



3112 Park Place NW
Washington, DC 20010

RE: HALT IMPLEMENTATION OF DANGEROUS AND UNNECESSARY MVA POLICY CHANGE

December 18, 2009

The Honorable Martin O'Malley
Governor of Maryland
100 State Circle
Annapolis, MD 21401

The Honorable Douglas F. Gansler
Maryland Attorney General
200 St. Paul Place
Baltimore, MD 21202

Dear Governor O'Malley and Attorney General Gansler:

On behalf of the DC Trans Coalition (DCTC), our Maryland membership and the undersigned organizations and individuals, we urge you to use the power of your office to halt the implementation of the Maryland Vehicle Administration's (MVA) proposed policy change regarding the changing of the gender marker on a driver's license. We appeal to you under the umbrella of a broad coalition of concerned advocacy groups located both in and beyond Maryland who join together to object MVA's dangerous and unnecessary policy change.

While each group has various reasons for concern, our common objection can be summarized as follows; transgender, transsexual and gender non-conforming (hereafter "trans") Marylanders deserve identity documents that most accurately reflect the way they live their lives, and should not be forced to pay for expensive surgeries they may not desire nor need along with unnecessary legal fees in order to obtain accurate identification documents. Trans individuals already face tremendous challenges when accessing services and obtaining employment. Having to carry ID documents that do not match a person's presentation or identity can place them at increased chances of discrimination, harassment and even physical violence. For the sake of trans Marylanders' safety, we urge you to do what you can to help stop this dangerous and unnecessary policy change from being implemented.

Background

As you know, MVA plans to update their policy regarding changing the gender marker on a driver's license effective January 1, 2010. The Administration's current policy to change the gender marker on a state ID requires an applicant to provide "a physician or psychologist's report to confirm that the applicant is in active treatment." The MVA also requires annual re-evaluations until the applicant "meets requirements for permanent gender change." Additionally, if an individual is using a name other than their birth name, they must bring the document that initiated the

change of name, such as a marriage certificate, divorce decree or court name change order and your current License.

In 2007, the DC Trans Coalition worked with District of Columbia Department of Motor Vehicles to implement a similar policy on [changing the gender marker on ID cards issued in the District](#). The new form can be signed by a doctor, counselor, or social worker, and requires no additional evidence; information about a gender change will remain confidential. From our perspective, we've noted that this current policy has helped trans individuals living in the District access accurate identity documents that conform to the way they live, limiting embarrassment, harassment, violence and discrimination that often occur when a state ID card does not comport with an individual's appearance.

Unfortunately, MVA would like to alter its current policy by requiring an additional step - an amended birth certificate. Obtaining an amended birth certificate requires going through the court system and incurring expensive legal fees, which obviously adds to the cost of changing identity documents and poses a significant barrier for low-income trans Marylanders. Maryland code states that they will issue a birth certificate reflecting the proper gender only upon receipt of a certified copy of an order of from a court indicating that the "sex of an individual born has been changed by surgical procedure and whether such individual's name has been changed."

In other words, a trans individual cannot change the "sex" on their birth certificate simply by providing proof that they are undergoing medical treatment or procedures for gender reassignment. This new requirement poses an unnecessary barrier. For example, there are some trans individuals who will never want to surgically modify their bodies, some for whom such procedures are medically impossible or dangerous, and others who do wish to modify their bodies but do not have the financial resources to access such surgeries - procedures that very rarely are covered by health insurance companies for those lucky enough to have any form of public or private health insurance. Furthermore, the high cost of legal fees to access an amended birth certificate discriminates against low-income trans individuals in particular who already have a difficult time accessing medical and mental health care services to "prove" who they really are.

Additionally, a number of states prohibit the altering of birth certificate documents entirely and refuse to issue new birth certificates under any circumstances. Maryland residents who were born in these states will be unable to obtain an amended birth certificate, even if they have had sex reassignment surgery and/or obtained documentation from professionals confirming an individual's gender identity. Since MVA's ill-conceived proposed change requires an amended birth certificate, it will make it entirely impossible for many Maryland residents to obtain accurate identification documents at all.

Analysis

According to the Maryland Transportation Code, MVA has the authority to establish rules and regulations for issuing changes to state drivers' licenses when attempting to improve services. Before implementing the proposed change outlined above, we encourage MVA to note that the current policy is already working for trans Marylanders. The proposed change does nothing to improve services, but rather creates additional financial hardship for trans individuals. The change also poses considerable dangers for trans Marylanders – having a legal identity document that does not match an individual's gender exposes them to the potential risks of embarrassment, harassment, discrimination and violence.

You may recall that a similar change was considered several years ago without any logical reason for issuing modification to the current policy. Since the MVA failed to substantiate any reasoning behind the change, it was ultimately halted. Once again, a similar proposal is before the state of Maryland without any evidence of the need for such a policy change, without having engaged in any form of community consultation with the affected population, and with no mandated requirements issued in state or federal law to necessitate such protocol changes.

The current policy in place, which is similar to the requirements in other states and the District of Columbia, works well because it balances the need of the state to provide appropriate protocols while respecting the individual by maintaining privacy and limiting the burdensome costs and invasive practices that the proposed policy change would create. We believe modifying the current policy will have a dangerous and unnecessary impact on trans Marylanders, and request your intervention to halt their implementation with the hope that MVA will reconsider and issue a more fair-minded course of action by maintaining their current policy with respect to changing one's gender marker on a state ID card.

The DC Trans Coalition continues to work in coalition with several of our partners to inform the decision making process providing examples of how such a change would hurt trans Marylanders all across the state. Unfortunately, to date, MVA personnel continue to advance these changes, and they are prepared to begin implementation with this extremely dangerous and unnecessary policy change in the New Year.

Recommendations

Moving forward, we strongly urge you to take the following actions to prevent such a policy change from taking place next year:

1. **Halt Implementation.** Act to immediately suspend the proposed policy change. This will restore confidence in due process by demonstrating to MVA that advancing an initiative with dangerous impacts on state residents without community consultation or substantiated reasons are not actions representative

of the state of Maryland. Halting implementation will allow a more deliberative and informed decision-making process that can better evaluate the current policy.

2. **Evaluate Current Policy.** Encourage MVA to work with local community advocacy groups to evaluate the current policy. For example, if MVA developed a survey for those individuals who have already changed their gender in the state, their feedback could help inform whether or not a new policy change is indeed necessary.
3. **Develop Best Practices.** Collaborate with other neighboring state DMVs, along with the District of Columbia's DMV, to develop best practices for MVA policy and practice regarding gender changes to state issued ID cards. Understanding how other states balance protocol while respecting the privacy of an individual is key to improving the current policy, if improvements are truly necessary.

Conclusion

MVA's dangerous and unnecessary policy change threatens the safety of all Marylanders, particularly trans residents. Identity documents are just that – documentation of an individual's identity that reflects who they are and how they live. Forcing individuals to undergo expensive and invasive surgical procedures and navigate complex legal processes just to get a simple driver's license is an injustice that goes against the Free State's long tradition of respecting individuals of all identities and backgrounds. We urge you to act quickly to rescind MVA's proposed policy changes.

Sincerely,

Rhodes Perry on behalf of the DC Trans Coalition, Washington, DC

Supporting Organizations

Gabriel Arkles, Staff Attorney, Sylvia Rivera Law Project, New York, NY
Kellan Baker, Policy Associate, National Coalition for LGBT Health, Washington, DC
Don Blanchon, Executive Director, Whitman-Walker Clinic, Washington, DC
Alex Roan, Executive Director, Maine Transgender Network, Inc., Westbrook, ME
Gunner Scott, Executive Director, MA Transgender Political Coalition, Boston, MA
Mitch Wood, President, Gay and Lesbian Activists Alliance, Washington, D.C.

Supporting Constituents

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Hannah Everhart, Sterling, VA
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