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COMMITTEE ON HEALTH

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

February 7, 2019
Start: 1:07 p.m.
Recess: 2:11 p.m.

HELD AT: Committee Room - City Hall

B E F O R E: MARK LEVINE
Chairperson

COUNCIL MEMBERS:
ALICKA AMPRY-SAMUEL
INEZ D. BARRON
MATHIEU EUGENE
KEITH POWERS

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A P P E A R A N C E S (CONTINUED)

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

Marissa Hoechstetter
Resident of New York City

[gavel]

CHAIRPERSON LEVINE: Good afternoon

everyone, thank you for joining us. I'm Mark Levine, Chair of the City Council's Committee on Health. We have a lot happening around City Hall today so my colleagues will be coming in and out. We have a big hearing in the main chamber and, and a budget presentation on the other side of the building. I know there's great interest from my colleagues in this bill and in this hearing and I know many will be joining us throughout our discussion today. We're going to have an unusual format for me at least in my committee hearings, this will be the first time that we're not asking the administration to present first, we're going to be hearing from a member of the public will also say a word or two about in a minute and I'm also going to dispense with the generally long informal opening statement and just briefly say a few words about this issue before we hear from the most important person. We're here today to talk about birth certificates which have a very formal legal role in our society, they are used for access to employment and education and financial services, they have tremendous practical importance but they are

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2 also a very powerful symbol for someone, they are
3 commonly called the foundational document of
4 someone's life, they have a uniquely powerful
5 symbolic role for all of us and so it is particularly
6 painful to think that there are some people, some
7 parents, some mothers who must look at that document
8 and see the name of someone who has abused them. I'll
9 explain what I mean. This is because of the not
10 hypothetical, now documented instance, instances of
11 medical providers, obstetricians abusing mothers and
12 then appearing on the birth certificate having
13 delivered the baby. These are abusers, these are... in
14 many cases people have been convicted whose name is
15 enshrined forever on a document which will follow a
16 child through life, through adulthood. That's
17 unacceptable, that can be fixed and should be fixed
18 very easily, the city has the power to fix it and
19 we're here today to consider a bill that would do
20 that in very simple form. I want preemptively to
21 respond to one point which I've heard from the
22 detractors of this bill which is that any mother who
23 wishes to strike the name of an abuser off the
24 certificate can simply go to the courts. That's not
25 acceptable for a lot of reasons, going to the courts

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2 is expensive, it's time consuming, it's complicated,
3 it can be humiliating, it makes the information
4 public of abusers who don't wish to have their
5 information made public, it's unreliable, the legal
6 system has failed and the specific case we're talking
7 about today, the legal systems fail and it's simply
8 not the way we have dealt with other important public
9 policy priorities related to birth certificates and
10 in years past in New York City which I'll talk about
11 in depth later. I'm going to pause now and invite up...
12 and invite up our first witness, Marissa Hoechstetter
13 if you could please make your way up. One of the
14 bravest and most determined people I've had the
15 chance to work with, I want to thank you for joining
16 us today Miss Hoechstetter and tell you that I
17 understand at least theoretically that it can't be
18 easy to step forward but I'm grateful that you have
19 and I admire you for doing so and I would like to now
20 give you a chance to testify about your experience
21 and, and your position on this legislation. Please
22 and there's an on button on your mic, you got it.

23 MARISSA HOECHSTETTER: Thank you. While
24 this is difficult, I'm grateful for the opportunity
25 to address the Committee on Health today. I have

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2 publicly shared my experience in an effort to help
3 shed light on sexual assault by medical
4 professionals, on the failings of the criminal
5 justice system in supporting survivors when they do
6 come forward to report crimes and, and on a long
7 trail that trauma leaves in your life. This bill
8 would... this bill allowing the Department of Health
9 and Mental Hygiene's Office of Vital Records to
10 redact the name of a physician from a birth record
11 when the physician's license has been suspended,
12 surrendered or revoked by the New York State Office
13 of Professional Medical Conduct would be a tangible
14 step towards justice for me and others like me. I'd
15 like to start by thanking you, Council Member Levine
16 for introducing this legislation in response to my
17 advocacy and in support of survivors of sexual
18 assault. I'm also grateful to Council Members
19 Margaret Chin, Keith Powers, Helen Rosenthal, Kalman
20 Yeger, Donovan Richards, Andrew Cohen and Steve Levin
21 for their co-sponsorship. I'm privileged to have an
22 amazing community supporting me and would like to
23 also acknowledge my husband, David, my family and
24 friends for their unwavering support. Also, my
25 friends Leigh Graham, who is here with me today,

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2 Marissa Elkins and Kate Kurera; our attorney Anthony
3 DePietro; Assembly Member Dan Quart and finally
4 Albert Samaha whose thoughtful telling of my story in
5 BuzzFeed News last summer helped me get this out and
6 start bringing the many injustices that I and others
7 have faced to light. The assaults and subsequent
8 experiences seeking justice have dramatically altered
9 my life. I will try to brief today and to focus my
10 remarks specifically on what it means for me to have
11 the name of the doctor who abused me on my kids'
12 birth certificates. A few years ago, while
13 registering my twin daughters for kindergarten, I had
14 to present their birth certificates. I hadn't really
15 looked closely at them before and when I did, I saw
16 that listed under 'name of attendant at delivery',
17 was Robert Hadden. I was shocked. I was pregnant
18 during all but three of my visits as Hadden's patient
19 at Columbia University and New York Presbyterian
20 hospital facilities from 2009 to 2013. During that
21 time, he performed overly touchy exams, made
22 inappropriate comments about my body, examined me
23 without other people in the room and on my last
24 visit, undoubtedly sexually assaulted me. When I
25 realized what was happening, I never went back. I

1
2 turned inward to protect myself, my new babies, my
3 marriage, my job, my life. I'm still haunted by what
4 else he did while I was unaware. He so clearly took
5 advantage of me during a most vulnerable time in my
6 life. The assaults poisoned my memories of my
7 pregnancy. I felt like a failure as a woman for not
8 turning him in. I felt like a hypocrite as a mother
9 telling my daughters to be truthful and to question
10 things. How could I ask them to do those things when
11 I hadn't? So, after much deliberation, in the fall of
12 2015, I reported the assaults to the Manhattan
13 District Attorney. When I went to their special
14 victims' unit, I learned that I was one of more than
15 20 women who had come forward. The ADA told me that
16 my accusation was outside of the statute of
17 limitations, something I would later learn was not
18 true. Cy Vance's office was already negotiating a
19 plea and I saw later that the timing of my report was
20 inconvenient for them and they chose not to act on
21 it. in February 2016, Hadden plead guilty to crimes
22 against just one victim, a criminal sex act in the
23 third degree which is a felony and forceable touching
24 which is a misdemeanor. Two minor very minor counts
25 called down from a long list, a list that would have

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2 been longer had the DA included me and others in the
3 case in Molineux or with a second indictment. As a
4 condition of the plea, Hadden had to surrender his
5 medical license to the state's Office of Professional
6 Medical Conduct and agree to not seek licensure
7 elsewhere. He got no jail time and received a
8 nauseating guarantee of immunity. The DA agreed to
9 never charge him for additional conduct that had
10 turned up in the course of the investigation. It felt
11 like they were saying the crimes against me and an
12 untold number of other women never happened and now
13 they could never be tried. Because my abuser was well
14 connected and supported by his employer, he was able
15 to effectively just retire. Much has been reported
16 about the campaign contribution Vance received from
17 Hadden's defense attorney and the Chair of Columbia
18 University's Board, so I won't digress here except to
19 say that Vance's justice system trivialized the fact
20 that I was sexually assaulted and anyone who was
21 culpable has effectively ignored their responsibility
22 or bought their way out of it. I share all of this to
23 say how empty the experience of coming forward left
24 me. I did the right thing and came forward, turning
25 to those in this city who were supposed to help me.

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2 Instead, I was discarded. When friends swapped birth
3 stories, I cringe, I never want to share my own. My
4 c-section scar makes me sick. I knew I'd never see
5 Hadden again after watching him plead guilty in court
6 so why do I have to keep seeing the name... his name on
7 the birth certificates? I knew that to find some
8 closure or acknowledgement of my pain, I had to get
9 his name off of those documents. In some states, that
10 information isn't even listed. You can order new
11 copies online, you can request changes for errors,
12 but you can't change the name of a person who
13 attended the birth. After nearly, nearly two years of
14 unreturned phone calls and emails to the Department
15 of Health and Mental Hygiene, I received a cryptic
16 email that read; "your inquiry is currently under
17 investigation, and we will inform you wen an answer
18 is received". I never heard anything further and two
19 attorneys helping me at different times couldn't get
20 anywhere either. I refused to give up though. City
21 rules allow anyone attending the birth to be listed.
22 If this had been a home birth, it could have been my
23 husband's name and for that matter it could have been
24 my name, I did do the work. Eventually the Department
25 told me that they'd need an order from the State

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2 Supreme Court to make the change. But I was advised
3 that a court might reject such a request because
4 Hadden's name was not there in factual error. If I
5 obtained a letter from the hospital where I'd
6 delivered offering, offering an alternative name,
7 then maybe the change could be made but unfortunately
8 Columbia and New York Presbyterian, where Hadden
9 worked for more than two decades, refuses to
10 acknowledge the role they played in enabling him. So,
11 getting a new letter isn't an option. That brings us
12 to the introduction of this legislation. Hadden
13 continued seeing patients even after the police and
14 the DA were notified of the allegations against him
15 in June of 2012. There are dozens of known victims
16 and the only one who's not unanimous and probably
17 hundreds or even thousands of... thousands of others
18 like us out there. His own defense attorney said
19 during the criminal trial that that he had over
20 30,000 patient visits. Almost all the victims that
21 I'm aware of were pregnant when we were assaulted and
22 for ten of us that I know hadn't delivered our
23 children, that's 13 babies that carry his name on
24 their birth certificates. I sit up at night thinking
25 about how many babies he must have delivered in his

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2 career. A privilege that he used to gain access to
3 women's bodies. The worst part of all of this for me
4 is that he's the first person in the entire world to
5 touch my children. I can't change that. His hands
6 physically took them out of me during my c-section
7 and they're the same hands that abused me. I hope the
8 administration and the Council finds the courage to
9 do something different than the way things have
10 always been done. I ask that you support the bill so
11 that children like my daughters don't have to keep
12 the name of a serial sexual criminal on the document
13 that marks their entrance to this world. It's a small
14 ask but a meaningful one. Thank you.

15 CHAIRPERSON LEVINE: Thank you very much
16 for that eloquent opening statement. Is it okay if I
17 ask you a couple of questions? Okay.

18 MARISSA HOECHSTETTER: Sure.

19 CHAIRPERSON LEVINE: How do you respond
20 to the suggestion that this could simply be worked
21 out in the courts?

22 MARISSA HOECHSTETTER: Well I've had
23 conflicting information and I think to ask someone
24 like me to have an attorney come forward to a court,
25 you know I'm not anonymous, but I know of a lot of

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2 other women who don't want to be public about this
3 so bringing it to the court requires a different
4 level if you want to be anonymous. I think what's
5 unique about this legislation is that it does require
6 that the doctor has lost their medical license by the
7 state's Office of Professional Medical Conduct so
8 there is another body in the state that has already
9 weighed in on that licensure.

10 CHAIRPERSON LEVINE: I just want to focus
11 in on that because I think that was so... [cross-talk]

12 MARISSA HOECHSTETTER: Yeah... [cross-talk]

13 CHAIRPERSON LEVINE: ...key, could.. the..
14 you repeat the name of the entity that would make a
15 decision in this case?

16 MARISSA HOECHSTETTER: The Office.. the
17 Office of Professional Medical Conduct is the state
18 body that licenses medical professionals and there
19 are limited ways but there are ways that they will
20 either suspend, take, revoke or a doctor can
21 surrender their license and I shared part of the, the
22 plea that the DA did make because it required him to
23 surrender his license so in this case this is a
24 person who has admitted guilt to crimes against women
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like me and has surrendered his license and is no longer practicing so that's not up for debate.

CHAIRPERSON LEVINE: I think that's a very important point, the legislation relies on a very clear standard.. [cross-talk]

MARISSA HOECHSTETTER: Uh-huh... [cross-talk]

CHAIRPERSON LEVINE: There's no judgment calls here, it's based on a decision by a professional medical, a... the statewide body which presumably doesn't make such determinations lightly or maybe not even that frequently, do you happen to know how many people lose their license a year, how many board-certified obstetricians?

MARISSA HOECHSTETTER: I don't know that number, I know there's something like 90,000 doctors in New York and there's a lot of advocacy around medical boards in, in different states, New York State does not have open records about doctors so there's no way... you can only see final actions. So, if you were to go on the, the Office of Professional Medical Conduct site you could see Hadden listed as having surrendered his license and the reason why. There's no way for us to know if people have been

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2 filing complaints against him for years that were
3 potentially investigated but did not result. I will
4 say that since coming forward I've heard from
5 hundreds of other women who were either victims of
6 Hadden or other OBGYNs, I think that we will only
7 continue to see more people reporting assault by
8 medical professionals so it's, it's really hard to
9 know, there's very little research or kind of
10 information out there.. [cross-talk]

11 CHAIRPERSON LEVINE: Well as, as.. [cross-
12 talk]

13 MARISSA HOECHSTETTER: ...about it.. [cross-
14 talk]

15 CHAIRPERSON LEVINE: ...commonly happens
16 when one brave person steps forward, other people
17 then find the courage to step forward as well and
18 that's clearly happened in this case..

19 MARISSA HOECHSTETTER: Uh-huh..

20 CHAIRPERSON LEVINE: ...of the.. you said it
21 was hundreds of, of, of women who you have learned of
22 since you came forward, could you estimate how many
23 are in New York City?

24 MARISSA HOECHSTETTER: I'd say I've heard
25 from let's say 50 people who were Hadden's patients,

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they don't all live in New York City anymore but, you know I mean that's where the birth certificate is from, that's where the... you know...

CHAIRPERSON LEVINE: Of course.

MARISSA HOECHSTETTER: Yeah.

CHAIRPERSON LEVINE: And I think we would be naïve to assume that Hadden was the only abuser ever in the history of New York City.

MARISSA HOECHSTETTER: Sure.

CHAIRPERSON LEVINE: And part of the reason why we need public policy action is to protect people who we don't yet know of so that they don't have to go through what you've gone through.

MARISSA HOECHSTETTER: And it's not unlike any other situation where you have someone and someone else in the position of power so you go into a medical office, you're there for a reason, you're pregnant, you're looking for their expertise and their help so it's, it's not unlike other discussions we're seeing around sexual assault in other industries and medical professionals, doctors use that to their advantage, you're alone in a room with them and there's often a legitimate reason why their hands might be on or in your body and it's a... they

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2 use that to their advantage and, and that's clearly
3 what happened in my case.

4 CHAIRPERSON LEVINE: When they're... I
5 think... I think there are 100,000 babies born a year
6 in New York City roughly, someone can maybe correct
7 that number for me later but even if it's only one in
8 a thousand or one in 10,000 cases the numbers are
9 still significant in New York City and we need public
10 policy that protects everybody and that doesn't
11 require someone to be heroic and spend years fighting
12 as you have and in my opinion public policy that
13 doesn't require people to go to through the courts
14 because of the reasons I mentioned earlier. I wonder
15 if you could say anything about... else about your
16 experience dealing with the courts in this matter, do
17 you know fees that might have been charged or any
18 other... anything else you can help us to understand
19 about your experience to the extent you've dealt with
20 the courts on this matter of getting Hadden's name
21 off the birth certificate?

22 MARISSA HOECHSTETTER: So, I haven't
23 taken it as far as actually, you know taking it to
24 court, I've had two different... this is something I've
25 been working on for about four years so I've, I've

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2 had two different attorneys at different points
3 working on that and either have received no
4 information... there's, there's, there's very clearly a
5 lack of precedent, right, and so anybody who did
6 respond to me or, you know people were supportive but
7 there... they didn't know what to do, there's a lack of
8 precedence so I think I would say that the Council
9 and, and New York City has an opportunity to make a
10 statement about what, what this means for people and
11 the privilege that I think it also signals to
12 doctors, the privilege they have and that, you know
13 if they abuse that they, they can't abuse that, yeah.

14 CHAIRPERSON LEVINE: And I just want to
15 understand your experience in dealing with the Health
16 Department you described, two years... [cross-talk]

17 MARISSA HOECHSTETTER: Well now it's...
18 [cross-talk]

19 CHAIRPERSON LEVINE: ...of attempts...
20 [cross-talk]

21 MARISSA HOECHSTETTER: ...been four years,
22 yeah, uh-huh.

23 CHAIRPERSON LEVINE: But could you
24 explain more about the ways in which you attempted to
25 communicate and to the extent something came back or,

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or whether there was simply silence on the other side?

MARISSA HOECHSTETTER: I've tried emailing, phone calls, like I said I've had two different lawyers make outreach to different, you know I'm not sure necessarily who their contacts were but I... it was pretty much radio silence at first and you know this is something that's hard for me so I'd say I sort of come in and out of my ability to do it like I get the birth certificates out and I'm motivated and then it's, it's traumatizing, it's difficult to, to look at them so I've kind of come in and out of it and I think, you know it's been six months and nobody ever wrote back. I did after a year and a half get one email that was... like I read, it was very cryptic. I think... [cross-talk]

CHAIRPERSON LEVINE: That was the first communication, a year and a half in?

MARISSA HOECHSTETTER: Yeah, to, to me directly in response to, you know submitting an inquiry I think maybe I've had one or two other formal responses that were also very vague and not specific. I got one that said, you know dear parents, thank you for your inquiry kind of thing with no... and

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2 it didn't feel like it was specific to me, it felt
3 like maybe it was sent to a bunch of people who had
4 pending inquiries, so I've had very little
5 communication, yeah.

6 CHAIRPERSON LEVINE: Dear parents?

7 MARISSA HOECHSTETTER: Yeah.

8 CHAIRPERSON LEVINE: Did you confirm
9 whether anyone else involved in this case received
10 such an email, do you... do you know what others...
11 [cross-talk]

12 MARISSA HOECHSTETTER: No... [cross-talk]

13 CHAIRPERSON LEVINE: ...have been... [cross-
14 talk]

15 MARISSA HOECHSTETTER: No, I am... [cross-
16 talk]

17 CHAIRPERSON LEVINE: ...have been in
18 communication... [cross-talk]

19 MARISSA HOECHSTETTER: ...in touch with a
20 few other women who I know want this change, I know
21 that there are ten of us in this... I know of nine
22 other women who were patients of Hadden who want,
23 want his name off of their children's birth
24 certificates but I'm... to my knowledge I'm the only
25 person who's, you know done this and once you tell

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2 people about it, it makes sense but it's not
3 something that maybe people think of at first but you
4 know the fact that he was first person to physically
5 bring them into the world like it's now part of their
6 story and you know you take a birth certificate when
7 you get get a passport, when you get married like I
8 mean for other things like you mentioned and he's
9 there and I just don't think that he deserves to
10 continue to be a part of their story, you know now
11 that I've been speaking publicly like of course one
12 day they will know about this, I hope that they will
13 be proud of what I'm trying to do but I feel really
14 strongly that he should not continue to be connected
15 with them in their life, you know that's something
16 that I have to carry and deal with but it's not...
17 that's not fair to them.

18 CHAIRPERSON LEVINE: Okay, well thank you
19 for your very powerful words and for your courage and
20 for being here today. It's incredibly impactful and
21 I'm, I'm grateful for it. If you're able to stay for
22 the rest of the hearing we would welcome that in case
23 other questions arise but, but for now we are going
24 to pass it on to the administration and, and thank
25 you for speaking out.

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MARISSA HOECHSTETTER: Thank you.

CHAIRPERSON LEVINE: Thank you so much...

[cross-talk]

MARISSA HOECHSTETTER: Thank you for listening.

CHAIRPERSON LEVINE: Alright, okay. So, would, would DMH... DOHMH like to join us? Okay. And is it Commissioner or Deputy... or Assistant Commissioner Van Wye, thank you for being here and I'm going to ask Committee Counsel Sara Liss to administer the affirmation.

COMMITTEE CLERK LISS: Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before this Committee and to respond honestly to Council Member Questions?

GRETCHEN VAN WYE: I do.

COMMITTEE CLERK LISS: Thank you.

CHAIRPERSON LEVINE: Okay, please.

GRETCHEN VAN WYE: Okay. Good afternoon Chair Levine 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. On behalf of Commissioner Barbot, thank you

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2 for the opportunity to testify on Introduction 1308.

3 New York City is one of 57 jurisdictions in the

4 United States that registers births. In each of these

5 jurisdictions, the registration of a birth begins

6 with a physician or other professional attendant

7 witnessing the birth of an infant. The Health

8 Department's Office of Vital Records is responsible

9 for issuing birth certificates for all births that

10 occur within New York City. We work closely with

11 other jurisdictions and the federal government to

12 maintain, maintain a system that upholds the

13 integrity and security of this essential vital

14 record. Birth certificates are legal and medical

15 documents for which factual information must be

16 corroborated by external parties. In the United

17 States, a birth certificate is our primary identity

18 document. It is proof of U.S. citizenship, afforded

19 the full faith and credit of other jurisdictions and

20 other countries and is honored by U.S. States and

21 other countries. There are two forms of birth

22 certificates that are issued by the Office of Vital

23 Records. The short form birth certificate, otherwise

24 known as the certification of birth, contains only

25 the name, sex, date of birth, place of birth and

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2 parents' names. The short form can be used for most
3 purposes, including applying for a state driver's
4 license and a U.S. passport. The long form birth
5 certificate contains all of the items on the short
6 form, plus other information including attendant at
7 delivery. All United States birth certificates begin
8 with the medical certification and federal law
9 mandates the national collection and publication of
10 birth and other vital statistics data. A variety of
11 national standards exist for the reporting of birth
12 data to promote uniformity and comparability of data
13 across the United States. Under the New York City
14 Health Code when a birth occurs in a hospital or en
15 route thereto, the birth certificate and the
16 confidential medical report of birth are required to
17 be prepared and certified by the physician, the
18 licensed midwife, or the registered physician
19 attendant... in, in attendance or assisting or by a
20 certified nurse practitioner or registered
21 professional nurse present or after the birth or by a
22 designee of the person in charge of the hospital who
23 is trained or approved by the Health Department. The
24 attendant is swearing to the facts of birth on the
25 birth certificate that they are correct. This is

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2 critical given the importance of birth certificates
3 as fundamental identity documents. The requirement to
4 display the certifier's information on the birth
5 certificate also exists in New York Public Health Law
6 which governs the vital records processes for the
7 rest of New York State. This is also the standard set
8 by the Centers for Disease Control and Prevention,
9 which sets a national exemplar certificate to, to
10 promote uniformity and comparability of data across
11 the United States. In New York City, the only
12 information on a birth certificate that is subject to
13 an amendment by self-attestation is the gender
14 marker. In discussion with other states and advocates
15 over the past several years, the Health Department
16 found that the gender marker was not something that
17 can be corroborated by anyone other than the
18 individuals themselves. All of the other information
19 on the New York City short and long form birth
20 certificates can and must be corroborated by an
21 external party through submission of documentary
22 evidence. This includes paternity, time and place of
23 birth, parent's name and signature of those present
24 at birth including the physician. The requirement of
25 documentary evidence or some other form of proof is a

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2 fundamental legal tenet. It is also codified by the
3 U.S. Model State Vital Statistics Act, which the
4 Department of Health and Human Service promulgates in
5 coordination with the 57 vital records jurisdictions
6 to provide models for the development of local laws
7 and regulations. For anyone seeking substantive
8 factual changes to their birth certificates, which
9 have legal implications, the Health Department
10 requests a court order certifying that the requested
11 information is valid. This is the process all
12 applicants follow when they seek an official
13 proclamation defining legal relationships among the
14 parties listed on the birth certificate including
15 name, paternity or presiding physician. I would now
16 like to turn to the bill under discussion today. I
17 want to be clear that Ms. Hoechstetter's experience
18 with her former OBGYN is horrific, criminal and
19 should never have happened to her or anyone else. The
20 Department stands ready to assist her in the process
21 of removing the presiding physician's name from her
22 daughter's birth certificates. We support the
23 intentions of this legislation, as reflected in our
24 commitment to helping Ms. Hoechstetter and anyone
25 else who wishes to pursue a change. I would however

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like to note that there are legal considerations that we must take into account in altering... in altering our process; we look forward to working with the Council to ensure that our processes continue to be fair, just, and equitable. Thank you for the opportunity to testify, this hearing will generate important conversations. I am happy to answer any questions.

CHAIRPERSON LEVINE: I'm really stunned right now at the stance of the administration and I may be missing some things so I, I just want to give you a chance to clarify. So, you're not supporting the bill?

GRETCHEN VAN WYE: We are on your side, we want to continue to discuss the bill with you.

CHAIRPERSON LEVINE: Okay but... we've been joined by Council Member Powers, fellow Health Committee member and he and I can tell you that that's generally administration speak for we don't support the bill. You, you listed an objection here which is there are legal considerations that we must make into account, you really didn't go into depth at all on that. So, what, what are the legal

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considerations that we need to take into account that would lead you not to support the bill as is?

GRETCHEN VAN WYE: So, first of all we share the same goal, we are very sympathetic to this very difficult situation that potentially many women are facing... [cross-talk]

CHAIRPERSON LEVINE: But... and, and what is that goal?

GRETCHEN VAN WYE: Our goal is to remove the information using a process that maintains the integrity of the birth certificate.

CHAIRPERSON LEVINE: Okay, my goal is to allow women who have been victims to remove the name of the abuser from the foundational document of their child without them having to go through what can be a humiliating public, complicated, difficult and expensive process in the courts and that is the kind of philosophy that led me and this committee and this council to very proudly pass legislation which the administration supported recently allowing New Yorkers to change their gender marker and the reason we passed that bill is so we didn't want to add undue obstacles to people who needed to change that document so I'm not sure we share the same goal if

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you don't adhere to this philosophy of allowing victims to remove the name of their abuser without undue obstacles, cost and public disclosure.

GRETCHEN VAN WYE: We want work with you on figuring that out.

CHAIRPERSON LEVINE: Okay, so tell me again what are the legal considerations which we need to take into account that... [cross-talk]

GRETCHEN VAN WYE: So, what our concern is the changes that are made to any birth certificate are the legal implications that a, a registrant faces through, throughout their life as they carry that certificate. We want that certificate to be respected by all other jurisdictions and other countries as it is now, we want to make sure that the process is one that's follows that maintains the integrity of the certificate.

CHAIRPERSON LEVINE: But every jurisdiction in the world unless I'm wrong does not require that the name of the delivering physician be on the certificate, right?

GRETCHEN VAN WYE: Nor does New York City... nor... New York City's short form birth

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2 certificate does not have the name of the attendant
3 on it, that is easily... [cross-talk]

4 CHAIRPERSON LEVINE: So, who... so... [cross-
5 talk]

6 GRETCHEN VAN WYE: ...available... [cross-
7 talk]

8 CHAIRPERSON LEVINE: ...who's going to
9 reject the document because someone changed or
10 removed the name of, of the physician?

11 GRETCHEN VAN WYE: This, this is... the
12 short form birth certificate doesn't have the name of
13 the information, I'm not... I'm not saying that the
14 document will be rejected, I'm saying that we want to
15 work with you on a process that maintains the
16 integrity of following the, the change that is...
17 within a process that is maintaining the integrity of
18 the birth certificate.

19 CHAIRPERSON LEVINE: But, but I don't
20 understand how it loses integrity if... there are many
21 birth certificates long form which do not even
22 include the name of a delivering physician and there
23 are other jurisdictions which don't require it and,
24 and critically this is not a subjective standard
25 here, this is... the bill was designed to only allow a

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2 change in the case of the.. of the medical provider
3 having been... having lost their license by an
4 accredited professional body. So, there's a very
5 clear standard, it's black and white and I'm, I'm
6 sorry to keep referring to the gender marker bill and
7 I want to repeat my strong and proud support of it
8 but in that case we didn't require a physician to
9 pass judgement there and the bill we're considering
10 today actually does have a more stringent standard
11 essentially in that it does only apply in cases where
12 the medical provider has, has lost their license
13 because of professional misconduct. So, this doesn't
14 apply if someone loses their license because they
15 didn't take their continuing education credits or
16 didn't pay whatever their annual dues are, its more
17 narrow than that, right and maybe you know but my
18 understanding is this is not the kind of thing that
19 happens often, obstetricians are not having their
20 licenses take away... taken away in New York City
21 often, this is a narrow clearly defined standard. So,
22 I don't... I don't understand how the document loses
23 integrity, I don't understand what jurisdiction would
24 have less faith in a New York City birth certificate
25 if we passed this law. Just... I did want to

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acknowledge we've been joined by fellow Health Committee member, Doctor Mathieu Eugene.

GRETCHEN VAN WYE: The... all jurisdictions do require that the attendant or certifier is on the certificate, it's whether it's on the short form versus the long form, like us many jurisdictions don't include it on the short form. The, the process of making a gender marker change is really different from any other process because there's no one externally in the world who can know a person's gender identity and that's why the, the process in that fact is different from the other facts of birth.

CHAIRPERSON LEVINE: I'm actually not catching the logic there..

GRETCHEN VAN WYE: Okay.

CHAIRPERSON LEVINE: So... [cross-talk]

GRETCHEN VAN WYE: I can... [cross-talk]

CHAIRPERSON LEVINE: I, I think you're just validating my point, we rightly because of the fact that gender is an internal... it's an internal matter of identity we rightly have not required external validators and that's, that's a bill that this body supports, and you support, and we all agree on that.

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GRETCHEN VAN WYE: Uh-huh...

CHAIRPERSON LEVINE: And I don't think you believe that led the birth certificate documents to lose integrity in New York City.

GRETCHEN VAN WYE: Of course.

CHAIRPERSON LEVINE: So, now we have a bill with a... which does require an external validator and there's a... it's a different case and there are different reasons for that but there is the presence of an external non-subjective standard which is that the medical provider had lost their license or lost... was, was kicked out of the, the, the state board. So, if it didn't cause us to lose integrity for gender markers why would it cause us to lose integrity to list the name of the doctor?

GRETCHEN VAN WYE: So, I think that the... having the, the ruling by the state medical board is helpful and we just need to know how to use it to be directed how to use it because it makes legal changes to the birth certificate and we do want to work with you on figuring out how that should happen.

CHAIRPERSON LEVINE: It, it appears that your position is that, that a mother who wants to

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remove the name of an abuser off the birth certificate should go to the courts, is that right?

GRETCHEN VAN WYE: That's, that's what we have had so far, that's the process in place, we want to work with you, this is extremely technical. It's, it's... it can be really confusing, we'd be really happy to work with you and get all the right people in the room to work with you on this, to work out the nitty gritty details.

CHAIRPERSON LEVINE: Right but... yes, that has been our process, that has been the only recourse until now but in terms of going forward the bill is attempting to give a, a less onerous route to the victims than going to the court, right, and... but your position is that the court should be the route that mothers go to?

GRETCHEN VAN WYE: The, the court is the route that 12,000 people... of... 50,000 people make changes to their birth certificates every year, 12,000 people use... of those changes require court orders and they successfully do that working with us every year.

CHAIRPERSON LEVINE: But many, many of those... sorry, sorry Commissioner many, many of those

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are spelling changes because they're, they're... they are less complicated and consequential...

GRETCHEN VAN WYE: These actually are...
[cross-talk]

CHAIRPERSON LEVINE: ...and... [cross-talk]

GRETCHEN VAN WYE: ...adoptions, paternity amendments, these are extremely private consequential changes to the birth certificate that are... [cross-talk]

CHAIRPERSON LEVINE: Well I'm... [cross-talk]

GRETCHEN VAN WYE: ...not just regular... you know... [cross-talk]

CHAIRPERSON LEVINE: I'm happy to work with my colleagues perhaps to correct... to, to craft legislation that would allow some of those New Yorkers to avoid the courts, we can talk about that at, at... perhaps at a later date but I think these are special cases and I think that the desire for privacy in, in such cases unless you have someone who's willing to be heroic as Ms. Hoechstetter has been that the, the desire for privacy is really quite compelling and understandable and that alone to me is reason enough to give people the option of avoiding

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2 the court. I, I do think that there are financial
3 costs associated with courts, you might have to hire
4 an attorney, you might have to take a day off of
5 work, I don't know the process maybe you can
6 enlighten me but... and you might get a no at the end
7 of the day and that, that honestly the, the legal
8 system's track record in dealing with cases of sexual
9 abuse... sexual abuse has not been flawless including
10 in this specific case and so I could... I could
11 understand one of the... one of the survivors
12 preferring to avoid going to court for this.

13 GRETCHEN VAN WYE: We want to help, we do
14 have a process, we want to work with you to make it
15 better, we want to work with the women to enable them
16 to remove the... [cross-talk]

17 CHAIRPERSON LEVINE: So, so... yes, you've,
18 you've, you've said that several times that you want
19 to work with the women, that you, you support the
20 women so would you like to comment on what we heard
21 from Ms. Hoehstetter about her experience in the
22 past year and half or more in dealing with the
23 Department... with the Health Department?

24 GRETCHEN VAN WYE: My... so, I am... first of
25 all, I'm so sorry that she had this experience and

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2 I'm also... this is a horribly difficult situation and
3 I can very much understand that she wouldn't want to,
4 you know go through repeated attempts to, to make
5 contact. I have reviewed our contacts, the first
6 contact that I see is from May of 2018, I'm very much
7 going to look... follow up on the, the email that she
8 referred to of the dear parents email, that's not
9 something I've ever heard of before so what I would
10 want to do is to just reiterate that from my
11 knowledge our process is that we, we aim to respond
12 to any corrections request within 30 days. The
13 percent that's less than 30 days is low, our goal is
14 to have it be less than five percent. In 2018 the... it
15 was less than three percent so we want to have a good
16 customer service experience, to my knowledge we heard
17 about this case and replied to this case within a six
18 week period of time so... but I'm very much concerned
19 about what she said and I do want to further
20 investigate it to see about the dear parents email.

21 CHAIRPERSON LEVINE: It's... this is going
22 to be not the right forum to work out exactly what
23 day, what type of content... contact was made but the
24 fact that someone with a New York birth certificate
25 felt they had to resort to contacting their local

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2 City Council Member out of frustration dealing with
3 the Health Department, someone who is in a very, very
4 difficult situation to me demonstrates a failure and
5 so I think in addition to us feeling really bad about
6 what this medical provider did to victimize Ms.
7 Hoechstetter I think we also have to feel really bad
8 and apologize for how the city responded to someone,
9 a survivor of abuse who was taking a very difficult
10 step even to reach out publicly on this and I want to
11 know whether you share my view that the city also
12 owes her an apology?

13 GRETCHEN VAN WYE: My concern is that we
14 always provide excellent customer service and I am...
15 offer my apology in any situation in which we have
16 not done that, absolutely.

17 CHAIRPERSON LEVINE: Okay, well that was
18 vaguer than I would have liked. I... our job is to
19 focus on what the city does and what the city can do
20 better and I'm not proud of how the city has
21 responded in this case and in addition to figuring
22 out a legislative solution to make this easier for
23 other women I think we need to figure out what... how
24 we respond to people who are survivors of abuse who's
25 abuser is on their birth certificate. This is not a

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2 unique case, it's probably not the first time the
3 Health Departments ever been contacted by a woman in
4 this position just statistically because of how many
5 births there are a year and the fact that this one
6 doctor we know was in... was in practice for I think 20
7 years and unfortunately he is probably not the only
8 person who has abused... the only doctor who has abused
9 women so I think we need to understand the protocols
10 that the Health Department have in place for
11 responding when women are in the worst possible
12 situation and I... the appropriate response in my mind
13 would have been a human being reaching out, not a
14 form of email, as soon as possible and to say
15 something along the lines of, if, if this is the case
16 which it appears to be that currently the city's... the
17 laws of the city Health Board, Board do not allow us
18 to change this birth certificate without court
19 approval and we would like to work with you to fix
20 that legislatively and when the administration and
21 the City Council want to make... fix something
22 legislatively we can do it really fast, we can do it
23 in a matter of weeks but it took a lot longer than
24 that because it required Ms. Hoechstetter on her own
25 finding a way to the Office of the Chair of the City

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2 Council's Health Committee in which case we could
3 begin the health... the, the legislative process and,
4 and here we are at the hearing and we're learning
5 that you all don't support the bill and I, I opened
6 up by saying how stunned I am, I have to imagine that
7 any mother out there who is looking for relief has
8 got to be similarly stunned and, and, and surprised
9 and baffled at this response. I'm going to pause now
10 because I want to acknowledge we've been joined by
11 our fellow Health Committee Member, Council Member
12 Alicka Ampry-Samuel and I do think that Council
13 Member Powers has questions.

14 COUNCIL MEMBER POWERS: Yeah, thank you,
15 thanks for the testimony. A couple of questions, for
16 starters you said... you mentioned other jurisdictions,
17 do other jurisdictions both have the long form, short
18 form and do... does every jurisdiction in every state
19 require the attendant's name and information on it?

20 GRETCHEN VAN WYE: Yes, all jurisdictions
21 require it, it's in the federal guidance, it's in the
22 U.S. standard birth certificate so it's a standard of
23 practice for all of the 57 vital records... [cross-
24 talk]

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COUNCIL MEMBER POWERS: And it's required or it's just, just standard practice?

GRETCHEN VAN WYE: It's a... the U.S. standard certificate is a model and then each jurisdiction requires some type of medical certification.

COUNCIL MEMBER POWERS: Got it and the state like New York State for instance could say we don't need the information as we... most are discussing here today, they don't... are not required to require... to have... to have, have the correct in... [cross-talk]

GRETCHEN VAN WYE: New York State Public Health law also requires a certifying... [cross-talk]

COUNCIL MEMBER POWERS: But New York... that's what I'm saying... New York... my point being the legislature could repeal that tomorrow, that's correct, and they would not be in violation of federal law?

GRETCHEN VAN WYE: The fed... the... I would... we'd have to get back to you on the, the details of the federal law.

COUNCIL MEMBER POWERS: Okay and what is the purpose of having that information on there?

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GRETCHEN VAN WYE: A U.S... a, a New York City birth certificate or a New York State birth certificate is proof of U.S. citizenship, it is given the full facing credit of other governments, other jurisdictions and so the, the, the certifier is swearing to all of the facts on that certificate. They're... they are putting their medical license on the line on saying that everything on here is true.

COUNCIL MEMBER POWERS: Okay and the process today, the... what... if you did want to get it amended for this scenario or for some other scenario what is that process?

GRETCHEN VAN WYE: If a woman had this experience today and she gave birth there are two different routes. The first route is that the hospital could say please not... put, put the name of a different... one of the different attendants onto that field in the birth certificate, that would be the simplest, cheapest way, it would be free, hospital... these are called hospital substitutions, hospitals do these kinds of changes regularly. The second way after, after more time has elapsed is to go through the court process.

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COUNCIL MEMBER POWERS: And, and you...
the... because time elapsed because they no longer can
have confidence that they can certify with another
name, is that correct?

GRETCHEN VAN WYE: Well it's... after a
year has elapsed it's, it's, it's just a different
process and that's just a matter of internal
procedure.

COUNCIL MEMBER POWERS: Okay and so today
you have to go to court if you want to get your name
changed or redacted, is that correct?

GRETCHEN VAN WYE: That's correct.

COUNCIL MEMBER POWERS: Okay, but... and,
and you can get it redacted?

GRETCHEN VAN WYE: The, the name... this...
in this particular case we are saying that we agree
that the name can be redacted through the existing
process which is the court order.

COUNCIL MEMBER POWERS: Okay and so if
you can have it redacted what is the consequence if
you legislated a process versus requiring you go... to
go through a court process to be redacted, what's
the... what is the consequence to the individual if
there's an existing process for redaction?

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GRETCHEN VAN WYE: The, the nuance in the difference is just the type of process.

COUNCIL MEMBER POWERS: Okay. So, understanding the concerns from the Department of Health and the administration about, about the bill I don't... I, I mean I'm... forgive me I am still unclear on what the concern is. There is a process today by which one can go through a court proceeding to have the name redacted that seems to have no consequence to the individual as I understand it but I stand corrected if there are consequences in the real world by having the name redacted but there is a process, we are asking for there to be a law to allow for it if... and under a very particular condition. Is there a process outside of the court process that you feel is more appropriate than... if, if... instead of going to court what is a... what is, is there another substitute process that should be in place?

GRETCHEN VAN WYE: As I mentioned I think working with the hospital directly is... would be the most efficient way.

COUNCIL MEMBER POWERS: And it... that's... but after a year you can't, is that correct?

GRETCHEN VAN WYE: Typically.

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COUNCIL MEMBER POWERS: Okay, so, so if, if it's within a year you go to the hospital, if you go... if it's after the year you go to court, that's sounds like the process so let's say imagine in all scenarios... or let's say in any scenario where you're out... you're over a year the hospital is not an available option for you anymore so court is your option. As the Council... as the Chair mentioned that, that, that requires hiring a lawyer and I don't know... I don't know the exact proceeding that you go through but that seems like a bit much to ask somebody to go for when they come and tell a story like some... the one that we heard today, it seems like Department of... you know I still... so, let me... let me take a second, what is the consequence to redacting your name on your... redacting the attendants name on the birth certificate?

GRETCHEN VAN WYE: So... [cross-talk]

COUNCIL MEMBER POWERS: If there is an existing process to do that.

GRETCHEN VAN WYE: So, so the, the... just to reiterate there is a... there is a short form birth certificate that we issue thousands and thousands of

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every year that does not include the attendant's name on it, that's what most people get... [cross-talk]

COUNCIL MEMBER POWERS: Uh-huh... [cross-talk]

GRETCHEN VAN WYE: That's what most people request, that's what people use to get a passport or to get a driver's license, to go to school, those kinds of things. This other form, this long form birth certificate can be redacted through a court order process and the reason why that we, we have a court order process is because we want to make sure that all of the, the information on there, that people can look at that form and know that it's... if there's a legal consequence it has been changed under... with a legal consideration and we want a legal judgment, we're asking the court to direct us because we want that legal judgment and we want the expectation for all of the information on the certificate to have that, that high bar, that expectation of information and that knowledge.

COUNCIL MEMBER POWERS: You want the court to make a determination that the information that you're redacting is correct and legal, is that... [cross-talk]

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GRETCHEN VAN WYE: It should be... that it should be done.

COUNCIL MEMBER POWERS: Should be done, got it. And what are situations or historically where people have been able to get the information redacted like...

GRETCHEN VAN WYE: Redacted?

COUNCIL MEMBER POWERS: Or... and how often I guess is... [cross-talk]

GRETCHEN VAN WYE: Well in this, this is the very first instance that we've ever been contacted in my memory and the memory of my colleagues asking for an attendant's name to be redacted.

COUNCIL MEMBER POWERS: So, it's never happened before?

GRETCHEN VAN WYE: That's correct.

COUNCIL MEMBER POWERS: Okay. So, so, where... the process is hypothetical about going to the court?

GRETCHEN VAN WYE: Well... right, what we've done is... if... we, we... what we do is we, we have 50,000 corrections every year, occasionally there... one comes out of sort of left field, a different

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direction that we haven't faced before and in general when we have those kinds of corrections we ask people to work through the court process because it creates, creates a consistency for making the change across all different types of iterations and it, it allow... it allows people to have confidence that the birth certificate maintains its integrity and if there's a legal consequence, if there's a legal consideration, if something is legally complex the courts have considered it.

COUNCIL MEMBER POWERS: Okay, so there's 50,000 individuals who go to court every year for some... [cross-talk]

GRETCHEN VAN WYE: 12,000 actually... [cross-talk]

COUNCIL MEMBER POWERS: Oh, 12,000, sorry... [cross-talk]

GRETCHEN VAN WYE: ...yeah, 50,000 make corrections, a lot of them don't require court orders.

COUNCIL MEMBER POWERS: Gotcha, okay. And this is the first one by which you've seen somebody ask for the birth attendant's name to be taken off... [cross-talk]

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GRETCHEN VAN WYE: That's right... [cross-talk]

COUNCIL MEMBER POWERS: ...of it, got it.
Do you think there are just anecdotally believe there are other instances out there?

GRETCHEN VAN WYE: There must be, I completely believe that, that this must be not only something that must exist but that more people as Ms. Hoechstetter said will come forward, I think it's, its good that we develop a process and have... work together to figure out the right process to, to go through many circumstances.

COUNCIL MEMBER POWERS: So, let's say we... let's say... and obviously my, my last question, sorry. Let's say the Chairman... [cross-talk]

GRETCHEN VAN WYE: Uh-huh... [cross-talk]

COUNCIL MEMBER POWERS: ...did want to work out a process with you, what would that process look like?

GRETCHEN VAN WYE: I think that what we should do is take... it's very technical and we should take it into a, a different setting where we're talking about how to make this process work the best

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to be as transparent and as useful as possible to the people involved, to the women involved.

COUNCIL MEMBER POWERS: The one comment

I'd add to that is that it, it could... it sounds like based on where we are from in... from the testimony and, and to questions and answers that that process is going to essentially be the same process which is going to be go to court so if we are saying let's work out a process together to figure out how to do this it sounds like the preference here though is to still have people go through the process by which... so, I don't... I don't... I don't mean to... mean to say this in a... in a... in a negative... and I mean... I don't want this to come up the wrong way but it sounds a bit like we're saying lets work this out off, off... you know out of the hearing which is totally fine and reasonable but we're... but we're basically going to end up in the same place which would be then disingenuous to say let's work out a process together.

GRETCHEN VAN WYE: Actually we, we were

reviewing this matter and review... and reviewing the, the, the concept of the, the change and this has... process has moved along very quickly so we haven't

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had the full opportunity to explore how this could be fixed so I... [cross-talk]

COUNCIL MEMBER POWERS: So, you do... but you do envision that there could be a, a process put in place to help address a scenario like this one?

GRETCHEN VAN WYE: I do, I do.

COUNCIL MEMBER POWERS: Okay, thank you.

GRETCHEN VAN WYE: Uh-huh.

CHAIRPERSON LEVINE: Thank you Council Member Powers. You say the process moved quickly but... and you acknowledge hearing, even if you accept that you didn't hear it from Ms. Hoechstetter until May that's seven months and I'm not sure when exactly we introduced the bill but this didn't happen overnight, right? You, you, you repeatedly said that a woman can simply get the hospital to write a letter but no hospital is going to want to do that because they're potentially admitting that, that one of their employees committed a crime, right? You, you cannot have a system that relies on the hospitals where the abuser works accommodating here because it could implicate the hospital, in this case the hospital is being sued probably very appropriately and so a system that relies on the hospital essentially

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admitting guilt... admitting guilt is, is, is destined to fail.

GRETCHEN VAN WYE: It's, it's a system that requires the hospital to admit that it made an error in reporting a piece of information to us, no more no less.

CHAIRPERSON LEVINE: But, but... made an error on reporting but if... but how is that an error in reporting if the person who attended the birth is on the current birth certificate, that person is an abuser but that is who was in the room...

GRETCHEN VAN WYE: There are typically a number of people in a room at the time of birth that could be appropriate people to be... [cross-talk]

CHAIRPERSON LEVINE: So, this... so, this is only an out if there's another individual in the room, a nurse or something?

GRETCHEN VAN WYE: Uh-huh.

CHAIRPERSON LEVINE: Which wouldn't always be the case but could be in some... [cross-talk]

GRETCHEN VAN WYE: Uh-huh... [cross-talk]

CHAIRPERSON LEVINE: ...and while I understand technically they're only admitting an error one could really understand why a hospital

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would, would be... would, would have disincentives to
corporate in that way, it, it doesn't seem to me to
be a failsafe solution and at any rate I think you
explained that it, it, it... that, that solution is
only available for a year, is that right?

GRETCHEN VAN WYE: [clears throat] Excuse
me. The hospital substitution is available for a year
but in this particular case or in these particular
cases it could be something that we could explore.

CHAIRPERSON LEVINE: Right, but they are
going to be... I mean this, this doctor in question
himself was practicing for 20 years and there may be
women who come forward now because they hear about
this bill or, or read the coverage of this case, it
sounds like you're saying you'd offer accommodation
to the one year but... [cross-talk]

GRETCHEN VAN WYE: Again, this is... this
is getting to the technical nitty gritty of how a
process would work which we would feel more
appropriate to work with you in a different setting.

CHAIRPERSON LEVINE: Well this is... that's
getting into the technical nitty gritty of the
hospital writing a letter to make the change but
that's actually not the heart of this bill, we... the,

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2 the goal of the bill is that the Health Department
3 itself, the vital records unit itself can grant this
4 change. You at a number of points have cited state
5 law around this, the state health code, correct?

6 GRETCHEN VAN WYE: New York Public Health
7 Laws... [cross-talk]

8 CHAIRPERSON LEVINE: But... [cross-talk]

9 GRETCHEN VAN WYE: ...and the New York City
10 Health Code.

11 CHAIRPERSON LEVINE: Well, well the, the
12 New York Public Health Law which is a state or, or
13 city?

14 GRETCHEN VAN WYE: State.

15 CHAIRPERSON LEVINE: But is the city not
16 exempt from state public health law related to this
17 matter?

18 GRETCHEN VAN WYE: So, I would want to
19 defer to council on any getting into the depth of a...
20 [cross-talk]

21 CHAIRPERSON LEVINE: Well... [cross-talk]

22 GRETCHEN VAN WYE: The answer is yes. I
23 just... [cross-talk]

24 CHAIRPERSON LEVINE: Okay... [cross-talk]

25 GRETCHEN VAN WYE: ...consulted...

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CHAIRPERSON LEVINE: Right, I mean it's public health law 4100, duties of the department commissioner etcetera, etcetera, the department shall comma except in the case of the city of New York and I can go on and on and on but it seems like we're in power here, the city is in power here and... whether... no other part of... no other jurisdiction in the state is so I don't understand why you keep citing the state law if we're empowered to do it our own way.

GRETCHEN VAN WYE: So, we for, for many fields of the certificate we do have state... the... we are an independent vital records jurisdiction, but we are bound in certain matters by state law.

CHAIRPERSON LEVINE: Right but we're not... we're not bound by the state standards because of the way the law is written. I, I had one piece of information that I think illustrates why the courts are not the right option which is we had our committee counsel call two courts today, the Supreme Court and Civil Court to ask about changing or removing the name of the attendant from their birth documents and the courts both said that this is a matter that must be decided by the Health Department. Now I'm not saying that they are right, we do believe

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2 the law needs to change for you to do that but it
3 illustrates just, just one example of the kind of
4 obstacle that a mother facing this challenge would
5 have to face, that... now a well-informed, someone who
6 is... a, a survivor who is well informed, who knew
7 their rights, knew the process perhaps could surmount
8 that and ask to talk to a supervisor or cite some
9 sort of legal, legal documents but it's just... it's
10 just one data point, two because, because she called
11 two courts today about the, the, the inadequacy of
12 this as an option. Does, does that then yet surprise
13 you at all or bother you?

14 GRETCHEN VAN WYE: It concerns me, and I
15 do want... I want to work with you to figure out the
16 right way to move forward.

17 CHAIRPERSON LEVINE: Okay. We want to do
18 that as well. I'm as confident in the, the bill now
19 as I was two hours ago. I, I firmly believe this is
20 the right thing to do, I don't think it diminishes
21 the integrity of the document, I don't think that
22 steering survivors to the courts is the right answer,
23 I don't think that's an acceptable answer. I think
24 that what we just did thankfully on gender markers is
25 a helpful and instructive case that can guide us on

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this in which case the philosophy was to reduce the barriers when someone needs to make an important change to this document which has practical and symbolic power throughout someone's life and we're going to continue to push on this. Thank you very much.

GRETCHEN VAN WYE: Thank you.

CHAIRPERSON LEVINE: We, we actually have a short attendance... list of witnesses today and this will conclude our hearing, thank you.

[gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date

February 28, 2019