Senate Judiciary Committee
**SB2199**
January 18, 2023

Chair Larson, Vice Chair Paulson and members of the Committee:

The ACLU champions transgender people's right to be themselves. We're fighting discrimination in employment, housing, and public places, including restrooms. We're working to make sure trans people get the health care they need and we're challenging obstacles to changing the gender marker on identification documents and obtaining legal name changes. We're fighting to protect the rights and safety of transgender people in prison, jail, and detention facilities as well as the right of trans and gender nonconforming students to be treated with respect at school. And, we're working to secure the rights of transgender parents.

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For these reasons the ACLU of North Dakota opposes SB2199.

By replacing eight words with 130 words changing the definition of gender in North Dakota Century Code, this bill serves no other purpose but to attempt to remove transgender citizens from existence through state sanctioned discrimination.

Article I, Section 1 of the North Dakota Constitution states that, "All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness..."

Transgender North Dakotans possess these rights enshrined in our state constitution. No citizen should be subject to government defining who they are as citizens and human beings.

Furthermore, citizens should not be subject to one understanding of gender in a society that values the free exchange of ideas and the expansion of understanding of the human experience. In our history, women, African Americans, and Native Americans were all at one time thought to be mentally, emotionally, and biologically inferior to white men and that was often reflected in law. Those judgements have changed with advances in biology, psychology, and sociology and laws have progressed to reflect that. This bill is a regression to enshrine a past status quo and put into law one definition in the midst of a time of growing and advancing understanding of gender.

In addition to entrenching discrimination across North Dakota Century Code, this would be unenforceable law. Gender identity is not something that can always be seen by outward appearance. The only way to enforce this law would be for every individual citizen to be subject to a DNA test and mandated to wearing a patch, insignia, or readily visible tattoo to confirm gender as permitted by law. In human history, this has been put into practice with shameful results.

This bill is vague, discriminatory, unenforceable and seeks to expunge transgender North Dakotans though legislation. SB 2199 cannot become law.

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