

2023 HOUSE HUMAN SERVICES

HB 1297

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1297
1/25/2023

Relating to correction or amendment of birth records.

Chairman Weisz called the meeting to order at 9:00 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, and Jayme Davis present. Rep. Gretchen Dobervich not present.

Discussion Topics:

- Potential change of birth certificate
- Sex assigned at birth
- Importance of information on birth certificates
- Difference between sex and gender status
- Barriers to gender identity
- Brain composition similarities
- Intended solution of the bill
- Interpretation of history
- Requests to modify birth certificates

Rep. Kasper introduced HB 1297 speaking in favor of bill.

Jodi Plecity, North Dakota citizen, supportive testimony (#16625).

Mark Jorritsma, Executive Director of North Dakota Family Alliance Legislative Action, supportive testimony (#16535).

Patricia Leno, North Dakota citizen from Bismarck, spoke in favor of bill.

Kristie Miller, North Dakota citizen and parent, opposition testimony (#16605).

Gabriela Balf, psychiatrist from Bismarck, North Dakota, opposition testimony (#16663).

Caedmon Marks, Outreach Coordinator for North Dakota Outright, spoke in opposition.

Tracy Potter, lobbyist for the Human Rights Campaign, spoke in opposition.

Chairman Weisz called Darren Metski, Director of the Division of Vital Records with the Health and Human Services, for questions from the committee.

Additional written testimony:

(#14803)
(#14935)
(#14952)
(#15002)
(#15046)
(#15131)
(#15480)
(#15577)
(#15615)
(#15710)
(#15736)
(#15785)
(#15798)
(#15934)
(#15999)
(#16059)
(#16060)
(#16061)
(#16216)
(#16217)
(#16296)
(#16303)
(#16332)
(#16361)
(#16392)
(#16417)
(#16445)
(#16454)
(#16510)
(#16519)
(#16532)
(#16539)
(#16542)
(#16547)
(#16550)
(#16570)
(#16589)
(#16607)
(#16613)

Chairman Weisz adjourned the meeting at 9:30 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1297
2/15/2023

Relating to correction or amendment of birth records.

Chairman Weisz called the meeting to order at 10:15 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. All present.

Discussion Topics:

- Committee work
- Evidence to change assigned sex.
- Amendments (23.0408.02001)

Representative Porter moved to adopt amendment to HB 1297 with - the sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider .

Seconded by Representative Dobervich.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	N
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	N
Representative Dawson Holle	N
Representative Dwight Kiefert	Y
Representative Carrie McLeod	N
Representative Todd Porter	Y
Representative Brandon Prichard	N
Representative Karen M. Rohr	N

Motion carries 8-6-0.

Representative Prichard moved to adopt amendment to HB 1297 (define sex as: the biological state as being male or female based on an individual's non- ambiguous sex organs, chromosomes and endogenous hormone profiles at birth)

Seconded by Representative Anderson

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 14-0-0.

Representative Prichard moved a DO PASS as amended with (23.0408.02001)

Seconded by Representative Anderson.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
Representative Clayton Fegley	N
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries: 11-3-0. Bill carrier: Representative Frelich.

Chairman Weisz adjourned the meeting at 10:45 AM

Phillip Jacobs, Committee Clerk By: Leah Kuball

February 15, 2023

AT
2-15-23
(1-1)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1297

Page 1, line 12, remove the second "or"

Page 1, line 18, replace the underscored period with "; or

- c. The sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider.
3. As used in this chapter, "sex" means the biological state of being male or female, based on an individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1297: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1297 was placed on the Sixth order on the calendar.

Page 1, line 12, remove the second "or"

Page 1, line 18, replace the underscored period with "; or

- c. The sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider.
3. As used in this chapter, "sex" means the biological state of being male or female, based on an individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.

Renumber accordingly

2023 SENATE HUMAN SERVICES

HB 1297

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1297
3/20/2023

Relating to correction or amendment of birth records.

10:32 AM **Vice Chairman Cleary** called the hearing to order. **Senators Cleary, Clemens, K. Roers, Hogan, Weston** were present. **Senator Lee** was absent.

Discussion Topics:

- Sex identity
- Gender identity
- Geniality

10:32 AM **Representative Kasper** introduced HB 1297 in favor verbal. No written testimony.

10:38 **Mark Jorritsma, Executive Director, North Dakota Family Alliance Legislative Action**, testified in favor. #25776

10:42 AM **Christina Sambor, Lobbyist, for North Dakota Human Rights Coalition, Human Rights Campaign and Youthworks Collation**, testified in opposition. #25903

11:05 AM **Caedmon Marx, Outreach, Dakota Outright**, testified in opposition verbal

11:10 AM **Darin Meschke, State Registrar and Director of the Vital Records, ND Department Human and Health Services**, presented a proposed amendment and testified neutral. #25919

Additional Testimony:

Lovita Scrimshaw, Emergency Physician, North Dakota State Director, North Dakota American Academy of Medical Ethics, in favor #25851

Daniel Scrimshaw, Emergency Physician, North Dakota State Director, North Dakota American Academy of Medical Ethics, in favor #25853

Doug Sharbono, in favor #25866

Melissa Messerly, Pediatrician, in favor #25806

Amber Vibeto, in favor #25812

Jodi Plecity, in favor #25834

Faye Seidler, LGBTQ+ Care Coordinator, Canopy Medical Clinic, in opposition #25753, 25754

Stephen McDonough, Retired Pediatrician, in opposition #25774

Jane Pettinger, in opposition #25782

Kristie Miller, in opposition #25783

Naomi Franek, in opposition #25786

Senate Human Services Committee

HB 1297

March 20, 2023

Page 2

Rachel Sinness, Legal Director, North Dakota Protection and Advocacy, in opposition #25816

Alannah Valenta, President, North Dakota Association of School Psychologists, in opposition #25817

Shannon Kreuger, School Counselor, in opposition #25833

Cody Schuler, Advocacy Manager, ACLU, in opposition #25863

11:29 AM **Vice Chair Cleary** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

HB 1297
3/28/2023

Relating to correction or amendment of birth records.

3:43 PM **Vice Chairman** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Hogan, Weston** were present.

Discussion Topics:

- Sex identity
- Gender identity
- Biological sex

Senator Lee calls for discussion.

Senator K. Roers moved to adopt amendment, LC 23.048.03001. Line 6, change gender to sex, end line 9 beginning of 10, add words amended or before corrected.

Senator Cleary seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator K. Roers moved **DO NOT PASS** as **AMENDED**.

Senator Hogan seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	N
Senator David A. Clemens	N
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	N

Motion failed 3-3-0.

Senator K. Roers moved Without Committee Recommendation as amendend.

Senator Cleary seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Additional Written Testimony:

Darin Mescke, State Registrar and Director of Vital Records neutral #26946

Senator Cleary will carry HB 1297.

3:50 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

March 28, 2023

AG
3-28-23
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1297

Page 1, line 6, replace "Gender" with "Sex"

Page 1, line 9, after "be" insert "amended or"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1297, as engrossed: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1297 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 6, replace "**Gender**" with "**Sex**"

Page 1, line 9, after "be" insert "amended or"

Renumber accordingly

2023 CONFERENCE COMMITTEE

HB 1297

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Pioneer Room, State Capitol

HB 1297
4/21/2023
Conference Committee

Relating to correction or amendment of birth records.

Chairman Fegley called the meeting to order at 6:29 PM.

Chairman Clayton Fegley, Reps. Dwight Kiefert, Mike Beltz, Madam Chair Judy Lee, Sens. Sean Cleary, Kathy Hogan present.

Discussion Topics:

- Amendment

Chairman Fegley called for a discussion on HB 1297.

Sen. Cleary moved that the Senate recedes from its amendments and amend as follows:

Page 1, line 6, replace "Gender identity" with "Sex"

Page 1 line 9, after "be" insert "amend or"

Page 1, line 22, replace "and" with "or"

Renumber accordingly

Seconded by Sen. Hogan.

Motion carries 6-0-0.

Sen. Cleary to carry in the Senate.

Rep. Fegley to carry in the House.

Chairman Fegley adjourned the meeting at 6:34 PM.

Phillip Jacobs, Committee Clerk

April 21, 2023

AG
4-22-23
(1-1)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1297

That the Senate recede from its amendments as printed on page 1536 of the House Journal and page 1267 of the Senate Journal and that Engrossed House Bill No. 1297 be amended as follows:

Page 1, line 6, replace "Gender identity" with "**Sex**"

Page 1, line 9, after "be" insert "amended or"

Page 1, line 22, replace "and" with "or"

Renumber accordingly

**2023 HOUSE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL NO. 1297 as engrossed

House Human Services Committee

- Action Taken**
- HOUSE accede to Senate Amendments
 - HOUSE accede to Senate Amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Sen. Cleary Seconded by: Sen. Hogan

Representatives	4/21		Yes	No	Senators	4/21		Yes	No
Chairman Fegley	X		Y		Madam Chair Lee	X		Y	
Rep. Kiefert	X		Y		Sen. Cleary	X		Y	
Rep. Beltz	X		Y		Sen. Hogan	X		Y	
Total Rep. Vote					Total Senate Vote				

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Fegley Senate Carrier Sen. Cleary

LC Number 23.0408 . 03002 of amendment

LC Number 23.0408 . 05000 of engrossment

Statement of purpose of amendment:

To replace "gender identity" with "sex" and other minor language changes.

Insert LC: 23.0408.03002
House Carrier: Fegley
Senate Carrier: Cleary

REPORT OF CONFERENCE COMMITTEE

HB 1297, as engrossed: Your conference committee (Sens. Lee, Cleary, Hogan and Reps. Fegley, Kiefert, Beltz) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1536, adopt amendments as follows, and place HB 1297 on the Seventh order:

That the Senate recede from its amendments as printed on page 1536 of the House Journal and page 1267 of the Senate Journal and that Engrossed House Bill No. 1297 be amended as follows:

Page 1, line 6, replace "**Gender identity**" with "**Sex**"

Page 1, line 9, after "be" insert "amended or"

Page 1, line 22, replace "and" with "or"

Renumber accordingly

Engrossed HB 1297 was placed on the Seventh order of business on the calendar.

TESTIMONY

HB 1297

January 20, 2023

North Dakota House Human Services Committee
North Dakota Legislative Branch

Dear Honorable Representatives and Committee Members

I strongly am in opposition to this bill, and I believe you should be as well. There are several reasons in which this should not be passed. One of the main reasons is the main population of people this bill affects is clearly not being represented, thought of, or considered in the passage of this bill. Specifically, around that population's privacy, legal documentation, and safety. This bill will also affect individuals not living in your state as well, transgender individuals who are looking to amend their birth certificates would not have access to doing so, despite not living under North Dakota laws. That I believe is an extreme overreach of state power and control over individual autonomy. It is also evident that those who brought this bill forward are operating under personal moral bias rather than acting in the best interest of the individuals. Exerting control over the transgender population's legal documentation based on disagreements with personal morals, is itself amoral. The government should not regulate, control, or pass judgment on how anyone lives their lives, or infringe on matters of privacy or personal safety. I once lived in Fargo, North Dakota, proudly, for many years. I no longer felt safe to reside in the state, for fear that my legislatures, and governing bodies would no longer have my best interest in their hearts. I'm extremely sad that many hard working, professional, creative, and dedicate members of the transgender, and LGBTQ+ community are being driven away from such a beautiful state because of such shortsighted fear mongering. I am proud to say I lived in Fargo; I miss it more than I care to admit sometimes. As a Trans woman, I cannot ever live there again while bills like this are happening. It is for these reasons I am opposed to ND House Bill 1297.

Rosalyn W. Damlo

The correction of birth certificates

Those in the trans community cant do much with the sex the were assigned with at birth, only remove themselves far away from it in order to improve their own gender dysphoria.

The changing of a birth certificate, or any legal document, to that individuals new identity is one of the penultimate steps to that individual becoming whole. Because its not just their family, friends, or coworkers seeing them for who they are its the system of government recognizing them as well. It shows that individual that they are valid on not just a local scale, but a state (or national) one and that the personal struggles theyve gone through have culminated into them becoming who theyve always been.

What could feel like a small deal to most is a very big deal to those whove made it this far in their personal journey only to be cut down so callously by those who would rather erase a person as opposed to approaching these issues with the understanding and care we should approach these types of decisions.

Elia Jay Scott,
Fargo, ND 58103 (district 46).

Please stop the war on trans lives.

Imagine (if you are not) that you are Catholic. And imagine that your state legislature proposes **21 bills** targeting, demonizing, and persecuting the Catholic community. One bans you from wearing a crucifix in public. One bans you from privately praying anywhere near a school. And one bans sale of alcohol for religious purposes, making it illegal for your church to obtain the spiritual medicine that keeps your soul alive, the Eucharist.

Now, instead, imagine that you are **transgender**. Instead of banning crucifixes, the state wants to ban you from going outside your house in clothes consistent with your identity. Instead of banning prayer in schools, they want to ban any school accommodation for your condition, gender dysphoria. And instead of banning the Eucharist, they want to ban the evidence-based, lifesaving healthcare that has saved your **actual, physical life**, and the lives of so many of your beloved friends.

That is what the North Dakota state legislature is doing right now. Republicans have introduced 21 – yes, 21 – bills, targeting, demonizing, and persecuting the transgender community, doing all I have described above and more.

This bill, HB 1297, has as its sole goal making it impossible for trans people to safely update their government documents to prevent harassment and discrimination. There is no other reason for passing this bill than to forcibly out trans people, in order to put them in the way of harm.

Chair and members of the committee, if you are Catholic, Christian, or simply a human being of conscience, I ask you ***please to vote NO on all these anti-transgender bills***, and to stop this merciless, hateful war on our trans neighbors – whom, if we are Catholic, Christian, or people of conscience, we are commanded by God and human decency ***to love as ourselves***.

†

I urge you to oppose HB 1297.

This bill prohibits individuals from changing the gender indicated on their birth certificate if they were born in North Dakota. This will be incredibly impactful to those born here who have moved out of state in search of gender affirming care.

On a federal level, one can get a passport with the gender of their choice on it. No affirming documents required. It seems that North Dakota is now micromanaging the gender of people born here, not just current citizens. This feels like a significant amount of overreach for our state.

I strongly urge you to oppose HB 1297.

WRITTEN TESTIMONY IN OPPOSITION TO HB 1297

House Human Services Committee on House Bill 1297

Date of Hearing: January 25, 2023 9:00 a.m.

Debra L. Hoffarth, 1320 11th Street SW, Minot, ND 58701

This written testimony is presented in opposition to HB 1297, which prohibits amendment of a birth certificate due to gender identity. Birth Certificates are issued as part of the Health Statistics Act.¹ If a person has had gender affirmation surgery or other clinically appropriate treatment related to gender identity, they should be able to update their gender identity. This is a decision that should be left to an individual and their doctor. There is no reason for state intervention into this decision.

Prohibition of amendments to match an individual's gender identity can lead to discrimination.

Please oppose HB 1297 and allow individuals to amend their birth certificates to match their gender identity.

¹ N.D.C.C. § 23-02.1, *et. al.*

January 22, 2023

To Whom It May Concern,

My name is Tim Baumann and I live at 1308 35th Ave. SW in Minot. I am writing today to express my opposition to HB 1297. North Dakota needs workers. If allowing people to change the sex designation on their birth record means that they will stay here and work, I am all for it.

Respectfully Submitted,

Tim Baumann

1308 35th Ave. SW

Minot, ND 58701

I knew that I was different from a very young age. Growing up in Texas with immigrant parents & in a poor immigrant community, my perspective of the world was limited. The first time I kissed a girl, we were hidden in her closet at midnight, scared of being found by her parents. It was a beautiful & deeply sad moment. A memory that should be cute and awkward and funny is tainted forever because of it was clouded by our terror of being found out to be “wrong”. We weren’t wrong.

I’m a fantastic actor. My greatest performance, to date, was convincing those around me that I was heterosexual & cisgender. I hid my feelings, my personhood, & my joy for over a decade. When I learned the word transgender, after I had spent my whole life convinced that I was completely alone, I was beside myself with grief over my life so far & utter joy at the life I now had the chance to start living. My family didn’t accept that I wasn’t their daughter. I attempted suicide multiple times. One attempt landed me in a medically induced coma. When I woke up, to the surprise of even my doctors, my family told me how happy they were that their “little girl” came back to them. I kept trying to kill myself, I ran away from home, my parents threw me out & my guardians in North Dakota took me in. They didn’t accept me either, so I went back to acting.

Three years later, at 18, I was homeless, traumatized from years of abuse, & **still transgender**. No beating took it out of me, no vitriolic words could stem who I was, lack of support couldn’t make me a different person. Now that I have transitioned socially, medically, & legally, I am three years free from a suicide attempt, two years sober, & finally at home within myself. I have friends. I have a place to live. I have pets. I am alive & happy to be so.

The attack on transgender rights all across the country will not stop people from being transgender. Centuries of history have shown, time and time again, from book burnings to murders to genocides, that transgender people cannot be subdued into nonexistence. Even if every single transgender person were to die tomorrow, more would be born the next day. The outcome of bills like these is that transgender people are made to suffer more for existing, suicide rates of transgender people increase dramatically, & the murders of transgender people are normalized.

The Lemkin Institute for Genocide Prevention has classified the actions of lawmakers within the GOP against the LGBTQ+ community as a movement driven by fascistic, genocidal ideology. Transgender people, whether adults or children, deserve the freedom to identify as themselves & to seek treatments that are deemed appropriate by World Health Organization, the World Professional Association for Transgender Health, & other unbiased medical organizations that rely on science to determine the proven safest treatments that lead to the proven best outcomes for people. Transgender people do not pose **any** risk to non-transgender people. Transgender people, very simply, wish to live our lives, as ourselves, in peace.

The push to disallow changes to birth certificates is ridiculous & deeply discriminatory. It creates a necessity for transgender people to be outed whenever we need a new ID, a new job, a new apartment, federal assistance programs, etc.

I am the father of my child. It hurts no one for me to say that & for legal paperwork to reflect it. It helps no one to deny it – in fact, it only hurts me to deny I am.

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1249. I ask that you give this bill a Do Not Pass.

The reason for this is that I am against bills that endorse discrimination as policy. This bill hurts our state as it intrudes on individual liberties and causes actual harm to LGBTQ+ people in North Dakota, contributing to higher suicide rates among LGBTQ+ youth and mass exodus of youth from our state whether they are LGBTQ or not.

Among queer youth in North Dakota:

- 74.7% Have ever seriously considered suicide (Middle School Data)
- 46.3% Have ever attempted suicide (Middle School Data)
- 94.4% Do not talk to parents when feeling sad, empty, hopeless, or angry (High School Data)
- 72.7% Didn't feel safe at school most of time or always (High School Data)
- 61.0% Bullied on School Property (Middle School Data)
- 27.0% Didn't Sleep in Parents Home + 20.0% Have Run away or homeless (High School)

Thank you for your time, consideration, and service to our state

Best regards,

Kaitlyn Kelly

House Human Services Committee Members:

I am writing to express my opposition to HB 1297, which is related to the ability to correct or amend a birth certificate in North Dakota. This bill is in direct opposition to a law that is already in the North Dakota Administrative Code 33-04-12-02, which allows a person to change the sex designation on a birth certificate if the individual had undergone a sex conversion operation. This change requires a written request by the person who has had the surgery, an affidavit by the physician that performed the surgery, as well as an order of a court of competent jurisdiction decreeing a legal change in name. I believe that rather than further restricting the ability to make these changes on our birth certificate, we should be extending that to individuals who have medically transitioned, but do not have the desire or ability to have surgical procedures.

When I first read this bill, I asked myself what we need our birth certificate for as an adult that a name and/or sex designation change would be needed. I realized that I have used mine to enroll in schools, get a driver's license and passport, and get a job. If I were transgender, I would want my name and gender on these documents to match my appearance. When the gender on the birth certificate does not correspond to a person's identity it puts them at greater risk of harassment, discrimination, and hostility. This bill could be considered a violation of a person's right to privacy and equal protection under the law which is guaranteed by our Constitution.

Some may argue that the biological sex listed on a birth certificate is an important part of statistical data in the state. I would argue that we need statistical data that clearly represents the gender identity of people. Without that accurate data, research using that information is biased, and thus the research becomes flawed.

Please give this bill a Do Not Pass.

Thank you,

Jane Hirst
Minot, ND

January 23, 2023

Chairperson Lee and Committee Members,

I strongly urge a Do NOT Pass on HB 1297. Who is harmed by trans people being able to have their identity correctly reflected on their birth certificate? No one. Yet trans people certainly may suffer harm by not being able to do so. This legislation causes more harm than good.

I urge a Do NOT Pass on HB 1297.

Sincerely,
Sylvia Bull
522 N 16th St
Bismarck, ND 58501

Members of the House Human Services Committee,

“My name is Gregory Demme, and I am a bi-vocational pastor who resides in District 3. I am asking that you please render a DO PASS on House Bill 1297.”

A person’s sex is a biological reality that cannot be changed. Every facet of our society, including hospitals, rely on birth certificates for properly identifying people, especially in the case of medical emergencies. Introducing confusion into vital birth records based on a person’s belief in a moment in time about their gender as opposed to their actual biological sex is a recipe for disaster in more ways than one. This bill is crucial to ensure the reliability of such vital records.

Thank you for your consideration on this important issue and for your service to the state of North Dakota.

Gregory Demme, Pastor

Grace Baptist Church of Minot

5220 14th St SE

Minot, ND 58701

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1297. I ask that you give this bill a Do Not Pass.

All individuals deserve the basic modicum of respect and legal standing afforded by accurate government documents. This bill creates innumerable problems and helps no one.

Thank you for your time and consideration.

Sincerely,

Christopher Brown

As a mother of a transgender teen in the North Dakota, I strongly oppose HB 1297. This bill ignores definitions of gender identity as defined by the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association. The bill discriminates against transgender people. Please do not support this harmful and discriminatory legislation.

Members of the House Human Services Committee,

My name is Seth Flamm and I reside in District 27. I am asking that you please render a DO PASS on Hous Bill 1297.

Throughout all of human history we have known there are only 2 genders and you can't switch between the 2. This is purely an ideological construct designed to destroy the nuclear family and confuse young people.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Seth Flamm

January 23, 2023

Opposition to House Bill 1297

Dear House Members, My testimony is in opposition to HB 1297. I urge you to give this bill a **DO NOT PASS**.

Gender dysphoria (previously gender identity disorder), according to Diagnostic and Statistical Manual of Mental Disorders are defined as a "marked incongruence between their experienced or expressed gender and the one they were assigned at birth." People who experience this turmoil cannot correlate to their gender expression when identifying themselves within the traditional, rigid societal binary male or female roles, which may cause cultural stigmatization. This can further result in relationship difficulties with family, peers, friends and lead to interpersonal conflicts, rejection from society, symptoms of depression and anxiety, substance use disorders, a negative sense of well-being and poor self-esteem, and an increased risk of self-harm and suicidality. Patients with this condition should be provided with psychiatric support. Hormonal therapy and surgical therapy are also available depending on the individual case and patient needs. (Garg G, Elshimy G, Marwaha R. Gender Dysphoria. [Updated 2022 Oct 16]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2022 Jan.)

Transgender people (including non-binary and third gender individuals) have existed in cultures worldwide since ancient times. The modern terms and meanings of "transgender", "gender", "gender identity", and "gender role" only emerged in the 1950s and 1960s. Many people in western societies, particularly the United States, have been unaware or ignorant of the existence of people we call transgender today. **Western societies have had an unfortunate history of dismissing or persecuting groups of people who were outside what the majority of the population considered "normal".**

I cannot understand how so many people in this state fail to take the time to understand transgender people or the LGBT community as a whole. The disturbing rhetoric, largely rooted both in bigotry and ignorance, that I hear on an almost daily basis make me sick to my stomach. Homosexuality was considered a mental disorder for decades by the western medical community. Homosexuals are still executed in many parts of the world today. Homosexuality is no longer considered a mental disorder because it is not a mental disorder. It is a natural variation of human sexuality. The fight for the rights of transgender people today is no different than the gay liberation movement of the late 1960s through the mid 1980s. Transgender people are not going away and deserve to be fully embraced by our society. The confused, hurtful, vile and dehumanizing language that a concerning amount of people use, particularly when discussing transgender members of our community, is absolutely disgusting and needs to stop. Trans people should not be referred to with language such as: anomalies, exceptions, deformities, mentally ill, etc. Similar language has been used throughout history to ostracize groups of people who are different from the majority of the population in an attempt to dismiss them as freaks and perverts for simply trying to exist in the world. **Trans people are not a threat to society.**

People need to understand that being transgender, albeit rare, is also a natural variation among humans. Transgender people deserve respect and access to healthcare just like everyone else. I frequently hear unkind language used by my fellow North Dakotan's regarding trans people, gay people, lesbians, etc. The recent rise in, what I call, anti-trans-panic is largely driven by political right-wing media outlets such as FOX News; far-right outlets such as Newsmax and One America News Network; and other outright hateful organizations such as The Daily Wire (founded in 2015 by religious fundamentalists Ben Shapiro and Jeremy Boreing). The latter organization recently produced a disgusting, misinformed, hateful, and dishonest film titled "What is a Woman". Anyone who has had any exposure to this film should have been able to easily recognize the intentionally dishonest jump-cut editing tactics and the film's overtly cartoonish condescending tone. It was

one of the worst pieces of “journalism” ever produced in the modern era. Anyone with a basic level of critical thinking and media literacy would have been able to identify this film for what it was. Unfortunately, too many people are unwilling to think critically and question any of their preconceived notions of what people are, how people interact in society or how the world actually works. **The existence of transgender people is not a political issue. It is a medical and human rights issue.**

I have heard many people express concerns about irreversible side effects about medical treatments for transgender youth. What people are ignoring is the extensive diagnostic testing and specialized counseling that occurs when determining whether or not a child is transgender in the first place. Children who are suspected of being transgender begin by transitioning socially. This can include letting the child wear clothes typical of the opposite gender, referring to the child by their preferred pronouns, referring to them a different name, etc. Children during this stage of “social transition” are monitored closely by their family, community and their health care specialist. These children are not coerced in any way to maintain their behavior. Evaluation continues until the child reaches a particular stage of puberty and at that time medical intervention can become necessary. The effect of puberty blockers, within the first few years of taking the medication, is indeed reversible and would be stopped if there was evidence that is in the best interest of the child to continue through the puberty that aligned with their assigned gender (sex) at birth. If this is not the case then the child could proceed with further medical intervention which would allow their body to develop in a manner consistent with their gender identity. By contrast, allowing a transgender child to physically develop in a manner consistent with their assigned gender (sex) would indeed cause many irreversible physical characteristics. In adulthood, a transgender person, whose body was developed by their natural puberty, could have a very difficult time transitioning into a body consistent their preferred gender identity. Certain characteristics such as their voice, bone structure, etc., can make it difficult, if not impossible, for them to blend into society and live as the gender they identify as. **The diagnostic and treatment processes need to be left to medical professionals.**

Suicide is the second leading cause of death among people from the ages of ten to twenty-four. Lots of young people think about it. LGBT people, in that age group, are almost five times as likely to have attempted suicide than their heterosexual peers. What is worse is that LGBT youth who report coming from non-accepting and non-supporting families are eight times more likely than the other LGBT youth to have attempted suicide. So, we’re talking about people who are eight times more likely than the people who are already five times more likely than the rest of the population in that age range who may attempt to kill themselves. This is exacerbated even further by people on TV who attribute the suicidal ideation of LGBT people to a mental disorder that these children, and young adults, don’t even have. Everyone in this country deserves access to healthcare. Transgender youth and adults are no exception. HB 1301 seeks to further reduce the limited Healthcare that American’s have access to in the first place. Decisions concerning the health of all American’s need to be kept between the patients, their loved ones and their doctors. **The government has no business intervening in the medical care that people receive from their doctors and any attempt to do so is a massive authoritarian overreach of the government.** Medical care needs to be handled by medical experts who are trained to follow the scientific evidence wherever it leads.

Please be kind, open minded and understand that the children being targeted by this bill do not need your help. They are already loved and in good hands. There is no need to intervene in their medical care. This bill will cause far more pain and suffering in the lives of people who don’t deserve it.

I strongly urge you to oppose HB 1297.

Shawn Nixon

Testimony in Support of HB 1297

Dr. Daniel Scrimshaw, DO, Emergency Medicine Physician
American Academy of Medical Ethics, North Dakota State Director
January 23, 2023

Good morning Chairman Weisz and honorable members of the House Human Services Committee. My name is Daniel Scrimshaw and I serve as an Emergency Physician in Minot, ND and as the North Dakota State Director of the American Academy of Medical Ethics. I am testifying in regard to House Bill 1297 and I respectfully request that you render a “DO PASS” on this bill.

The sex designation on a birth record should not be changed due to a gender identity change. In my practice of emergency medicine, I have often provided care for patients who do not identify as their genetic sex (as assigned at birth). This sometimes causes confusion in the patient’s diagnosis and management. As an example, a genetic female with abdominal pain may have acute or life threatening diagnoses which are different from those of a genetic male presenting with the same pain. Furthermore, it has been known to cause bad patient outcomes as reported in the medical literature¹. Being able to change the sex on the birth certificate would only compound this issue even more and is dangerous for patients.

Again, I request a “Do Pass” on this bill. Thank you for the opportunity to testify on this matter.

¹ Stroumsa D, Roberts EFS, Kinnear H, Harris LH. The Power and Limits of Classification - A 32-Year-Old Man with Abdominal Pain. N Engl J Med. 2019;380(20):1885-1888. doi:10.1056/NEJMp1811491

Testimony in Support of HB 1297

Dr. Lovita Scrimshaw, DO, Emergency Medicine Physician
American Academy of Medical Ethics, North Dakota State Director
January 23, 2023

Good morning Chair Weisz and honorable members of the House Human Services Committee. My name is Lovita Scrimshaw and I am a physician in Minot, ND and also serve as the North Dakota State Director of the American Academy of Medical Ethics. I am testifying in regard to House Bill 1297 and I respectfully request that you render a "DO PASS" on this bill.

The sex designation on a birth record should not be changed due to a gender identity change. From a medical standpoint, the sex (and genetic reproductive organs) of the patient directly relates to the patient's safety. The genetic sex of the patient should be clear to providers who will be taking care of this patient, because there are known differences in acute/emergent pathology encountered in male and female patients. For example, a female patient presenting with acute abdominal pain to the emergency department has different possible acute/life-threatening causes of that pain (such as ovarian torsion, ruptured ectopic pregnancy, preeclampsia, placental abruption, etc.) than a male patient presenting with the same abdominal pain (which could be testicular torsion, scrotal infections, etc). There is a case report of fetal death during labor because the medical record only conveyed the individual's gender preference (male) and not their biological sex (female), leading to misdiagnosis and medical catastrophe in the setting of pregnancy.¹ There have been near-misses in multiple hospital systems that I have worked at due to patient's listing their gender preference instead of their genetic sex. Being able to change the birth certificate would only compound this issue and is dangerous for the patient.

Again, I request a "Do Pass" on this bill. Thank you for the opportunity to testify on this important matter.

¹ Stroumsa D, Roberts EFS, Kinnear H, Harris LH. The Power and Limits of Classification - A 32-Year-Old Man with Abdominal Pain. N Engl J Med. 2019;380(20):1885-1888. doi:10.1056/NEJMp1811491



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The Power and Limits of Classification — A 32-Year-Old Man with Abdominal Pain

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Sam, a 32-year-old man, was brought to the emergency department by his boyfriend. Sam reported an 8-hour history of severe (8 out of 10), intermittent lower abdominal pain. In triage, he had a blood pressure of 185/84 mm Hg and a heart rate of 67 beats per minute. The triage nurse noted that he was an obese man who appeared comfortable between bouts of pain. Sam told the nurse that he was a transgender man. His electronic medical record (EMR) indicated that he was male. He had previously used testosterone, as well as antihypertensives, both of which he had discontinued because he'd lost his insurance coverage. It had been several years since he last menstruated. He had taken a home pregnancy test that morning and got a positive result, but he wondered whether it was a false positive. He added that he had “peed himself” that morning.

The triage nurse assessed him to be a man with abdominal pain who had not taken his prescribed blood-pressure medications. Determining that his condition was stable, she triaged him to nonurgent assessment. Laboratory samples were drawn, including one for human chorionic gonadotropin (hCG) testing, and Sam awaited further evaluation.

Several hours later, an emergency physician came to evaluate him. She noted the positive results of the serum hCG test and took a more detailed history, considering possible early pregnancy complications. On examination, she noted that his abdomen was not only obese but also gravid. The evaluation had changed: the patient had severe abdominal pain, possible ruptured membranes, and hypertension in advanced pregnancy, which suggested possible labor, placental abruption, or preeclampsia — urgent conditions presenting a potential emergency.

The patient's name has been changed to protect his privacy.

Disclosure forms provided by the authors are available at [NEJM.org](https://www.nejm.org).

An audio interview with Dr. Stroumsa is available at [NEJM.org](https://www.nejm.org)

Bedside ultrasonography was performed, confirming an advanced pregnancy with unclear presence of fetal cardiac activity. The obstetrics team was paged urgently. On pelvic exam, the cervix was found to be dilated to 4 to 5 cm. The umbilical cord was palpated in the vagina: Sam had cord prolapse of uncertain duration. The fetal head was immediately elevated. Sam was rapidly counseled regarding the findings and the need for an emergency caesarean delivery. He consented and was transferred to the operating room for further evaluation. In the operating room, no fetal heartbeat could be detected on ultrasound. Given the fetal death, Sam was transferred to a delivery suite where, moments later, he delivered a stillborn baby.

Social Analysis: The Power and Limits of Classification

Classification is at the heart of both medicine and social interactions (indeed, medicine is a social practice). The diagnostic process includes attributing signs and symptoms to disease categories, which in turn prompt action.¹ Classification is essential because it simplifies complex physiological phenomena into dichotomous questions: Does the patient have a given disease? Does the patient have risk factors? Does the patient need to see a specialist? Classification is particularly important for triage, in which degrees of urgency and thus order of treatment are assigned. Understanding what happened in Sam's case requires a basic understanding of classification itself (see box).

Because classification plays a central role in human social functioning, it has long been a core concept in the social sciences. We often assume that classificatory systems have consistent principles for sorting items into mutually exclusive categories that comprehensively describe the aspect of the world they are trying to capture. But social theorists have shown that, in practice, classification systems never correspond perfectly to the complex world they purport to describe.² Moreover, humans do not perform classification in the dry, abstract way a computer does: our classification process involves perception, which is in turn influenced by expectation and experience, and much of this process is unconscious.³

In Sam's evaluation, the triage nurse did not fully absorb the fact that he did not fit clearly into a binary classification system with mutually exclusive male and female categories. Though she had respectful intentions and nominally acknowledged the possibility of pregnancy by ordering a serum hCG test, she did not incorporate that possibility into the differential diagnosis in a way that would affect ensuing classifications and triage decision making. Despite communicating that he was transgender, Sam was not evaluated using pregnancy algorithms. Having no clear classificatory framework for making sense of a patient like Sam, the nurse deployed implicit assumptions about who can be pregnant,⁴ attributed his high blood pressure to untreated chronic hypertension, and classified his case as nonurgent.

A cisgender woman (a woman whose gender identity corresponds to the sex she was assigned at birth) presenting similarly — with a remote or unknown last menstrual period, positive home pregnancy test, severe abdominal pain, hypertension, and large-volume clear discharge — would almost surely have been triaged and evaluated more urgently for

pregnancy-related problems. If the woman was in early pregnancy, practitioners would have considered an ectopic pregnancy; beyond 20 weeks of pregnancy, the patient would have been directed to urgent obstetric evaluation for possible labor, rupture of membranes, placental abruption, and severe preeclampsia. Such evaluation would also have included assessment of the fetal heart rate. Sam should have received the same treatment. Instead, it was only after significant delay that a practitioner took a more detailed history and conducted a physical exam, revealing that Sam was in labor, with a cord prolapse. Earlier evaluation might have resulted in detection of the cord prolapse in time to prevent fetal death.

Clinical Implications

1. Clinicians can begin by recognizing the limitations of implicit classification algorithms

Awareness of the limitations of implicit classification in patient management can improve care not only for transgender patients, but for all patients who fall through classificatory “cracks.” For instance, excessive reliance on the category of “race” may lead us to miss a diagnosis of cystic fibrosis in a multiracial child with recurrent respiratory problems. Elderly patients might not be diagnosed with sexually transmitted infections because they are assumed not to be sexually active. By staying attuned to situations that elude current classifications and creating both clinical training and procedural and structural safeguards (e.g., EMR algorithms that account for transgender patients), we may be better able to address the needs of patients who do not fit into our current classificatory schemes. Flagging of any incongruence between these schemes and an individual patient could then prompt further clarification and more appropriate care. Awareness of human diversity, coupled with logistic changes aimed at recognizing patient diversity (e.g., making medical records more nuanced), can lead to better diagnosis and treatment.

2. The health care system can create appropriate classifications for transgender people

The ability to change one’s legal sex marker can be crucial for transgender people in many areas of their lives, including safety, health insurance, employment, housing, and restroom use. Hence, the issues raised in this case cannot be resolved by preventing transgender people from changing their sex on legal documentation or in their medical chart. Most health care needs of transgender people are no different from those of cisgender people. There may be instances, however, in which it is important to recognize and address issues related to a person’s sex at birth (e.g., Does the person have a uterus?), to transition-related care (Is the person receiving hormones?), or to health disparities faced by transgender people (Has the person been a victim of transphobic violence?). Transgender people may have both routine health needs (such as preventive screening for cancers of the reproductive system and contraceptive counseling) and unique reproductive health needs (such as counseling regarding hormone treatment and fertility options and identity-affirming prenatal care).

Charting sex at birth, gender identity, and legal sex as three separate categories on formal documentation can enable nuanced and appropriate care.⁵ Some EMRs already offer the option of charting these characteristics separately; other EMRs would require adjustment to include these categories in charts and algorithms. Procedural changes and education related

to these topics can help give practitioners and frontline staff the awareness and tools they need to provide affirming and appropriate health care for transgender and gender-diverse patients.

Case Follow-up

After discharge from the hospital, Sam reestablished care. He resumed antihypertensive treatment and requested the placement of a copper IUD. Though he had not planned or expected the pregnancy, he was heartbroken at the loss of his baby and had a major depressive episode. Despite having significant dysphoria related to menstruation, he has not resumed testosterone treatment, since he prefers to have continued menses that reassure him that he is not pregnant.

Supplementary Material

Refer to Web version on PubMed Central for supplementary material.

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Social scientists study how people use classification to understand the world by dividing it into digestible, often binary categories. In medicine, classification provides powerful tools for diagnosis. However, classifications — including those of race and sex — often fail to capture complexity, preventing practitioners from taking the best course of action.



Fig. 1.

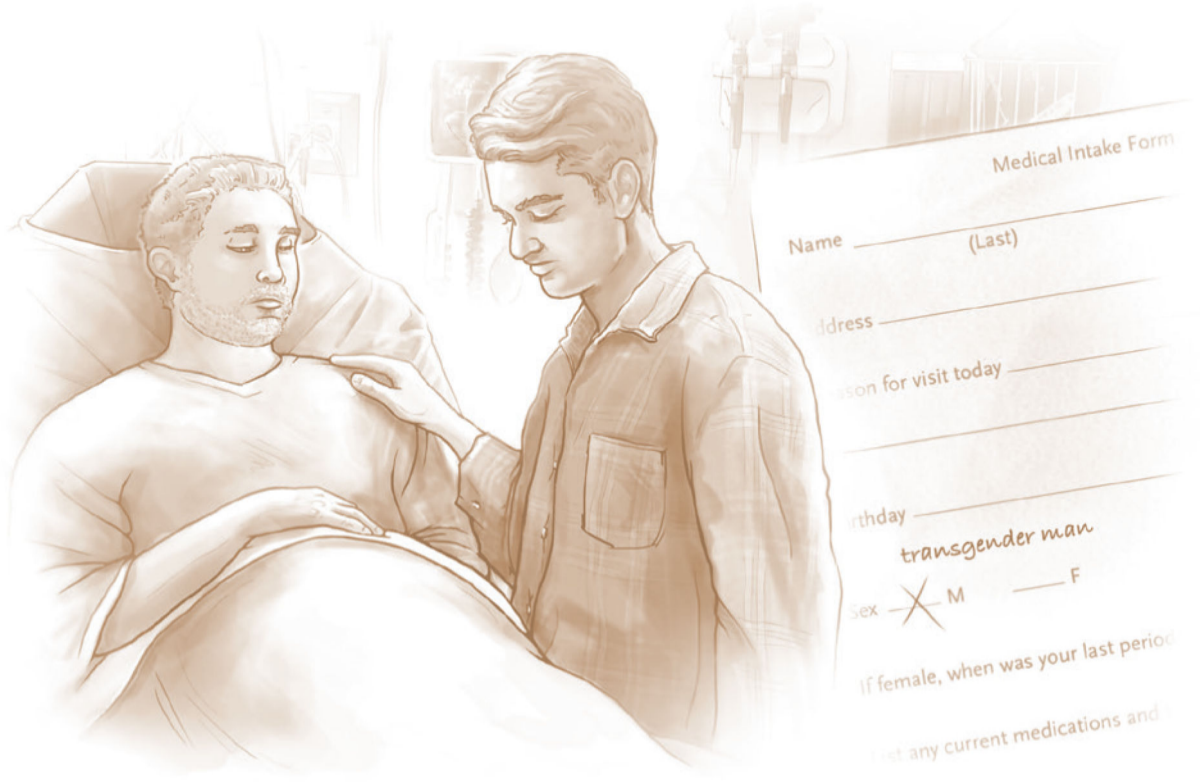


Fig. 2.

My name is Cionda N Holter and I reside in District 3. I am asking that you please render a DO PASS on House Bill 1297.

There should be a record of your birth gender, no matter how many surgeries a person has or how many hormones a person takes. You can not change the complete biology of a man or a woman. A person's sex is integrated in every fiber of their being. For medical and moral issues a person's birth sex should be recorded.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Thank You,

Cionda N Holter

701-580-4746

My name is Jacob R Holter and I reside in District 3. I am asking that you please render a DO PASS on House Bill 1297.

There should be a record of your birth gender, no matter how many surgeries a person has or how many hormones a person takes. You can not change the complete biology of a man or a woman. A person's sex is integrated in every fiber of their being. For medical and moral issues a person's birth sex should be recorded.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Thank You,

Jacob R Holter

701-580-7800

I am submitting testimony in support of HB 1297

Attention House Human Services Committee,

My name is Tricia Vandermay and I reside in ND. I am asking that you please render a DO PASS on House Bill 1297. Thank you for your consideration of this important matter and for your service for the state of ND.

Tricia Vandermay

Members of the House Human Services Committee,

“My name is Thea Holter and I reside in District 1. I am asking that you please render a DO PASS on House Bill 1297.”

A person’s sex is a biological reality that cannot be changed. The state has an obligation to ensure the accuracy of vital records like live birth certificates. Official documents should require and maintain accurate information that is rooted in facts, not subjective self perception.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Thea Holter

Sixty-eighth
Legislative Assembly
of North Dakota

To whom it may concern,

I am writing this letter in opposition to the House bill #1297. Trans folks need the birth certificate to change in order for them to fully transition to the person they feel like inside, and want to be fully. This change does no harm to anyone, yet it means the world to people who need it, and it helps improve their mental health once able to take more steps to become who they really are.

Thank you,

Sydney Glende, LPCC

Chair Larson and members of the Senate Judiciary Committee:

My testimony is in opposition to Senate Bill 1297. I ask that you give this bill a Do Not Pass.

This proposed bill would not achieve anything beneficial for the state or people of North Dakota. Its enactment would curtail human rights unnecessarily, and for no purpose other than discrimination itself. To pass it would only make North Dakota a less safe place by eroding civil rights and encouraging prejudice and aggression. It is morally wrong to do so, as well as harming the reputation and civil rights of our state.

Thank you for your consideration.

Shane Thielges

Dear senators, I'm writing this testimony in opposition of HB 1297. By barring trans individuals from having access to amending their birth records, all that is being accomplished is the furthering of discrimination and violence towards trans-individuals. Being able to tell if an individual is trans by their birth record only serves to out the individual, an action that has been proven to increase the rate of discrimination and abuse towards the person in question. To be clear, this helps no one. If the goal is to help trans individuals then putting them in positions that are proven to endanger and discriminate against them and against their will is solely an act of cruelty and not one done with the best interests of the person involved. Ideally, we should be striving to make life better for all the people in the good state of North Dakota, and this bill does not accomplish that. Trans-individuals are already required to have their assigned at birth sex listed on their medical charts, so the argument that this helps to get proper care into the hands of those who need it is wrong. All this would accomplish is to put targets on peoples backs.

January 24, 2023

North Dakota House Human Services Committee
North Dakota Legislative Branch

Dear Honorable Representatives and Committee Members

I felt the need to submit a second testimony in response to a few of the written testimonials I have read. The main ones being in response to the medical professionals responding in favor of this. I am a bit surprised at their responses to this. As a trans person navigating the medical field I know for a fact that all my medical history, despite what gender marker is on my documentation or chart indicates strongly of my transgender status. I.E., a diagnosis of gender dysphoria, medications I am on (estradiol, progesterone, etc.), any potential surgeries I may have had, which any medical professional seeing a diagnosis of gender dysphoria and these medications could easily put two and two together and assume. Medical charts exist for a reason, having "preferred" pronouns in things such as workday, exist for a reason, this is a non-issue, being again colored by personal bias. In this same realm, when being admitted to a hospital for any scenario you are, or your any one you are with (if your chart is not immediately available) are asked for brief medical history asking for much of the same information. Every transgender person I know in medical situations is forthcoming about the natal they have BECAUSE of discrimination they face in the hands of medical professionals. It is irresponsible, lazy, and uneducated to state, as a medical professional, in any facility that, "treating a transgender individual who has their gender marker changed from their biological marker is too challenging and problematic." I work for healthcare staffing; I have family in the medical field and in facilities, it is borderline outrageous to hear and see the testimonials saying that this poses any kind of issue for the above stated reasons. If you have a question, ask the individual or people they are with, look at their chart, be sensitive, be kind, and do your job as a medical professional and follow the standard national guidelines on treatment of transgender people.

Rosalyn W. Damlo

Annika Mitic
1017 Cottonwood St.
Grand Forks, ND 58201

To whom it may concern,

I would like to voice my opposition to HB1297. It is damaging to transgender individuals, their support systems, and our communities if birth records cannot be amended to recognize a transgender individual's sex designation.

As a result of these policies, it will lead transgender individuals to not feel safe receiving medical care, harming their mental health, and experiencing cyberbullying or in-person bullying when records do not affirm their identity.

This is already happening as a result of legislation like HB1297. 71% of LGBTQ youth have reported these policies have negatively impacted their mental health, one in three transgender and non-binary youth don't feel safe getting medical care when their doctor cannot provide gender-affirming care. Further, one in three LGBTQ youths experiences cyberbullying with one in five experiencing bullying in school

(<https://www.thetrevorproject.org/blog/new-poll-emphasizes-negative-impacts-of-anti-lgbtq-policies-on-lgbtq-youth>).

Updating a birth record does not impose on the rights of someone who doesn't need to request such a change. It doesn't reduce the meaning of the gender marker, in fact, it highlights the importance of that identity. It is worth it for someone to go through the hassle and bureaucracy to make that change so that they can live freely, receive the medical care they need/deserve, and function as an active member of society with the gender marker that represents their identity.

Please do not support HB1297 for the sake of our community and the amazing, diverse individuals who live in North Dakota.

Thank you for your consideration,
Annika Mitic

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1297. I ask that you give this bill a Do Not Pass recommendation.

Have I missed stories in the newspaper about this? Are people at work keeping this one very specific problem from me, only talking about it behind my back? Or is this just another silly case of me being willfully ignorant and blind to the problem?

Nope. I read the newspaper daily. I have a great working relationship with all of my coworkers. And my eye doctor will tell you I have some of the finest corneas she has ever seen.

I am an *actual* normal human being who happens to have spent 98% of his life living in North Dakota. I know where I come from. I know my neighbors. I know we solve problems with pragmatism but otherwise tend to stay out of each others' private affairs that we know full well matter not the least to anyone else.

But the only problem here is that there's no problem. This bill doesn't solve anything. It is a complete waste of the very little time given to you once every two years to make the lives of North Dakotans better... and as a conservative supermajority, one would think that would be by limiting the scope of the government, limiting legislation altogether. Keep the government out of our lives, you say. But I will quickly get off topic.

Do not recommend this bill. There's no problem to be solved. It simply creates hurdles, stress, anxiety, frustration and cost — tangible and intangible — to folks who may have only lived one day in this state. Does that make sense? Does that solve a problem?

Sincerely irritated,

Ben Hanson

Dear Chair Weisz and members of the House Human Services Committee,

As a lifelong resident of Minot, I am writing today in opposition to House Bill 1297. Birth certificates are undeniably one of the most important documents U.S. citizens possess, and are required in applications for schooling, housing, driving, and many other processes. There is absolutely no benefit that comes of not allowing individuals to change their birth certificate to correctly show their identified gender, and plenty of data showing the damage that can come from such oppressive and hateful legislation. Transgender individuals, and youth especially, experience much higher rates of depression, anxiety, self-harm, and suicidality. Legislation such as this certainly contributes to those increased rates, for no good reason. I ask that you give this bill a Do Not Pass.

Thank you for your time and consideration,

Mary Elizabeth Gamas

HB 1297

Members of the House of Human Services Committee,

My name is Shawna Grubb and I reside in District 35. I am asking that you please render a DO PASS on House Bill 1297.

Gender is a biological fact and is not a fluid spectrum based on mental health. Perpetuating the delusions of mental health patients is not a solution and does not bring healing to the afflicted, nor does it benefit society as a whole.

Please click [here](#) and [here](#) for articles providing further information.

Thank you for your consideration of this important matter and for your service to the state of North Dakota.

Shawna Grubb



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony Supporting House Bill 1297

Mark Jorritsma, Executive Director
 North Dakota Family Alliance Legislative Action
 January 25, 2023

Good morning Chairman Weisz and honorable members of the House Human Services Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1297 and respectfully request that you render a “DO PASS” on this bill.

A birth certificate is inarguably one of the most foundational documents a citizen must have, for a multitude of reasons. There is ample evidence that birth certificates or their equivalent have been in existence for millennia, and given their importance, one would assume that they would in large part be somewhat insulated from the popular societal notions of our day. Unfortunately, that would be wrong.

A fundamental truth that must be recognized is that biological sex (“sex”) and gender are very different things. Common sense, the medical community, and even our friends at Planned Parenthood recognize that biological sex and gender are different.

It’s common for people to confuse sex, gender, and gender identity. But they’re actually all different things

Sex is a label — male or female — that you’re assigned by a doctor at birth based on the genitals you’re born with and the chromosomes you have. It goes on your birth certificate. [bolded for emphasis]

Gender is much more complex: It’s a social and legal status, and set of expectations from society, about behaviors, characteristics, and thoughts.

– Planned Parenthood, Sex and Gender Identity website page

That said, it is now possible in a number of states to request a “non-binary birth certificate”.

As the views of Americans on gender shift, so do the laws across the country —albeit, gradually. In more than 10 states, it is now possible to request a non-binary birth certificate or amend an existing one.

The term non-binary includes any person who does not identify with a gender that falls within the traditional male/female or man/woman category. – www.usbirthcertificates.com

Do you see the problem? Birth certificates are being used to indicate gender, not sex, even though sex is based upon undeniable scientific fact, but gender is based upon a social construct.

House Bill 1297 simply seeks to ensure that sex is indicated on a birth certificate. We realize that every person has defining biological characteristics that identify them as male or female and we want to ensure there is an official foundational document indicating this. If the person wants to later in life identify as their biological birth sex, a different gender, non-binary, a cat, or a toaster, that is their choice and limited only by never-ending and imaginative societal trends.

North Dakotans are not relativists. We know the difference between hard work and laziness, common sense and foolishness, right and wrong. Let’s not tumble down the rabbit hole on something as fundamental as a document that states a scientific fact. Playing games is fine, but playing with the truth is simply foolish.

For these reasons, North Dakota Family Alliance Legislative Action respectfully asks that you please vote House Bill 1297 out of committee with a “DO PASS” recommendation. Let’s preserve rational, common sense thinking when it concerns scientific truths.

Thank you for the opportunity to testify and I am now happy to stand for any questions.

DO PASS – HB 1297

Dear Chairman Weisz and Members of the House Human Services Committee,

I am writing as a private resident of North Dakota, requesting that you recommend a Do Pass on House Bill 1297. This legislation will help ensure that official documents reflect biological and medical identity.

Please recommend a Do Pass on this bill.

Sincerely,

Rebekah Oliver

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1297. I ask that you give this bill a Do Not Pass.

The first week of kindergarten my kid did not eat lunch. The other students split by gender when deciding where to eat lunch and my kid, who was marked "female" at birth did not feel female. More than that, they knew they aren't female. Literally at 5 years old my kid knew they were different and it made them unable to eat because the world did not acknowledge the possibility of this difference. As early as preschool a teacher noticed that my child's interests could not be classified by the typical binary gender. When we define everything by binary gender assigned at birth, before we know chromosomes, hormone levels, or the way the brain is developed, we mis-assign gender markers a certain percentage of the time.

When scientists look at the brains of transgender people they are different than the brains of others assigned the same gender at birth. "In studies that use MRIs to take images of the brain as people perform tasks, the brain activity of transgender people tends to look like that of the gender they identify with." [clevelandclinic.org] Gender is not the same as your genitalia. Just like a parent with brown eyes and one with blue eyes can have a green eyed child, gender is more complex than we have thought. It is not one or the other and not decided solely by external genitalia.

My child felt like an outcast because our school system is so gendered. There was no third category in which their "I'm not either of these two options" self could fit. Have you ever been somewhere that just didn't fit for you? What if you were required to be in that place for 12 years? And then, when you were finally old enough to get out, to move away, you found you were unable to get the piece of paper changed that originally slotted you into the category that didn't fit? The North Dakota legislature is doing its honest best to chase transgender people out of the state. If you succeed, this bill will chase after them. This bill will make this feeling of being a misfit travel, even to places where they can find acceptance. It is nothing short of cruel.

Please do not pass.

Thank you for your consideration

Rev. Michelle Webber

Dear Chair Weisz and members of the House Human Services Committee,

As a long-term resident of Minot, I am writing today in opposition to House Bill 1297. Birth certificates are undeniably one of the most important documents U.S. citizens possess, and are required in applications for schooling, housing, driving, and many other processes. There is absolutely no benefit that comes of not allowing individuals to change their birth certificate to correctly show their identified gender, and plenty of data showing the damage that can come from such oppressive and hateful legislation. Transgender individuals, and youth especially, experience much higher rates of depression, anxiety, self-harm, and suicidality. Legislation such as this certainly contributes to those increased rates, for no good reason. I ask that you give this bill a Do Not Pass.

Thank you for your time and consideration,

Cathy Gamas

Dear Chair Weisz and members of the House Human Services Committee,

As a resident of Minot, I am writing today in opposition to House Bill 1297. Birth certificates are undeniably one of the most important documents U.S. citizens possess, and are required in applications for schooling, housing, driving, and many other processes. There is absolutely no benefit that comes of not allowing individuals to change their birth certificate to correctly show their identified gender, and plenty of data showing the damage that can come from such oppressive and hateful legislation. Transgender individuals, and youth especially, experience much higher rates of depression, anxiety, self-harm, and suicidality. Legislation such as this certainly contributes to those increased rates, for no good reason. I ask that you give this bill a Do Not Pass.

Thank you for your time and consideration,

Patricia Toy

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1297. I ask that you give this bill a Do Not Pass.

There is no compelling interest within the state to remove the ability of transgender individuals to align their birth certificate with their sex. Further many states have opted into creating x-markers on birth certificates for both privacy reasons and for non-binary individuals. Passport and State IDs can have "x" listed as the gender marker.

We have many individuals who were born in North Dakota, but now live within the many states that allow different identities on various documents. For these individuals this legislation can create an inconsistency between their identity forms and this has the capacity to both impact their life and open them up to transphobia and discrimination when these discrepancies are triggered.

I have spoken to an attorney who worked in Minnesota and on the non-binary identification markers there. While I'm not privy to understand the specific way in which we store data, I was under the impression there is a difference between our birth certificate and the fundamental records that we keep from birth data. And that allowing changes to birth certificates to reflect an individual's current situation does not jeopardize those records or pose any real burden to our state or a compelling reason to deny it. It becomes an acknowledgment of the state that this person is who they say they are.

I would recommend amending this piece of legislation to allow anyone to change their sex listed on just their birth certificate document with a letter from a primary doctor and to allow "M", "F", and "X" to be listed. I would recommend changes to the century code to remove the language the birth certificate has been amended.

I will also offer that our current process for changing sex on birth certificates in North Dakota is incredibly restrictive, requiring expensive surgery that isn't always covered or feasible for an individual to obtain. That factor alone is a large reason why other states have removed such restrictions.

I understand requiring a doctor's note for changing identification documents. I understand this creates a connection between the medical validity of a person's biological experiences and official documents that represent them. I understand this is a compromise to make within North Dakota, where cultural barriers create hostility towards transgender communities and we have a way to go to understand the complexity of biological and gender diversity.

We could take the time we're spending on this legislation to make the process easier and a benefit to the people we serve.

Thank you for your time, consideration, and service to our state

Best regards,
Faye Seidler

Dear Senators, I am writing in opposition to HB 1297. I ask that you give this bill a Do Not Pass.

I would like to reference one case report, “The Power and Limits of Classification — A 32-Year-Old Man with Abdominal Pain”, of a transgender man admitted with intermittent abdominal pain that unfortunately resulted in the delivery of a stillborn baby. In this case, his electronic medical record (EMR) indicated that he was male and the triage nurse was informed he was transgender. Despite this information being provided, the triage nurse misdiagnosed him and failed to fully assess his individual care needs. The triage nurse demonstrated a lacking awareness of human and patient diversity.

The contributors of the case report, Daphna Stroumsa, M.D., M.P.H., Elizabeth F.S. Roberts, Ph.D., Hadrian Kinnear, B.A., and Lisa H. Harris, M.D., Ph.D. outline the clinical implications which includes that if healthcare providers learn and acknowledge the limitations of implicit classification in patient management, then they can improve care not only for transgender patients, but for all patients who fall through classificatory “cracks”.

The contributors of the case report also note the ability to change one’s legal sex marker can be crucial for transgender people in many areas of their lives, including safety, housing, employment, and many other areas. The contributors of the case report confirm the issues raised in this case cannot be resolved by preventing transgender people from changing their sex on legal documentation or in their medical chart and that most health care needs of transgender people are no different from those of cisgender people¹.

I believe all North Dakotans deserve to have healthcare professionals who are able to assess situations that elude current classifications and rather provide North Dakota healthcare providers clinical training so they may be better able to address the needs of North Dakotans who do not fit into the current classificatory schemes.

As a lifelong resident of North Dakota, I believe all North Dakotans deserve the right to correct their birth certificate should they wish. I urge the committee to listen to the experts in the field and give HB 1297 a Do Not Pass.

¹ Stroumsa D, Roberts EFS, Kinnear H, Harris LH. The Power and Limits of Classification - A 32-Year-Old Man with Abdominal Pain. N Engl J Med. 2019;380(20):1885-1888. doi:10.1056/NEJMp1811491

HB #1297

68th Legislative Session

Senators: Boehm, Clemens, Myrdal.

Representatives: Kasper, Koppelman, Prichard, Rohr, Ruby, Steiner, VanWinkle

I ask you how many transgender people have you talked to? How many parents of a transgender person have you sat down with and discussed the difficulties their child faces living in North Dakota? Odds are none of you have done either so let me introduce myself; I am a citizen, born and raised in North Dakota. I am also a parent of a transgender person. I know firsthand how harmful this bill is and what devastation this will do to the innocent transgender youth of North Dakota. I am also someone who is in opposition to this invasive and insensitive bill.

My child was born transgender. In utero, my daughters brain developed as female after her body formed as a male. My child isn't to be blamed for being transgender and I didn't do anything to cause my child to become transgender. I have sat down and asked hard questions to the specialists who treat transgender people. I have taken my daughter to Mayo Clinic in Rochester, MN. A team of specialists explained to us the tests they would perform and later told us the results. Your bill states science, the use of DNA as a way to permanently hinder transgender people from changing their birth certificate but you also refuse to look at the complete science makeup of transgender people. You are only pulling certain biological items to make your case but you are not looking at the complete science. Your cherry picking the facts and disregarding what doesn't help you make your case. That isn't honest and that isn't giving the citizens of North Dakota a true and accurate picture of transgender people.

Transgender isn't a choice, it isn't a fad and it isn't a way to cause any harm to CIS females. That is all hype and lies spun to make the case for those who find transgender people as a threat. There is no threat that transgender people pose to anyone. I should know, I lived with a transgender person.

I sat in doctors' offices and discussed treatment. How many have you done that? I sat in counseling for many years discussing transgender issues, how many of you have done that? I also know that making the birth certificate an item that can't be changed or hinders only on a single biological marker is cruel and doesn't help or protect anyone but does make the fact that the transgender person has a vital record that isn't accurate or an accurate depiction of who they are.

A person isn't defined by their blood type, their flesh and bone solely. My child looks I an mirror and sees a female. Her mind is female and having a body that isn't in synch with the brain is difficult. Imagine looking in the mirror and seeing a reflection and yet your outward appearance doesn't match the way you feel inside. We all are born with an innate sense of self. Most of us are lucky enough to look in the mirror and see a reflection and feel complete and whole. Transgender people just want to feel what we feel; complete and whole. It's that simple.

HB #1297

This bill is constructed to cause harm to transgender people in the State of North Dakota. This bill isn't a way to protect CIS people, but it is a way to hurt a select group of people. Where is this fear and hate coming from?

As an adult I find it hard to understand why adults would systematically target the youth in this state. Took go as far as try to drive them out of state or to the point where they would feel such despair that there would be no way to go become whom they want to desperately to be that they commit suicide. To go so far as to make their vita records something they can't alter, later. Is that the direction you envision for North Dakota? To be a state that only caters to one sect of people and if you're not of that select group then you're driven out. What possesses an adult to go and create such a discriminatory bill. What next, a bill against those who are taller than what you imagine an adult should be? How can you punish someone for something they had no control over?

This bill lacks compassion, understanding and empathy for transgender people. This bill doesn't have the best intentions for the State of North Dakota, but it has a malice intent. Who suffers if the transgender person has a birth certificate that is changed? The changing of the birth certificate affects only the transgender person. It hurts no one if the birth certificate is changeable.

You're operating out of fear and believing the radical right who spin lies and misinformation that boosts their agenda. Laws should be made by using facts, all the facts and keeping religion out of law making. Keeping church and state separate ensures that a select group does not force their religious beliefs on others. Your personal religious beliefs must not spill over into law making. Not everyone follows your beliefs, nor should they be forced to. You wouldn't like it if others forced their beliefs onto you.

I encourage you to put your beliefs aside and preconceived judgements. Talk to a transgender person or a parent of a transgender child. Ask them their story and listen with an open heart. As lawmakers your job is to listen to ALL the citizens of North Dakota, not just the ones who fall in line with your beliefs. You might be surprised in what you learn if you just open your ears and heart.

Kristie Miller
Parent of a transgender

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1297. I would kindly like to ask that you give this bill a Do Not Pass. First it establishes nothing but to marginalize and restrict individuals who seek only to have paperwork reflect their Identity. Enacting this bill will cause many issues for them and the state whenever questions of gender arise such as getting a passport or other legal interactions that would require a Birth Certificate to be presented. Also Barring such changes is a suppression of their own legal rights and 'Personal Truths' as the individuals on this Trans hate rampage would put it. I would also like to echo a comment made earlier DNA is not Binary, It is not just XY or XX as well as the issue that there is no FDA approved test for such things due to the inaccuracy and false negatives they can present. This bill is a waste of time and I strongly urge you to Vote against this bill and to those that are issuing these lies and hate pushing this disgusting backlash against a minority group I urge you to get your information from more than a tabloid or facebook post. These bills could and will do serious harm not only to the people they seek to oppress but also the rest of the state. It's ok to make a mistake, but don't double down on the idiocracy and hate, learn, love, and grow.

House Human Services Committee

I am testifying in Opposition to HB 1297. Give this bill a Do Not Pass.

I am not a medical professional, and I recognize the testimonies of licensed medical professionals may differ, but from a humanities perspective, this string of discriminatory bills is clearly designed to intimidate, not to save lives. If at a later date it seems wise to pass a bill clarifying medical information on the basis of accuracy and safety then maybe that would be acceptable. Currently however, passing any of these frivolous bills would be a defeat of basic human rights in our country, which was founded with strong ideals of personal freedoms and freedom of expression. This bill would negatively impact people in our community due to the discriminatory nature of the phrasing involved, and the timing of its introduction with other similar bills. Trans rights are human rights.

Regards,
Royce Brown
Minot, ND

My name is Jodi Plecity and I am in favor of this bill. I always look to the root cause of the problem or suffering, and what is your rock? Let's start like this, the root cause or sex you are born at birth, genetically, biologically, scientifically is what you are the REST OF YOUR LIFE. It doesn't matter how many medications you take, what procedures or surgeries you have, how you decide to dress, talk, or act. At the end of the day, YOU ARE this rock and root! Ask any physician or medical doctor if you can ever 100% make yourself a different sex than what you were from birth. You can't. Male or Female, you don't get to decide that, it is how you come out of the womb. If this bill does not pass it will only allow for deceit and a misinterpretation of who you truly are. If you "think" one day you can just decide and change your sex, you are completely OUT OF YOUR MINDS and need a reality check with some serious help. This is why the changing of your sex on your birth certificate should never be allowed and is a sacred document of who you really are.

Thank you.

Jodi Plecity

January 25th, 2023

From: Gabriela Balf, MD, MPH

Re: In Opposition to HB 1297

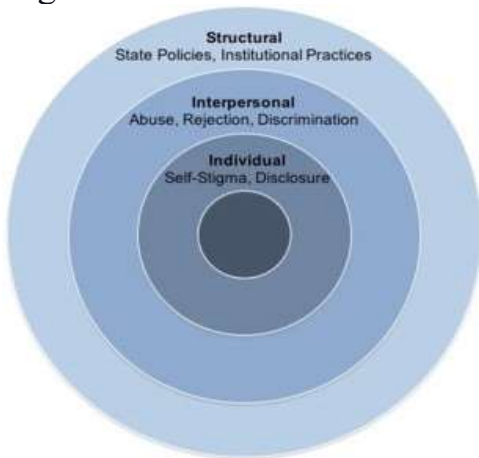
Esteemed Chairman Weisz and Committee Members,

My name is Gabriela Balf, I am a psychiatrist in Bismarck and a Clinical Associate Professor at UND, and I speak on my behalf as a clinician and as a scientist.

As a public health agent and as a clinician I need to inform you of the consequences of this bill upon this population minority. It has far-reaching effects – transgender people will be “outed” everywhere they go, even if they leave the state, the possibility talked about yesterday.

The great state of North Dakota, besides providing an unwelcoming environment for its minority citizens, will continue to gravely affect their lives, as a life-long reminder of its disregard for science, national and international social advancements, civil rights movement, etc.

It constitutes a structural stress in the minority stress concept, that will perpetuate stigma.



I urge you to be thoughtful when you vote for all the transgender bills that are coming your way, and listen to science. 21st century science.

On behalf of our patients, we thank the House Human Services Committee for listening to our presentation of scientific evidence.

Gabriela Balf-Soran, MD, MPH

Assoc Clin Prof – UND School of Medicine – Behavioral Sciences and Psychiatry Dept

ND Psychiatric Society Past-President

World Professional Association Transgender Health member

Senate Human Service Committee
March 20th, 2023 HB 1297
Testimony in Opposition

Dear Chair Lee and the members of the Senate Human Services Committee,

I urge a “Do Not Pass” on HB 1297.

- According to committee work, this bill will impact 2-4 people over the next 2 years.
- As someone who works in healthcare with a high trans population, all sex documentation is handled by driver’s license, not birth certificate - any concerns for medicine are moot.
- Darin Mensche, Director of Division of Vital Records, already indicated the process is in alignment with the current amended bill, making this completely redundant.
- I agree with comments made by Chair Robin Weisz during committee work that these processes to allow trans individuals to transition are not harming anyone and biology can be complicated. He brought up a woman he is personally aware of with XY chromosomes who has given birth.

I think many folks have gotten the impression the birth certificate is a holy document, when in practice it is intended to be functional and representative. Outside of philosophical arguments or biological taxonomy, I’d like to offer what we do for [adopted youth](#). We can get non-biological parents on a birth record because it may reflect intended role and legal guardianship, even though they aren’t biologically related. That’s what we’re doing for trans people amending sex.

I agree a doctor should make that consideration, but we already have evidence the process is so restrictive that less than .1% of trans individuals have corrected records. (This is extrapolating from committee information and population surveys.)

I propose an amendment to keep this bill in line with binary sex and solve an observed problem for trans populations within our state to access correct legal documentation. I’m thrilled our representatives have brought this issue to the committee’s attention to solve and I feel two years of hormonal treatment will cause equally permanent physiological sex based changes to satisfy the bill carriers desire to stop “gender based” identification. I would offer a “Do Pass” on amendment.

Otherwise, I believe that this should continue to be kept within our Division of Vital Records to make the assessments they determine are necessary within their work.

Thank you for your time, consideration, and service to our state,
Faye Seidler

Example Amendments for HB 1297:

A BILL for an Act to create and enact a new section to chapter 23-02.1 of the North Dakota Century Code, relating to correction or amendment of birth records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-02.1 of the North Dakota Century Code is created and enacted as follows:

Birth records - Amendments and corrections - Gender identity change.

- ~~1. The sex designation on a birth record of an individual born in this state may not be amended under section 23 - 02.1 - 25 due to a gender identity change.~~
2. The sex designation on a birth record of an individual born in this state may not be corrected under section 23 - 02.1 - 25 unless:
 - a. The sex of the individual was listed incorrectly on the original birth record as a result of a scrivener's error or data entry error; or
 - b. The sex of the individual was misidentified on the original birth record and the request for correction is accompanied by a copy of the results of chromosomal, molecular, karyotypic, DNA, or genetic testing that identifies the sex of the individual, together with an affidavit from the health care facility, health care professional, or laboratory testing facility that conducted the test or analyzed the test results, attesting to the test results and the accuracy of the test results; or
 - c. The sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider with a "notarized" affidavit; or
 - d. The sex of the individual was changed physiologically with cross-sex hormone therapy for 2-years under medical supervision and certified by a medical provider with a "notarized" affidavit.
- ~~3. As used in this chapter, "sex" means the biological state of being male or female, based on an individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.~~

Testimony in opposition of HB 1297**Relating to correction or amendment of birth records.****Senate Human Services Committee March 20, 2023**

Senator Lee and committee members. My name is Stephen McDonough. I am providing testimony in opposition to HB 1297.

I am a board certified pediatrician who worked in North Dakota for forty years, from 1980 to 2020. I worked at the NDDoH from 1985 to 2000 and served at times as the State Epidemiologist, AIDS/Project Director, Director of Maternal and Child Health and Chief Medical Officer. As a pediatrician, I provided primary care to LGBTQ adolescents and treated them with dignity and respect.

If a person wants to change the gender on their birth certificate due to a change in gender identity, they should be allowed to do so. It is really none of the state of North Dakota's business to interfere with this.

I worked with vital records extensively from 1985 to 2000 when I worked at the NDDoH. I have also requested data from vital records in the past two years on COVID issues. Allowing people to change the gender identify on their birth certificate will NOT significantly change vital records data.

We have a Legislature considering around 20 anti-transgender bills, all based on lies and misinformation. These terrible bills have given our state the reputation of being anti-science and one of intolerance and hate. Nearly 70 religious leaders and over 200 medical providers have recently published letters to the editor opposing these hateful bills.

The North Dakota Legislature should not be bullying transgender individuals. HB 1297 needs to be defeated.

Stephen McDonough MD



NORTH DAKOTA

Family Alliance LEGISLATIVE ACTION

Testimony Supporting House Bill 1297

Mark Jorritsma, Executive Director
 North Dakota Family Alliance Legislative Action
 March 20, 2023

Good morning Madam Chair Lee and honorable members of the Senate Human Services Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in support of House Bill 1297 and respectfully request that you render a “DO PASS” on this bill.

A birth certificate is inarguably one of the most foundational documents a citizen must have, for a multitude of reasons. There is ample evidence that birth certificates or their equivalent have been in existence for millennia, and given their importance, one would assume that they would in large part be somewhat insulated from the popular societal notions of our day. Unfortunately, that would be wrong.

A fundamental truth that must be recognized is that biological sex (“sex”) and gender are very different things. Common sense, the medical community, and even our friends at Planned Parenthood recognize that biological sex and gender are different.

It’s common for people to confuse sex, gender, and gender identity. But they’re actually all different things

Sex is a label — male or female — that you’re assigned by a doctor at birth based on the genitals you’re born with and the chromosomes you have. It goes on your birth certificate. [bolded for emphasis]

Gender is much more complex: It’s a social and legal status, and set of expectations from society, about behaviors, characteristics, and thoughts.

– Planned Parenthood, Sex and Gender Identity website page

That said, it is now possible in a number of states to request a “non-binary birth certificate”.

As the views of Americans on gender shift, so do the laws across the country —albeit, gradually. In more than 10 states, it is now possible to request a non-binary birth certificate or amend an existing one.

The term non-binary includes any person who does not identify with a gender that falls within the traditional male/female or man/woman category. – www.usbirthcertificates.com

Do you see the problem? Birth certificates are being used to indicate gender, not sex, even though sex is based upon undeniable scientific fact, but gender is based upon a social construct.

House Bill 1297 simply seeks to ensure that sex is indicated on a birth certificate. We realize that every person has defining biological characteristics that identify them as male or female and we want to ensure there is an official foundational document indicating this. If the person wants to later in life identify as their biological birth sex, a different gender, non-binary, an animal, or an inanimate object, that is their choice and limited only by never-ending and imaginative societal trends.

North Dakotans are not relativists. We know the difference between common sense and popular trend, right and wrong. Let’s not tumble down the rabbit hole on something as fundamental as a document that states a scientific fact. Playing games is fine, but playing with the truth is simply foolish.

For these reasons, North Dakota Family Alliance Legislative Action respectfully asks that you please vote House Bill 1297 out of committee with a “DO PASS” recommendation. Let’s preserve rational, common sense thinking when it concerns scientific truths.

Thank you for the opportunity to testify and I am now happy to stand for any questions.

Jane Pettinger

3633 River Drive
Fargo, ND 58104

Date: March 19, 2023

To: North Dakota Human Services Committee

Re: HB 1297 on birth certificates

Committee Chair and members of the Committee -

My name is Jane Pettinger, I reside in Fargo. I was born and raised here. This note is to let you all know that as a lifelong North Dakotan, I stand in firm opposition to HB 1297.

As with so much of this session's legislation, this bill will only serve to divide ordinary citizens. It is a bill that does no one any good and causes harm to a select few individuals. Why do harm to folks?? Very few folks ever seek to alter their birth certificate, why is this bill needed? What problem is it resolving? What constituents is it serving?

We need to strive to support ALL North Dakotans. This includes those with gender dysphoria or who otherwise may feel that a change to their assigned gender will bring them some sense of peace or well-being. Why not allow this? Seriously!?! What the heck are we spending time on this issue for?

Let people live their lives, their best lives, according to their own unique needs.

Jeez. Why is this an issue?

Jane Pettinger

HB #1297**3/19/23**

68th Legislative Session

Senators: Boehm, Clemens, Myrdal

Representatives: Kasper, Boehm, Koppelman, Prichard, Rohr, D. Ruby, M. Ruby, Steiner, VanWinkle

I ask you how many transgender people have you talked to? How many parents of a transgender person have you sat down with and discussed the difficulties their child faces living in North Dakota? Odds are none of you have done either so let me introduce myself; I am a citizen, born and raised in North Dakota. I am also a parent of a transgender person.

I know firsthand how harmful this bill is and what devastation this will do to the innocent transgender youth of North Dakota. I am also someone who is in opposition to this invasive and insensitive bill.

My child was born transgender. In utero, my daughters brain developed as female after her body formed as a male. My child isn't to be blamed for being transgender and I didn't do anything to cause my child to become transgender. I have sat down and asked hard questions to the specialists who treat transgender people. I have taken my daughter to Mayo Clinic in Rochester, MN. A team of specialists explained to us the tests they would perform and later told us the results.

Your bill states science, the use of DNA as a way to permanently hinder transgender people from changing their birth certificate but you also refuse to look at the complete science makeup of transgender people. Your bill is just another weapon to use against transgender people.

The authors of this bill are only pulling certain biological facts to make their case but the authors of this bill are intentionally avoiding the other biological fact which means these individuals are not looking at the complete science and are cherry picking the facts to help make their case. Thee authors of this bill are acting in an unethical fashion and are not giving the citizens of North Dakota a true and accurate picture of transgender people.

Transgender isn't a choice; it isn't a fad and it isn't a way to cause any harm to Cis-gender females. That is all hype and lies spun to make the case for those who find transgender people as a threat. There is no threat that transgender people pose to anyone. I should know, I lived with a transgender person. I sat in doctors' offices and discussed treatment. How many have you done that? I sat in counseling for many years discussing transgender issues, how many of you have done that?

I also know that making the birth certificate an item that can't be changed harms transgender people and serves no other purpose but to out transgender people and humiliate transgender people. This bill is cruel and doesn't help or protect anyone but HB #1297 does make the fact that the transgender person isn't a desired vital record stat and in fact makes the true vital statistics of ND inaccurate.

A person isn't defined by their blood type, their flesh and bone solely. My child looks in a mirror and sees a female. Her mind is female and having a body that isn't in synch with the brain is difficult. Imagine looking in the mirror and seeing a reflection and yet your outward appearance doesn't match the way you feel inside.

We all are born with an innate sense of self. Most of us are lucky enough to look in the mirror and see a reflection and feel complete and whole. Transgender people just want to feel what we feel; complete and whole. It's that simple.

Where is this fear and hate coming from? As an adult I find it hard to understand why adults would systematically target the youth in this state. HB #1297 goes as far as try to drive them out of state or to the point where they would feel such despair that there would be no other way to go become complete so they commit suicide. Why go so far as to make their vita records something they can't alter, later?

Is that the direction you envision for North Dakota? To be a state that only caters to one sect of people and if you're not of that select group then you're driven out? What possesses an adult to go and create such a discriminatory bill? What next, a bill against those who are taller than what you imagine an adult should be? How can you punish someone for something they had no control over?

This bill lacks compassion, understanding and empathy for transgender people. This bill doesn't have the best intentions for the State of North Dakota, but it is constructed with malice intent.

Who suffers if the transgender person has a birth certificate that is changed?

The changing of the birth certificate affects only the transgender person. It hurts no one if the birth certificate is changeable. You're operating out of fear and believing the radical religious right, whose only focus is to spin lies and misinformation that boosts their agenda.

Laws should be made by using facts, **all the facts** and keeping religion out of law making.

Keeping church and state separate ensures that a select group **does not force their religious beliefs on others**. Your personal religious beliefs **must not** spill over into law making. Not everyone follows your beliefs, nor should their rights be infringed upon because of the authors religious beliefs. You wouldn't like it if others forced their beliefs onto you.

I encourage you to put your beliefs aside and preconceived judgements. Talk to a transgender person or a parent of a transgender child. Ask them their story and listen with an open heart. As lawmakers your job is to listen to **ALL** the citizens of North Dakota, not just the ones who fall in line with your beliefs.

You might be surprised in what you learn if you just open your ears and heart.

Kristie Miller

Parent of a transgender

March 19, 2023

I urge a "Do Not Pass" on HB 1297.

If a member of my family or a friend wants to change their birth record from Male to Female or from Female to Male, does that personally affect your day-to-day life in any way? How does that hurt North Dakota citizens? Will it increase our taxes? I venture to guess that the answer is "no" for the above questions.

I'm guessing that transgender individuals are offensive to your morals or religious beliefs. That doesn't mean that you get to discriminate against them. It is not against the law to be a transgender person.

The bill shows no appreciation or understanding for scientific studies or the professional ethics of so many health professionals in our state.

Most of all, this bill is hurtful and promotes a toxic atmosphere for the LGBTQ+ individuals and families in this state.

Thank you.

Naomi Franek
Fargo, ND

M. Messerly, MD
Pediatrician

Please vote FOR HB 1297.

Birth certificates are legal documents that record the exact data surrounding the birth of every child. This includes parental identification, time and date of birth, location of delivery, and the sex of the baby as documented on the baby's medical record by licensed medical professionals. The sex of the baby is overwhelmingly obvious in the vast majority of cases in the external physiological manifestations of the genitalia. Changing the birth certificate based on a perceived later gender preference is illogical and incorrect. At the time of birth the baby did NOT have any opinion regarding gender.

Senate Human Services Committee Members,

In light of the rapidly spreading social contagion of Gender Ideology, it is clear that laws need to be put in place to protect sex-based rights and ensure accuracy relating to vital records.

- A person's sex is a biological reality that cannot be changed by one's personal beliefs, outward appearance, or behavior.
- The state has an obligation to ensure the accuracy of official documents which should require and maintain accurate information that is rooted in objective facts, not subjective self-perception.

Please render a do pass recommendation for HB 1297.

Thank you for your consideration of my testimony and for your service to the state of North Dakota.

Sincerely,

Amber Vibeto
Minot, District 3

Senate Human Services Committee
HB 1297 – March 20, 2023
Testimony of Rachel Sinness, P&A Legal Director

P&A protects the human, civil and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

Our advocates and attorneys assist not only individuals with developmental and intellectual disabilities, but also those with mental health disabilities. This is where we see an intersectionality between gender identity and mental health. LGBTQ+ individuals are more likely to have a mental health disability than the general population. Studies routinely show that more than a third of LGBTQ+ individuals, and nearly 40% of trans individuals, report having at least one more or disability. Forty percent of trans individuals also reported having attempted suicide at some point in their lives. As shown by these statistics, disability issues disproportionately impact LGBTQ+ individuals.

Young people experience an even greater impact. Fifty-three percent of individuals aged eighteen to twenty-five years report serious psychological distress, and at least one quarter of LGBTQ+ youth report experiencing bullying at school because of an actual or perceived disability.

The prevalence of mental health disabilities in the LGBTQ+ community makes the community particularly vulnerable to proposals such as HB 1297, even if the proposal is well intentioned and purports to advance the rights of another class of individuals. As Audrey Lorde said, "There is no such thing as a single-issue struggle, for we do not lead single-issue lives."

For these reasons, P&A urges a DO NOT PASS on HB 1297.



The North Dakota Association of School Psychologists (NDASP) asks lawmakers to oppose the harmful policies outlined in the table below that target LGBTQ+ youth. These policies disallow students from using school facilities consistent with a student’s gender identity; require parental consent to have a student’s gender identity affirmed and acknowledged in school; mandatory parental notification when a student discloses they may be questioning their sexuality or gender identity; prohibition of classroom instruction on nonheteronormative sexual orientations and gender identities; removal of classroom materials that are inclusive of LGBTQ+ students and families; and afford protections for individuals who refuse to affirm a student’s identity and punitive measures for individuals who do. The following bills are discriminatory, against best practices, and do not reflect the peace and tranquility North Dakota is known for.

Vote NAY on House Bills			Vote NAY on Senate Bills
HB1205	HB1301	HB1474	SB2199
HB1249	HB1332	HB1488	SB2231
HB1254	HB1333	HB1489	SB2260
HB1256	HB1403	HB1522	
HB1297	HB1473	HB1526	

These proposed bills are in direct conflict with NDASP’s adopted position statement from the National Association of School Psychologists (NASP) which states that:

Positive educational and social outcomes for all children and youth are possible only in a society—and schools within it—that guarantees **equitable treatment to all people**, regardless of race, class, culture, language, gender, gender identity, religion, sexual orientation, nationality, citizenship, ability, and other dimensions of difference (NASP, 2019).

Additionally, school psychologists are guided by an ethical code that calls for beneficence, through which they respect the rights and dignity of all persons, and nonmaleficence, which requires that they do no harm. NASP’s ethical standards require school psychologists to validate and affirm a young person’s authentic lived experience, value their integrity, ensure their safety, and promote their well-being (NASP, 2020b). The proposed laws would prohibit school psychologists from practicing ethically.

Our LGBTQ+ youth need our support now more than ever. Some alarming statistics from The Trevor Project 2022 Survey include:

- 45% of LGBTQ youth seriously considered attempting suicide in the past year.
- 60% of LGBTQ youth who wanted mental health care in the past year were not able to get it.
- 73% of LGBTQ youth reported experiencing symptoms of anxiety
- 58% of LGBTQ youth reported experiencing symptoms of depression

NDASP also vehemently supports the use of evidence-based practice through an ethical lens. Conversion 'therapy' is not evidence based and has been determined to be fraudulent by several states. In fact, "The present-day scientific consensus is that such practices are not only ineffective, but highly harmful and fundamentally unethical." (Conine, Campau, Petronelli, 2022). Examples of historical unethical practices used in conversion therapy include corporal punishments such as spanking and electroshock therapy, among other questionable practices. The United Nations Human Rights Council (2020) goes as far to say that these practices are not only a public health problem, but also "violate the prohibition of torture and ill-treatment." 17% of LGBTQ youth reported being threatened with or subjected to conversion therapy (The Trevor Project, 2022), which can have life-threatening effects.

Support for LGBTQ+ youth leads to better outcomes for them and society as a whole. LGBTQ+ youth report that when adults talk to them respectfully about their LGBTQ+ identity and use their names and pronouns correctly, they feel supported. Research indicates that LGBTQ+ youth are more resilient when they have supportive people in their lives. Further, LGBTQ+ youth with higher resilience are 59% less likely to attempt suicide and 69% less likely to consider suicide (The Trevor Project, 2022). NDASP supports legislative actions to increase access to mental health for all individuals, including LGBTQ+ youth.

Please join NDASP in supporting our LGBTQ+ youth by voting "nay" on the house and senate bills listed above.

Sincerely,



Alannah Valenta, PsyS, NCSP

NDASP President, on behalf of North Dakota Association of School Psychologists

References:

Conine, D. E., Campau, S. C., & Petronelli, A. K. (2022). LGBTQ+ conversion therapy and applied behavior analysis: A call to action. *Journal of Applied Behavior Analysis* (55, 6-18).

National Association of School Psychologists. (2022). Safe and Supportive Schools for Transgender and Gender Diverse Students. [Position Statement].

National Association of School Psychologists. (2020b). The Professional Standards of the National Association of School Psychologists.

National Association of School Psychologists. (2019). Prejudice, Discrimination, and Racism. [Position Statement].

The Trevor Project. (2022). 2022 National Survey on LGBTQ Youth Mental Health. www.thetrevorproject.org/survey-2022/assets/static/trevor01_2022survey_final.pdf

United Nations Human Rights Council. 2020, Report on Conversion Therapy, <https://www.ohchr.org/en/calls-for-input/report-conversion-therapy>. Accessed 27 Jan. 2023.

**Senate Human Services Committee
March 20th, 2023
HB 1297 - Testimony in Opposition**

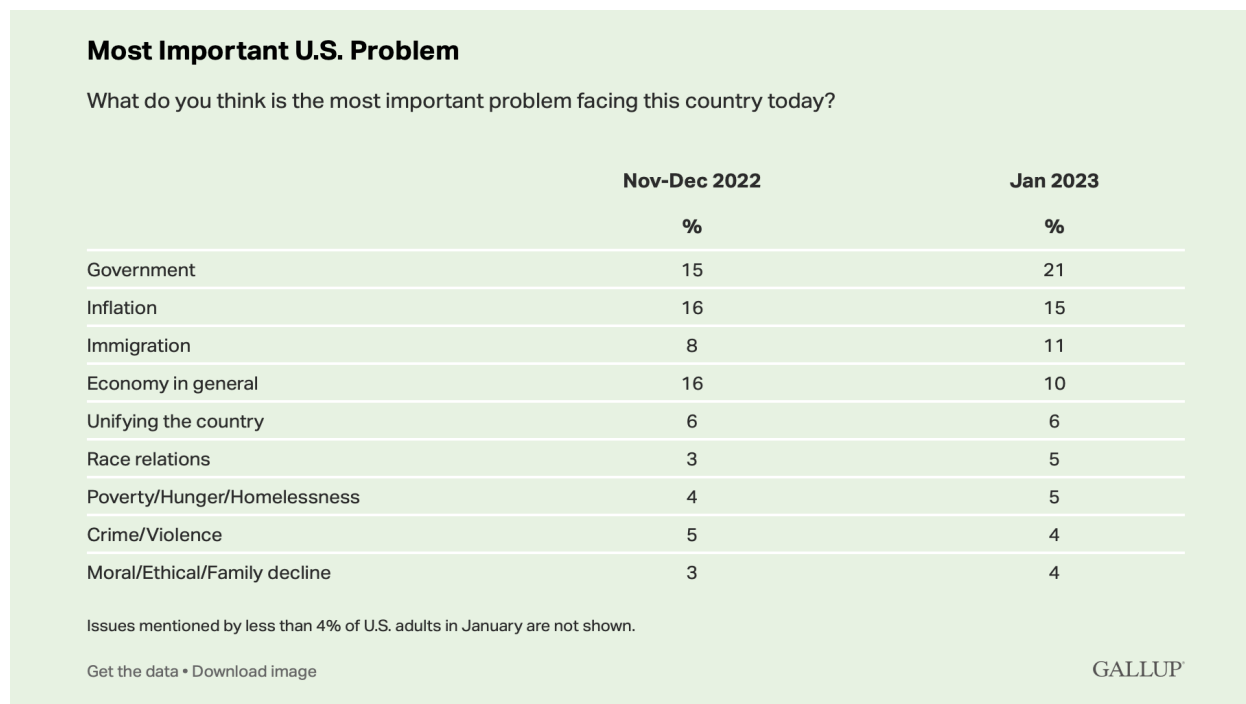
Dear Chair Lee and the members of the Senate Human Service Committee,

My name is Shannon Krueger, District 3 resident, life-long North Dakota resident, educator, and mother; and I am writing in opposition of HB 1297.

According to a January 2023 Gallup poll, Americans rank the following as the top four problems in the US: Government, Inflation, Immigration, and the Economy. Gender Issues rank...zero. Unless Gender Issues falls under the lowest-ranking category: Moral/Ethical/Family Decline. Morality and ethics seem to be in full force this legislative session. A small group of lawmakers is attempting to impose its morals on all ND residents in a feeble attempt to control the LGBT population.

As a constituent, I would much rather see legislative efforts to address the major issues at hand.

Thank you.



<https://news.gallup.com/poll/468983/cite-gov-top-problem-inflation-ranks-second.aspx>

Thank you.

My name is Jodi Plecity and I am in favor of this bill. I always look to the root cause of the problem or suffering, and what is your rock? Let's start like this, the root cause or sex you are born at birth, genetically, biologically, scientifically is what you are the REST OF YOUR LIFE. It doesn't matter how many medications you take, what procedures or surgeries you have, how you decide to dress, talk, or act. At the end of the day, YOU ARE this rock and root! Ask any physician or medical doctor if you can ever 100% make yourself a different sex than what you were from birth. You can't. Male or Female, you don't get to decide that, it is how you come out of the womb. If this bill does not pass it will only allow for deceit and a misinterpretation of who you truly are. If you "think" one day you can just decide and change your sex, you are completely OUT OF YOUR MINDS and need a reality check with some serious help. This is why the changing of your sex on your birth certificate should never be allowed and is a sacred document of who you really are.

Thank you.

Jodi Plecity

Testimony in Support of HB 1297

Dr. Lovita Scrimshaw, DO, Emergency Medicine Physician
American Academy of Medical Ethics, North Dakota State Director
March 20, 2023

Good morning Madam Chair Lee and honorable members of the Senate Human Services Committee. My name is Lovita Scrimshaw and I am a physician in Minot, ND and also serve as the North Dakota State Director of the American Academy of Medical Ethics. I am testifying in regard to House Bill 1297 and I respectfully request that you render a “DO PASS” on this bill.

The sex designation on a birth record should not be changed due to a gender identity change. From a medical standpoint, the sex (and genetic reproductive organs) of the patient directly relates to the patient’s safety. The genetic sex of the patient should be clear to providers who will be taking care of this patient, because there are known differences in acute/emergent pathology encountered in male and female patients. For example, a female patient presenting with acute abdominal pain to the emergency department has different possible acute/life-threatening causes of that pain (such as ovarian torsion, ruptured ectopic pregnancy, preeclampsia, placental abruption, etc.) than a male patient presenting with the same abdominal pain (which could be testicular torsion, scrotal infections, etc). There is a case report of fetal death during labor because the medical record only conveyed the individual’s gender preference (male) and not their biological sex (female), leading to misdiagnosis and medical catastrophe in the setting of pregnancy.¹ There have been near-misses in multiple hospital systems that I have worked at due to patient’s listing their gender preference instead of their genetic sex. Being able to change the birth certificate would only compound this issue and is dangerous for the patient.

Again, I request a “Do Pass” on this bill. Thank you for the opportunity to testify on this important matter.

¹ Stroumsa D, Roberts EFS, Kinnear H, Harris LH. The Power and Limits of Classification - A 32-Year-Old Man with Abdominal Pain. N Engl J Med. 2019;380(20):1885-1888. doi:10.1056/NEJMp1811491

Testimony in Support of HB 1297

Dr. Daniel Scrimshaw, DO, Emergency Medicine Physician
American Academy of Medical Ethics, North Dakota State Director
March 20, 2023

Good morning Madam Chair Lee and honorable members of the Senate Human Services Committee. My name is Daniel Scrimshaw and I serve as an Emergency Physician in Minot, ND and as the North Dakota State Director of the American Academy of Medical Ethics. I am testifying in regard to House Bill 1297 and I respectfully request that you render a “DO PASS” on this bill.

The sex designation on a birth record should not be changed due to a gender identity change. In my practice of emergency medicine, I have often provided care for patients who do not identify as their genetic sex (as assigned at birth). This sometimes causes confusion in the patient’s diagnosis and management. As an example, a genetic female with abdominal pain may have acute or life threatening diagnoses which are different from those of a genetic male presenting with the same pain. Furthermore, it has been known to cause bad patient outcomes as reported in the medical literature¹. Being able to change the sex on the birth certificate would only compound this issue even more and is dangerous for patients.

Again, I request a “Do Pass” on this bill. Thank you for the opportunity to testify on this matter.

¹ Stroumsa D, Roberts EFS, Kinnear H, Harris LH. The Power and Limits of Classification - A 32-Year-Old Man with Abdominal Pain. N Engl J Med. 2019;380(20):1885-1888. doi:10.1056/NEJMp1811491

Senate Human Service Committee

HB1297

March 20, 2023

Chair Lee, Vice Chair Cleary, and Committee members:

On behalf of the ACLU of North Dakota, I submit testimony in opposition to HB 1297.

All citizens, including transgender people, need accurate and consistent identity documents that reflect their authentic selves. These documents allow people to travel, start new jobs, open bank accounts, and enroll in school.

At the core of verifying and updating ID documents is a birth certificate. Therefore, this testimony focuses on ID documents broadly, including birth records and broader repercussions of not being able to change gender on birth records.

When a trans person is forced to show ID documents that don't match who they are, they can face harassment, discrimination and even violence. A third of the trans people who responded to a 2015 survey of trans people across the country "were verbally harassed, denied benefits or service, asked to leave, or assaulted" after showing an ID with a name or gender that did not match their gender presentation.

This is a matter of basic safety. Having to turn over your license to the police can be stressful for anyone, and that stress can be amplified for transgender people. Every time someone has to show an ID that fails to match their gender to a store clerk, security guard, or TSA agent, they are at risk.

Medical and mental health professionals have long recognized the importance of updated identity documents as a part of gender transition. The American Medical Association, the American Psychological Association and others support allowing trans people to access ID that reflects their gender without proof of medical intervention or other clinical documentation.

Imposing burdensome and invasive requirements like proof of particular surgeries or other medical care on people who are seeking to update their ID documents means that many trans people will not be able to get an ID that matches who they are.

There is no one-size fits all path for gender transition. Many trans people do not want or need any particular medical treatment – and it may be out of reach financially for others. That's why the American Medical Association has adopted a policy urging states to eliminate any requirement that transgender people have surgery in order to amend their ID documents.

The federal government allows trans people to update a binary gender marker on their passports and social security cards without any intrusive surgical requirement, and a majority of states now do as well. These rules allow access to a usable ID, which lets trans people participate more safely in public life.

Self-attestation is already used on state IDs and licenses for information such as height, weight, hair color, and eye color. Trans people themselves know their own gender identity — in fact, they are the ones who report their gender to health care providers. Requiring a healthcare provider to "certify" what someone tells them is



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their gender creates a significant unnecessary expense for anyone trying to update their identification documents.

Requiring health care providers, judges, or other officials to verify someone's gender also puts unnecessary barriers in place for trans people who just want an accurate form of identification and may not have access to medical providers or the courts.

Ultimately there is no reason to prohibit the updating of birth records to reflect gender identity other than to discriminate against transgender persons and send a message that the state does not consider them whole citizens.

We urge you to vote "do not pass" on HB1297.

Cody J. Schuler
Advocacy Manager
ACLU of
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Related legal decisions:

Ray v. Himes, No. 2:18cv00272 (S.D. Ohio Sep. 12, 2019) (denying motion to dismiss complaint challenging Ohio's refusal to allow correction of gender markers on birth certificates for transgender people, and holding that the plaintiffs stated a claim for violation of constitutional privacy rights).

Arroyo Gonzalez v. Rossello Nevares, 305 F. Supp. 3d 327 (D.P.R. 2018) (striking down Puerto Rico's restriction on gender changes on birth certificates).

F.V. v. Barron, 286 F. Supp. 3d 1131 (D. Idaho 2018) (striking down Idaho restrictions on birth certificate updates as violating Equal Protection and finding that transgender status constitutes a suspect class triggering heightened equal protection scrutiny).

Love v. Johnson, 146 F. Supp. 3d 848, 852 (E.D. Mich. 2015) (denying government motion to dismiss lawsuit challenging Michigan surgical requirements for update to gender on state driver's license and identification).

K.L. v. State, Dept. of Admin., Div. of Motor Vehicles, No. 3AN-11-05431-CI, 2012 WL 2685183, at *6-8 (Alaska Super. Mar. 12, 2012) (striking down state law barring trans people from updating the sex designation on drivers licenses because the "absence of any procedure for changing the sex designation on an individual's license does not bear a close and substantial relationship to the furtherance of the state's interest in accurate documentation and identification. Indeed, the absence of any such policy can actually result in inaccurate and inconsistent identification documents.").

**Do Pass Testimony
of Doug Sharbono, citizen of North Dakota
on HB1297
in the Sixty-eighth Legislative Assembly of North Dakota**

Dear Madam Chair Lee and members of the Senate Human Services Committee,

I am writing as a citizen and believe HB1297 is beneficial legislation. It provides a framework to protect the historical record of one of our most critical identification documents. Many other actions follow this vital gateway document. It is bad practice to go in and alter this record based on the whim of the individual, their health care provider, or their parents.

Please give HB1297 a Do Pass.

Thank you,

Doug Sharbono
1708 9th St S
Fargo, ND 58103

Testimony in opposition to HB 1297

Senate Human Services Committee

Christina Sambor, North Dakota Human Rights Coalition, Human Rights Campaign, Youthworks

March 20, 2023

Chairwoman Lee and Members of the Committee:

I come before you today on behalf of the North Dakota Human Rights Coalition and HRC to oppose HB 1297. This bill is unnecessary, and the proponents of the bill offer no clear cut need for this legislation. Without any simple policy need for this, the motivation appears to be a desire to limit an individual's gender identity based either on a legislator's preference that individuals not be able to choose a gender that differs from the gender assigned at birth, or because of religious convictions that cause the sponsors to believe that such an action is an affront to their religious practice. Neither of these reasons are permissible justifications for this legislation. We can all hold our individual beliefs, but the constitution puts limits on the types of laws we can pass in an attempt to impose our beliefs on someone else.

Additionally, this bill is one of many proposed this session that seek to limit the rights of transgender individuals. These laws should be heavily scrutinized as they encourage policy that targets a small and vulnerable group of people who are just trying to live their lives. Please vote do not pass on HB 1297.

Good morning, Madam Chair Lee and Senate Human Services committee members. For the record, my name is Darin Meschke, and I am the State Registrar and Director of the Vital Records Unit within the North Dakota Department of Health and Human Services (Department).

I'm appearing today to request some minor amendments to HB 1297 that align with current practices and the intent of several other bills in this legislative session that define sex as either male or female.

The current version of HB 1297 models the current practice within our office regarding changing a person's sex on a birth record. My testimony today is not meant to change the intent of this bill but instead help with the consistency of the terms used when changing sex on a birth record.

The current version of the bill uses the language gender identity change. There is a difference between gender identity and sex at birth, and we request that the language of this bill be amended. The requested amendments are meant to clarify that this bill is defining how we change an individual's sex on a birth record and not their gender identity. Again, to be clear, our requested amendments to this bill will not change the intent of the bill, but more clearly define what we believe is the intent of this bill.

The first of these amendments would be to remove and replace the words "Gender Identity" with the word "Sex" on line 6 so that it would read "sex change." Our office amends and corrects a person's sex, not gender identity, which section 1 clearly defines.

The second amendment would be to tweak the language in section 2 to align with the current practice of changing a person's sex on a birth record. Again, this is simply a clarifying language change without altering the intent. We would request that on line 10, the words "amended or" be added before the word "corrected." We believe this minor change adds a level of definition to match current practice, as subsections A and B are what we call corrections and subsection C is defined as an amendment.

In closing, Madam Chair, this bill defines into law the current practices for changing an individual's sex on a birth record and the current administrative code. These minor amendments clean up the language in the bill and align it with existing processes.

This concludes my testimony Madam Chair Lee, and I would stand for any questions.

Wolf, Sheldon

From: Lee, Judy E.
Sent: Tuesday, March 21, 2023 9:20 PM
To: -Grp-NDLA Senate Human Services; NDLA, Intern 02 - Pouliot, Lindsey; Wolf, Sheldon; Lahr, Pat
Subject: FW: HB1297

FYI -

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@ndlegis.gov

From: Meschke, Darin J. <dmeschke@nd.gov>
Sent: Tuesday, March 21, 2023 2:47 PM
To: Lee, Judy E. <jlee@nd.gov>
Cc: Roers, Kristin <kroers@ndlegis.gov>
Subject: FW: HB1297

Madam Chair Lee,

I did follow up on the question asked by Sen. Roers in regards to the intent of HB1297 and based on the AG’s opinion below, subsection C would allow a person having bottom half sex reassignment surgery to have their birth record amended.

If you have any other clarifying questions, please let me know.

Sincerely,
Darin J. Meschke
State Registrar
Director, Vital Records

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From: Hicks, Allyson M. <ahicks@nd.gov>
Sent: Tuesday, March 21, 2023 2:05 PM

To: Meschke, Darin J. <dmeschke@nd.gov>
Cc: Wilke, Dirk D. <ddwilke@nd.gov>; Miller, Tracy K. <tkmiller@nd.gov>
Subject: RE: HB1297

Darin,

I agree with your interpretation. Section 2 indicates that the sex designation CAN be corrected when the sex of the individual is changed to have the anatomically “correct” genitalia for the identified sex (ie: bottom surgery). This is in line with our current admin rules and practices.

Please let me know if you have any additional questions.

Thank you,

Allyson M. Hicks
Assistant Attorney General
Office of Attorney General
600 E Boulevard Ave.
Bismarck, ND 58505-0040
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(701) 328-2210
ND ID # 07293

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From: Meschke, Darin J. <dmeschke@nd.gov>
Sent: Tuesday, March 21, 2023 2:00 PM
To: Hicks, Allyson M. <ahicks@nd.gov>
Cc: Wilke, Dirk D. <ddwilke@nd.gov>; Miller, Tracy K. <tkmiller@nd.gov>
Subject: HB1297

Allyson,

Sen. Roers asked me during the hearing for HB1297 about subsection C, under section 2. Rep. Kasper testified that he believed that this bill would not allow an individual to change their sex on their birth record after birth. Sen. Roers asked me if that’s what I thought the bill said, and I said that the department thought that subsection C would allow an individual to change their sex on a birth record if they had bottom-half surgery much like our administrative code allows now. So, HB1297 was simply codifying our current processes of changing sex on a birth record.

Whose interpretation is correct, so I can clarify with Sen. Roers?

Darin J. Meschke
State Registrar
Director, Vital Records

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