



Legislative Testimony
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Written Testimony Supporting House Bill 5654, An Act Concerning the Updating of State Forms, Applications and Methods of Identification to Include a Nonbinary Gender Option

Senator Flexer, Representative Fox, Ranking Members Sampson and Mastrofrancesco, and distinguished members of the Government Administration and Elections Committee:

My name is Kelly McConney Moore, and I am the interim senior policy counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am testifying in support of House Bill 5654, An Act Concerning the Updating of State Forms, Applications and Methods of Identification to Include a Nonbinary Gender Option.

People of all gender identities, including nonbinary people, have a fundamental right to live their lives as the people and gender they truly are. When the government puts up difficult and unnecessary barriers to nonbinary people obtaining identity documents that match their gender identity, the government is in fact violating that person's right to their own identity and privacy. As Justice Kennedy said in the landmark marriage equality decision *Obergefell v. Hodges*, "[t]he Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity."¹ That liberty is what is at stake when the government creates barriers to accessing accurate gender markers on identity documents.

The ACLU-CT has actively supported the rights of people of all gender identities in the state of Connecticut. For example, with our support, the legislature passed a law making Connecticut one of the first states to provide official governmental affirmation of trans people's identity. Passing legislation allowing for trans people to change their

¹ 576 U.S. 644, 651-52 (2015).

gender markers on identity documents was a critical step in allowing people to be who they are, without barriers. It is time to extend the same liberty to nonbinary people.

Identity documents are essential for many things throughout a person's life, such as employment, education, housing, and medical care. Without documents that accurately represent their gender, nonbinary people are vulnerable to discrimination based on stereotypes and appearances.² People who are forced to use identification that does not match their perceived gender experience frequent harassment, including being ejected from spaces, and violence.³ In recognition of the harm that the government facilitates when it does not offer documents with gender-affirming options, nineteen states and the District of Columbia have an X marker for gender.⁴ Connecticut should join their ranks.

This bill would be significantly strengthened by impose a deadline for the Department of Motor Vehicles to create a system that provides a nonbinary gender option. While we appreciate that these changes have logistical components that take time, nonbinary people need affirming documentation now.⁵ They face plenty of violence and discrimination already without the government erasing them.⁶ We urge the Committee to create a reasonable timeline for implementation of the requirements of this bill by the Department of Motor Vehicles.

The ACLU-CT strongly supports passing House Bill 5654 to remove barriers that prevent nonbinary people from obtaining identity docs that affirm them instead of ones that violate their liberty interests. We strongly encourage the Committee to add in a definite, reasonable deadline for Department of Motor Vehicles compliance, and then encourage you to support this bill so that identity documents are available with options to affirm the gender of nonbinary people in Connecticut.

² See, e.g., Spencer Garcia, "My genderless ID makes me feel safe." ACLU, Feb. 19, 2021, *available at* <https://www.aclu.org/news/lgbt-rights/my-genderless-id-makes-me-feel-safe/>.

³ Jaime M. Grant, Lisa A. Mottet, Justin Tanis, "Injustice at Every Turn: A Report of the National Transgender Discrimination Survey" at 5. National Center for Transgender Equality, 2011, *available at* https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf.

⁴ See, e.g., Spencer Garcia, "My genderless ID makes me feel safe." ACLU, Feb. 19, 2021, *available at* <https://www.aclu.org/news/lgbt-rights/my-genderless-id-makes-me-feel-safe/>.

⁵ See Shige Sakurai, "I'm nonbinary. My passport should show that." ACLU, Jan. 27, 2021, *available at* <https://www.aclu.org/news/lgbt-rights/im-nonbinary-my-passport-should-show-that/>.

⁶ See *id.*