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March 2, 2021

TO: The Honorable Shane E. Pendergrass
Chair, House Health & Government Operations Committee

FROM: The Office of the Attorney General

RE: HB 1203: Certificates of Birth and Marriage Licenses – Issuance of New
Certificates – Sex Designation
Support with Sponsor Amendments

The Office of the Attorney General supports enabling transgender and nonbinary Marylanders to have personal documentation that accurately reflects their gender identity and to live without fear of discrimination. In prior years, the General Assembly has acted to protect Marylanders from hate crimes on the basis of gender identity (2005 Md. Laws ch. 571), to protect Marylanders from discrimination in employment and services on the basis of gender identity (2014 Md. Laws ch. 474), and to enable Marylanders to have birth certificates, driver's licenses, and non-driver identification that accurately reflects their gender identity (2015 Md. Laws chs. 484 & 485; 2019 Md. Laws chs. 648 & 649).

HB 1203 continues that work by ensuring that transgender Marylanders can access accurate documents in two additional important areas of life: their marriage certificates and the birth certificates of their children. Production of these documents is often necessary to confirm spousal or parent-child relationships for purposes of employment benefits or school. If a transgender or nonbinary person married or had a child before transition, producing the pre-transition marriage certificate or child's birth certificate may effectively "out" the person—which in turn may place the person at risk of unlawful discrimination and violence that unfortunately remain all too prevalent.¹ These dangers

¹ In the most substantial survey of the U.S. transgender community to date, approximately a third of respondents reported experiences of being verbally harassed, denied services, or even physically attacked when presenting identity documentation that did not match their presentation. SANDY E. JAMES ET AL., NATIONAL CENTER FOR

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that come with the production of even basic documentation of identity and relationship contribute to a starkly disproportionate prevalence of unemployment and underemployment for people who are transgender.²

HB 1203 addresses these concerns by allowing a child’s birth certificate to be reissued to correct the name of a transgender parent or the parent’s designation as “mother” or “father,” and by allowing a marriage certificate to be reissued without gender-specific language (such as “husband” and “wife”). HB 1203 uses the same standards for updating gender designations that have been used successfully throughout the State since 2015 for birth certificates. In addition, consistent with the driver’s license legislation passed in 2019, this bill will enable nonbinary Marylanders to have access to birth certificates that accurately reflect their gender identity as well.

We support HB 1203 with Delegate Belcastro’s sponsor amendments, which will make technical fixes and facilitate administration of the legislation by personnel in the Vital Statistics Administration and the circuit court clerks’ offices around the State.

cc: Members of the Committee

TRANSGENDER EQUALITY, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 89–90 (2016), *available at* <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (hereafter, “U.S. TRANS SURVEY”).

² Transgender people are nearly four times more likely to have a household income under \$10,000 per year than the population as a whole (15% vs. 4%), despite higher rates of college completion than the general population. *See* CENTER FOR AMERICAN PROGRESS & MOVEMENT ADVANCEMENT PROJECT, PAYING AN UNFAIR PRICE: THE FINANCIAL PENALTY FOR BEING LGBT IN AMERICA 4–6 (updated Nov. 2014), *available at* <http://www.lgbtmap.org/file/paying-an-unfair-price-full-report.pdf>; *see also* U.S. TRANS SURVEY at 141 (comparing unemployment rates of transgender Americans and U.S. population, by race/ethnicity).