Legislation Details (With Text)

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Res. No. 1099

Resolution calling upon the New York City Department of Health and Mental Hygiene to repeal the requirement that transgender individuals obtain corrective surgery prior to altering the sex designation on their birth certificate.

By Council Members James, Dickens, Lander, Mendez, Palma, Rodriguez, Dromm and Mark-Viverito

Whereas, A birth certificate is a vital form of identification required to participate in numerous government programs, to obtain other important forms of government identification including driver's licenses and passports, to demonstrate eligibility for work or school, among other crucial uses; and

Whereas, The sex listed on the birth certificates of transgender people, or those whose sex designation ascribed at birth does not correlate with their gender identity, does not accurately reflect their sex; and

Whereas, The inaccuracy of a transgender person's birth certificate may lead to harassment, discrimination, denial of services, and/or accusations of fraud; and

Whereas, In recognition of the importance of an accurate birth certificate, The New York City

Department of Health and Mental Hygiene's Office of Vital Records issues amended birth certificates to transgender people; and

Whereas, The New York City Health Code requires that a person seeking to change their sex on their birth certificate submits proof, including a detailed surgical record, a post-operative examination signed by a physician and a post-operative psychiatric evaluation signed by a psychiatrist, that they have undergone "corrective surgery," and

Whereas, The term "corrective surgery" has been interpreted to mean either phalloplasty- a surgical procedure in which a penis is constructed- or vaginoplasty- a surgical procedure in which a vagina is constructed; and

Whereas, According to the Transgender Legal Defense and Education Fund, only a small minority of transgender people undergo these surgeries due to potential risks of surgery and the high costs associated with the procedures, which are typically not covered by most insurance plans; and

Whereas, The "corrective surgery" requirement for amending birth certificates was set by the Board of Health, the entity that regulates the registration of births in New York City, in 1971; and

Whereas, In the intervening forty years, medical, legal, and psychological understandings of transgender people and sexual identity have greatly evolved such that it is now accepted that a person's sex may be determined by a variety of factors beyond just anatomy; and

Whereas, The Board of Health convened a committee in 2006 to consider whether to amend existing requirements for amending the sex designation on birth certificates; and

Whereas, The committee recommended amending the Health Code to permit the sex designation on a birth certificate to be amended when a person submitted proof, including affidavits from a physician and a mental health professional, that he or she had transitioned to another gender and intended to permanently remain living in that gender, regardless of whether or not the person had undergone corrective surgery; and

Whereas, The Department of Health and Mental Hygiene, after soliciting written comments and holding

a hearing on the proposed amendment, chose to not amend the Health Code to alter the requirements for changing the sex designation on a birth certification; and

Whereas, Several other state and federal agencies, including the New York State Department of Motor Vehicles and the United States Department of State, do not require proof of sex reassignment surgery prior to issuing amended driver's licenses or passports, but only require a letter from a medical or mental health professional stating that the applicant has transitioned to and is living as a new gender; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Health and Mental Hygiene to repeal the requirement that transgender individuals obtain corrective surgery prior to altering the sex designation on their birth certificate.

LCC
LS 2295
6/3/11