

IN THE SUPREME COURT OF OHIO

CASE NO. 2022-0934

**IN RE: APPLICATION FOR CORRECTION OF BIRTH RECORD OF
HAILEY EMMELINE ADELAIDE,
Appellant,**

**ON APPEAL FROM THE SECOND DISTRICT COURT OF APPEALS
CASE NO. 2022-CA-1**

**BRIEF OF *AMICI CURIAE*,
TRANSOHIO, INC., ACE AND ARO ALLIANCE OF CENTRAL OHIO, BCC
FULL SPECTRUM COMMUNITY OUTREACH, BGO PRIDE ASSOCIATION,
BLACK TRANSMEN OF OHIO, CLEVELAND BI+ NETWORK, COLUMBUS
TRANS PRIDE, CROSSPORT CINCY, EQUITAS HEALTH, GLSEN CENTRAL
OHIO, LOVEBOLDLY, MARGIE'S HOPE, META CENTER INC.,
ORGANIZING COMMUNITIES TRANSGENDER OUTREACH PROMOTING
UNITED SUPPORT ("OCTOPUS"), LLC, OUTSUPPORT, POSITIVE
PROGRESSIONS, TRANSGENDER ADVOCACY COUNCIL, TRANSALIVE,
TRANSCEND CANTON, TRANSFAMILY CLEVELAND, AND
TRANSGENDER MENTORSHIP OF CINCINNATI
IN SUPPORT OF APPELLANT, HAILEY EMMELINE ADELAIDE**

James C. Knapp, Esq. (#0089141)
TRANSOHIO, INC.
P.O. Box 442
Burton, Ohio 44021
james@transohio.org

Louis E. Grube, Esq. (#0091337)
[Counsel of Record]
Paul W. Flowers, Esq. (#0046625)
Melissa A. Ghrist, Esq. (#0096882)
FLOWERS & GRUBE
Terminal Tower, 40th Floor
50 Public Square
Cleveland, Ohio 44113
(216) 344-9393
leg@pwfco.com
pwf@pwfco.com
mag@pwfco.com

*Attorneys for Amici Curiae,
TransOhio, Inc., et al.*

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INTRODUCTION

This above all: to thine ownself be true, And it must follow, as
the night the day, Thou canst not then be false to any man.

The Tragedy of Hamlet, Prince of Denmark (William Shakespeare 1599-1601).

For what is a man, what has he got? If not himself then he has
naught.

My Way (Performed by Frank Sinatra, written by Paul Anka 1969).

I'm beautiful in my way 'cause God makes no mistakes. I'm
on the right track, baby, I was born this way.

Born This Way (Lady Gaga 2011).

STATEMENT OF INTEREST OF AMICI CURIAE

TransOhio, Inc. (“TransOhio”) is Ohio’s first and largest transgender-equality organization. Founded in 2005, TransOhio is dedicated to providing education, advocacy, support, and community to the Ohio greater transgender and ally communities. TransOhio’s vision is to serve as a bridge to other lesbian, gay, bisexual, trans, queer, related (“LGBTQ+”), and ally communities; to provide a focus for matters of concern to the Ohio transgender community and their allies by providing open, affirming, visible, and tangible support; to promote opportunities and networking that increase awareness about the transgender and gender-nonconforming community’s needs and concerns, such as discrimination and violence; to increase understanding and cultural awareness of the Ohio transgender community among the state’s lesbian, gay, bisexual, heterosexual, and ally communities; to help ensure that Ohio educational programs and services are inclusive and supportive of transgender issues, perspectives, and concerns; to provide social activities that are inclusive of all LGBTQ+ and ally communities, access to safe-spaces, people, forums for confidential discussion, support, and local and national

resource information; and to foster Ohio transgender community pride.

As Ohio's only state-wide transgender equality organization, TransOhio has an interest in the health, safety, and life experiences of the Ohio transgender individuals as well as the overall community. TransOhio receives messages regularly from community members and their parents asking for help with updating identity documents like birth records. In 2016, TransOhio founded the Ohio Name Change Legal Clinic, a partnership between Equitas Health, Equality Ohio, and several community groups and law firms, which helps transgender and non-binary people navigate the legal process of changing their names and correcting the sex designation on their various identity documents, including birth records. TransOhio submits this brief to urge this Court to rule in favor of Appellant, Hailey Emmeline Adelaide ("Adelaide"), who was denied this exact form of relief from the lower courts.

A number of other organizations join TransOhio in its efforts before this Court in support of Appellant Adelaide.

The Ace and Aro Alliance of Central Ohio is the state of Ohio's first organization to focus specifically on the asexual and aromantic community. Most of its board of directors self-identify as transgender.

BCC Full Spectrum Community Outreach Center was created with the focus of providing mental health services, support groups, community involvement, and eventually housing for the LGBTQIA+ community to ensure their health and standing in Youngstown and the surrounding area.

The BGO Pride Association is a nonprofit organization with the mission to increase visibility within the Bowling Green, Ohio, area for members and families of the LGBTQIA+ community through education, event planning, networking, and advocacy.

Black Transmen of Ohio is a group dedicated to providing mentorship, community service, resources, and assisting the fight for equal rights for the black transgender community, especially the Black Trans Masculine communities of Ohio.

Cleveland Bi+ Network is a social group with the mission to create a safe, inclusive, and supportive community that celebrates orientations and identities beyond the gay/straight binary.

Columbus Trans Pride is a community group comprised of transgender individuals living in Columbus, focused on creating safe and affirming transgender pride events in Central Ohio.

Crossport is a not-for-profit social support organization serving transgender individuals in the Greater Cincinnati and surrounding area, including partners, families, friends, and other allies.

Equitas Health is a federally designated community health center and one of the largest LGBTQ+ and HIV/AIDS serving healthcare organizations in the country. Each year, Equitas Health serves tens of thousands of patients in Ohio, Texas, Kentucky, and West Virginia, and has been working since 1984 to advance “care for all.” The mission of Equitas Health is to be the gateway to good health for those at risk of or affected by HIV; for the lesbian, gay, bisexual, transgender, and queer/questioning community; and for those seeking a welcoming healthcare home. In doing so, Equitas Health offers primary and specialized medical care, pharmacy services, dentistry, mental health and recovery services, HIV/STI prevention and treatment services, Ryan White HIV case management, overall care navigation, and a number of community health initiatives.

GLSEN Central Ohio is a grassroots initiative, working locally in its community to ensure safe schools for all students, regardless of sexual orientation and gender identity.

GLSEN Central Ohio is a chapter of GLSEN, a national organization fighting for every student's right to a safe, supportive education.

LOVEboldly is an affirming organization that exists to create and develop spaces where LGBTQIA+ people can flourish in Christianity.

Margie's Hope is a transgender-led group with the mission to provide resources and services to enrich the lives of transgender, non-binary, and gender expansive people in Northeast Ohio.

META Center Inc. is an Akron-based non-profit organization that creates regular programming for transgender and gender non-conforming youth ages 7–19.

Organizing Communities Transgender Outreach Promoting United Support ("OCTOPUS"), LLC is a state-wide resource group for transgender, nonbinary, and gender expansive people in Ohio, as well as a partner in the Ohio Name Change Legal Clinic.

OutSupport was founded by mothers looking for ways to support their children going through the challenges of being a part of the LGBTQ community in Medina, Ohio.

Positive Progressions is a transgender peer support group in Mansfield, Ohio, that includes three distinct groups: Youth Trans, Adult Trans, and Parents.

The Transgender Advocacy Council was formed to act as an umbrella organization supporting both individuals and new and long existing grassroots transgender support organizations in the greater Cincinnati region in the areas of policy advocacy, direct services, outreach to encourage culture change, community organizing, and other key strategies.

TransAlive is a facilitated peer support group for transgender individuals and their families, friends, and allies that meets monthly in Akron, Ohio.

TransCend Canton is a facilitated peer support group for transgender individuals

and their families, friends, and allies that meets monthly in Canton, Ohio.

TransFamily Cleveland is a facilitated peer support group for transgender individuals and their families, friends, and allies that meets monthly in Cleveland, Ohio.

And Transgender Mentorship of Cincinnati works to bring support and friendship to transgender people in the Greater Cincinnati, Ohio, area through a peer-mentorship program led and run by an increasingly diverse group of transgender and non-binary people in the region.

STATEMENT OF THE CASE AND FACTS

The *Amici* adopts and incorporates the Statement of the Case and Facts from the Merit Brief of Appellant Adelaide filed December 20, 2022.

Yet it bears significant emphasis that there is no factual dispute in this proceeding: Adelaide has always been a woman. *R. 2, Transcript of Proceedings, pp. 19-22, 24-25.* This was her reality since she first developed self-awareness about her sexual and gender identity as early as the age of four. *Judgment of the Clark County Court of Common Pleas, Probate Division, filed December 2, 2021 (“Probate Judgment”), pp. 1-2.* And the Clark County Probate Court expressed no doubt about any facet of this case except for the applicable law:

The Court does not question the sincerity of Ms. Adelaide’s motivations for desiring a change of the sex marker on her birth record. The sole question before this Court is whether or not this Court enjoys the statutory authority to permit it to order such a change.

Probate Judgment, pp. 1-2.

More broadly, from 2013–2018, TransOhio, community partners National Center for Transgender Equality (“NCTE”), ACLU of Ohio, Equality Ohio, and interested transgender individuals, met with representatives of the Ohio Department of Health (“ODH”)

approximately four times to discuss the agency’s policies on correcting both name and sex designation on Ohio-issued birth certificates. Over the course of those meetings, TransOhio provided transgender cultural-competency training, answered general questions about what it is like to live in Ohio as a transgender person, and explained why it is so important to have accurate identity documents, including birth certificates. NCTE and TransOhio also provided three to four model policies and urged ODH to make an administrative change to expressly allow nonbinary¹ Ohioans to correct their sex designation to reflect a sex other than “male” or “female”—“nonbinary,” “X,” and “U” were suggested— including policies from states that were already processing those requests.

At the 2016 meeting, TransOhio, ACLU of Ohio, and NCTE confirmed that ODH had unlawfully stopped processing out-of-state applications for correction of birth records for transgender applicants seeking to correct their sex designations from male to female or vice versa. After that point, TransOhio began seeking personal stories directly from transgender people born in Ohio, both living in Ohio and out of state, who were harmed by ODH’s refusal to issue them corrected birth certificates. In March 2018, ACLU of Ohio, along with ACLU, Lambda Legal, and Thompson Hine LLP commenced *Ray v. Himes*, S.D.Ohio No. 2:18-CV-272, 2019 WL 11791719 (Sept. 12, 2019), which resulted in ODH adopting a policy in 2020 that requires a probate court order to correct or “make changes to the sex marker” on an Ohio-issued birth certificate. ODH, *Changing or Correcting a Birth Record* (accessed Dec. 20, 2022).²

¹ A nonbinary person is one “who identifies with or expresses a gender identity that is neither entirely male nor entirely female.” See Merriam-Webster Dictionary, *Nonbinary*, <https://www.merriam-webster.com/dictionary/nonbinary> (accessed Dec. 20, 2022).

² Available online at: <https://odh.ohio.gov/know-our-programs/vital-statistics/Changing-Correcting-Birth-Record>

A number of probate courts, including in Stark County, began accepting and granting applications to correct birth record from transgender applicants seeking to correct their sex designation immediately, using the form to correct birth record provided by ODH,³ while some probate courts created their own forms, as in Cuyahoga County.⁴ In August 2021, this Court issued a new standard model probate court Form 30.0: Birth Certificate Correction,⁵ which expressly allows the probate courts of Ohio to correct sex (as a write-in option).

Probate Divisions in each of the 88 Courts of Common Pleas now await a ruling in this proceeding because of the determinative impact it will have upon many individual requests for relief under R.C. 3705.15. In each of Allen, Auglaize, Clark, Greene, Lake, Madison, Mahoning, Miami, Montgomery, Tuscarawas, and Washington Counties, the Probate Division of the Court of Common Pleas has explicitly declined to issue a birth-certificate correction until after a ruling in this case.

Just as in this instance, innumerable Ohioans now want or will in the future desire for their identifying documents to accurately reflect their lived gender reality, which was far from clear when medical professionals examined their bodies at birth. These individuals were understandably incapable at the time of their birth to advocate for their own personal identity. Yet for deep, existential reasons—as well as the mundanely bureaucratic need to avoid inconsistency between identifying government documents—Ohio-born individuals

³ODH, *VS – Birth Affidavit Form*, <https://odh.ohio.gov/know-our-programs/vital-statistics/resources/vs-birthaffidavit> (accessed Dec. 20, 2022).

⁴ Cuyahoga County Probate Court, *Probate Court Correction or Delayed Registration of Birth Forms*, <https://probate.cuyahogacounty.us/crobforms.aspx> (accessed Dec. 20, 2022).

⁵ Available online at: <https://www.supremecourt.ohio.gov/forms/all-forms/probate/5>.

need what Adelaide has asked for. *E.g.*, News 5 Cleveland, *Birth certificate gender changes for trans Ohioans are at discretion of judges in each county* (accessed Dec. 15, 2022).⁶

ARGUMENT

On October 11, 2022, this Court accepted three propositions of law for review:

Proposition of Law No. 1: The plain language of R.C. 3705.15 does not preclude probate courts from hearing a transgender person’s application to correct the sex-marker of her birth certificate.

* * *

Proposition of Law No. 2: Even if R.C. 3705.15 were ambiguous, the statute should be construed to avoid the unappealed constitutional injuries found in *Ray II*, which have prompted the relevant state agencies and a number of courts (including the Ohio Supreme Court) to adopt implementing guidance.

* * *

Proposition of Law No. 3: A state court should give persuasive weight to a federal court’s conclusion that a specific application of a state statute violates the U.S. Constitution when all relevant data points support the federal court’s decision and the state agencies charged with implementing the law acquiesce to the ruling.

Memorandum in Support of Jurisdiction of Appellant Hailey Emmeline Adelaide filed

August 1, 2022, pp. 9, 12, 14; 10/11/2022 Case Announcements, 2022-Ohio-3546, p. 1.

Under any or all of these legal propositions, this Court should ultimately hold that R.C. 3705.15 permits correction of any inaccuracy found on a birth certificate, even if it is wrong with respect to a person’s sex.

⁶ Available online at:
<https://www.news5cleveland.com/news/politics/ohio-politics/birth-certificate-gender-changes-for-trans-ohioans-are-at-discretion-of-judges-in-each-county>

I. ENFORCING THE PLAIN TEXT OF THE STATUTE

This Court applies the law as it is written based upon its plain text. *E.g.*, *Willow Grove, Ltd. v. Olmsted Twp. Bd. of Zoning Appeals*, ___ Ohio St.3d ___, 2022-Ohio-4364, ___ N.E.3d ___, ¶ 18. But because the lower courts did not do that, this Court should correct the course of the law.

R.C. 3705.15 first defines when and where a person may seek to alter the facts stated on their birth certificate within a Probate Court proceeding:

Whoever claims to have been born in this state, and whose registration of birth is not recorded, or has been lost or destroyed, or has not been properly and accurately recorded, may file an application for registration of birth or correction of the birth record in the probate court of the county of the person's birth or residence or the county in which the person's mother resided at the time of the person's birth.

Then, R.C. 3705.15(A) directs what a Probate Court must do with the application:

The probate judge, if satisfied that the facts are as stated, shall make an order correcting the birth record[.]

The plain text of these provisions directs probate judges to engage in a ministerial task: check the facts on a birth certificate against reality and correct them if they have not been accurately recorded.

In this case, there were no doubts in the trial court that Appellant Adelaide is and always has been a woman rather than a man. *Probate Judgment*, pp. 1-2. And in that way, much like for many Ohioans, her sex was not accurately recorded. Rather, under the guise of statutory analysis, the lower courts bent the law to find a way out of correcting the facts. In any case, Adelaide provided the evidence required by the probate court to establish that her birth record is incorrect, and the court chose to ignore it simply because the item she sought to correct on her birth record was the sex designation.

First, the Clark County Probate Court noted that “several probate courts around the State of Ohio” had “ruled that they do not enjoy the statutory authority to permit an order from their respective courts changing the sex marker on birth certificates.” *Probate Judgment*, p. 2. It then observed that “while nothing in the Code in fact ‘prohibits’ using 3705.15 to change the sex marker on a birth certificate, likewise, nothing in said statute specifically grants the probate court authority to order such a change.” *Id.*, pp. 3-4. The statutory analysis—and this whole case—should have ended there. If nothing in the statute specifically prohibits a change to the sex noted on a birth certificate, then the general rule authorizing a probate court to make a change to the facts on a birth certificate should apply equally with respect to the fact of a person’s sex. As Supreme Court Associate Justice Neil Gorsuch explained in the federal context:

Nor is there any such thing as a “canon of donut holes,” in which Congress’s failure to speak directly to a specific case that falls within a more general statutory rule creates a tacit exception. Instead, when Congress chooses not to include any exceptions to a broad rule, courts apply the broad rule.

Bostock v. Clayton Cty., Georgia, ___ U.S. ___, 140 S.Ct. 1731, 1747, 207 L.Ed.2d 218 (2020); *A.M. by E.M. v. Indianapolis Pub. Schools*, S.D.Ind. No. 1:22-cv-01075, 2022 WL 2951430, *9-11 (July 26, 2022) (applying the “donut holes” rule in the context of a claim for Title IX discrimination on the basis of gender non-conformity). In the same way, this Court has consistently held that an “express exception” not found in the text of a statute is *not in the statute*. See *Wilson v. Durrani*, 164 Ohio St.3d 419, 2020-Ohio-6827, 173 N.E.3d 448, ¶ 29-30.

Further, the existence of an exception for “an application to correct the date of birth,” which is permitted only “if any date shown as the date the attending physician or certified nurse-midwife signed the birth record or the date the local registrar filed the

record is consistent with the corrected date of birth,” demonstrates that the General Assembly did not intend to make any exceptions to the general rule with respect to sex. After all, the “ ‘General Assembly’s use of particular language to modify one part of a statute but not another part demonstrates that the General Assembly knows how to make that modification and has chosen not to make that modification in the latter part of the statute.’ ” *Wilson* at ¶ 30, quoting *Hulsmeyer v. Hospice of Southwest Ohio, Inc.*, 142 Ohio St.3d 236, 2014-Ohio-5511, 29 N.E.3d 903, ¶ 26.

In reality, it appears that the Probate Court thought that sex deserves different treatment than any other data on a birth certificate due to his own personal experiences and world view. In rejecting Appellant Adelaide’s argument that the tense used by the General Assembly permits correction of facts even if it becomes apparent later on that they are incorrect, the historical myth of binary gender was given greater weight than the undisputed facts:

The Petitioner speaks of medical advances. And the Court believes that there will be much learned over the course of the next fifty years with respect to the matter of gender identity. But this Court is reluctant to embrace any “science” that prevents a doctor who delivers a new baby into this world from advising the birth parents that the baby is a “boy” or a “girl”.

Probate Judgment, p. 5, fn. 2. But given the legislature’s decision not to say anything about sex in the text of the statute, it can hardly be doubted that the judiciary should leave these sorts of concerns out of the statutory analysis.

The Probate Court’s interpretive misadventures pale in comparison to the analytical accidents of the Second District Court of Appeals. Ironically citing *Jacobson v. Kaforey*, 149 Ohio St.3d 398, 2016-Ohio-8434, 75 N.E.3d 203, ¶ 8, for the proposition that courts should not go beyond the plain text of a statute, the Second District panel

rejected Appellant Adelaide’s arguments based upon anachronistic authority that did just that. *In re Application for Correction of Birth Record of Adelaide*, 2022-Ohio-2053, 191 N.E.3d 530, ¶ 14-18 (2d Dist.) In *Jacobson*, this Court rejected an unbroken line of earlier authority issued by lower courts because it had failed to enforce the plain text of R.C. 2307.60. *Jacobson*, 149 Ohio St.3d 398, 2016-Ohio-8434, 75 N.E.3d 203, at ¶ 53-65 (Kennedy, J., concurring in judgment only); *Id.* at ¶ 10-12. Yet the Second District Court of Appeals relied upon *In re Ladrach*, 32 Ohio Misc.2d 6, 513 N.E.2d 828 (P.C.1987), in which the Stark County Probate Court sought to avoid the possible consequence of state-supported gay marriage—a patently non-textual consideration. Further, the lower court relied upon *In re Maxey*, 8th Dist. Cuyahoga No. 34558, 1976 WL 190807, *1 (Feb. 5, 1976), where the applicant’s reliance on the correction statute was “clearly misplaced because the appellant was neither born in this state nor was appellant’s registration of birth recorded in this state.” There had thus been no need to answer whether the statute permitted or prohibited a change for any other reason.

When the Second District finally got to the text of R.C. 3705.15, it invented a distinction without a difference in this and any similar case:

R.C. 3705.15 is a “correction” statute, which permits the probate court, when presented with appropriate documentation, to correct errors made at the time of recordation. *In re Ladrach*, 32 Ohio Misc.2d at 8, 513 N.E.2d 828 (applying former R.C. 3705.20 amended and renumbered as R.C. 3705.15); *In re J.A.M.V.*, 7th Dist. Harrison No. 12 HA 3, 2013-Ohio-2502, 2013 WL 3089546 (noting that R.C. 3705.15 is only permitted to correct spelling or clerical errors on the birth certificate, not to unilaterally change the spelling of the child’s name later). The statute, by its express terms, permits making corrections, not amendments. Adelaide’s application essentially asked the probate court to amend her birth certificate, not to correct it. But the probate court had no authority under R.C. 3705.15 to make that amendment and could not grant Adelaide’s request.

Adelaide, 2022-Ohio-2053, 191 N.E.3d 530, at ¶ 17. Even if the words “correct” and “amend” were not synonymous—they are—there is no difference between an amendment or a correction to person’s sex when there is no reason to believe it has ever changed. Nothing in the record in this case suggests that Adelaide was ever a man, so it would have been both an amendment and a correction if the Probate Court had granted the requested relief. Without assuming some differing initial base state, the appellate court’s only textual observations fall totally flat.

II. THE LOWER COURTS’ DISPARATE TREATMENT OF SEX AND OTHER DETAILS ON A BIRTH CERTIFICATE

R.C. 3705.15 broadly permits “correction of the birth record.” And with only one stated exception—the applicant’s birthdate—this rule applies without respect to which detail “has not been properly and accurately recorded.” *R.C. 3705.15*. So, the rule should apply the same way in any case, permitting a change to any and all of the different facts found on a birth certificate other than a birthdate. This Court’s model form, Form 30.0: Birth Certificate Correction, certainly managed to capture that any field on the birth certificate is subject to correction. Yet it is not hard to imagine by analogy that the same sort of logic used by the lower courts could be applied to thwart obviously permissible corrections to the other facts stated on a birth certificate.

Imagine that a young woman gives birth and declines to provide a father’s name. The birth certificate is left blank. As an adult, the child finds their father using a genetic database and wishes to have the blank space corrected for sentimental reasons. An application is submitted under R.C. 3705.15 and supported by affidavits from the father and a geneticist. There is no dispute about the facts, yet the probate court questions its authority to make an amendment to the record since the applicant just met their father and started a parental

relationship. The court observes that while nothing in the code in fact prohibits using R.C. 3705.15 to change the name of a parent on a birth certificate, likewise, nothing in said statute specifically grants authority to order such a change. Criticizing the medical advances that have more recently permitted people to find their genetic family, the probate judge reflects on his experience that a father is the man in the room when a child is born and who raises the child. And the application is denied. On review, the appellate court does not question the probate court's rejection of the science of genetics and affirms, quoting *Adelaide*, 2022-Ohio-2053, 191 N.E.3d 530, at ¶ 17, because the statute "permits making corrections, not amendments."

Or imagine a young couple who were happy to welcome an intersex child into the world, whose body expressed both male and female traits at the time of birth. The nurse in the room made their best guess as to the infant's sex and marked down one of the binary genders on the birth certificate. Years down the road, when the child began to develop and express a gender identity, the family discovered that the birth certificate had never been correct. An application to correct the binary gender listed on the birth certificate is submitted under R.C. 3705.15 and supported by affidavits from both parents. Nobody offers evidence that the child had ever truly been the binary sex marked down on the birth certificate. The probate court observes that while nothing in the code in fact prohibits using R.C. 3705.15 to change the birth certificate to reflect an intersex gender, likewise, nothing in the statute specifically grants authority to order such a change. Criticizing the parents for their new-age parenting, the probate judge reflects that in his experience, babies are always born as either a boy or a girl. On that basis, the application is denied. On review, the appellate court accepts the probate court's rejection of the existence of intersex gender, quoting *Adelaide*, 2022-Ohio-2053, 191 N.E.3d 530, at ¶ 17, because the statute "permits

making corrections, not amendments.”

Each of these examples are absurd. But none of them are any different than what happened to appellant Adelaide in the courts below. While nobody has ever expressed doubts about the sincerity of the medical professionals who delivered Adelaide, their physical examination at birth failed to discern the true fact of her sex. And just as in the foregoing examples, clarity as to the facts at the time of birth came later. Under such circumstances, a correction is warranted under the plain text of R.C. 3705.15.

III. THE ROLE OF FUNDAMENTAL LAW IN A PLAIN-TEXT ANALYSIS

Finally, it is important to point out that this Court does not need to find any ambiguity in the text of R.C. 3705.15 to reject alternative, unconstitutional readings of the statute. Because it would have been unconstitutional for the General Assembly to deny Appellant Adelaide and those in her same situation a correction to the sex listed on her birth certificate, as she has forcefully argued at every phase, the statute must be read as unambiguously permitting this relief.

It is beyond question that “a court must first look to the language of the statute itself to determine the legislative intent.” *Provident Bank v. Wood*, 36 Ohio St.2d 101, 105, 304 N.E.2d 378 (1973). But the General Assembly has given explicit directions with regard to its intentions:

In enacting a statute, it is presumed that:

- (A) Compliance with the constitutions of the state and of the United States is intended;
- (B) The entire statute is intended to be effective;
- (C) A just and reasonable result is intended;
- (D) A result feasible of execution is intended.

R.C. 1.47. This Court has regularly accounted for many of these factors within a plain-text analysis. As R.C. 1.47(B) directs, a court “may not add or delete words” when reading the “plain language” of a statute. *State v. Hughes*, 86 Ohio St.3d 424, 427, 715 N.E.2d 540 (1999). And a “court must give effect to all of the statute’s words.” *Buddenberg v. Weisdack*, 161 Ohio St.3d 160, 2020-Ohio-3832, 161 N.E.3d 603, ¶ 10. Likewise, feasible, just, and reasonable results have been accounted for when reading the plain text of a statute. *State v. Wilson*, ___ Ohio St.3d ___, 2022-Ohio-3202, ___ N.E.3d ___, ¶ 15-16; *State ex rel. Cooper v. Savord*, 153 Ohio St. 367, 92 N.E.2d 390 (1950), paragraph one of the syllabus; *Piazza v. Cuyahoga Cty.*, 157 Ohio St.3d 497, 2019-Ohio-2499, 138 N.E.3d 1108, ¶ 29-31; accord *State ex rel. Clay v. Cuyahoga Cty. Med. Examiner’s Office*, 152 Ohio St.3d 163, 2017-Ohio-8714, 94 N.E.3d 498, ¶ 26 (“all courts should exercise restraint in the application of the absurd-result exception, employing it in only those cases in which the plain language of a statute results in an obviously unintended result”). Given that the General Assembly has placed potential constitutional problems on the same footing as these other interpretive considerations, so should this Court.

It would thus be reasonable for this Court to reject any concerns about ambiguity and accept Appellant Adelaide’s view of the meaning of R.C. 3705.15 after recognizing that any other reading of the statute would render it unconstitutional.

CONCLUSION

For all the foregoing reasons, this Court should hold that R.C. 3705.15 permits correction of any inaccuracy found on a birth certificate, even a person's sex.

Respectfully Submitted,

/s/ James C. Knapp

James C. Knapp, Esq. (#0089141)

TRANSOHIO, INC.

*Attorneys for Amici Curiae,
TransOhio, Inc., et al.*

/s/ Louis E. Grube

Louis E. Grube, Esq. (#0091337)

Paul W. Flowers, Esq. (#0046625)

Melissa A. Ghrist, Esq. (#0096882)

FLOWERS & GRUBE

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **Amicus Brief** has been served by e-mail on

December 20, 2022, upon:

Maya Simek, Esq.
EQUALITY OHIO LEGAL CLINIC
2121 Euclid Ave., LB 138
Cleveland, Ohio 44115
maya@equalityohio.org

Chad M. Eggspuehler, Esq.
TUCKER ELLIS LLP
950 Main Avenue, Suite 1100
Cleveland, Ohio 44113
chad.eggspuehler@tuckerellis.com

*Attorneys for Appellant,
Hailey Emmeline Adelaide*

Z Gabriel Arkles, Esq.
**TRANSGENDER LEGAL DEFENSE AND
EDUCATION FUND, INC.**
520 8th Avenue, Suite 2204
New York, New York 10018
garkles@transgenderlegal.org

C. Benjamin Cooper, Esq.
COOPER & ELLIOTT, LLC
305 West Nationwide Boulevard
Columbus, Ohio 43215
benc@cooperelliott.com

*Attorneys for Amici Curiae,
Transgender Legal Defense and
Education Fund, Black and Pink
National, and National Queer Asian
and Pacific Islander Alliance*

/s/ Louis E. Grube
Louis E. Grube, Esq. (#0091337)
FLOWERS & GRUBE

*Attorney for Amici Curiae,
TransOhio, Inc., et al.*