

RESOLUTION

NO. R-21-406

CITY HALL: November 4, 2021

BY: COUNCILMEMBER MORENO

SECONDED BY:

A RESOLUTION in support of the Transgender and Gender Nonconforming Community (TGNC) and to bring attention to gender incongruent identification and how it can expose individuals to a range of negative outcomes, from denial of employment, housing, and public benefits, to harassment and physical violence. This resolution encourages local- and state-level entities to review relevant policies that would prevent or create substantial hurdles to obtaining gender affirming identification.

WHEREAS, discrimination that targets TGNC individuals has increased significantly during the COVID pandemic with spikes in violence against transgender individuals across the country; and

WHEREAS, these growing instances of discrimination and violence faced by the TGNC community is exacerbated by the reality that few members possess government-issued identification that matches their identities; gender affirming identification would help protect transgender individuals from systemic violence and transphobia and allow for self-determination as well as greater support when instances of housing, work, healthcare, and public benefits discrimination arise; and

WHEREAS, the name and gender change process is complicated and sometimes prohibitively expensive; many state and federal governments have established intrusive and burdensome requirements such as proof of surgery or court orders; and

WHEREAS, due to bureaucratic barriers and according to the National Transgender Discrimination Survey administered by the National Center for Transgender Equality, only one-fifth (21%) of transgender individuals who have transitioned have been able to update all of their identifications and records in terms of gender and one-third (33%) have not updated any of their IDs or records; and

WHEREAS, additionally, LGBTQ+ rights advocates in states across the U.S. have been petitioning lawmakers to allow for a third gender category or X markers on their US birth certificates; at least 20 states and Washington, D.C. have implemented changes to state documentation and nearly a dozen countries – including Canada, Australia, Argentina, Germany, India, Nepal, and New Zealand – have adopted similar policies; and

WHEREAS, in October 2021, the U.S. State Department issued its first passport with an “X” gender marker as it seeks to implement more gender-inclusive policies allowing applicants to self-select their sex marker for passports; and

WHEREAS, the gender X option on a birth certificate serves the following purposes: serves as an optional placeholder until the child is able to self-identify with a gender of their own; relieves

pressure on parents to choose a gender during the first days after the birth of a child with sexual variation; gives intersex children an inclusive term to use; allows people who identify as neither male nor female gender to express this on their legal birth document; and eliminates part of the battles that many transgender, gender non-conforming, gender non-binary, gender fluid, gender queer, and agender people often go through to override or justify non-conformity with their original gender designation; and

WHEREAS, in addition to fees, which have been reduced locally by Civil District Court from \$506 to \$250, there are other barriers to changing a name or gender marker that make it difficult to acquire a gender-affirming ID; for instance, requiring a physician statement that the individual has undergone a successful gender change/reassignment surgery; and

WHEREAS, per La. Rev. Stat. Ann. §§ 13:4751 to 13:4755, to obtain a legal name change in Louisiana, an applicant must submit a petition to the court; individuals who have a felony conviction may change their name once the sentence has been satisfied, with the exception that individuals who have a felony conviction for a violent crime are not permitted to change their name; and

WHEREAS, Louisiana will update the gender marker on a certificate of birth upon receipt of a court order certifying gender change noting “[t]he court shall require such proof as it deems necessary to be convinced that the petitioner was properly diagnosed as a transsexual or pseudo-hermaphrodite, that sex reassignment or corrective surgery has been properly performed upon the petitioner, and that as a result of such surgery and subsequent medical treatment the anatomical structure of the sex of the petitioner has been changed to a sex other than that which is stated on the original birth certificate of the petitioner”; and

WHEREAS, the Real Name Campaign fights for no less than fully accessible name and gender marker changes in New Orleans and Louisiana; in pursuance of this goal, they have identified needed changes to administrative laws, policies, and procedures concerning procuring new identification, including:

1. Until the State of Louisiana no longer requires fees for name changes on identification, the Orleans Parish Clerk of Court should minimize applicable fees by setting them at the lowest cost for court filings, currently \$141. Once Louisiana repeals its payment requirement for name changes, the Clerk of Court should eliminate the cost of name change petitions. It is also imperative that the Clerk’s Office clearly and respectfully communicate the name change process to petitioners; this includes providing a how-to guide outlining the process to the general public and require employee inclusivity training administered or approved by the Real Name Campaign. The Clerk’s Office should allow for any petitioner to withdraw or retroactively nullify their petition at any point in the process without cost.
2. The Louisiana State Legislature should explore changes to existing laws relating to identification changes. The Real Name Campaign recommends the following: repeal LA R.S. 13:4755 to remove the requirement for an applicant to pay costs of the name change petition in every case; amend LA R.S. 13:4751 to remove all restrictions on name changes for people with felony convictions; and amend LA R.S. 13:4751 to allow minors to change their names without parental approval; and amend LA RS 40:62 to remove prohibitive surgery and other medical requirements to gender marker changes on birth certificates.

3. The Louisiana Department of Health should join the thirteen other states and the District of Columbia to include a gender-neutral option on birth certificates and other forms of identification to allow for legal recognition for non-binary genders; parents or caregivers should be allowed to select the gender marker "X" or opt out of including a gender marker. Louisiana Department of Health employees should undergo inclusivity training approved by the Real Name Campaign.
4. The Louisiana Office of Motor Vehicles (OMV) should eliminate all unnecessary barriers to changing an ID gender marker; specifically, it should amend Policy 22.01 to remove the physician's statement requirement. Additionally, the OMV should include a gender-neutral option on identification or the option to opt out of a gender marker altogether, and should undergo inclusivity training approved by the Real Name Campaign; **NOW THEREFORE**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS, That the Council recognizes that proper identification accurately reflects an individual's reality has many practical benefits, such as: being emotionally validating for the individual, eliminating part of the stigma that surrounds this community that can lead to discrimination and violence as well as ensures government services and benefits at the local, state, and federal levels are available to everyone.

BE IT FURTHER RESOLVED, That the Council recognizes the need to lessen or eliminate hurdles TGNC individuals face in securing these types of documents with the name and gender that accurately reflect their identity.

BE IT FURTHER RESOLVED, That the Clerk of Council transmit certified copies of this resolution to Secretary Courtney N. Phillips, Commissioner Karen G. St. Germain, Clerk of Court and Ex-Officio Recorder Chelsey Richard Napoleon, Senator Karen Carter Peterson; Senator Sharon Hewitt; Senator Jimmy Harris; Senator Joseph Bouie; Senator Gary M. Carter; Representative Royce Duplessis; Representative Raymond E. Garofalo, Jr.; Representative Stephanie Hilferty; Representative Mandie Landry; Representative Aimee Adatto Freeman; Representative Matthew Willard; Representative Candace Newell; Representative Jason Hughes; and Representative Mack Cormier.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF, AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT:

AND THE RESOLUTION WAS ADOPTED.