

TESTIMONY IN OPPOSITION TO HB 17-1122



Testimony for Public Hearing
Senate State Affairs Committee
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Stephanie Curry, Public Policy Manager
Family Policy Alliance
8655 Explorer Drive
Colorado Springs, CO 80920
719.548.5776
stephanie.curry@familypolicyalliance.com

Re: The Birth Certificate Modernization Act (HB17-1122)

Chairman and Members of the Committee: Family Policy Alliance is a Colorado Springs-based national organization that works collaboratively with 40 state-based family policy groups across the nation. We oppose HB 1122.

Birth certificates are not only an official government-issued record, but a reliable historical and genealogical record that establishes the identity of a child as a unique individual by attesting to facts involving that child's birth—facts such as the given name of the child, the child's place of birth, age, and finally sex.

The birth certificate is generally not subject to scrutiny and is what the Office of Inspector General refers to as a "breeder document."¹ A "breeder document" is a source document used to obtain other forms of official documentation such as Social Security cards, Colorado driver's licenses, and government passports. Birth certificates can also be used as proof of citizenship, to register for schools, and bestow rights of marriage, employment,

¹ Social Security Administration <https://www.ssa.gov/ssnumber/ss5doc.htm>; CO Required Documents for State I.D. <https://www.ssa.gov/ssnumber/ss5doc.htm>; Breeder documents can also be used for "resident status, Social Security benefits, loans, and other government aid, including Temporary Assistance to Needy Families, Food Stamps, and Medicaid." Office of Inspector General. p. 3 <https://oig.hhs.gov/oei/reports/oei-07-99-00570.pdf>

8655 Explorer Drive
Colorado Springs, CO 80920

P 719.278.4400

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and adoption.² All of these documents vest rights and responsibilities to an individual and are presumed to be valid and accurate.

Because the birth certificate is such an important original breeder document identifying and vesting rights within an individual, Family Policy Alliance strongly opposes HB 1122 for three reasons:

First, security. This proposed bill would allow an *original* birth certificate to be issued based upon a written request and doctor's note. As it stands now, an *amended* birth certificate is issued, based on two court orders, to change one's gender marker. The Office of Inspector General cites that "85-90% of birth certificate fraud . . . is the result of *genuine birth certificates held by imposters*—the most difficult fraud to detect [emphasis in the original]."³ "[V]irtually all . . . fraudulent birth certificates are used as 'breeder documents' to obtain genuine documents needed to create new identities."⁴ The proposed law would allow any individual to simply request a change without verifying their identity, and this compromises the security of such an important breeder document.⁵

Second, accuracy. This new law would erase all record that sex on a birth certificate has been amended. It allows the new birth certificate to *supersede* and *become* the original birth certificate. These proposed changes would affect state organizations that keep accurate birth and death records, organizations that keep vital statistics, scientific research, and law enforcement. This new bill could even erase DNA links to an individual

² *Ibid.*

³ Birth Certificate Fraud <https://oig.hhs.gov/oei/reports/oei-07-99-00570.pdf>

⁴ *Ibid.*

⁵ "False identifications is a major factor in crime, and that most, if not all, Federal fugitives and drug trafficking crimes are associated with false identification." Office of Inspector General *Id.* p. i

prior to their changed gender.⁶ For example, if a male commits a crime and proceeds to request a gender change, law enforcement officials will likely profile and search for a male. Meanwhile, the individual is living as female with an official and original birth record clearly identifying a "female."⁷ The birth certificate is intended to be an accurate state record establishing the identity of a single individual and the language of the new bill compromises that accuracy.

Third, vagueness. The vague language of the bill allows for highly probable abuse. As drafted, the bill does not make clear how many times one can request a gender marker change. For example: what if a parent successfully requests a change on behalf of their minor child, and when the child becomes an adult then requests a change back to their birth sex? Is that acceptable? How many times can an individual seek a new and original birth certificate under this bill? The proposed law would simply allow any individual to request a change without verifying their identity. Further, since there seems to be no limit on how many times an individual can request a change, a robust fraudulent scheme could involve repeated changes in the gender on a birth certificate without any official record of how many times that certificate has been changed and no verification on who is truly requesting those changes.

In closing, Family Policy Alliance is strongly opposed to HB 1122 because the security, accuracy, and integrity of an original and official breeder document is at stake. Thank you for your thoughtful consideration. Please feel free to contact me if you would like to discuss HB 1122 further.

⁶ "The simplest thing DNA can tell you is whether someone is male or female."

<https://www.theguardian.com/science/2008/apr/27/genetics.cancer>

⁷ "...criminal[s] use [] fraudulent birth certificates to evade law enforcement for crimes already committed, [to] commit bank or credit card fraud, or obtain services and benefits for which individuals were not entitled." *Id.* p. 6