

**MARYLAND SENATE FINANCE COMMITTEE HEARING**  
**TESTIMONY IN SUPPORT OF SENATE BILL [0314](#)**  
(Certificates of Birth, Licenses, and Identification Cards – Sex Designation)  
(Birth Certificate Modernization Act)  
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Eric Gold  
Partner, Manatt, Phelps & Phillips, LLP  
177 Huntington Avenue, Boston, MA 02115  
EGold@manatt.com

I previously served as an Assistant Attorney General (2012-2017) and Chief of the Health Care Division (2017-2023) for the Massachusetts Attorney General's Office. In that role, I supported efforts to enact Massachusetts Chapter 127 of the Acts of 2022, *An Act Expanding Protections for Reproductive and Gender-Affirming Care*, known as the Massachusetts Shield Law. At Manatt, I am part of a team of professionals providing pro bono consulting services to Trans Maryland.

**Passage of SB 0314 will modernize Maryland's process for changing a gender marker on a birth certificate to be consistent with policies in other states across the country.** At a time when transgender people's rights are under attack, Maryland can take an important step through the Birth Certificate Modernization Act (BCMA) to support transgender individuals in their everyday lives.

Maryland has long been committed to transgender rights and equality, as evidenced in the 2015 Birth Certificate Bill (Vital Records - New Certificates of Birth - Sex Change or Diagnosis of an Intersex Condition, [SB0743/CH0484](#)). That law allows individuals to obtain a new birth certificate reflecting a change in sex designation upon certification from a licensed health care practitioner or a court order, without proof of surgery. Ten years later, the BCMA would update Maryland's gender marker change rules, so they are consistent with the approaches in other states. These changes would streamline processes for transgender individuals, health care providers and the state. By streamlining the process for updating their birth certificates, the BCMA will help ensure transgender people have access to public spaces and resources, reducing the risk of discrimination for transgender people and their family.

Through passage of the BCMA, Maryland would join many other states in enacting similar policies:

**Allowing the use of "X" markers on birth certificates.** People may use the gender marker "X" to indicate a gender identity that is not exclusively male or female, including transgender, nonbinary or intersex status. Accurate and consistent gender markers on identification documents help these individuals navigate society with fewer barriers. Maryland Department of Transportation policy already allows individuals to designate their gender with an "X" marker. It is important that individuals have the same gender marker on their birth certificate and driver's license, because misaligned identification documents can lead to challenges for tasks that require identity verification, including access to health care and other government benefits and opening a bank account.

Along with D.C., the following sixteen states allow residents to use an "X" marker on their birth certificate: California, Colorado, Connecticut, Illinois, Maine, Massachusetts,

Michigan, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington.<sup>1</sup>

**Eliminating requirements to have a medical certification for updates to gender marker.**

States take varying approaches for how individuals can petition for updating a gender marker on a birth certificate. Some states rely on an administrative process solely (e.g., form, attestation, affidavit), while others require a health care provider's documentation of "appropriate treatment," proof of surgery, or a court order. For a minor, the parent(s) or guardian of the minor must sign a petition for the change. An administrative process that allows for an individual's own attestation of their gender is the most accurate means of determining the appropriate gender designation for their birth certificate. Under current Maryland law, to change their gender marker, a transgender individual needs a signature/certification from their medical provider. Eliminating health care provider documentation requirements would remove administrative burden both for the individual seeking the change and their health care provider.

The following fourteen states allow adults to update the gender marker on their birth certificate or their child's gender on their child's birth certificate through sworn attestations or an affidavit process without a medical certification: California, Idaho, Illinois, Maine, Massachusetts, Michigan, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington.<sup>2</sup> Of those states, all except Idaho allow the use of "X" gender marker on birth certificates.

**Ensuring birth certificates are not marked "amended"**. Issuing a new, "clean" birth certificate when an individual or their child has updated their gender marker reduces risk of the individual or child being "outed" to providers and employers, further reducing risk of discrimination. Of the states that do not require provider documentation for an individual to update their gender on their birth certificate or their child's gender on their child's birth certificate, five issue a new birth certificate, California, Michigan, Nevada, New Jersey, and Vermont.<sup>3</sup>

My team has conducted a scan of public records and found no publicly documented cases of individuals changing their own gender marker or that of a minor for fraudulent or criminal purposes. I see no real risk of fraud for gender marker changes. The BCMA is sound policy and will help ensure the safety and livelihood of trans Marylanders.

Thank you for the opportunity to comment on this important legislation, and please do not hesitate to contact me if we can be of further assistance.

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<sup>1</sup> State statutes, regulations, and policy related to updating gender markers on birth certificates:

**California:** Health & Safety Code, §§ 103425-445; [Form](#).

**Colorado:** [H.B. 19-1039](#); [5 CCR 1006-1](#); [Form](#).

**Connecticut:** Gen. Stat. § 7-51.

**District of Columbia:** [D.C. Code 20-37](#); [Form](#).

**Idaho:** [F.V. v. Jeppesen](#), 477 F.Supp.3d 1144 (D. Idaho 2020); [Form](#).

**Illinois:** [HB1785](#); [Form](#).

**Maine:** [LD 2235](#); Rule [10-146](#); [Form](#).

**Massachusetts:** Mass Gen. Laws ch. 46, § 13(e) as amended by [Sec. 77 of Chapter 140 of the Acts of 2024](#); [Form](#).

**Michigan:** [HB5303](#); [Form](#).

**Nevada:** Nev. Admin. Code. [Ch. 440, § 030](#); [Form](#).

**New Jersey:** N.J. Rev. Stat. [§ 26:8-40.12](#); [Form](#).

**New Mexico:** [SB 20](#); [Form](#).

**New York:** NYCRR Title 10 [Section 35.2](#); [Form](#).

**Oregon:** [HB 2673](#); [Form](#).

**Rhode Island:** R.I. Gen. Laws [§ 23-3-21](#); [Form](#).

**Utah:** [SB93](#).

**Vermont:** [18 V.S.A. § 5112](#); [Form](#).

**Washington:** [Form](#).

<sup>2</sup> Minors in WA require a health care provider attestation. See [Request to Change Sex Designation on Birth Certificate for a Minor](#).

<sup>3</sup> See [Transgender Birth Certificates by State](#).