



**Testimony**

of

**Gretchen Van Wye, PhD  
Assistant Commissioner, Bureau of Vital Statistics  
New York City Department of Health and Mental Hygiene**

before the

**New York City Council Committee on Health**

on

**Intro. 491: Amending Sex Designation on Birth Records**

and

**Intro 492: Reporting and an Advisory Board on Gender Marker Change Requirement**

**November 10, 2014  
Council Chambers – City Hall  
New York City**

Good afternoon, Chairman Johnson and members of the Health Committee. My name is Gretchen Van Wye, and I am the Assistant Commissioner of the Bureau of Vital Statistics at the New York City Department of Health and Mental Hygiene. I am joined today by Steven Schwartz, the New York City Registrar. On behalf of Commissioner Bassett, who regretfully could not be here, thank you for the opportunity to testify on Intros 491 and 492. As you know, the Health Department is currently pursuing an amendment to the New York City Health Code similar to this legislation, and we are very happy that the Council and the Administration share the common goal of improving the birth certificate gender marker change process for transgender individuals.

#### Intro 491

Currently in New York City, transgender individuals who want to change the gender marker on their birth certificate must undergo convertive surgery, based on provisions of the Health Code adopted in 1971. The Administration strongly supports Intro 491, which, like our proposed Health Code amendment, would for the first time allow individuals to change the gender marker on their birth certificate with an affirmation from a U.S.-licensed physician or an affidavit from another authorized health or mental health provider. The authorized health or mental health provider must be licensed and be one of the following practitioners: a doctoral-level psychologist in clinical or counseling psychology; a social worker; a physician assistant; a nurse practitioner; a marriage and family therapist; a mental health counselor; or a midwife. The practitioner or physician who is giving the attestation must confirm that the revised designation accurately reflects the individual's gender, based on contemporary expert standards regarding gender identity. Once the new birth certificate is created, the original certificate will be placed under seal.

As I mentioned earlier, this legislation mirrors an amendment to the New York City Health Code that was proposed at the October 7<sup>th</sup> Board of Health meeting, and will be voted on December 9<sup>th</sup>. We proposed this change because not all applicants with incongruent gender assignment wish to undergo surgery, and the surgery requirement may present an unnecessary burden. Furthermore, documents that accurately reflect a person's gender identity can be critical to accessing healthcare, employment, and other important services. This new amendment, which we are proud to be concurrently championing with the Council, will be the first major change in New York City's transgender birth certificate procedures in over 40 years.

In light of the importance of this change, the Department is developing a robust outreach and implementation strategy, so that both the provider and transgender communities are aware of the new regulation and the process is transparent and accessible. As the new policy will apply to all individuals born in New York City – regardless of where they may reside now – our plan will also include outreach to non-New York City-based transgender-friendly healthcare, mental health, and social services organizations. Towards that end, we are developing a list of clinics,

providers, and organizations that can advise, support, and help provide the documentation needed for individuals to change the gender marker on their birth certificate. This list will include providers who will deliver these services at low or no cost, and it will be easily accessible and posted on the Department's website.

We will engage these providers and organizations through many channels, and will host at least one teleconference, during which they may ask questions and discuss any concerns they have about providing such services. The Department welcomes and looks forward to collaboration with the Council and advocates as we implement this outreach strategy and work to spread the word about this important change.

To make the new process as easy as possible for transgender applicants, the Department has assigned a veteran staff member in our Office of Vital Records to serve as the key point person. This staff member, Deputy Director Edna Timbers, has 15 years of experience with the Department and has served as the primary person helping transgender individuals navigate the process during that time. Ms. Timbers will be able to answer questions and help applicants understand the requirements, and can also refer individuals to other relevant healthcare resources.

In summary, we are thrilled that the Council and the Administration share the common goal of improving the birth certificate gender marker change process for transgender individuals.

#### Intro 492

The Department also supports Intro 492, a complementary bill which would establish an Advisory Board to review the implementation of Intro 491. We appreciate the Council's interest in working collaboratively with us and other organizations to support an efficient and accessible operationalization of the new protocol in a manner that best serves the transgender community, and we look forward to working together on the Advisory Board.

Updating the gender marker change process for transgender individuals is an important step in enabling people to obtain official documents that accurately reflect their gender identity. We are proud to jointly support this long-needed update with the Council and look forward to future collaboration as we move ahead.

Thank you for the opportunity to testify today. We would be happy to answer any questions.

**TESTIMONY OF  
NYS ASSEMBLY HEALTH COMMITTEE CHAIR RICHARD GOTTFRIED  
ON NEW YORK CITY COUNCIL INTRO 491**

City Hall  
New York, New York  
November 10, 2014

I'm here today to express my strong support for Intro. 491, legislation introduced by Councilmember Corey Johnson to eliminate the onerous and clinically inappropriate requirement for corrective surgery for transgender persons seeking to amend the gender marker on birth certificates issued by New York City.

This follows a similar decision by New York State in June, which allows birth certificates issued outside of New York City to be amended after demonstrating "appropriate medical treatment."

The new policy is in line with the most recent guidelines issued by the American Medical Association, which explicitly state that transgender people should not need to have surgery in order to obtain corrected documentation.

For many transgender New Yorkers, a major obstacle to fully exercising their personhood is the inability to obtain official documentation – birth certificate, driver’s license, passport, etc. – reflective of their gender. Lacking official documentation of a person’s gender can, among other things, effectively block access to appropriate health care and gainful employment.

I applaud Commissioner Bassett and Councilmember Johnson for helping to ensure that transgender people who were or are born in New York City will have the same opportunity for a more full life that others born in New York State now have.



**NYCLU**

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**Testimony of the New York Civil Liberties Union**

**before**

**The New York City Council**

**Committee on Health**

**regarding**

**Legislation Relating to the Correction of Gender Markers  
on Birth Records (Int. No. 491 and Int. No. 492)**

**November 10, 2014**

My name is Bobby Hodgson and I am an attorney at the New York Civil Liberties Union (the "NYCLU"). I would like to thank Councilmember Johnson and the Committee on Health for inviting the NYCLU to provide testimony today in support of proposed legislation seeking to update New York City's policy for correcting an individual's gender marker on a birth record (collectively, "the Bill").

The NYCLU, the New York State affiliate of the American Civil Liberties Union, is a not-for-profit, nonpartisan organization with eight offices across the state and nearly 50,000 members. The NYCLU's mission is to defend and promote the fundamental principles, rights, and constitutional values embodied in the Bill of Rights of the U.S. Constitution and the Constitution of the State of New York. This includes the rights to equality, privacy, and personal autonomy that are implicated by today's legislation. In light of our long history of vigorously

defending the rights and liberties of transgender and gender nonconforming individuals, the NYCLU is pleased to testify in strong support of the Bill.

***The Proposed Changes Are In Keeping With Other Modern Policies That Have Removed Outdated Surgery Requirements***

This Bill proposes changes that will help to bring New York City's birth certificate policy in line with modern standards by removing outdated surgical requirements and providing criteria for correcting a birth certificate that more accurately reflect well-established best practices. It will improve the lives of transgender New Yorkers by ensuring they have access to an identity document that correctly reflects their gender.

There is widespread consensus that the current New York City policy for correcting an inaccurate gender marker on a birth certificate—which, unchanged in over forty years, requires extensive evidence that a person has undergone one of a short list of surgeries that many transgender people never undergo—is outdated. New York State has abandoned such surgical requirements, along with many other jurisdictions including California, Oregon, Vermont, Washington, the District of Columbia, and the federal government (for U.S. citizens born abroad as well as for passports, Social Security records, green cards, and naturalization certificates).<sup>1</sup>

The American Medical Association, the American Psychological Association, the World Professional Association for Transgender Health, and the National Association of Social Workers, among others, have likewise advocated for abandoning surgical requirements.<sup>2</sup>

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<sup>1</sup> Cal. Health and Safety Code § 103425-103445; Or. Rev. Stat. § 33.460; 18 V.S.A. § 5112; Washington Dept. of Health Proc. CHS-B5 (2008); Code of the District of Columbia § 7-210.01; United States State Dep't, *Foreign Affairs Manual*, 7 FAM 1300 Appendix M: Gender Change; United States Soc. Sec. Admin., *RM 10212.200 Changing Numident Data for Reasons other than Name Change*; United States Citizenship & Immigration Services, *Adjudication of Immigration Benefits for Transgender Individuals*; *Addition of Adjudicator's Field Manual*, Subchapter 10.22. Indeed, when New York City established its most recent form of City-issued identification, the Municipal ID Card, the Council adopted a straightforward gender marker policy that allows transgender individuals to simply self-attest to their own gender. New York City Admin. Code § 3-115(c)(1).

<sup>2</sup> American Medical Assoc., *Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients*, H-65.967, available at <https://ssl3.ama-assn.org/apps/ecommm/PolicyFinderForm.pl?site=www.ama->

Because New York City lacks a policy that aligns with this consensus, the vast majority of transgender people in the city are unable to obtain birth certificates that accurately reflect their identity. Eight out of ten transgender women and nine out of ten transgender men have not had the surgeries the policy currently requires, either because they cannot get such a surgery or because they do not desire it.<sup>3</sup> Surgery is not an option for many due to other health conditions, and discriminatory health insurance policies deny coverage for many others. The Bill will provide a long-overdue remedy for the large percentage of transgender New Yorkers who are currently saddled with an inaccurate identity document and no way to correct it.

### *Accurate Birth Certificates Are Vital For Transgender New Yorkers*

As a fundamental identity document, an accurate birth certificate is critical to equal participation in society. In New York, birth certificates are required for, among other things: obtaining professional certifications; demonstrating work eligibility; registering for school; obtaining access to public facilities; obtaining a gun permit; and obtaining access to public benefits. For some, in particular for low-income New Yorkers, it is the only identify document available to be used when applying for job or obtaining health insurance.

In addition, having a valid birth certificate that accurately reflects one's identifying details is often necessary in order to obtain a host of other identity documents, and presenting a birth certificate is always required in order to obtain a New York State drivers' license or a United States passport. All of these forms of identification are then used to prove one's identity

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assn.org&uri=/resources/html/PolicyFinder/policyfiles/HnE/H-65.967.HTM; American Psychological Assoc., *Transgender, Gender Identity, & Gender Expression Non-Discrimination*, available at <http://www.apa.org/about/policy/transgender.aspx>; World Professional Assoc. for Transgender Health, *Identity Recognition Statement*, available at [http://www.wpath.org/uploaded\\_files/140/files/Identity Recognition Statement 6-6-10 on letterhead.pdf](http://www.wpath.org/uploaded_files/140/files/Identity%20Recognition%20Statement%206-6-10%20on%20letterhead.pdf); National Assoc. of Social Workers, "Transgender and Gender Identity Issues," *Social Work Speaks: National Association of Social Workers Policy Statements 2009-2012* at 347 (8th ed. 2009).

<sup>3</sup> Grant, Jamie M. et al., *Injustice at Every Turn: A Report of the National Transgender Non-Discrimination Survey*, National Center for Transgender Equality (2011) at 79, available at [endtransdiscrimination.org/PDFs/NTDS\\_Report.pdf](http://endtransdiscrimination.org/PDFs/NTDS_Report.pdf).

in countless everyday situations. In order to enter most schools, for example, a parent must show identification. The same is true for visitors at many hospitals, offices, and prisons. In addition, identification cards for many medical programs—programs that provide vital care—are necessary in order to ensure full access to services.

When a person is forced to show identification bearing a gender marker that conflicts with that person’s appearance and gender identity, it not only creates confusion about whether the identification is genuine or fraudulent, it also “puts the person at risk of discrimination, harassment, and violence in nearly every aspect of daily life,” since “[u]ncorrected documents have the potential to ‘out’ a person as transgender every time he or she begins a new job, applies for housing, credit, or public benefits, goes to a bar or club, is subject to a routine traffic stop, or boards an airplane.”<sup>4</sup> Indeed, according to the results of a national survey, forty percent (40%) of transgender people who presented an uncorrected identification document in the course of their daily life experienced harassment as a result, and fifteen percent (15%) were asked to leave the building they were attempting to access.<sup>5</sup>

Thus, New York City’s current policy locks transgender New Yorkers into an endless cycle of public misidentification based on an error in their birth record that the City has rendered ineradicable. This Bill can go a long way towards solving that problem. While using misgendered birth certificates can lead to accusations of fraud, harassment, discrimination, repeated outings, and denial of services, presenting a *corrected* birth certificate makes it possible

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<sup>4</sup> Harper Jean Tobin, *Fair and Accurate Identification for Transgender People*, LGBTQ Policy Journal at the Harvard Kennedy School (2011), available at <http://isites.harvard.edu/icb/icb.do?keyword=k78405&pageid=icb.page414493..>

<sup>5</sup> Nat’l Gay and Lesbian Task Force, *Executive Summary of the National Transgender Discrimination Survey* (2011), available at [http://www.endtransdiscrimination.org/PDFs/NTDS\\_Exec\\_Summary.pdf](http://www.endtransdiscrimination.org/PDFs/NTDS_Exec_Summary.pdf); see also *Wilson v. Phoenix House*, 42 Misc.3d 677, 688 (Kings County Sup. Ct. 2013) (noting that transgender people “often experience harassment and discrimination that results in social marginalization, including the denial of education, employment, housing opportunities, and health care.”).

for transgender New Yorkers to correct a host of other forms of identification and significantly reduce the incidence of such harmful experiences in their daily lives.

***The Current Policy Is In Tension With The New York City Human Rights Law  
And The Federal Constitution***

The insurmountable barriers created by the current policy conflict with the principles of the New York City Human Rights Law and the federal Constitution. The City’s surgical requirements bar access to accurate identification for the large percentage transgender New Yorkers for whom surgery is not available or is not desired. This effectively freezes an entire class of people out of a vital set of benefits based on their gender identity. The New York City Human Rights Law, however, prohibits discrimination on the basis of “gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.”<sup>6</sup> Due to the grave implications of a City policy that denies important benefits to New Yorkers on the basis of their gender identity, the NYCLU strongly supports the passage of this Bill and the removal of current barriers to accessing accurate identification.

Further, courts have held that individuals have a constitutional right to privacy regarding their transgender identity, and the current policy places a significant burden on that right. In *Powell v. Schriver*, the Second Circuit—the federal appellate court with jurisdiction over New York—held that the Constitution “does indeed protect the right to maintain the confidentiality of” one’s transgender status.<sup>7</sup> Because the current policy leads to transgender individuals being forced to “out” themselves every time they must present identification, it threatens to violate

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<sup>6</sup> 8 N.Y. City Admin. Code § 102(23).

<sup>7</sup> 175 F.3d 107, 111 (2d Cir. 1999).

their constitutional rights. Accordingly, the Council's proposed Bill will be particularly welcome in light of the increased privacy that it will provide transgender New Yorkers.

*The Proposed List Of Licensed Individuals Who May Submit An Affidavit In Support Of An Application To Correct A Gender Marker Is Appropriate*

The NYCLU strongly supports the Bill's broad, inclusive list of licensed professionals who can attest to an applicant's gender identity or affirmed sex in support of an application to correct a birth certificate. The proposed legislation includes provisions replacing the surgical requirement of the City's current policy with a more reasonable requirement that the applicant submit an affidavit from one of a comprehensive list of licensed professionals—including social workers, therapists, doctors, and nurse practitioners—whose training and expertise allow them all to confirm that a corrected birth certificate would more accurately reflect the gender of the applicant.

This inclusive list of qualified professionals is vital to ensuring the success of the Bill, since creating an unnecessarily narrow list of providers would most severely impact those particularly vulnerable individuals who most need accurate identification. Barriers to accessing these providers remain a significant concern, since transgender people are often unable to obtain medical and mental health care due to a combination of discrimination, unemployment, and lack of health insurance. Transgender people are less likely to have health insurance and are more likely to delay medical treatment due to discrimination and/or inability to pay, and seventeen percent (17%) of transgender New Yorkers have been denied medical care simply for being transgender.<sup>8</sup>

Thus, any reasonable list of providers should include all those qualified individuals who are the most readily-available to a broad range of New Yorkers, and the proposed list represents

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<sup>8</sup> Grant, Jamie M. et al., *Findings of the National Transgender Non-Discrimination Survey: New York Results*, (2011) at 2, available at [http://www.endtransdiscrimination.org/PDFs/ntds\\_state\\_ny.pdf](http://www.endtransdiscrimination.org/PDFs/ntds_state_ny.pdf).

a broad group of qualified licensed professionals to whom transgender New Yorkers in need of a corrected birth certificate may have access. In light of the otherwise-commendable and welcome policy change proposed by the Department of Health and Mental Hygiene, which does not include Licensed Master Social Workers (“LMSWs”) on its list, the NYCLU joins other advocates and experts in highlighting the necessity and appropriateness of including LMSWs, as the Bill does. LMSWs serve many of the City’s most vulnerable and underserved populations and, as testimony from the National Association of Social Workers confirms, it is well within their scope of practice to sign an affidavit in support of an application to correct a gender marker. LMSWs are among the most affordable and accessible service providers for transgender New Yorkers, and their exclusion from this list would create significant—potentially insurmountable—barriers for many people attempting to access the benefits of this new-and-improved policy.

### *Conclusion*

In conclusion, we applaud Councilmember Johnson, the Bill’s sponsors in the Council, and the Department of Health and Mental Hygiene for their recognition of the need to address this important issue. We support the common-sense improvements the Bill proposes to bring New York City in line with other jurisdictions that have modernized their own processes for correcting a birth certificate. It is the opinion and testimony of the NYCLU that the proposed legislation is necessary, long-overdue, and will greatly improve the City’s ability to respect and safeguard the rights of its transgender residents. This is a welcome step forward in fulfilling the City’s mission to treat all New Yorkers equally, and we respectfully submit this testimony in support of the Bill to the Committee.

Testimony prepared by

**Clayton Brooks**

for the

**Committee on Health**

on

**Int. No. 491 - In relation to amending sex designation on birth records**

and

**Int. No. 492 - In relation to reporting and an advisory board on gender marker change requirements**

**November 10, 2014**

on behalf of

**The Ali Forney Center**

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The Ali Forney Center respectfully submits the following testimony regarding Council Member Johnson's bills regarding sex designations on birth records.

The Ali Forney Center is the largest and most comprehensive organization in the nation today dedicated to homeless LGBT youth. Based in New York City, we have ten housing sites located in the boroughs of Manhattan, Brooklyn, and Queens, and a full services drop-in center located in Harlem. AFC serves over 120 homeless youth every day and nearly 1,000 unduplicated people in some capacity every year.

Slightly over 22% of our clients identify as transgender and often come to us without documents and identification matching their gender identity. We regularly engage in helping our clients to obtain the requisite documents to verify their gender identity so as to obtain employment, housing, and basic governmental services.

We are here today in the hopes that this measure can make obtaining housing and employment less arduous for transgender people, and particularly transgender youth. The Ali Forney Center is committed to helping young people to be safe, thrive, and become independent as they move from adolescence to adulthood. Too often our transgender clients are prevented from easily achieving a level of financial independence and stability as a result of lacking proper identification which reflects their gender identity. Below is the testimony of two AFC staff people who have worked with transgender clients who would directly benefit from this proposed change.

Penny Farmer, LMSW, our Intensive Case Manager, offers this story of a client who had a photo ID matching her gender identity, but not a birth record:

"I had a transgender female client working to apply to a GED program with accommodations for students with disabilities. Because of her unique learning needs she required access to records from her old school system to prove her eligibility for the accommodations. All of the documents that the school produced were in her previous name and gender marker as a male. Although she had a current photo ID with her new name and gender marker, she found it extremely challenging to prove her previous identity due to her homeless status and inability to reproduce old ID's and documents. Maintaining personal records are challenges many people who are homeless face, regardless of their circumstances. The delay caused by this process largely contributed to her being unsuccessful in her attempt to enroll in the program. Adding insult to injury she unfortunately aged out of the program by the time she actually received the proper documentation."

Holly Gooden, LMSW, one of our Case Managers, offers two stories of clients who lack appropriate identification, documenting the real difficulty these young people face attempting to access services:

"I once worked with a client who was street homeless and who needed to obtain IDs with her gender marker changed. I referred her to organizations that were well known for assisting in writing the letters necessary for a gender marker to be altered to the appropriate gender the client identified as. However, due to the client's status as street homeless and her inability to make it to many of the organizations for which I'd given her referrals, she was unable to complete an intake and begin the process of working with a doctor who could write the gender marker letter for them. The lack of appropriate gender documented on her IDs made it difficult for her to get employed because of the stigma attached with someone identifying as transgender. This client's street homelessness status was also connected to her unemployment which put her at great risk many nights that she slept on the streets."

"I had a client who was originally placed in a men's shelter although she identified as a woman. She told me that the shelter staff refused to transfer her to a women's shelter because she "wasn't a real woman" and her ID did not have the proper gender marker as additional documentation. She and I called shelter advocates and filed complaints with the shelter but it did not help the situation.

She wanted to get a job so she could save enough money to move out of the shelter and live independently but many of the jobs she applied for which were cosmetology related, which she was certified in, were resistant to employ someone who had not gotten a gender marker changed yet. Her reports of threats and fear for her safety became more concerning as time went on in the men's shelter. She would often not sleep while staying at the shelter overnight because she did not want to put herself in a more vulnerable state. She stated at one point that she could not decide which was safer: sleeping on the streets or sleeping in a shelter. She eventually chose the streets."

We understand one area of disagreement among policy makers is whether or not LMSWs are qualified to serve as authorities to attest to a gender marker change. Below is further testimony from Penny Farmer offering a story of a client unable to obtain a gender marker change through a medical provider, but who likely would have through the LMSW clinician whom she had been seeing:

"I had a transgender female client who was in housing and working to fulfill the requirements to move into transitional housing. In order to keep her current housing and get accepted into the next housing level, it was mandatory that she be applying to jobs, which required current ID's. This was also a requirement for the transitional housing program. The doctor who was authorized to write the letter that allowed her to officially change her name and gender marker was at a location that would obligate her to pay for the transit to and from the office, which she was unable to do because of her limited resources. The clinician (LMSW) she had been seeing would have been the ideal person in this situation to write the letter because she was already at the center receiving services, shelter, and meals. Giving the social worker authorization would have allowed her ID's to change much sooner, and could have expedited the transitional housing process. In the end the letter was only received due to the clinician's efforts to reach out to the doctor and convince their office to fax the letter over. Essentially the social worker did a lot of the work required in this situation and could have been even more useful had she had authorization to begin with."

Please address any inquiries about the above testimony or the work of the Ali Forney Center to Clayton Brooks, the Director of Advocacy. He can be reached via email at [cbrooks@aliforneycenter.org](mailto:cbrooks@aliforneycenter.org) or by phone at 212-222-3427 ext. 304.

TESTIMONY OF THE CALLEN LORDE COMMUNITY HEALTH CENTER  
ON AMENDMENT TO LOCAL LAW 17-761.1 and 17-761.2  
NOVEMBER 10, 2014

Good afternoon. My name is Jay Laudato and I am the executive director of the Callen-Lorde Community Health Center whose mission is to provide quality care targeted to the lesbian, gay, bisexual and transgender (LGBT) communities regardless of ability to pay. I am here today to voice our strong support for the proposed changes to New York City laws 17-761.1 and 17-761.2. that will facilitate the change in gender marker on birth certificates and establish an advisory panel to monitor the process by which those changes are made. People of transgender experience face a myriad of forms of discrimination in employment, housing, education, and health care. While New York City has enacted non-discrimination legislation protecting transgender people without the actual legal recognition of their gender identity on their birth certificates this legislation is profoundly weakened. The change proposed by the City Council is a vital step in safeguarding the health and wellbeing of some of our most vulnerable community members, and we urge its passage. Callen-Lorde also applauds the City Council for the foresight of establishing an advisory panel to track the implementation of the new law. As a leading medical and mental health provider for the transgender community, we have seen firsthand the terrible discrimination in these fields, and would not want this right to be diminished because of a lack of information or prejudice by the certifying professionals.

There are many supporters of this proposed legislation to who can speak to the impact of having legal recognition of their gender identity in employment, housing and education. Being a provider of medical and mental health care to over 2,600 people of transgender experience, I

want to speak to its impact on being able to access health coverage and the services provided under that coverage.

Callen-Lorde is a Federally Qualified Health Center targeting its care to New York City's LGBT communities, while welcoming all, regardless of ability to pay. Callen-Lorde provides medical, mental health and dental care along with an extensive range of supportive services. In 2013, we served 15,000 patients, over one quarter who are persons living with HIV. Our patients come to us from across New York City and are among the most in need of all New Yorkers: 7% are homeless or unstably housed 36% are uninsured and 29% are enrolled in Medicaid. Callen-Lorde has taken great care to ensure that our services are culturally appropriate and inclusive of transgender patients, and have trained other agencies and medical providers on ways that they can better serve transgender clients.

Callen-Lorde has seen the barriers transgender New Yorkers face when trying to access health coverage and then needed health care. In order to apply for insurance under the Affordable Care Act Insurance Exchange in New York, transgender individuals must apply under the name and gender marker stated on their social security documents, whether or not it matches their gender identify. Transgender people are often subject to further identity proofing to "prove" that they are who they say they are. This can lead to a delay of coverage with their insurance plan, which can have long lasting effects on both their health and their finances. For example, a transgender woman who is unable to change her gender maker on her insurance card may not be able get a lifesaving mammogram paid for. A transgender male who attempts to access health care in an emergency room setting may face discrimination and denial of care if her identification documents say "female." All of these examples outline the serious implications that discrepancies in identification documentation can have on an individual's health outcomes,

quality of life and ability to engage in care. Quite simply, the proposed change will improve the health of transgender New Yorkers.

Having gender markers that are not consistent across documents also makes transgender people a target for issues ranging from hostility, accusations of fraud, and denial of care, to outright discrimination, harassment, and violence. It immediately “outs” their trans-identity and removes their ability to self-disclose when desired or when safe. In our clinic, we see that some of our patients are hesitant to utilize available resources based on prior negative experiences or fear of discrimination. There is a substantiated fear of scrutiny, discrimination and physical violence. Our staff works diligently with patients to identify resources that are supportive, affirming and safe while at the same time, assist patients through the process of changing their documents to properly align with their identity. With that, it is incredibly difficult, expensive and often confusing for a transgender person to change all of their documents. The laws and policies surrounding these changes are not consistent and are incredibly challenging to maneuver. Streamlining the process to change one’s gender marker on their birth certificate could empower people of transgender experience to access the health resources they need and deserve.

The proposed change to the gender marker requirement for birth certificates is an important step towards addressing this complicated issue. It is especially important that the new policy remove the requirement that transgender persons undergo surgery. Very few transgender people have the resources or insurance coverage necessary to access gender-confirming surgery. These surgeries can cost tens of thousands of dollars and very few insurance companies will cover them. Furthermore, many transgender people do not actually seek or desire these surgeries. Eight out of ten transgender women and nine out of ten transgender men have not had the

surgeries that the former policy requires to change their birth certificate. Though there is not currently an explicit legal way to fully change your gender, many agencies consider the birth certificate to be the most important document to change in order to fully validate your gender.

It is also important to note that New York City has fallen behind other jurisdictions on this matter, including the current policy of New York State and the federal government. The proposed change would ensure that transgender New Yorkers are able to make these important changes in the same manner as individuals across New York and at least four other states.

Callen-Lorde supports the creation of an advisory board and would like to stress the importance of assessing the process by which transgender New Yorkers obtain an updated birth certificate. It will be imperative for this advisory board to assess the education and training of the medical professionals and governmental employees who are involved in this important new change. We want to ensure that all transgender persons who apply to change their gender marker at any city entity is treated with dignity and respect. An important part of this implementation process is training and education of all relevant staff of New York City agencies affected by the change, and ideally additional training on transgender cultural competency.

In addition, the policy should be succinct and there should be no room for confusion among people seeking to change their gender, certifying providers, and city employees. In the past, vague language has led to subjective interpretation of policies and a lack of cohesion among city workers implementing these policies. We ask that the policies be made clear, the rules be made public, and all City workers receive training on these changes. Finally, Callen-Lorde would encourage special consideration be taken to notify medical and mental health providers of the reforms.

Callen-Lorde expresses its gratitude to the City Council and urges the speedy adoption of these proposed laws.

# THE CENTER

## Testimony of Clara Yoon on Intros. 491 and 492

Int. No. 491: In relation to amending sex designation on birth records

Int. No. 492: In relation to reporting and an advisory board on gender marker change requirement  
Before the Committee on Health

November 10, 2015

### Introduction

Good afternoon Mr. Chairman, Members of the Committee on Health and other Council Members. Please accept my gratitude for this opportunity to address the important issues raised by Introduction 491 and 492.

My name is Clara Yoon, and I'm here to talk about why it's so important to make it easy for transgender people born in NYC to change their gender marker on their birth certificate. I serve on the board of the New York City chapter of PFLAG. PFLAG stands for Parents, Families and Friends of Lesbian, Gay, Bisexual and Transgender people and our mission is to support, educate and advocate for our loved ones and to create a better future for them.

I am the proud mother of a transgender son. My son is 19 years old and he is a sophomore in college. My husband and I have supported my son's transition for the last 4 years and we are so proud of him. He has overcome, and continues to overcome, the many challenges of being a transgender person in a society that often discriminates and shuns the transgender community.

Early this year, I heard the wonderful news that New York State had updated its birth certificate correction policy, making it easy for transgender people to change their gender record without requiring surgery. However, I was told that New York City is excluded because it has its own policy. As the mother of a transgender son who was born in New York City, I was heartbroken and angry. It felt like a slap in the face.

### Current situation

My son came out as a boy when he was still in high school. His transition to live as male had social, medical, and legal components. His social transition from a girl to a boy included asking teachers and classmates to use his new male name and male pronoun, changing how he dressed, and using the men's washroom. His medical transition included hormone therapy and breast removal surgery. His legal transition included changing his legal name on his birth certificate and getting a new passport and driver's license with his new legal name and a correct gender marker.

My husband and I supported my son's transition through all these steps, which took lots of our time, energy and money. We went through hoops and hurdles and sometimes enlisted support from the organizations that serve the transgender community. We did all these because my son is a man. He has every right to feel comfortable in his body and self, and to live his life as the man that he is, without fear of being questioned, without having to be misrepresented as "female."

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Today, my son introduces himself and moves through the world as a man. There are only 3 places where my son is still listed as 'female': his K to 12<sup>th</sup> school record, his medical record, and his birth certificate from New York City. Without correcting these records, I always fear my son will get into situations where he has to explain his 'trans' history. As a transgender person, my son is at risk of humiliation and discrimination – or worse, physical danger or violation. My son's trans history should be allowed to stay private if he so wishes, not broadcast to everybody on his birth certificate.

The current policy on NYC birth certification correction requires my son to provide proof of genital surgery. As parents, my husband and I will support my son as he considers further medical procedures to help him feel comfortable with his body. However, this should be my son's decision based on his personal wishes, not because the surgery is required to correct his birth certificate.

For now, my son has a valid passport and driver's license with a correct "male" gender marker to get by. The NYC birth certificate that still shows my son as 'female' invalidates and essentially mocks my son's existence as a person in this society. Throughout his life, my son will have to avoid showing his birth certificate to others since it clearly does not match with the gender he is. Essentially my son does not have a birth certificate unless he goes through surgery just to get his gender marker corrected. How absurd is that!

## Community impact

I also would like to highlight there are many parents like us who want to see the changes to the current policy. In addition to enabling transgender people to obtain proper identification easily, changes to the current policy will also reduce stress, fear and anxiety of parents especially those who have young transgender children, as young as 3 to 4 years old. In addition, it will help improve society's perception of transgender people by removing the focus on 'genitals' from the birth certificate correction requirements. Finally, it will give hope to many transgender people and their families that progress is being made and that the world will be a safer place for them.

## Recommendations

The current birth certificate correction policy must be changed so that my son and others like my son can have proper identification for their safety and live a life of dignity and pride. My courageous and fabulous son has right to live a life without a fear of being discriminated against and accused of being a fraud. Lifting the surgical requirement for birth certificate correction is the right thing to do and I ask you to do the right thing to benefit many transgender individuals like my son who proudly call NYC their place of birth.

Thank you.

Clara Yoon  
PFLAG NYC, Board

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## Testimony of Carrie Davis on Intros. 491 and 492

*Int. No. 491: In relation to amending sex designation on birth records*

*Int. No. 492: In relation to reporting and an advisory board on gender marker change requirement*

Before the Committee on Health

November 10, 2014

Good afternoon Mr. Chairman, Members of the Committee on Health and other Council Members: please accept my appreciation for the opportunity to address the important issues raised by Intros. 491 and 492.

My name is Carrie Davis. I am the Chief Programs & Policy Officer at New York City's Lesbian, Gay, Bisexual & Transgender Community Center (The Center), where I have worked since 1998.

I have been very fortunate over these last 16 years to have been able to collaborate with the City of New York as it has struggled, step by step, to endeavor to address the basic needs of transgender New Yorkers. This has including working with the City Council to amend the Human Rights Law in 2002, working with the Commission on Human Rights to develop guidelines for that law, and working with numerous City agencies and departments such as the Human Resources Administration (HRA), the Department of Corrections (DOC), the Department of Homeless Services (DHS), the Police Department (NYPD), and others to develop new practices and amend their internal policies to better serve transgender people.

Since 2004, initially with transgender legal experts Dean Spade and Paisley Currah, I have worked in coalition with advocates, peers, the Board of Health and now the City Council to allow transgender people born in New York City access to accurate and affirming birth records.

While some transgender people have a safe and healthy journey to self-sufficiency and future employment, others are placed at risk by substantial social stigma and developmental disruptions. These often cascade to lifelong difficulties with health, educational attainment, and economic productivity.<sup>1</sup> The Center has sought to address this with services for transgender people beginning in 1989 when our Gender identity Project was founded.

Despite the amazing work that has been done so far, an invidious cultural stigma still labels transgender people as mentally ill, deviants, addicts, fraudulent and as sexual

predators. This stigma forcefully clashes with the lived experiences of transgender people and negatively impacts their lives at almost every turn. Only one in five transgender people has identification that matches their current identity, meaning that most are in danger of disclosure of transgender status every time they apply for a job or housing, or interact with the police. Transgender people have twice the rate of unemployment compared to the national average, and nearly all report having experienced harassment or discrimination on the job or taking actions to hide their identity in order to avoid it. As a consequence, transgender people are nearly four times more likely to have an annual income of under \$10,000 than the general population.<sup>2,3</sup>

All of this significantly increases the contact and associated costs that transgender people have with the homeless, medical, mental health, legal and criminal systems here in New York City.

Birth certificates are a foundational tool as we seek to address this negative cascade. The National Association for Public Health Statistics and Information Systems notes, "*A birth certificate breeds all others: Social Security cards, school records, driver's licenses, passports and employment records. In the United States, it means citizenship.*"<sup>4</sup> Having a birth certificate that shows the wrong gender can make doing any of those things difficult or impossible. When transgender people show a certificate with a gender other than the one they live in, they may be accused of fraud, turned away, harassed, arrested, attacked, humiliated and discriminated against. Even in the best of cases they may face embarrassment, confusion and delays in procedure.

To that end, the transgender individuals that we deny citizenship to – those who are unable to present accurate identification when they travel or apply for employment, will

<sup>1</sup> Centers for Disease Control and Prevention. (2011). *Lesbian, Gay, Bisexual and Transgender Health*. Retrieved March 5, 2014, from <http://www.cdc.gov/lgbthealth/about.htm>

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<sup>2</sup> Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M. (2011). *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force.

<sup>3</sup> Hanssens, C., Moodie-Mills, A. C., Ritchie, A., Spade, D., & Vaid, U. (2014) *A Roadmap for Change: Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV*. New York: Center for Gender & Sexuality Law at Columbia Law School.

<sup>4</sup> National Association for Public Health Statistics and Information Systems (May 2005). *White Paper on Recommendations for Improvements in Birth Certificates*

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undoubtedly continue to be harmed. It is not difficult to imagine the human capital and other resources that are and will continue to be wasted in this process if we don't grasp the opportunity we have before us today.

Along with New York City's responsibility to document births is the responsibility to document them accurately. It is in the best interests of New York City and its transgender citizens to have access to accurate birth records. This duty of proud local jurisdictions like New York City should never become a barrier to anyone's active participation in our society.

The bill proposed to allow transgender people to amend their birth certificates without requiring that they undergo what is often inaccurately termed sex reassignment is a highly positive action that directly addresses the challenges faced by transgender New Yorkers as they seek access to the same privileges and rights that others already enjoy. This long overdue change enhances the social and economic opportunities for transgender people born in New York City and reinforces our City's commitment to respect and inclusion. It is neither radical nor unique, and is a common-sense step to bring New York City in line with current standards, as follows:

- The current policy, written in 1971 and slightly modified in 2006, is outdated. New York City has fallen behind other jurisdictions – including New York State and the federal government,<sup>5</sup> as well as California, Vermont, Oregon, and Washington. The proposed changes will bring New York City's birth certificates in line with these standards by removing obsolete and unnecessary surgical requirements for correcting a birth certificate.
- The vast majority of transgender New Yorkers have inaccurate birth certificates and have not had the sterilizing surgeries the current policy requires. In addition, these surgeries may not be an option for many transgender New Yorkers due to health conditions or discriminatory health insurance exclusions.
- The proposed policy is consistent with the established medical consensus that identity documents should match the person. The American Medical Association, American Psychological Association, World Professional Association for Transgender Health, and the National Association of Social Workers all agree that surgery should not be required to correct the sex on identity documents.
- Birth certificates are living documents that are corrected routinely when they do not accurately reflect a person's identity. The information on them is used to confirm a

person's current identifying details in many contexts like adoption or name changes.

- Birth certificates in New York are required for numerous reasons including, but not limited to: obtaining professional certifications, obtaining drivers' licenses and passports, demonstrating work eligibility; registering for school, obtaining access to public facilities, obtaining a gun permit, and obtaining access to public benefits. Using mismatched birth certificates can lead to other mismatched documents, which all lead to harassment, discrimination, accusations of fraud, denial of service and reduced opportunity.
- The list of providers able to give the evidence required in the proposed legislation should be as broad as possible. While the only person that can authentically attest to one's gender is the individual in question, those included on the proposed list are all licensed by New York State and their professional training and expertise allow them all to confirm that a corrected birth certificate would more accurately reflect the gender of an applicant. In particular, it is important to maintain Licensed Master Social Workers (LMSWs) in this list. To this end, transgender people are often unable to access adequate care due to a combination of discrimination, unemployment, and lack of health insurance. Transgender people are more likely to delay medical treatment due to discrimination and/or inability to pay. Any reasonable list of providers should include those qualified individuals who are the most readily available to the broadest range of New Yorkers – in particular LMSWs, whose scope of practice includes similar attestations and who serve many vulnerable and underserved New Yorkers.

Our Mayor, Bill de Blasio has said he *"is committed to making sure every child gets a great education, protecting our streets and our communities, and building a city where New Yorkers from all five boroughs can start businesses, raise their families, and afford to live in their own neighborhoods."*<sup>6</sup> Our transgender citizens wish to do and deserve the same things.

Let us celebrate this collective vision as we take a potent step forward with Intros. 491 and 492.

Thank you,



Carrie Davis, MSW  
Chief Programs and Policy Officer  
The Lesbian, Gay, Bisexual & Transgender Community Center

<sup>5</sup> For Consular Reports of Birth Abroad.

<sup>6</sup> <http://www1.nyc.gov/office-of-the-mayor/bio.page>

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November 10, 2014

My name is Melissa Sklarz. I am a Director of the New York Trans Rights Organization, a collection of New York trans activists from Buffalo to Brookhaven. I am also a transgender, transsexual woman born in New York City in the last century. I am here to speak in favor of the new birth certificate changes on behalf of trans women and men.

You will hear from experts today talk about trans men who do not get genital surgery to complete their gender transition. You will hear about the prohibitive cost of genital surgery for many trans women. You will hear about the profound change in the science and our culture and how outdated birth certificates will hurt transgender children as they mature into adulthood.

My story is simple. I have been living and working and paying taxes as Melissa for 20 years. All of my documentation is clearly and simply stated as Melissa and female, except for my birth certificate, and, sadly, my passport. In pre 9/11 America, while complicated to change documentation for transgender people, it was possible, and the more acclimated to our society, the less complicated these procedures became. For example, no one questioned the shape and size of my genitals when I signed my mortgage in Queens.

Because of Federal regulations and my outdated birth certificate, I have not owned a passport in 25 years. In 2010, President Obama changed Passport regulations to allow passport sex designation to change without surgery, similar to the changes we are requesting today. So although I have seen the lava flows of Hawaii and the rain forests of Puerto Rico, I have been unable to leave the country.

The process is thorough and complicated. There are 7 steps, including legal name change documentation and a formal letter from one's doctor. My doctor changed his letterhead to accommodate me in my search for passport, to insure every word and letter were perfect.

But the key was my birth certificate. I tried on-line to get a formal copy, but the new name and the old name problem crashed the on-line system, although they did take my money, twice.

The only way to get the birth certificate was to go downtown to the NYC Bureau of Records, which I did.

Now with my outdated birth certificate, my doctor's note, more money and the other necessary documentation, I submitted the entire package to the clerks at the Post Office. They got the situation immediately and after their approval, off it went to the passport creators in North Carolina.

When the passport returned, they got everything right, except for the gender marker, still designated as male. I was very upset over what was obviously a clerical mistake and so I tried to fix it with a heartfelt sincere letter pointing out their obvious confusion. Not only was my appeal rejected, but the letter was address to Mr. Sklarz, a designation I have not heard in 20 years. My only option, it appears, is to start over again from scratch, but now apply for an amended passport, using the same obsolete birth certificate and hope the papers are processed correctly, without additional information from me.

You will not find a transsexual person in New York more politically involved and aware than myself. I have been advising on trans issues to the last three New York governors, the last three New York City mayors and the NY City Council itself, since the 1990s.

Yet, if an outdated birth certificate can stop me from completing a transition that effectively ended years ago, what happens to other people not as involved in policy as me?

Most New Yorkers are proud to consider New York the home of progressive thought and policy. But for trans people, with outdated regulations as these, our journeys are confronted by an uncaring and unyielding bureaucracy.

I am thrilled at this moment. I was part of the birth certificate team in 2006 and it never occurred that it would take another 8 years to have this hearing with the Council. I am grateful to Speaker Mark-Viverito, Councilmember Johnson, and The Health Committee for convening this hearing and look forward to the New York policy transgender birth certificate policy be brought into the 21st century.

Melissa Sklarz

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**Testimony of the New York Legal Assistance Group**

**Before the New York City Council  
Committee on Health  
Regarding Proposed Bill Int. No. 491  
November 10, 2014**

Thank You Committee Chair Johnson and members of the Committee on Health for spearheading this important bill.

My name is Ashe McGovern and on behalf of the New York Legal Assistance Group and its LGBTQ Law Project, we offer our strongest support for the proposed amendment to the Administration Code of the City of New York, to amend sex designation on birth records.

The New York Legal Assistance Group (NYLAG) serves immigrants, seniors, the homebound, families facing foreclosure, renters facing eviction, low-income consumers, those in need of government assistance, children in need of special education, domestic violence victims, persons with disabilities, patients with chronic illness or disease, low-wage workers, and Holocaust survivors, as well as others in need of free civil legal services. The LGBTQ Law Project at NYLAG, provides free legal services and advocacy to low-income Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) communities throughout New York City. We work to defend and expand the rights of New York City's LGBTQ communities by offering legal advice and representation on a wide variety of poverty-related civil legal matters. The LGBTQ Law Project focuses on removing discriminatory barriers and increasing our client's access to: employment, housing, public assistance, legal name changes, family law and gender-affirming healthcare.

We applaud the proposed change to NYC's birth certificate policy to remove the surgical requirement currently required to change the gender marker on a New York City birth certificate. We believe this new policy will increase access to critical identity documents for transgender and gender non-conforming people born in NYC. The proposed change will also bring NYC's policy in line with the rest of New York State, and in accordance with modern medical standards<sup>1</sup> recommending that transgender and gender non-conforming people may obtain new birth certificates without first requiring gender affirming surgery.

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<sup>1</sup> WPATH Standards of Care:

[http://www.wpath.org/uploaded\\_files/140/files/Standards%20of%20Care.%20V7%20Full%20Book.pdf](http://www.wpath.org/uploaded_files/140/files/Standards%20of%20Care.%20V7%20Full%20Book.pdf)

## **Transgender and Gender Non-Conforming Communities are Extremely Vulnerable to Discrimination, Harassment and Mistreatment**

Transgender and gender non-conforming (TGNC) communities experience devastating levels of discrimination, harassment, and mistreatment in nearly every aspect of their lives, particularly in attempting to access stable employment, safe healthcare, secure housing and economic stability.

According to the most comprehensive national survey of TGNC communities in the United States<sup>2</sup>, over half of the survey respondents report losing a job specifically as a result of their employer's bias. Ninety (90) percent of those surveyed report experiencing harassment, mistreatment and discrimination at work or took actions such as hiding who they are to avoid being retaliated against. Respondents who had lost a job because of bias experienced tragic consequences, including a four times higher likelihood of being homeless and an eighty-five (85) percent increased likelihood of being subject to incarceration.

Over half of those surveyed also report being harassed in places of public accommodation, including hotels, restaurants, buses, airports and government agencies. Nearly one-fifth of those surveyed report being refused medical care due to their transgender or gender non-conforming status, and almost one-third of respondents postponed medical care all together. Nearly one-fifth report being refused a home or apartment because of their gender identity or expression.

As a result of these widespread experiences of discrimination, TGNC communities, particularly communities of color, are four times more likely to live in extreme poverty and earn less than \$10,000 annually. Nearly sixty (60) percent report being survivors of physical or sexual assault during their lifetimes and over half have experienced significant family rejection<sup>3</sup>.

### **The Proposed Amendment Will Decrease TGNC Vulnerability to Discrimination, Harassment and Mistreatment**

Having inaccurate or mismatched identity documents significantly increases the likelihood that TGNC community members will be forced to "out" themselves to potential employers, landlords, healthcare providers or government workers, exposing them to the aforementioned discrimination, harassment, and mistreatment. In a recent survey, four out of ten of transgender people said they experienced harassment when presenting identity documents that did not match their gender<sup>4</sup>.

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<sup>2</sup> 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.

<sup>3</sup> See id.

<sup>4</sup> See id.

The vast majority of transgender New Yorkers have inaccurate birth certificates. Eight out of ten transgender women and nine out of ten transgender men have not had the surgeries the 1971 policy requires. All the people who requested services of the LGBTQ law project because they wish to correct the gender marker on their City issued birth certificate have been unable to because of the surgical requirement imposed in 1971. Although other agencies have updated their policies to remove the surgical requirement currently codified by New York City, one's birth certificate remains a vitally important document in accessing a variety of systems. An accurate birth certificate would help facilitate TGNC community members' access to other important documents and it is often the only form of identification low-income New Yorkers have in accessing employment, healthcare, government benefits programs, or housing.

### **The Proposed Amendment Will Bring New York City in Line With Currently Accepted Medical Consensus**

The birth certificate policy, written in 1971 and unchanged in over 40 years, is outdated and no longer in line with modern medical consensus. In June of 2014, the American Medical Association issued a statement specifically recommending that TGNC communities should be free to change the gender marker on their birth records regardless of whether or not they have had gender affirming surgeries. The World Professional Association for Transgender Health (WPATH) is also recommends that "no person should have to undergo surgery. . . as a condition of identity recognition."

Furthermore, the implicit presumption in the current policy, that surgery is a threshold requirement for transgender people to affirm their gender, is inaccurate. Gender affirming health care includes a range of treatments and differs according to the needs and overall health of individual transgender people. Gender affirming surgery may be medically necessary for a given individual. Having undergone a particular medical intervention, however, is not the appropriate marker of whether a transgender person is a man or a woman. Many TGNC community members choose not to have surgery for a variety of reasons, including health restrictions or personal preference. Many others, even if they would like to access surgery, are unable to afford it because both private and public insurance programs, including New York's own Medicaid program, have explicit exclusions for transgender-related surgeries. As a result, TGNC community members are only able to access these expensive procedures if they are able to pay out-of-pocket, making this standard especially burdensome for low-income New Yorkers who cannot afford to have any form of surgery.

### **The Proposed Amendment Will Bring New York City in line with other Jurisdictions who have Modernized their Birth Certificate Record Procedures**

Other jurisdictions have already modernized their birth record laws, allowing TGNC community members to obtain new birth certificates without first requiring gender affirming surgery. For example, in May of 2014, the New York State Department of Health removed its surgical

requirement for correcting gender on birth certificates for the entire state, outside of New York City. Similarly, California, Vermont, Oregon, Washington, Rhode Island, and the District of Columbia have all removed surgical prerequisites in their respective states for access to accurately gendered birth certificates.

Even the federal government has modernized their procedures. In June of 2010, the U.S. Department of State announced that TGNC people may change the gender marker on their passport after receiving certification from qualifying professionals that they have undergone appropriate clinical treatment, which need not include surgery of any kind.

We hope that New York City will be the next jurisdiction to follow suit. TGNC community members are among the most vulnerable residents of New York City and desperately need access to accurate identification documents in order to decrease their likelihood of experiencing discrimination, harassment, and mistreatment.

NYLAG applauds the City Council for taking this critical step towards modernizing the City's code to reflect current medical consensus and to ensure that all TGNC community members are able to access stable employment, safe healthcare, secure housing and economic stability free from discrimination.

Respectfully submitted,

Ashe McGovern  
New York Legal Assistance Group

Testimony of Legal Services-NYC

On

**Int. No. 491**

**In relation to amending sex designation on birth records**

Presented before:

The New York City Council

Committee on Health

Presented by:

Cathy Bowman

LGBT & HIV Unit Director

South Brooklyn Legal Services

November 10, 2014

As director of the LGBT & HIV Unit of Brooklyn Legal Services, I regularly witness the problems faced by low-income transgender New Yorkers whose identification documents do not match their actual genders. The ability to correct one's birth certificate is a powerful asset for transgender individuals seeking to obtain accurate identification, particularly from those governmental agencies that continue to make it difficult for people to change their gender markers.

Unfortunately, one of those agencies is the NYC Human Resources Administration (HRA), which at this point appears to be stymied in their attempts to allow clients to change their gender markers by the NYS Department of Health and NYS Office of Temporary and Disability Assistance (OTDA). These agencies, which have a substantial impact on the lives of low-income people throughout the state, have resisted allowing transgender clients to change their gender markers and continue to require *both* an amended birth certificate and proof of gender re-assignment surgery. This policy results in many low-income transgender people being forced to use identification cards showing a sex designation that does not match their actual gender in order to access cash, medical care, and SNAP benefits, putting them at risk of harassment and violence. There is hope that the amendments before the Counsel today, coupled with the recent changes to New York State's birth certificate amendment process, could act as a catalyst for DOH and OTDA to allow changes to gender marker based on similar requirements.

The very attempt to change gender markers at governmental agencies often creates situations in which transgender people are forced to deal with verbal abuse and harassment regarding their gender. Two years ago, Legal Services NYC brought two separate transgender discrimination cases against the Human Resources Administration (HRA) on behalf of individuals who had experienced demeaning and humiliating treatment when they attempted to correct the gender marker on their identification cards. In one of these cases, *Doe v. the City of*

*New York*, the State Supreme Court in New York County found that the barriers faced by a transgender woman while accessing her benefits threatened her continued receipt of the benefits themselves and that, while HRA's policy appears to be equal across the board, its practical impact for the transgender community is not.<sup>1</sup>

The current requirements for amending birth certificates in NYC are outdated and do not reflect our current understanding of gender identity. For many reasons, gender re-assignment is not prevalent in transgender communities. Eight out of ten transgender women and nine out of ten transgender men have not had the surgeries that the NYC DOHMH currently requires to change a birth certificate. Identity documents that do not match a person's actual identity can make that person a target for discrimination, accusations of fraud, denials of service, and all sorts of other administrative and logistical problems. Four out of ten of transgender people have faced harassment when presenting identity documents that did not match. Many others report being denied entry or asked to leave an establishment, and some have even experienced physical assault due to mismatched ID.<sup>2</sup>

In a recent example, an HIV+ transgender woman went to King's County Hospital emergency room an E. coli infection with symptoms including a fever of 104, vomiting, and diarrhea. When she arrived, she was asked why her benefits card said that she was male. When she explained that it was because she is transgender, the nurse replied "I'm not gonna deal with that" and listed her gender as male. She waited many hours for treatment and believes the staff ignored her because she is transgender. She asked several times for help and even asked for a social worker and for Human Resources, but no one came. She checked herself out the next day and sought treatment elsewhere.

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<sup>1</sup> *Doe v. City of NY*, 2013 N.Y. Slip Op. 23403.

<sup>2</sup> *National Transgender Discrimination Survey*, [http://www.thetaskforce.org/reports\\_and\\_research/ntds](http://www.thetaskforce.org/reports_and_research/ntds).

The proposed legislation would allow transgender individuals who were born in NYC to access a variety of systems and other forms of identification without facing these types of barriers. Birth certificates in New York are required for, among other things: obtaining professional certifications; obtaining drivers' licenses and passports; demonstrating work eligibility; registering for school; obtaining access to public facilities; obtaining a gun permit; and obtaining access to public benefits. Using mismatched birth certificates can lead to *other* mismatched ID documents, which all lead to harassment, discrimination, accusations of fraud, and denials of service.

Due to discrimination in housing, employment and education, transgender people already are disproportionately unemployed, HIV+ and homeless. Barriers to accurate identity documents should not be allowed to further marginalize this already vulnerable population. A piece of paper should not be the only way for us to be able to show the world who we are.

**Testimony before the New York City Council Committee on Health**

**Re: Int. No. 491 and Int. No. 492**

**November 10<sup>th</sup>, 2014**

**Bahar Akyurtlu, Speaking on behalf of GLOBE and Make the Road NYC**

Hello, my name is Bahar Akyurtlu, I am a transgender woman, a graduate student at Cornell University, and a current staff member at the Queer Detainee Empowerment Project here in New York City.

Dear members of the City Council, thank you for allowing me time today to speak with you about this important issue. First, I would like to say that I am very excited that the Council is taking positive steps to address this longstanding problem for the transgender community. I sincerely hope that you will buck the trends of prior commissions that allowed unfounded fears and misconceptions about transgender people to trump needed civil rights. The requirement of surgical interventions that was instituted the last time this issue was heard by the Council is one that identification-granting agencies in many states, including New York state, and the federal government have seen fit to remove over the last decade. Surgical interventions are extremely expensive, not readily accessible in most parts of the country (including New York State), and are intensely physically demanding processes, which makes surgery wholly unreasonable as a mandatory bureaucratic procedure. In addition, all the major national and international medical organizations – such as the AMA, APA, WHO, and WPATH, the World Professional Association for Transgender Healthcare, which sets the accepted Standards of Care – have agreed that surgeries, while absolutely critical for some, are not desired by all transgender people and are not strictly necessary to identify and live

as a transgender person. Surgeries are personal medical decisions and should not in any way be taken as a sign of a person's sincerity about their identity. Furthermore, to even require a person to prove their intentions in such an invasive way only serves to enshrine as a matter of law deeply pernicious stereotypes of transgender people as untrustworthy, deceitful, and therefore needing constant supervision and surveillance so as to maintain the safety of others.

As a transgender woman who lives in New York City, I have many friends close to me who were born here in the city who would be affected by this change. Being unable to obtain consistent documentation is a common problem that contributes many difficulties to transgender people's lives. Many landlords and employers run background checks on prospective tenants, and inconsistencies can open up transgender individuals to discrimination on the basis of their identities. It can also lead to problems securing proper identification for transgender people born in New York City but now residing in other states. In addition to the same problems as previously mentioned, many of the states that have issued new restrictions on identification for voting purposes are also states that lack even minimal legal protections for transgender people, which leaves their right to vote in an extremely tenuous position. While it might seem like a small thing to others, being recognized for who we are has enormous personal value and gives a small modicum of control in a world that is all too ready to judge us.

I thank you for time listening to me while considering this issue. I hope that you will help uphold New York's strong progressive tradition by eliminating this burdensome requirement that creates difficulties for so many already vulnerable citizens.

My name is John Skwiersky, and I am an attorney with the Sylvia Rivera Law Project. We provide legal services and community support to transgender, intersex, and gender non-conforming people who are low-income or people of color.

Councilmember Corey Johnson's proposed legislation to remove the surgical requirements for transgender New Yorkers to change the gender markers on their birth certificates would be immeasurably good for our clients and community members. This would replace the current policy, which is outdated, as it was written in 1971 and has not been amended since then.

Although within living memory, 1971 was a lifetime ago in terms of legal, scientific, and sociological research. The World Professional Association for Transgender ("WPATH"), formerly the Harry Benjamin Association, has long since moved from upholding the surgical standard as the measuring stick for transgender people to live their lives and obtain congruent identity documentation. Fully eight out of every ten transgender women and nine out of every ten transgender men (80-90% of transgender people) have not had the surgeries required by the current (1971-enacted) policy. These surgeries are not accessible to the vast majority of transgender people, due to health conditions, discriminatory health insurance exclusions, or other personal reasons.

Moreover, in an age of increased identification, it is all the more important for all New Yorkers, particularly those most marginalized, to have matching documentation. The birth certificate is a key document that unlocks access to a number of other IDs, including passports, HRA cards, driver's licenses and non-driver IDs, etc. Moreover, for many low-income New Yorkers, the birth certificate is the only form of ID that they have available to them, and thus they must show it when proving their identity to engage in any number of necessary activities, including applying for health insurance, applying for jobs, or enrolling in school. The lack of congruence can result in a slew of discrimination and negative consequences for transgender people, including denial of services, outing them so as to put them at risk for violence or being passed over for discriminatory reasons, allegations of fraud or identity theft, or simply holdups, wherein the person in question is caught in an administrative limbo due to red tape, causing them to have to jump through more hoops to access the same resources that non-transgender individuals access without a second thought.

New York and other states have long recognized that the birth certificate is a living document, which is why people have long been able to change their name on their birth certificate with a court-ordered name change, or as the result of other life matters like adoption. As outdated as the 1971 policy is, it, too, recognized the fact that birth certificates can and should adapt in order to provide congruence to the individual's life.

Councilmember Johnson's proposal would bring New York City's birth certificate policy in line with several other jurisdictions, including New York State as a whole (for driver's licenses/non-driver IDs and birth certificates of those New Yorkers born outside of the Five Boroughs), the federal government (for passports, immigration documents, and Social Security), and other states such as California, Vermont, Oregon and Washington, that have already modernized their policies.

This legislation is a simple, reasonable step that will help many people, and so I encourage all to adopt it as quickly as possible.

Thank you for your time.



November 10, 2014

The New York State Association of Licensed Midwives is pleased that this committee of the NY City Council has chosen to consider the two issues of sex designation on birth records and gender marker changes and to be given the opportunity to contribute to the information and wisdom you are gathering in these areas. For purposes of today's testimony, we will primarily focus on gender marker changes while presenting some of the cross over implications of the two realities.

Midwives understand that an individual's gender identity is not determined by a person's biological sex and may not always fall into the gender binary of female and male. Although many transgender and gender non-conforming people strongly identify as being a man or woman and choose to conform to conventional gender roles, others identify their gender as sliding along a spectrum of masculine and feminine that is unique to them. For these persons who identify as having a gender outside of the binary, they may describe themselves as being both a man and a woman, at times one and at other times another, a blend of masculine and feminine, neither man nor woman, multiply gendered, androgynous, or genderless. As is clear from this description, gender is a complex reality and often times a changing one.

In mainstream American culture, sex and gender are viewed as interchangeable concepts. Yet, to understand transgender identities one must recognize gender as separate and distinct from sex. The following definitions are used:

**Sex:** Biological or anatomical (phenotype) characteristics used to determine if a person is male, female, or intersex

**Gender Role:** Traditional behavioral differences between men and women as defined by a culture (masculine, feminine, androgynous)

**Gender Identity:** A person's sense of their own gender: 'Do I feel I am a man or woman?' "Do I feel I am something other than a man or woman?"<sup>7</sup>

When a person's sex (born with female genitalia), gender role (called a woman), and gender identity (self-identifies as a woman) match, she is "cisgender." Another way to define a cisgender person is someone whose gender is "considered universally valid," that is, no one would ever contradict his or her gender identity because it correlates with what is expected by mainstream society. When a person's sex, gender role, and gender identity do not match, he or she or ze or they, is "transgender", "gender variant", or "gender non-conforming." Transgender people

share the experience of having their gender identity considered as not universally valid. When a person has a condition involving anomalies of the sex chromosomes, gonads, reproductive ducts, and/or genitalia, they are considered “intersex.” Like those with “typical” male and female genitalia, intersex people are usually assigned a gender role at birth (girl or boy), which may or may not turn out to match their gender identity as it evolves. Some intersex people identify as transgender, but most do not. There are many, many intersex conditions that must be considered in this discussion. A good starting place for learning more about intersex conditions is the Intersex Society of North America, <http://www.isna.org/>.

Transgender and gender variant persons, who wish to make their sex and gender correspond on various identity documents, must provide proof of medical or surgical “correction” of their sex to their current gender identity. At present, a transgender person undergoing medical transition is able to change their passport and driver’s license to another binary gender designation; however, only a surgical procedure will satisfy the requirements for the correction of sex designation on a birth certificate. Although some transgender persons may choose surgery to affirm a binary gender identity, it is not appropriate for or desired by all persons; as such, even transgender persons for whom a binary identity fits may find it impossible to correct documentation. Additionally, for transgender persons for whom a binary gender identity is not affirming, there are currently no third-gender options for designation on documentation. Therefore, transgender and gender-nonconforming persons do not have an option for appropriately representing their gender identity on legal documentation. Although this may seem trivial to some, mismatching documents can be a source of humiliation, shame, and ridicule, and as well may cause unnecessary legal and security issues throughout life.

Given the complexity of possible gender identities and the relation to sex designation, we encourage the Committee on Health to create a third option for gender identification that is outside the gender binary. We applaud the Committee’s plan to consult with transgender, gender variant, and gender non-conforming communities to determine the best term and processes. This will be a challenging, on-going process that is critically needed in our society.

Respectfully submitted,

Patricia Burkhardt, LM, CM, DrPH, President  
Aiden Harrington, LM, CNM, MS, Member



## A United Voice for Doctors, Our Patients, & the Communities We Serve

Testimony of Frank Proscia, M.D.,  
President of Doctors Council SEIU  
Before the New York City Council Health Committee

November 10, 2014

Good Afternoon Chairman Johnson and members of the Health Committee. My name is Dr. Frank Proscia and I am the President of Doctors Council SEIU which represents thousands of doctors in the Metropolitan area, including in every HHC facility, the New York City Department of Health, and other New York City agencies. Thank you for the opportunity to testify today.

Doctors Council SEIU is here today in support of Intros 491 and 492 related to allowing individuals to amend the gender marker on their birth certificates and for the oversight of the implementation of this requirement.

We believe that current medical consensus suggests that surgery is neither appropriate nor necessary for many transgender people, and such a requirement therefore imposes an unreasonable and unwarranted burden on transgender individuals.

In June, the New York State Department of Health announced it no longer requires proof of gender reassignment surgery or hormonal treatments in order to change one's gender marker on a birth certificate.

Many transgender people – for financial, health or other personal reasons – choose not to undergo surgery or hormone therapy. For those who do, the physical transition process can take years to complete, leaving them without matching identification documents for a very long time.

Recently, the American Medical Association rejected "gender affirmation surgery" as the guiding requirement for changing birth certificates as

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## A United Voice for Doctors, Our Patients, & the Communities We Serve

inconsistent with current medical standards. The new AMA policy also supports that any change of sex determination on an individual's birth certificate must not hinder access to medically appropriate preventive care. Medical options for transgender people include a medically appropriate combination of mental health care, social transition, hormone therapy, in addition to the option of sex reassignment surgery.

Policy updates on gender markers will be crucial to the lives and well-being of transgender individuals in New York City.

There are significant quality of life issues at stake including the intrinsic value of having a birth certificate that corresponds to one's identity. Transgender people may have a strong need to change the gender marker on their birth certificate for many critical reasons related to employment, travel, schooling, as well as social recognition of their gender.

It is critical that they be able to obtain, without unnecessary obstacles, essential documentation from the City to accurately reflect their identity. As doctors in the public hospital system, we intersect with transgender New Yorkers every day who seek our care, our counsel and our guidance. By not requiring clinical or surgical treatment for a gender marker change, the City of New York's forward-thinking policy will be more in line with how transgender people live their lives and with the medical community's consensus on when a person's gender should be recognized.

As a union for doctors and a voice for patients, we strongly support the rights of transgender individuals to live their lives as all New Yorkers do and to receive quality affordable healthcare that we believe is a right for all New Yorkers.

Thank you for the opportunity to testify in support of Intros 491 and 492. I would be happy to answer any questions.

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New York City Council  
Committee on Health  
Monday, November 10, 2014

Comments on Int. 491 & Int. 492  
Amending sex designation on birth records & Reporting and  
an advisory board on gender marker change requirement

by

Marco Wylie

Good afternoon. My name is Marco Wylie and I am a plaintiff in Transgender Legal Defense & Education Fund's lawsuit challenging the current New York City requirement that transgender people undergo surgery in order to update their birth certificates.

I would like to ask all of you to picture the most personal thing about your-self. Something that, perhaps, you feel terrified to disclose. Something you would be scared to tell someone for fear of rejection or embarrassment. Now I want you to imagine writing it down in big bold letters and posting it on the walls of your work place, in an email sent to everyone you know, and on a t-shirt for everybody to see. That is a glimpse into what my life often feels like as a transgender person. Transitioning is one of the most private things a person can go through. Trans people do not have the luxury of hiding away during this process; instead, every one you know gets to watch.

I was born May 11th, 1985 in New York City, and labeled female at birth. I went to an all-girls school right here in the city for ten years, during which time I was taunted, teased, and harassed in many ways by my peers as well as some of the faculty. As a child I wore short hair and gender-neutral clothes when I wasn't in my uniform made of a tunic and a puffy sleeved blouse. Just being gay at that school was bad enough. People on the street would assume I was a boy until I reached a certain age where it became apparent that I was not. Strangers would stare and taunt, some would even resort to violence. Friends wouldn't hang out with me, let alone even hold my hand for fear of what others might think of them. I was a very depressed child as a result, and still struggle with depression to this day.

At an early age I saw a lot of therapists and doctors, mostly out of my school's request. I was diagnosed with Gender Identity Disorder at the age of eight and yet nobody spoke to me about it or knew what to do with that label. When I was growing up, I didn't know any trans people. I didn't even know many gay people. It was only when I went to college that I first learned the word transgender and had a friend who had already transitioned. It terrified me because I felt very similar. I knew that this was something that hit very close to home and I chose to ignore it out of fear. Growing up it was so ingrained in my mind that girls who dressed like boys and boys who dressed like girls were somehow shameful and sick. In college I grew my hair long and began wearing push up bras and feminine clothes. I tried desperately to be a woman and even tried to convince myself that I desired men, thus denying myself of who I really was.

It was only a few years after I graduated that I realized my depression was rooted in my horrible childhood experiences. I began therapy for the first time on my own and on the first day, sat down on the couch, and said through tears, "I'm worried I'm trans and I don't want to be." It took a long time for me to accept my-self and become the strong person I am today. Transitioning is by no means a walk in the park. A lot of trans people experience loss of their family and friends, they're fired from their jobs, evicted from their homes, and threatened at times to the point of death.

Having this law changed for trans people would be a major step for human rights. It doesn't make sense that you can change your gender and name on every single form of identification, but not on your birth certificate. People need congruency. Not letting this law pass will definitely continue the abuse trans people experience. You can change so many lives by changing this law.

Requiring people like me to have what is called "bottom surgery" in order to change their gender on their birth certificates is an unjust thing to ask of any-body. I don't want or need that surgery as part of my transition. Moreover, many trans people cannot afford to have surgery, let alone even pay for therapy or hormones. To request this is unjust and it furthers the discriminatory mindset that leads people to harm the trans community.

Being who you are is a human right. And much like how people treated the lesbian and gay community in past decades, trans people experience much of the same treatment today. Not allowing people to fully transition by changing all of their documents furthers the injustice that promotes violence and hatred toward us. I hope that my story and the factual information I've discussed will help sway you to understand why this is necessary for people. I just want to make sure that nobody has to go through the humiliation and cruelty that I endured, and passing this law will make a huge difference in making that a reality.



New York City Council  
Committee on Health  
Monday, November 10, 2014

Comments on Int. 491 & Int. 492  
Amending sex designation on birth records & Reporting and  
an advisory board on gender marker change requirement

by

Michael D. Silverman  
Executive Director  
Transgender Legal Defense & Education Fund

My name is Michael Silverman and I am executive director of the Transgender Legal Defense & Education Fund, or TLDEF. TLDEF is a nonprofit law office located in Manhattan. TLDEF is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through public education, test-case litigation, direct legal services and public policy efforts.

We bring test-case litigation around the country designed to advance the rights of the transgender community. One such case is our lawsuit against the City of New York and the New York City Department of Health & Mental Hygiene – filed in 2011 - challenging the requirement that transgender people undergo “convertive surgery” before the city will correct their birth certificates.

We also provide direct services to transgender New York City residents through our Name Change Project, which provides free legal name change services to transgender people through partnerships with private law firms and corporate legal departments. To date, we have served over 1600 community members through the project. The data we collect on community members’ lives is stark: They are overwhelmingly poor, with nearly two-thirds receiving Medicaid or another form of public assistance. Two-thirds report an annual income of less than \$10,000, with most of those having no identifiable sources of income. 84% of clients reported an income of less than \$20,000.

Our deep understanding of the difficulties that transgender people face when seeking access to health care, employment, public benefits, housing, and many other matters animates

our response to the proposed changes to the New York City Health Code (the “Code”) as reflected in Int. 491.

We commend and support the Council for its efforts to amend the Code. Eliminating the requirement that a person requesting a change to the gender marker on their New York City birth certificate present proof of convertive surgery is a step that is in line with changes made by other jurisdictions as well as with current standards of medical treatment for individuals diagnosed with gender dysphoria.

### **Accurate Birth Certificates are Vital for Transgender New Yorkers**

The vast majority of native transgender New Yorkers have inaccurate birth certificates. Eight out of ten transgender women and nine out of ten transgender men have not had the surgeries the Health Department currently requires to correct their birth certificates.<sup>1</sup> To correct the sex designation for transgender individuals, the Health Department currently requires proof of “convertive surgery,”<sup>2</sup> which is interpreted exclusively to mean genital reassignment surgery.

Accurate birth certificates are important because birth certificates are living documents that are increasingly used in many contexts to prove identity, age, and citizenship. They may be the only form of ID that low-income New Yorkers have when applying for jobs or public benefits.

Barriers to accurate identity documents further marginalize this already vulnerable population. Due to discrimination in housing, employment and education, transgender people are disproportionately unemployed, HIV+ and homeless.<sup>3</sup> When transgender people are forced to present incorrect ID, they are subject to harassment, discrimination, and accusations of fraud. They can even be turned away from receiving vital public services, such as Food Stamps, cash assistance, and HIV/AIDS Services Administration (HASA) benefits.

### **Medical Consensus Favors Accurate Identity Documents for Transgender Individuals**

The medical consensus recognizes that legal documents should reflect a transgender person’s affirmed sex. The American Medical Association, American Psychological Association, World Professional Association for Transgender Health, and National Association of Social Workers all support changing identity documents, including birth certificates, without requiring surgery.<sup>4</sup>

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<sup>1</sup> Grant, Jamie M. et al., *Injustice at Every Turn: A Report of the National Transgender Non-Discrimination Survey*, National Center for Transgender Equality (2011) at 79 <endtransdiscrimination.org/PDFs/NTDS\_Report.pdf>.

<sup>2</sup> This convertive surgery standard is also often applied to individuals with differences in sex development who need to correct the sex designation on their birth certificate past infancy.

<sup>3</sup> See generally, Grant, *supra* note 1.

<sup>4</sup> AMA, H-65.967 Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients <<https://ssl3.ama-assn.org/apps/ecommm/PolicyFinderForm.pl?site=www.ama-assn.org&uri=/resources/html/PolicyFinder/policyfiles/HnE/H-65.967.HTM>>; WPATH, Identity Recognition Statement <[http://www.wpath.org/uploaded\\_files/140/files/Identity Recognition Statement 6-6-10](http://www.wpath.org/uploaded_files/140/files/Identity%20Recognition%20Statement%206-6-10.pdf) on

## NYC Has Fallen Behind Other Jurisdictions – Including New York State – That Have Updated Their Policies

Many states have updated their birth certificate policies in recognition of the fact that an individual's sex depends on more than just surgical status. The following jurisdictions require a health care provider's certification rather than proof of surgery: California,<sup>5</sup> New York State,<sup>6</sup> Oregon,<sup>7</sup> Vermont,<sup>8</sup> Washington,<sup>9</sup> District of Columbia,<sup>10</sup> Iowa<sup>11</sup> and the federal government (for U.S. citizens born abroad as well as for passports,<sup>12</sup> Social Security records,<sup>13</sup> and green cards and naturalization certificates<sup>14</sup>). Transgender people seeking to amend their birth certificate's

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letterhead.pdf>; APA, Transgender, Gender Identity, & Gender Expression Non-Discrimination, <<http://www.apa.org/about/policy/transgender.aspx>>; NASW, Transgender and Gender Identity Issues, in *Social Work Speaks: National Association of Social Workers Policy Statements 2009-2012*, p. 347 (8th ed. 2009).

<sup>5</sup> Cal. Health and Safety Code § 103425-103445 (“The petition shall be accompanied by an affidavit of a Physician attesting that the person has undergone clinically appropriate treatment for the purpose of gender transition, based on contemporary medical standards...”).

<sup>6</sup> Internal Policy of New York State Department of Health, on file with Transgender Legal Defense and Education Fund (June 2014).

<sup>7</sup> Or. Rev. Stat. § 33.460 (“A court . . . may order a legal change of sex and enter a judgment indicating the change of sex of a person if the court determines that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition and that sexual reassignment has been completed.”).

<sup>8</sup> 18 V.S.A. § 5112 (“An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence for the court to issue an order that sexual reassignment has been completed.”);

<sup>9</sup> Washington Dept. of Health Proc. CHS-B5 (2008) (requiring a physician's letter “stating that the requestor has had the appropriate clinical treatment.”).

<sup>10</sup> Code of the District of Columbia § 7-210.01 (“The individual has undergone surgical, hormonal, or other treatment appropriate for the individual for the purpose of gender transition, based on contemporary medical standards”). See also Birth Certificate Gender Designation Application Form <<http://doh.dc.gov/node/778482>> and Statement of Licensed Healthcare Provider Certifying the Applicant's Gender Change <<http://doh.dc.gov/node/778492>> (allowing a certification from a licensed physician, osteopathic physician, psychologist, clinical social worker, professional counselor, or nurse practitioner).

<sup>11</sup> Iowa Code, §144.23(3) (“A notarized affidavit by a licensed physician and surgeon or osteopathic physician and surgeon stating that by reason of surgery or other treatment by the licensee, the sex designation of the person has been changed. The state registrar may make a further investigation or require further information necessary to determine whether a sex change has occurred.”)

<sup>12</sup> U.S. State Department Foreign Affairs Manual, 7 FAM 1300 Appendix M: Gender Change, *available at* <<http://www.state.gov/documents/organization/143160.pdf>> (“Sexual reassignment surgery is not a prerequisite for passport issuance.... The same documentary requirements specified above for passport services would pertain to amending gender in a [Consular Report of Birth Abroad of Citizen of the United States of America].”).

<sup>13</sup> Soc. Sec. Admin, *RM 10212.200 Changing Numident Data for Reasons other than Name Change* <<http://policy.ssa.gov/poms.nsf/lnx/0110212200>> (last updated Sept. 30, 2013) (requiring “medical certification of appropriate clinical treatment for gender transition in the form of an original signed statement from a licensed physician”).

<sup>14</sup> U.S. Citizenship & Immigration Services, Adjudication of Immigration Benefits for Transgender Individuals; Addition of Adjudicator's Field Manual (AFM) Subchapter 10.22 <<http://www.uscis.gov/iframe/ilink/docView/AFM/HTML/AFM/0-0-1/Chapter10-22.html>> (requiring a medical certification stating that “the individual has

sex designation should be required to provide only *one* document from a treating or evaluating health care provider that demonstrates that *clinically appropriate* treatment has been provided based on the person's individualized and particular medical needs. Such a policy would be comparable to the current policies of these four federal agencies, five sister states, New York State, and the NYS Department of Motor Vehicles.<sup>15</sup> It is also important that the proposed amendments would eliminate the requirement for an individual to change their name before their birth certificate can be amended. There are many reasons an individual may choose not to change their name, even when they are changing their sex designation. We are happy to see that the City Council has proposed a policy that is in line with the updated policies being put in place across the country.

### **NYC DOHMH's Current Policy is Outdated and Inconsistent with Contemporary Standards of Care for Transgender Persons**

The scientific community has progressed since first recognizing transgender identities; yet the DOHMH policy continues to adhere to outdated concepts. DOHMH policy requirements in no way reflect contemporary medical and psychological standards of care which providers actually use in treating transgender people. The World Professional Association for Transgender Health (WPATH), an international, inter-disciplinary non-profit organization recognized by the American Medical Association as an authority in the field of transgender health issues,<sup>16</sup> has established standards of care to inform healthcare providers how to most safely and effectively care for transgender people.<sup>17</sup> WPATH recognizes and emphasizes that, like all other people who seek medical care, transgender patients all have different needs and "clinically appropriate treatments must be determined on an individualized basis with the patient's physician."<sup>18</sup> WPATH has called for updated policies that reflect these standards:

No person should have to undergo surgery or accept sterilization as a condition of identity recognition. If a sex marker is required on an identity document, that marker could recognize the person's lived gender, regardless of reproductive capacity. The WPATH Board of Directors urges governments and other authoritative bodies to move to eliminate requirements for identity recognition that require surgical procedures.<sup>19</sup>

Other leading professional organizations have called on governments to use non-surgical

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had appropriate clinical treatment for gender transition to the new gender").

<sup>15</sup> DMV Customer Support, [http://nysdmv.custhelp.com/app/answers/detail/a\\_id/405](http://nysdmv.custhelp.com/app/answers/detail/a_id/405) (last visited October 28, 2014)

<sup>16</sup> American Medical Association House of Delegates, Resolution 122: Removing Financial Barriers to Care for Transgender Patients (June 16, 2008).

<sup>17</sup> See WPATH, Standards of Care 1 (7<sup>th</sup> ed. 2011).

<sup>18</sup> *Id.* at 5, and 54-64. See also WPATH, Clarification on Medical Necessity of Treatment, Sex Reassignment, and Insurance Coverage in the U.S.A. 3 (June 17, 2008).

<sup>19</sup> WPATH, Identity Recognition Statement (June 16, 2010), [http://www.wpath.org/uploaded\\_files/140/files/Identity%20Recognition%20Statement%206-6-10%20on%20letterhead.pdf](http://www.wpath.org/uploaded_files/140/files/Identity%20Recognition%20Statement%206-6-10%20on%20letterhead.pdf) (last visited November 5, 2014).

standards as a predicate to officially recognizing a person's gender identity or allowing them to change their sex designation on birth certificates and other important identity documents. In 2008, the American Psychological Association issued a policy statement encouraging "legal and social recognition of transgender individuals" including "access to identity documents consistent with their gender identity and expression which do not involuntarily disclose their status as transgender."<sup>20</sup> Likewise, the National Association of Social Workers has stated that it "supports the legal recognition of transgender individuals as members of the gender with which they identify, regardless of assigned sex at birth or subsequent surgical or other medical interventions."<sup>21</sup> Similar views have been enthusiastically endorsed by other leading national and international health organizations, including the American Medical Association, American Academy of Family Physicians, National Commission on Correctional Health Care, American Public Health Association, and American College of Obstetricians and Gynecologists.<sup>22</sup>

The DOHMH policy also rests on the false assumption that all transgender people can and do undergo surgical intervention during their transition process. But in fact, two-thirds of transgender people do *not* undergo any surgical procedures as part of their gender transition.<sup>23</sup> Fewer than 1 in 5 transgender women (male-to-female) and fewer than 1 in 20 transgender men (female-to-male) have undergone genital reassignment surgeries.<sup>24</sup> This is usually because of prohibitively high costs, nearly universal coverage exclusions by public and private health insurance plans,<sup>25</sup> contraindications with other co-existing medical conditions, or an individual's determination that surgery is not necessary for gender transition.<sup>26</sup> By contrast, 75% of survey respondents had received counseling and 62% had obtained hormones.<sup>27</sup> The DOHMH policy thus fails to serve the majority of transgender New Yorkers who do not, cannot, or will not meet its onerous surgical requirements. Further, it places these transgender New Yorkers in the position of having to disclose their transgender status to potential employers and landlords, police officers, and others when their gender-mismatched identification documents raise suspicion or questions of fraudulence, increasing the likelihood of experiencing discrimination

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<sup>20</sup> APA, Policy Statement: Transgender, Gender Identity, & Gender Expression Non-Discrimination (August 2008).

<sup>21</sup> NASW, Social Work Speaks: NASW Policy Statement 2009-2012, 347 (8<sup>th</sup> ed. 2009).

<sup>22</sup> Lambda Legal, Professional Organization Statements Supporting Transgender People in Health Care (revised June 8, 2012).

<sup>23</sup> Grant, *supra*, note 1 at 26 (2011).

<sup>24</sup> *Id.* at 79.

<sup>25</sup> See Lambda Legal, Transgender Related Health Care (2011) (citing official statements supporting insurance coverage of transition-related healthcare issued by AMA, APA, AAFP, NASW, WPATH, NCCHC, APHA and ACOG). See also American Medical Association, Resolution 122 (A-08), Removing Financial Barriers to Care for Transgender Patients (Apr. 2008).

<sup>26</sup> Grant, *supra* note 1 at 72-83 (2011).

<sup>27</sup> *Id.* at 84.

and harassment.<sup>28</sup>

The DOHMH's surgery requirement is based on the incorrect premise that surgical intervention is the only acceptable proof of an individual's personal gender transition, and we support changing this policy immediately to ameliorate its harmful effects on transgender community members born in New York City.

### **Licensed professionals who can attest to applicant's gender identity**

The distinction in the proposed policy from past policies regarding who can swear or affirm that an applicant's requested correction of sex designation accurately reflects their gender identity is important because of the realities of medical costs and access to health care. Beyond licensed physicians, Int. 491 would include licensed professionals who are doctoral level psychologists, licensed clinical social workers, licensed master social workers, physician assistants, nurse practitioners, marriage and family therapists, mental health counselors, and midwives. We support the inclusion of these additional licensed professionals who can attest to an individual's gender identity.

Many transgender New Yorkers, particularly those low income individuals who make up the bulk of the community, are unable to seek health care from licensed physicians for their medical needs. The licensed professionals included in the Council's proposed updates to the Code are all licensed by the State of New York and accountable to the State for their professional actions.<sup>29</sup> All of these professionals have the requisite education, experience, and accountability to attest that in keeping with contemporary expert standards regarding gender identity, an applicant's requested correction of sex designation accurately reflects that applicant's gender identity.

### **Advisory Board**

We support the creation of an advisory board as set forth in Int. 492.

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<sup>28</sup> See *supra* note 6. See also Dean Spade, *Medicaid Policy & Gender-Confirming Healthcare for Trans People: An Interview with Advocates*, 8 Seattle J. for Soc. Just. 497, 499 (2010) (examining the correlation between inaccurate identification documents and challenges securing employment for transgender people).

<sup>29</sup> See generally, Title VIII of Laws of New York



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Comments on Int. 491 & Int. 492  
Amending sex designation on birth records & Reporting and  
an advisory board on gender marker change requirement

by

Naz Seenauth

My name is Naz Seenauth. I am 20 years old, a college student, and a transgender man. I am a plaintiff in Transgender Legal Defense & Education Fund's lawsuit challenging the current New York City requirement that transgender people undergo surgery in order to update their birth certificates.

I was born in Queens Village, New York. My parents are immigrants from Guyana. They wanted their children to have opportunities that they didn't have. They made sure my siblings and I were clothed, fed, and had a roof over our heads. They also made it possible for us to get an education. They worked hard to provide for us and they succeeded. In just one year, I'll be a first generation college graduate with a dual bachelor's degree, and on my way to a master's program.

I've spent a long time trying to be who I am. Once I was ready, I faced challenges. I came out to a conservative Muslim family and I shared with many people my true identity. Transitioning was a challenge to me socially and I lost some people in my life. But I also gained many people in my life.

I started my first shot of testosterone on November 29th 2012. After that first shot, I was able to start living my truth and got closer to being and feeling like a whole person. It has been quite an experience, often challenging but definitely worth the process. After a few months on testosterone, I decided to change my name to fit my gender identity. And along with the name change order, I was also able to receive a letter stating that I have undergone medical intervention to transition to male. This letter allowed me to change my gender identity on many of my documents.

Problematically though, many of the places that I went to change my gender marker were not completely sure of the protocol. For example, at the DMV, I gave the letter to the teller and they had to call over a supervisor and another person to figure out what to do. At school, I had to go to the director of the registrar's office to get my gender marker change.

After many uncomfortable talks, I was able to get my correct gender on each of my IDs except for my birth certificate. And although we do not use our birth certificates every day as we do our photo IDs, when it comes to certain employment opportunities, we have to present our birth certificates. And that brings forth uncomfortable and unwanted conversations with future employers. There is a forced outing and it can feel unsafe at times. Many of the awkward conversations that I've had such as the ones at the DMV, Social Security, and at school could be avoided if my birth certificate matched my gender identity. No one should have to live in fear of harassment and discrimination.

That's why I am asking you to change this discriminatory birth certificate policy. Your action will make life easier for transgender people like me and countless other transgender people who were born in New York City. Our quality of life depends on it. Thank you.



New York City Council  
Committee on Health  
Monday, November 10, 2014

Comments on Int. 491 & Int. 492  
Amending sex designation on birth records & Reporting and  
an advisory board on gender marker change requirement

by

Patricia Harrington

My name is Patricia Harrington and I am a plaintiff in Transgender Legal Defense & Education Fund's lawsuit challenging the current New York City requirement that transgender people undergo surgery in order to update their birth certificates.

I'm a transgender woman who was born and raised in Queens. Growing up in the '50's, I learned early on that I was at risk for simply being myself. When I was 5 years old, I was sent to a summer day camp. When they told the girls to go to one group and the boys to another, I went with the girls. The camp counselors came and dragged me over to the boys. They proceeded to severely harass me in front of everybody. I ended up being subjected to such bullying that my arm became infected from one of the boys repeatedly giving me a friction burn. When my family saw my arm, they pulled me out of camp.

I learned that it was dangerous to be who I am, so I spent the next 40 years hiding who I was. When that eventually became unbearable, I started exploring the option of transitioning. I undertook the appropriate medical and legal steps and have been happily living as myself for the past thirteen years.

In 2010 I moved to New Jersey and had to get a new driver's license. I had had a female New York driver's license for the prior decade, but when I tried to get a female New Jersey driver's license, I was turned away. That happened because I had to present my New York City birth certificate, which I have been unable to get corrected because of its discriminatory surgery requirement. I then had to jump through hoops and get my doctor to fill out a special form, which I then had to take back to the New Jersey DMV. While I was able to get my license, it was a frustrating and unnecessary experience that makes me think twice about ever moving again.

It's been a long journey for me to be able to be myself and not worry about what other people think. While I'm proud to be a transgender woman, I should be able to live my life just like everyone else and not have to face these challenges for the rest of my life. I transitioned 13 years ago, but incidents like this bring back all the memories of continually being told there's something wrong with who I am. There's nothing wrong with who I am, and I would just like my Birth Certificate to reflect that.

I hope the City Council will pass Int. 491 and change this harmful policy once and for all. Doing so will improve the lives of transgender people. Thank you.

# THE CENTER

## Testimony of Tiffany Mathieu on Intros. 491 and 492

Int. No. 491: In relation to amending sex designation on birth records

Int. No. 492: In relation to reporting and an advisory board on gender marker change requirement

Before the Committee on Health

November 10, 2015

### Introduction

Good afternoon, my name is Tiffany Mathieu. I was born in 1983. I was young when I came to realize who I was. I was born and raised in Coney Island. As a child I was very feminine, and my teachers told my mother I would have problems all throughout high school. At 16 I decided that the gender assigned to me at birth wasn't adequate. My family did not approve and were incredulous about me because of my gender identity. Over the years my family began to understand this was opening up a new world for me.

I started going to The Center when I became homeless as it was one of the few places that offered support services for trans people at the time. Since then, I've been working on my life goals. Before transitioning my goals were always short-term and I've accomplished most of them. As a woman and transgender advocate, my long-term plan includes pursuing higher education to gain stable employment, and financial stability. Being connected to the Gender Identity Project has given me a sense of hope that these goals are within my arm's reach. I've even become a role model for other women in this process.

### Current Situation and Challenges

When you have an identity document such as a birth certificate that does not match who you are, you become a target for discrimination, accusations of fraud, denial of service, and many other problems.

4 out of 10 transgender people report being harassed when presenting identity documents that did not match. This statistic includes me!

Vital Records has been relentless in their demands for a doctor's letter confirming sex re-assignment surgery. This has made it extremely difficult for me to get proper services from government agencies.

Medicaid has terminated and denied my healthcare coverage, and welfare refuses to provide me with benefits

because they said my gender marker on my birth certificate didn't match my ID.

Many of the receptionists at these offices refuse to call me Tiffany, my name, which is not only disrespectful but puts me in grave danger once I leave the office and see others who I sat with when my incorrect name was called for everyone to hear.

The constant feelings of exclusion and fear make it arduous to try to have a normal life. Truthfully, I was even scared about coming into this building today.

I have aspirations to travel. I don't have a passport because my birth certificate doesn't match my other documentation and I am gravely concerned about this application process. I am also afraid of the ramifications that mismatch would have on me while traveling abroad.

Not having the gender marker restricts me from pursuing a decent career. I get scrutinized and deliberately placed into situations that are uncomfortable and confounding when I apply for jobs.

I want to thank all my supports including counselors at the Gender Identity Project who do not have LCSWs and are more than qualified to submit an attestation of my gender.

Requiring an LCSW privatizes this process in a way that may prevent many trans people from obtaining services. It also limits non-profits, some of whom are the leaders in trans care, and may not have the funds to hire only LCSWs. I applaud this proposal for being more inclusive and allowing LMSWs to attest.

### Suggestions for the City Council

- Allow amending sex designations on birth certificates in New York City to reflect the person's gender.
- Allow LMSWs to author letters.

**Tiffany Mathieu**

Born in and current resident of New York City

**THE LESBIAN, GAY, BISEXUAL &  
TRANSGENDER COMMUNITY CENTER**  
208 W 13 ST NEW YORK, NY 10011

T 212.620.7310

F 212.924.2657

gaycenter.org

## Testimony

To: New York City Council Committee on Health  
Council Member Corey Johnson, Chair

From: Maureen Kelly, Ithaca, NY

Date: November 10, 2014

RE: Support of Int. No. 491 - In relation to amending sex designation on birth records;  
Int. No. 492 - In relation to reporting and an advisory board on gender marker change  
requirement

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*The following is written testimony from a transgender individual from Ithaca, NY who has taken advantage of the recent change in the New York State policy for changing gender markers on state issued birth certificates.*

I jumped at the chance to update my birth certificate to reflect my true gender. On a personal level, it is one way the state in which I was born and in which I've lived most of my life recognizes and respects who I truly am. Although the state doesn't protect my right to work or interact free from discrimination (ours being the last non-inclusive statewide nondiscrimination law to be passed in the nation that specifically does not include transgender people, back in 2002), I appreciate the state will now issue this important identity document in my correct gender. Discrimination and violence are constant risks for transgender people - especially so due to this existing state law - and having the ability to have our birth certificates changed allows us to not automatically have to reveal our transgender history in order to engage in everyday interactions that require proof of citizenship or identity. Many times these interactions can leave us quite vulnerable, and almost always in situations with strangers who have decision making power over our lives and whether we can live them similarly to our non transgender families, friends and neighbors. Obtaining everything from a library card to a passport to admission to school or college can require a birth certificate. It can be required to start at new job or to get a drivers license. Having to present a birth certificate with one's former gender can be terrifying. It can open oneself up to potential ridicule, unwarranted and unjust scrutiny, prying and inappropriate personal questions, denial of services, or worse. The new policy helps preserve our dignity as well as the privacy of our medical status.

## Testimony

To: New York City Council Committee on Health  
Council Member Corey Johnson, Chair

From: Matthew McMorrow, on behalf of the Empire State Pride Agenda

Date: November 10, 2014

RE: Support of Int. No. 491 - In relation to amending sex designation on birth records;  
Int. No. 492 - In relation to reporting and an advisory board on gender marker change requirement

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Good afternoon, Chairman Johnson and members of the City Council Health Committee.

My name is Matthew McMorrow. I am the Manager of Government Affairs for the Empire State Pride Agenda, New York's statewide LGBT civil rights and advocacy organization. I am here on behalf of the Pride Agenda to express our support for the bills before you.

I would like to thank all of you for convening this hearing. I would especially like to thank you, Mr. Chairman, for introducing these two very important pieces of legislation. One would remove one of the most burdensome and unnecessary barriers transgender New Yorkers face in obtaining identification documents that reflect their true gender identities. The other sets up an advisory board to ensure proper implementation of the legislation and to provide feedback on its efficacy and ways to improve upon it in the future. On the advisory board, we hope to see significant representation from the trans community whose personal connection to this issue and to the community this legislation would impact would lend valuable feedback and credibility to the board's work and recommendations.

Many of us in the cisgender community take for granted the fact that the gender markers on our birth certificates accurately reflect our gender expressions and identities. When we apply for a driver's license, a passport, a job, insurance, a credit card, or housing, we know exactly which gender box to check, and rarely does anyone reading our application question it.

This is not the case for transgender people. The vast majority of transgender New Yorkers have inaccurate birth certificates. When you have an identity document such as a birth certificate that does not match who you are, you become a target for discrimination. Many are accused of fraud or denied service, and many face other burdensome and unnecessary administrative hurdles. Four out of ten of transgender people have faced harassment when presenting identity documents that did not match. Many others report being denied entry or asked to leave an establishment. Some have even experienced physical assault due to mismatched ID.

In New York City, and until very recently in New York State, to change gender markers on their birth certificates, transgender New Yorkers are required to provide extensive and very private medical records, including documentation of specific surgeries, such as an operating room report describing sensitive procedures in detail, a psychological report and a statement from a physician describing their patient's hormone treatments. Yet most transgender people – for financial, health or other personal reasons - choose not to undergo surgery or

hormone therapy. For those who do, the physical transition process can take years to complete, leaving them without matching identification documents for a very long time.

According to many international and regional human rights organizations, such as the World Health Organization, UNICEF, the OHCHR, and more, surgical requirements to change identity documents run counter to respect for bodily integrity, self-determination, and human dignity, and can cause and perpetuate discrimination against transgender people. The Pride Agenda - in partnership with the New York Civil Liberties Union, the National Center for Transgender Equality, the Transgender Legal Defense and Education Fund, and the Sylvia Rivera Law Project - has been advocating for this policy change for the past several years. On the state level, we worked closely with Governor Andrew Cuomo's office to make it a reality for the thousands of transgender and gender non-conforming New Yorkers. As of June 2014, the New York State Department of Health no longer requires proof of gender reassignment surgery or hormonal treatments in order to change one's gender marker on a birth certificate.

The amended policy has allowed many transgender New Yorkers to change their gender markers on their birth certificates by simply providing a certification from a licensed medical provider stating that the applicant is undergoing appropriate clinical treatment. The policy, which hadn't been changed since the 1970s, now reflects current medical best practices and federal precedents, and brings the process into line with existing protocols at state and federal agencies and departments, including the New York State Department of Motor Vehicles, the U.S. Department of State, and the Social Security Administration.

As administrator of the NYS LGBT Health and Human Services Network, the Pride Agenda is in close contact with dozens of agencies which are helping transgender clients navigate the new, updated policy, and feedback has been universally positive. One transgender man, Luca Maurer, who has gone through the new State policy for correcting his birth certificate told us, "Obtaining everything from a library card to a passport to admission to school or college can require a birth certificate. It can be required to start at new job or to get a drivers license. Having to present a birth certificate with one's former gender can be terrifying. It can open oneself up to potential ridicule, unwarranted and unjust scrutiny, prying and inappropriate personal questions, denial of services, or worse. The new policy helps preserve our dignity as well as the privacy of our medical status."

Unfortunately, this policy change **does not** apply to transgender people born in New York City, which issues its own birth certificates and still requires proof of surgery or hormone therapy.

New York State – historically several steps behind New York City on important civil rights issues – now has a more progressive policy on this particular issue than the city.

One out of every three transgender New Yorkers has been homeless at one time in their lives. Two out of three experience discrimination at work. 30% face serious physical or sexual assault. Some of this is due to transphobic discrimination within our society. Some is due to institutional barriers such as the current law under consideration that unnecessarily disadvantage transgender New Yorkers from accessing services, obtaining matching identification, and applying for jobs, housing, credit and insurance coverage. It is time to remove this unnecessary barrier.

I want to thank Speaker Mark-Viverito for expressing her support for this important legislation, and I applaud the tremendous leadership of Council Member Johnson for introducing these bills and standing up for the transgender community. On behalf of the Empire State Pride Agenda, I respectfully urge the members of this committee to vote in favor of this important legislation.

Good Afternoon Chairperson Johnson and Councilmembers of the Health Committee Councilmembers Arroyo, Mendez, Eugene, Koo, Van Bramer, Barron, Caronegy and Espinal

My name is Bryan Ellicott and I am a Transgender New Yorker. I was born Staten Island University Hospital on July 1<sup>st</sup> 1989 at 6:15am to Deborah Ellicott and Brian Ellicott. My parents than raised me in Staten Island and I have lived in New York City all my life. That was the first time I was misgendered and at that time there was nothing I could have done about it. The first time they tell your parents (it's a boy or it's a girl) that lead what they call you for the rest of your life.

Which line you stand in elementary school, which locker you go to in middle school during gym class, whether you wear white or maroon at high school graduation. As an adult your birth certificate holds the power to allow you to get your dream job or not.

I fully support Int 491 and 492. I am pleased to see that so many members of the Council have co-sponsored these pieces of legislation that will drastically change of the lives of Transgender people that were born in the City of New York. It is vital to the lives of Transgender people that our documents match as you can see they follow you everywhere you go all of your life.

This piece of legislation allows for Transgender people born in New York City to change their gender markers without the need for GRS (Gender Reassignment Surgery). This means the world to many of us because these surgeries can range from a little over \$19,000 to \$21,000. Total cost of transition can range even higher than that not including the prices for HRT (Hormone

While Commissioner was correct in saying "For some transgender individuals converitve surgery is either not an option due to medical history or simply not desired"

Many of us can't afford all these surgeries. It took me close to 2 ½ yrs. to raise the money for the surgery that the Department of Health at this current moment doesn't see as required for the gender marker change. It was however the most important to me, in order to make me comfortable in my own skin.

I do hope that the advisory board that is discussed in INT 492 will include people who understand people of transgender experience and protect our interests and concerns.

I also hope that after this hearing and because of this hearing we will start the discussion on using gender non-specific language when it comes to reproductive health and reproductive organ cancers. We need to start making all New Yorkers feel included about the pushes for education and prevention, regardless of gender identity or expression.

November 10, 2014

Hello Members of the City Council,

My name is Scott A. Kramer and I am a Licensed Clinical Social Worker (LCSW) in the State of New York, the Chairperson of the Lesbian, Gay, Bisexual, and Transgender (LGBT) Committee at the National Association of Social Workers - New York City (LGBT-NYC) Chapter, and a psychotherapist in private practice working with the LGBT community.

I am here today to testify regarding the proposed legislation to allow Licensed Master Social Workers (LMSWs) to attest to an individual's gender identity.

There are many people living in New York whose gender identity does not match the gender identity with which they were born. For example, a person who was born male may now identify as female and vice versa. In the past it has been extremely difficult to get gender markers on an individual's birth certificate changed. This can be devastating and may lead to many mental health issues such as depression, anxiety, low-self esteem, and the feeling that not only are they in a body that doesn't match their gender identity, but also that their documents also do not match their gender identity. It can be traumatizing. And each time a person sees that gender identity on their birth certificate, which may be their only form of identification, the traumatizing reinforcement can happen again.

When people experience depression and anxiety, they may not be as energetic as they can be – not being able to go to work or school. They may not be able to concentrate, and they may not have the opportunity to be the productive members of society we would all like each person in New York City to be.

According to the NY State Department of Education, Office of the Professions, Social Work, as of the end of 2013 there were approximately 35,595 licensed social workers in the state. Of those, 22,862 were LMSWs and 12,733 were LCSWs.

Allowing LMSWs to attest to a person's gender identity on their birth certificate would provide another option for people. And this is what we, as social workers, help our clients with – options. Why would we want to limit people?

As stated on the State Education Department Office of the Professions website, "to be licensed as a licensed master social worker (LMSW) in New York State you must:

- be of good moral character as determined by the Department;
- be at least 21 years of age;
- meet education requirements;
- meet examination requirements; and

complete coursework or training in the identification and reporting of child abuse offered by a New York State approved provider."

As you can see, all LMSWs have already been “vetted” by the State of New York to provide services. There is no reason LMSWs cannot or should not be allowed to attest to an individual’s gender identity on their birth certificate. With LMSWs being able to attest to one’s gender identity on their birth certificate, positive outcomes may include, decreases in depression, anxiety, and social isolation. This may lead to less people accessing social and financial assistance programs, more people receiving education and being able to thrive in the workforce.

It is my opinion, as the Chairperson of the NASW-NYC LGBT Committee and psychotherapist in private practice, that LMSWs be allowed to attest to one’s gender identity on their birth certificate.

Scott A. Kramer, LCSW, ACSW  
26 West 9<sup>th</sup> Street, Suite 9A  
New York, NY 10011

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Testimony to the City Council Health Committee  
Emily Foote, MSW, Program Manager for Policy & Communications  
National Association of Social Workers, New York City Chapter  
November 10, 2014  
Re: Amendment to City Administrative Code related to amending sex designation on birth records

Good afternoon, Members and guests. I would like to thank the Health Committee for giving me the opportunity to testify here today. My name is Emily Foote and I am speaking on behalf of the New York City Chapter of the National Association of Social Workers, the primary professional organization for social workers. There are approximately 20,000 licensed social workers in our city, working across many sectors and in every community. We estimate about 10,000 NYC social workers possess the LCSW and an additional 10,000 are working with an LMSW. There are also a significant number of social workers with a master's degree who either do not require a license for their practice or are in the process of obtaining licensure.

Professional social workers serve New Yorkers struggling with life's greatest challenges. We help individuals, families, groups, and communities identify and develop capacities, resources, and opportunities in the face of such difficulties as illness, addiction, childhood abuse, poverty, underemployment, inadequate housing, death and bereavement, trauma, and sudden shifts in life circumstances. Social workers are employed directly by the city and state as well as through contracts with nonprofit agencies in every type of social service, including child welfare, disabilities, behavioral health, aging and end-of-life care, domestic violence, schools, immigrant services, juvenile and adult justice, and more.

Our interventions range from clinical services to assistance in navigating the myriad social systems that impinge on people's lives, based on assessments that identify critical areas where change is likely to occur. The results frequently prevent more acute need for services and can alter the course of people's lives. Under many circumstances, this avoids the need for high cost programs and services.

NASW-NYC strongly supports this legislation and its proposed change to the city's administrative code enabling individuals who are transgender to change the sex designation on their birth record to match their gender identity. Further, we believe both LCSWs and LMSWs should be included on the list of providers qualified to attest to the individual's gender identity. In addition to the fact that no medical diagnosis is necessary for such an attestation, inclusion of both LCSWs and LMSWs will ensure greater accessibility for these often vulnerable and certainly disenfranchised individuals.

The LMSW is in many ways the primary license for the social work profession in New York state. It often represents a very sophisticated capacity – through education, experience, and specialization – to perform complex psychosocial assessments. Social workers with LMSWs are often among the most capable case managers in social services and care coordinators in hospitals, where issues related to an individual's gender identity are likely to come up.

NASW-NYC recommends that, upon passage of this legislation, it be communicated to licensed social workers that these attestations now officially fall within their scope of practice. There are several ways in which to do this effectively, including through the NY State Office for the Professions, the various schools of social work throughout the city and state, and through the city agencies themselves.

Thank you for your attention to this important issue, which will improve the lives of countless New Yorkers who are transgender or who, for any other reason, do not identify with the sex designation listed on their birth record.

# Aiden Harrington, CNM, LM, RN, MS

6 Fieldcrest Lane • Farmingdale, NY 11735  
Phone: (917) 721-3024 • E-Mail: Aiden@SexPositiveHealth.com  
Web: www.SexPositiveHealth.com • www.JFHCP.org

November 13, 2014

Dear Council Members,

Thank you for the opportunity to speak on behalf of myself and NYSALM (New York State Association of Licensed Midwives) at the council meeting regarding the transgender rights legislation under consideration.

In a society that fails to recognize gender that is outside of the binary of man and woman -even while we know that nature allows for variance with those called "intersex" - the issues specific to transgender and gender non-conforming (TGNC) persons is often overlooked.

I am here to represent midwives as well as the gender non-conforming community in support of a third-gender marker designation that would allow a more affirming option for identification, remove obstacles and discrimination faced due to mismatching documentation, and pave the way towards more inclusive markers.

I was born female but never felt the term "girl" fit. I often felt like a "tomboy" even though I didn't fit the stereotypical mold for it because I wasn't quite "butch" enough. I struggled to feel girly, even going through a period of hyper-femininity, before choosing to transition to a masculine expression and gender role. I took hormones and walked through the world for two years as a man; even today, my DMV, school, and passport identification all reflect this male identity, while my birth certificate does not. Yet, I found that the label "boy" didn't fit either. Today, I present feminine and am assumed to be a woman, yet it is not a totality of my gender identity. As someone identifying outside of the gender binary, there are currently no legal gender markers that affirm who I feel I am. Although I could change my legal documentation back to "female" in order to match my birth certificate, it would invalidate my gender journey and who I feel I am as a person. Legislation that would enable me to designate myself as transgender and gender non-conforming, but that didn't require me to conform to a binary, would enable me to be all that I am.

Thank you for hearing and considering this testimony. I am honored to give voice to those of us from the invisible and often silent transgender and gender non-conforming community.

Aiden Harrington, CNM, LM, RN, MS

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

Name: Gary Parker (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: NYU MCSilver Institute

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

*Panel  
legal  
advocates*

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 11/10/14

Name: Cathy Bowman (PLEASE PRINT)

Address: South Brooklyn Legal Services, 105 Court St  
Brooklyn, NY 11201

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 + 492 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 11/10/14

Name: Matthew Mc Morrow (PLEASE PRINT)

Address: 442 15th St #32 Brooklyn NY

I represent: Empire State Pride Agenda

Address: 80 Maiden Lane #905 NY NY 10038

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/2014

(PLEASE PRINT)

Name: Bryan Ellicott

Address: 8 Wilson Ave ST, NY 10308

I represent: TransNYC

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. 492

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: Asho McGovern

Address: 7 Hanover Sq. NY NY 10004

I represent: New York legal assistance group

Address: 7 Hanover Sq. NY NY 10004

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: NAZ SEENAATH

Address: 22229 91st RD Queens Village NY 11428

I represent: TRANS GENDER LEI-AL DEFENSE EDUCATIONAL FUND

Address: 20 WEST 20th ST, Suite 705 New York, NY 10011

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: BOBBY HODGSON

Address: \_\_\_\_\_

I represent: The NEW YORK CIVIL LIBERTIES UNION

Address: 125 BROAD ST., 19<sup>th</sup> Floor 10004

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Gretchen van Wye

Address: \_\_\_\_\_

I represent: DOHMH

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Steve Schwartz, NYC Registrar

Address: \_\_\_\_\_

I represent: DOHMH

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: CARRIE DAVIS - 10007A J PKWY, BK, NY 11218

Address: LGBT COM. CENTER 208 W. 13TH ST

I represent: LGBT COM. CENTER

Address: 208 W. 13TH ST

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: Nov 10, 2014

(PLEASE PRINT)

Name: CLARA YOON

Address: 105 W. 119th St #3, NY, NY 10026

I represent: The LGBT Center

Address: 208 W. 13th St. NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/8/14

(PLEASE PRINT)

Name: Tiffany Mathieu

Address: 208 West 13 Street

I represent: Center

Address: 208 West 13 Street, New York, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Frank Prosen

Address: 50 Bway

I represent: Doctors Council SEIU

Address: 5

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491/492 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/2014

(PLEASE PRINT)

Name: Enbar Hkymilla

Address: 854 Bushwick Ave #2R, Brooklyn, NY 11221

I represent: Make the Road New York / Local 12112 Employment

Address: 301 Grove St., Brooklyn NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: Nov 10, 2014

(PLEASE PRINT)

Name: MARCO WYLIE

Address: 69 BERRY ST

I represent: TLEDF

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 191 Res. No. 192

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: PATRICIA BURKHARDT

Address: 49 STRONG PLACE

I represent: NYSALM (State and County Assoc) clients

Address: SAME as above

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491, 2 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Jay Laudato

Address: 356 W 18 ST NY NY 10011

I represent: Calder Conde Community Health Center

Address: 356 W 18 ST NY NY 10011

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: J. Melisio Sklar

Address: 356 W 18 ST

I represent: NYTRU

Address: Melisa.213@AUL

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: Patti Herrington

Address: c/o TLDEF, 20 W. 20, 705, NY NY 10011

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)

Name: Naz Seemath

Address: c/o TLDEF, 20 W. 20, #705, NYC 10011

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 11/10/14 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Marco Wylie

Address: c/o TLDEF, 20 W. 20<sup>th</sup>, #705, NYC 10011

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/10/14

Name: Michael S. Turner (PLEASE PRINT)

Address: FLDEF, 201 W. 20, # 705, NYC 10011

I represent: Tanzen Legal Defense & Education Fund

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: AIDEN HARRINGTON (PLEASE PRINT)

Address: LOFELDERST LANE, FARMINGDALE NY 11735

I represent: NYSALM & TENC COMMUNITY

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Assembly Member Richard Gottfried (PLEASE PRINT)

Address: 242 W. 27th St., NY NY 10001

I represent: 75th Assembly District of NYS

Address: same as above

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_  
 in favor  in opposition  
Date: 11/10/14

(PLEASE PRINT)

Name: John Skwierky  
Address: 47 Edgepark Road White Plains, NY 10603  
I represent: Sylvia Rivera Law Project  
Address: 147 W. 24th St. 5th Floor, New York, NY

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_  
 in favor  in opposition  
Date: 11/10/2014

(PLEASE PRINT)

Name: Emily Foote  
Address: 50 Broadway  
I represent: NASW-NYC  
Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)  
Name: Scott Kramer LCSW

Address: Emily Foote will read into record

I represent: NASW-NYC LGBT Comm

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 491 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 11/10/14

(PLEASE PRINT)  
Name: Clayton Brooks

Address: 2016 7th Ave #6B / New York, NY 10027

I represent: The Ali Forney Center

Address: 224 West 35th St, Suite 1500 /  
NY, NY 10001

Please complete this card and return to the Sergeant-at-Arms