



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 631, H.D. 1, RELATING TO CERTIFICATES OF BIRTH.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 24, 2015

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Jill T. Nagamine, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General has concerns about this bill in its current form.

This bill would amend section 338-17.7, Hawaii Revised Statutes (HRS), which provides methods to establish new birth certificates. Currently the law allows the Department of Health (DOH) to establish a new birth certificate to reflect changes based on establishment of paternity, adoption, name changes, or for law enforcement purposes. It also allows the DOH to change the sex on an individual's birth certificate upon receipt of a physician's affidavit that the sex designation was initially entered incorrectly on the record or that the birth registrant has had a sex change operation and the sex designation on the birth certificate is no longer correct.

Our concerns about this bill are as follows: (1) the proposed method of amending birth certificates allows an affidavit from a licensed mental health provider, but that term is vague and may include persons who lack expertise to provide evidentiary reliability, and (2) the part of the amendment that would allow for unsealing sealed birth records upon request may be a violation of the right to privacy under the State Constitution.

(1) Reliability of the method of amendment

The Department of the Attorney General shares the DOH's concerns about the reliability of making changes to sex on a birth record in the manner proposed by House Draft 1 of this bill. It would allow an affidavit from a licensed mental health provider to suffice as basis for a change. Page 3, lines 3-8. We think the most reliable way would be with a judicial determination, but short of that, at minimum, the basis for a change should come from a U.S. licensed physician with a bona fide physician-patient relationship to the birth record registrant.

Accuracy and integrity of vital records is important, and thus any changes to a birth record should only be made using a reliable, evidence-based way of determining if a change to a birth certificate is appropriate.

Additionally, at page 3, lines 3-8, this bill would allow a licensed mental health provider to provide a statement attesting that a person's birth certificate should be changed. The term "licensed mental health provider" is not defined but may include practitioners in specialty fields that have nothing to do with gender changes. These individuals may not have appropriate qualifications to determine if a person's birth certificate ought to be changed to reflect a different sex than what was recorded at the person's birth. Requiring an affidavit from a licensed physician is consistent with the requirements of the U.S. Department of State to change gender on a U.S. passport: "Certifications from persons who are not licensed physicians are NOT acceptable." See, U.S. Department of State Foreign Affairs Manual Volume 9, 7 FAM 1300 Appendix M "Gender Change." (A copy of the relevant pages is attached hereto.)

Also, the specific requirements of the affidavit attesting to the change at page 3, lines 3-8, should be spelled out. The U.S. Department of State offers a model letter in this regard, and the following suggestion is based in part on that model:

Licensed Physician's Letterhead
Physician's Address and Telephone Number

I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State of medical license/certificate), am the physician of (name of patient), with whom I have a physician/patient relationship and whom I have treated and whose medical history I have reviewed and evaluated.

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify new gender male or female), and the new gender does not align with the sex designation on the patient's birth certificate.

It is therefore, my professional opinion that the sex designation of (male or female) on (name of patient)'s birth certificate, should be changed to reflect the new gender (male or female).

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Signature of Physician

If the Legislature prefers a different form of affidavit, the Department will be happy to work with the Legislature and the DOH.

(2) Violation of the Constitutional Right to Privacy.

We also have strong concerns about allowing original sealed records to be opened without a court order.

At page 4, line 5, of the bill, there is a provision that would allow sealed records to be opened at the request of the birth registrant. Currently, section 338-17.7, HRS, provides for the DOH, upon establishing a new birth certificate, to seal original birth records and evidence supporting a change in those records. The sealed records and evidence cannot be opened except by order of a court of record.

Because section 338-17.7, HRS, includes changes not only to those birth records that were changed based on sex redesignation, but also to those records that were changed subsequent to adoption, there are some constitutional concerns with unsealing adoption records that were intended to be kept confidential. Without allowing some provision to remain in the law that gives natural parents who desire confidentiality that option, the bill may violate the right to informational privacy afforded by article I, section 6, of the Hawaii Constitution.

Article I, section 6, of the Hawaii Constitution provides: "The right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest. The legislature shall take affirmative steps to implement this right." In Brende v. Hara, 113 Hawai'i 424, 153 P.3d 1109 (2007), the Hawaii Supreme Court upheld a petitioner's right to privacy in her medical records that had been used for litigation purposes. In applying article I, section 6, the Supreme Court stated:

As previously noted article I, section 6 provides in part that "[t]he right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest."

[T]he [article I, section 6] right of privacy encompasses the common law right of privacy or tort privacy. This is a recognition that the dissemination of private and personal matters, be it true, embarrassing or not, can cause mental pain and distress far greater than bodily injury. For example, the right can be used to protect an individual from invasion of [the individual's] private affairs, public disclosure of embarrassing facts, and publicity placing the individual in a false light. In short, this right of

privacy includes the right of an individual to tell the world to "mind your own business."

Brende, 113 Hawai'i at 430, 153 P.3d at 1115 (quoting 1978 Constitutional Convention standing committee report).

While it is not clear that the Hawaii Supreme Court would rule the same way regarding confidentiality of adoption information as it has relating to medical records, it is possible. To overcome the constitutional right to informational privacy, the State must be able to show a compelling state interest. Id., 153 P.2d at 1115. If there is no compelling state interest in denying privacy to natural parents who seek it, then there must be a provision in the law that allows natural parents a way of maintaining confidentiality.

To cure this Constitutional defect, the sentence at page 4, lines 3-5, could be amended to read: "Such sealed [~~document~~] documents shall be opened only by an order of a court of record[-] or, for those documents amended pursuant to subsection (a)(4), by request of the birth registrant."

We respectfully request this Committee, if it decides to pass this bill, to (1) require an affidavit of a United States licensed physician attesting to the desired change by the physician's patient, and (2) not allow the opening of all of the records that are sealed pursuant to section 338-17.7, HRS, without a court order.

Thank you for this opportunity to express our concerns.

7 FAM 1300 APPENDIX M

GENDER CHANGE

(CT:CON-551; 12-12-2014)
(Office of Origin: CA/OCS/L)

7 FAM 1310 APPENDIX M SUMMARY

(CT:CON-541; 11-13-2014)

- a. This appendix provides policy and procedures that passport specialists and consular officers must follow in cases in which an applicant requests a gender on the passport application different from the one reflected on some or all of the submitted citizenship and/or identity evidence, including a prior passport.
- b. This policy explains the need for medical certification from a licensed physician who has treated the applicant or reviewed and evaluated the medical history of the applicant regarding the change in gender, as well as the need for accurate identification and a photograph reflecting the applicant's current appearance. It is based on standards and recommendations of the World Professional Association for Transgender Health (WPATH), recognized as the authority in this field by the American Medical Association (AMA).
- c. A passport is defined by INA 101(a)(30) (Immigration and Nationality Act) (8 U.S.C. 1101(a)(30)) as "any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the entry of the bearer into a foreign country." An individual's gender is an integral part of that person's identity.
- d. Sexual reassignment surgery is not a prerequisite for passport issuance based on gender change.
- e. Medical certification of gender transition from a licensed physician as described in 7 FAM 1320 Appendix M is the **only** documentation of gender change required. Other medical records are not to be requested.
- f. A Form DS-11 "Application for U.S. Passport" must be used initially as personal appearance for execution is required. A change in gender is a change in the identity of the applicant, and the identification in the new name and gender must be presented.

7 FAM 1320 APPENDIX M DOCUMENTS TO BE SUBMITTED WITH FORM DS-11 PASSPORT APPLICATION

(CT:CON-541; 11-13-2014)

a. Requirements for all elements of the Form DS-11 passport application aside from gender still apply, including:

- (1) **Evidence of U.S. citizenship/nationality.** The applicant must submit acceptable evidence of U.S. citizenship or nationality. (See 7 FAM 1100 "Acquisition and Retention of U.S. Citizenship and Nationality.") The applicant is not required to obtain an amended birth record, amended Consular Report of Birth (CRBA), or to request that the U.S. Citizenship and Immigration Services (USCIS) issue a replacement Certificate of Naturalization/Citizenship reflecting the change of gender. State law in the United States and the laws of other countries vary on whether an amended birth certificate may be issued reflecting a gender change;
- (2) **Evidence of identity.** As with all applications, the applicant must be asked to submit acceptable evidence of identity (ID) in the new gender and name, if available. (See 7 FAM 1320 "Identity of the Passport Applicant".) However, state law and foreign laws vary as to whether a driver's license or other State government form of ID document may be issued reflecting a gender change. So, the applicant may document her/his identity by submitting any of the following ID documents:
 - (a) Acceptable, for passport purposes, primary ID in the new gender (e.g., state issued driver's license, Certificate of Naturalization/Citizenship);
 - (b) Secondary ID documents (two or more) in the new gender. The U.S. Department of State Bureau of Consular Affairs Internet page provides information and examples of secondary evidence of identification.
 - (c) Acceptable primary ID in the old gender.

<p>NOTE: Some form of photographic identification must be presented; You cannot use the doctor's certification as the only evidence to identify an applicant.</p>
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- (3) **Photograph.** A recent photograph that reflects a good likeness of the applicant, and satisfactorily identifies the applicant must be submitted. The photograph must agree with the submitted identification evidence and reflect the applicant's current and true appearance (see also 7 FAM 1300 Appendix E "Passport Photographs");
- (4) **Passport Fee.** All necessary passport fees must be submitted (see 7 FAM 1300 Appendix G "Passport Fees");
- (5) **Name Change.** If the applicant's name has been changed, either by court

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order or through exclusive use for five years, he/she must present satisfactory evidence of the legal name change. Adjudication of the name change must be handled in accordance with requirements contained in 7 FAM 1300 Appendix C "Names to Be Used in Passports".

b. Medical Certification Accepted for Gender Change/Transition That Must be Submitted with the Passport Application.

- (1) A full validity U.S. passport will be issued reflecting a new gender upon presentation of a signed original certification or statement, **on office letterhead**, from a licensed physician who has treated the applicant for his/her gender-related care or reviewed and evaluated the gender-related medical history of the applicant.

NOTE: Such licensed physicians include Medical Doctors (M.D.) and Doctors of Osteopathy (D.O.). (Not to be confused with Doctors of Optometry (O.D.), whose certifications are **not** acceptable.) The physicians may specialize in various medical fields, including, but not limited to, internists, endocrinologists, gynecologists, urologists, surgeons, psychiatrists, pediatricians, and family practitioners.

Certifications from persons who are not licensed physicians are **not** acceptable. They include, but are not limited to psychologists, physician assistants, nurse practitioners, health practitioners, licensed vocational nurse; registered nurse, chiropractors, or pharmacists, are not acceptable.

The certification or statement **must** include the following information (See 7 FAM 1300 Appendix M Exhibit 1):

- (a) Licensed physician's full name;
- (b) Medical license or certificate number;
 - (i) Licensed physicians in foreign countries must have a comparable foreign license or certificate registration number.
 - (ii) For all foreign licensed physician gender change requests, passport agencies/centers must scan copies of the application and attach all submitted documents to Passport Services' Adjudication Policy Division (CA/PPT/S/A/AP) at "CA-PPT-Adjudication-Suggestion-Box". CA/PPT/S/A/AP works with the Overseas Citizens Services' Office of Legal Affairs (CA/OCS/L) to verify the bona fides of the foreign-based licensed physician with the applicable post abroad. CA/PPT/S/A/AP will advise the passport agency/center of the outcome of post's verification as soon as possible.
 - (iii) Posts must verify their own foreign-based licensed physicians or, if the statement is from a physician in another country, contact the post which covers that country for verification.

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- (d) Address and telephone number of the licensed physician;
 - (e) Language stating that he/she has treated the applicant or has reviewed and evaluated the medical history of the applicant and that he/she has a doctor/patient relationship with the applicant;
 - (f) Language stating the applicant has had appropriate clinical treatment for gender transition to the new gender of either male or female; and
 - (g) Language stating "I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct."
- (2) For individuals who have just begun and may be in the initial stages of the gender transition process, a two year limited validity passport reflecting the new gender will be issued upon presentation of the following:
- (a) Information listed in paragraph 1(a)-(e) above;
 - (b) Language stating the applicant is in the process of gender transition to the new gender of either male or female; and
 - (c) Language stating "I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct."
- (3) Faxed, e-mailed, or scanned photocopies of medical certifications are not acceptable.

c. Adjudication Actions.

- (1) The passport specialist or consular officer will annotate the application "**gender change**" (in the "For Issuing Office Only" block of the Form DS-11) to record the reason for issuing the full validity passport in the new gender. Attach the medical certification to the application.

NOTE: Passport specialists and consular officers must not ask for additional specific clinical details regarding the gender change from the applicant.

- (2) The passport specialist or consular officer will annotate the application "**gender transition**" (in the "For Issuing Office Only" block of the Form DS-11) to record the reason for issuing the limited validity passport in the new gender. Attach the medical certification to the application when limited passports are issued in these cases:
- (a) Use endorsement code 46 for U.S. and Overseas Photodigitized Passports (OPDP) issuance. Annotate the application "gender transition" to record the reason for the limited validity book in the new gender. (See 7 FAM 1300 Appendix B "Endorsement Codes" for appropriate code.)
 - (b) Use endorsement code 109 in Emergency Photodigitized Passports (EPDPs) for urgent overseas cases where the applicant must travel immediately. Limit the EPDP to three months. (See 7 FAM 1300 Appendix B for appropriate code.)

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- (3) An applicant will receive a passport for the remaining full validity period without further fee (except for expedited service), if:
- (a) He/she applies for the new passport within two years of issuance using Form DS-5504, Application for a U.S. Passport (Name Change, Data Correction, and Limited Passport Book Replacement); and
 - (b) Meets the requirements of 7 FAM 1320 Appendix M paragraph a and 7 FAM 1320 Appendix M paragraph b(1).
 - (c) You must use endorsement code 3 (see 7 FAM 1300 Appendix B for appropriate code) in all gender change replacement books.

Example (for an adult):

- The issuance date of the limited passport is "July 31, 2010."
- The issuance date in the new full validity passport will be automatically assigned by TDIS.
- However, the issuance date placed in the endorsement code must be that of the original, limited passport - "July 31, 2010."
- The expiration date listed in the endorsement must be ten years from the issuance date of the original, limited validity passport book, minus one day - "July 30, 2020".

- (4) If the applicant has not submitted the requested medical certification, use the appropriate letter (or similar language for overseas posts) available in Information Request Letter (IRL) 706 in corresponding with the passport applicant. (See 7 FAM 1300 Appendix T "Information Request Letters and Information Notices".)
- (5) If, after two years, the applicant applies for a new passport and gender transition has not been completed, the applicant must submit a new physician's statement, following the same information and licensure requirements in 7 FAM 1320 Appendix M, paragraph b (1) above, reflecting that the applicant still is in the process of gender transition. The application must be made on a Form DS-11, with appropriate identity, citizenship and passport fees submitted. Another two-year limited validity passport will be issued.
- (6) If an applicant is renewing his/her passport, but is applying for the renewal in a new gender, the applicant must use Form DS-11, and submit medical certification, including all elements previously indicated in 7 FAM 1320 Appendix M paragraph b. An amended birth certificate in the new gender is not acceptable evidence to issue the passport in the new gender.
- (7) If an applicant who already has been issued a passport in a new gender requests issuance of a passport in the birth gender, a certification under penalty of perjury from a licensed physician who has treated the applicant

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or reviewed and evaluated the medical history of applicant for transition back to the birth gender, is required. The statement must include all the elements previously stated in 7 FAM 1320 Appendix M paragraph b(1). The same procedures for adjudication and issuance of full validity (gender change) or limited validity (gender transition) passports apply if the applicant is returning to the birth gender (see also 7 FAM 1320 Appendix M paragraph c.)

7 FAM 1330 APPENDIX M CONVERSATIONS WITH PASSPORT APPLICANTS SEEKING TO DOCUMENT GENDER TRANSITION

(CT:CON-334; 06-10-2010)

- a. As with all passport applicants, you must be sensitive and respectful at all times.
- b. Refer to the applicant by the pronoun appropriate to his/her new gender.
- c. Ask only appropriate questions regarding information necessary to determine citizenship and identity of the applicant.

7 FAM 1340 APPENDIX M AMENDING GENDER IN REPORTS OF BIRTH

(CT:CON-551; 12-12-2014)

The Form FS-240, Consular Report of Birth Abroad of Citizen of the United States of America, can be amended by the Vital Records Section of Passport Services (CA/PPT/S/TO/RS/VR) to reflect the change in gender. The same documentary requirements specified in this Appendix for passport services are the same for amending gender on a Form FS-240. (See 7 FAM 1440, Consular Report of Birth Abroad of a Citizen/Non-Citizen National of the United States of America.) See Bureau of Consular Affairs Internet Information on amending an FS-240. Inquirers are directed to contact Passport Services' Vital Records Section, using the below dual addresses, both physical and P.O. box address, and the nine-digit zip code.

U.S. Department of State Record Services Division CA/PPT/S/TO/RS 44132 Mercure Cir PO Box 1213 Sterling, VA 20166-1213 Telephone (public): 202-485-8300

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Fax: 202-485-8302

7 FAM 1350 APPENDIX M INTERSEX CONDITIONS (DISORDERS OF SEX DEVELOPMENT)

(CT:CON-541; 11-13-2014)

- a. "Intersex" is a condition in which a person is born with a reproductive or sexual anatomy and/or chromosomal pattern that does not fit typical definitions of male or female.
- b. Birth documentation is often not updated to reflect corrected gender. The applicant, or his/her applying parents in the case of a minor child, must provide a statement from a licensed physician who has treated the applicant for his/her gender-related care or reviewed and evaluated the gender-related medical history of the applicant. The statement must include all the information required in 7 FAM 1320 Appendix M paragraph b(1), adjusting the language to reflect the intersex condition and specify the gender correction to either male or female. In the case of a minor child, the applying parent also must submit a signed statement confirming the gender correction to either male or female. These statements must be attached to the passport application.
- c. Unless the applicant, or his/her applying parent, provides the statements described above, the gender listed on his/her birth documentation will determine the gender to be listed in the passport.

7 FAM 1360 APPENDIX M GENDER ERRORS IN ORIGINAL BIRTH CERTIFICATE

(CT:CON-541; 11-13-2014)

- a. If an applicant advises that the gender on his/her birth document mistakenly lists the wrong gender due to typographical error, and there is sufficient time before the listed departure date, refer the applicant to the appropriate issuing vital records office to have the error corrected.
- b. If the departure date is imminent, you may issue a limited one year validity passport, listing the applicant's requested gender, using endorsement code 46 (see 7 FAM 1300 Appendix B.) A corrected certified copy of the amended birth document will be required before issuance of a full validity passport in the requested gender.

7 FAM 1370 APPENDIX M QUESTIONS

(CT:CON-464; 06-17-2013)

- a. Passport agencies and centers must contact CA-PPT-Adjudication-Suggestion-Box@state.gov for specific guidance.
- b. U.S. embassies and consulates must contact Ask-OCS-L@state.gov for specific guidance.

7 FAM 1380 APPENDIX M AND 1390 APPENDIX M UNASSIGNED

7 FAM 1300 Appendix M Exhibit 1 Model Letter for Licensed Physician Certifying to the Applicant's Gender Change

(CT:CON-548; 12-08-2014)

Licensed Physician's Letterhead (Physician's Address and Telephone Number)

I, (physician's full name), (physician's medical license or certificate number), (issuing U.S. State/Foreign Country of medical license/certificate), am the physician of (name of patient), with whom I have a doctor/patient relationship and whom I have treated (or with whom I have a doctor/patient relationship and whose medical history I have reviewed and evaluated).

(Name of patient) has had appropriate clinical treatment for gender transition to the new gender (specify new gender male or female).

Or

(Name of patient) is in the process of gender transition to the new gender (specify new gender male or female). **(NOTE TO PHYSICIAN ONLY:** Use this sentence **only** when the patient has just begun or is in the early stages of his or her gender transition.)

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct.

Signature of Physician

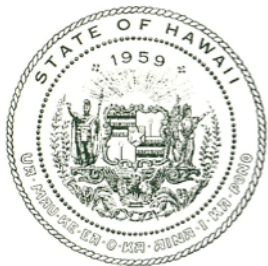
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Typed Name of Physician

Date

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
MARILYN LEE
JUDY KERN

Executive Director
Cathy Betts, JD

Email:
Catherine.a.betts@hawaii.gov
Visit us at:
humanservices.hawaii.gov
/hscsw/

235 S. Beretania #407
Honolulu, HI 96813
Phone: 808-586-5758
FAX: 808-586-5756

February 23, 2015

To: Representative Karl Rhoads, Chair
Representative Joy A. San Buenaventura, Vice Chair
Members of the House Committee on Judiciary

From: Cathy Betts, Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, HB 631,HD1, Relating to Certificates of Birth

On behalf of the Hawaii State Commission on the Status of Women, I would like to thank the committee for this opportunity to provide testimony on such an important issue. I would like to express my strong support for HB 631, HD 1, which would amend HRS 338-17.7 by allowing for the establishment of new birth certificates for transgender individuals.

A statutory requirement for an actual surgical gender change is outdated and unnecessary. The majority of transgender people do not choose to undergo sex reassignment surgeries for various reasons, including prohibitive costs and other medical and personal reasons. Under internationally accepted clinical standards, transgender individuals may opt for hormone therapy and other treatments. The international medical community recognizes that surgery may be appropriate for some, but not for all. HB 631 attempts to modernize HRS 338-17.7 without retaining an outdated notion of what it means to be transgender.

This bill would make it easier for transgender individuals to request a new birth certificate by allowing an individual to request one, along with an affidavit from a licensed medical or social services provider attesting that the current birth certificate record does not align with the birth registrant's gender identity. This is especially vital to the everyday lives of transgender individuals and allows them to more readily amend their legal documents, including driver's licenses and other forms of identification. These individuals are more subject to harassment and discrimination when their birth certificates, and thereby, their identification, do not match their lived gender. This bill remedies that problem. The Commission respectfully urges this Committee to pass HB 631, HD 1. Thank you for your time.



Friday, February 24, 2015

Relating to House Bill 631 House Draft 1
Testifying in Strong Support

Aloha, Chair Rhoads, Vice-Chair San Beunaventura and Members of the House Committee on Judiciary,

The Democratic Party of Hawaii **strongly supports HB631 HD1 Relating to Certificates of Birth**, which establishes the documentation required when requesting the Department of Health to issue a new birth certificate with gender designation change.

Birth certificates are a critical component of creating and verifying an individual's identity. Passports, drivers' licenses, state ids are all vitally important documents derived from the information found on an individual's birth certificate.

It is estimated that as many as 15,000 transgender people are living here in the state and too many of them face discrimination on a daily basis. National statistics show that 78% of transgender individuals have reported discrimination in the work place and 40% have experienced harassment when presenting identification that includes a gender marker different from their gender presentation. These numbers are simply too high and this bill takes an important step toward correcting these issues.

Currently, Hawaii law requires transgender individuals to undergo gender reassignment surgery before the Department of Health will make the change in gender marker on their birth certificate. The law, as it stands today, is outdated and doesn't reflect the modern understanding of transgender people or the array of options available to them. Gender reassignment surgery isn't practical, or even recommended for every transgender individual. It can be prohibitively expensive, and can result in a major disruption of their lives.

To instead require an affidavit from a licensed medical or mental health provider is far more practical and compassionate. Six states, as well as the District of Columbia have already removed surgery requirements from their laws and it's time Hawaii do the same. We urge you to pass HB631.

Mahalo for the opportunity to testify,

DEMOCRATIC PARTY OF HAWAII

404 Ward Ave., Suite 200 □ Honolulu, HI 96814 □ (808) 596-2980 □ www.hawaiidemocrats.org



Stephanie Ohigashi
Chairperson, Democratic Party of Hawai'i

And The Legislation Committee of the Democratic Party of Hawaii



22 February 2015

Chairman Karl Rhoads
Committee on Judiciary,
House of Representatives
State of Hawai'i
Honolulu, HI

***Relating to House Bill 631, House Draft 1
Testifying in STRONG SUPPORT***

Dear Chairman Rhoads, Vice Chair San Buenaventura and Committee Members:

Thank you for the opportunity to submit testimony on behalf of this important bill. I write on behalf of Equality Hawai'i, the state's largest political, social justice and advocacy organization for the LGBT community and our allies, and wish to register our strong and unequivocal support for this long-overdue measure.

Today, more than 3 million transgender individuals are estimated to reside in the United States, and perhaps as many as 15,000 live in Hawai'i. Without birth certificates that correspond to their gender identity and public gender expression, they face persistent and sometimes insurmountable difficulties in attending to the most basic matters of their lives.

As you know, Hawai'i law currently compels transgender individuals to have gender reassignment surgery in order to have the sex marker changed on their birth certificates. The law is based on federal guidelines written two generations ago. Since our law's creation, much has been learned about gender identity and expression and about transgender individuals more specifically, who have become far more visible and accepted in our culture. That's why six states and the District of Columbia have now removed the surgery requirement for gender marker changes from their laws, and a similar number of additional states are pursuing similar legislation. This is clearly the statutory trend, and it is rapidly gaining momentum.

Leading medical and psychological authorities including the American Medical Association, the American Psychological Association and the World Professional Association for Transgender Health support birth certificate laws that do not require gender reassignment surgery for gender marker changes. Many transgender people cannot undergo surgery for a number of

reasons, including the cost of surgery, inability to take time off school or work for the recovery period, and medical conditions that make surgery inadvisable, according to the National Center for Transgender Equality. NCTE further states, “Removing the surgery requirement would allow transgender people and their healthcare providers to choose the correct course of treatment for each individual without compelling people to undergo surgery or other treatment that is unnecessary, inappropriate, or simply not possible.”

We have been in discussion with the state Department of Health and the Office of the Attorney General and are pleased to note that we share common interests of a simple, straightforward and predictable process that would be easily implemented by staff and accessible, inexpensive and sensitive to applicants and their needs. We were likewise delighted to receive assurances that maintaining the surgery requirement is not a goal for Vital Records.

Toward our mutual interests and an improved process for the people of Hawai‘i, we respectfully request your consideration of the following amendment to a bill already improved by the House Health Committee:

- Revision of subparagraph (b) to include “for a new certificate of birth established under subsection (a)(4)” or similar language after the clause “or by request of the birth registrant” to ensure that in all other circumstances the right to privacy for individuals whose records are sealed under subparagraph (b) remains protected.

Transgender people and the trans community are a strong, diverse and vibrant part of our Hawai‘i ohana, and HB631-HD1 represents an exciting opportunity to make a real, positive difference in their lives. Justice deferred, as the time-honored maxim goes, is justice denied, and trans people have been denied justice for far too long through a requirement that a growing number of states and professional associations say must be changed. We respectfully ask your support in delivering a measure of justice this session through voting for HB631.

Mahalo,



Rebecca Copeland and
B. Kaleo Ramos for
Equality Hawai‘i

UNIVERSITY OF HAWAII AT MĀNOA

LGBT Student Services Office

TO: House Judiciary Committee
Conference Room 325
February 4, 2015, 2:00p.m.

FROM: Camaron Miyamoto,
Coordinator, LGBT Student Services
University of Hawai'i at Mānoa

RE: **STRONG SUPPORT FOR HB631**



Members of the House Judiciary Committee:

Thank you for this opportunity to submit written testimony on behalf of the Office of LGBT Student Services at the University of Hawai'i at Mānoa in strong support of for HB631.

While my testimony is not the official stance of the University of Hawai'i, my testimony is grounded in my individual opinion from working with lesbian, gay, bisexual and transgender students on a daily basis and my nearly 20 years of professional experience here in Hawai'i as a trainer, researcher and advocate in the areas of harassment, non-discrimination and bullying-prevention; the areas of expertise for which I was awarded tenure as UH Mānoa faculty.

The University of Hawai'i at Mānoa and all 10 UH campuses provide protections on the basis of "gender identity and expression". However, the existing law for birth certificate changes makes it difficult to respect a students' true gender identity. This gender identity will appear on official records and documents and often is connected to documents such as a birth certificate.

Streamlining the process for an affidavit for a sex marker change from a licensed medical or mental health provider will:

- **Help decrease anxiety and harassment of transgender students.**
- **Allow for the students birth certificates to be corrected by changing the incorrect sex marker that was assigned at birth.**
- **Help bring Hawai'i in alignment with current best practices from professional medical and mental health associations.**
- **Allow for students without the parental support or financial resources to have a sex reassignment surgery ("sex change operation") to have documents that respect their sense of self and true identity.**

I urge you to take proactive steps today. I ask you to please vote in support of HB631. Mahalo.

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF
HAWAII**

February 20, 2015

House's Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, HI 96813

Hearing: Friday, February 24, 2015 – 2:00 p.m.

RE: STRONG SUPPORT for House Bill 631 HD 1 – RELATING TO CERTIFICATES OF BIRTH

Aloha Chairperson Rhoads, Vice Chair San Buenaventura and fellow committee members,

I am writing in STRONG SUPPORT to House Bill 631 HD 1 on behalf of the GLBT Caucus of the Democratic Party of Hawaii. HB 631 HD 1 will provide a streamlined process for the members of 'ohana that are Transgender correct their birth certificates.

This bill is desperately needed as it is a matter of health and safety for the members of our transgender 'ohana. The reason we say this is that when your gender on your birth certificate does not match your actual gender you cannot get an accurate government ID. Which in turns impacts the rest of your life – getting a job, traveling, driving a car, opening a bank account or use your own credit card.

There is a law on the books in Canada that says if your gender does not match your passport that you can be denied boarding an aircraft. If you are in a less forward thinking country you can be killed when your gender does not match your ID. Never mind a person's right to privacy – why should a person have to out themselves when they go to use a credit card and present their ID with a gender that is not their own.

This bill is also a matter of human decency - life is hard enough our government shouldn't make it harder please pass House Bill 631 HD 1 it is the right thing to do.

We look forward to you passing this bill and bring another plank of our Party's into reality and in the process move our Founding Father's promise to form a more perfect union. Not passing this bill would be an injustice and as Dr. King told us: "Injustice ANYWHERE is threat to justice EVERYWHERE."

Mahalo nui loa,

Michael Golojuch, Jr.
Chair

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	The CHOW Project	Support	No

Comments:



95-954 Makakilo Dr. #71 Kapolei, HI 96707 Email: Rainbowfamily808@gmail.com Phone: 808-779-9078 Fax: 808672-6347

February 23, 2015

TO: House Judiciary Committee

RE: HB631 HD1 Birth Certificate.

IN STRONG SUPPORT

Aloha Chair, Vice Chair and Members,

As President of Rainbow Family 808, a group of straight, LGBT families focused on peace and justice through education, we strongly Support HB 631 HD1 on behalf of all our families.

As a Social Worker, I can testify that those who need their Birth Certificate changed to match their Gender Designation suffer great hardships when this simple act is denied them. HB 631 HD1 will bring peace and justice to those who need their Birth Certificate changed to match their Gender Designation.

In the late 1990s, as Graduate Student In the UH-M School of Social Work I was called to an Intermediate School in Kalihi to support a young student. She had hair pulled by a custodian and put in detention without approval of any of the teaching staff. In those days there were few social workers with any background in the Trans community. The student in question was suffering from harassment at the hands of the teachers, custodians and other students. It was a simple case of discrimination and persecution. One of the Vice Principals had told the student if she ever wore a bra to school again, it would be taken off her in the VP's office. Because she stood up for herself, we were able to schedule a Diversity Training for the teachers. Unfortunately, the student never made it to Farrington High School where they had a Gay Straight Alliance to support for her.

HB631 HD1 will allow our Trans community the safety and peace that they need. Please pass and activate this bill as quickly as possible.

Please PASS HB 631 HD1 to change Birth Certificates to match their Gender Designation. Let's do no harm to our citizens in anyway, shape or form. This is one of those bills that helps those in need and does no harm to those of use who are safe with our birth certificates. Let's Live Aloha!!!

Mahalo nui loa

Carolyn Martinez Golojuch, MSW - President



The Public Policy Voice for the Roman Catholic Church in the State of Hawaii

HEARING: House Committee on JUD hearing on February 24, 2015 @2:00 p.m. #325

SUBMITTED: February 23, 2015

TO: House Committee on Judiciary
Rep. Karl Rhoads, Chair
Rep. Joy San Buenaventuar, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

RE: Opposition to HB 631 HD1, Relating to Birth Certificates

Honorable Chair and members of the House Judiciary Committee, I am Walter Yoshimitsu, **representing the Hawaii Catholic Conference**. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii, which under the leadership of Bishop Larry Silva, represents Roman Catholics in Hawaii. We oppose this bill because our church teaches that the altered condition of a member of the faithful under civil law does not change one's canonical condition, which is male or female as determined at the moment of birth. A birth certificate that has been altered without any notation of an amendment could put us directly at odds with our own religious tenets.

Language in the bill states that the **"new certificate of birth shall not be marked as having been amended and shall in no way reveal the original language changed by the amendment"**.

This bill, however, goes a step further and allows the change to a birth certificate WITHOUT a sex change. Language in the bill allows **"an affidavit from a licensed medical or licensed mental health provider attesting that the current birth certificate record does not align with the birth registrant's gender identity and that in the provider's professional opinion the birth registrant's sex designation should be changed accordingly;"** as all that is needed to change ones birth certificate.

In 2002 the Congregation for the Doctrine of the Faith of the Catholic Church issued a letter sent without public release to every Bishop. It clearly stated that such surgical procedures do not alter a person's gender and that in no circumstance are baptismal records of such individuals who have undergone them to be altered. Further, the document made clear that no one who has undergone such a surgery is eligible to marry, be ordained to the priesthood or enter the religious life. If the bill is passed as written, the "truth" of an individual's gender would be hidden to the church. This is unacceptable and bad public policy.

Every single human cell contains chromosomes which identify whether we are male or female. That cannot be changed. It is a given. In fact, it is a gift. Please do not pass this disingenuous legislation.

Mahalo for the opportunity to testify.

From: Erika Butler

To: The Hawaii State House Committee of the Judiciary

Re: HB 631

To Whom It May Concern,

My name is Erika Butler and I am a transgender woman who was born in Hawaii and whose birth certificate was issued by the State of Hawaii (hereafter the "State"). Difficulty in affording or finding insurance coverage for sex reassignment surgery, which is currently required to change the sex designation on birth certificates issued by the State, has prevented me from updating my birth certificate to reflect my gender identity and the way I present myself in public. As birth certificates are becoming increasingly required to obtain multiple documents, including passports, name change orders, and driver's licenses, I think that for the birth certificate to reflect my birth identity, the hormonal treatment I am currently receiving, and the way I present myself has become very important and urge the State Legislature to update the law so that I may update my birth certificate.

Sincerely,

Erika Butler

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Chair: Rep. Karl Rhoads

Vice Chair: Rep. Joy Sanbuenaventura

Tuesday, February 25, 2015

2:00 p.m.

Room 325

SUPPORT for HB 631 HD1- BIRTH CERTIFICATES

Aloha Chair Rhoads, Vice Chair Sanbuenaventura and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for almost two decades. This testimony is respectfully offered on behalf of the 5,600 Hawai`i individuals living behind bars, always mindful that more than 1,600, and soon to be rising number of Hawai`i individuals who are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

HB 631 HD1 establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a sex designation change.

Community Alliance on Prisons supports this important measure that would make a world of difference for many of our people. There are incarcerated transgender individuals that have the right to be identified as who they are. For us, this is about equal justice.

Birth certificates are a critical identity document used in many settings to verify an individual's identity. Even in settings where birth certificates themselves are not required, other identity documents based on birth certificates are often required. In order to avoid discrimination in these situations, transgender individuals need access to birth certificates that accurately reflect their gender.

President Obama signed an executive order in June 2014 that prohibits workplace discrimination on grounds of sexual orientation or gender identity by companies awarded federal contracts and outlaws discrimination based on gender identity for federal employees. In August 2014, in response to a 2012 Equal Employment Opportunity Commission decision, the

US Department of Labor announced plans to issue new guidance making clear that discrimination on the basis of transgender status is prohibited under the existing definition of discrimination based on sex in Title VII of the Civil Rights Act of 1964.¹

Because Hawaii's current policy on updating gender on birth certificates is housed in Hawai'i Revised Statutes, this legislation is required to update it.

In the last five years a number of states updated their birth certificate policies to reflect **modern medical standards for transgender people**. Currently there are six states, plus the District of Columbia, where you can reliably get your birth certificate administratively updated without proof of surgery: California, District of Columbia, New York State, Oregon, Rhode Island, Vermont, and Washington.²

Community Alliance on Prisons respectfully asks the committee pass this important health and justice measure to protect transgender individuals and allow them to access accurate identification.

Mahalo for this opportunity to testify.

¹ HUMAN RIGHTS WATCH WORLD REPORT 2015. <http://www.hrw.org/world-report/2015/country-chapters/united-states>

² National Center for Transgender Equality



Planned Parenthood of Hawaii

To: Hawaii State House of Representatives Committee on Judiciary
Hearing Date/Time: Tuesday, February 24, 2015, 2:00 p.m.
Place: Hawaii State Capitol, Rm. 325
Re: Testimony of Planned Parenthood of Hawaii in support of H.B. 631, HD1

Dear Chair Rhoads and Members of the Committee on Judiciary,

Planned Parenthood of Hawaii (“PPHI”) writes in support of H.B. 631, HD1, which seeks to establish the documentation required when requesting the Department of Health to issue a new birth certificate with a sex designation change and establishes a birth registrant’s cause of action to petition for a new certificate when the Department refuses to issue a new certificate.

Planned Parenthood of Hawaii is dedicated to providing Hawaii’s people with high quality, affordable and confidential sexual and reproductive health care, education, and advocacy. In recognition of the need for quality and reliable health care for transgendered individuals, PPHI began providing transgender health care services at our health centers in 2011. We provide safe and compassionate preventive healthcare and screenings as well as hormone therapy.

To that end, we support H.B. 631, which allows individuals to change their birth certificates to document their true sex and removes medically dangerous, unnecessary, outdated and burdensome requirements. Transgendered individuals opt decide not to have sex reassignment surgery for many reasons. For many, the cost of surgery is prohibitive. Others choose not to have surgery for more personal reasons. Especially in Hawaii, transgendered individuals have great difficulty in finding affordable and safe medical care. The current requirements are a significant barrier for transgendered people to obtain birth certificates and other documents that accurately reflect their identity.

H.B. 631 will go far towards ensuring the health and safety of our transgender ‘ohana and we urge you to pass this important bill.

Thank you for this opportunity to testify in support of H.B. 631.

Sincerely,
Laurie Field
Director of Public Affairs & Government Relations

HONOLULU
1350 S. King Street, Suite 310
Honolulu, HI 96814
808-589-1149

KAUAI
Education & Outreach
808-482-2756

KONA
Education & Outreach
808-442-4243

MAUI
Kahului Office Center
140 Ho’ohana Street, Suite 303
Kahului, HI 96732
808-871-1176





ONLINE TESTIMONY SUBMITTAL

House Committee on Judiciary, hearing on February 24, 2015
Conference Room #325

DATE: February 23, 2015

TO: House Committee on Judiciary
Rep. Karl Rhoades, Chair
Rep. Joy San Buenaventura, Vice Chair

FROM: Eva Andrade, Executive Director

RE: Opposition to HB 631 HD1, Relating to Certificates of Birth

Honorable Chair and members of the House Committee on Judiciary, I am Eva Andrade, **representing the Hawaii Family Forum**. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations.

We want to make it clear, from the beginning, we are not objecting to allowing a birth certificate to be amended. What we see as a big problem is the following suggested language in **§338-17.7**:

The new certificate shall not be marked as amended and shall in no way reveal the original language changed by any amendment.

We do not see why the state would have an interest in promoting false identities and/or the recreation of a historical fact. Allowing a person to change their birth certificate because of how they “identify” could create situations that would potentially promote fraudulent representation by someone looking to dissociate from their past. In a society where transparency is lauded, this legislature should never allow the opportunity for vital records to be altered and thereby become questionable and/or meaningless.

Passage of this bill, because of its intent to support gender “identity” (which can mean different things at different times to different people), is simply bad public policy. Passage of this bill would put the church, or religious organizations and/or individuals with strong religious convictions, directly at odds with their religious convictions.

Mahalo for the opportunity to testify.

6301 Pali Highway • Kaneohe, HI 96744-5224 • Ph: 808-203-6704 • Fax: 808-261-7022

E-mail: director@hawaiifamilyforum.org | Website: www.hawaiifamilyforum.org

Submitted By	Organization	Testifier Position	Present at Hearing
Ann S Freed	Hawaii Women's Coalition	Support	Yes

Comments: Aloha Chair Rhoads and members, The Coalition has always been in support of this change in policy. Transgendered people should not be required to go through radical expensive surgery and onerous court proceedings to be who they are. A birth certificate is used in so many important transactions to affirm one's identity. It is unfair to force the transgendered to jump through more hoops than any other group to prove who they are. In the TV series "Transparent", based on a true story, transgendered Maura says, "My whole life I have been dressing up as a man. This is me." Please pass this bill forward. It represents justice that is long overdue. Ann S. Freed Co-Chair, Hawaii Women's Coalition

Karl Rhoads Chair of Committee of Judiciary

Joy A. San Buenaventura Vice Chair of Committee of Judiciary

Bill HB361

Tuesday February, 24 2015

2:00pm Room 325

My name is Jaime DeGuzman I am a social work student at the Myron B. Thompson School of Social Work, I am in strong support of Bill HB361, relating to birth certificates and gender designation and I urge you to vote yes on this bill.

This bill will make the ability to change ones birth certificate a much easier process for transgender individuals. Since not everyone is a good candidate for sex reassignment surgery, for numerous reasons. Along with the fact that no one wants to or should have to go through an examination to prove their sex in order to have a valid and accurate form of identification. This bill will make it possible for these transgender people to attain these necessary documents while being treated with dignity. A statment from a provider is a much more reasonable approach as form of verification on gender. This process will be simpler and more respectful of people in this community. With these few simple changes that this bill is asking will enable many more people to have the correct identification , something that each and every one of us are entitled to.

Thank you for taking the time to concider my testimony in strong support for this very important bill HB632 relating to birth certificates and gender designation.

Jaime DeGuzman

jaimebd@hawaii.edu

Submitted By	Organization	Testifier Position	Present at Hearing
Jenny Lee	Individual	Support	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
ANSON REGO	Individual	Oppose	No

Comments: I am opposed to this bill. Historically, the fear of transgender women holding an unfair advantage prompted numerous leagues and competitions to ban them outright. Different leagues, governing bodies and even state agencies have created different sets of regulations regarding transgender athletes. Some state high-school leagues require athletes to self-identify as a specific gender, while others require them to compete under their birth gender. This bill could disqualify trans genders who fail to have surgery and make it difficult to compete and should be studied. In sum, the query is how do officials really know if not correctly identified on the birth certificate. Transgender people who can choose to make no physiological changes and simply identify with their chosen gender can hold competitive advantage over females. Finally, obviously this bill encourages fraud in relationships between married and unmarried couples. The State should not become a willing partner. An individual may not discover after they were already married or even before marriage that the other party was really born of another gender and not the stated gender on the birth certificate. That constitutes fraud on the other party and goes too far to deny the transparency the State should be protecting. Anson Rego Waianae Attorney

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments: I strongly support this bill to ensure equality for all our citizens. Mike Golojuch, Sr.

Submitted By	Organization	Testifier Position	Present at Hearing
Doran Porter	Individual	Support	No

Comments: I wish to express my strong support for pass HB 631. Passage of this bill will support dignity and justice for all.

Submitted By	Organization	Testifier Position	Present at Hearing
Kahana	Individual	Support	Yes

Comments: STRONG SUPPORT FOR HB631 HD1 with Amendment reinserting "Cause of Action" Aloha, Chair Rhoades, Vice Chair San Buenaventura, and the esteemed members of the House Committee on Judiciary: As a lifelong resident of Hawai'i, and a person of transgender history, I am writing to you to request your support for HB631, with amendments. Mismatches between one's gender identity and what is stated on identification documents create extraordinary hardships for transgender people. This can be traced directly to the sex marker on one's birth certificate, and the difficulty in changing it. Because of "gender no-match" between my identification and my physical gender identity, I have experienced many incidents of discrimination. Among them include being subject to unnecessary and highly intrusive search and physical inspection TSA; medical insurance refusing claims for two different types of cancer screening which i have elevated risk for, because the procedures did not match my gender marker. These experiences do not even include the countless times I have been questioned while doing simple things like picking up prescriptions, buying basic necessities, paying utility bills, conducting bank transactions, applying for a job, and the like. I have been subject to verbal harassment and abuse in such situations. These experiences are mild, compared to what many other transgender people experience. One source of these problems is the Birth Certificate Sex Marker. Because the Birth Certificate is the source document for virtually any kind of identification document, whatever sex marker is on the Birth Certificate will be used for the marker on ID documents. Unfortunately, under current State law, the Birth Certificate Sex Marker can only be changed by producing a notarized letter stating that one has undergone sex reassignment surgery. This is problematic because some transgender people do not need or desire surgical treatment to align with their gender identity. Others are precluded from surgery due to pre-existing medical conditions or simply cannot afford it. Even those who are able to get surgery may be told that they did not have real sex reassignment surgery, or that it was not properly documented, based on someone's interpretation of outdated standards, minor technicalities of language, or even simple persona bias against transgender people. Further, the process for a person to seek remedy in such a situation is complicated, defined in arcane statutes and administrative rules and language that few members of the public, including the transgender community can locate, let alone understand. HB631 in its original form addressed these concerns, by letting qualified health providers render the assessment of a person's gender identity. However, HB631 HD1 removed a critical component, the "cause of action" clause, that created a clear path for transgender people to seek remedy when their applications for sex marker change are denied. If that clause is restored, it will help ensure that transgender people are able to obtain accurate birth certificates and identification documents, reducing their exposure to discrimination and violence. Therefore, I respectfully request that you support HB631 HD1, with further amendment reinserting the "cause of action" clause. Thank you for considering my testimony.

Aloha Representatives;

Thank you for allowing me to express my opinion.

I am opposed to HB 631, HD1.

I am opposed to legislation that allows a person to change a legal document in any way that does not reflect the truth. The bill over and over calls the document a **BIRTH CERTIFICATE** which certifies what you were at birth, not what you have become.

The bill states that:

“A statement from a licensed medical or social service provider attesting that the current birth certificate record does not align with the birth registrant’s gender identity and that in the provider’s professional opinion the birth registrant’s gender designation should be changed accordingly”

“A new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. The new certificate shall not be marked as amended and shall in no way reveal the original language change by any amendment.”

The birth certificate becomes an outright lie! How can you as lawmakers condone falsifying legal documents?

I understand the sex changed person’s desire to entirely leave behind their true gender, but it is just not truth.

Altering a birth certificate will open a whole host of problems. What about all the other documents pertaining to the person’s original gender? Elementary, intermediate and high school records? High school diploma, college diploma, passport? What if the sex changed person is a parent? Are you going to change their child’s birth certificate to now say they have two mothers or two fathers? What about ancestry records? The Mormon Church holds many of these. What about baptism certificates? Are you going to require the church to change its records even if it doesn’t believe in gender reassignment? Where is freedom of religion?

Also, if you are going to allow someone to change their gender on their birth certificates you cannot discriminate against other alterations that someone may desire.

I am Caucasian but have grown up in Hawaii; I don’t feel haole. Since I was a child I have danced hula, spoken pidgin, associated with mostly locals and have lived with aloha in my heart. When I visit the mainland it is very evident to me that that is not my culture; I do not identify with the Caucasian lifestyle. If I feel more Hawaiian than haole, will I be allowed to change the ethnicity of my birth certificate from Caucasian to Hawaiian? If a gender changed person can alter their birth certificate to reflect what they feel in their hearts, then why can’t I? If altering their outward appearance is enough to warrant a change on their birth certificates, it should also be enough for me. I can

change my physical appearance to reflect what is in my heart. I can get a nose job, dye my hair, wear dark contacts and get lots of sun. But then again many hapa people are fair with blond hair and blue eyes. If you allow a gender changed person to alter their birth certificates based upon what they feel in their hearts and outward physical changes they may make to their bodies, then it will be illegal to discriminate against me on the basis of race, which I might add was a civil right long before gender identity.

Representatives, please be reasonable. Please be honest and truthful. Do not pass HB 631, HD1.

Mahalo for you time and thoughtful consideration,

Lisa Poulos

Submitted By	Organization	Testifier Position	Present at Hearing
Carolina Lynn	Individual	Support	No

Comments: My name is Carolina Lynn. I strongly support passage of HB 631. This change is urgently needed for Hawaiian-born Transgenders, and is consistent with laws in other states such as California. Transgenders face many difficulties, and are often reluctant to appear in public court to reveal their Transgender status. "Sex-reassignment" surgery is always very expensive, and therefore out of reach for many of us, who often also face employment discrimination and poverty. In this year of 2015, not yet fully two months old, nationwide, at least 6 Transgender women have been murdered, and two more Transgenders have committed suicide due to discrimination. Passage of this bill would greatly improve life for all Transgenders in the Aloha State. Thank you Judiciary Committee chair and members and all House members for considering my testimony in support of this bill. /s/ Carolina Lynn, Miss Honolulu Gay Pride 2014.

ADELE MURAKAMI
94-852 Lelepua Street Unit 25B
Waipahu HI 96797

February 21, 2015

Dear Sirs/Madams:

I am writing in response to the proposed bill that will allow the Department of Health to make a change of an individual's true sexual identity on their birth certificate by issuing a new birth certificate. I must strongly oppose this bill.

A person's sexual identity remains unchanged though they may have longings and desires for those of the same sex and so have had surgery to mask their outer appearance to resemble that of the opposite gender. Internally, their gender remains unchanged.

My concern is for their medical and psychological care. I would want them to receive the best medical and psychological care and attention and believe health professionals need the most accurate and true information to provide the best care.

Additionally, a birth certificate is a legal document that is significantly important for identifying a person. If this legal document can be allowed to bear false information, then what other legal documents will be changed in the future? The ability to rely on truth and the truth of this legal document is imperative and gravely important. I implore you to please take time to truthfully consider the breath and the ramifications of legalizing this act.

I empathize with these individuals who identify themselves as someone of the opposite sex and have had a sex change or want to be of that sex and so have adopted this identity; therefore, their desire to want to have their original birth certificate destroyed and a new one issued to reflect this new identify they have adopted. However, the real truth is that they were born as a male or as a female, and this information needs to be truthfully/accurately reflected on their birth certificate, though they strongly desire and decide to live as a person of the opposite sex to which they were born.

Sincerely,

ADELE MURAKAMI

Submitted By	Organization	Testifier Position	Present at Hearing
margaret barone	Individual	Oppose	No

Comments:

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Hairgrove	Individual	Support	No

Comments:

Robert J. Bidwell, MD

6264 Keokea Pl., Honolulu, Hi. 96825 Tel. 808-428-4545

Date: February 24, 2015
Conference Room 325 (2 PM)
State Capitol

To: Representative Rhoads, Chair
Representative San Buenaventura, Vice-Chair
House Committee on Judiciary

From: Robert J. Bidwell, M.D.

Re: HB 631, Relating to Certificates of Birth

Position: Strong Support

Dear Chair Rhoads, Vice-Chair San Buenaventura, and House Judiciary Committee Members:

I am presenting this testimony in **strong support of HB 631**, Relating to Certificates of Birth.

For the past 25 years, through my position as Assistant Professor (1988-1994) and later Associate Professor of Pediatrics and Director of Adolescent Medicine at the UH John A. Burns School of Medicine, I have provided medical care and counseling to many of Hawai'i's youth and young adults, including care related to gender transition. Addressing issues of gender and gender identity, including the dramatically changing field of transition treatment, has also been an important part of my teaching of medical students, resident physicians-in-training, community physicians and other health and social service providers, both in Hawai'i and the continental U.S. over the past 3 decades. It was in recognition of this experience that I recently was asked by the American Academy of Pediatrics to author the chapter on "Gender Expression and Identity Issues" for the most recent edition of the *American Academy of Pediatrics Textbook of Pediatric Care* (in press). This chapter addresses issues of gender identity throughout the pediatric age range (0-21 years old), including issues related to the social, psychological, spiritual and physical transition experienced by transgender individuals.

The present Hawai'i Department of Health policy requiring a "sex change operation" in order for transgender individuals to obtain a change of gender designation on birth certificates is a historical artifact. It is outdated and no longer reflects modern-day medical opinion on what it means to be transgender or the nature of gender transition. More important, it has caused significant and lasting harm to generations of transgender individuals in Hawai'i, as will be evidenced by the testimony to be presented for the Committee's hearing on HB 631.

There was a time in the past when being transgender and the idea of transition evoked immediate thoughts of surgery, both in the minds of medical professionals and the lay public. **Those times are past.** This is due, in part, because of an increasingly robust body of research evidence showing that gender transition takes place on many levels: psychological, emotional, spiritual and physical. A person's gender does not

reside only or even primarily in his or her genitals but, much more importantly, exists in a person's deepest sense of gender, of being female or male. The present Department of Health policy is extremely problematic for those transgender individuals who desire surgery but cannot afford it, or live in communities where surgical specialists are not available, or have medical conditions that make surgery especially dangerous. Modern medicine considers these individuals no less transgender in their identity because they have not had surgery, and treats them in accordance with their expressed gender identity. Other transgender individuals transition socially, psychologically and spiritually but do not feel a need to transition physically through "sex change surgery." Modern medicine considers *these* individuals *also* to be as fully transgender in their identities as those who desire surgery. Whether surgery is desired or not, or has taken place or not, transgender individuals all face the same obstacles to health and well-being that come from a policy that puts outdated and harmful obstacles along their paths to transition, whatever those paths might be. The consequences of the present outdated Department of Health policy for transgender health and well-being will be well-documented in the testimony presented by Hawai'i's transgender community in the Committee's hearing on this Bill.

Unfortunately, across the U.S. there are still in place anachronistic state Department of Health policies related to gender designation on birth certificates that cause immeasurable harm to transgender individuals and that are inconsistent with the present medical understanding of what it means to be transgender. It is for this reason that in 2014 the American Medical Association (AMA) issued the following policy statement specifically concerned with the issues addressed in HB 631.

H-65.967 Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients.

- 1. Our AMA supports policies that allow for a change of sex designation on birth certificates for transgender individuals based upon verification by a physician (MD or DO) that the individual has undergone gender transition according to applicable medical standards of care. 2. Our AMA: a) supports elimination of any requirement that individuals undergo gender affirmation surgery in order to change their sex designation on birth certificates and supports modernizing state vital statistics statutes to assure accurate gender markers on birth certificates; and b) supports that any change of sex designation on an individual's birth certificate not hinder access to medically appropriate preventive care. (Res. 4, A-13; Appended: BOT Rep. 26, A-14)**

It is for this reason that HB 631 is vitally important to Hawai'i's transgender community, and my hope is that Hawai'i will join the growing number of states that are passing legislation consistent with AMA policy, which reflects mainstream opinion within the medical community. I also strongly support allowing affidavits in support of sex marker change from licensed medical and mental health providers, as provided for in the present bill.

Thank you so much for the opportunity to share my testimony with you.

Respectfully yours,
Robert J. Bidwell, MD

Dear Committee Members,

Did you know? Seven or eight (depends on your source) transgender women, most women of color, have been murdered since 2015 began. Check your calendar... that's 1 per week so far... last year, we saw 12 transgender women lose their lives to hate... this year's pace of transphobic murders is horrifying. When you see a news story about a trans person who has assaulted or murdered because of transphobic hate, please don't look away. Please take a moment to acknowledge the life lost for no other reason than someone chose a path that others couldn't understand, a path that was important enough to risk violence, a path to themselves.

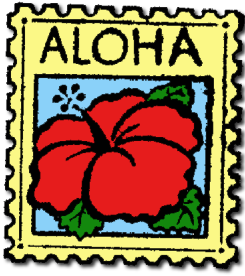
That is exactly why I am writing in support of House Bill 631. I believe this bill supports a mission of human rights and self-determination. It is imperative that begin to scale down barriers for our citizens to pursue their own identity as they see fit. This bill will allow continues wellness in the transgender community as well as create healthier self-images for those in pursuing gender transition.

Sincerely,

Sarah A. Meyer, MSW

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Smith	Individual	Support	Yes

Comments: Thank you for the opportunity to write in strong support of this bill. As a new mom, I'm always in awe of my son's personality and it's already become blatantly apparent that I can't presume to dictate or define who my son is or will become. What I can do is promise him I will be open to the ways in which he will express his identity and not try to hinder his development as the beautiful being that he is because I (and the government) insist to know his gender identity better than he does. As he grows up and is compelled to integrate into the world, I would also like to assure him that his daily transactions within it would not be made unbearable nor impossible by unwarranted (and even life-threatening) bureaucratic impediments. Please align DOH policy with best practices and pass this bill.



Holly J. Huber

(808) 554-7692

hollyjhuber@gmail.com

House Committee on Judiciary

Hearing on February 24, 2015 @ 2:00 PM in Conference Room 325

HB631 HD1 RELATING TO CERTIFICATES OF BIRTH

TESTIMONY IN SUPPORT

February 23, 2015

Aloha Representatives:

Mahalo for hearing HB631 HD1 on allowing the establishment of new birth certificates for transgender individuals.

I urge you to **STRONGLY SUPPORT** this important measure to remove the current outdated and unnecessary requirement for surgical gender change in order to receive a new birth certificate.

International clinical standards do not require sex reassignment surgeries and accept hormone therapy and other treatments for transgender individuals.

HB631 HD1 would greatly help our transgender community by removing the outdated notion of what it means to be transgender (i.e. "sex change") and by allowing transgender individuals to have a birth certificate that aligns with their gender identity.

This bill sets **MEDIALY APPROPRIATE GUIDELINES** for changing gender designation on a birth certificate and **ENSURES FAIRNESS** for the transgender community.

Please vote "YES" on HB431 HD1; it's the right thing to do.

Sincerely,

Holly J. Huber

My name is Dennis Kim and I am testifying against the passage of HB631, HD1. I am a Chartered Financial Consultant and feel that this bill opens many doors that could have a long term impact on the financial well-being of Hawaii's middle class citizens. I have listed my concerns below:

1. Life Insurance mortality rates are actuarially calculated. Since women generally live longer, their rates are lower than male applicants. Once this bill is passed as is, people can change their sex even though they have not changed physically. They may have psychological peace, but that doesn't change their physical makeup, DNA, or mortality. If enough people want to change their birth certificates to reflect a different sex, it will skew calculated results one way or another.
2. For the same reasons above, annuity payouts are also based on actuarially calculated. Thus males will have higher payouts per month than women.
3. Joint policies and annuities are based on age and sex. The same logic applies here.
4. Hawaii is a small state. Over the years, I have had many conversations with medical insurance companies on the mainland trying to encourage them to enter the Hawaii market. Most of them felt that the market was too small from a cost and/or compliance standpoint, to make changes in their policies to comply with our pre-paid health care laws, and therefore refused to enter our state.
5. If life insurance companies are mandated in the future to cover an individual based on that individual's self-designated sex, I believe that some will pull out of Hawaii. This will give citizens less choices of carriers. Others will now have the burden of recalculating their rates then submitting them to our Insurance Division for approval. The cost of all these changes will obviously be borne by the consumer.
6. Our State Insurance Division is understaffed, but the cost of reviewing new rates and potential complaints of abuse by insurers will ultimately be borne by me and my fellow taxpayers.

In summary, I believe that this bill has not fully looked at the impact on the citizens of Hawaii. I believe that just thinking "I am a man" or "I am a woman" does not change the reality, and to change birth certificates, then seal it does not serve the common good. I am a pragmatic person, but I cannot let an emotionally charged issue like this trump the reality of who ultimately will bear the financial burden of a seemingly small change in our laws.



Law Office of
Rebecca A. Copeland
LLC

February 23, 2015

House of Representatives
Committee on Judiciary
Chair Karl Rhodes
Vice-Chair Joy A. San Buenaventura
Della Au Belatti
Tom Brower
Richard P. Creagan
Mark J. Hashem
Derek S.K. Kawakami
Chris Lee
Dee Morikawa
Mark M. Nakashima
Gregg Takayama
Justine H. Woodson
Bob McDermott
Cynthia Thielen

RE: HB631, House Draft 1, Relating to Birth Certificates
Testifying in STRONG SUPPORT

Dear Chair Rhodes and Members of the Committee on Judiciary,

I write in strong support of HB631 RELATING TO BIRTH CERTIFICATES, a bill being considered by this Committee on Tuesday, February 24, 2015. As you know, this bill would modify existing Hawaii law to allow an individual to change the gender marker on their birth certificate without the requirement that the individual have first undergone a “sex change operation.” The following testimony is substantially the same as what I previously submitted to the Committee on Health, and I am resubmitting it to you because of the importance of this legislation.

I am a local attorney. As a member of the Hawaii State Bar Association, I serve on the Board of Directors for the HSBA as an Oahu Director. I also serve as a Board Member on the City and County of Honolulu’s Zoning Board of Appeals, a position I have held for several years. I am also a Board Member on the Hawaii LGBT Legacy Foundation. I provide you with my professional background to let you know that in many ways I am just like you and your fellow legislators – a hard-working professional who cares for her community.

My testimony is not submitted in my official capacity for any of the above organizations, but in my personal capacity as a mother. I have two children, an elementary aged daughter and a high school aged son. My son is transgender. Although gender identity is moving more to the forefront of our conversation on LGBT rights, my situation may still be considered a unique experience to many who do not yet understand what it means to be transgender. I write to present the perspective of the parent of a transgender child in order to try to help those who do not yet understand this issue. There is nothing wrong with unfamiliarity, only with being unwilling to become educated on a topic.

From the moment my son let my husband and I know that he was transgender, we have supported him completely in his journey to live an authentic life – the one he was meant to lead but which may sometimes be difficult because our son was assigned female at birth. We have navigated the process in Hawaii, his state of birth, and the federal government to officially change his name, and we are thankful that the process has been straight forward, offering our son a first step in being who he truly is. Changes such as this will also allow him to be more appropriately recognized as his correct identity and gender in his future.

However, a name change is not enough. Unless my son (and others like him) is able to modify the gender marker, or “sex designation” on his birth certificate, he will always be considered “female” on official paperwork. When he obtains his driver’s license it will indicate that his sex is “F.” When he applies to college, he will be forced to designate his gender as female. When he gets married, he will be considered “female.” At first blush, these may not seem to be hurdles, but, then again, most of us identify as the gender with which we were assigned at birth. For my son, and others like him, these are consistent reminders that outward sexual characteristics do not match his actual gender – something over which he has no choice and no power. They are constant reminders that society chooses to judge him based exclusively on his outward sexual characteristics rather than his true identity. My son wants only to be known as who he is – a boy soon to be a man.

Will my son one day choose to modify some or all of his outward sexual characteristics to align his body with his gender? Maybe. I don’t have a definitive answer because it is a personal decision that may change over time as my child gets older. If he decides to do so, my husband and I will support him. But, should he be forced to do so just so that he can change the gender marker on his birth certificate? My answer to that question is no. My hope is that this Committee, and the Hawaii Legislature as a whole, will have the same answer.

You will obtain and hear testimony from many members of our community who are transgender, and from those who are allies. You may also obtain or hear testimony from others like me – parents of transgender youth. Many who testify will provide you with statistical data and legal authorities to support HB631. For the most part, I will leave that testimony to others except to emphasize that by protecting individuals from institutionalized discrimination on the basis of gender identity and gender expression, HB631 is in accord with Hawaii’s existing policy of providing such protections. *E.g.*, Hawaii Revised Statutes (“HRS”) § 489-3 (prohibiting discrimination in places of public accommodation based on either gender identity or expression); HRS § 378-2 (prohibiting discriminatory employment practices based on gender identity or

expression); HRS § 515-3 (prohibiting discriminatory practices in real property transactions based on gender identity and expression).

My testimony comes with the caveat that my son was not born in Hawaii; therefore, the outcome of HB631-HD1 will not directly affect his ability to change his gender marker. However, as we have seen repeatedly throughout history, including most recently with the issue of marriage equality, change in one state in this country leads to change in other states. That same history shows us that although discrimination may be permitted temporarily, it cannot withstand the test of time. Change in Hawaii will ultimately lead to change in the state of my child's birth. For that reason, and because I support the ability of all transgender individuals in this state to live a full and authentic life, I consider my testimony relevant, and hope that you will too.

Mahalo for your consideration of HB631-HD1.

Sincerely,

A handwritten signature in black ink that reads "Rebecca A. Copeland". The signature is written in a cursive, flowing style.

Rebecca A. Copeland
Attorney, Wife, Mother, and Ally

Aloha Chairman Rhoads and other members of the House Judiciary Committee,

I am writing in STRONG SUPPORT of HB631_HD1 as it relates to BIRTH CERTIFICATE CORRECTIONS FOR TRANSGENDER INDIVIDUALS.

I'd like to first thank you for this opportunity to submit testimony in support for all transgender individuals who wish to correct their sex marker on their birth certificates.

My name is Kaleo Ramos and I am a transgender individual (female to male) who has had surgeries in order to correct my sex marker. I cannot tell you enough of how much being able to correct my sex marker has improved my life to no end. I was only 8 years old when I tried to end my life. Out of fear for my family and the sadness that I knew my mom, dad and sister would face I never tried it again, instead I worked very hard at being the "typical girl" that everyone expected of me. Being that "typical girl" was hard work, feeling like I had to put on a show day-to-day, and filled with much sadness and depression. I never understood what it was or how much it would cost me to finally be able to live the life I have today.

To make a really long story short, I finished school, completed college, suffered a great depression, developed severe anxieties that imprisoned me in my room and out of work and school for 6 months, which nearly destroyed my relationship. I got married eventually to this person, had a child, and got divorced due to my deciding to transition. I gave up a lot of things, hardcore things in order to save my life, however in my short 28 years of living, I not only saved my life, but also developed into a stronger person than I was previously. I started my path in transition. I first started with hormones, which changed a lot of things about me, physically, but it also changed my motherly instincts for my child. The tenderness of a mother was no longer there, but was replaced by the tenderness of a father. My son grows up in acceptance of my transition and extremely open-minded about life and how people develop their own happiness. He's a very wise child at 10 years old and I'd like to mention my transition as a contributing factor as part of his learning experiences. As I continued to transition I left behind my old vehicle for living and learned, developed and lived on in my newer vehicle for life. My body has been through a lot of trauma as I scheduled surgery after surgery to transform my physical appearance to match my inner male being. As my body made these transformations, so did my bank account. Transition surgeries are costly and I was lucky to have a good job, which allowed me to take out the loans necessary for having the surgeries necessary to complete my transition. The cost of my transition nears \$32,000, something that I'm still paying for 9 years later, with a fairly good job, in fact I have a part-time job as well.

Since my transition and by changing all my legal documents, I've been extremely successful in my life. I don't think I could have been this successful had I not transitioned nor been able to change my documents to reflect my true self. I've risen to become a valuable resource to our lesbian, gay, bisexual, and transgender

communities, mainly youth; I deliver speeches, conduct presentations/trainings, and travel to conferences and trainings. I've earned both work and academic success, received another college degree in special education, been promoted, and continue to be successful in my field. I also plan to complete a master's degree in education. Life is grand.

You know, science is still trying to figure out why people are transgender. So far they know that during the 8th week of pregnancy, when the genitals begin to develop, there is a glitch. Scientist is still unsure what causes the glitch, whether it's hormonal or something else. By now the fetus brain has already developed, male or female, however the glitch causes the genitals to develop otherwise. The baby is then born and through socialization the child learns that he or she is a "boy or girl." As the child grows older into those years when they begin to develop their own personalities, they begin to act accordingly to their brain development. Some children catch on very quickly, while others take a while. I knew I was in the wrong body about 3 or 4 years old, along with some of my first memories. I could not, at the time, explain my feelings, which is probably the case with some kids, so I just rolled along with what my parents said. I mean we never want to disappoint our parents, especially when they look and act so happy at having a boy or girl. We just do as we feel our parents accept or are happy, until we develop our own anxieties rooted in dealing with issues of being transgender. Whether we decide to suppress these feelings or not, its inevitable for them to arise at some point in our lives, for me it was in my latter 20s, for others much earlier, maybe as toddlers. Regardless, whether the public will accept it or not transgender people exist around us everyday and although people may disagree, being transgender is not a choice and to transition is life saving. To be able to change our documents to match how we present is life saving whether you agree or not.

What we get it that almost all cis-gender (non-trans) people do not put any time into thinking of the little "F" or "M" as they fill out applications or look at their birth certificate. Its something that goes overlooked everyday by cis-gender persons, however, for someone who identifies as transgender, correcting this sex marker makes such a huge impact to who they are and how they present. So why not allow trans folk the opportunity to change this "F" or "M" to match up to who they really are?

Sexual corrective surgeries cost in the tens of thousands of dollars of which many common people don't have access. These surgeries have not been practiced enough; therefore the risk is high and success rate low. This does not include the time it takes to heal, the amount of work time loss, and or scarring incurred from surgery. Unfortunately, these surgeries are considered to be only "cosmetic," therefore health insurance companies still do not cover the cost, leaving trans folk searching for quick ways to earn money attempting deeds that are seen as unsafe and or unhealthy (i.e. prostitution, drug use/sale, alcoholism, suicide ideation/attempt/death, etc.). In addition, young folk under the age of 18 are not allowed to have any cosmetic surgery, so according to our highly outdated current

law, youth are unable to change the gender marker on their birth certificates until 18. This makes enrolling in school and the handling of all school documentation a very difficult task. Students would have to “out” themselves, suffering the risk of re-traumatization. This leads to poor test scores, increase in dropouts and suicide ideation/attempt/deaths. Many students have mentioned they do not want to continue their education due to them having to disclose their trans status through school records.

Since I've been able to change my documents I've helped a several people to change theirs. Having work with them for an extended period of time I can see how great their improvements were now that they were able to correct their birth certificates. The smiles, the goal setting, the life expectancy and bliss they share about how much their lives have improved cannot be described, but only felt. Please afford all trans folk the opportunity to live a life of happiness with documentation that represents their true selves. Help them live happy and safe lives by allowing them to correct the sex marker on their birth certificates. Please, I strongly encourage you to vote in strong support of HB631_HD1.

Submitted By	Organization	Testifier Position	Present at Hearing
Eileen McKee	Individual	Support	No

Comments: I strongly support the passage of this bill. This is an easy fix to help all of our ohana feel equal

HOUSE COMMITTEE on JUDICIARY
Rep. Karl Rhoads, Chair
Tuesday, Feb. 24, 2015, 2:00pm, Room 325

Support for HB631: Relating to Certificates of Birth

Dear Members of the Committee on Health:

I am writing to express my support for HB631: Relating to Certificates of Birth. I am currently a constituent from House District 25 and am an Associate Professor at the Myron B. Thompson School of Social Work at the University of Hawaii at Mānoa, though this testimony does not represent UH only my own as a citizen. My area of expertise is in lesbian, gay, bisexual, and transgender issues, with particular emphasis on experiences of violence, discrimination, and bias.

I support HB631 for multiple reasons. First, eliminating the requirement for a surgical change in order to allow a sex-marker change on a birth certificate is an onerous burden on transgender people. Although there have been great advances in medical technologies, many surgical options for sex reassignment surgeries carry significant risks, including death, loss of sensation in affected areas, and surgical complications. In addition, these surgeries are very costly and frequently not covered by health insurance providers, resulting in significant costs that may render surgical options impossible for transgender people. The changes proposed in this bill to eliminate the requirement for surgeries will increase access for more transgender people to have identification that matches their gender presentation, which will reduce their risk of discrimination when their gender presentation does not match their IDs.

Second, broadening the types of professionals who can support a transgender person's application to change their sex-marker from physicians alone to licensed medical and social service providers gives transgender people more opportunity to find professionals who are knowledgeable about transgender issues. One of the large issues found in national and local surveys of transgender people is the difficulty in finding medical providers who are familiar with the unique needs of transgender people. By broadening this category to include other licensed medical and social service professionals, transgender people will have an increased opportunity to locate knowledgeable professionals who can best support them as they make decisions about their legal identification and any changes in their gender presentation or body.

Third, the proposed language change that clarifies that there should be no evidence of a change to birth certificates is also critical for the health and safety of transgender people. If a birth certificate shows as "amended" in regard to sex-markers, it reveals a person's transgender status in a way that still puts them at risk for discrimination and undermines the point of changing a birth certificate to be consistent between gender presentation and sex-markers. Making sure that a change in sex-marker is not visible on a birth certificates further protects transgender people.

In my professional experience, the changes proposed in HB631 would be a significant improvement in process for those people seeking to change the sex-marker on their birth certificates. Please support this bill. If you have any questions, please feel free to contact me.

Dr. Rebecca L. Stotzer, (808) 956-6121, rstotzer@hawaii.edu

NOTICE OF HEARING

DATE: Tuesday, February 24,
2015

TIME: 2:00 p.m.

PLACE: Conference Room 325
State Capitol
415 South Beretania
Street

Aloha Committee On Judiciary Chair Karl Rhoads and Vice Chair Joy A. San Buenaventura,

My name is Nakoa Nelson and I am in Strong Support of HB631.

I am a 47 year old native Hawaiian transgender man and reside on the Big Island of Hawaii. My transition journey has been a difficult and painful process having attempted suicide twice and twice, saved by grace.

I can remember feeling like a boy in my mind from the early age of 5. As I grew older I began to experience gender dysphoria which intensified in high school (and on into adulthood) and greatly affected my ability to succeed and graduate on time from Mid-Pacific Institute. For four years I struggled to keep my grades up and by age 16 I turned to alcohol and drugs as a remedy to survive.

I did not graduate on time because I was not able to suit up in a female bathing suit for swimming, the Physical Education requirement I needed to fulfill for graduation. I could not explain to the instructor why I refused to suit up and swim. I simply just stopped and sat on the sidelines. I received a failing grade because of this and ultimately did not receive my diploma with my graduating class but received it that summer after taking another course-an unpleasant experience for me and my parents who put out a lot of money for a quality education.

While this is my personal story I share (short version), in support of this bill, this testimony is not just about me. This is also about the thousands of transgender women, men, and children in Hawaii, who like me, will be needing to amend gender markers on birth certificates- for safety reasons especially.

“Gender incongruent identification exposes people to a range of negative outcomes, from denial of employment, housing, and public benefits to harassment and physical violence.”

“Birth certificates are more than a piece of paper: they are a gateway to access Social Security benefits, to obtain professional certification, to register for schools and colleges, and in countless other situations. Having inconsistent documents can impose serious barriers to finding meaningful employment or housing, and creates barriers for parents of transgender children and youth seeking accurate school records. Removing the surgery requirement is an important step forward to removing those challenges.”

[\(http://www.basicrights.org/uncategorized/victory-birth-certificates-for-transgender-oregonians/\)](http://www.basicrights.org/uncategorized/victory-birth-certificates-for-transgender-oregonians/)

The State of Hawaii should remove the requirement for surgery and allow affidavits in support of a sex marker change from licensed medical and mental health providers.

Supporting HB631 is your opportunity as Law Makers, to join a growing number of states (such as Oregon-as noted in link above) that have already removed the “onerous surgery requirement imposed on transgender people..”

This bill will help align Hawaii with “federal law and regulations for passports and the Social Security Administration, as well as standards of care outlined by the American Medical Association,” (again see link above).

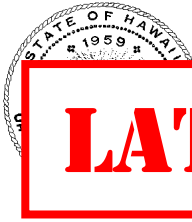
While not all transgender people desire or need or can afford to undergo this expensive (and sometimes extensive) surgery procedures, it was a necessary step I needed to take in order to survive. I knew without a doubt if I did not do this I would have taken my life with no intention of returning.

In April of 2013 and with the support of my life partner, I underwent chest reconstructive surgery, alleviating high anxiety, major depression, suicidal tendencies, harassment and discrimination but ultimately cohesively aligning my body with my mind and soul.

Amending my sex designation marker on my birth certificate is also an important step needed to reflect my true gender identity--allowing this vital document to finally reflect who I was at birth: a basic right every transgender person should have.

I urge you all to support HB631 and move our State of Aloha forward to safety and equality for all transgender residents of Hawaii.

Mahalo nui,
Nakoa Nelson



HAWAII CIVIL RIGHTS COMMISSION

1130 BOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 24, 2015
Rm. 325, 2:00 p.m.

To: The Honorable Karl Rhoads, Chair
Members of the House Committee on Judiciary

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawai'i Civil Rights Commission

Re: H.B. No. 631, H.D.1

The Hawai'i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai'i's laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai'i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

H.B. No. 631, H.D.1, if enacted, would amend HRS § 338-17.7 to change the supporting documentation required by the department of health to issue a new birth certificate to align gender designation with the birth registrant's gender identity.

The HCRC strongly supports H.B. No. 631 for the following reasons:

The proposed statutory amendments to HRS § 338-17.7 establish a single standard for supporting documentation required to obtain a new certificate of birth with a change of gender designation to align with the birth registrant's gender identity. The current law creates two classes of birth registrants seeking a new certification of birth with a change of gender designation, with different documentation requirements for each class.

The proposed amendments include deletion of an express qualification that one class of birth registrants seeking to obtain a new certificate of birth with a change of gender designation be limited to those who have had a “sex change operation,” a limitation that is immaterial under current legal and medical definitions of gender identity.

H.B. No. 631, if enacted, will make it easier for people to obtain birth certificates with gender designation that aligns with their gender identity. This will affect workers who currently face discrimination in the workplace because of sex, based on gender identity, because their gender designation on their birth certificate and identification documents issued on the basis of their birth certificate does not match their gender identity.

The HCRC strongly supports H.B. No. 631, H.D.1, and urges the committee’s favorable consideration of this measure. We suggest that the H.D.1 requirement that change of sex designation on the birth certificate be supported by an affidavit, rather than a written statement as required in the original bill, from a licensed medical or licensed mental health provider may prove to be burdensome and have a chilling effect.



LATE

STATE OF HAWAII
DEPARTMENT OF HEALTH

P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony Commenting on HB631 HD1
RELATING TO CERTIFICATES OF BIRTH**

REPRESENTATIVE KARL RHOADS, CHAIR
HOUSE COMMITTEE ON JUDICIARY

Hearing Date: February 24, 2015

Room Number: 325

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health has strong reservations about HB631 HD1, which
3 creates an administrative-only process for changing “gender,” a data item not currently recognized on
4 the birth certificate. The reference to “gender” confuses and inappropriately conflates the scope of a
5 birth certificate beyond documentation of the circumstances of an individual’s birth as best understood
6 at that point in time (and subsequent changes of legal status).

7 Procedurally, the department objects to the proposal on page 3, lines 3 – 8, requiring no more than “a
8 statement from a licensed medical or social service provider attesting that the current birth certificate
9 record does not align with the birth registrant’s gender identity....”

10 Instead, the department recommends procedures similar to 338-17.5, HRS, “Judicial procedure to
11 establish facts of births,” which requires a court petition. DOH would strongly support policies and
12 procedures that assure a registrant’s confidentiality, privacy, and above all, dignity.

13 A court order removes the burden for DOH staff to make judgment on the authenticity of the proposed
14 statement from a licensed medical or licensed mental health provider and the qualifications and
15 credentials of such providers as submitted by the registrant.

16 This bill would amend section 338-17.7, Hawaii Revised Statutes (HRS), which provides methods to
17 establish new birth certificates. Currently the law allows the Department of Health (DOH) to establish a
18 new birth certificate to reflect changes based on establishment of paternity and adoption. It also allows
19 the DOH to change the sex on an individual's birth certificate upon receipt of a physician's affidavit that
20 the sex designation was initially entered incorrectly on the record or that the birth registrant has had a
21 sex change operation and the sex designation on the birth certificate is no longer correct.

22 Our concerns about this bill are as follows:

- 1 1. The proposed amendment violates a basic national and international principle of birth
2 registration of recording information about the birth mother and child on the certificate of live
3 birth just prior to and at the time the birth occurs, not years after the birth event as prima facie
4 evidence of the fact of birth,
- 5 2. The primary statutory amendment it seeks would allow changes to "gender," a non-existent
6 data item on birth certificates, and
- 7 3. The proposed method of amending birth certificates lacks evidentiary reliability.

8 Standards for Vital Records

9 Establishment of paternity and adoption are the only amendments to the birth certificate that are
10 allowed subsequent to the recording of the birth event, but both amendments require judicial
11 determination. The witness protection program and Lieutenant Governor change of name decrees are
12 special exceptions. A new certificate of live birth is created with the name of the father in the case of
13 paternity establishment and the name(s) of the adopted parent(s) in the case of adoption. The original
14 certificate is sealed and can only be unsealed by the court. All other amendments to the certificate of
15 live birth (e.g., change of name) are noted on the face of the certificate as to the reason for the
16 amendment (e.g., Lieutenant Governor Change of Name Decree), the date the amendment was made
17 and by whom made the amendment.

18 "Gender" Is Not a Data Item Reflected On Hawaii's Birth Certificates

19 This bill would broaden the allowable methods to change birth certificates; however, it seeks to change
20 an item of data that is not currently on birth certificates, i.e. gender. Hawaii, in conformance with the
21 guidelines of the National Center for Health Statistics, includes many items of data, such as name, date
22 of birth, parent's names, and sex, on its birth certificates. "Gender" is not one of the listed items. This
23 bill would amend section 338-17.7, HRS, in a way that would apparently eliminate the reference to "sex"
24 on some birth certificates and replace it with "gender," a category that is not recorded on Hawaii's birth
25 records. Because Hawaii should continue to conform to the guidelines of the National Center for Health
26 Statistics, the term "gender" should be replaced with the term "sex."

27 Changes To "Sex" On a Birth Certificate Without Evidence of Sex Reassignment Surgery Lack Reliability 28 Without Court Involvement

29 Notwithstanding the problem of "gender" versus "sex," the Department of Health has concerns about
30 the reliability of making changes to sex on a birth record in non-surgical cases without requiring a court
31 order. Accuracy and integrity of vital records is important, and requiring a court order to change the sex
32 designation on a birth certificate, particularly in those cases that do not involve sex reassignment
33 surgery, would allow for a reliable, evidence-based way of determining if a change to a birth certificate
34 should be made.

1 We are concerned that the accuracy of the data contained in vital records is compromised without a
2 reliable and consistent means of validating a change. The reasoning behind requiring a court order for
3 changes less permanent than sex change operations is so that a court can use its judgment to determine
4 the validity of the evidence supporting a change to the record. There appears to be a wide range of
5 possible gender reassignment treatments, ranging from the least intrusive treatment of counseling with
6 no hormone replacement therapy and no physical alterations, to the most intrusive treatment of sexual
7 reassignment surgery resulting in permanent physical changes. While we are not experts on the
8 procedures themselves, we believe that clinical treatment that does not include surgery does not seem
9 to be permanent enough to merit a change in a vital record without a court order. Furthermore, the
10 highly publicized case of Thomas Beattie of "pregnant man" fame illustrates the concerns we have even
11 when sex change surgery is performed. Thomas Beattie gained national attention when he appeared
12 pregnant on the Oprah Winfrey Show and described how he was born female in Hawaii and after
13 undergoing sex reassignment surgery we changed his sex on his certificate of live birth from female to
14 male. We subsequently issued him a license to marry his bride in Hawaii when only heterosexual
15 marriage was allowed. Thomas Beattie subsequently gave birth to three children and wanted to be
16 listed as the father of the children.

17 **Offered Amendments:** We respectfully request this Committee, if it decides to pass this bill, to (1)
18 replace the use of the word "gender" with the word "sex", (2) require a court order for any changes
19 pursuant to procedures that do not involve sex reassignment surgery, and (3) require all applications for
20 sex change of birth certificates to include two affidavits with sufficient information to enable other
21 providers in the field of gender identity disorder to reach the same conclusions regarding the applicant's
22 full transition to and intended permanence in the other gender:

23 (1) A notarized affidavit from a physician licensed in the United States practicing in the field of gender
24 identity disorder or qualified through board certification in one of the following specialties:
25 endocrinology, adolescent medicine, urology, plastic surgery, gynecology, family medicine, general
26 medicine or internal medicine attesting to the transition of gender of the applicant.

27 The affidavit shall contain:

28 (a) Physician credentials

29 (i) Information about licensure and specialties, including license number, name of issuing body,
30 and name of school from which highest degree was awarded;

31 (ii) Experience related to transgender treatment, including specialized courses and information
32 about the number of transgender patients treated.

33 (b) Length of time and dates the applicant has lived in the other gender.

34 (c) Length of time physician has been treating patient.

1 (d) Detailed diagnosis and case history including description of all medical treatments for the purpose of
2 modifying sexual characteristics fully and completely from male to female or female to male.

3 (e) If the affiant is not the treating physician, details of physical exam, conducted by the affiant, which
4 confirm reported diagnosis and case history, and summary of record review concerning applicant's
5 medical history related to gender transformation.

6 (f) Professional opinion regarding applicant's full transition to and intended permanence in the other
7 gender.

8 (g) Other information or evidence in support of applicant's full gender transformation as the
9 Department may require a notarized affidavit from a mental health professional licensed in the United
10 States practicing in the field of gender identity disorder, including psychiatrists and clinical psychologists
11 with demonstrated experience in treating transgender patients. Minimum acceptable credentials
12 include: master's degree or its equivalent in a clinical behavioral science; specialized training and
13 competence in gender identity disorders; documented supervised training and competence in
14 psychotherapy; and continuing education in the treatment of gender identity disorders.

15 The affidavit shall contain:

16 (a) Mental health professional's credentials

17 Information about licensure and specialties, including license number, name of issuing body, and name
18 of school from which highest degree was awarded;

19 Experience related to transgender treatment, including specialized courses and information about the
20 number of transgender patients treated.

21 (b) Length of time and dates the applicant has lived in the other gender.

22 (c) Length of time provider has been treating patient.

23 (d) Detailed diagnosis and case history, including psychological treatments related to transgender
24 transformation.

25 (e) If the affiant is not the treating mental health provider, details concerning applicant interview,
26 conducted by affiant, which confirm reported diagnosis and case history, and summary of record
27 review concerning applicant's psychological history related to gender transformation.

28 (f) Professional opinion regarding the applicant's psycho-social adjustment and support network, and
29 full transition to and intended permanence in the other gender.

30 (g) Other information or evidence in support of applicant's full gender transformation as the
31 Department may require. Thank you for the opportunity to testify.



February 24, 2015

To: Representative Karl Rhoads, Chair
Representative Joy San Buenaventura, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Y. Ohta, Co-Chair

RE: HB 631 HD1 Relating to Certificates of Birth
Hearing: Tuesday, February 24, 2015, 2:00 p.m., Room 325

Position: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of HB 631 HD1 Relating to Certificates of Birth which would replace the current medical guidelines for changing gender designation on birth certificates.

The current requirement that individuals must undergo surgery is out of date with current medical consensus that surgery is not appropriate or necessary for every transgender person. The surgical requirement is an unreasonable burden both medically and financially. The burdens prevent many transgender individuals from obtaining consistent legal documentation and can have serious impacts on the rest of the individual's life, including employment and education.

Many other states and federal agencies have adopted laws and policies comparable to those proposed in this measure.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls. It is because of this mission that we respectfully request that the committee pass this bill.

Thank you for the opportunity to provide testimony in support of this measure.

HAWAII FAMILY ADVOCATES

A 501(C) (4) organization associated with Hawaii Family Forum

LATE

ONLINE TESTIMONY SUBMITTAL
House Committee on Judiciary
Hearing on February 24, 2015 @2:00
Conference Room #325

DATE: February 23, 2015

TO: House Committee on Judiciary
Rep. Karl Rhoads, Chair
Rep. Joy San Buenaventura, Vice Chair

FROM: James R. "Duke" Aiona, Jr. Interim President & CEO Hawaii Family Advocates

RE: Opposition to HB 631; HB 631 Relating to Certificates of Birth
Comments on HB 631 Relating to Certificates of Birth

My name is James R. "Duke" Aiona, Jr., and I have been an attorney in Honolulu since 1981. Currently I am also the interim president of Hawaii Family Advocates, a 501(c) (4) independent expenditure, non-candidate organization. Our opposition to this bill is as follows: 2) although the amendment to the original bill addresses some of our previous concerns relating to the broadness of the bill, in its current form it is still subject to abuse and does not provide a reliable basis for amending birth certificates and 2) it's lack of transparency regarding the history of the birth registrant.

A birth certificate is a very important vital record. It is a document that is relied upon by many organizations, government agencies, and individuals to make decisions, many which are life changing, as to a person's qualifications, eligibility, place of birth, genealogy, and sex. Accordingly, the accuracy and integrity of a birth certificate is essential.

As currently proposed in this bill, subsection (a) (4) would allow a birth registrant of any age to amend their sex designation. Parental consent of a minor is not required. In addition, a "licensed medical provider" needs to be more narrowly defined. In its current form a "licensed medical provider" could be a dentist or any other licensed medical provider who has no education, training, or practical experience and work within their medical field with gender/sexual identity. In short, this proposed bill still lacks the necessary credibility and reliability that is essential to making a permanent change in sexual identity of their birth certificate.

As mentioned above a birth certificate serves as a historical record. A person's gender is a part of this historical data. A change in a person's sexual identity is a factor that many need and must know about. The most obvious example is someone who is contemplating marriage. The second is a business who as part of its benefit package houses their employee's by gender. A third is a religious organization whose religious practices are dependent upon the sexual identity of a person that they are contemplating to hire or confer a certain religious rite upon. It is a known fact that for the Later Day of Saints (LDS), reliable and accurate genealogy is vital to their faith.

P.O. Box 2757 • Honolulu, HI 96803 • Phone: 808-429-4872

E-mail: info@hffaction.org | Website: www.hffaction.org

HAWAII FAMILY ADVOCATES

A 501(C) (4) organization associated with Hawaii Family Forum

Moreover, as the former Lieutenant Governor, I envision a situation in which a person will use a sex change to fraudulently evade the statutory mandate to register as a sex offender. By presenting this new birth certificate without any designation of its amendment, the personnel in the lieutenant governor's office can easily be distracted from performing a thorough search of the applicant's name because of the sex involved and issue the name change unwittingly.

Lastly, the failure to note that these certificates have been amended not only infringes upon a person's right to know but is contrary to any notion of transparency. For the reasons noted above, it is imperative that any change to a vital fact, such as sexual identity, within a birth certificate must be available and known to the general public.

Mahalo for the opportunity to submit this testify.

LATE

Notice of Hearing: House Bill 631
Date of Hearing: February 23, 2015 at 2:00
Location: State Capitol, Room 325
Testimony in Strong Support of HB631 Birth Certificates

Aloha Kakou House Judiciary Committee,

I am writing to you all to express my strong support for HB631. This bill will help our transgender community by clarifying the process for correcting the gender marker on a birth certificate to match the correct gender of an individual's identity. This will help the process become more equitable and will be in line with other states around the country, as well as national trends to support equitable laws that assist transgender individuals.

My life partner came out as transgender approximately 5 years ago. I have supported his transition from female to male and I have seen firsthand the personal and emotional struggles on a daily basis. Anyone who can make such a transition is a hero in my book. It is not something that one does lightly, but rather, the need to match your gender identification to the gender you identify with, becomes a matter of life and death. I am aware of the intense fear and anxiety when going through the security line to get on the plane or anywhere that one would have to show identification. In fact, we received horrible discrimination and were turned away at the Pahoehoe Fire Station, when Nakoa was having a severe reaction and having difficulty breathing; once they found out that he was transgender, they sent us away and said that there was nothing they could do. If it were not for another clinic in Pahoehoe that was able to treat him, he may not be alive today: but that is another story for another time.

Currently, my fiance has been able to correct his driver's license, but is in a difficult situation with correcting his birth certificate. At first, his request to correct his birth certificate was approved; we received an approval letter, but then nothing else after that. Finally, we flew to Honolulu in person to get a corrected copy of his birth certificate and were told by the supervisor that she had decided to pull the approval. We stated that we had never been informed that the agency had changed their mind and had not received any notification of the approval being now denied.

This situation highlights the need for a streamlined process that is equitable and clear to all. We need to prevent individuals from being able to deny an approval already given based upon their own individual prejudice. If the process is clarified and streamlined, it becomes equitable for all and removes the possibility of prejudice.

As the fiancé of a transgender person, I have witnessed firsthand the great distress this has caused my partner. My partner has undergone chest reconstruction surgery so that he now appears male, helping his body to match his brain. We also cannot afford the “bottom surgery”, which is both extremely costly and at this point, unnecessary.

Currently, he is in the difficult position of having his license state “Male” but his birth certificate state “Female”. We would love to travel outside the country someday, but this would make it difficult to get a passport, given this conflict. Even if he was able to obtain a passport, having conflicting identity documents can be highly problematic in foreign countries as well as here in the USA. In addition, as a Native Hawaiian, my fiancé has helped to bring understanding and education back to his own culture.

I strongly support this bill and removing the surgery requirement and allowing affidavits to document gender identification change from licensed medical and mental health providers. Hawai'i has the opportunity to join with the nation in being a leader for transgender rights. We missed our opportunity in 1998 to be the first state in the nation to accept same-sex marriage but thankfully, came around in 2013. We encourage you all to join with the leaders across the country to provide an equitable, fair, and consistent process in order to correct one's gender marker on a birth certificate.

Mahalo nui,
Dr. Barbara Riley

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Lichty	Individual	Support	No

Comments: As both a public health professional and a long-time civil rights supporter, I strongly support HB 631. The whole issue of gender identity is changing very fast and increasingly mainstream groups like the American Psychological Association are recognizing the importance of transgender people having access to identity documents that are consistent with their gender expression. The provision in Hawaii's law requiring gender reassignment surgery, is out of step with the times and perhaps most importantly interferes with the autonomy of transgender people to be officially identified with the gender they live. Moreover birth certificates that indicate that they are altered are not helpful in many of the situations, such as employment, where transgender people still face widespread discrimination. We urge the Committee to pass out this measure so Hawaii can align itself with the other enlightened jurisdictions who have facilitated the changing of birth certificates. Mahalo for the opportunity to testify.

LATE

Chair Rhoads, Vice Chair San Buenaventura and members of the Committee on Judiciary,

I stand in STRONG SUPPORT of HB631.

My name is Jeremy White. I am a 42-year-old, gay, Caucasian man, who was born and raised in the Bible Belt state of Michigan. I lived the first 34 years of my life “in the closet” because it was not acceptable in my community to be gay or lesbian. It was also not safe to live life as an openly gay man in my community and the only news stories I ever heard about gay people, growing up, related to events where a gay man had been assaulted for being gay.

However, in 2006, I came to Hawaii for vacation and quickly realized how different this wonderful state was from my home state of Michigan. The people here were so much more accepting of people from different walks of life, including people from the LGBT community. I was amazed that there was a place where a gay man could be “out of the closet” and be accepted in his community. After a relatively short time back in Michigan, after my vacation to Hawaii, I decided to uproot myself and move to the Aloha State. I have not regretted a single moment.

You see, I have had a fairly privileged life in terms of being a middle class, Caucasian man. I have not struggled with many of the things that other minorities have had to deal with. The only outright discrimination I have had to deal with was during the special session for SB-1 in 2012, where I was both verbally and physically assaulted by people who opposed SB-1. While it was disturbing to experience this type of discrimination in the place I now call home, it paled in comparison to the discrimination I have seen imposed on the transgender community during my 8 years in Hawaii.

I must admit, I did not even know what the word “transgender” meant, prior to moving to Hawaii; a sad statement, considering I’ve worked in social services since 1995. But I had not been exposed to people from the transgender community during my time in Michigan. However, I have met and made so many wonderful transgender friends in the past 8 years, many of whom I consider brothers and sisters now.

I have had the opportunity to get to know many wonderful transgender men and women, since moving to Hawaii, many of whom are involved in outreach programs that help the homeless, people with HIV/AIDS, etc. These people are loving, caring, giving people who care about those in their community. They give back so much more than they take. Yet, I have seen time and time again, how people from the transgender community are not provided the same protections that I enjoy.

I honestly stand in awe at how much courage it must have taken for my transgender friends to transition to the person they always knew they were; to explain this to their family and friends; to risk their jobs; to knowingly face the discrimination and hatred of those who do not know what it means to be transgender. It takes a very brave person to go through what transgender people go through in order to transition from male to female or female to male, knowing they will not be accepted or treated fairly by most of society. Yet, they do. Why? Because that is their truth. That is who they were created to be.

I believe HB631 would provide transgender people with the opportunity to have their birth certificate match who they are inside and who they have become on the outside. I also believe that this opportunity should be available to them regardless of if they have transitioned “medically” by going through gender reassignment surgery. Many people from the transgender community are unable to afford these expensive surgeries, even though most would if it were financially feasible for them.

Passing HB631 would afford the transgender people in our wonderful Aloha State to live their lives as the people they were created to be and would help remove one more barrier for them in being seen as equal in the eyes of the law.

I humbly ask you to pass HB631.

Mahalo nui,
Jeremy White

LATE

I would like to thank the committee for this opportunity to provide testimony on such an important issue. I would like to express my strong support for HB 631, which would amend HRS 338-17.7 by allowing for the establishment of new birth certificates for transgender individuals.

A statutory requirement for an actual surgical gender change is outdated and unnecessary. The majority of transgender people do not choose to undergo sex reassignment surgeries for various reasons, including prohibitive costs and other medical and personal reasons. Under internationally accepted clinical standards, transgender individuals may opt for hormone therapy and other treatments. The international medical community recognizes that surgery may be appropriate for some, but not for all. HB 631 attempts to modernize HRS 338-17.7 without retaining an outdated notion of what it means to be transgender.

This bill would make it easier for transgender individuals to request a new birth certificate by allowing an individual to request one, along with a statement from a licensed medical or social services provider attesting that the current birth certificate record does not align with the birth registrant's gender identity. This is especially vital to the everyday lives of transgender individuals and allows them to more readily amend their legal documents, including driver's licenses and other forms of identification. These individuals are more subject to harassment and discrimination when their birth certificates, and thereby, their identification, do not "match" their lived gender. This bill remedies that problem. Thank you for your work to ensure everyone has equal rights.

LATE

JO-ANN M. ADAMS, ATTORNEY AT LAW

LAW OFFICES OF JO-ANN M. ADAMS, LLC

P. O. BOX 75472, HONOLULU, HI 96836

TELEPHONE (808) 528-2100 ~ FACSIMILE: (866) 370-0259 ~ E-MAIL: JMADAMSESQ@GMAIL.COM

COMMITTEE ON JUDICIARY

Rep. Karl Rhoads, Chair

Rep. Joy A. San Buenaventura, Vice Chair

Rep. Della Au Belatti

Rep. Richard P. Creagan

Rep. Derek S.K.

Rep. Dee Morikawa

Rep. Gregg Takayama

Kawakami

Rep. Tom Brower

Rep. Mark J. Hashem

Rep. Bob McDermott

Rep. Mark M. Nakashima

Rep. Justin H. Woodson

Rep. Chris Lee

Rep. Cynthia Thielen

DATE: Tuesday, February 24, 2015

TIME: 2:00 p.m.

PLACE: Conference Room 325, State Capitol, 415 South Beretania Street

RE: HB631 – IN STRONG SUPPORT

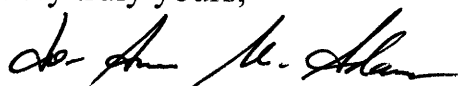
This bill brings Hawaii into line with the statutes in several other states. Hawaii's approach - to require "sex reassignment" surgery prior to changing the gender (or sex) marker on the birth certificate - is not the contemporary approach. Many states have moved to attestation either by the individual seeking the change or by a licensed professional. This bill proposes an affidavit by a licensed professional; the licensed professions able to attest to the need for the change is quite limited.

With the changes to the marriage law passed in the 2013 special session, Hawaii took a HUGE leap forward to include the LGBT community in access to full legal protections. This bill will be one of several small bills over the next few years that will clean up remnants of "disparate treatment" or "antiquated policy."

I appreciate your consideration of this bill. The transgender community is so marginalized that they are stunned, and ever so grateful, for the support shown by this bill and the legislators (and activists) supporting it.

Mahalo plenty!

Very truly yours,



Jo-Ann M. Adams, Esq.

LATE

	Organization	Testifier Position	Present at Hearing
Elena Cabatu	Individual	Support	No

Comments: In support for the ones I love.



SANDRA G.Y. YOUNG

Attorney at Law
P.O. Box 2897
Aiea, Hawaii 96701
Telephone: (808) 487-8464

February 23, 2015

House Committee on Judiciary
Hawaii State Legislature
Capitol Building
Honolulu, Hawaii 96813

Re: HB 631 on Birth Certificates – Strong Opposition

Dear Chair Rhoads, Vice Chair San Buenaventura and Members of the Committee on Judiciary:

Thank you for your service to our community. With all due respect, I strongly oppose HB 63, as discussed in prior written testimony and again as set forth below .

Individuals who marry should know have a right to know whether they are marrying a person of the opposite sex, as it will have an effect on their plans for having and raising their own biological children. Also, individuals may have religious/moral objections to marrying a person of the same sex. Removing any evidence of changes to the birth certificate would make it more difficult to determine that, and also to obtain an annulment. As a family law attorney, I have had to deal with the shock and pain (and humiliation) experienced by an individual who discovered the sex change of the spouse *after* they were already married. To not disclose a gender change prior to a marriage constitutes fraud, and the court would grant an annulment under circumstances, if it can be proven. Oral testimony is insufficient for an annulment. The public policy and goals of the Legislature should be to encourage truth and honesty, and to discourage fraud. Any change to the gender should be reflected on the birth certificate.

This current draft of the bill allows any licensed medical or mental health provider to assist a person with amending a birth certificate. This provision is still overbroad, in my view. Do the medical providers include licensed nurses, aides, and other medical providers, like drug rehabilitation organizations, cancer treatment centers, nursing homes and so on? Frankly, it appears to open a can of worms because it makes it easier for medical providers who have no training in the area of transgender issues to assist a transgendered person to amend the birth certificate. It also makes it easier for folks to have 2 different gender identities. For example, a person can order 10 birth certificates, and then go for counseling, get his/her birth certificate amended, and then order another 10 birth certificates with a different gender identity. No sex change operation or doctor's certification is required in this bill. Persons who were born as a male might financially benefit in being a female golfer or tennis player.

Birth certificates are important legal documents, and the Legislature should protect the integrity of the process. Generally, a court order or an order from the Lt. Governor's office is needed to make most changes to the birth certificate.

Truth and openness are the basic foundations of a successful marriage, and the legislature should support an interested party's right to know the truth. These kinds of bills can harm innocent people and religious/non-religious institutions: (a) an innocent spouse may not be informed of a transgendered spouse's sex change prior to the marriage; (b) religious institutions which limit certain positions to persons of one particular gender or they do not perform same sex marriages; (c) the ease with which criminals and sexual predators can use this law to harm others and evade justice, and the list goes on. Please do not change the law.

If you still wish to proceed with the bill, please review the attached summary of some of LAMBDA'S online research in key states. Those that I have reviewed require *more stringent* guidelines to minimize fraud and to ensure that a person with gender identity issues is taking the appropriate steps to address the problem by working with a therapist for a minimum period of time. Some states require actual surgery.

Mahalo nui loa for your time, and again for your service.

Very truly yours,

Sandy Young

SANDRA YOUNG

Comparison of laws in other states

Please review the laws in other states as cited by LAMBDA: <http://www.lambdalegal.org/know-your-rights/transgender/changing-birth-certificate-sex-designations>.

Updated 2.3.15 Here are a few states' laws on the issue of amending the birth certificates due to a sex change.

1. California: Statute: Cal. Health & Safety Code § 103426 (2014).

California will issue a new birth certificate when an applicant submits to the State Registrar an affidavit that, pursuant to Cal. Health & Safety Code 103430(a), contains substantially the following: "I, (physician's full name), (physician's medical license or certificate number), am a licensed physician in (jurisdiction). I attest that (name of petitioner) has undergone clinically appropriate treatment for the purpose of gender transition to (male or female). I declare that the foregoing is true and correct to the best of my knowledge." There is an \$11 fee for a new birth certificate, pursuant to Cal. Health & Safety Code 103725.

Summary: California will issue a birth certificate reflecting the proper sex.

2. New York: Administrative Code: N.Y. Comp. Codes R. & Regs. Tit 10, § 35.2 (2014)

Notes: The New York State Department of Health, Vital Records Division has a policy providing for the change of sex designation on birth certificates upon the receipt of a completed application and a notarized affidavit on professional letterhead from a physician (M.D. or D.O.), nurse practitioner, physician assistant, licensed in the United States, who has treated, reviewed, or evaluated the gender-related medical history of the applicant. The notarized affidavit must include: a statement noting that the provider is making his/her findings upon independent and unbiased review and evaluation and is not related to the applicant; the medical professional's license number; and a statement that the applicant has undergone appropriate clinical treatment.

Summary: The state of New York will issue a birth certificate reflecting the proper sex.

New York City (has separate vital records division from the state)

Administrative Code: 24 RCNY Hlth. Code § 207.05(a)(5) (2014), as amended by the Birth Certificate Modernization Bill, Int. No. 491-A (effective Jan. 12, 2015).

Text: (a) A new birth certificate shall be filed when . . . (5) (i)(A) A person files either an affirmation from a physician (MD or DO) licensed to practice medicine in the United States and who is in good standing...or (B) an affidavit from a doctoral level psychologist (PhD or PsyD) in clinical or counseling psychology, master social worker, clinical social worker, physician assistant, nurse practitioner, marriage and family therapist, mental health counselor, or midwife, licensed to practice in the United States and who is in good standing to attest that in keeping with contemporary expert standards regarding gender identity, the applicant's requested correction of sex designation of male or female more accurately reflects the applicant's sex or gender identity.

(ii) If the request for a new birth certificate includes a name change, the person must also submit proof that his or her name has been changed pursuant to a court order.

Summary: New York City will issue a birth certificate reflecting the proper sex.

3. Oregon: Text: (1) The state registrar shall amend a record of live birth and establish a replacement record of live birth for a person born in this state upon receipt of the following:
 - (e) Sexual reassignment. A certified copy of an order of a court of competent jurisdiction indicating that an individual born in this state has completed sexual reassignment and that the sex on the record of live birth shall be changed.

Notes: Oregon passed HB 2073, effective January 1, 2014, updating its laws to remove the surgery requirement for birth certificate amendments. In order to amend your Oregon birth certificate, you must first obtain a change of gender court order. In order to obtain such a court order, Oregon requires a letter from a health care provider stating that you have undergone appropriate clinical treatment and completed sexual reassignment. Oregon, according to Or. Rev. Stat. § 33.460, defines "sexual reassignment" as surgical, hormonal, or other treatment appropriate for the individual for the purpose of gender transition.

Summary: Oregon will issue a birth certificate reflecting the proper sex.

4. Massachusetts: Statute: Mass Gen. Laws Ann. ch. 46, § 13(e) (2006).

Text: (e) If a person has completed sex reassignment surgery, so-called, and has had his name legally changed by a court of competent jurisdiction, the birth record of said person shall be amended to reflect the newly acquired sex and name, provided that an affidavit is received by the town clerk, executed by the person to whom the record relates, and accompanied by a physician's notarized statement that the person named on the birth record has completed sex reassignment surgery, so-called, and is not of the sex recorded on said record. Said affidavit shall also be accompanied by a certified copy of the legal change of name aforementioned above.

Summary: Massachusetts will issue a birth certificate reflecting the proper sex.

5. New Hampshire: Administrative Code: N.H. Code Admin. R. He-P 7007.03(e) (2004).

Text: (e) Upon receipt of a court order advising that such individual born in the state of New Hampshire has had a sex change, a new birth record shall be prepared in accordance with He-P 7007.02 to reflect such change.

Notes: Obtaining an order from the local probate court requires submission of an application, payment of a fee, and an evidentiary hearing. Unless otherwise specified by the court order, the amended certificate will specify what changes have been made.

Summary: New Hampshire will issue a birth certificate reflecting the proper sex.

LATE

s, Vice-Chair San Buenaventura
e House Committee on Judiciary

IN STRONG SUPPORT OF HB631 HD1 WITH AMENDMENT reinserting "Cause of Action"

Mahalo for inviting and hearing my testimony on HB631 HD1. I am a retired social worker, graduate of a theological school, grandmother, and kumu hula.

I choose to be the married life partner of a woman who has been living through a gender transition over the past several years, I have learned, with painful listening, how essential it is to possess the basic, accurate documentation of who we are as a female, male, or any other gender identification. This designation, which most of us take for granted, becomes absolutely critical to a person who finally realizes that he or she has been living a untrue identity.

Birth certificates are the absolute starting point for so many common procedures required as we live our lives, such as: applying for a State ID, drivers license, library card, bus pass, picking up prescription medication. Possessing documentation which is congruent with one's gender is essential for day-to-day functioning.

I have watched my partner undergo intense anxiety as she approached each instance where a birth certificate,(or other documentation) was required. The stress placed on individuals in this position is extremely debilitating, and should be needless.

I also believe that there needs to be a clear/strong yet accessible way for my partner, and others like her, to appeal denials of requests for bringing their birth certificate into congruence with their true identity. This right to appeal should be guaranteed by law. This right was included in the original version of this bill, but removed in HB631 HD1.

I urge you to pass HB631 HD1, **with amendment reinserting "cause of action"**, which will simplify the process of changing the gender designation on a birth certificate to match the transgendered or transitioning person's identity.

Respectfully,
Cheryl Ogawa Ho, MSW

2933 Pāhoehoe Pl.
Honolulu, HI 96817
Ph: 808-651-2303

LATE

his bill as it written, in particular the section that states, "a statement from a licensed medical or social service provider attesting that the current birth certificate record does not align with the birth registrant's gender identity and that in the provider's professional opinion the birth registrant's gender designation should be changed accordingly." I believe allowing for such changes will discredit the integrity of the birth certificate as a legal document of identity.

No changes on a birth certificate should be changed based on preference or perceived identity. The birth certificate is a document that records physical facts at birth and should remain this way. This applies not only for gender identity, but also race, age, etc. If gender is opened up for interpretation by an individual, even with medical opinion behind it, then, what will stop changes for racial identity or even age identity, which might also find medical opinion to back these assertions? A non-Hawaiian could then conceivably change to Hawaiian and younger adults could be changed to senior citizens if medical opinions could support these change of identities.

None of the above changes, including the one proposed in this bill, should be allowed to a birth certificate. Changes for reasons of adoption I can support. Changes based solely on preference and perceived identity is not justifiable on this document that is used for legal proof of identity.

LATE

by	Organization	Testifier Position	Present at Hearing
Joe Wilson	Individual	Support	No

Comments: Aloha, I am writing in STRONG SUPPORT of HB631. Transgender Americans are experiencing a unique moment in history, as growing visibility leads to greater familiarity and understanding of transgender lives. At the same time, however, many transgender people, particularly transgender women and transgender people of color, still face enormous barriers to their safety, health, and well-being. HB631 brings Hawaii into line with the statutes in several other states. Hawaii's approach - to require "sex reassignment" surgery prior to changing the gender (or sex) marker on the birth certificate - is not the contemporary approach. Many states have moved to attestation either by the individual seeking the change or by a licensed professional. Hawaii took a small step forward in 2013 to include the LGBT community in access to full legal protections. This bill will be one of several small bills over the next few years that will clean up remnants of "disparate treatment." Joe Wilson Haleiwa, HI 96712 Co-Producer/Director of KUMU HINA, airing on PBS' Independent Lens May 4, 2015

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	Organization	Testifier Position	Present at Hearing
Renee Cabrinha	Individual	Oppose	No

Comments: I'm opposed to the bill requiring the Department of Health to list someone as "born" of a different gender on a birth certificate—based on that person's self-perceived "gender identity". I'm also opposed that it would forbid the new certificate from indicating that it was "Amended". In trying to be politically correct, it is biologically inaccurate, and more social engineering.