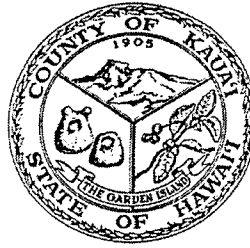


HB2227,HD1,
SD1

COUNTY COUNCIL

Jay Furfaro, Chair
JoAnn A. Yukimura, Vice Chair
Tim Bynum
Dickie Chang
KipuKai Kualii
Nadine K. Nakamura
Mel Rapozo



OFFICE OF THE COUNTY CLERK

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

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

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

April 2, 2012

**TESTIMONY OF KIPUKAI KUALII
COUNCILMEMBER, KAUA'I COUNTY COUNCIL**

**ON
HB 2227, HD 1, SD 1, RELATING TO BIRTH CERTIFICATES.
Committee on Judiciary and Labor
Committee on Ways and Means
Tuesday, April 3, 2012
10:30 A.M.
Conference Room 016**

Dear Chairs Hee and Ige, and Committee Members:

Thank you for this opportunity to submit testimony in support of HB 2227, HD 1, SD 1, relating to birth certificates. My testimony is submitted in my capacity as an individual member of the Kaua'i County Council.

The purpose and intent of this measure is to allow for the establishment of new birth certificates for transgender individuals. Current law requires that a doctor certify that a person has undergone sex reassignment surgery in order to change their gender listed on their birth certificate. This requirement is outdated and unnecessary, as many transgendered individuals choose not to undergo surgery for various reasons, including cost, safety, and the availability of alternative treatments.

The current requirements are a significant barrier for transgendered people to obtain birth certificates and other identifying documents that accurately reflect who they are. This bill would include hormonal or other treatments as an alternative to surgery to satisfy the requirements to obtain a new birth certificate. This amendment is vital for transgendered individuals, whose daily lives are severely affected by the inability to have their gender accurately reflected in official documents.

For the reasons stated above, I am in support of HB 2227, HD 1, SD 1, and ask for your favorable support.

Again, thank you for this opportunity to submit testimony.

Sincerely,

KIPUKAI KUALII
Councilmember, Kaua'i County Council



Email to: JDLTestimony@Capitol.hawaii.gov
Hearing on: Tuesday, April 3, 2012 @ 10:30 a.m.
Conference Room #016

DATE: March 30, 2012

TO: Senate Committee on Judiciary and Labor
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair

FROM: Allen Cardines, Jr., Executive Director

RE: Strong Opposition to HB 2227 HD 1 SD1 Relating to Birth Certificates

Honorable Chairs and members of the Senate Committee on Judiciary & Labor, I am Allen Cardines, **representing the Hawaii Family Forum**. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations. We strongly oppose this bill for several reasons:

STATE INTEREST IN CREATING FALSE IDENTITIES

First and foremost, we do not see why the state would have an interest in promoting false identities and creating situations that could potentially force churches to provide services that are contrary to their religious tenets. The bill as written creates a strong potential for fraud or fraudulent representations by someone looking to dissociate from their past.

RELIGIOUS FREEDOM DENIED UNDER SMOKE AND MIRROR LAW

Remember the “pregnant man” that Oprah kept having on her show from a few years ago? Of course, the “man” at issue isn’t a man at all, but Oregon law states that if you have a surgery, you can change your birth certificate (a VITAL RECORD). This woman had her breasts, and only her breasts, removed. She then proceeded to get her birth certificate changed. Then, although Oregon has a constitutional amendment protecting marriage as one man and one woman, she got a marriage license issued to her and her girlfriend. All because Oregon now considered her to be a “man.”

In this true-life scenario above, a church could then provide marriage rites (unknowingly) to a same-sex couple under the guise of false heterosexuality. Political activists know that blurring the sexes will ultimately make marriage meaningless. Please do not pass legislation that would put the church in the position of unwittingly promoting a lifestyle that is contrary to their religious belief. Religious freedom should never be sacrificed to appease advocates of sexual confusion.

POTENTIAL FOR LEGAL QUAGMIRE

We also strongly believe that just as a person is born a distinct race, they are also born a distinct sex. No amount of surgery can ever change your DNA. If this law is passed, we may likely see years of legal cases over things even more perverse than the situation noted above.

Mahalo for the opportunity to testify.

EQUALITY HAWAII

Tuesday, April 13 • 2 p.m. • Conference Room 016
Testifying in Support of HB2227 SD1 On Behalf of Equality Hawaii

Aloha, Chairs Ige & Hee, Vice Chairs Kidani & Shimabukuro & Members of the Senate Ways & Means and Judiciary & Labor committees:

On behalf of Equality Hawaii, the state's largest LGBT advocacy organization, we testify in strong support of HB2227, relating to birth certificates.

This bill represents critically important legislation to our community. It seeks to remove unfair requirements that encumber a transgender individual's ability to change the gender marker designation on his or her birth certificate. It also attempts to align policy with contemporary medical knowledge and practice.

Barriers imposed by existing legislation which this bill seeks to remedy include: the requirement to undergo a sex change operation; lack of explicit language that prohibits government officials from requiring additional documentation not specified in policy; and the absence of a clear mechanism by which individuals can update their names concurrently with or before or after they update their gender.

This bill appropriately defers to personal physicians - rather than to state officials - the competency and authority to evaluate and substantiate the qualifying conditions of gender transition. To deem surgery the singular and exclusive requirement for a corrected gender designation reveals a misunderstanding of the multi-dimensional and highly individualized process of treatment and therapy. In some instances, surgery is infeasible, ill-advised and can be life-threatening.

The proposals in this bill are not unprecedented as evidenced by policies enacted in numerous states and by the U.S. Department of State. This bill does not task the Department of Health of Health with the responsibility of defining gender, but asks that it update the gender marker ("M" or "F") on birth certificates according to clinical - not bureaucratic - assessments and expertise.

HB2227 will give transgender individuals more privacy and control over their personal information. Most importantly, it will remove government-imposed barriers that perpetuate discrimination and hinder social and legal recognition ... recognition we take for granted that fosters dignity and enables us to participate as full citizens in society.

Equality Hawaii asks that you please pass HB2227.

Mahalo,
Scott Larimer, Co-Chair, Equality Hawaii
Kahana Ho, Legislative Affairs Committee, Equality Hawaii

HONOLULU PRIDE

CELEBRATING 22 YEARS OF PRIDE IN PARADISE

92-954 MAKAKILO DR. #71, KAPOLEI, HI 96707

PHONE: 808-672-9050 FAX: 808-672-6347

WWW.HONOLULUPRIDEPARADE.ORG – HONOLULUPRIDEPARADE@GMAIL.COM

March 31, 2012

Tuesday, April 3, 2012 - 10:30 a.m.
Senate Committees Judiciary and Labor and
Ways and Means
State Capitol RM 016
415 South Beretania Street
Honolulu, HI 96813

RE: House Bill 2227 HD 1 SD 1 RELATING TO BIRTH CERTIFICATES - STRONG SUPPORT

Aloha Chair Hee, Chair Ige and fellow committee members,

On behalf of Honolulu Pride we would like to say Mahalo for hearing House Bill 2227 HD 1 SD 1.

When this bill becomes law it will mean the world to those that have gone through gender reassignment commonly know as being a member of the transgender community.

No one goes through this process lightly and it is not easy. But as members of the transgender community will tell you it is the most rewarding experience when completed. But right now it is very difficult for members of the transgender community to change their gender on their birth certificate when they have completed the medical side of the process.

This is where we need your help; on the legal side of things. Imagine going through the process but then having to be reminded of it every time you need to produce your identification. In this day and age we live in it seems that every time you turn around you need to produce identification. You have to explain when the gender on your I.D. does not match the gender on your I.D. This can even led to leaving a member of the transgender community stranded or worse yet in danger if they are in a country that is not as enlightened as the United States.

Lets take a look at Canada a very enlightened country that has in the last year said that a person that does not match the gender on their I.D. that their version of the TSA thinks they are can be barred from boarding a plane. Now imagine if they are in a country that does not even recognize transgender they could be jailed and in some cases sentenced to death. So you can help ensure a member of the transgender community never has to go through that by voting yes on HB 2227 HD 1 SD 1.

We urge you to support this bill because it is the right thing to do.

Mahalo for the opportunity to testify,

Rob Hatch
Legislative Representative



HAWAII CATHOLIC CONFERENCE

6301 Pali Highway
Kaneohe, HI 96744-5224

Email: JDLTestimony@capitol.hawaii.gov
Hearing on: Tuesday, April 3, 2012 @ 10:30 a.m.
Conference Room: 016

DATE: March 30, 2012
TO: **Senate Committee on Judiciary & Labor**
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair
From: Walter Yoshimitsu, Executive Director
Re: Strong Opposition to HB 2227 HD 1 SD1 Relating to Birth Certificates

Honorable Chairs and members of the Senate Committee on Judiciary and Labor, I am Walter Yoshimitsu, **representing the Hawaii Catholic Conference**. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii, which under the leadership of Bishop Larry Silva, represents Roman Catholics in Hawaii.

We oppose this bill because our church teaches that the altered condition of a member of the faithful under civil law does not change one's canonical condition, which is male or female as determined at the moment of birth.

Marriage between members of the same sex is not legal in the State of Hawaii. Passage of this legislation opens the door to marriage between members of the same sex. Almost 70% of the people of Hawaii made it clear that marriage is between one man and one woman.

For matters like marriage, the church considers only the genetic gender of the individual. Thus a male who undergoes surgery to become female could not marry a man, even if they were able to obtain a marriage license, because the church would regard this as a same-sex marriage of two males. Further, a female who undergoes surgery to become a male will not be able to marry a woman even though the state would now consider them as an opposite-sex couple.

Language in the bill states "The new certificate shall not be marked as having been amended and shall in no way reveal the original language changed by the amendment. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed." Under this strict language, the Catholic Church, and other religious organizations, would have no way of knowing that the individual asking for marriage has assumed a different gender. That would indirectly put everyone in the position of inadvertently officiating over same-sex "marriages."

During late 2008, Pope Benedict XVI said in a speech that our gender was a gift from the creator. He denounced those who would try to change it. He said: "It is a question here of faith in the Creator and of listening to the language of creation, the devaluation of which leads to the self-destruction of man and therefore to the destruction of the same work of God."

Please do not pass this disingenuous legislation. Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: cstravelerhi@yahoo.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Saturday, March 31, 2012 6:53:58 PM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Craig Smith
Organization: Individual
E-mail: cstravelerhi@yahoo.com
Submitted on: 3/31/2012

Comments:

Please pass this bill - make life easier for transgender brothers and sisters!

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kahanakitty@gmail.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Monday, April 02, 2012 10:54:37 AM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Kahana ho
Organization: Individual
E-mail: kahanakitty@gmail.com
Submitted on: 4/2/2012

Comments:

re: STRONG SUPPORT for HB2227 HD1 SD1 Relating to Birth Certificates

Aloha, Esteemed Chairs Hee and Ige, Vice-Chairs Shimabukuro and Kidani, and members of the Senate Committee on Judiciary and Labor and Committee on Ways and Means.

I am writing in Strong Support of HB2227 HD1 SD1 Relating to Birth Certificates.

As a life-long resident of Hawai'i, and as a transgender individual, passage of HB2227 would have profound effects on myself, as well as on all transgender people born here.

After starting my transition, I encountered many incidents of discrimination and harassment, all arising from disclosure of my birth gender upon producing my photo ID. As examples, I have been questioned openly (and loudly) about my identity and gender when picking up prescription medication, cashing a check, renewing my Driver's License, and the worst, when undergoing TSA inspection at the airport. I am fortunate: I have not yet been physically assaulted, or worse, as has happened to other transgender people here in Hawai'i.

All of these trace back to a common problem: my gender expression or presentation does not align with the gender marker which is defined by the sex marker on my Birth Certificate. The current law HRS §338-17.7 permits transgender individuals to change their sex marker only if they have a notarized letter from the surgeon who has performed a Sex Reassignment Surgery (SRS) on her/him.

However, it is now recognized that Gender Transition can include interventions that may include some, but not necessarily all of the following: psychotherapy; genetic diagnostic assay; hormone replacement therapy; breast augmentation, reduction, or removal; facial and body hair depilation; facial feminizing surgery; as well as sexual reassignment, or genital reconstructive surgery. These interventions are uniquely adjusted to the needs of the individual; in fact, the World Professional Association for Transgender Health clearly indicates the highly individualized nature of transition care.

Unfortunately, in Hawai'i, HRS§338-17.7 still reflects outdated concepts of transgender identity and standards of care, setting the completion of sexual reassignment surgery as the benchmark for sex marker change. The reality is that SRS is often unaffordable, medically inadvisable, or sometimes not even necessary for successfully resolving gender dysphoria. But we, as transgender individuals, face discrimination if we cannot change that sex marker, no matter how we present, no matter how we live our lives. A bitter irony is that in order to qualify for SRS, we must live *full-time* up to two years minimum in our identified gender (the so-called, *Real-Life Experience*, or RLE), but without proper identification, even getting a job can be a impossibility, therefore disqualifying us from successfully completing the RLE, or earning the money necessary to afford the expensive, typically out-of-pocket transition care. HB2227 seeks to address this problem, by reflecting current understanding of gender identity and Standards of Care, removing the exclusive requirement for SRS, and allowing the clinical judgement of the transgender individual's service providers to be the basis of the administrative action of changing the birth certificate sex marker.

HB2227 also addresses and ensures the personal and medical privacy of transgender individuals, be requiring the sealing of the old birth certificate and the issuance of a new one, with no reference to prior sex marker status. This is critical to minimizing the chances of discrimination against transgender individuals.

Unfortunately, it has been suggested that individuals seeking a sex marker change be required to have a State of Hawai'i-licensed physician provide the documentation necessary for such an action. This is an unreasonable burden on transgender patients. First, for transgender individuals who no longer reside in Hawai'i, it would require returning here, locating an appropriately skilled service provider, and establishing a patient-provider relationship. This is complicated by the fact that there are few practitioners in the state that work with transgender individuals specifically on transition issues, and by the fact that insurance often does not pay for transition-related services.

It is also critical that transgender individuals, whether still living in-state or not, have access to the best transgender-related care possible; the range of services necessary for gender transition often leads individuals to seek care from a variety of places, including out-of-state and even out-of-country. These providers are best qualified to provide the documentation necessary for a sex marker change request.

Another concern has been the suggestion that the courts be required to intervene by issuing an order for a sex marker change. In addition to creating an unnecessary burden on the court system, this is highly problematic for transgender individuals, as it creates further institutionalized barriers and financial burdens on them, when they are already typically at financial disadvantage due to transition costs. It requires transgender individuals to be able to present expert testimony by those adequately trained in the medical, social, and psychological nature of transgender identity and standards of care. It is not necessary to involve the courts to affirm a private medical process of gender identity, keeping transition a clinical process between the individual and her/his medical providers, and not involving those who have no clinical knowledge or competency to make such decisions. It should be noted that our current legal name change process does not require a court order.

HB2227 HD1 SD1 represents the best recommendations of organizations such as the World Professional Association on Transgender Health (Policy Position Statement June 16 2010 http://www.wpath.org/publications_public_policy.cfm).

It also reflects the National Center for Transgender Equality recommendations regarding revisions to the outdated (1992) Model Vital Statistics Act and Regulations (<http://transgenderequality.wordpress.com/2011/06/22/policy-brief-birth-certificate-gender-markers/>).

The current language of HB2227 HD1 SD1 is remarkable because it not only addresses existing problems in §338-17.7, but also creates no barriers to transgender individuals who seek the best possible qualified transgender services in accordance with professional Standards of Care, regardless of where that care may be. The current language of HB2227 HD1 SD1 also does not create an unnecessary burden on the State Judiciary System or the transgender individual.

With these considerations, I respectfully request that the Committee on Health pass HB2227 HD1 SD1, unamended, as a step forward for the equal rights of transgender individuals in Hawai'i.

Mahalo ā nui loa, ā me ke
Aloha Pūmehana,
Kahana Ho

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: kyle.kajihiro@gmail.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Sunday, April 01, 2012 12:59:28 AM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Kyle Kajihiro
Organization: Individual
E-mail: kyle.kajihiro@gmail.com
Submitted on: 4/1/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: einoue808@gmail.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Saturday, March 31, 2012 8:50:13 AM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Micah Inoue
Organization: Individual
E-mail: einoue808@gmail.com
Submitted on: 3/31/2012

Comments:

It is my belief that we support this bill to be inclusive of all citizens of Hawaii. To help Hawaii restore its place in the pacific as a place full of aloha for ALL. Furthermore, restore Hawaii to its precontact values of inclusion of all people's be they Kane, Wahine or Mahu. It is my belief that this bill will help insure that rights are afforded to all persons in this state. All of which have an important and equally significant role to play.

Senator Clayton Hee
Chair of the Committee on Judiciary and Labor

Senator David Y. Ige
Chair of the Committee on Ways and Means

HB2227, HD1, SD1

Tuesday, April 3, 2012

Conference Room 016, 10:30AM

Aloha Chairman Hee, Chairman Ige and the members of the Committees on Judiciary & Labor and Ways & Means,

My name is Rebecca Kushins and I am a resident of the island of Maui. I am currently a graduate student at the University of Hawaii at Manoa's Myron B. Thompson School for Social Work, in the Distance Education Option for Neighbor Island Residents. I am here submitting testimony regarding HB2227, HD1, SD1, Relating to Birth Certificates. I strongly support this measure.

As a student of social work, I have been taught to respect the worth and dignity of all human beings, regardless of their class, race, ability, gender, and other marks of diversity. I believe that men and women who identify as transgender, intersex, or other gendered are also worthy of our society's acceptance, respect, and concern. In particular, as a social worker, I have learned to be especially concerned with the rights of individuals to live freely and with self-determination within our democracy. Again, such rights must extend to all citizens, regardless of sexual orientation or gender identity.

The passage of this critical bill, like the recent passage of civil unions in Hawaii, will once again demonstrate that our state cares deeply about protecting our citizens' equal rights, and about taking a stand against unnecessarily discriminatory policies. By permitting citizens to change their gender identification on their birth certificate (and thereby change their gender on all other identifying documentation), our legislature could hereby take a strong stand against the many problems faced by transgendered individuals in our community. It is no secret that women and men who identify as the opposite gender to which they were born struggle significantly from a young age. School and workplace bullying, homelessness, verbal and physical harassment, substance abuse and prostitution are only some of the negative effects which stem from the social stigma or discrimination which these individuals face on a regular basis.

Can you imagine what it is like to apply for a job, only to be asked for your ID, which states that you should look like someone else? Transgender women and men are immediately made vulnerable to discrimination by employers, law enforcement, TSA

agents, and many others as a result of the fact that their ID (a reflection of their birth certificate) does not match their gender identity. Despite the fact that such discrimination has been made illegal by recent legislative measures, behaviors continue on an individual basis, and further action can be taken by the legislature to counteract the causes of such hatred.

Given these and other difficulties, it is simply unfair to further require that women and men must have the very expensive and potentially dangerous surgical sexual reassignment in order to qualify for a change to their birth certificates. Surgery is only one method by which gender is changed, and it is not an option for a majority of people who might wish to live in their preferred gender category. The requirement of surgery places an unfair economic burden on a group of individuals who are already troubled by the aforementioned stigma, making their financial status questionably secure. A person's bank account should not dictate their capacity to identify as their inmost self.

By giving these women and men, and their expert physicians, the power to assess and describe gender identity, this bill takes personal power away from the state and places it in the hands of the people most affected by such descriptions, where it belongs. Under HIPAA, access to protected health information is restricted to only those people who provide treatment for the individual. In most cases, this does not include the government or its offices. As such, it does not follow that the government should be able to control or prevent individuals from changing their gender or sexual identity on their personal and private legal documents.

With respect for the worth and dignity of all women and men, a belief in everyone's right to self-determination, a desire to eliminate discrimination of all kinds, and with the plea for protection of confidential health information, I respectfully request that this committee pass HB2227, HD1, SD1.

Mahalo for your time and attention.

Rebecca Kushins
rkushins@hawaii.edu
808-344-3808

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: Sasheir@yahoo.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Sunday, April 01, 2012 7:25:01 PM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Sharain S Naylor
Organization: Individual
E-mail: Sasheir@yahoo.com
Submitted on: 4/1/2012

Comments:

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: hi2mom@aol.com
Subject: Testimony for HB2227 on 4/3/2012 10:30:00 AM
Date: Sunday, April 01, 2012 2:04:08 PM

Testimony for JDL/WAM 4/3/2012 10:30:00 AM HB2227

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Susan Roth
Organization: Individual
E-mail: hi2mom@aol.com
Submitted on: 4/1/2012

Comments:

I support this bill as a means of greater understanding and support for the transgender and other gender non-conforming community. Thank you for your support.