



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR

April 12, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmembers Lori Droste, Terry Taplin, and Susan Wengraf (Co-sponsor)

SUBJECT: Resolution Reaffirming the City of Berkeley's Commitment to Transgender Rights

RECOMMENDATION

Adopt a Resolution reaffirming the City of Berkeley's commitment to Transgender and Gender Expansive Rights

CURRENT SITUATION AND ITS EFFECTS

On February 22, 2022, Texas Governor Greg Abbott authored a letter to Texas's Department of Family and Protective Services saying that medical treatments provided to transgender adolescents should be classified as child abuse under existing state law.¹ This was in response to an opinion issued the week earlier by Texas Attorney General Ken Paxton stating that medical treatments such as puberty-suppressing drugs and hormones provided to transgender teens for gender-affirming care should be investigated as child abuse. This letter sowed fear among transgender youth and their families. Several families are already being unjustly investigated for supposed child abuse under this standard. On March 1, 2022, a lawsuit was filed by the American Civil Liberties Union and Lambda Legal Defense to secure a temporary restraining order and permanent injunction against both Governor Abbott and Jaime Masters, Commissioner of the Texas Department of Family Protective Services.² On March 11, Judge Amy Clark Meachum issued an injunction, declaring the Governor's order to be

¹ See NYTimes March 1, 2022 article: [Texas Investigates Parents Over Care for Transgender Youth, Suit Says](#)

² See NYTimes March 1, 2022 article: [Texas Investigates Parents Over Care for Transgender Youth, Suit Says](#)

unconstitutional.³ Within hours of Judge Meachum’s ruling, however, Attorney General Paxton tweeted that his office had filed an appeal to the ruling, thus freezing the injunction and allowing the investigations to continue.⁴ At the time of this writing, the legal landscape remains murky and it is uncertain whether these persecutory investigations will continue.

Transgender and gender expansive rights have recently come under direct attack in state legislatures across the country, and these individuals are especially vulnerable due to a lack of federal legal protections—with no comprehensive non-discrimination law inclusive of gender identity currently in place. As of March 2022, 15 states have sought to restrict access to gender-affirming care or are currently considering laws to do so. According to the Williams Institute at the UCLA School of Law, these bills carry severe penalties for health care providers and sometimes families who provide or seek out gender-affirming care for minors.⁵ In light of these bills and laws that seek to deny gender-affirming care to minors, it is critically important to reaffirm Berkeley’s commitment to the transgender and gender expansive community and their rights.

BACKGROUND

Acts of violence and discrimination against transgender and gender expansive individuals continue to be on the rise, despite the June 15, 2020, U.S. Supreme Court ruling in *Bostock v. Clayton County* which declared that discrimination based on transgender status counts as discrimination based on sexual orientation or gender identity (falling under discrimination due to sex prohibited in Title VII of the 1964 Civil Rights Act). Although this decision has become one of the most important for LGBTQ legal rights, transgender and gender expansive individuals have historically been oppressed and continue to face challenges—particularly in the workplace, healthcare, and education. The transgender community continues to grapple with violence as demonstrated by the at least 46 transgender and gender expansive individuals murdered in 2021—most of them Black or Latinx, according to the Human Rights Campaign Fund—marking the deadliest year on record.⁶

Berkeley is the first city in the United States to provide domestic partnership benefits to city and school district employees and has historically safeguarded the rights of the LGBTQ community. In 2018, Berkeley’s Commission on the Status of Women announced a resolution providing \$2,400 from the General Fund to fund a half-day Transgender Health Access Training for its Public Health staff. In 2015, Berkeley also added a provision to the Municipal Code requiring

³ See NYTimes March 11, 2022 article: [Texas Court Halts Abuse Inquiries into Parents of Transgender Children](#)

⁴ See Washington Post March 17, 2022 article: [Dreading the Knock at the Door: Parents of Trans Kids in Texas are Terrified for Their Families](#)

⁵ “Prohibiting Gender-Affirming Medical Care for Youth,” UCLA School of Law Williams Institute, March 2022, <https://williamsinstitute.law.ucla.edu/publications/bans-trans-youth-health-care/>

⁶ See the November 17, 2021 Human Rights Campaign Fund press release: [Marking the Deadliest Year on Record, Human Rights Campaign Fund Announces Release of Annual Report on Violence Against Transgender and Gender expansive People.](#)

that single-occupancy bathrooms in businesses and other places of public accommodation be designated as gender-neutral.

The state of California has also continued to support the transgender and gender expansive community and their rights. In 2014, AB 1577, the Respect After Death Act, requires any official who completes a transgender person's death certificate to record the deceased individual's sex to reflect their gender identity. In 2015, California became the first state to grant transgender prison inmates the right to have access to gender affirmation surgeries. Additionally, under AB 1732, California became the first state to require single-occupancy restrooms in businesses, government buildings, and places of public accommodation to be indicated as gender-neutral. In 2016, California passed AB 1887, which banned state-funded travel to states enacting laws that discriminated against or removed protections for individuals based on sex, gender identity, or sexual orientation.

Let this resolution reaffirm the City of Berkeley's strong history of commitment to upholding and protecting the rights of members of the LGBTQ community, including transgender and gender-expansive individuals.

FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

None

CONTACT PERSON

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Attachments:

1. Resolution

RESOLUTION NO. ##, ###-N.S.

REAFFIRMING THE CITY OF BERKELEY'S COMMITMENT TO TRANSGENDER AND GENDER EXPANSIVE RIGHTS

WHEREAS, June 28, 2022 will mark the 53rd anniversary of the Stonewall Riots, which were a pivotal series of events that invigorated the modern movement for LGBTQ rights and served as the catalyst for the formation of LGBTQ activist organizations and pride marches.

WHEREAS, Even with the landmark Supreme Court decision *Bostock v. Clayton County* (2020), which prohibited employers from discriminating based on sexual orientation, transgender individuals still lack legal protection on the federal level since no comprehensive non-discrimination law inclusive of gender identity currently exists.

WHEREAS, More than 100 anti-transgender bills have been introduced in 33 states in an attempt to dismantle fundamental transgender rights and transgender identity.⁷

WHEREAS, Individual states are passing laws restricting access to medical care and sports participation for transgender youth, for example: Tennessee banned doctors from prescribing transition hormone treatments for transgender children; Arkansas prohibited doctors from providing gender-affirming medical treatment to transgender minors; and Alabama barred transgender girls and women from playing on female teams.

WHEREAS, The transgender and gender expansive community, especially the most marginalized transgender people such as trans women and trans people of color, experience daily challenges due to a lack of healthcare coverage, greater likelihood of living in poverty, and ongoing violence, harassment, and discrimination.

WHEREAS, the overwhelming majority of Americans believe transgender people should be guaranteed federal anti-discrimination protections and rights to participate in opportunities through the Equality Act, a bill that passed in the House of Representatives but is currently stalled in the Senate.

WHEREAS, In December 1984, the City of Berkeley was the first to extend health benefits to domestic partners who served as City and school district employees; Berkeley's Domestic Partner Task Force conceived the term "domestic partner"; and the City's policy set a precedent for domestic partner policies in the rest of the country.

NOW THEREFORE, BE IT RESOLVED by the City of Berkeley that it hereby reaffirms its commitment to assuring transgender and gender expansive rights, regardless of

⁷ See KQED's June 6, 2021 article [Pride: 2021 has Set a Record in Anti-Trans Bills in America](#)

socioeconomic, ethnic, racial, cultural, or religious background, and to opposing any laws or regulations that pose a threat to the well-being, identity, and advancement of the transgender and gender expansive community.

