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February 21, 2025

HB 1368 - UNF

Certificates of Birth, Licenses, and Identification Cards - Sex Designation (Birth Certificate Modernization Act)

Dear Chair Joseline A. Pena-Melnyk, Vice-Chair Bonnie Cullison, and Members of the Health and Government Operations Committee,

The appropriate place to document gender identity is on the Maryland ID, not on birth certificates. An infant has an identifiable biological sex based on possessing testes or ovaries as implied by genitalia, or as otherwise determined by medical examination, but does not yet have an identifiable gender identity. Biological sex should not be confused with gender identity which is a cognitive/psychological trait that sometimes conflicts with biological sex. This bill inappropriately allows the replacement of biological sex with conflicting gender on the primary, and often only, official record of biological sex, thus corrupting the reporting of biological sex. Both biological sex and gender identity are important. Which takes priority when they conflict is context and details sensitive. For example, when there is a medical clinical trial for women to determine if a medication has a different impact on women than men, transgender women should not participate. We should be recording biological sex as accurately as we can, particularly for transgender individuals. Gender identity should not displace biological sex as proposed by this bill.

Maryland law properly allows individuals to specify, and easily change, their gender identity on their Maryland ID to be F, M, or X, which is consistent with protecting the integrity of the recording of biological sex on birth certificates. Since it is possible for a biological male to be born with female-like genitalia and internal testes which are externally not visible, the law should allow subsequent corrections in birth certificates to more accurately record medically confirmed biological sex in contexts where there was ambiguity, or a mistake was made, without promoting a category error.

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Respectfully,
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