



TESTIMONY BY:

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LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 15, 2019
10:45 a.m.
State Capitol, Room 225

H.B. 1165, H.D.2
RELATING TO GENDER IDENTIFICATION.

Senate Committee on Transportation

The Department of Transportation (DOT) **supports** H.B. 1165, H.D.2 with an amendment.

Gender is a required field for REAL ID compliant driver's licenses and REAL ID compliant identification cards.

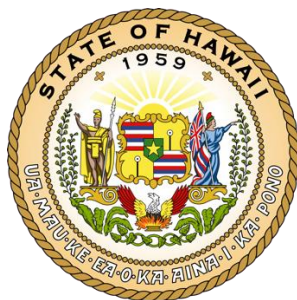
Driver's licenses are issued by the county examiner of drivers at the various county issuing locations, not the Department of Transportation. Therefore, the DOT recommends the following amendment to Section 3, page 4, line 20 and 21 to read;

"The [~~department of transportation~~] examiner of drivers shall not require documentation for an applicant's selection of gender category or".

DOT and the City & County Department of Information Technology will need to work with the American Association of Motor Vehicle Administrators (AAMVA) to ensure implementation meets the AAMVA driver's license and identification card standards in accordance to Hawaii Administrative Rules.

There is also a need to capture the sex at birth information of applicants for driver's licenses and state identification cards. The United States Selective Service System requires male U.S. citizens and male immigrants between the ages of 18 to 25 years old to be registered with the System. The examiner of drivers transmits the information to the Selective Service System that is required to register those male U.S. citizen and male immigrant applicants for driver's licenses and state identification cards between the ages of 18 to 25 years old. Applicants' personal information, including the sex at birth information, is protected by existing laws and administrative rules.

Thank you for the opportunity to provide testimony.



‘O kēia ‘ōlelo hō’ike no ke
Komikina Kūlana Olakino o Nā Wāhine

Testimony on behalf of the
Hawai‘i State Commission on the Status of Women
Khara Jabola-Carolus, Executive Director

Prepared for the Senate Committee on TRS

In Support of HB1165 HD2

Friday, March 15, 2019, at 10:45 a.m. in Room 225

Dear Chair Inouye, Vice Chair Harimoto, and Honorable Members,

The Hawai‘i State Commission on the Status of Women **supports** HB1165 HD2, which would require a third option of gender identification for driver's license and state identification card applicants. Hawai‘i has the largest percentage of transgender individuals in the United States. Binary gender and sex markers on state driver’s licenses cause difficulty and invasive questioning in everyday transactions for this community. Indeed, sex and gender markers **increase the likelihood of discrimination** for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Sex and gender are distinct concepts although the state uses the terms inconsistently, and often interchangeably which exacerbates mythological binaries. For example, the federal REAL ID Act requires that state driver’s licenses mark “the person’s gender.” At present, Hawai‘i’s regular driver’s license is technically non-compliant with the REAL ID Act because lists “sex.” Sex implies chromosomes and particular body parts relevant to reproduction. Gender is the story that a society tells about sex differences. These stories are currently “steeped in stereotypes of female inferiority,” and so deeply ingrained that we experience them as if they are unchangeable and biological.¹ Gender (expectations and stereotypes) is at the heart of sexism and the subordinate status of women and all people who exhibit a feminine rather than typically masculine appearance or demeanor. In most states, non-binary genders are not legally recognized.

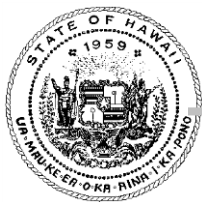
HB1165 would align our identification documents with the reality that gender is a mutable, performative characteristic that is personally changeable at any time. All people may present themselves at any time in a way that associates them with the “wrong” sex or gender, and can be misgendered by

¹ Fogg Davis, H., *Beyond Trans Does Gender Matter?*, 2017.

state administrators such as law enforcement. Accordingly, the Commission asks that the Committee pass this HB1165 HD2.

Sincerely,

Khara Jabola-Carolus



HAWAII CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 15, 2019
Rm. 225, 10:45 a.m.

To: Hon. Lorraine R. Inouye, Chair
Hon. Breene Harimoto, Vice Chair
Members of the Senate Committee on Transportation

From: Linda Hamilton Krieger, Chair
and Commissioners of the Hawaii Civil Rights Commission

Re: H.B. No. 1165, H.D. 2

The Hawaii Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawaii's laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state-funded services. The HCRC carries out the Hawaii constitutional mandate that no person shall be discriminated against in the exercise of their civil rights.

The HCRC supports H.B. No. 1165, H.D. 2, which would require a third option for gender identification for driver's licenses and state identification cards, specifying gender designation options of M, F or X.

Expanding gender options on government identification will aid in nondiscrimination against transgender and non-binary individuals.

HCRC is cognizant that identification document must conform with the REAL ID Act, and urges any modifications that will allow compliance with federal law, and allow individuals to self-identify their gender option.

It is important to support inclusiveness, and the HCRC supports H.B. No. 1165, H.D. 2.



HB1165 HD2
RELATING TO GENDER IDENTIFICATION
Senate Committee on Transportation

March 15, 2019

10:45 a.m.

Room 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1165 HD2, which would add a third, gender-neutral marker to Hawai‘i driver’s licenses, providing meaningful accommodation for gender non-binary individuals, and reducing the risks of invasive questioning, discrimination, harassment, and even violence that transgender, gender non-binary, and gender non-conforming individuals may face when identified as a particular gender on their state identification.

Transgender and gender non-conforming people have deep roots in traditional Hawaiian society, and remain a significant but often unacknowledged part of Hawai‘i’s community today. Hawaiian culture has a rich history of gender diversity and acceptance of those who would now be considered transgender or gender non-conforming. In pre-colonial Hawaiian culture and society, aikāne and māhū were revered and maintained special roles in society and in certain cultural practices.¹ Currently, Hawai‘i ranks first in the nation with the highest proportion of its population composed of transgender adults,² and three percent of Hawai‘i’s high-school-aged youth identify as transgender.³ Native Hawaiians are also strongly represented among this young transgender population, representing 25% percent of our transgender youth.⁴ Unfortunately, our community does not meaningfully acknowledge and accommodate our transgender, and gender non-conforming communities, resulting in various forms of systemic and invidious discrimination not reflective of Hawai‘i’s cultural history and traditional values.

Government forms of identification, such as driver’s licenses, that mandate binary gender markers can have a great impact on transgender and gender non-conforming peoples’ safety and emotional well-being. For example, a driver’s license showing a binary gender may “out” such individuals in any situation requiring proof of identity; as a

¹ See, e.g., Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. (2004); Lilikalā Kame'eleihiwa, *Le'ale'a o na Kupuna: Traditional Hawaiian Sexuality*, Ke Ola Mamo Conference (1999); and Keith Bettinger, *Historically Speaking: A quick look at homosexuality and gender roles in pre-contact Hawai'i*, HONOLULU WEEKLY (Jun. 20-26, 2007).

² WILLIAMS INSTITUTE, *HOW MANY ADULTS IDENTIFY AS TRANSGENDER IN THE UNITED STATES?* 3 (2016).

³ HAWAI'I STATE DEPARTMENT OF HEALTH, *HAWAI'I SEXUAL AND GENDER MINORITY HEALTH REPORT 2018: A FOCUS ON TRANSGENDER YOUTH*, 24 (2018) available at <https://health.hawaii.gov/surveillance/files/2018/09/HawaiiSexualandGenderMinorityHealthReport2018.pdf>.

⁴ *Id.*

result, routine activities like travelling, applying for a job or a school, entering public establishments, or attempting to obtain benefits can be anxiety-inducing ordeals for these individuals. Identification documents that do not match a person's lived gender can also expose them to negative attention in a variety of forms, including invasive questioning; verbal harassment and physical violence; unnecessary scrutiny by law enforcement; and discrimination in housing, employment, healthcare, and public benefits.

A gender-neutral marker on state drivers' licenses will free individuals, such as māhū, transgender, and gender non-conforming individuals, from having to compromise their personal and cultural identities and mitigate the prejudicial treatment and harms they may otherwise face.

Therefore, OHA urges the Committee to **PASS** HB1165 HD2. Mahalo nui loa for the opportunity to testify on this important measure.



Hawai'i

LATE

Committees: Senate Committee on Transportation
Hearing Date/Time: Friday, March 15, 2019, 10:45 a.m.
Place: Conference Room 225
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 1165, H.D. 2, Relating to Gender Identification


Dear Chair Inouye, Vice Chair Harimoto:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of H.B. 1165, H.D. 2**, which would offer a third gender designation option on state driver's licenses and state identification cards. This change will provide accurate identification documents to affirm individuals' gender identity and help prevent discrimination and harassment of transgender and non-binary people.

According to the Williams Institute, Hawai'i has the highest percentage of its population identifying as transgender in the nation. In 2016, the National Center for Transgender Equality released its 2nd U.S. Transgender Survey, which included the experiences of almost 28,000 respondents.¹ Only 11% of respondents reported that *all* of their IDs had the name and gender they preferred, and 68% reported that *none* of their IDs matched the name and gender that they preferred. We applaud the legislature for recognizing that this current state of affairs is unacceptable and introducing this legislation to remedy it.

Hawaii's current driver's licenses and state identification cards do not recognize non-binary people, who self-identify as neither male nor female, both male and female, or something else. Approximately 31% of respondents to the U.S. Transgender Survey identified as non-binary. For these individuals, neither an "M" nor an "F" gender marker accurately reflects their gender identity. Offering a third option will provide a more accurate gender designation for these individuals, as well as a privacy option for those who do not wish to disclose their gender.

Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes
Policy Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.

¹ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

HB-1165-HD-2

Submitted on: 3/15/2019 12:14:56 AM

Testimony for TRS on 3/15/2019 10:45:00 AM

LATE

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---|---------------------------|---------------------------|
| Ann S Freed | Testifying for Hawaii Women's Coalition | Support | No |

Comments:

HB-1165-HD-2

Submitted on: 3/12/2019 11:18:04 AM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|--|---------------------------|---------------------------|
| Laurie Field | Testifying for Planned Parenthood Votes Northwest and Hawaii | Support | No |

Comments:

HB-1165-HD-2

Submitted on: 3/12/2019 1:57:00 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-----------------------------------|---------------------------|---------------------------|
| Mike Golojuch | Testifying for Rainbow Family 808 | Support | No |

Comments:

I strongly support HB1165. It is another way for showing equality to all.

Please pass HB1165.

Mike Golojuch, Sr., Board Member, Rainbow Family 808



March 12, 2019

Senate's Committee on Transportation
Hawaii State Capitol
415 South Beretania Street, Room 225
Honolulu, HI 96813

Hearing: Friday, March 15, 2019 – 10:45 a.m.

RE: **STRONG SUPPORT for House Bill 1165 HD 1**– RELATING TO GENDER IDENTIFICATION

Aloha Chair Inouye, Vice Chair Harimoto and fellow committee members,

I am writing in STRONG SUPPORT for House Bill 1165 HD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. HB 1165 HD 1 excludes gender or sex markers from limited purpose driver's licenses and limited purpose provisional driver's licenses.

HB 1165 HD 1 is one of the priorities for the LGBT Caucus and is a continuation of the work we have done to help ensure all are treated equally and fairly. The idea of gender binary is a fallacy and this bill will help correct this misconception. Gender identity is a spectrum and people fall somewhere along it, from female to agender to male. This needs to be reflected on those do not identify as strictly female or male on their provisional driver's licenses.

For the State of Hawaii to require everyone to pick either female or male on their driver's license or state ID is requiring them to lie. By passing this bill you will be making Hawaii more accepting of our fellow 'ohana members that do not adhere to the gender binary. To understand more about our non-binary 'ohana we encourage you to read ["Understanding Non-Binary People" from the National Center for Transgender Equality.](#)

Currently 3 other states (California, Minnesota & Oregon) and the District of Columbia have a variation of this law. The LGBT Caucus of the Democratic Party of Hawaii asks that you pass HB 1165 HD 1 to help make Hawaii a more inclusive state for all.

Mahalo nui loa,

Michael Golojuch, Jr.
Chair

National Center for Transgender Equality
FAQ: GENDER-NEUTRAL IDS What is a gender-neutral ID?

A gender-neutral ID displays an alternate marker that is not an “M” (male) or “F” (female) to fill the sex or gender field of the ID. The gender-neutral marker is typically an “X” marker which stands for “Undisclosed” or “Other.”

Why are gender-neutral IDs important?

Many people have a gender identity that is not male or female and may use terms like “non-binary” to describe their gender identity. A gender-neutral ID allows them to display a more accurate gender marker on their ID. A gender-neutral ID also allows people of any gender to have increased privacy around gender on their state ID.

Do I have to identify as non-binary to get a gender-neutral ID?

No. People of any gender may choose not to disclose their gender on their ID by opting for a gender-neutral marker.

If I am a transgender man or transgender woman, do I have to get a gender-neutral ID?

No. The gender-neutral option “X” is in addition to the options of “M” or “F.” A transgender woman can still change the gender marker on her ID to “F” and a transgender man can still have “M” on his ID.

Do I need a provider to certify my request for a gender-neutral ID?

No. Current states with gender-neutral options allow all applicants to determine the gender marker that is most appropriate for them and no longer require documentation from a medical or mental health provider. This allows people who may have limited access to medical providers to get appropriate ID, and also allows people who seek to have an “X” gender marker for privacy reasons to do so.

What if my gender-neutral ID does not match the gender marker on my other IDs and documents?

If you have different gender markers listed on various IDs or records, it may cause confusion or raise eyebrows when interacting with officials or applying for services. However, legally speaking, it is not a problem to have records and IDs with different gender markers, and officials should still be able to verify your identity.

Can I use my gender-neutral ID to travel and go through TSA or airport security?

TSA does not yet have an official policy on how they process IDs with gender neutral markers, despite the fact that various other countries issue IDs with “X” designations. Airlines are required to collect name and gender information and submit it to TSA before each flight, and airlines currently only have M or F options. It is ideal to bring an ID to fly that has a gender marker that matches the gender you submitted to the airline. However, if you don't have an ID with a gender marker that matches what you submitted to the airline you can likely still get through security, though you may receive additional scrutiny or questioning.

Will my ID be compliant with federal and international laws?

Yes. The REAL ID Act requires states to list a gender on licenses, but the Department of Homeland Security explicitly states that they “leave the determination of gender up to the States [...]” An X gender marker is consistent with the practice of the International Civil Aviation Association (ICAO), an agency of the United Nations, which uses an internationally-recognized passport format that allows for M, F, or X gender markers.

HB-1165-HD-2

Submitted on: 3/12/2019 6:19:56 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|-------------------------------------|---------------------------|---------------------------|
| Pride Work HI | Testifying for Pride at Work Hawaii | Support | Yes |

Comments:

Dear Senators,

Pride@Work Hawaii supports the passage of HB 1165 HD2.

Mahalo for the opportunity to testify.

Pride@Work Hawaii

HB-1165-HD-2

Submitted on: 3/12/2019 12:11:44 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Younghi Overly | Individual | Support | No |

Comments:

Dear Chair Inouye, Vice-Chair Harimoto, and members of the committee,

Thank you for this opportunity to submit a testimony in support of HB1165 HD2, which would require a third option of gender identification for driver's license and state identification card applicants.

Hawai'i has the largest percentage of transgender individuals in the United States. In fact, mahu, or transgendered individuals and transvestites, were viewed by the ancient Hawaiians as a normal element of the old social culture. Mahu were not merely tolerated; they were regarded as a legitimate and contributory part of the ancient Polynesian community. (Source: ["RaeRae and Mahu: third polynesian gender", NIH](#))

Binary gender and sex markers on state driver's licenses cause difficulty and invasive questioning in everyday transactions for this community. Indeed, sex and gender markers increase the likelihood of discrimination for transgender and gender non-conforming people when seeking employment, registering to vote, applying for insurance, interacting with law enforcement, opening a bank account, renting an apartment, and the list goes on.

Please pass this measure for it could reduce discrimination and violence against transgender and gender non-conforming people. Mahalo for your consideration.

HB-1165-HD-2

Submitted on: 3/12/2019 4:19:46 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Eileen M Gawrys | Individual | Support | No |

Comments:

HB-1165-HD-2

Submitted on: 3/13/2019 10:47:50 AM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jun Shin | Individual | Support | No |

Comments:

Everyone needs to be properly represented.

HB-1165-HD-2

Submitted on: 3/13/2019 12:14:44 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Larry Smith | Individual | Support | No |

Comments:

HB-1165-HD-2

Submitted on: 3/14/2019 3:13:08 AM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Kim Coco Iwamoto | Individual | Support | No |

Comments:

Testimony in STRONG SUPPORT of HB1165 HD2

Codifying that a driver may self-declare their own gender category without documentation is similar to allowing someone to self-declare their own weight, hair color, eye color, or height. (Could you imagine if we made people stand on a scale at the DMV?)

Transgender drivers should not be put through unnecessary verification just to be identified as a capable driver. Allowing a driver to self-identify their own gender designation, including the option of "x", may provide the most accurate description for identification purposes.

Because of the potentially oppressive social constructs and cultural mores around the gender categories such as "male" & "female", selecting "x" may be the best option for a driver to self-designate on a license.

LATE

HB-1165-HD-2

Submitted on: 3/14/2019 12:51:13 PM

Testimony for TRS on 3/15/2019 10:45:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jen Jenkins | Individual | Support | Yes |

Comments: