



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

Testimony Commenting on HB 631, HD2  
RELATING TO CERTIFICATES OF BIRTH

Senator Josh Green, CHAIR  
SENATE COMMITTEE ON HEALTH

Hearing Date: March 18, 2015

Room Number: 414

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (DOH) appreciates the intent of HB631 HD2 but has  
3 concerns over unintended consequences. DOH strongly recommends a judicial order to amend the sex  
4 designation on a birth certificate and to seal the record.

5 HB631 HD2 proposes that an affidavit from any licensed medical or mental health provider is sufficient  
6 to amend the sex designation on a birth certificate and seal the records. This procedure lacks  
7 standards of reliability and creates unnecessary ambiguity for DOH staff to determine the authenticity  
8 and legitimacy of the petitioner's request, placing the integrity of the vital record at risk.

9 In order to strike the appropriate balance between the integrity of Hawaii's vital records system and the  
10 dignity of our transgendered and transitioning community, DOH proposes to:

- 11 1. Allow changes to be made without requiring a sex change operation,
- 12 2. Require the least burdensome process for judicial determination for a change in sex designation,  
13 and
- 14 3. Require the evidence for a judicial determination to include an affidavit of a United States  
15 licensed physician with a specialty in gender transition who has a physician-patient relationship  
16 with the birth registrant.

17 In short, any changes to the sex designation on a birth certificate, other than changes to correct a  
18 clerical error, can only be made with a judicial determination based on reliable documentation from a  
19 United States licensed physician with a bona fide physician-patient relationship to the birth record  
20 registrant that includes evidence similar to that required by the United States Department of State for  
21 issuing a passport reflecting a gender change.

22 The department recommends this judicial determination be made administratively, without need for a  
23 hearing, and which may include a process to change the registrant's name.

1 **Offered Amendments:**

2 Page 2, lines 10 – 20 through page 3, lines 1 – 8:

3 (4) Upon receipt of ~~[an affidavit of a physician that the~~  
4 ~~physician has examined the birth registrant and has determined~~  
5 ~~the following:~~

6 ~~(A) The birth registrant's sex designation was~~  
7 ~~entered incorrectly on the birth registrant's birth~~  
8 ~~certificate; or~~

9 ~~(B) The birth registrant has had a sex change~~  
10 ~~operation and the sex designation on the birth~~  
11 ~~registrant's birth certificate is no longer correct;~~  
12 ~~provided that the director of health may further~~  
13 ~~investigate and require additional information that~~  
14 ~~the director deems necessary; or]~~

15 a certified copy of a final order from a court of competent  
16 jurisdiction, having reviewed an affidavit from a physician  
17 licensed to practice in the United States with a specialty in  
18 gender transition who has a bona fide physician-patient  
19 relationship with the birth registrant attesting that the  
20 current birth certificate record does not align with the birth  
21 registrant's gender identity and that in the provider's  
22 professional opinion the birth registrant's sex designation  
23 should be changed accordingly; or

24 Thank you for the opportunity to testify.

25

26

27

28



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

---

**ON THE FOLLOWING MEASURE:**

H.B. No. 631, H.D. 2, RELATING TO CERTIFICATES OF BIRTH.

**BEFORE THE:**

SENATE COMMITTEE ON HEALTH

**DATE:** Wednesday, March 18, 2015                      **TIME:** 1:30 p.m.

**LOCATION:** State Capitol, Room 414

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Jill T. Nagamine, Deputy Attorney General

---

Chair Green and Members of the Committee:

The Department of the Attorney General has concerns about this bill in its current form and proposes these changes in order to maintain the integrity of Hawaii's vital records system.

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.

While we have no objection to amending the law to discontinue requiring a sex change operation as a prerequisite to changing the sex designation on a birth certificate, we are concerned that allowing such a change without strong standards of reliability would compromise the integrity of Hawaii's vital records system. We propose that any changes to the sex designation on a birth certificate, other than changes to correct a clerical error, can only be made with a judicial determination based on reliable documentation from a United States licensed physician with a bona fide physician-patient relationship to the birth record registrant that includes evidence similar to that required by the United States Department of State for issuing a passport reflecting a gender change.

The current version of the bill, at page 2, line 10, through page 3, line 8, would require the DOH to amend the sex designation on an individual's birth certificate "upon receipt of 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." Instead of that, we propose requiring the DOH to amend the gender on a birth certificate only upon receipt of a certified copy of a court order that finds that the birth registrant has provided an affidavit from a United States licensed physician with a specialty in gender transition that attests that:

- (a) The physician has a bona fide physician-patient relationship with the birth registrant;
- (b) The physician has treated and evaluated the birth registrant and has reviewed and evaluated the birth registrant's medical history;
- (c) The birth registrant has had appropriate clinical treatment for gender transition to the new gender and has completed the transition to the new gender; and
- (d) The new gender does not align with the sex designation on the patient's birth certificate.

Based upon those findings, the court would order the DOH to change the birth certificate to reflect the new gender.

We would recommend this judicial determination to be made administratively, without need of a hearing, and it could even include a process to change the birth registrant's name, if that is desired by the birth registrant.

We object to a court order being based on an affidavit from a "licensed mental health provider," as provided at page 3, lines 3-8, of this version of the bill, because that undefined term could include practitioners in specialty fields that have nothing to do with gender changes and could include individuals who 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 a court to base its evidence on an affidavit from a licensed physician is consistent with the requirements of the United States Department of State to change gender on a United States passport: "Certifications from persons who are not licensed physicians are NOT acceptable." See, United States Department of State Foreign Affairs Manual Volume 9, 7 FAM 1300 Appendix M "Gender Change." (A copy of the relevant pages is attached hereto.)

We respectfully request this Committee, if it decides to pass this bill, to consider our suggestions to (1) allow gender changes to be made without requiring a sex change operation, (2) require a judicial determination for a gender change, and (3) require the evidence for a judicial determination to include an affidavit of a United States licensed physician with a specialty in gender transition who has a physician-patient relationship with the birth registrant.

Thank you for this opportunity to express our concerns.



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

---

**ON THE FOLLOWING MEASURE:**  
H.B. No. 631, H.D. 2, RELATING TO CERTIFICATES OF BIRTH.

**BEFORE THE:**  
SENATE COMMITTEE ON HEALTH

**DATE:** Wednesday, March 18, 2015                      **TIME:** 1:30 p.m.

**LOCATION:** State Capitol, Room 414

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Jill T. Nagamine, Deputy Attorney General

---

Chair Green and Members of the Committee:

The Department of the Attorney General has concerns about this bill in its current form and proposes these changes in order to maintain the integrity of Hawaii's vital records system.

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.

While we have no objection to amending the law to discontinue requiring a sex change operation as a prerequisite to changing the sex designation on a birth certificate, we are concerned that allowing such a change without strong standards of reliability would compromise the integrity of Hawaii's vital records system. We propose that any changes to the sex designation on a birth certificate, other than changes to correct a clerical error, can only be made with a judicial determination based on reliable documentation from a United States licensed physician with a bona fide physician-patient relationship to the birth record registrant that includes evidence similar to that required by the United States Department of State for issuing a passport reflecting a gender change.

The current version of the bill, at page 2, line 10, through page 3, line 8, would require the DOH to amend the sex designation on an individual's birth certificate "upon receipt of 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." Instead of that, we propose requiring the DOH to amend the gender on a birth certificate only upon receipt of a certified copy of a court order that finds that the birth registrant has provided an affidavit from a United States licensed physician with a specialty in gender transition that attests that:

- (a) The physician has a bona fide physician-patient relationship with the birth registrant;
- (b) The physician has treated and evaluated the birth registrant and has reviewed and evaluated the birth registrant's medical history;
- (c) The birth registrant has had appropriate clinical treatment for gender transition to the new gender and has completed the transition to the new gender; and
- (d) The new gender does not align with the sex designation on the patient's birth certificate.

Based upon those findings, the court would order the DOH to change the birth certificate to reflect the new gender.

We would recommend this judicial determination to be made administratively, without need of a hearing, and it could even include a process to change the birth registrant's name, if that is desired by the birth registrant.

We object to a court order being based on an affidavit from a "licensed mental health provider," as provided at page 3, lines 3-8, of this version of the bill, because that undefined term could include practitioners in specialty fields that have nothing to do with gender changes and could include individuals who 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 a court to base its evidence on an affidavit from a licensed physician is consistent with the requirements of the United States Department of State to change gender on a United States passport: "Certifications from persons who are not licensed physicians are NOT acceptable." See, United States Department of State Foreign Affairs Manual Volume 9, 7 FAM 1300 Appendix M "Gender Change." (A copy of the relevant pages is attached hereto.)

We respectfully request this Committee, if it decides to pass this bill, to consider our suggestions to (1) allow gender changes to be made without requiring a sex change operation, (2) require a judicial determination for a gender change, and (3) require the evidence for a judicial determination to include an affidavit of a United States licensed physician with a specialty in gender transition who has a physician-patient relationship with the birth registrant.

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.

**NOTE:** Some form of photographic identification must be presented; You cannot use the doctor's certification as the only evidence to identify an applicant.

- (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

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

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.

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

- (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 foregoing 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 foregoing 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.)

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

- (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

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

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
---

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.

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

## **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 foregoing is true and correct.

Signature of Physician

**UNCLASSIFIED (U)**

U.S. Department of State Foreign Affairs Manual Volume 9  
Visas

Typed Name of Physician

Date





March 18, 2015

To: Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair and  
Members of the Committee on Health

From: Jeanne Y. Ohta, Co-Chair

RE: HB 631 HD2 Relating to Certificates of Birth  
Hearing: Wednesday, March 18, 2015, 1:30 p.m., Room 414

Position: SUPPORT

The Hawai'i State Democratic Women's Caucus writes in support of HB 631 HD2 Relating to Certificates of Birth which would establish the documentation necessary when requesting the Department of Health to issue a new birth certificate with a sex designation change.

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.

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 Hawaii's statutes.

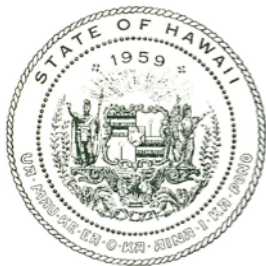
This changes in this measure are especially vital to the everyday lives of transgender individuals and allows them to more readily amend their legal documents, including driver's licenses and other forms of identification. These individuals are more subject to harassment and discrimination when their birth certificates, and thereby, their identification, do not match their lived gender. This bill remedies that problem.

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  
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

March 17, 2015

To: Senator Josh Green, Chair  
Senator Glenn Wakai, Vice Chair  
Members of the Senate Committee on Health

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

Re: Testimony in Support, HB 631, HD2, 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 2, 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, HD2 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 2. Thank you for your time.

**GAY LESBIAN  
BISEXUAL AND  
TRANSGENDER  
CAUCUS**



**DEMOCRATIC  
PARTY OF HAWAII**

COMMITTEE ON HEALTH

Senator Josh Green, Chair

Senator Glenn Wakai, Vice Chair

Members: Senators Rosalyn Baker, Mike Gabbard, Gil Riviere, Russell Ruderman and Sam Slom

DATE AND TIME: Wednesday, March 18, 2015, 1:30PM

PLACE: Conference Room 414, State Capitol, 415 South Beretania Street

**HB631 – IN STRONG SUPPORT**

RELATING TO CERTIFICATES OF BIRTH

Establishes documentation required when requesting Department of Health to issue a birth certificate with a sex designation change.

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 medical or mental health provider to attest to the need for the change in marker on the birth certificate.

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 smaller 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.

Very truly yours,

Jo-Ann M. Adams, Esq.

Legislative Liaison

Gay, Lesbian, Bisexual and Transgender Caucus

Democratic Party of Hawaii

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HTHTestimony](#)  
**Cc:** [michrobins3@myself.com](mailto:michrobins3@myself.com)  
**Subject:** \*Submitted testimony for HB631 on Mar 18, 2015 13:30PM\*  
**Date:** Tuesday, March 17, 2015 4:39:42 PM

---

**HB631**

Submitted on: 3/17/2015

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michelle Robinson	Individual	Support	No

Comments:

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

## **JO-ANN M. ADAMS, ESQ.**

---

411 HOBRON LN #801 ~ HONOLULU, HI 96836  
TELEPHONE (808) 479-7857 ~ FACSIMILE: (866) 370-0259 ~ E-MAIL: JMADAMSESQ@GMAIL.COM

---

### COMMITTEE ON HEALTH

Senator Josh Green, Chair

Senator Glenn Wakai, Vice Chair

Members: Senators Rosalyn Baker, Mike Gabbard, Gil Riviere, Russell Ruderman and Sam Slom

DATE AND TIME: Wednesday, March 18, 2015, 1:30PM

PLACE: Conference Room 414, State Capitol, 415 South Beretania Street

### **HB631 – IN STRONG SUPPORT**

RELATING TO CERTIFICATES OF BIRTH

Establishes documentation required when requesting Department of Health to issue a birth certificate with a sex designation change.
---

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 medical or mental health provider to attest to the need for the change in marker on the birth certificate.

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 smaller 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.

Very truly yours,

Jo-Ann M. Adams, Esq.

TESTIMONY to: Senate Committee on Health

**H. B. 682 SD2** Relating to Certificates of Birth

Wednesday, March 18, 2015

1:30 PM -- State Capitol Conference Room 414

Submitted in **OPPOSITION** by: Mary Smart, Mililani, HI 96789

Chair Josh Green, Vice-Chair Glenn Wakai and Committee Members:

1. **I most strongly OPPOSE H.B. 631 HD2.** Government documentation of birth is supposed to be truthful, however H.B. 631 HD2 authorizes the entry of fraudulent data into a birth record rendering the content invalid and worthless for any actionable tasks. This bill must be stopped.
2. Social constructivists propose there is no inherent truth to gender. They insist a person can be whatever gender they want to be - not bound by social expectations and physical configuration. Although many academics embrace and teach this nonsense, it is only a theory rejected by people who expect truth to prevail on official documents. Science has proven that there are two sexes -- male and female. Some deformities occur which make it difficult to determine a baby's sex/gender, but the science of DNA has unlocked the mystery of a person's sex/gender. A person who is born with male DNA can never be a woman and a person born with female DNA can never be a man.
3. The mind is an interesting aspect of humanity. The mind can accept or reject physical reality/truth. When an individual rejects the physical reality of their life, there should be no expectation that others around them will be required to lie to them and go along with their distorted perceptions. These false perceptions should never be entered into an official document where there is an expectation of truth.
4. There is a progressive view that gender is fluid and can be whatever the person is feeling like today. There should be no shame in annotating the fact that the person wants to identify as the opposite sex/gender of their birth, however, the person's DNA sex/gender should never be removed from the document. There are "Truth in Lending" requirements, "Truth in Contents" requirements, "Seller's Disclosures" in real estate, Hawaii is even considering labeling Genetic Modified Organisms (GMO's). Certainly a person should have a requirement to have accurate data on a birth certificate. You have to question why we are expected to accurately document the genetic make-up of plants but we are willing to falsify the genetic make-up of human beings. The only reason to obliterate the birth sex/gender is to defraud others. When "gender" can be anything at all, not based on anything more than a desire/feeling, it renders the entry worthless. It has no meaning.

5. . Sexual assaults and sexual perversions are on the rise. [Teachers](#) are sexually abusing their students (San Antonio paper reported a [27% increase](#) in incidents) and there is a movement to [normalize pedophilia](#). Allowing a person who has not been physically altered to enter facilities that are reserved for people of the opposite physical sex/gender endangers the population and must not be allowed. It may be uncomfortable for someone who thinks they are the opposite sex/gender of their physical appearance to be in a locker room with people of the same physical appearance, however, it is more troubling for others to have a person with body parts of the opposite sex to enter their space where they expect privacy. In our politically correct world reason is taking a vacation. The company [Planet Fitness](#) is allowing people who have physical components of one sex to use the facilities of the other. Under that policy, anyone other than the transgender person who is "uncomfortable" -- that is too bad for them. Individuals who express discomfort may find their membership revoked as happened recently. We are quickly dismantling America's "equality for all" to implement special rights for some. The Planet Fitness policy of allowing "sincere self-reported gender identity" is very intimidating and sets up a utopia situation for sexual perverts. Restrooms and especially locker rooms should be segregated by anatomical men and anatomical women if physical exposure is likely.

6. If it is acceptable to modify a birth certificate birth entry, there is no valid reason not to modify a birth certificate for people suffering from other beliefs. This bill opens Pandora's box. If you accommodate one segment of society that feels they are being treated unfairly, will you have to modify other portions of the birth certificate to satisfy the "needs" of others?

- Will you modify a birth certificate for someone who is young but feels old and wants to be over 21 to smoke, drink and gamble?

- Will you modify the date of birth for someone who is young feels old and wants to retire and get their social security now before they pass away?

- Will you modify the date of birth for an elderly person who feels young and doesn't want to be considered a "senior" and/or would like to marry a younger person who might reject them if their true age were known?

- Will you modify a birth certificate to remove the barrier to their marriage when a parent and child want to marry because they don't feel like parent/child?

7. By encouraging the charade that by changing the birth certificate the individual will actually become their desired sex/gender, you are harming these people more than helping. Many people who have had [sex change surgery regret it](#). No one should rush into permanently mutilating their body. However, the hormones that transgender are encouraged to take have harmful [side effects](#) such as pulmonary embolism, cerebral thrombosis, myocardial infarction, prostatic metaplasia, and breast cancer in estrogen-treated male-to-female transsexuals and recurrent myocardial infarction in a female-to-male transsexual treated with androgens. The same article indicated: "In 1989 we

published a retrospective study on mortality and morbidity in 303 male-to-female and 122 female-to-male transsexuals who have been treated and followed at our clinic for 6 months to more than 13 years (Asscheman, Gooren & Eklund, 1989). Mortality in male-to-female transsexuals was 6-fold increased compared with the general population. ... Significant increases were observed for venous thrombosis pulmonary embolism, depressive mood changes, hyperprolactinemia and elevated liver enzymes in the male-to-female transsexual patients. In the female-to-male group acne (12.3%) and weight increases > 10% (17.2%) were the main side effects."

8. To encourage someone to expose themselves to those dangers is irresponsible. Some individuals who have reverted to their original sex explain that it isn't until they accept the fact of their true sex/gender can they achieve satisfaction with life. Until then, they chased a false dream. With the concept of "gender fluid" being promoted, a person could waver back and forth from one sex/gender to the other numerous times. Who will pay for the cost of all these administrative changes? Will there be a limit to the number of times the sex/gender will be allowed to change? This provision of changing birth certificates could be labor intensive as more and more people are indoctrinated into the trendy idea that gender is just a construct based on nothing concrete.

9. Do not pass H.B. 631 HD2. Government should not be complicit in promoting the illusion that sex/gender can be changed. Furthermore, government should not facilitate the fraudulent modification of the birth certificate by replacing the original sex/gender without any indication that the change was perpetrated.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HTHTestimony](#)  
**Cc:** [kjtagon19@gmail.com](mailto:kjtagon19@gmail.com)  
**Subject:** Submitted testimony for HB631 on Mar 18, 2015 13:30PM  
**Date:** Tuesday, March 17, 2015 10:23:06 PM

---

**HB631**

Submitted on: 3/17/2015

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Judy Taggerty-Onaga	Individual	Oppose	No

Comments: The sex a person is born is what they are. Some adults have chosen to try to change what they are, which is fine, but they were still born either male/female and not given a choice. Altering a Birth Certificate is to falsify a record and should not be allowed. If this is to pass a very confused person can keep changing their Birth Certificate as to how they feel that day. It's insane. Mahalo.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)