



**Statement by Chris Erchull,
Staff Attorney, GLBTQ Legal Advocates & Defenders (GLAD),
before the Senate Committee on Health & Human Services,
in Support of House Bill 466,
An Act Relative to Initiating Amendments and Corrections to Birth Records**

Honorable Chairperson Sherman, Vice Chairperson Fuller Clark, and Members of the Committee:

I am grateful for the opportunity to testify in support of House Bill 466, entitled An Act Relative to Initiating Amendments and Corrections to Birth Records. This legislation would allow individuals born in New Hampshire to obtain birth records that correctly reflect their gender identity without the anachronistic and incorrect requirement of first obtaining a court order, including those who identify as neither exclusively male nor exclusively female. It is a logical extension of past updates already made to allow transgender people to obtain accurate gender markers on their drivers' licenses, and it will make everyone safer and more secure.

As an attorney with GLBTQ Legal Advocates & Defenders (GLAD), New England's leading legal rights organization dedicated to ensuring legal equality for LGBTQ people and people living with HIV, I can attest to the importance of treating all people in New Hampshire with dignity and respect in all aspects of civic life. For many Granite Staters, the opportunity to obtain a birth certificate accurately reflecting their gender is a critical move in the direction toward full equality.

In January of 2015, the Division of Motor Vehicles amended its regulations to implement a process by which people can change the gender designation on their drivers' licenses or nondrivers' identification cards.¹ This update to the regulations, which brought New Hampshire in line with the current medical understanding of gender transition and with common trends in identification documents, allowed transgender individuals a way to obtain correct identification after transitioning without the need for a court order. By going a step further, the Legislature can provide appropriate access to consistent and accurate birth records for all individuals born in New Hampshire.

Gender transition, the standard treatment for the medical condition known as gender dysphoria, often involves updating legal identification documents to reflect a patient's correct gender identity.² Any decisions about whether and when it is appropriate to obtain a corrected birth record should be between the individual and the individual's health care providers; a

¹ See Saf-C 1011.03 (as amended by #10775), http://www.gencourt.state.nh.us/rules/state_agencies/saf-c1000.html.

² See *Glossary of Gender and Transgender Terms*, Fenway Health (Jan. 2010), https://fenwayhealth.org/documents/the-fenway-institute/handouts/Handout_7-C_Glossary_of_Gender_and_Transgender_Terms_fi.pdf; see also World Professional Association for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* 10 (2012) ("options . . . to help alleviate gender dysphoria" include "[c]hanges in name and gender marker on identity documents"), available at https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf.

court order unnecessarily burdens both the individual and the court system. Under the current outdated legislation, a judge must decide whether an individual has undergone a “sex change,”³ a standard that has been interpreted inconsistently by courts, underscoring that there is no public benefit to judicial, as opposed to medical, determinations of sex or gender identity.

It also benefits the public interest for individuals to have access to state-issued identification documents that are consistent with one another. Inconsistencies in identification documents can create difficulties in public administration and law enforcement.

Currently, individuals born in four states (California, Oregon, Washington, and New Jersey) are able to obtain corrected birth records indicating a gender that is neither male nor female. As the National Center for Transgender Equality explains: “People whose gender is not male or female use many different terms to describe themselves, with non-binary being one of the most common. Other terms include genderqueer, agender, bi-gender, and more.”⁴ Nonbinary individuals who suffer from gender dysphoria experience a deep persistent, insistent, and consistent incongruence with the sex assigned to them at birth.

Additionally, the broad category of people who identify as neither exclusively male nor exclusively female also includes some individuals who are intersex,⁵ which the World Health Organization describes as people “born with physical or biological sex characteristics (including sexual anatomy, reproductive organs and/or chromosomal patterns) that do not fit the traditional definitions of male or female.”⁶ An estimated 0.05% to 1.7% of people are intersex.⁷ While the gender identity of many intersex individuals is male or female, for others it is neither.

Nonbinary gender markers are now increasingly being used in commercial settings because, according to an airline industry statement: “U.S. airlines value a culture of diversity and inclusion, both in the workplace and for our passengers, and we work hard each day to accommodate the needs of all travelers, while delivering a safe, secure and enjoyable flight experience.”⁸

By streamlining the process for correcting birth records and introducing a gender marker representing gender identities that are neither male nor female, this bill operates to allow Granite Staters a standardized and consistent manner by which to obtain correct identification documents.

³ RSA 5-C:87, V.

⁴ See *Understanding Non-Binary People: How to Be Respectful and Supportive*, National Center for Transgender Equality (Oct. 5, 2018), <https://transequality.org/issues/resources/understanding-non-binary-people-how-to-be-respectful-and-supportive>.

⁵ While many intersex individuals identify as male or female, others hold a nonbinary identity.

⁶ See World Health Organization, FAQ on Health and Sexual Diversity (2016), available at <http://origin.who.int/gender-equity-rights/news/20170227-health-and-sexual-diversity-faq.pdf>.

⁷ See United Nations Free & Equal, Fact Sheet Intersex, available at <https://www.unfe.org/wp-content/uploads/2017/05/UNFE-Intersex.pdf>.

⁸ See Amanda Jackson, *Airlines will add new gender options for non-binary passengers*, CNN, Feb. 18, 2019, <https://www.cnn.com/travel/article/gender-options-airline-passengers-trnd/index.html>.

I urge you to support HB 446 to fulfill the promise of HB 1319 in 2018, which recognized the right of transgender residents to be free from discrimination in New Hampshire. Thank you for your consideration, and I hope you will further the promise of fairness and freedom for all Granite Staters by supporting House Bill 446.

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