

SB377 2022-02-07 Testimony of FreeState Justice to

Uploaded by: C.P. Hoffman

Position: FAV



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February 7, 2022

The Honorable William C. Smith, Jr.
Senate Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, MD 21401

Testimony of FreeState Justice

IN SUPPORT OF

SB377: Marriage Records – Name Change

To the Honorable Chair William C. Smith, Jr., Vice Chair Jeff Waldstreicher, and esteemed members of the Judicial Proceedings Committee:

FreeState Justice is Maryland's lesbian, gay, bisexual, transgender, and queer (LGBTQ) civil rights advocacy organization. Each year, we provide free legal services to dozens, if not hundreds, of LGBTQ+ Marylanders who could not otherwise be able to afford an attorney, as well as advocate more broadly on behalf of the LGBTQ+ community.

FreeState Justice's identity documents practice, which centers on helping transgender Marylanders obtain legal name changes and update their identity documents, is a cornerstone of our legal advocacy work. Over the past decade, FreeState Justice and our panel of pro bono attorneys has helped hundreds of trans Marylanders update their identity documents.

Having accurate and affirming identity documents is critical to navigating through our world. Being forced to present inaccurate ID that outs you as transgender can lead to awkward, tense, and ultimately unsafe situations. You never know how someone will react when they realize you are trans, or how others around you

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*FreeState Justice, Inc. (formerly FreeState Legal Project, Inc., merging with Equality Maryland)
is a social justice organization that works through direct legal services, legislative and policy advocacy, and community
engagement to enable Marylanders across the spectrum of lesbian, gay, bisexual, transgender, and queer identities to be
free to live authentically, with safety and dignity, in all communities throughout our state.*

who overhear will respond. ID that outs you as trans can also contribute to discrimination in employment, housing, and other areas.

We write today in support of Senate Bill 377, which builds on the important legislation Maryland has adopted over the past decade to allow transgender Marylanders to update their identity documents by creating a procedure for Marylanders who have changed their names—whether they are transgender or not—to update their names on their marriage certificates, something for which there is no established process under current law.

While they are used less frequently as ID documents than driver's licenses or birth certificates, marriage records are required on a routine basis and in a variety of circumstances to establish that a spousal relationship exists. Marriage certificates are, for instance, often required by employers and by government agencies when establishing benefits eligibility, e.g., for health insurance.

Without updated marriage certificates, transgender Marylanders are required to out themselves or their partners, these interactions an opportunity for discrimination. Employers, landlords, school officials, and others often start acting differently once they realize the individual—or their spouse—is transgender.

Unfortunately, there is currently no official or standardized procedure for issuing new marriage certificates after a party to the marriage has transitioned or even simply changed their name. This lack of a procedure leads to significant confusion, not only among transgender Marylanders seeking to update their marriage certificates, but also among county clerks asked to do so.

Transgender Marylanders who have tried to update their marriage certificates are routinely told that doing so is impossible. County clerks have even been known to tell people that the only way to do it is to get divorced and then remarry, an astonishing suggestion that flies in the face of Maryland's public policies in favor of both marriage and judicial economy. (It is also unclear that a couple attempting to divorce under these circumstances would have grounds to do so under state law.)

In limited cases, Maryland courts have issued one-off orders to county clerks to issue a new marriage certificate. There is, however, no statute, court rule, or even appellate case governing that process, and both the general public and the county clerks are largely unaware that this is an option at all. Even if it were well-publicized, however, it is not clear why transgender Marylanders should be required to obtain two separate court orders to update their marriage certificates, and judicial economy argues in favor of a single unified process.

FreeState Justice strongly believes there should be a process for obtaining an updated marriage certificate that does not out one of the parties as transgender without their consent. By creating a process whereby transgender individuals can update their marriage, Senate Bill 377 would protect the privacy and safety of trans Marylanders and their families, reduce the likelihood that they will be exposed to unnecessary discrimination and violence, and create a standardized system for the county clerks.

For these reasons, FreeState Justice urges a favorable report on Senate Bill 377.

sb0377_evanbrettell_fav.pdf

Uploaded by: Evan Brettell

Position: FAV

FAVORABLE SB 0377

February 6, 2022

Evan Brettell

6217 20th Ave.

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Testimony for SB 0377
Marriage Records – Name Change

My wife and I were married in the Prince George's County Courthouse in 2014. At the time neither of us was out as transgender.

In 2017, I came out, changed my legal name, and updated my current identification documents. In 2019, I changed my name on my birth certificate and began my efforts to change it on my marriage license.

I spent approximately two full workdays physically at the Prince George's County court complex in Upper Marlboro and many hours on the phone with various offices trying to find out how to amend my marriage license. Employees of the circuit court thought (understandably) that my name-change order would be sufficient, but it was not. Employees of the marriage license department said they were not allowed to amend marriage licenses for any reason, per the state attorney general.

I eventually learned that I could get a court order specifically to amend my marriage license. I composed a petitionary letter, paid the \$165 filing fee, and waited for weeks to get the new court order.

When I received the court order, I returned to the marriage license office and explained the situation. Despite the new, specific court order, they still insisted they couldn't amend the marriage license. I had to argue and eventually say that I would go back across the street and let the court know they weren't complying with a judge's order before they amended the license.

My wife later came out as transgender and, in 2021, she legally changed her name. Because I had already been through this process, she was spared the hours I'd spent seeking answers and immediately filed a petition. She received her marriage license amendment court order a few weeks later. However, even then we encountered obstacles. When my wife went to the marriage license office with her specific court order *and* the knowledge that her husband had done the exact same thing two years ago, she was still told it was impossible to amend the license.

The first employee she spoke to said he wasn't sure if he could and needed to ask up the chain of command, at which point a second employee interjected that it was not possible and began making disrespectful comments to my wife. The first employee was trying to confirm that he could amend the license, while the second employee was trying to stop him and get my wife to leave. Meanwhile, I called the circuit court and informed them that the marriage license office was not complying with the order. Eventually they did amend the license, but it took well over an hour and involved multiple attempts on the part of at least one employee to stop the

amendment from happening. (When my wife informed this woman that my name had already been amended on the license previously, she said it “shouldn’t have” been.)

My wife and I are privileged to have the time, money, and security to fight these roadblocks. We were lucky. However, this process was so daunting, expensive and time-consuming that it is not at all reasonable to expect anyone to go through it. It is especially concerning that the marriage license office treats it like an anomaly and tries to refuse even with a court order.

To allow married trans people to change their names on their marriage licenses is important for the same reason it’s important to allow any trans person to change their name on their birth certificate or any other document. A person’s transgender status is private personal information. It is up to an individual how much of, when, and to whom they share this information. Forcing someone to keep their previous name on any important document is forcing them to reveal personal information in situations they would not have chosen otherwise.

In short, I should not have to tell someone what genitals I was born with in order to show that I’m married.

Furthermore, when a trans person updates their name on their birth certificate, they are creating a paper trail that allows them to move through the world without revealing personal information and potentially inviting discrimination or even violence. If a person’s birth certificate, driver’s license, passport, social security card and bank account all have one name and their marriage license has another, that creates an error on this paper trail that is so important for the individual’s dignity and safety.

The people affected by this are trans people and others who have changed their names for deeply personal reasons (such as disconnection from an abusive parent), who changed their names after getting married and are still married to the same person. I do not know how many of those people reside in Maryland, but I do know that anyone in that situation deserves to have all of their documents reflect their current, chosen, legal name, and to be able to do this without unnecessary obstruction, expense or confusion.

Testimony for SB 377 - Marriage Records - Name Cha

Uploaded by: Isabella Shycoff

Position: FAV



SB 377 - Marriage Records - Name Change

Position: Support

We, the board of directors of Annapolis Pride, support SB 377. This bill requires all County Clerks in Maryland to, upon request of the married parties, change their marriage record using gender neutral language and also to allow for updated name changes, without reflecting that the record has been “amended”.

Under current law, it is difficult—if not in many cases impossible—to update one's name on a marriage certificate. This bill, which was developed with input from county clerks, would create a simple process where a couple may apply in writing and submit a certified copy of a name change order and the county clerks are required to provide an updated marriage record.

For the LGBTQ community, these are critically important updates to Maryland's marriage laws that will bring much needed peace of mind. We believe strongly that all Marylanders should be provided with the appropriate privacy and protection regarding marriage record changes.

We urge a favorable report.

SB 377 - FAV - Women's Law Center of Maryland.pdf

Uploaded by: Laure Ruth

Position: FAV

BILL NO: Senate Bill 377
TITLE: Marriage Records – Name Change
COMMITTEE: Judicial Proceedings
HEARING DATE: February 9, 2022
POSITION: **SUPPORT**

Senate Bill 377 would create specified procedures and requirements for the issuance of a new marriage record when the name of a party to the marriage has been changed. The Women's Law Center of Maryland supports SB 377 as it is an important way to support people in living the lives they chose using the identity they choose.

Under current law, there is no formal process in Maryland law to change an individual's name on a marriage certificate after the fact, even if you have changed your name through the courts. Some individuals have been able to obtain court orders specifically instructing the county clerk to amend the name on the marriage certificate, but there's no established procedure for these actions (they're under the courts' general equity jurisdiction), and many clerks don't know it's an option at all. So, most people going in to the courthouse to ask for a new marriage certificate are told it's impossible to change your name on the marriage certificate. This poses an especially significant problem for transgender people who do not want the public to know of their status. As we know, Marriage certificates are routinely required to be presented in a variety of fora, such as identity documents to prove family relationships for benefits purposes, whether to apply for health insurance through your employer or apply for public benefits through the state. People routinely have to present marriage certificates to people who have some level of power over them, and if their name or the name of their spouse differs from what's on the marriage certificate, it can lead to issues and discrimination.

SB 377 creates a set process for name change on a marriage certificate. There are adequate processes included, and depending on how the name change is being presented, other guardrails to prevent fraud, including potential perjury charges if anything is falsified. Free State Justice has worked closely with clerks of the court to satisfy their concerns and we support this effort to help our transgender citizens especially, so they are not forced to be or inadvertently "outed."

Therefore, the WLC strongly supports SB 377 and urges a favorable report.

The Women's Law Center operates two legal hotlines, and three direct legal services projects: the Protection Order Advocacy and Representation Projects in Baltimore City, Baltimore County and Carroll County, the Collateral Legal Assistance for Survivors Project, and the Multi-Ethnic Domestic Violence Project.

Support SB 0377 - Trans Maryland.pdf

Uploaded by: Margo Quinlan

Position: FAV



Senate Bill 0377 Marriage Records - Name Change
Senate Judicial Proceedings Committee
February 9, 2022
Position: Support

Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. Trans Maryland runs the state's largest volume name and gender marker change program, offering peer-to-peer guidance and financial assistance to Marylanders seeking a name and gender marker change. Through our work with that program, we hear often from transgender Marylanders who do not have access to legally changing their names on marriage records. We are grateful for the discussions we've had with the Maryland Judiciary's Clerks of the Courts towards removing the barriers to implementation of this legislation, and are glad to report they do not oppose this bill.

Trans Maryland's name change program has assisted over 300 transgender Marylanders to secure a certified court order of name change in the last 2 years. We have not tracked how many trans Marylanders wish to update their legal name on this marriage record, as we've been aware there is no process for updating marriage records in Maryland since at least 2018. Despite not specifically collecting information about this need, it has come up during the intake process more than 10 times over the past 2 years, with the majority of those circumstances occurring in the last 6 months. This increase in need signifies to us that as the process of legal name change for transgender Marylanders becomes easier, there is increased capacity to address more specific needs such as inability to change marriage records. As many transgender Marylanders with access to financial resources hire private attorneys to handle their name change matters, we are uniquely situated and eager to uplift that this issue also impacts low-income married transgender Marylanders.

The inability to update marriage records (or "marriage certificates") means transgender parents may face barriers to proving they are their child's legal parent or guardian, or that they are entitled to married benefits for insurance, or in the event of the death of their spouse. This barrier also can lead to increased discrimination, as it often necessitates having to disclose their transgender status due to documentation discrepancies.

When requesting to update marriage documents, transgender people have been told that they should get divorced and then remarried. We see this as an unacceptable answer on moral, ethical, and financial grounds. Even a non-contested divorce is expensive, and updating names on identity documents should not involve undertaking stressful, expensive legal actions that one has no intention to pursue.

Passing this legislation is a simple step to increase equity and protection for transgender Marylanders, and benefits a group of Marylanders who already face significant hurdles to being seen as our true selves. We believe that trans Marylanders must be allowed to access the same rights and benefits as cisgender (someone who is not transgender) residents, and this bill takes significant steps toward that progress. As such, **we urge a favorable report on this SB 377.**

RachelSmithHB1203text.pdf

Uploaded by: Rachel Smith

Position: FAV

Written Testimony in support of HB1203: "Thank you to Delegate Belcastro for sponsoring HB1203, and thank you committee members who are here today to hear our stories. Honorable Delegates, my name is Rachel Rene Smith, I live in District 44, my pronouns are "they/them" and "she/her", and it is a privilege to be here speaking with you today as a member of the transgender and non-binary community. I am here to represent myself, my loving wife of nine years, our three beautiful children, and LGBTQ families like ours. I am here to express my family and community's concern that Maryland law governing marriage license presently requires Marylanders like myself, who have changed our legal name or gender after we were married, to out ourselves as transgender every time that we are required to present our marriage license: to our employers, to lawyers, to insurance companies, and to numerous government employees. I would like to share with you my story, and my family's experiences interacting with this law. Although I experienced discomfort with my gender from an early age, I came out to myself and to my wife as a nonbinary, transgender woman in 2016. Three years later, on June 26th, 2019, with the full support of my wife, and with the aid of volunteer lawyers organized by FreeState Justice, I finally obtained court orders to change my legal name and gender markers. After these changes, I pursued the tedious process of communicating these changes to many areas of my life, including but not limited to: my vital records and ID, social security, our three children's birth certificates, as well as on the insurance policies that protect me and my family: our health, dental, vision, disability insurances, our life insurance, car insurance, and professional liability insurance. I also pursued changing my name on all of the joint assets that my wife and I own together: the deed of our home, the MVA titles of our vehicles, our joint bank accounts and retirement accounts, as well as our public utilities. All of these items are in both of our names. My wife and I are both social workers, and in the past five years, we changed jobs a combined four (4) times. With each change of employment, with each annual renewal, change, or transfer of our employer-based health insurance plans, we have been required to submit and re-submit the vital records for everyone covered on our policies, as well as a copy of our marriage certificate. With each change, we were also required to submit a copy of my 2019 court order which showed the change of my name, in order to explain why our marriage certificate displayed my former legal name, and designated my gender as the "Man" in the marriage, all this despite the court record of these orders were sealed. With each moment of confusion or delay by insurers, government employees, or real property lawyers, I have felt awful, gender dysphoric, humiliated, exposed, depressed, and frustrated. Every vital document I own has been updated with my name, except for our marriage certificate. Shortly after my name change, I called the Baltimore City department for marriage licenses and the Clerk, after checking with her superiors, reported to me that there is no legal way to update my name or to issue a new a new certificate. The Clerk explained to me that a marriage certificate is a historical document, and its certification involves the Clerk of Circuit Court verifying, under legal oath, that the information contained in the certificate was correct at the time of the marriage. I explained that a State birth certificate is also a certified historical document, and that the court ordered that the birth certificate be changed. The Clerk recommended that I call the Attorney General's office and ask them to change the law. Please support HB1203. Maryland law governing marriage license presently requires its taxpayers who are transgender to out ourselves every time we are required to present our marriage license. This is unsafe, demoralizing, and sends the message to our state's hard-working families that Maryland is not really open for business.

Biography: I have worked with children and families as a Licensed Clinical Social Worker for about 11 years in the State of Maryland. I am employed full-time as a Behavioral Health Therapist in the Center for LGBTQ Equity at Chase Brexton Health Care for the past 2 years, and before that I

worked at Johns Hopkins Hospital Children's Center, in the Child Psychiatric Day Hospital and Inpatient units, in East Baltimore City, Maryland for 2 and a half years. Here I must insert the following disclaimer, that **"I am not speaking on behalf of Chase Brexton or Johns Hopkins, and as such, the opinion that I express herein today are from my own experience, and do not necessarily reflect the institutional views of Johns Hopkins University or Johns Hopkins Health System."** While working at Chase Brexton Health Care and at Johns Hopkins Hospital, I have witnessed the devastating effects of discrimination, bullying, and harassment of LGBTQ+ adults, youth, and their partners, spouses, and families. From mental and behavioral health problems, to negative physical health outcomes, the effects of society's intolerance for gender variance is plain to see on the faces of our gender expansive youth. As a member of the Hospital's LGBTQ+ Task Force, which trains and equips hospital staff with skills and materials to help them better serve the LGBTQ+ community, I had the pleasure of working with a colleague to collect data for presentation on psychosocial factors impacting transgender individuals. This includes the fact that, again in 2018, one of the largest studies of transgender youth found that 1 out of 3 youths reported considering suicide due to societal treatment and family rejection. Or that 1 in 5 transgender individuals have experienced homelessness at some point in their lives, and may have limited access to accurate information. And that it is estimated that 20-40% of the more than 1.6 million homeless youth in America identify as LGBTQ. As a health care provider, one of my most pressing concerns remains that non-binary trans persons could lose their right to have a gender marker on their State ID reflects their true identity. It is imperative that states like Maryland, that value and treasure their trans and non-binary residents, take steps like passing SB0196 to encode and protect the ability for persons to have documents that match our identity. An unspecified or gender neutral option will enable folks, including LGBTQ youth, to accurately self-attest to our gender on our applications for a Maryland ID or a driver's license, without suffering additional obstacles (as we may do in the offices of untrained health care providers, where they may face discrimination and health care disparities). Allowing marriage certificates to be reissued helps to protect transgender and nonbinary people, especially people of color, who need their marriage certificate when obtaining health coverage for their spouse or children, and when interacting with the MVA, passport office, and government offices, which are often inaccessible to those who are of low income, or who do not have any health insurance. Due to discrimination, LGBTQ+ persons are often counted among the uninsured: 19% of transgender individuals have reported living with no type of health insurance. Trans and non-binary persons live in a world that so often denies us the right to live as ourselves, and non-binary folks deserve to have access to accurate information for our gender marker on our marriage licenses, just as much as we have the right to have it for our State IDs in Maryland. Thank you so much for your time.

Rachel Rene Smith, LCSW-C, Maryland License #15418

Rachel Rene Smith LCSW-C

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SB377_SenLee_jpr_fav.pdf

Uploaded by: Susan Lee

Position: FAV

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair
Maryland Legislative Asian American
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THE SENATE OF MARYLAND

ANNAPOLIS, MARYLAND 21401

February 9, 2022

Sponsor Testimony- FAVORABLE - SB377- **Marriage Records - Name Change**

Senate Bill 377 is legislation to ensure Maryland marriage records honor the individuals and the union. This is a minor change in code, but a major relief to many proudly married Marylanders, who transitioned their gender identity during their union. We should applaud those who stay together after major transitions of any kind. Love is love. And marriage should be respected for the bonds that tie, not just tie us to the past because this problem hasn't been public before.

Presently, Maryland marriage records reflect the names and gender of the two individuals at the time of the issuance of the original marriage certificate. There is not a process to alter such documents in the event of a name change or change in gender identity. If a clerk is amenable, some changes may be available, but the change may be presented as an amended document, not as a completely new and original marriage record. This follows measures we took for birth certificates, and drivers licenses. Marriage is an important institution and government should respect it for what it is in reality and current context.

Moreover, there are several legal consequences should one's legal name or gender not align with their marriage record, to include the potential inaccurate insurance policies reflecting the identified gender omitted from record or death record issuance. Because marriage records are requested documents in various identity checks, questions may arise should the name or gender not fit the provided document and uncomfortable, very personal conversations be required. This bill also removes clerk discretion from the marriage record-changing process.

As a state, Maryland has removed gender change barriers to similarly important state documents such as driver's licenses, and birth certificates, however, a marriage certificate is even more important in many ways because it binds two people into one, and that union should be respected for the love that is expressed in the current moment. Let's celebrate love for what it is today. Forcing someone to remain in an untrue definition of a marriage is unjustified and cruel. For these reasons, I respectfully request a favorable vote for Senate Bill 377.