



WHITMAN-WALKER HEALTH

Mailing Address:

Whitman-Walker at LIZ

1377 R Street, NW, Suite 200

Washington, DC 20009

BEFORE THE MARYLAND HOUSE OF DELEGATES COMMITTEE ON THE JUDICIARY

TESTIMONY IN SUPPORT OF HOUSE BILL 39 Action for Change of Name – Waiver of Publication Requirement

Testimony of Amy Nelson, Director of Legal Services, Whitman-Walker Health January 15, 2021

Whitman-Walker Health offers these comments in support of House Bill 39: Action for Change of Name – Waiver of Publication Requirement, which will improve the name change process for all Marylanders – petitioners, court staff, and the public.

To give you some background on our programs, Whitman-Walker Health (“WWH”) is a community-based, nonprofit health care center offering primary medical care and HIV specialty care; mental health and addiction treatment services; dental care; medical adherence case management; testing and prevention services for HIV and sexually transmitted infections; and legal services to residents of the District of Columbia and the greater Washington metropolitan area. WWH has a special mission to serve lesbian, gay, bisexual, transgender and nonbinary members of the community and all Washington-area residents living with HIV regardless of race, gender, gender identity, or sexual orientation. WWH’s Legal Services was established in 1986 to provide pro bono legal assistance on matters related to HIV/AIDS and today offers assistance to LGBT individuals and families regardless of HIV status, and to healthcare patients at WWH regardless of HIV status, sexual orientation, and gender identity. We provide legal representation on a wide range of issues including discrimination in employment and health care; federal, state and local public benefits programs; disability insurance; immigration; medical confidentiality; and name and gender marker changes in legal records for transgender and nonbinary individuals. The work of WWH Legal Services is critical to the health center’s mission of providing comprehensive, integrated health care and related services to people living with HIV, the LGBT community, and others who rely on WWH for health care.

WWH Legal Services created a **name and gender change legal clinic in 2012**. Our in-house and volunteer attorneys help transgender and nonbinary adults and minors with court-ordered name and gender changes, updates to birth certificates and drivers’ licenses, and updates to many federal records. Since 2012, we have served over **1,750 transgender and nonbinary individuals, more than 460 of whom were Maryland residents**, with updating their identity documents.

Obtaining accurate identity documents is crucial to the safety and wellbeing of transgender and nonbinary Marylanders. According to the 2015 U.S. Transgender Survey Maryland State Report, over two-thirds (69%) of respondents living in Maryland reported they do not have any ID that matches their name and gender.¹ The cost of changing IDs was one of the main barriers respondents faced; 22% of those who had not changed their legal name, and 18% of those who had not updated their state ID gender marker, reported that they could not afford the process.² The survey revealed that transgender and nonbinary Marylanders are twice as likely to be unemployed and twice as likely to be living in poverty compared to non-transgender persons.³ The result is that most transgender and nonbinary Marylanders do not have accurate identity documents and this mismatch subjects Marylanders to unwanted violence and discrimination, as well as administrative barriers to basic services, including healthcare. Nearly one-quarter (24%) of respondents who have shown an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or service, asked to leave, or assaulted.⁴

Publication requirements increase the chances of discrimination and harassment by “outing” the adult or minor petitioner as a transgender or nonbinary person to co-workers, classmates, future employers, and other parties. According to the 2015 U.S. Transgender Survey, 30% of respondents who had a job reported being fired, denied a promotion, or experiencing other workplace mistreatment due to gender identity or expression.⁵ In the educational context, studies have shown that many students feel unsafe and have been verbally harassed or physically attacked because of their transgender or nonbinary identity.⁶

The current publication requirement leads to unnecessary risks to the privacy and security of transgender and nonbinary people and other Marylanders seeking a name change. The current name change process in Maryland starts with filing a petition and paying the related court fees (\$165 in *pro se* cases). The petitioner is then required to publish a notice in a local newspaper; pay the newspaper fee ranging from \$50 to \$250; and confirm delivery of the Proof/Certificate of Publication/Printer’s Certificate directly to the court, before the court will rule on the petition. Importantly, most newspapers not only publish the name change notice in print, but also make their content available online. Therefore, name change notices can come up by performing an internet search for a petitioner’s current legal name or preferred name – further exposing or “outing” transgender and nonbinary petitioners.

The publication procedure is outdated, expensive, cumbersome, and subject petitioners to privacy and safety risks. Neighboring jurisdictions, Virginia and the District of Columbia, do not require publication;⁷ D.C. eliminated this requirement in 2013 upon recognition of privacy concerns by transgender and nonbinary persons through the passage of the legislation updating the name and birth certificate change processes in D.C.

¹ Sandy E. James et al., 2015 U.S. Transgender Survey: Maryland State Report (2017).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Kosciw, et al., The 2013 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual and Transgender Youth in Our Nation’s Schools; Gay, Lesbian & Straight Education Network (2014).

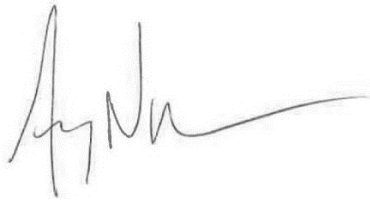
⁷ So far 18 jurisdictions in the U.S. have eliminated the publication requirement.

While Maryland court rules provide for the possibility of a publication waiver by filing the appropriate motion for the court's consideration, the outcome of these motions varies by jurisdiction. In our experience, motions to waive publication are regularly denied by circuit courts in Prince George's County, Anne Arundel, and Charles County. And in jurisdictions where a publication waiver may be granted (such as Montgomery County), the petitioner must then arrange public posting by the local sheriff for a fee of \$40. Both the publication and posting processes result in being publicly "outed" as a transgender or nonbinary person and unnecessary financial burdens.

This bill provides a safer and more just name change process for Marylanders. Name change petitions and resulting orders will remain in the public record, and be available to interested parties, without the burden or privacy invasion resulting from publication. We support the proposed bill as it aims to expand access to documents that all Maryland residents need in order to obtain employment, insurance, public benefits, housing, education, and access to government facilities and places of public accommodation.

Obtaining accurate identity documents is a matter of access to services, equality, dignity, and safety. Whitman-Walker Health strongly supports the passage of this bill.

Thank you for the opportunity to share our experience.

A handwritten signature in black ink, appearing to read 'Amy Nelson', with a long horizontal flourish extending to the right.

Amy Nelson, JD
Director of Legal Services
Whitman-Walker Health
1377 R Street NW Suite 200
Washington, DC 20009
Phone: 202-939-7625
anelson@whitman-walker.org