

**MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

LAW DOCKET NO. CUM-09-634

In re: A. M. B.

Appellant

**ON APPEAL FROM THE
CUMBERLAND COUNTY PROBATE COURT**

**BRIEF OF *AMICI CURIAE* OF GAY & LESBIAN ADVOCATES & DEFENDERS,
WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER HEALTH, AND
CENTER FOR PREVENTING HATE IN SUPPORT OF APPELLANT A.M.B.**

**Pat Peard (Bar No. 3935)
Bernstein Shur
100 Middle Street
PO Box 9729
Portland, ME 04104-5029
(207) 228-7306**

**Of Counsel:
Jennifer Levi
Gay & Lesbian Advocates & Defenders
30 Winter St., #800
Boston, MA 02108
(617) 426-1350**

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Statement of Interest of Amici Curiae

Gay & Lesbian Advocates & Defenders (GLAD) is a New England-wide legal rights organization dedicated to ending discrimination based on sexual orientation, gender identity and expression, and HIV status. Many of GLAD's cases endeavor to promote legal respect for and recognition of the lives of transgender individuals and their families. GLAD has participated as counsel or *amicus* in a wide variety of cases, seeking to protect transgender people and their families, including: *Doe ex rel. Doe v. Yunits*, 2001 WL 664947 (Mass. Super. Ct. Feb. 26, 2001) (rejecting motion to dismiss case involving transgender girl's state constitutional and statutory right to wear female clothing in school); *Rosa v. Park West Bank & Trust Co.*, 214 F.3d 213 (1st Cir. 2000) (denying motion to dismiss discrimination case brought by transgender loan applicant); *O'Donnabhain v. Comm'r*, 134 T.C. No. 4, 2010 WL 364206 (U.S. Tax Ct. 2010) (ruling that the Internal Revenue Service improperly denied plaintiff's request for deduction of costs of medical treatment for gender reassignment); *Blanchette v. St. Anselm College*, Civil No. 05-cv-183-JM (D.N.H. 2005) (settled case involving transgender woman's claim of employment discrimination); *Barreto-Neto v. Town of Hardwick*, Worker's Compensation Division State File No. T-5695 (Vt. Dep't Labor & Indus. 2004) (settled case involving transgender male police officer's claim of employment discrimination against police department).

The World Professional Association for Transgender Health (WPATH) is an international association of over 500 physicians, mental health professionals, legal professionals and other social scientists whose work directly impacts the lives of transgender and transsexual people. WPATH was originally founded in 1979 as the

Harry Benjamin International Gender Dysphoria Association. Since 1979, this Association has published and maintained the internationally accepted Standards of Care (SOC) for the treatment of gender identity disorders, which articulate a professional consensus about the psychiatric, psychological, medical, and surgical management of gender dysphoria. This document is designed to promote the health and welfare of persons with gender identity disorders, and help professionals understand the parameters within which they may offer assistance to those with these conditions.

The Center for Preventing Hate (the Center) is a 10 year old Maine-based civil rights organization which works in schools in Maine, elsewhere in New England and across the nation on preventing bullying, harassment and violence. In the course of its work the Center provides advice to school administrators on how to respect the dignity of transgender students and on how to protect those students from harassment and violence. Five years ago the Center conducted state wide interviews with gay, lesbian, bisexual and transgender young people and adults to ascertain the level of discrimination which they face. The Center's report, "Discrimination Against Gay Lesbian, Bisexual and Transgender Individuals in Maine," was published in October 2005.

Amici respectfully submit this brief in support of A.M.B. to address the vital importance of allowing transgender individuals to legally change their names to be consistent with their gender identity. For many transgender individuals, adopting a new, gender-appropriate name is an integral part of a medical process of gender transition

necessary for the treatment of a serious medical condition.¹ Having a gender-appropriate, legal name also helps transgender individuals avoid the pervasive discrimination and violence that faces the transgender community. Accordingly, *Amici* urge this Court to reverse the Probate Court's denial of Appellant A.M.B.'s petition for name change and uphold Maine's stated, strong public policy protecting the rights of transgender individuals to live their lives in the sex that is consistent with their gender identity, free from discrimination and violence.

¹ The term "gender identity" refers to the gender with which a person self-identifies, which may or may not correspond with a person's assigned sex at birth. The term "transition" refers to the experience of a transgender individual undergoing a course of medically recommended treatment in order to live his or her life consistent with one's gender identity, notwithstanding that such gender identity is not consistent with the person's ascribed sex at birth.

Statement of Facts

Amici adopt and incorporate in its entirety Appellant A.M.B.'s Statement of Facts and Procedural History in his brief.² Appellant's Brief, at 6-8.

Statement of Issues

Whether the Probate Court abused its discretion when it denied Appellant A.M.B.'s petition for name change in the absence of: (1) fraudulent intent, (2) interference with the rights of others, (3) adoption of a name of a scandalous or frivolous nature, and (4) public interest, see *In re Reben*, 342 A.2d 688 (Me. 1975), particularly in light of the fact that transgender individuals have real and pressing medical and safety needs for changing their legal names to one that is consistent with their gender identity.³

Argument

I. Transgender individuals in Maine have an important and legitimate reason for seeking a legal name change that cannot be characterized as fraudulent, scandalous, interfering with the rights of others, or contrary to the public interest.

Transgender people have been a part of every society and culture throughout time.⁴ They participate in our economy, volunteer in our communities, and care for their

² Because A.M.B. used male pronouns, in accordance with his male gender identity, *Amici* similarly use male pronouns when referring to him herein, consistent with the practice followed by most courts. See, e.g., *Schwenk v. Hartford*, 204 F.3d 1187, 1192 n.1 (9th Cir. 2000); *Murray v. U.S. Bureau of Prisons*, 106 F.3d 401, 1997 WL 34677, *1 n.1 (6th Cir. 1997); *Meriwether v. Faulkner*, 821 F.2d 408, 409 n.1 (7th Cir. 1987); *Smith v. Rasmussen*, 57 F. Supp. 2d 736, 740 n.2 (N.D. Iowa 1999).

³ Another requirement is that, if the individual petitioning for name change is a minor, the Probate Court must consider the child's welfare as well as the feelings of the minor's family. 18-A M.R.S.A. § 1-701. A.M.B. is not a minor, so this consideration is not at issue in his appeal.

⁴ Richard Green, M.D., *Transsexualism: Mythological, Historical, and Cross-Cultural Aspects*, reprinted in THE TRANSSEXUAL PHENOMENON, Appendix C (Harry

families and children. For many transgender individuals, the ability to transition from their birth sex to the sex that is consistent with their gender identity is vitally important to their mental and physical health and well-being. In addition, the ability to protect against and overcome the severe and pervasive discrimination that transgender individuals face is crucial for them to be able to live their lives, support their families and contribute to society through work, volunteering and civic engagement. For those reasons, it is important for transgender individuals to be able to legally change their name to one that is consistent with their gender identity.

Amici concur with A.M.B.'s argument that he has easily met all of the legal requirements for a name change in Maine. See Appellant's Brief, section IV(A). Specifically, A.M.B.'s petition does not implicate any of the factors that weigh against the normally permissive standard of allowing an adult individual to change his or her name: (1) fraudulent intent, (2) interference with the rights of others, (3) adoption of a name of a scandalous or frivolous nature, and (4) public interest. See *In re Reben*, 342 A.2d at 694-95; 18-A M.R.S.A. § 1-701.

In fact, the opposite is true; transgender individuals such as A.M.B. have very real, legitimate and pressing reasons for legally adopting a name that is consistent with their gender identity. As such, for transgender individuals who seek to change their name as part of their gender transition, there is no way to characterize the reasons underlying their name change as fraudulent, interfering with the rights of others,

Benjamin, 1966) ("Evidence for the phenomenon today called transsexualism can be found in records backward through centuries and spanning widely separated cultures.")

scandalous or frivolous, or contrary to the public interest.⁵ In fact, to do so would constitute an abuse of discretion and should be overturned by this Court. See *Pettinelli v. Yost*, 930 A.2d 1074, 1077-78 (Me. 2007) (outlining criteria for abuse of discretion); *In re Reben*, 342 A.2d at 693 (“It would be unreasonable to assume that the 1873 Legislature intended to give the Judge completely unbridled discretion to be exercised on whim or caprice.”).

A. Many transgender individuals seek to legally change their name to one that is consistent with their new sex as part of a medically recommended and necessary gender transition process.

A transgender person is someone whose gender identity does not align with his or her birth sex. A person’s gender identity refers to one’s core, internal self-identification of his or her gender, which may or may not correspond with one’s assigned sex at birth.⁶ Usually, people born with the physical characteristics of males psychologically identify as men, and those with physical characteristics of females psychologically identify as women. However, for a transgender person, this is not true;

⁵ *Amici* emphasize that the real and legitimate reasons of transgender individuals for changing their names are sufficient but not necessary to meet the legal standard in Maine. Having to prove an affirmative reason for a name change is not required under the legal standard, and requiring only transgender individuals to meet such a heightened standard would raise constitutional concerns as discussed in A.M.B.’s brief. Appellant’s Brief, at 22-30. Instead, an individual such as A.M.B. merely needs to show that his petition does implicate any of the factors discussed in *In re Reben*, as discussed above, in order to legally change his name.

⁶ SUZANNE J. KESSLER & WENDY MCKENNA, GENDER: AN ETHNOMETHODOLOGICAL APPROACH 8-11 (1978); John Money, *Gender Role, Gender Identity, Core Gender Identity: Usage and Definition of Terms*, 1 JOURNAL OF THE AMERICAN ACADEMY OF PSYCHOANALYSIS 397, 397-403 (1973).

the person's body and the person's gender identity do not match.⁷ This inconsistency can sometimes lead to gender dysphoria – i.e. a feeling of stress and discomfort with one's assigned sex. See, e.g., *Doe v. State of Minnesota, Dep't. of Public Welfare*, 257 N.W.2d 816, 818 (Minn. 1977) (“Although for most members of society sex and gender are synonymous, it is possible for each to develop independently. In cases when sex and gender do develop independently, the end product is often a transsexual person plagued by the serious problem of ‘gender role disorientation, a painful cross-gender identity.’”). Such gender dysphoria, if clinically significant and persistent, is diagnosed as Gender Identity Disorder (“GID”).

GID is recognized as a serious medical condition in both the International Classification of Diseases-10 (ICD-10) and the Diagnostic and Statistical Manual of

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Whatever its precise cause, gender identity is a fundamental aspect of human identity. A person's self-image as male or female is established at an early age and is highly resistant to change. See Gerald P. Mallon, DSW, *Practice with Transgendered Children*, in SOCIAL SERVICES WITH TRANSGENDERED YOUTH 52-54, 57-58 (Gerald P. Mallon ed., 1999). See also *Meriwether v. Faulkner*, 821 F.2d 408, 412 (7th Cir. 1987) (“Transsexualism is not voluntarily assumed”); *Pinneke v. Preisser*, 623 F.2d 546, 549 (8th Cir. 1980) (“it is not unreasonable to conclude that transsexualism is a very complex medical and psychological problem which is generally developed by individuals early in life.”). In the past, some practitioners tried to “cure” transgender people through aversion therapies and other techniques intended to alter cross-gender identification. See, e.g., M.G. Gelder & I.M. Marks, *Aversion Treatment in Transvestism and Transsexualism*, in TRANSEXUALISM AND SEX REASSIGNMENT (Richard Green & John Money, eds., 1969). Those efforts were not only unsuccessful, but caused severe psychological damage. Gerald Mallon, *Practice with Transgendered Children*, in SOCIAL SERVICES WITH TRANSGENDERED YOUTH 49, 55-58 (Gerald P. Mallon ed., 1999). Today, efforts to alter a person's core gender identity are viewed as futile and unethical. *Id.* Accordingly, the treatment paradigm has shifted from attempting to “cure” the transgender person “to facilitating acceptance and management of a gender role transition.” Walter O. Bockting & Eli Coleman, *A Comprehensive Approach to the Treatment of Gender Dysphoria*, in GENDER DYPHORIA: INTERDISCIPLINARY APPROACHES IN CLINICAL MANAGEMENT 131, 131-32 (W.O. Bockting & E. Coleman, eds., 1992).

Mental Disorders (DSM-IV), published by the American Psychiatric Association.⁸ It is characterized by a persistent and often intense discomfort with one's assigned sex and with one's primary and secondary sex characteristics. This conflict can create intense emotional pain and suffering that is intractable, severe, and often incapacitating.⁹ If left medically untreated, this condition can result in dysfunction, debilitating depression and, for some people, suicidality and death.¹⁰

There is no single course of medical treatment that is appropriate for every person with GID. Instead, the World Professional Association For Transgender Health, Inc. ("WPATH") (formerly known as "The Harry Benjamin International Gender Dysphoria Association, Inc."),¹¹ has established internationally accepted Standards of

⁸ American Psychiatric Association, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 576-82 (4th ed., rev. 2000) ("DSM-IV-TR"); World Health Organization, INTERNATIONAL CLASSIFICATION OF DISEASES F64 (10th rev. 2007) ("ICD-10"). See also George R. Brown, *Transvestism and Gender Identity Disorders in Adults*, in TREATMENTS OF PSYCHIATRIC DISORDERS (Glen Gabbard, M.D., ed., 3rd ed. 2001) (discussing DSM-IV criteria); Richard Green & Ray Blanchard, *Gender Identity Disorders*, in KAPLAN & SADOCK'S COMPREHENSIVE TEXTBOOK OF PSYCHIATRY (Benjamin J. Sadock, M.D. & Virginia A. Sadock, M.D. eds., 2000) (discussing DSM-IV criteria and noting the key feature as a "strong and persistent preference for the status and role of the opposite sex").

⁹ DSM-IV-TR, at 575-79. See also *O'Donnabhain*, 134 T.C. No. 4, at 17 ("GID is a serious, psychologically debilitating condition."). In fact, every U.S. Court of Appeals that has been presented with the question has found that GID poses a serious medical need for purposes of the Eighth Amendment. See, e.g., *De'Lonta v. Angelone*, 330 F.3d 630, 634 (4th Cir. 2003); *Phillips v. Mich. Dep't. of Corr.*, 932 F.2d 969, 1991 WL 76205 (6th Cir. 1991); *Meriwether v. Faulkner*, 821 F.2d 408, 411-13 (7th Cir. 1987).

¹⁰ *Id.* at 578-79.

¹¹ See World Professional Association for Transgender Health, available at <http://wpath.org>.

Care (“SOC”) for the treatment of people with GID.¹² As part of the SOC, many transgender individuals with GID undergo a medically-recommended and supervised gender transition in order to live his or her life consistent with their gender identity.

The current SOC recommends an individualized approach to gender transition, consisting of a medically-appropriate combination of the Real Life Experience (RLE), hormone therapy, and/or sex reassignment surgery. The RLE consists of “fully adopting a new or evolving gender role or gender presentation in every day life,”¹³ which “is *essential* to the transition to the gender role that is congruent with the patient’s gender identity.”¹⁴ Some transgender individual may only need to undergo the RLE, without undergoing hormone therapy or surgery, to complete their medical transition.¹⁵ Others may decide with their health care provider that it is medically necessary for them to undergo hormone therapy and/or sex reassignment surgeries as well. The correct course of treatment for any given individual – in order for the patient to achieve genuine and lasting comfort with his or her sex – can only be determined by the treating physician and the patient. Regardless of the individualized course of treatment, any

¹² World Professional Association for Transgender Health (WPATH) formerly known as The Harry Benjamin International Gender Dysphoria Association, *Standards of Care for Gender Identity Disorders, Sixth Version* (“WPATH SOC”) (Feb. 2001), available at <http://wpath.org/Documents2/socv6.pdf>.

¹³ WPATH SOC, at 17.

¹⁴ *Id.* (emphasis added).

¹⁵ See WPATH, *Clarification on Medical Necessity of Treatment, Sex Reassignment and Insurance Coverage in the U.S.A.* (“WPATH Clarification”) 2-3 (June 2008), available at <http://www.wpath.org/documents/Med%20Nec%20on%202008%20letterhead.pdf>.

such therapeutic regimen, when prescribed or recommended by qualified practitioners, is always medically necessary.¹⁶

A key part of a person's real-life experience in the desired gender is the ability "[t]o acquire a (legal) gender-identity-appropriate first name."¹⁷ WPATH recognizes a legal name change on identity documents as one component of "[s]ex reassignment," along with hormone therapy, counseling, and other medical procedures, that "plays an undisputed role in contributing toward favorable outcomes."¹⁸ WPATH has also declared that "[c]hanges to documentation are important aids to social functioning, and are a necessary component of the pre-surgical process; delay of document changes may have a deleterious impact on a patient's social integration and personal safety."¹⁹

For many transgender individuals, having a legal name that does not match their gender identity can be mentally harmful and emotionally traumatic. It can also prevent that individual from engaging in normal life activities where the disclosure of their legal name would subject them to harassment or abuse. Accordingly, the ability to change

¹⁶ WPATH Clarification, at 1; American Medical Association, H-185.950, Res. 122; A-08, *Removing Financial Barriers to Care for Transgender Patients* (approving resolution "support[ing] public and private health insurance coverage for treatment of gender identity disorder as recommended by the patient's physician"), *available at* <https://ssl3.ama-assn.org/apps/ecomm/PolicyFinderForm.pl?site=www.ama-assn.org&uri=/ama1/pub/upload/mm/PolicyFinder/policyfiles/HnE/H-185.950.HTM>; American Psychological Association, *Policy Statement: Transgender, Gender Identity, & Gender Expression Non-Discrimination* (Aug. 2008) (approving resolution "recogniz[ing] the efficacy, benefit and medical necessity of gender transition treatments for appropriately evaluated individuals and calls upon public and private insurers to cover these medically necessary treatments"), *available at* <http://www.apa.org/about/governance/council/policy/transgender.aspx>.

¹⁷ WPATH SOC, at 17.

¹⁸ WPATH Clarification, at 2.

¹⁹ *Id.*

one's name so that it is consistent with a person's new sex is an important and indispensable step in many transgender individuals' medically prescribed and necessary gender transition process, which cannot be characterized as frivolous, interfering with others' rights, scandalous, or contrary to the public interest. See *In re Reben*, 342 A.2d at 695; 18-A M.R.S.A. § 1-701.

B. Many transgender individuals seek to legally change their name in order to avoid severe and pervasive discrimination and violence.

For transgender individuals who are in the process of or have completed the process of medical transition, the ability to completely and safely live in their new sex is vitally important to their health, economic security, safety and overall wellbeing. Having a legal name that reflects a transgender person's birth sex but that is contrary to that person's gender identity exposes that person to unnecessary risks to their physical safety and emotional well-being. For example, each time A.M.B. must show his driver's license, he is forced to disclose his transgender status to the other person because his driver's license still states his past, female name, rendering him (at best) subject to ridicule and (at worst) subject to discrimination, violence, or arrest. The same would be true were A.M.B. to travel out-of-the country with a passport containing his past, female name, thereby threatening his security and safety in the particularly vulnerable situation of being outside of the country. Without the ability to legally change his name and thus his name on his identification documents, A.M.B. and other transgender individuals in his situation risk facing discrimination and violence that often results from being discovered as transgender.²⁰

²⁰ Many state and federal agencies, including those in Maine, anticipate a court order of legal name change before changing the name on vital identification

Unfortunately, transgender people are disproportionately at risk for discrimination and violence in almost all aspects of life, including education, employment, health care, and public accommodations. In particular, the lack of understanding of the realities and experiences of transgender individuals has led to horrific hate crimes across the country motivated simply by bias toward a person's transgender status. While there are no federally-compiled statistics on hate crimes against transgender individuals,²¹ advocacy groups reported that over 400 people have been murdered in the United States due to anti-transgender bias since 1999.²² In 2008, the National Coalition of Anti-Violence Programs (NCAVP) received 2,424 reports of anti-LGBT violence, which represented a 2% increase over the number of victims in 2007 and a 26% increase over a two-year

documents, such as a person's driver's license, social security records, passports and other vital documentation. See, e.g., National Center for Transgender Equality, *Transgender People and Passports* 3 (Sept. 2008), available at http://transequality.org/Resources/NCTE_passports.pdf and *Federal Documents*, available at http://transequality.org/Issues/federal_documents.html.

²¹ Violence towards the transgender community has not historically been tracked by the federal government, and therefore the work of tracking crimes based upon bias toward the community has been left to community-based organizations, institutes, and academics. See, e.g., National Coalition of Anti-Violence Programs, *Hate Violence against Lesbian, Gay, Bisexual, and Transgender People in the United States* 1 (2008), available at http://www.ncavp.org/common/document_files/Reports/2008%20HV%20Report%20s maller%20file. The recently enacted federal "Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act" now requires the Federal Bureau of Investigation to track statistics on violence against transgender individuals. National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-94, Division E, §4701 *et seq.* (the hate crimes prevention act passed as part of the Defense Authorization Act).

²² H.R. Rep. No. 111-86, at 11 (2009) (citing to an estimate by the Human Rights Campaign, transgender Americans face a one-in-twelve chance of being murdered. Statistics from the Gay, Lesbian, and Straight Education Network (GLSEN) show that in schools 14.2% of transgender students report being physically assaulted as a result of their gender expression, while 30.4% experienced physical harassment).

period.²³ Of the victims who self-reported violence, anti-transgender bias comprised 12% (206) of the total incidents in 2008.²⁴ Unfortunately, the number of hate crimes against transgender people are likely underreported because of stigma, lack of knowledge of supportive organizations, and because law enforcement officials remain one of the prime categories of offenders.²⁵

Due to the compelling need for protections for transgender people against hate violence, in 2009 Congress passed and President Obama signed into law the Matthew Shepard and James Byrd, Jr, Hate Crimes Prevention Act, which extended federal protections against crimes based on gender, disability, gender identity or sexual orientation.²⁶ In passing this law, the House of Representatives Judiciary Committee emphasized the “particularly violent” nature of hate crimes against transgender people and the “extreme bias against gender nonconformity.”²⁷ The Committee also

²³ National Coalition of Anti-Violence Programs, *Hate Violence against Lesbian, Gay, Bisexual, and Transgender People in the United States* 3 (2008), available at http://www.ncavp.org/common/document_files/Reports/2008%20HV%20Report%20smaller%20file.pdf.

²⁴ *Id.* at 5.

²⁵ *Id.* at 16 (NCAVP documents law enforcement as offenders each year and hate crimes often go underreported to police even in jurisdictions where the relationship between law enforcement and the LGBT population have improved). See also H.R. Rep. No. 111-86, at 11 (2009) (finding that “transgender people frequently distrust law enforcement authorities, and the police often lack training and familiarity with transgender people”).

²⁶ National Defense Authorization Act for Fiscal Year 2010, Pub. L. No. 111-94, Division E, §4701, *et seq.*

²⁷ H.R. Rep. No. 111-86, at 11.

emphasized that “[b]ias crimes are disturbingly prevalent and pose a significant threat to the full participation of all Americans in our democratic society.”²⁸

In addition to hate crimes, experiences of employment discrimination are nearly universal for transgender individuals.²⁹ For example, in 2009, over the course of 6 months, the National Gay and Lesbian Task Force (the “Task Force”) and the National Center for Transgender Equality (“NCTE”) conducted a survey of 6,450 transgender people throughout the United States in order to understand the discrimination they endure in employment, education, health care, housing, and public accommodation.³⁰ That survey reports that 97% experienced harassment or mistreatment on the job, and 47% of transgender individuals lost their jobs, were denied a promotion, or denied a job as result of being transgender.³¹ A report by the Williams Institute at UCLA School of Law summarized 6 studies of transgender employment discrimination conducted between 1996 and 2006, which revealed that as high as 60% of transgender

²⁸ *Id.* at 5.

²⁹ Employment discrimination also negatively affects transgender individuals in other areas, including housing, due to loss of income and economic security. Transgender individuals also face housing instability stemming from employment challenges and discrimination due to their gender identity and expression. According to the survey conducted by the Task Force and NCTE, 26% of respondents had to find different places to sleep for short periods of time, 25% had to move back in with family members or friends, 19% became homeless, and 11% were evicted. National Center for Transgender Equality & National Gay and Lesbian Task Force, *National Transgender Discrimination Survey 3* (Nov. 2009), available at http://transequality.org/Resources/NCTE_prelim_survey_econ.pdf. These numbers highlight how high unemployment can create tremendous difficulties for the transgender community.

³⁰ *Id.* at 3.

³¹ *Id.*

respondents reported being unemployed and as high as 64% earned incomes less than \$25,000 per year.³²

Discrepancies between identity documents and the name that transgender individuals use with their employers can lead to the employer discovering an employee's transgender status. For example, employers must send employee information to the Social Security Administration ("SSA") at hiring and at other times in order to ensure that employees are using valid Social Security numbers. When employer-submitted information about an employee does not match the SSA's database, a "no-match" letter is sent to the employer advising of the discrepancy. In situations where a person has been unable to legally change their name with the SSA but is using their new name with their employer, these no-match letters can disclose an employee's transgender status to his or her employer.³³

At the local level, the many stories of discrimination illustrate a dramatic picture of the challenges transgender people in Maine must confront on a daily basis. In 2005, the Center for Preventing Hate (formerly named "The Center for the Prevention of Hate Violence") (hereinafter "the Center") in Portland, Maine released a study on discrimination against lesbian, gay, bisexual and transgender individuals occurring between January 2000 and October 2005. The Center received information on 92

³² M.V. Lee Badgett et al., *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination* 16 (June 2007), available at <http://www.law.ucla.edu/williamsinstitute/publications/Bias%20in%20the%20Workplace.pdf>.

³³ See generally National Center for Transgender Equality, *Social Security Gender No-Match Letters and Transgender Employees* (Jan. 2008), available at http://www.transequality.org/Resources/NoMatch_employees.pdf.

individuals who reported they were victims of discrimination and violence.³⁴ The study described the results as “deeply disturbing and sobering,” “not only for the loss of jobs, loss of educational opportunities and loss of critical health care services, but also for the humiliation, degradation and, for some, the despair that these acts of discrimination leave in their wake.”³⁵ Some of the reports received by the Center are as follows:

- Sandra, a transgender woman, worked at a restaurant in southern Maine. When she began transitioning from male to female, she was subjected to verbal harassment, and on one occasion co-workers put bleach on the sandwich she was eating. She complained to her boss, who took no action, and was later fired for “being a distraction.”³⁶
- Carol, a transgender woman working for a York County manufacturing company, was called a “stupid whore” and “skank” by her co-workers when she began presenting herself as a woman. Her supervisor did not address the issue, instead telling her, “It was your choice to do this to yourself, now you have to pay the price.” Carol became “sick to [her] stomach, depressed and stressed out all the time.”³⁷
- Kimberly, a transgender woman, was a faculty member at a Maine college. One of her male students made anti-gay slurs to her face and left a message on her

³⁴ Stephen Wessler, The Center for the Prevention of Hate Violence, *Discrimination Against Gay, Lesbian, Bisexual, and Transgender Individuals in Maine* 9 (Oct. 2005). A true and correct copy of this report is attached to this *amici* brief as Attachment A for the convenience of the Court.

³⁵ *Id.* at 7, 15.

³⁶ *Id.* at 18.

³⁷ *Id.* at 18.

voicemail asking, “What is that, a girl or a guy?” Kimberly made complaints to the administration, who refused to address the issue. Kimberly became afraid to go to work, had trouble sleeping and considered suicide.³⁸

- Rebecca, a transgender woman in her twenties, was refused treatment for her kidney stones by her physician, after he declared, “I’m not working on that he-she” and refused to insert a catheter. The head nurse instead had to insert the catheter.³⁹
- Lori, a transgender female, went to a Maine college and was refused by administrators to live with a roommate. The college placed her in a single room, and she was forced to pay twice the cost of a double room. Lori was also harassed by male athletes in the dorms, the library, and the cafeteria. Her grades dropped as a result of the constant harassment. Lori left campus and moved in with her family, forcing her to commute one hour each way between her family’s home and college.⁴⁰
- Sara, a transgender female in her forties, was unable to obtain refinancing on her home loan after a loan officer at a Kennebec County bank declared, “We are a family bank here. There’s nothing we can do for you.” She was forced to sell her house, and after paying off her mortgage, was left with no equity and became homeless.⁴¹

³⁸ *Id.* at 20.

³⁹ *Id.* at 27.

⁴⁰ *Id.* at 30.

⁴¹ *Id.* at 32.

The humiliation and despair these acts of discrimination leave on the transgender population are incredibly disturbing and harmful to transgender people. As the study concludes, discrimination against transgender people in Maine is a “serious problem” and its impact “deep and destructive” against this particularly vulnerable population in Maine.⁴² For this reason, Maine added anti-discrimination protections for transgender individuals to its Human Rights Act. 5 M.R.S.A. § 4551, *et seq.* In doing so, Maine made clear its public policy “to keep continually in review all practices infringing on the basic human right to a life with dignity,” by protecting transgender individuals ability to live their lives in accordance with their gender identity, free from discrimination and violence. 5 M.R.S.A. § 4552.

Conclusion

This Court should reverse the Probate Court’s discriminatory and abusive denial of Appellant A.M.B.’s petition for a name change. Such a result is not only the correct result according to Maine’s permissive standard for granting a legal name change, but is consistent with Maine’s strong public policy of protecting transgender individuals’ ability to undergo gender transition and live their lives consistent with their gender identity, free of discrimination, violence and bias.

⁴² *Id.* at 33.

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Respectfully submitted,

Gay & Lesbian Advocates & Defenders

World Professional Association for
Transgender Health

Center for Preventing Hate

By their attorneys,

Pat Peard (Bar No. 3935)
Bernstein Shur
100 Middle Street
PO Box 9729
Portland, ME 04104-5029
(207) 228-7306

Of Counsel:
Jennifer Levi
Gay & Lesbian Advocates & Defenders
30 Winter St., #800
Boston, MA 02108
(617) 426-1350