

# **Gehrke: That birth certificate bill? It's a punitive swipe at Utah's transgender community and it must be rejected.**

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It reads like it's taken straight from "The Handmaid's Tale," the dystopian book-turned-television series where women are property with the sole purpose to breed.

It's Rep. Merrill Nelson's latest legislative offering, where he wants to draw a clear distinction that men are the delivery mechanism and women have "anatomical characteristics that appear to have the purpose of performing the natural reproductive function of providing eggs and receiving sperm from a male donor."

It's probably the closest we'll come to comprehensive sex education in Utah, but, as you may have noticed, Utahns have figured out the mechanics of procreation without it being written into law.

No, what the Grantsville Republican's bill is really about is taking a swipe at Utah's transgender community, as if it wasn't already disparaged and marginalized as it is.

Nelson is trying to prohibit transgender Utahns from being able to change their gender on their birth certificates, rolling back a practice that has been well-established in Utah for more than four decades. Since 1975, anyone who wants to have a gender changed on a birth certificate has gone to the courts and made the request to a judge and those judges have routinely granted it. More than 300 Utahns have received new birth certificates, according to Sen. Todd Weiler. In 2017 alone, there were 53 newly issued birth certificates.

And yet somehow the Republic has endured.

Weiler's bill didn't make it out of the Senate. This year he has reintroduced it and already won committee approval heading into the session. Nelson voted against it at the time and now is proposing a bill that would foreclose the option of making the change entirely.

Why? What problem is he trying to remedy? And how would his legislation improve the lives of Utahns? (Those, by the way, are good questions to ask of any piece of legislation as we head into the 45-day session next week).

Well, Nelson has said his view is that a birth certificate is a vital record and should not be changed. Yet he's not touching the process for changing a name on a birth certificate. And state officials have proven making the change is not a problem, because they've been doing it.

Right-wing advocates, like the Utah Eagle Forum, have (naturally) tried to stoke fear with dire warnings about what would happen if people are allowed to change their sex on their birth certificates: Men will become women to compete on women's sports teams, they argued.

And, of course, men will get it changed so they can go into your daughters' locker room showers or into the girls' bathrooms.

Hide the women! Hide the children!

Except this isn't about locker rooms and bathrooms and sports teams or any other hide-the-women-and-children fear-mongering. It's about changing a word on a birth certificate. And none of those things have been a problem in the 44 years that Utah has allowed the change.

Stripping any Utahn of that sort of right without a reasonable justification is purely punitive, targeting a group of Utahns that is already among the most marginalized and disparaged in our community.

It's unnecessary, mean-spirited and, oh, probably unconstitutional.

Federal judges have ruled that similarly restrictive laws in Idaho and Puerto Rico violated the Equal Protection clause of the U.S. Constitution, according to Marina Lowe, an attorney with the ACLU of Utah, who compares it to North Carolina's "bathroom bill" — which restricted what restrooms transgender people could use. Before the law was struck down, North Carolina saw its reputation pummeled.

"Passage of this vindictive bill would bring a dangerous national spotlight on our state, resulting in unnecessary economic losses, potential boycotts and inevitable lawsuits," she said.

But with no compelling reason to pass it, and plenty of reasons not to, Nelson's bill will wither on the vine, right? Maybe not.

That's because last fall, Dallin H. Oaks, first counselor in the governing First Presidency of The Church of Jesus Christ of Latter-day Saints, planted a clear flag on the church's stance on the issue of gender change: It cannot happen. In Oaks' words, "gender is eternal," and members should resist Satan's efforts to confuse the issue.

I'm not suggesting church leaders are behind this legislation — indications are that they are not, and Nelson was talking about sponsoring this bill since August. But Nelson — a member of the faith who happens to work for the law firm that represents the church — is now sponsoring a bill that would put Oaks' view into state law.

And, as my colleague Lee Davidson recently reported, 90 percent of the Legislature belongs to the faith. (For those who derided that story and questioned why a legislator's religion matters: This is why.)

This is an example of why it's so important that legislators hear from their constituents on a bill like this and others during the coming legislative session. It makes a difference. Because it would be a mistake to dismiss this as fringe quackery, and even more damaging for the Legislature to pass it.