender.

Accordingly, the Commission asks that the Committee pass this important measure.

Mahalo,

Khara Jabola-Carolus

² *Id.*



February 24, 2020

Senate's Committees on Judiciary & Ways and Means
Hawaii State Capitol
415 South Beretania Street, Room 211
Honolulu, HI 96813

Hearing: Wednesday, February 26, 2020 – 1:10 p.m.

RE: **STRONG SUPPORT for Senate Bill 568** – RELATING TO DRIVER'S LICENSES

Aloha Chair Rhoads, Chair Dela Cruz and fellow committee members,

I am writing in STRONG SUPPORT for Senate Bill 568 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. SB 568 excludes gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses.

SB 568 is one of the priorities for the LGBT Caucus and is a continuation of the work we have done to help ensure all are treated equally and fairly. The idea of gender binary is a fallacy and this bill will help correct this misconception. Gender identity is a spectrum and people fall somewhere along it, from female to agender to male. This needs to be reflected on those do not identify as strictly female or male on their provisional driver's licenses.

For the State of Hawaii to require everyone to pick either female or male on their provisional driver's license is requiring them to lie. By passing this bill you will be making Hawaii more accepting of our fellow 'ohana members that do not adhere to the gender binary. To understand more about our non-binary 'ohana we encourage you to read ["Understanding Non-Binary People" from the National Center for Transgender Equality](#).

Currently 3 other states (California, Minnesota & Oregon) and the District of Columbia have a variation of this law. The LGBT Caucus of the Democratic Party of Hawaii asks that you pass SB 568 to help make Hawaii a more inclusive state for all.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair

National Center for Transgender Equality
FAQ: GENDER-NEUTRAL IDS What is a gender-neutral ID?

A gender-neutral ID displays an alternate marker that is not an “M” (male) or “F” (female) to fill the sex or gender field of the ID. The gender-neutral marker is typically an “X” marker which stands for “Undisclosed” or “Other.”

Why are gender-neutral IDs important?

Many people have a gender identity that is not male or female and may use terms like “non-binary” to describe their gender identity. A gender-neutral ID allows them to display a more accurate gender marker on their ID. A gender-neutral ID also allows people of any gender to have increased privacy around gender on their state ID.

Do I have to identify as non-binary to get a gender-neutral ID?

No. People of any gender may choose not to disclose their gender on their ID by opting for a gender-neutral marker.

If I am a transgender man or transgender woman, do I have to get a gender-neutral ID?

No. The gender-neutral option “X” is in addition to the options of “M” or “F.” A transgender woman can still change the gender marker on her ID to “F” and a transgender man can still have “M” on his ID.

Do I need a provider to certify my request for a gender-neutral ID?

No. Current states with gender-neutral options allow all applicants to determine the gender marker that is most appropriate for them and no longer require documentation from a medical or mental health provider. This allows people who may have limited access to medical providers to get appropriate ID, and also allows people who seek to have an “X” gender marker for privacy reasons to do so.

What if my gender-neutral ID does not match the gender marker on my other IDs and documents?

If you have different gender markers listed on various IDs or records, it may cause confusion or raise eyebrows when interacting with officials or applying for services. However, legally speaking, it is not a problem to have records and IDs with different gender markers, and officials should still be able to verify your identity.

Can I use my gender-neutral ID to travel and go through TSA or airport security?

TSA does not yet have an official policy on how they process IDs with gender neutral markers, despite the fact that various other countries issue IDs with “X” designations. Airlines are required to collect name and gender information and submit it to TSA before each flight, and airlines currently only have M or F options. It is ideal to bring an ID to fly that has a gender marker that matches the gender you submitted to the airline. However, if you don’t have an ID with a gender marker that matches what you submitted to the airline you can likely still get through security, though you may receive additional scrutiny or questioning.

Will my ID be compliant with federal and international laws?

Yes. The REAL ID Act requires states to list a gender on licenses, but the Department of Homeland Security explicitly states that they “leave the determination of gender up to the States [...]” An X gender marker is consistent with the practice of the International Civil Aviation Association (ICAO), an agency of the United Nations, which uses an internationally-recognized passport format that allows for M, F, or X gender markers.



Pono Hawai'i Initiative

Josh Frost - President • Patrick Shea - Treasurer • Kristin
Nelson Ho • Summer Starr

LATE

Wednesday, February 26, 2020

Relating to Driver's Lienses
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports SB568 Relating to Driver's Licenses**, which would exclude gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses. This measure is a great step toward inclusivity.

Gender or sex markers on driver's licenses are not necessary and can be extremely invasive and dangerous for individuals. If they do not present in a societal conforming way, these individuals are now at risk for discrimination and invasive questioning – whether it be seeking employment, opening a bank account or dealing with law enforcement.

For all these reasons, we urge you to vote in favor of this measure.

Mahalo for the opportunity,
Gary Hooser
Executive Director
Pono Hawai'i Initiative

SB-568

Submitted on: 2/25/2020 10:26:39 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--------------------------------------------------------------|---------------------------|---------------------------|
| Laurie Field | Testifying for Planned Parenthood Votes Northwest and Hawaii | Support | No |

Comments:

SB-568

Submitted on: 2/24/2020 4:56:55 PM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mike Golojuch, Sr. | Individual | Support | No |

Comments:

I strongly support SB568. Please pass SB568. Thank you.

Mike Golojuch, Sr., Lt Col, USAF (Ret)

Secretary/Board Member, Rainbow Family 808

Secretary/Board MEmber, Pride at Work

SB-568

Submitted on: 2/25/2020 9:06:51 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Amanda Martinez | Individual | Support | No |

Comments:

SB-568

Submitted on: 2/25/2020 9:15:21 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lanore Hahn | Individual | Support | No |

Comments:

I strongly support SB568. It should be passed because gender markers on IDs increase the risk of discrimination and harm against our cisgender, transgender and gender non conforming residents. We often pose the issue as a trans gender issue but the reality is discrimination and bias exists in us all. This inherent bias can be used to discriminate and intimidate cis gender women, cis gender males and of course non binary folks.

In Hawai'i, three percent of public high school students, self-identify as transgender, which translates to about 1,260 teens. Approximately 8,045 people in Hawai'i, 0.8% of the adult population, identify as transgender—the highest of any state. Passing this bill not only supports the people in Hawai'i who identify outside of gender binary but it also challenges the gender binary itself.

SB-568

Submitted on: 2/25/2020 9:21:16 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jen Jenkins | Individual | Support | No |

Comments:

I strongly support SB568. It should be passed because gender markers on IDs increase the risk of discrimination or harm against transgender or gender non-conforming individuals. In

Hawai'i, three percent of public high school students, self-identify as transgender, which translates to about 1,260 teens. Approximately 8,045 people in Hawai'i, 0.8% of the adult population, identify as transgender—the highest of any state. Passing this bill not only supports the people in Hawai'i who identify outside of gender binary but it also challenges the gender binary itself.

SB-568

Submitted on: 2/25/2020 9:29:58 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kevin Tomita | Individual | Support | No |

Comments:

SB-568

Submitted on: 2/25/2020 9:22:14 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Thaddeus Pham | Individual | Support | No |

Comments:

Aloha,

As a community member and a public health professional, I strongly support SB568.

It should be passed because gender markers on IDs increase the risk of discrimination or harm against transgender or gender non-conforming individuals. In Hawai'i, three percent of public high school students, self-identify as transgender, which translates to about 1,260 teens. Approximately 8,045 people in Hawai'i, 0.8% of the adult population, identify as transgender—the highest of any state.

The Hawaii State Department Health recently published both a sexual and gender minority health report (2017) and a follow-up report which focused on transgender youth (2018). These reports and the resulting Sexual and Gender Minority Work Group have highlighted the need for a statewide comprehensive strategy for our LGBTQ+ community to address related health disparities and social inequities in Hawaii. A more inclusive gender discussion at all levels of government can make a huge impact in improving the health and well-being for thousands of people in our state.

Thanks for your consideration,

Thaddeus Pham

SB-568

Submitted on: 2/25/2020 10:00:11 AM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Linda Kim | Individual | Support | No |

Comments:

I strongly support SB568. It should be passed because gender markers on IDs increase the risk of discrimination or harm against transgender or gender non-conforming individuals. In

Hawai'i, three percent of public high school students, self-identify as transgender, which translates to about 1,260 teens. Approximately 8,045 people in Hawai'i, 0.8% of the adult population, identify as transgender—the highest of any state. Passing this bill not only supports the people in Hawai'i who identify outside of gender binary but it also challenges the gender binary itself.

LATE

SB-568

Submitted on: 2/25/2020 8:40:12 PM

Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------------|---------------------|---------------------------|---------------------------|
| Jaime Stevens, MD, MPH | Individual | Support | No |

Comments:

It has been established in the medical literature that sex determination at birth is often not accurate, that a significant percentage of individuals have a fluid and/or nonbinary gender identity, and that many individuals have a diverse gender expression throughout the gender continua of multiple different cultures.

Of all the states studied thus far, Hawai'i has the highest percentage of residents with a gender identity beyond "male" or "female."

There is a dearth of evidence that sex markers on identification documents enhance the ability of officials to ensure the person who is presenting the identification document is the person to whom it was issued. Conversely, there is a plethora of more accurate and immutable information that can be used to identify an individual.

Furthermore, those whose gender expression does not match their documentation experience increased social and economic difficulties.

This leaves us in Hawai'i in a position, for the benefit of public health, a charge to be leaders in safety - both in the ability to accurately identify those based on their documents, and in avoiding unnecessary psychosocial outcomes of inaccurate documentation.

As a medical professional, I support including only relevant, objective, and non-discriminatory information on our state identification documents.

LATE

SB-568

Submitted on: 2/26/2020 9:32:27 AM
Testimony for JDC on 2/26/2020 1:10:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|------------------------|--------------------------------------|---------------------------|---------------------------|
| Pride at Work - Hawaii | Testifying for Pride @ Work - Hawaii | Support | No |

Comments: