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Gender ID Bill Derailed Following Testifiers' Refusal to Address Sports Participation for Former Males

Lawmakers delay the bill's progress following a tense exchange over whether the measure would enable individuals assigned male at birth to compete in female sports, among other issues, as concerns over wider societal implications linger

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Terry Miller, a transgender athlete, was one of two transgender individuals involved in a 2021 lawsuit aimed at preventing their participation in girls' sports competitions.

A measure that would have allowed people to change their gender designation on identifying documents has been held in committee after major pushback from lawmakers who, in a vigorous debate, expressed concerns about the possible “far-reaching” impacts of the draft legislation.

Proposed by Senator Novelle Francis on the request of Governor Albert Bryan Jr., Bill 35-0395, if passed into law, would allow for someone, equipped with an order of the Superior Court of the Virgin Islands, to change the listed gender on a driver's license, identification card, and for other related purposes. The proposed measure was brought to the Senate Committee on Homeland Security, Justice and Public Safety on Tuesday.

In his introduction of the bill, Sen. Francis stated that the measure was not “about sexuality or sexual orientation. It is a bill that supports how people identify their gender.” He told his colleagues that “in addition to supporting patient care, this bill will also give those who identify as transgender or non-binary to have identification documents that align with their own gender identity.”

“Ultimately, this bill is about a person's right to live freely as their authentic self,” Sen. Francis said, appealing for the committee’s support for a “marginalized community.” However, he would later voice no objections to the eventual decision to hold the bill until further notice.

“The rights of our community members are important to the honorable Governor Albert Bryant Jr and the honorable Lieutenant Governor Roach,” said Dr. Nicole Syms, assistant commissioner at the Department of Health. She was one of several testifiers who supported the proposed legislation. “Transgender, non-binary and gender non-conforming individuals often face significant challenges when the legal name or gender marker does not align with their identity,” said Dr. Syms. This, she added, could lead to “discrimination [and] limited access to health care.”

Other testifiers, like Andrew Hammond from PFlag St. Thomas, an organization that advocates for LGBTQ+ community and their families, while supportive of the draft bill in general had reservations over a specific section: chapter eight, section 190 1b. That portion of the measure states that a health care provider must evaluate the individual and find that they have had either alteration, hormonal supplementation or other treatment. Mr. Hammond felt that requiring the validation of medical personnel was not ideal, as “it is a deeply personal act that should be left up to the person making the decision.” He described the medical requirement as an “extra stumbling block.”

Similar sentiments were shared by Dr. Andrew Sieber, board secretary of St. Croix Pride. “A medical requirement creates an undue burden for those petitioning for gender marker change,” he argued. Another section of the bill which requires a public notice of name change was described as a dangerous practice by the testifiers. “I also urge that any and all records and proceedings regarding a gender marker change and subsequent name change be sealed,” suggested Imani Evans, president of St. Croix Pride. “This stuff is not just about paperwork, it's about acknowledging the humanity of transgender individuals and ensuring that they have the same rights and opportunities as everyone else,” she said.

However, the support and suggestions of the testifiers were overshadowed by overwhelming reservations by lawmakers. Sen. Francis wondered whether the removal of the medical requirement would create an environment for “arbitrary” decision-making. “If we’re talking about relying on the feeling...years later [if] they feel a different way, they'll be changing back and forth,” he hypothesized. “Their identity is more than just a feeling,” rebutted Mr. Hammond. “The problem [with the medical requirement] is that it presents a stumbling block to people who may not have insurance or who may not be able to acquire the healthcare necessary,” he continued.

Meanwhile, Senator Ray Fonseca, chair of the Committee on Health, Hospitals, and Human Services, was concerned about whether individuals who identify as transgender would be able to

participate in sports under a gender designation other than what was assigned at birth. “Do you think that [a] former male should be allowed to participate in sporting activities and compete against females?” Sen. Fonseca asked. Dr. Seaver’s initial attempt to contextualize his response was rejected. “That’s a yes or no question,” Sen. Fonseca interjected. “I don’t need a whole dissertation.” Dr. Seaver disagreed. “It’s actually not a yes or no question,” he responded, prompting Sen. Fonseca to move to the next testifier for an opinion. However, Ms. Evans was no more willing to entertain Sen. Fonseca’s hypothetical. “I definitely can’t see a space where this question is even a part of what we’re discussing,” she said. “If this was a matter of us talking about sports and Parks and Rec, then I could understand that question being something that comes up,” Ms. Evans responded. “What we’re talking about is people’s ability to walk into public safety and get a driver’s license that reflects who they are... a matter of biology and sports doesn’t seem like it would be relevant.” Pressed by Sen. Fonseca to respond to what he considered to be a “yes or no question,” Ms. Evans said that she could not “respond yes or no to a question that does not seem appropriate for this discussion.” A similar question regarding bathroom access was ignored as inappropriate and irrelevant by testifiers.

Senator Alma Francis Heyliger felt that not enough time had been allocated to debate a measure with such far-reaching implications, and expressed concern about unforeseen knock-on effects from the measure. “I believe that I have the responsibility to fight for your right if you want to change how you outwardly appear,” she stated. However, changing a legal gender designation, Sen. Francis Heyliger felt, was a more profound move. “I have a concern with us potentially creating a narrative for our society where we get to go back and rewrite history based on our personal belief,” she said. She expressed skepticism over the idea of removing the requirement to obtain a signoff from a medical professional, saying that “we’re creating a situation that could potentially cause more chaos than anything else.” Sen. Francis Heyliger hypothesized that if gender could be changed on official identification, race could be also. That prompted a brief explanation from Ms. Evans on the difference between sex and gender – the former as a matter of biology, and the latter an issue with social designation.

Senator Carla Joseph also vocalized concerns about the proposed legislation, suggesting that the section referencing medical providers be made more specific. Meanwhile, Senator Donna Frett-Gregory posed similar – if less pointed – questions as Sen. Fonseca before her. “Do you think that this change comes with inherent rights that you can do certain activities?” she wondered. “If the answer is yes, then it says that this legislation is far-reaching, and it’s not as simple as allowing persons to to self identify,” she suggested. Frett-Gregory called for a “deeper dive to discuss the overarching or overall impact of this legislation.” Earlier, Senator Angel Bolques Jr. had floated the idea of a referendum to obtain data on how Virgin Islanders feel about the proposal.

Senator Dwayne DeGraff was one of the few lawmakers to express support for the proposed bill. “I have my own religious beliefs...but from seeing what I’m seeing in the world, everyone deserves some kind of protection and safety,” he said.

Ultimately, committee chair Senator Kenneth Gittens opined that as written, the measure “is creating some legal and administrative complexities” which, if passed, would “require significant updates to our current existing government systems.” According to him, passing the bill into law would “create a law enforcement dilemma” as changing gender markers “would complicate records and our databases.” Gittens also pointed to the “religious and cultural perspectives” which “rightfully oppose change in legal documentation.” According to the lawmaker, “gender is determined by biological factors and not personal choice or self identification.” He called for more vetting of the proposed legislation, saying that he was “in no haste to move this measure forward.”

The bill was held following a motion by Senator DeGraff. There were no objections from lawmakers present at Tuesday's meeting.

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