

#005



October 6, 2020

Via e-mail to [Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov)

Hon. Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Comments on Proposed Amendments to Rule 4:72 – Removal of Publication Requirement

Hughes Justice Complex

PO Box 037

Trenton, New Jersey 08625-0037

Re: Proposed Amendments to Rule 4:72 – Removal of Publication Requirement

Dear Judge Grant:

I write on behalf of the LGBT Bar Association of Greater New York (“LeGaL”) in support of the proposed amendment to Rule 4:72, eliminating the newspaper publication requirement for all name change applications. LeGaL thanks the Court for the opportunity to comment. For the reasons below, LeGaL supports the amendment because it eliminates a requirement that places transgender name change applicants at a heightened risk of danger.

For nearly thirty years, our courts have recognized the right of a transgender person to a court-approved name change. In Re Eck, 245 N.J. Super. 220, 222 (App. Div. 1991). Since Eck, our state and nation have continued to recognize the unique discrimination and danger that transgender individuals face. This state’s Law Against Discrimination has been amended to “include gender identity or expression discrimination.” Nini v. Mercer Cty. Cmty. Coll., 202 N.J. 98, 111 (2010); N.J.S.A. 10:5-12. Gender identity was included as a federal hate crime with a “[r]ecogni[tion] that transgender people continue to be disproportionately targeted for bias motivated violence.” Sacklow v. Betts, 450 N.J. Super. 425, 435-36 (Ch. Div. 2017) (quoting Matter of E.P.L., 26 Misc.3d 336, 891 N.Y.S.2d 619, 621 (NY Sup. Ct. 2009)).

Yet, tragically, transgender Americans continue to face an extreme and disproportionate risk of violence. Thirty-one transgender people have been killed in the United States so far in 2020 – the highest number since tracking began in 2013. Human Rights Campaign, Fatal Violence Against the Transgender and Gender Non-Conforming Community in 2020, <https://www.hrc.org/resources/violence-against-the-trans-and-gender-non-conforming-community-in-2020> (last visited Oct. 6, 2020). An estimated one in four transgender people have been assaulted because they are transgender. ACLU, Deadly Violence Against Transgender People Is on the Rise. The Government Isn’t Helping, <https://www.aclu.org/blog/lgbt-rights/criminal-justice-reform-lgbt-people/deadly-violence-against-transgender-people-rise> (last visited Oct. 6, 2020). As shocking as these numbers are, they still likely understate the problem, since there is no central database or reporting requirements to enable tracking of these targeted crimes. Maggie Astor, Violence Against


Transgender People Is on the Rise, Advocates Say, N.Y. Times (Nov. 9, 2017), <https://www.nytimes.com/2017/11/09/us/transgender-womenkilled.html>. Indeed, “there can be “no denying that transgender individuals face discrimination, harassment, and violence because of their gender identity.”” Doe v. Boyertown Area Sch. Dist., 897 F.3d 518, 528 (3d Cir. 2018) (quoting Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034, 1051 (7th Cir. 2017)).

Courts in other states have waived similar publication requirements, recognizing the dangers that such publication creates for transgender individuals. For example, in New York, the publication requirement has been waived even though the transgender petitioner “did not, and hopefully could not, cite a personal experience of violence or crime against him based on his gender identity[.]” E.P.L., 891 N.Y.S.2d at 621. In doing so, the court recognized “evidence that the murder rate of the transgender[ population] was set to outpace that of all other hate killings.” Id. (citing Bob Moser, Disposable People, Southern Poverty Law Center Intelligence Report (2003)). Against this backdrop, the court found a “compelling argument as to why, at the age of twenty, [the petitioner] has a right to feel threatened for his personal safety in the event his transgender status is made public.” Id.

Indiana’s Court of Appeals has also waived publication, finding that transgender people, as a class, “face a significantly higher risk of violence, harassment, and homicide,” that “[p]ublication of [the applicant’s] birth name and new name would enable members of the general public to seek him out, placing him at a significant risk of harm[.]” and that “in today’s day and age, information that is published in a newspaper is likely to be published on the Internet, where it will remain in perpetuity, leaving [the applicant] at risk for the rest of his life.” In re A.L., 81 N.E.3d 283, 290-91 (Ind. Ct. App. 2017).

LeGaL strongly believes that elimination of the newspaper publication requirement will substantially and positively affect the safety and well-being of transgender name change applicants. We thus urge the Court to adopt the proposed amendments. Thank you again for the opportunity to comment.

Respectfully submitted,



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