

Hello, my name is Céleste; I'm a resident of Ohio's 21st Senate district, and I would like to write in opposition to H.B. 96 as it is currently written, specifically, the provisions as currently written in sections 9.05 and 4507.13, regarding the requirement for the state government to recognise, and for state drivers' licences to display, "biological sex" defined "at conception". This is an unscientific and impossible-to-enforce standard which will only serve to harm transgender and gender non-conforming people in Ohio, and even that notwithstanding, is the sort of provision that has no place in an omnibus budget bill.

First, let us assume all of the things that this provision takes as fact – that biological sex is definitely a real thing, that there are definitely precisely two, that it is definitely determined at conception and impossible to change afterwards, and that the Ohio government definitely has a legitimate interest in requiring this information to be registered and prominently listed on legal identification documents. How do you suppose that this information will be verified by the registrar before issuing a licence? Would this require that in any case in which the sex of a person is disputed, they are required to undergo testing to determine which reproductive cells they produce? And if this person has had their reproductive organs removed, would they be required to provide their personal medical history in order to determine to which sex they belong? "Birth certificates" is not a valid answer, by the way; several states, such as my birth state of Maryland, allow for transgender people to have birth certificates reissued rather than amended, and so my official non-amended birth certificate shows a gender different than that which I was assigned at birth.

It seems, then, that the only course of action for registrars to handle someone like me, someone who is transgender and who has had legal documents updated to reflect the way in which they undeniably move about the world in a different way than they were assigned at birth, is for them to decide on their own whether my documents can be trusted and whether I am really the gender they claim me to be – which means that my legal status will be determined not by conception, but by arbitrary whim of government official. Needless to say, this would necessarily make the process of applying for government identification, or interfacing with the state government at all, much more uncertain and legally dubious for anyone whose "biological sex" does not perfectly correspond with the way in which they present themselves to the world.

But allowing ourselves to be motivated by fact rather than by ideology, several more problems begin to present themselves. Sex is not determined at conception, both in the sense that the actual legal determination of sex is made at birth, but also that sex development happens in utero several weeks into pregnancy, and before this point embryos are sexually identical. In fact, two genetically identical embryos can develop with different sexes, because sexual determination is the result of a particular protein which is not always released as expected during embryonic development. If someone is born with XY chromosomes, contains all of the genetic code that would be required for them to produce a penis and testes, and this protein does not successfully get released, they will develop a vulva and uterus – to which sex does this person belong? If the determination is to be made based on the reproductive cells produced, then it should be noted that people born this way – with Swyer syndrome, as it's known – do not and will not ever produce any reproductive cells. Does this mean, then, that they are not male nor

female? This is not the only such condition which causes sex as determined at birth to be ambiguous, and the number of such people in Ohio is estimated to be about the same as the population of Medina County, many of whom may well not know to which “biological sex” they belong (if any) until they attempt to conceive children or undergo genetic testing. Simply put, there is no way to accurately collect the information deemed worthy of collection by this bill, not without requiring unconstitutional violations of medical privacy.

But all of that aside... why is this information which the government needs to collect about its residents? If someone is assigned male at birth, lives their life comfortably as a man, and then discovers at age 30 that he in fact is intersex and does have internal genitalia which produce “the large reproductive cell”, why should he be required to have his legal identification updated to reflect this? To what extent is it relevant for legal identification to reflect random quirks of biology, rather than the way in which citizens actually live their lives and are perceived by others?

And of course, the obvious conclusion is that this isn't about accurately reflecting biological reality, that no such genetic testing will be put into place, that our hypothetical man there would be able to continue to have his documents list him as male without anyone batting an eye. The transparent purpose of these provisions is to require transgender residents of Ohio to be legally marked as transgender, to claim that they will never actually be the genders they declare themselves to be, to deliberately create a rift between presentation and legal identity in a way that opens anyone for whom the two are not congruous up to harassment and legal discrimination. And it is just as transparent that allowing these provisions to remain in what is ostensibly a budget bill, passing them into law, and enshrining discrimination against transgender people, will make you personally responsible for permitting that discrimination.

Do better.

P.S. It may interest you to know that a couple of months ago, I received surgical intervention which not only removed my gonads, but which resulted in me having both a penis and a vulva. Remember that any proposed system for determining what sex someone “really” is must necessarily account for my body as well. Good luck!