



Committee: Committee on Health
Hearing Date/Time: Wednesday, March 18, 2015, 1:30 p.m.
Place: Room 414
Re: Testimony of the ACLU of Hawaii in **Support of H.B. 631, H.D. 2,**
Relating to Certificates of Birth

Dear Chair Green and Members of the Committee on Health:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in **support of H.B. 631, H.D. 2**, which sets medically appropriate guidelines for changing the gender designation on one’s birth certificate and helps to ensure fairness for the transgender community.

The current method for changing the gender designation on one’s birth certificate in HRS § 338-17.7 is outdated: it is out of line with the current medical consensus that surgery is not appropriate or necessary for every transgender person, and it results in an unreasonable burden on members of the transgender community. In its current form, HRS § 338-17.7 contains extreme requirements (*i.e.*, sex reassignment surgery) for changing one’s gender designation, and these unduly restrictive provisions prevent many transgender individuals from obtaining consistent legal documentation. This can have a serious impact on issues related to employment, education, and social recognition of their gender.

Many other states and federal agencies have already changed their laws and policies to allow for the changes proposed by H.B. 631, H.D. 2. Indeed, California, New York, Oregon, Washington, Vermont, and the District of Columbia, along with the United States Department of State and the Social Security Administration, have already adopted standards comparable to the proposed bill requirements to ensure that transgender individuals can obtain accurate identification without proof of surgery.

The ACLU of Hawaii receives frequent complaints about discrimination against transgender individuals. Hawaii’s lawmakers have taken strong steps to address this discrimination by, among other things, prohibiting discrimination on the basis of gender identity and expression in employment, in public accommodations, in housing, and in public schools. We ask that you continue to promote equality for all by passing this measure.

American Civil Liberties Union of Hawaii
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Chair Green and Committee Members

March 18, 2015

Page 2 of 2

Thank you for this opportunity to testify.

Daniel M. Gluck
Legal Director
ACLU of Hawaii

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for 50 years.

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**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF
HAWAII**

March 13, 2015

Senate's Committee on Health
Hawaii State Capitol
415 South Beretania Street, Room 414
Honolulu, HI 96813

Hearing: Wednesday, March 18, 2015 – 1:30 p.m.

RE: STRONG SUPPORT for House Bill 631 HD 2 – RELATING TO CERTIFICATES OF BIRTH

Aloha Chairperson Green, Vice Chair Wakai and fellow committee members,

I am writing in STRONG SUPPORT to House Bill 631 HD 2 on behalf of the GLBT Caucus of the Democratic Party of Hawaii. HB 631 HD 2 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 2 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



HUMAN
RIGHTS
CAMPAIGN®

The Honorable Sen. Josh Green
Chair, Senate Committee on Health
Hawaii State Capitol, Room 407
415 South Beretania Street
Honolulu, HI 96813

March 17, 2014

Re: SUPPORT for HB 631, Relating to Certificates of Birth

Dear Chairperson Green and Members of the Senate Committee on Health:

The Human Rights Campaign (HRC), on behalf of its nearly 6,000 members in Hawaii, thanks you for holding a hearing on HB 631, a vital measure that will ensure that transgender people are able to change their birth certificates to reflect their correct name and gender without unnecessarily expensive and invasive obstacles. We urge you to pass this important legislation.

The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender (LGBT) equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all. As an advocate of equal rights for all members of the LGBT community, HRC believes that transgender people should be able to receive appropriate identification and documentation that reflects the way they live their lives.

Current Hawaii law makes it difficult and expensive for transgender people to update their Hawaii birth certificate because it requires them to undergo surgery, and even then only providing an amended document.¹ However, based on current medical understanding of transgender people, an individualized course of care for gender transition is recommended.² Even among those for whom surgery is appropriate, many cannot receive it because such care is not covered by their insurance, there may be no appropriate providers, or they have a medical condition that prevents them from undergoing these medical procedures. Nationally, only 1 in 5 transgender people (21%) have been able to update all their identification documents and records, including birth certificates, to reflect their appropriate name and gender.³

HB 631 would instead allow a transgender person to produce a sworn statement from a licensed medical or mental health provider, verifying that the person's birth certificate does not align

¹ Haw. Rev. Stat. Ann. § 338-17.7(a)(4)(B) (2005).

² Coleman, E., et al. "Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7." *International Journal of Transgenderism*, 13:165-232, 2011. Available at http://www.wpath.org/uploaded_files/140/files/IJT%20SOC.%20V7.pdf

³ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011. Available at http://endtransdiscrimination.org/PDFs/NTDS_Report.pdf.

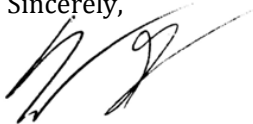
with their gender identity and that, in their professional opinion, the registrant's sex designation should be changed.⁴ This procedure would simplify the process of updating records and comply with the best understanding of transgender healthcare. Moreover, the bill would allow transgender individuals to receive newly issued birth certificates that do not indicate that their name or gender marker has been amended, which will help ensure their privacy.

Transgender people with incongruent identity documents frequently experience violence and discrimination. For example, the National Transgender Discrimination Survey found that 40% of transgender people with incongruent documents experienced harassment. Additionally, 15% reported being asked to leave an establishment, and 3% reported being assaulted. Furthermore, identity documents are required by employers for payroll purposes, and incongruent documents can lead to a transgender employee being "outed" at work, which may result in discrimination. Incongruent documents can also cause unnecessary expense or suspicion by the government when dealing with a person who has unmatched documents.

The current statute in Hawaii is outdated and inadequate when compared to more advanced policies followed by the U.S. Department of State,⁵ the Social Security Administration,⁶ and the various states that have updated their laws in the past few years.⁷ The technical changes in this legislation will modernize Hawaii law and standardize a necessary government function in a simple way that is consumer friendly, concise, and professional.

Thank you for allowing us to provide testimony on this important legislation which will improve the lives of transgender citizens in Hawaii. If you should have any questions regarding HRC's support for HB 631, please contact me at 202-572-8960 or by email at Alison.Gill@hrc.org.

Sincerely,



Alison Gill, Esq.
Senior Legislative Counsel
Human Rights Campaign

⁴ Hawaii House Bill 631 (2015).

⁵ U.S. Dept. of State, Foreign Affairs Manual, vol. 9 (2011). 7 FAM 1300 Appendix M, Gender Change. Available at <http://www.state.gov/documents/organization/143160.pdf>

⁶ U.S. Social Security Administration. RM 10212.200 Changing Numident Data for Reasons other than Name Change (2013). Available at <https://secure.ssa.gov/poms.nsf/lnx/0110212200>.

⁷ 11 states plus DC have statewide laws or polices that facilitate gender marker change on birth certificates for transgender people which do not require surgery. Gill, A.M. (2015). *2014 State Equality Index*. Washington, DC: Human Rights Campaign Foundation. Available at www.hrc.org/SEI



17 March 2015

Chairman Josh Green
Committee on Health,
Senate
State of Hawai'i
Honolulu, HI

***Relating to House Bill 631, House Draft 2
Testifying in STRONG SUPPORT***

Dear Chairman Green, Vice Chair Wakai 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 of Representatives, and so that HB631 appropriately addresses both the needs of the transgender community and the needs of the Department of Health:

- Revision of subparagraph (a)(4) to include the following language:

"The affidavit shall be accepted as conclusive proof of gender change and the department of health shall change the sex designation on a registrant's birth certificate when the affidavit contains substantially the following language: "I, (medical or mental health provider's name), (medical or mental health provider's medical license or other license or certificate number), am a licensed (medical or mental health provider) in (jurisdiction). I attest that (name of petitioner)'s current birth certificate record does not align with his or her gender identity. In my professional opinion the birth registrant's sex designation on their birth certificate should be changed accordingly. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge."

Transgender people and the trans community are a strong, diverse and vibrant part of our Hawai'i ohana, and HB631-HD2 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 transgender 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.

Chairman Green / page 3

We respectfully ask your support in delivering a measure of justice this session through voting for HB631.

Mahalo,

Rebecca A. Copeland

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

COMMUNITY ALLIANCE ON PRISONS

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

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COMMITTEE ON HEALTH

Chair: Sen. Josh Green

Vice Chair: Sen. Glenn Wakai

Wednesday, March 18, 2015

1:30 p.m.

Room 414

SUPPORT for HB 631 HD2- BIRTH CERTIFICATES

Aloha Chair Green, Vice Chair Wakai 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 HD2 establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a gender 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 committee and on the floor, the issue of the sex offender registry was raised. After consulting with attorneys familiar with this statute we have been advised that HRS 846E-2 (g) requires offenders to report every year within 30 days of their birthday to the police chief in the county where they reside to give current information, correct any information, AND to have a photograph taken. So, at the very least, if someone changed their gender & therefore, their appearance, the picture is updated every year.

Furthermore, 846E-5 (a)(1) covers the periodic reporting requirement. Basically, every 3 months they get a letter from the AG and they have to update their information. If they had changed their name, they would have to report the new name. So, at the very least, the government would learn of a new name within 3 months & be able to add the new name to the Registry.

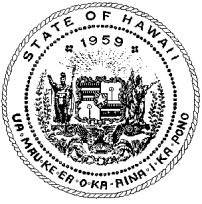
In the last five years a number of states updated their birth certificate policies to reflect modern medical standards for transgender people. Currently there are **six states, plus the District of Columbia**, where you can reliably get your birth certificate administratively updated without proof of 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



HAWAI‘I CIVIL RIGHTS COMMISSION

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March 18, 2015
Rm. 414, 1:30 p.m.

To: The Honorable Josh Green, Chair
Members of the Senate Committee on Health

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

Re: H.B. No. 631, H.D.2

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.2, 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.2, 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.



LEGAL MEMORANDUM

DATE: March 4, 2015

RE: Legal Analysis of Hawai'i HB631, "Relating to Certificates of Birth"

Introduction

Alliance Defending Freedom is a non-profit legal organization that advocates for life, religious liberty, and marriage and the family. We regularly offer analysis of proposed law and its effect, whether good or bad, on our issues of concern. Hawai'i Family Advocates¹ requested that we review HB631/HD1 (the "Bill") and offer our opinion as to any legal concerns with it.

The Bill proposes to amend section 338-17.7 of the Hawai'i Revised Statutes, which relates to the establishment of new birth certificates. Specifically, the Bill will delete current language related to substitutions when (1) an individual's sex was incorrectly entered at birth, or (2) an individual has had a sex change operation. The Bill adds language allowing a new certificate to be issued when an individual presents an affidavit from a licensed medical or mental health provider "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[.]" (The Bill, § 338-17.7(a)(4).) It further adds language requiring that "[t]he new certificate shall not be marked as amended and shall in no way reveal the original language changed by any amendment." (The Bill, § 338.17.7(b).) It also provides that the new birth certificate shall reflect any name change the individual seeking the certificate has obtained. (The Bill, § 338-17.7(c).) Finally, it states that no "additional medical information or records" shall be required to affect the birth certificate change, other than the single affidavit from a single healthcare professional. (The Bill, § 338-17.7(d).)

We have identified three concerns with this legislation:

- I. The Bill may lead to frauds being perpetrated upon the people of Hawai'i.
- II. The Bill may make the State of Hawai'i complicit in the perpetration of fraud.
- III. The Bill may raise Title IX concerns.

¹ Hawai'i Family Advocates is the 501(c)(4) associate of Hawai'i Family Forum. HFF is a policy organization that "does research, public speaking, and education on issues important to the ohana." It and HFA together provide education on issues of importance to the people of Hawai'i. *See* Hawai'i Family Forum, "About," available at <https://www.hawaiifamilyforum.org/about/> (last visited March 4, 2015).

I. The Bill May Lead to Frauds Being Perpetrated Upon the People of Hawai'i.

The Bill will allow anyone who secures an affidavit from a single licensed medical or mental health provider to change his or her birth certificate to reflect a different sex. And the Bill forbids any identification of the certificate as having been amended. This could lead to unintended frauds upon the people of Hawai'i.

For example, one who was born male might change his birth certificate to state that he is female, and then induce a man to propose to him without informing the man of his history. Something similar happened in Texas, and is now being litigated. See *In re Estate of Araguz*, 443 S.W.3d 233 (Tex. App. 2014), *reh'g overruled* (Apr. 15, 2014). *Araguz* concerns the estate of a male volunteer firefighter who died after allegedly being tricked into marrying a biological male. "Nikki" was born in 1975 with male sex organs. *Id.* at 236. His original birth certificate indicated that his name was Justin Graham Purdue and that his sex was male. *Id.* As Justin grew up, he identified as female. *Id.* Justin ultimately filed a petition in Texas to have his name changed to Nikki, which a court granted. *Id.* He then filed an application in California to have his birth certificate changed to reflect his new name, and California issued a new birth certificate. *Id.* He then obtained a driver's license identifying him as female, and used that to obtain a license to marry Thomas Araguz. *Id.*

Two months before Thomas died, he gave a deposition during a custody dispute with his ex-wife. *Id.* at 237. He was asked whether he was aware that Nikki had been born male. *Id.* Thomas testified that he was *not* aware that Nikki had been born male or was not a natural born female. *Id.* He testified he was not aware that Nikki had undergone "gender surgery." *Id.* Rather, Thomas testified that Nikki had always represented to him that Nikki was female. *Id.* at 237.²

In re Estate of Araguz is illustrative of what may happen when changes are allowed to easily be made to birth certificates. But it is not just fraudulent inducement to marry that may be more likely to occur if the Bill is enacted. Other frauds may occur as well. For example, a student who believes he will not qualify for an athletic scholarship as a male might seek to change his sex designation to female in order to gain a competitive advantage. Male students seeking admission to academic programs that favor female applicants because women have been historically under-represented, might likewise seek to change their sex designation. The easier it is to change one's sex designation, the more likely it is that fraudulent activity will occur.

The Bill makes such sex designation changes easier. Current law requires that those seeking to change their sex designation on their birth certificate first undergo a "sex change operation." Haw. Rev. Stat. § 338-17.7(a)(4). The Bill strikes this language and instead allows a sex designation change to be made on the basis of an individual's perceived or claimed gender identity, regardless of whether the individual has taken any step to alter their gender. (The Bill, §

² Thomas died two months after giving this deposition, and Thomas's mother and his ex-wife sued to have Thomas's marriage to Nikki declared void under Texas law prohibiting same-sex unions. *In re Estate of Araguz*, 444 S.W. 3d at 237. The district court granted summary judgment, ruling as a matter of law that Nikki was a man at the time of his wedding to Thomas. *Id.* at 241. The appellate court ruled that whether Nikki was male at the time of the wedding was a question of fact, *id.* at 248, and remanded for further proceedings, *id.* at 250.

338-17.7(a)(4).) In addition, current law allows the director of health to "investigate and require additional information that the director deems necessary" prior to issuing a new birth certificate with a different sex designation. Haw. Rev. Stat. § 338-17.7(a)(4)(B). The Bill strikes this language and instead expressly provides that "the department shall not require any additional medical information or records . . ." (The Bill, § 338-17.7(d).) Thus, on the basis of one affidavit from one health professional, birth certificates will be able to be changed to reflect a different sex designation. This change will be irrespective of whether one is taking any affirmative steps, such as surgery or even hormone therapy, to have their physical bodies more closely correspond with the opposite sex. Indeed, the change can be made regardless of whether one actually identifies as the opposite sex. All one needs to do is find a sympathetic health professional who will attest that he or she identifies as the opposite sex, and his or her sex designation may be changed.

By making it easier to change one's sex designation on birth certificates, and by preventing any notation that a certificate has been amended, (the Bill, § 338.17.7(b),) the Bill will make it more likely that fraud may occur.

II. The Bill May Make the State of Hawai'i Complicit in the Perpetration of Fraud.

As explained in the preceding section, the Bill may lead to frauds being perpetrated upon the people of Hawai'i. Regardless of whether the State might be legally liable for such fraud—and we are doubtful that it would be—the State will have created the framework by which fraud can be perpetrated. The members of the legislature have the duty to serve the best interests of the people of Hawai'i, not make it more likely that they will be subject to fraudulent activity.

III. The Bill May Raise Title IX Concerns.

Title IX, codified at 20 U.S.C. §§ 1681-88, forbids sex discrimination by schools, and extends to all programs schools offer. The implementing regulations promulgated by the Department of Education require that schools provide "equal athletic opportunity for members of both sexes." 34 C.F.R. § 106.41. One of the factors considered in determining whether a school complies with Title IX is whether "participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments[.]" *Ollier v. Sweetwater Union High Sch. Dist.*, 768 F.3d 843, 854 (9th Cir. 2014) (quoting 44 Fed. Reg. 71,413 (Dec. 11, 1979)).

By allowing male athletes to change their sex designation to female, the Bill may implicate Title IX concerns by upsetting the balance of male to female students participating in sporting programs. It certainly will lead to a violation of the spirit of Title IX, which exists to provide equal opportunities for women. For every biological male who takes a spot on a women's or girl's team, a female is excluded. And females forced to compete against biological males may experience a competitive disadvantage because of differences in muscular and skeletal structure.³ This result will be inconsistent with the purpose of Title IX, which is to provide female students equal opportunities.

³ See, e.g., Perry Chiaramonte, "California's transgender law allows male high schooler to make girls' softball team," Fox News, February 14, 2014, available at <http://www.foxnews.com/us/2014/02/14/california->

Conclusion

As explained above, HB631 opens the door for unintended, harmful consequences. It may lead to fraud being perpetrated upon the people of Hawai'i, and in so doing may make the State complicit in the fraud. It also may implicate Title IX concerns. Alliance Defending Freedom would be happy to speak with members of the Legislature if we could be of assistance in clarifying this analysis, or in crafting a bill to address these concerns.

Sincerely,

ALLIANCE DEFENDING FREEDOM

By:



Joseph E. La Rue

Legal Counsel

480-444-0020

jl rue@alliancedefendingfreedom.org

[transgender-law-allows-male-high-schooler-to-make-girls-softball/print#](#) (last visited March 4, 2015) (noting that some object to having the boy play against girls gives him a competitive advantage); The Daily Caller, "California 2014: Strapping senior calling himself female to play on girls' high school softball team," February 15, 2014, available at <http://dailycaller.com/2014/02/15/california-2014-strapping-senior-calling-himself-female-to-play-on-girls-high-school-softball-team/> (last visited March 4, 2015) (noting that the male athlete competing with females has not undergone any procedures or treatments that would alter him physically).



ONLINE TESTIMONY SUBMITTAL

Senate Committee on Health Hearing on March 18, 2015 @ 1:30 p.m.
Conference Room #414

DATE: March 16, 2015

TO: Senate Committee on Health
Sen. Josh Green, Chair
Sen. Glenn Wakai, Vice Chair

FROM: Eva Andrade, Executive Director

RE: Opposition to HB 631 HD2, Relating to Certificates of Birth

Honorable Chair and members of the Senate Committee on Health, 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 that 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** respective to gender “identity:”

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

Allowing a person to change their birth certificate because of how they “identify” simply by presenting a signed affidavit from a medical professional (who may or may not be equipped to make such a recommendation) could create situations that would promote fraudulent representation by someone looking to dissociate from their past.

We do not see why the state would have an interest in promoting false identities and/or the recreation of a historical fact. In a society where transparency is lauded, this legislature should never allow the opportunity for vital records to be fraudulently 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. We ask you to oppose any effort that would rewrite history and put the church, religious organizations or individuals with strong religious convictions, directly at odds with their religious convictions.

Mahalo for the opportunity to submit our concerns.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: lynneronderko@gmail.com
Subject: *Submitted testimony for HB631 on Mar 18, 2015 13:30PM*
Date: Monday, March 16, 2015 9:37:57 AM

HB631

Submitted on: 3/16/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

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

Comments:

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To: [HTHTestimony](#)
Cc: v.smith@mac.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Tuesday, March 17, 2015 12:59:14 PM

HB631

Submitted on: 3/17/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

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 HB631 HD2. 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 impossible nor unbearable by unwarranted (and even life-threatening) bureaucratic impediments. Please align DOH policy with best practices and pass this bill. Valerie Smith Hawaii Kai -

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To: [HTHTestimony](#)
Cc: qwavesjoe@yahoo.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Tuesday, March 17, 2015 12:32:15 PM

HB631

Submitted on: 3/17/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Wilson	Individual	Support	Yes

Comments: I am writing in strong support of House Bill 631, House Draft 2 – Relating to Certificates of Birth. I am a North Shore Oahu resident long dedicated to the quest for dignity, respect, and inclusion for all. My most recent project, a documentary film for PBS titled “Kumu Hina,” highlights Hawaiian culture's profound understanding and more welcoming view of those who embody both male and female spirit, or what we might now refer to as a spectrum of gender diversity. This bill is a step in the right direction for our mahu and transgender family, friends, and neighbors. Hawaii 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. 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. Transgender people are a strong, diverse and vibrant part of our communities in Hawaii, and HB631-HD2 represents an exciting opportunity to make a real, positive difference in their lives. I hope we can count on your support for this bill. Mahalo, Joe Wilson Haleiwa, HI

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: deanhamer@aol.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Tuesday, March 17, 2015 11:51:51 AM

HB631

Submitted on: 3/17/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Dean Hamer	Individual	Support	Yes

Comments: I strongly support HB631. As a National Institute of Health scientist who spent many years researching human sex and gender-related behaviors, I found that a person's internal sense of gender has deep, innate roots that are orthogonal to biological sex. Thus, transgender people are not "deceiving" others, they are being honest. That should be recognized in law. More recently as a filmmaker working on a project about a very highly respected and productive transgender member of the hawaiian community, I have come to realize that giving transgender people doesn't just benefit them, it benefits everyone in our state. I look forward to the passage of this important bill.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: jeremy.white@spcsc.hawaii.gov
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Tuesday, March 17, 2015 11:14:01 AM

HB631

Submitted on: 3/17/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Jeremy White	Individual	Support	No

Comments: Chair Green, Vice Chair Wakai, and members of the Committee on Health, I stand in STRONG SUPPORT of HB631 HD2. 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 HD2. Mahalo nui, Jeremy White

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Aloha Josh Green and other members of the Senate Health Committee,

I am writing in STRONG SUPPORT of HB631_HD2 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.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: phil4.eight@yahoo.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Tuesday, March 17, 2015 7:24:59 AM

HB631

Submitted on: 3/17/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Roxanne Jim	Individual	Oppose	No

Comments: Thank you for the opportunity to communicate strong opposition of bill HB631 HD1. Original sealed records such as a birth certificate should not be opened without a court order. I am concerned about the following sentence 5 (b) of the bill, "The new certificate shall not be marked as amended and shall in no way reveal the original language changed by any amendment." The physical truth of birth gender is what is stated on the official document. Whether an individual identifies psychologically with the other gender is another matter. To allow such a change with no indication of amendment to an official sealed document is a deception of the physical truth.

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Aloha Senators;

Thank you for allowing me to express my opinion.

I am opposed to HB 631, HD2.

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:

“An affidavit 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”

“When 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.”

How can you as lawmakers condone falsifying legal documents? If these types of changes are made to a birth certificate and then presented as if it was the original, we are no longer operating in the truth.

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.

Senators, please be reasonable. Please be honest and truthful. Do not pass HB 631, HD2.

Mahalo for you time and thoughtful consideration,

Lisa Poulos

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: aloreneg@yahoo.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Monday, March 16, 2015 7:30:00 PM

HB631

Submitted on: 3/16/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Lorene Godfrey	Individual	Oppose	No

Comments: This is not a good bill. No one should be allowed to make any changes to a birth record. There are so many things that would cause conflicts and confusion, like a high school locker room for example. Any public bathrooms. No. This is wrong.

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Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Monday, March 16, 2015 3:38:05 PM

HB631

Submitted on: 3/16/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Kina Poulos	Individual	Oppose	No

Comments: I oppose this bill because it falsifies official records and can create legal problems in establishing identity. First of all, a birth certificate simply states the gender of the recipient at birth. It does not address how they feel about their gender or sexuality at the present moment. If birth certificates are allowed to be altered in this manner, the state of Hawaii is legalizing tampering with official records. Furthermore, this law will create problems in situations where legal documentation of identity is required. Birth certificates are used to identify individuals; if this law is passed it would be easier for identity theft to take place because the thief could claim to have altered their name and birth certificate under this law.

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To: [HTHTestimony](#)
Cc: willis@wpcphoto.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Monday, March 16, 2015 1:25:54 PM

HB631

Submitted on: 3/16/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Willis Campbell	Individual	Oppose	No

Comments: Dear Sirs Please leave the birth certificates as they are. Instead of this kind of bill growing businesses, increasing revenues and growing tourism needs attention. Willis Campbell

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To: [HTHTestimony](#)
Cc: prismimh@yahoo.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Monday, March 16, 2015 12:23:23 PM

HB631

Submitted on: 3/16/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Priscilla Wong	Individual	Oppose	No

Comments: I oppose this bill. If anyone can change the information on the birth certificate based on their own decisions or for convenience, it will be extremely difficult for police, doctors, immigration officers or other officials to do their jobs. In some cases, there may be delays to give the correct medical decisions or procedures because there is no "true" identity according to a person's history.

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

HEARING: Senate Committee on Health hearing on March 18, 2015 @ 1:30 p.m. in room 414

SUBMITTED: March 16, 2015

TO: Senate Committee on Health
Sen. Josh Green, Chair
Sen. Glenn Wakai, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

RE: Opposition to HB 631 HD2, Relating to Birth Certificates

Honorable Chair and members of the Senate Health 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 HD2 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."**

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 historical factual reporting of an individual's gender at birth would be hidden to the church. This is simply 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.

Robert J. Bidwell, MD

Adolescent Medicine

1319 Punahou St., Rm. 715 ♦ Honolulu, Hi. 96826 ♦ Telephone (808) 396-1200 ♦ Fax (808) 396-1212

Date: March 18, 2015
Conference Room 414 (1:30 PM)
State Capitol

To: Senator Josh Green, Chair
Senator Glenn Wakai, Vice-Chair
Senate Committee on Health

From: Robert J. Bidwell, M.D.

Re: **HB 631, HD 2 “Relating to Certificates of Birth”**

Position: **Strong Support**

Dear Chair Green, Vice-Chair Wakai, and Senate Health Committee Members:

I am presenting this testimony in **strong support of HB 631, HD 2 “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, HD 2.

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 , HD 2 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, HD 2 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

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: mjgolo@email.phoenix.edu
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Sunday, March 15, 2015 9:32:51 PM

HB631

Submitted on: 3/15/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

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

Comments: I strongly support the passage of HB631.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Please note that I am opposed to this bill HB631 HD2 pertaining to Birth Certificates.

The Birth Certificate is a legal document certifying that on a certain date of a certain month and year a child was born. The gender of the child was (either boy or girl) (male or female) this is based on facts as of that date. This should remain as is; any and all alterations should be noted as revised and/or amended on the original certificate.

Changes to the birth certificate may be revised as in the case of paternity test, adoption, marriage of natural parents, or in the case of a sex change operation. Even in these cases the original birth certificate may be revised, but must indicate revised and/or amended.

There is no justification as to why a NEW birth certificate should ever be issued and the original certificate hidden away.

A change to the birth certificate based on it not aligning with the birth registrant current gender identity does not justify a valid cause for a birth certificate to be revised or altered. If at a later date the gender identity should change, at what point is enough enough?

Issuing a new birth certificate and locking the original true certificate away from public is disingenuous at best and would open the door to more creative bizarre request, where then would it stop?

Again I close by stating that stand opposed to the passage of this bill.

Respectfully submitted,

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: meileen@yahoo.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Sunday, March 15, 2015 3:56:11 PM

HB631

Submitted on: 3/15/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

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

Comments: I stand in strong support of this bill. This is an easy fix to help those that need to feel complete. Mahalo for your consideration of this bill.

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Date: March 15, 2015

To: Hawaii Senate HTH and JDL Committees

From: Nathan Leo Braulick

4348 Waialae Avenue, #196

Honolulu, HI 96816

(808) 265-1720

**Re: Strong support for HB631 HD2: Relating to
Certificates of Birth**

Dear Members of the HTH and JDL Committees:

**I am writing in strong support of HB631 HD2: Relating
to Certificates of Birth.**

**Although I am male by birth and identify as such, I
believe our transgender brothers and sisters deserve
to have the right to designate their preferred gender
identity and expression and be respected.**

**I support this bill because it will remove surgery as a
requirement for birth certificate changes and put in**

place an approval process that is fair, predictable and acceptable to the trans community and to the Dept. of Health.

I ask you to also please support HB631 HD2.

Respectfully,

Nathan Leo Braulick



Wednesday, March 18, 2015

Relating to House Bill 631 House Draft 2
Testifying in Strong Support

Aloha, Chair Green, Vice-Chair Wakai, and Members of the Senate Committee on Health,

The Democratic Party of Hawaii **strongly supports HB631 HD2 Relating to Certificates of Birth**, Establishes the documentation required when requesting the Department of Health to issue a new birth certificate with a sex 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,

Stephanie Ohigashi



Chairperson, Democratic Party of Hawai'i

And The Legislation Committee of the Democratic Party of Hawaii

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: kukahikoe@gmail.com
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Sunday, March 15, 2015 1:41:12 AM

HB631

Submitted on: 3/15/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Eldean Kukahiko	Individual	Oppose	No

Comments: Please vote no on this bill. There are problems. This bill makes it too easy to change vital records of birth that, from my understanding, would require a court order. If the process does not include a court order, the system can be manipulated and misused, making a mockery out of our birth certificate validation process. The Attorney General and the Department Of Health has strong reservations for good reasons. Thank you.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: ecabatu@hpsc.org
Subject: Submitted testimony for HB631 on Mar 18, 2015 13:30PM
Date: Friday, March 13, 2015 4:54:05 PM

HB631

Submitted on: 3/13/2015

Testimony for HTH on Mar 18, 2015 13:30PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Elena Cabatu	Individual	Support	No

Comments: Please support my transgendered friends

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Chair Josh Green

Vice Chair Glenn Wakai

HB361

Wednesday March 18, 2015.

1:30 p.m. room 414

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. This bill will make such a big difference in the lives of transgender individuals because not everyone is a good candidate for sex reassignment surgery, for numerous reasons and the current law requires this surgery to change ones sex on their birth certificate. Also, 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 would go a long way in enabling more transgender individuals to get the identification that is needed to live in a community that requires identification for so many aspects of life. This bill will make it possible for these transgender people for whom surgery is not an option, to attain these necessary documents while being treated with dignity. A statment from a provider is a much more reasonable approach as a form of verification on gender. This process will be simpler and more respectful of people in this community. The 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 consider my testimony in strong support for this very important bill HB632 relating to birth certificates and gender designation.

Jaime DeGuzman

jaimebd@hawaii.edu