

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 JUDICIARY AND LABOR

DATE: Monday, April 6, 2015

TIME: 9:25 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
Jill T. Nagamine, Deputy Attorney General, 587-3050

Chair Keith-Agaran and Members of the Committee:

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

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

While we have no objection to deleting the requirement of a sex change operation in order to change the sex designation on a birth certificate, the bill's proposed method of allowing a change lacks sufficient standards of reliability and could compromise the integrity of Hawaii's vital records system. Requiring a court order with clear standards for changes to sex on a birth certificate would be a reliable, evidence-based manner of determining if a change should be made. Short of that, we would recommend authorizing changes only pursuant to an affidavit of a U.S. licensed physician that meets strict requirements consistent with the U.S. Department of State's passport requirements.

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 or an affidavit from a United States licensed physician 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;
- (d) The new gender does not align with the sex designation on the patient's birth certificate; and
- (e) Any additional information that the DOH deems necessary.

Only upon receipt of an affidavit that meets all of those requirements, and subject to verification of the physician's credentials and the resolution of any discrepancies in the attestation, would the DOH be required to change the birth certificate to reflect the new gender.

Because "licensed mental health provider," as provided at page 3, lines 3-8, is not defined, that term could include practitioners in specialty fields who have nothing to do with gender changes and could include individuals who lack the qualifications to determine if a person's birth certificate ought to be changed to reflect a different sex than what was recorded at the person's birth. Requiring an affidavit from a U. S. 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. Requiring documentation in line with Federal standards would help ensure the integrity of Hawaii's vital records system.

We also point out a technical problem. Page 4, line 4, and page 4, line 5, both refer to documents that have been sealed subsequent to an amendment to a birth record, but, the word

"documents" is used at line 4 and the word "records" is used at line 5. For consistency, we recommend using the word "documents" in both places.

We respectfully ask this Committee to amend the bill to require a judicial determination for a gender change, or, in the alternative, require an affidavit of a United States licensed physician who has a physician-patient relationship with the birth registrant and who attests to the all of the requirements.

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

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

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

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

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

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

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

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

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

c. Adjudication Actions.

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

<p>NOTE: Passport specialists and consular officers must not ask for additional specific clinical details regarding the gender change from the applicant.</p>
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- (2) The passport specialist or consular officer will annotate the application "**gender transition**" (in the "For Issuing Office Only" block of the Form DS-11) to record the reason for issuing the limited validity passport in the new gender. Attach the medical certification to the application when limited passports are issued in these cases:
- (a) Use endorsement code 46 for U.S. and Overseas Photodigitized Passports (OPDP) issuance. Annotate the application "gender transition" to record the reason for the limited validity book in the new gender. (See 7 FAM 1300 Appendix B "Endorsement Codes" for appropriate code.)
 - (b) Use endorsement code 109 in Emergency Photodigitized Passports (EPDPs) for urgent overseas cases where the applicant must travel immediately. Limit the EPDP to three months. (See 7 FAM 1300 Appendix B for appropriate code.)

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

Example (for an adult):

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

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

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

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

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

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

7 FAM 1340 APPENDIX M AMENDING GENDER IN REPORTS OF BIRTH

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

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

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

Fax: 202-485-8302

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

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

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

7 FAM 1360 APPENDIX M GENDER ERRORS IN ORIGINAL BIRTH CERTIFICATE

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

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

7 FAM 1370 APPENDIX M QUESTIONS

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

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

7 FAM 1380 APPENDIX M AND 1390 APPENDIX M UNASSIGNED

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

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

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

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

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

Or

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

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

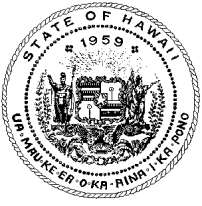
Signature of Physician

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Typed Name of Physician

Date



HAWAI‘I CIVIL RIGHTS COMMISSION

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

April 6, 2015
Rm. 016, 9:25 a.m.

To: The Honorable Gilbert Keith-Agaran, Chair
Members of the Senate Committee on Judiciary and Labor

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.



Committee: Committee on Judiciary and Labor
Hearing Date/Time: Monday, April 6, 2015, 9:25 a.m.
Place: Room 016
Re: Testimony of the ACLU of Hawaii in **Support of H.B. 631, H.D. 2,**
Relating to Certificates of Birth

Dear Chair Keith-Agaran and Members of the Committee on Judiciary and Labor:

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 Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808-522-5900
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Chair Keith-Agaran and Committee Members

April 6, 2015

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Thank you for this opportunity to testify.

Lois K. Perrin
Of Counsel
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.

American Civil Liberties Union of Hawai'i
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Monday, April 6, 2015

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

Aloha, Chair Keith-Agaran, Vice-Chair Shimabukuro, and Members of the Senate Committee on Judiciary and Labor,

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,

DEMOCRATIC PARTY OF HAWAII

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



Stephanie Ohigashi
Chairperson, Democratic Party of Hawai'i

And The Legislation Committee of the Democratic Party of Hawaii



HUMAN
RIGHTS
CAMPAIGN®

The Honorable Sen. Gilbert S.C. Keith-Agaran
Chair, Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 221
415 South Beretania Street
Honolulu, HI 96813

April 3, 2014

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

Dear Chairperson Keith-Agaran and Members of the Senate Committee on Judiciary and Labor:

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.

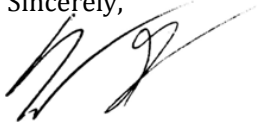
with their gender identity and that, in their professional opinion, the registrant's sex designation should be changed.⁴ This procedure would simplify the process of updating records and comply with the best understanding of transgender healthcare. Moreover, the bill would allow transgender individuals 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,



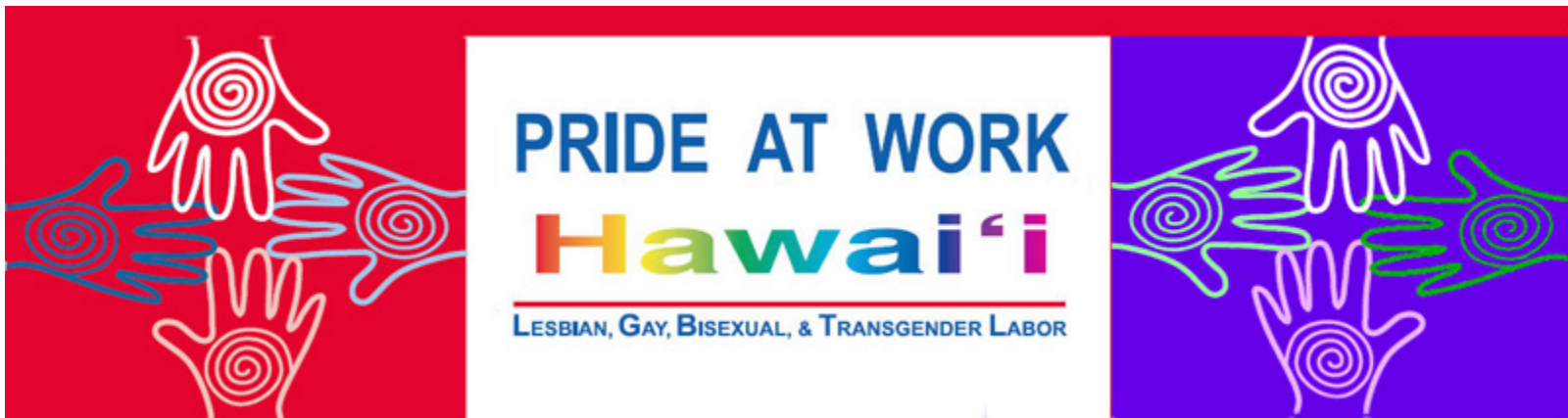
Alison Gill, Esq.
Senior Legislative Counsel
Human Rights Campaign

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 policies 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



PO Box 22416 Honolulu, HI 96822 (808) 543-6054

prideatworkhawaii@gmail.com

www.hawaflcio.org/PAWHI

April 5, 2015

Hawaii State Senate Committee on Judiciary and Labor
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Testimony in favor of HB 631 HD2 – Relating to CERTIFICATES OF BIRTH.

Pride At Work Hawai'i, as an affiliate of the Hawai'i State AFL-CIO which works to mobilize lesbian, gay, bisexual, and transgender (LGBT) workers and their supporters for full equality and to build mutual support between the labor movement and the LGBT community, strongly supports HB 631 HD 2 which would allow individuals to change their birth certificates to reflect their true gender by removing burdensome and outdated medical requirements.

HB 631 HD 2 would modernize state law that presents numerous barriers for transgender and intersex individuals to correct their birth certificates to accurately represent their gender. Currently, in order to change one's birth certificate an individual must undergo costly and potentially dangerous surgical procedures without regard for whether that individual wants or has any medical need for the surgeries. This bill would allow the individual and the individual's licensed medical or licensed mental health provider to provide a statement supporting the gender designation change.

Nationally, only 25% of transgender individuals have updated their birth certificates; for the remaining 75%, this key document is inaccurate and falsely presents the individual's gender. In 2010, the U.S. State Department eliminated

the surgical requirement for updating passports and several states have since adopted similar means of changing one's gender designation.

This bill will give transgender and intersex individuals more privacy and control over their lives. Please pass HB 631. Thank you for the opportunity to submit testimony.

Sincerely,

Tod Robertson
President
Pride at Work Hawaii



ONLINE TESTIMONY SUBMITTAL

Senate Committee on Judiciary & Labor hearing on April 6, 2015 @ 9:25 a.m.

Conference Room #016

DATE: April 1, 2015

TO: Senate Committee on Judiciary & Labor
Sen. Gilbert Keith-Agaran, Chair
Sen. Maile Shimabukuro, Vice Chair

FROM: Eva Andrade, President

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

Honorable Chair and members of the Senate Committee on Judiciary & Labor, 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.

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

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



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

HEARING: Senate Committee on Judiciary & Labor

SUBMITTED: April 1, 2015

TO: Senate Committee on Judiciary & Labor
Sen. Gilbert Keith-Agaran, Chair
Sen. Maile Shimabukuro, Vice Chair

FROM: Walter Yoshimitsu, Executive Director

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

Honorable Chair and members of the Senate Judiciary & Labor 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. In fact, it is a gift. Please do not pass this disingenuous legislation.

Mahalo for the opportunity to testify.

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF
HAWAII**

April 1, 2015

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

Hearing: Monday, April 6, 2015 – 9:25 a.m.

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

Aloha Chairperson Keith-Agaran, Vice Chair Shimabukuro 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



1 April 2015

Chairman Gilbert S.C. Keith-Agaran
Committee on Judiciary and Labor,
Senate
State of Hawai'i
Honolulu, HI

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

Dear Chairman Keith-Agaran, Vice Chair Shimabukuro 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.

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

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



COMMITTEE ON JUDICIARY AND LABOR

Chair: Sen. Gil Keith-Agaran

Vice Chair: Sen. Maile Shimabukuro

Monday, April 6, 2015

9:25 a.m.

Room 016

SUPPORT for HB 631 HD2- BIRTH CERTIFICATES

Aloha Chair Keith-Agaran, Vice Chair Shimabukuro 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 people in our communities. There are incarcerated transgender individuals who 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. 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

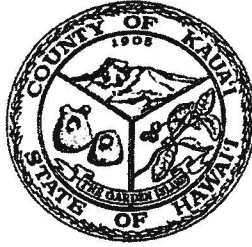
Community Alliance on Prisons respectfully asks the committee pass this important health and justice measure to protect transgender individuals and allow them to access accurate identification.

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

COUNTY COUNCIL
Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Mason K. Chock
Gary L. Hooser
Arryl Kaneshiro
KipuKai Kuali'i
JoAnn A. Yukimura



OFFICE OF THE COUNTY CLERK

Ricky Watanabe, County Clerk
Jade K. Fountain-Tanigawa, Deputy County Clerk

Telephone (808) 241-4188
Fax (808) 241-6349
Email cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Līhū'e, Kaua'i, Hawai'i 96766

April 2, 2015

**TESTIMONY OF KIPUKAI KUALI'I
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

HB 631, HD 2, RELATING TO CERTIFICATES OF BIRTH
Senate Committee on Judiciary & Labor
Monday, April 6, 2015
9:25 a.m.
Conference Room 016

Dear Chair Keith-Agaran and Members of the Committee:

Thank you for this opportunity to submit testimony in strong support of HB 631, HD 2, relating to Certificates of Birth. My testimony is submitted in my capacity as an individual Councilmember of the Kaua'i County Council and as the Economic Development & Intergovernmental Relations Committee Chair.

Through this measure, Hawai'i is taking great strides to further address transgender equality by prohibiting discrimination on the basis of gender identity and expression in our community. Establishing a formal documentation process for requesting new birth certificates with a sex designation change will ease the process to apply for necessary government documents required for employment and other activities affecting the way of life for these individuals.

For the reasons stated above, I strongly encourage the Senate Committee on Judiciary & Labor to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

KIPUKAI KUALI'I
Councilmember, Kaua'i County Council

AB:mn

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Saturday, April 04, 2015 8:44:36 PM

HB631

Submitted on: 4/4/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
aimee sutherlin	Individual	Support	No

Comments: I am in support 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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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: kekumupono@gmail.com
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Wednesday, April 01, 2015 8:34:34 AM

HB631

Submitted on: 4/1/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Allyson Okamoto	Individual	Oppose	No

Comments:

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To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Friday, April 03, 2015 11:32:27 AM

HB631

Submitted on: 4/3/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

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

Comments: Honorable Senators : I STRONGLY SUPPORT HB 631, which allows Transgender Hawaiians to amend their birth certificates to conform to their Gender Identity. People are born as infants and their Gender Identity is developed later in life as they mature. Transgender's Gender Identity is different from their birth physiology reflected on the original birth certificate. Transgenders need to be able to change their Birth Certificate because that is the base Document upon which other ID's, such as Social Security, Passports and Driver Licenses are determined. Please pass this bill now! Thank you.

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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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: taahine.hina@gmail.com
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Thursday, April 02, 2015 3:28:29 AM

HB631

Submitted on: 4/2/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Hinaleimoana Wong-Kalu	Individual	Support	No

Comments:

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Cc:
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Friday, April 03, 2015 9:15:58 PM

HB631

Submitted on: 4/3/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jack Mattice Jr	Individual	Support	No

Comments:

I am in strong support of HB631 HD2, Relating to Certificates of Birth, being heard on April 6, 2015 at 9:25 a.m. Please pass this very important piece of legislation. Transgender people with incongruent identity documents frequently experience violence, discrimination, government suspicion, and unjust financial expense. Hawaii's current law makes it difficult and expensive for transgender people to update their Hawai'i birth certificate as it requires them to undergo surgery. Compared to current policy followed by the U.S. Department of State and the Social Security Administration, Hawaii's existing law is unjust, outdated, and inadequate. HB631 HD2 will modernize Hawai'i law and standardize an essential government function. Please pass HB631 HD2 to improve the lives of our transgender citizens, and the greater health of our community in Hawai'i. Thank you for allowing me to testify on this important legislation. Aloha, Jack "Matt" Mattice, Jr.

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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COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

HB361

April, Monday, April 06, 2015

9:25 am

Conference Room 016

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 enableing 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 concider my testimony in strong support for this very important bill HB632 relating to birth certificates and gender designation.

Jaime DeGuzman

jaimebd@hawaii.edu

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: janai@hawaii.edu
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Tuesday, March 31, 2015 4:41:33 PM

HB631

Submitted on: 3/31/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Janai Miki	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Tuesday, March 31, 2015 11:56:26 AM

HB631

Submitted on: 3/31/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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In Support of HB631, HD2
Hearing date: April 6, 2015

Senate Committee on Judiciary and Labor

My name is Jaysen. I am thirteen years old and in seventh grade. I have a gender identity issue and an eating disorder. I was born as a female named Joy. I have always felt disconnected with my name and I never really enjoyed it. I have always disliked my body and gender.

After I was discharged from a residential treatment center for an eating disorder, I was automatically placed in a out patient program. My therapists have helped me figure out why I haven't liked myself. I am happier now that I have found a new piece of me.

My body image has improved and my fear of food has decreased. My recovery is at an all time high. Since I improved, I was allowed back in school.

Every body calls me Jay at school. My teachers call me Jay too. But there is still a problem;

My name on school records hasn't changed. My gender hasn't either. This is stressful for me because whenever a substitute teacher comes to school and takes attendance, they call me by Joy out loud. This has led to some harassment. Also when the class list is on the projector, everyone can read Giroux, Joy Gender: F. If this bill passes, that will change. I won't have to go under the knife to change my public records. Surgery is a big deal, because what if I regret it in the future? Then I won't need to be rushed into it just because of my drivers license. Thank you for understanding, and good luck to this bill.

From,
Jaysen K. Giroux

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: jenniferhairgrove@gmail.com
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Thursday, April 02, 2015 1:42:31 AM

HB631

Submitted on: 4/2/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

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

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: qwavesjoe@yahoo.com
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Tuesday, March 31, 2015 10:52:59 PM

HB631

Submitted on: 3/31/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Wilson	Individual	Support	No

Comments: I am writing in STRONG SUPPORT of House Bill 631, House Draft 2 – Relating to Certificates of Birth. I'm a filmmaker based on Oahu's North Shore – Senate District 23 - and was very fortunate to be involved in a film called “Kumu Hina” - a story about Hawaii's traditional embrace of mahu – those who embody both male and female spirit. (The film was produced in association with Pacific Islanders in Communications and will have its national broadcast premiere on PBS' Independent Lens on May 4, 2015.) Despite the fact that traditional Hawaiian culture was inclusive of people across the gender spectrum, recent civil rights reports show that in the dominant American culture, transgender people face staggering rates of poverty and pervasive hostility, discrimination, and unsafe environments in their schools, workplaces, and communities. As you consider this Bill, I implore you to try to understand the needs of the individuals and families who have shared their very personal stories of the trans experience during this process, and to reject the fear-mongering of our usual opponents, those who claim the mantel of family values but whose mean and disrespectful style of engagement actually contributes to this dangerous climate in our schools and communities. One of the main purposes of government is to make people's lives better, particularly the most vulnerable and marginalized, and you can do that in a very significant way with this simple bill. Transgender people are a strong, diverse and vibrant part of our communities in Hawai'i, and HB631-HD2 represents an exciting opportunity to make a real, positive difference in their lives. I hope we can count on your support. What greater opportunity, or higher calling, could you have during your short time in elected office? Mahalo

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TESTIMONY TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

HEARING ON April 6, 2015, Monday, at 9:25 a.m., in CR 016

IN STRONG SUPPORT FOR HB 631, HD 2 RELATING TO CERTIFICATES OF BIRTH

TO: Chair Sen. Gilbert S.C. Keith-Agaran, Vice Chair Sen. Maile S.L. Shimabukuro, and Committee Members

FROM: Josephine (Jo) Chang, Retired

POSITION: In strong support of HB 631 HD 2

Aloha, Chair Keith-Agaran, Vice Chair Shimabukuro, and Members of the Committee on Judiciary and Labor. For over 20 years, I have been a supporter of our lesbian, gay, bisexual, and transgender (LGBT) members of our Hawaii. Being a mom of a gay son (and two straight sons) prompted me to try to assist parents and families who were in distress, confused, uncertain and seeking information about their child upon learning that their child was lesbian, gay, bisexual, and/or transgender (LGBT). I started by serving as a parent representative on a Teen Gay Task Force in the early 1990s, helped to start a parents' support group called Da Moms, spoke along with LGBT community speakers on a speakers bureau of the then Gay Community Center to help to educate the community, and organized educational forums on LGBT persons and advocated for their needs. In my professional life, I have been a supervisor for Medicaid claims at HMSA, an analyst and project leader at the Auditor's Office, a Deputy Attorney General, and administrator at the Office of Community Services, where I served to support the needs of other vulnerable populations, such as the medically needy, low-income persons, immigrants and refugees. In retirement, I focus my energies on providing pro bono consultation, educational and training support to government and private agencies on serving LGBT persons safely, respectfully, and appropriately in youth and adult programs and in accordance with best practices in their professional arenas.

In studying and learning the technical aspects and the personal experiences of so many who are LGB and/or T, it has been clear that the issues surrounding our society's gender binary system, and designated gender roles, have given rise to much of the bias and discrimination against those who do not fit into the binary of male and female, and also those who are not straight in their sexual orientation – lesbian, gay, and bisexual persons. The societal burdens carried by transgender persons, simply by being who they are, are tremendously heavy, and parents and families also suffer the effects of discrimination, rejection, and lack of understanding of their transgender family members in our communities, a lack of place for them in our communities, and even a lack of recognition that they are here and part of our communities.

Passage of HB 631 HD 2 would do much to demonstrate that our transgender ohana are recognized and that there is indeed a respected place for them in Hawaii. Hawaii had been forward looking in including an option to those who transition to their true gender identity to have a new birth certificate with their correct gender marker when this section of the law was first enacted. However,

the requirement for “a sex change operation” is now vastly outdated, as seen by the policies of numerous respected medical authorities. HB 631 HD 2 would acknowledge the need to update this law according to current policy and recommendations of recognized medical authorities.

For example, in a news release by the AMA (American Medical Association) on June 9, 2014, it announced its policy addressing this disparity in states’ laws. The release was titled, “AMA Calls for Modernizing Birth Certificate Policies,” and stated that, “surgery shouldn’t be a requirement to align a person’s gender identity with their birth certificate, “ and “state laws must acknowledge that the correct course of treatment for any given individual is a decision that rests with the patient and their physician.” The AMA’s position is consistent and relies upon the policy and standards of care of the World Professional Association for Transgender Health (WPATH), the leading transgender health authority recognized worldwide. On January 19, 2015, in its “Statement on Legal Recognition of Gender Identity,” WPATH reiterated its opposition to surgical treatment to change legal sex or gender markers, and stated that, “No particular medical, surgical, or mental health treatment or diagnosis is an adequate marker for anyone’s gender identity, so these should not be requirements for legal gender change.”

Other states that no longer require surgery to change birth certificate gender markers include California, Iowa, New York, Oregon, and Vermont, and also the District of Columbia. The federal government no longer requires surgery to change a person’s sex/gender marker for U.S. citizens born abroad, passports, Social Security records, green cards and naturalization certificates, federal employee records, and Veterans Health Administration records.

Our birth certificate is an essential document for so many other documents that provide us with identification and the ability to navigate in so many ways through our daily lives. While most people take this document for granted, there are a vulnerable minority among us, for which the sex/gender designation assigned at birth on the birth certificate does not correctly document the true gender identity realized as they grow up and they suffer for that reason. Therefore, our law providing for options to take under those circumstances to have a birth certificate that documents their true gender identity should be fair and accessible and based on current knowledge. HB 631 HD 2 would remove the surgical requirement that only serves as an unwarranted and unfair barrier to our transgender ohana and friends. The amendments in this bill to Hawaii’s birth certificate law are soundly based and are long overdue.

I strongly urge you all to support HB 631 HD 2 and pass this bill into law.

With much appreciation,

Josephine L. Chang

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: tharseo@gmail.com
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Tuesday, March 31, 2015 9:14:39 PM

HB631

Submitted on: 3/31/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua Williamson	Individual	Oppose	No

Comments: This is a highly illogical step for the government to afford. I understand people making the cognitive choice to change their natural born sexual orientation. But to change the historical facts about how someone came out of the womb seems like an overstep. There is no positive from this, people have paperwork now that should suffice. For anyone to start choosing to doctor history willingly is not the highest form of truth which our government should be striving for.

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From: [Kahana Ho](#)
To: [JDL Testimony](#)
Subject: In STRONG SUPPORT of HB631 HD2 Relating to Certificates of Birth
Date: Tuesday, March 31, 2015 7:45:01 PM

3/31/2015

In STRONG SUPPORT of HB631 HD2 with Amendment

Aloha mai, Senator Gilbert Keith-Agaran, Chair, Senator Maile Shimabukuro, Vice-Chair, and the esteemed members of the Senate Committee on Judiciary and Labor:

I am writing as a life-long resident of Hawai'i, and as a transgender individual, in STRONG SUPPORT of HB631 HD2 Relating to Certificates of Birth.

Because my Birth Certificate Sex Designation does not match my lived gender, I continue to experience problems accessing health care. Several diagnostic screening procedures have been either refused for payment by insurance, or else flat-out denied for service because of "gender mismatch", originating with my Birth Certificate.

In addition, I am concerned about traveling off-island, as I already have been subject to humiliating, traumatic, inappropriate searches by TSA.

This does not even start to address things like looking for employment, opening a bank account, applying to college, or any of the other things we need to do to try to make it through life.

Transgender people like myself need to be able to change the sex designation on our birth certificate in a non-threatening, objective, practical, accessible fashion, so that we can avoid discrimination, harassment, assault, rape, and death - all potential consequences of "gender mismatch".

To this end, I wish to address two concerns:

First, HB631 HD2 Section 1 includes a proposed HRS §338-17.7 (d):

"(d) If a new certificate of birth is **established** under subsection (a)(4), the department shall not require any additional medical information or records other than those required by subsection (a)(4)."

The intent of the bill is to reduce the amount of documentation necessary to process a sex designation request, and so the wording in this paragraph may better serve that purpose if it were revised to read:

"(d) If a new certificate of birth is established **requested** under subsection (a)(4), the department shall not require any additional medical information or records other than those required by subsection (a)(4)."

Secondly, and extremely importantly, HB631 HD2 allows our health care professionals to do the assessment of our gender identity. This is critical because this then ensures that people qualified to make such an assessment are the ones who's judgement is used.

I have read extremely alarming testimony from the Department of Health and the

Department of the Attorney General that suggests mandating a judicial process - i.e., a court order in order to change one's sex designation.

I am very concerned that such a procedure would allow someone with no professional training, knowledge, skills, or competency in gender identity assessment, to render a judgement about a person's gender identity, a decision of life-changing import. There is no guarantee that a judge, who has no requirement for such competency, nor any ethical obligation to exercise such competency, would not resort to incomplete, inaccurate misinformation. In a worst-case scenario, there is no protection from the exercise of individual, potentially anti-trans bias. I say this knowing that there are judges in other jurisdictions that have done precisely this, and knowing that even in the State of Hawai'i, there has been at least one incident of a person who leads a state-wide law enforcement organization who publicly stated his intent to refuse to enforce laws that would provide equal rights for LGBT persons in this state.

Such a court-order process, tainted by lack of professional competency and expertise in gender identity, and potentially further contaminated by personal anti-trans biases, actually threatens the reliability of the sex designation change process.

In addition, there are the prohibitive concerns about costs of time and money, as well as lack of familiarity with judicial procedures.

For further explanation, I have included the link to an outstanding article on the issue of gender marker changes, "Modernizing State Vital Statistics Statutes and Procedures to Ensure Accurate Gender Markers on Birth Certificates: A Good Government Approach to Recognizing the Lives of Transgender People" by Lisa Mottet of the National Gay and Lesbian Task Force, published in the University of Michigan Journal of Gender and Law, Vol. 19, issue 2

<http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1027&context=mjgl>

Taken all together, these concerns about a mandated court order for sex designation change actually undermine the intent of the bill and exposes transgender persons to increased risk of discrimination and worse.

Therefore, I respectfully request that the Senate Committee on Judiciary and Labor pass HB631 HD2, with only amendment to language relating to a proposed HRS 6338-17.7 (d), and **with no requirement for a court order process.**

Respectfully,
Kahana Ho
Honolulu, Hawai'i

Aloha,
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
and other members of the Senate Judiciary and Labor 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: [Keiva-Lei Cadena](#)
To: [JDLTestimony](#)
Subject: Strong Support for HB631 HD2
Date: Wednesday, April 01, 2015 1:47:47 PM
Attachments: [image001.png](#)

Aloha,

I am in strong support of HB631 HD2, Relating to Certificates of Birth, being heard on April 6, 2015 at 9:25 a.m."

KeivaLei K Cadena

Life Foundation

Linkage to Care / P4P / Partner Services

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Law Office of Kirstin Hamman LLC
33 North Market Street, Suite 302
Wailuku, Hawaii 96793

April 4, 2015

COMMITTEE ON JUDICIARY AND LABOR
Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

Hearing date: April 6, 2015

RE: Strong Support IN FAVOR of HB631, HD2, Relating to Certificates of Birth

Dear Chair Keith-Agaran and Vice-Chair Shimabukuro,

I am writing to express my strong support of HB 631, HD2, Relating to Certificates of Birth. I am an attorney on Maui with my own solo law practice, but I am writing in my capacity as the mother of a 13-year-old transgender child. Last year my daughter went through a very difficult time. She was depressed and struggling. The problems were so severe that we had to seek residential treatment on the mainland. She had a severe eating disorder and was engaging in self-harm. She had thoughts of suicide. It was devastating for me. I could not understand how she could be so unhappy. However, after three months she was able to get the support she needed and return home. Upon her return, she continued with outpatient therapy. She missed an entire semester of school because of the treatment, although she did have a tutor so that she would not fall too far behind in school.

With the assistance of her counselors, my daughter was able to finally come to terms with the fact that, although born female, her true gender is male. She had always

been a tomboy, but she started to dress in male clothes and cut her hair very short. People mistook her for a boy. I went along with her clothing and hair choices, but to me she was still my daughter and she always would be.

One day, with the support of a therapist, my daughter declared to me that she is a boy and my son, not my daughter. It was very hard for me to accept. At first, I refused to use male pronouns or call him by his chosen male name. But with some time, I could not ignore the fact that my child's face lit up when people thought she was a boy and she was more confident and happy as a boy. I read everything I could about transgender children and reached out to others who had been through a similar experience. After watching my child nearly starve himself, cut himself, and be so unhappy he did not want to live any longer, I realized I needed to embrace him for who he is and love him unconditionally. The only thing that matters is having a happy, healthy child. I am still working on the pronouns, but he sees me trying my best to support him. He is so much happier. He is back in school and goes by his chosen male name. He participates with the boys during gender-grouped events. The school allows him to use a staff bathroom. He now has the happiness and self-confidence I always wanted him to have.

This transition for us is still new and we are adjusting. But, one day my son will want to change his legal name and gender identification for everything he does. He will need to change his gender classification on his birth certificate. He was born on Maui so HB631, HD2 will allow my son to change his gender on his birth certificate without having to go through a risky, painful surgical procedure that he may never want to do. It certainly will not happen while he is a child, because I worry too much about the risks.

Right now, all his school and medical records reflect his female birth name and

female gender. There is no way to change this without legally changing his name and gender on his birth certificate. I notice that every time I or anyone else refers to my son as a female or uses his female birth name, it causes him pain because that is not who he is. Allowing him to change his gender on his birth certificate and, therefore, on all of his records, will allow him to avoid those awkward, painful interactions. When we sign up for sports, or register for other types of programs, we have to use his birth certificate. Unless his birth certificate identifies him as male, he will be expected to participate as a female. Forcing him to participate as a female when he is male would be disrespectful and a blow to his dignity. The only other choice is to not participate at all.

If he can change his gender classification on his birth certificate to match his true identity, it will be understood by all, with no question, that he is a male. He will be allowed to participate as a male.

When the time comes, he will be able to get his driver's license with his gender as male, the one that reflects his true, authentic self. The driver's license is the most accepted form of identification in our society. It will allow him to apply for jobs, travel, and engage in other activities as a male, his true gender.

On behalf of my son and all other Hawaii-born transgender children like my son, I urge you to vote in favor of HB631, HD2.

Sincerely,

/S/ KIRSTIN HAMMAN

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: laurenortiz1159@gmail.com
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Wednesday, April 01, 2015 7:39:27 AM

HB631

Submitted on: 4/1/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lauren Ortiz	Individual	Comments Only	No

Comments: It is important that people who are of trans experience be able to tick the box according to their gender specific on legal documents such as birth certificate, driver's license or state identification card. This will prevent the individual from being laughed at, ridiculed and/or arrested because of other persons being misinformed, racism.

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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 identity 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: [McKenzie Jackson](#)
To: [JDL Testimony](#)
Subject: Strong Support for HB631 HD2
Date: Wednesday, April 01, 2015 2:41:02 PM

I am in strong support of HB631 HD2, Relating to Certificates of Birth, being heard on April 6, 2015 at 9:25 a.m.

Matthew jackson aka McKenzie

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: Mjkakana@gmail.com
Subject: *Submitted testimony for HB631 on Apr 6, 2015 09:25AM*
Date: Thursday, April 02, 2015 7:24:27 AM

HB631

Submitted on: 4/2/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Akana	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: mjgolo@email.phoenix.edu
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Wednesday, April 01, 2015 8:43:25 AM

HB631

Submitted on: 4/1/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

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

Comments: Please pass HB631.

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Sunday, April 05, 2015 7:51:54 AM

HB631

Submitted on: 4/5/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
N. Tod Robertson	Individual	Support	No

Comments: Strongly Support for HB631 HD2 I am in strong support of HB631 HD2 Relating to Certificates of Birth, being heard on April 6, 2015 at 9:25 am. N. Tod Robertson

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From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: rachelthompson84@gmail.com
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Thursday, April 02, 2015 1:09:39 AM

HB631

Submitted on: 4/2/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel Thompson	Individual	Support	No

Comments: I strongly support this bill. I believe that a person should be able to be who they are without being forced to have a doctor diagnose them and perform sex reassignment surgery. I believe that a person should be able to change their name and birth certificate sex assignment if they feel their true self doesn't align with their birth sex assignment. We need to promote love and support for trans people. They face unimaginable levels of discrimination as it is in our society, but if they can't afford the surgery to make their body match their hearts, we as a society should not force them to continue living a lie by feeling that their birth sex assignment defines them on paper. This bill would positively effect a person's self esteem - their drivers license, job applications, passports, medical records, transcripts, etc. - all of these things should be updated if a person feels brave enough to come out and say I don't want to be called Steve anymore; I am Stella. Again, I strongly support this bill and I hope you will do the right thing and pass this piece of legislation.

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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Law Office of
Rebecca A. Copeland
LLC

April 1, 2015

Senate Committee on Judiciary and Labor
Chair Gilbert S.C. Keith-Agaran
Vice-Chair Maile S.L. Shimabukuro
Will Espero
Mike Gabbard
Les Ihara, Jr.
Laura H. Thielen
Sam Slom

RE: HB631, HD2, Relating to Certificates of Birth
Testifying in STRONG SUPPORT

Dear Chair Keith-Agaran and Members of the Committee on Judiciary and Labor,

I write in strong support of HB631 RELATING TO CERTIFICATES OF BIRTH, a bill being considered by this Committee on Monday, April 6, 2015. As you know, this bill would modify existing Hawaii law to allow an individual to change the sex designation marker on their birth certificate without the requirement that the individual have first undergone a “sex change operation.” The following testimony is substantially the same as what I previously submitted to the House of Representatives’ Committees on Health and Judiciary and to the Senate Committee on Health, and I am resubmitting it to you because of the importance of this legislation.

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

My testimony is not submitted in my official capacity for any of the above organizations, but in my personal capacity as a mother. I have two children, an elementary aged daughter and a high school aged son. My son is transgender. Although gender identity is moving more to the forefront of our conversation on LGBT rights, my situation may still be considered a unique experience to many who do not yet understand what it means to be transgender. I write to present the perspective of the parent of a transgender child in order to try to help those who do

not yet understand this issue. There is nothing wrong with unfamiliarity, only with being unwilling to become educated on a topic.

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

However, a name change is not enough. Unless my son (and others like him) is able to modify the gender marker, or “sex designation” on his birth certificate, he will always be considered “female” on official paperwork. When he obtains his driver’s license it will indicate that his sex is “F.” When he applies to college, he will be forced to designate his gender as female. When he gets married, he will be considered “female.” Even if he were able to change the sex designation on his drivers’ license without gender reassignment surgery, there are many situations in which a birth certificate would still be required. At first blush, these may not seem to be hurdles, but, then again, most of us identify as the gender with which we were assigned at birth. These inconsistencies result in many transgender facing very real threats to their lives. For my son, and others like him, these are also consistent reminders that outward sexual characteristics do not match his actual gender – something over which he has no choice and no power. They are constant reminders that society chooses to judge him based exclusively on his outward sexual characteristics rather than his true identity. My son wants only to be known as who he is – a boy soon to be a man.

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

You will obtain and hear testimony from many members of our community who are transgender, and from those who are allies. You may also obtain or hear testimony from others like me – parents of transgender youth. Many who testify will provide you with statistical data and legal authorities to support HB631. For the most part, I will leave that testimony to others except to emphasize that by protecting individuals from institutionalized discrimination on the basis of gender identity and gender expression, HB631 is in accord with Hawaii’s existing policy of providing such protections. *E.g.*, Hawaii Revised Statutes (“HRS”) § 489-3 (prohibiting discrimination in places of public accommodation based on either gender identity or expression); HRS § 378-2 (prohibiting discriminatory employment practices based on gender identity or expression); HRS § 515-3 (prohibiting discriminatory practices in real property transactions based on gender identity and expression).

My testimony comes with the caveat that my son was not born in Hawaii; therefore, the outcome of HB631-HD2 will not directly affect his ability to change his gender marker. However, as we have seen repeatedly throughout history, including most recently with the issue of marriage equality, change in one state in this country leads to change in other states. That same history shows us that although discrimination may be permitted temporarily, it cannot withstand the test of time. Change in Hawaii will ultimately lead to change in the state of my child's birth. For that reason, and because I support the ability of all transgender individuals in this state to live a full and authentic life, I consider my testimony relevant, and hope that you will too.

Mahalo for your consideration of HB631-HD2.

Sincerely,

A handwritten signature in black ink that reads "Rebecca A. Copeland". The script is cursive and fluid, with the first letters of each word being capitalized and prominent.

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

Robert J. Bidwell, MD

Adolescent Medicine

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

Date: April 6, 2015
Conference Room 016 (9:25 am)
State Capitol

To: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice-Chair
Senate Committee on Judiciary

From: Robert J. Bidwell, M.D.

Re: HB 631 “Relating to Certificates of Birth”

Position: Strong Support

Dear Chair Keith-Agaran, Vice-Chair Shimabukuro, and Senate Judiciary Committee Members:

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

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

The present Hawai`i Department of Health policy requiring a “sex change operation” in order for transgender individuals to obtain a change of gender designation on birth certificates is a historical artifact. It is outdated and no longer reflects modern-day medical opinion on what it means to be transgender or the nature of gender transition. More important, it has caused significant and lasting harm to generations of transgender

individuals in Hawai'i, as will be evidenced by the testimony to be presented for the Committee's hearing on HB 631.

There was a time in the past when being transgender and the idea of transition evoked immediate thoughts of surgery, both in the minds of medical professionals and the lay public. **Those times are past.** This is due, in part, because of an increasingly robust body of research evidence showing that gender transition takes place on many levels: psychological, emotional, spiritual and physical. A person's gender does not reside only or even primarily in his or her genitals but, much more importantly, exists in a person's deepest sense of gender, of being female or male. The present Department of Health policy is extremely problematic for those transgender individuals who desire surgery but cannot afford it, or live in communities where surgical specialists are not available, or have medical conditions that make surgery especially dangerous. Modern medicine considers these individuals no less transgender in their identity because they have not had surgery, and treats them in accordance with their expressed gender identity. Other transgender individuals transition socially, psychologically and spiritually but do not feel a need to transition physically through "sex change surgery." Modern medicine considers *these* individuals *also* to be as fully transgender in their identities as those who desire surgery. Whether surgery is desired or not, or has taken place or not, transgender individuals all face the same obstacles to health and well-being that come from a policy that puts outdated and harmful obstacles along their paths to transition, whatever those paths might be. The consequences of the present outdated Department of Health policy for transgender health and well-being will be well-documented in the testimony presented by Hawai'i's transgender community in the Committee's hearing on this Bill.

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

**H-65.967 Conforming Birth Certificate Policies to Current Medical Standards ,
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)**

It is for this reason that HB 631 is vitally important to Hawai'i's transgender community, and my hope is that Hawai'i will join the growing number of states that are

passing legislation consistent with AMA policy, which reflects mainstream opinion within the medical community. I also strongly support allowing affidavits in support of sex marker change from licensed medical and mental health providers, as provided for in the present bill.

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

Respectfully yours,

Robert J. Bidwell, MD

From: mailinglist@capitol.hawaii.gov
To: [JDL Testimony](#)
Cc: moltenhawaii@yahoo.com
Subject: Submitted testimony for HB631 on Apr 6, 2015 09:25AM
Date: Wednesday, April 01, 2015 1:17:16 PM

HB631

Submitted on: 4/1/2015

Testimony for JDL on Apr 6, 2015 09:25AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Tia Thompson	Individual	Support	No

Comments: Aloha. I am in FULL support of HB631 because it will not only change my life forever, but other transgender men and women's lives too. I am a proud transgender woman and lived my life as a female for over 10+ years. I have legally changed my name and gender markers on my Hawaii state ID, Driver's licence and Passport. I usually handle discrimination like a water off a ducks back, but, the most adversity I faced is playing women's volleyball. I am able to compete in most tournaments as a female in the women's however, there are times where people have gone as low as asking to see my birth certificate. Now don't get me wrong, I am a prominent figure in the world of volleyball here in Hawaii and as I said before, I will become the first female transgender athlete to play women's volleyball soon, but, for a director of a simple friendship tournament ask me for my birth certificate as proof my gender has changed from male to female was 1. Ridiculous and 2. Illegal after I provided my identification to show such changes were made legally. I ended up not playing in the tournament, though my sister who is also transgender, was allowed to participate. However I am making progress in women's volleyball and acceptance is gaining full momentum. I wanted to thank you all for your consideration in regard to this bill. Please, I humbly ask for this bill to be pass because it is the pono thing to do. Mahalo, Tia Thompson

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