

***A Know Your
Rights
Guide for
Transgender
People
Navigating
COVID-19***

**YOU HAVE THE RIGHT TO RECEIVE
CARE AND ACCESS SERVICES
DURING THE COVID-19 OUTBREAK.**

DISCRIMINATION IS ILLEGAL.

The COVID-19 outbreak is an unprecedented public health crisis impacting everyone living in the United States and throughout the world. In times of crisis, trans and nonbinary people and other vulnerable communities are often at higher risk of violence and discrimination.

The following guide has been prepared to ensure trans and nonbinary people are aware of their legal rights and can make informed decisions about their safety, health, and well-being as the situation continues to evolve.

This guide provides information, but not legal advice. We recommend you consult a lawyer if you are considering legal action. This guide is accurate as of March 22, 2020, but conditions may have since changed.

KEY POINTS



If you feel sick, it's important to contact your medical provider or a state health department hotline. Make sure to call ahead or use an app to make an appointment to prevent any unnecessary exposure. Trans and nonbinary people often avoid obtaining medical treatment because they fear harassment or discrimination, which is still all too common. But everyone has a right to care, and it's vital that trans and nonbinary communities do not avoid testing and treatment even in the face of potential misgendering and discrimination.

Know your rights. Medical providers and facilities cannot discriminate against you because you are transgender or nonbinary. Federal law – including the *Affordable Care Act* and the *Americans with Disabilities Act* – prohibits transgender and nonbinary discrimination in virtually all health care settings, and your state, county, or city may also have laws that protect you.

- You have the right to be addressed by the name and pronoun that you use.
- You have the right to be housed and to use facilities, like bathrooms, consistent with who you are.
- Providers cannot refuse to treat you because you are trans or nonbinary.

KEY POINTS

Ask for help if you need it. Government offices and authorities, including health departments, public benefits offices, social service agencies, emergency shelters, and police and law enforcement are all legally obligated to assist you as they would any other person. They are prohibited from discriminating against you. As a precaution, you may be required to have your temperature taken (generally, on your forehead) before you enter a health care facility or government building. If you have a fever, or if you decline to have your temperature taken, you will likely not be allowed in, and be urged to seek medical care. However, you cannot be penalized for having a fever or declining to have your temperature taken.

If you experience discrimination, it's important to report it. See below for more information on how and where to report incidents. Advocating for yourself may not only help address your problem, but also prevent future discrimination against others.

COMMON QUESTIONS & ANSWERS



Can my provider delay my transition-related surgery?

Yes. The state is experiencing an extraordinary public health crisis forcing medical providers to make critical decisions that do not overwhelm our health care system. Hospitals are postponing all non-emergency surgeries, so that they can treat patients who require emergency care for COVID-19. Each surgery is evaluated on a case-by-case basis, so make sure to communicate with your surgeon about whether your surgery will be postponed. While it can be extremely difficult to wait, remember it is postponed, **not** cancelled, and you will still get your surgery at a time when you are not placing your health and others at risk from COVID-19. If this delay increases your gender dysphoria, please consult the appendix with resources that may be helpful for you.

What about obtaining my name change?

If you're changing your name, there may be some delay as courts close for "non-essential" business. If you have a lawyer, ask them their plan for addressing any delays due to court closure. If you don't have a lawyer, check the home page of your court. You can usually find it by conducting a simple Internet search. Use the search terms: "*(insert name of your county) + county court.*" It should indicate whether court is closed. If your court is closed, check back every week for updated information. Please note: changing your gender marker is different from changing your name, and is usually not done through the courts, but rather through government agencies like the DMV. There may be different delays at different government agencies, so make sure to consult their websites for further information.

COMMON QUESTIONS & ANSWERS

Can I lose my home?

For now, most likely not. If you rent from or pay your mortgage to the federal government, then through late May 2020 you cannot be evicted. Evictions and foreclosures by other landlords or lenders across the country have also been temporarily prohibited in many states during this emergency. Many courts are also closed and not processing any foreclosures and evictions. Check your court's website or consult your local legal aid society for further information about your area.

Can I get or keep emergency shelter?

If you need emergency shelter, contact your state or city department of homeless services. If you do not have shelter, you cannot be arrested or fined for being homeless, even if your city or state issues a "shelter in place" order, which requires most people to remain in their homes except for basic needs such as buying food and receiving medical care. Although laws prohibiting discrimination in emergency shelter are not always clear, many states and cities do prohibit discrimination against transgender and nonbinary people in emergency shelters.

What if I'm laid off from work?

If you are laid off from your job, file for unemployment benefits. Your state or locality may have a human rights commission or similar body where you can file a charge. If not, you can file a charge of discrimination with the U.S. Equal Employment Opportunity Commission.

COMMON QUESTIONS & ANSWERS

Can I take time off from work?

If you work for an employer with between 50 and 500 employees, the federal *Family First Coronavirus Response Act* allows you to take two weeks off if you have COVID-19, if you have been ordered to stay home, or if your child's school has been closed. Most other employees have a right to unpaid leave only under the federal *Family and Medical Leave Act*, but state and local law may provide additional rights for sick leave. You can learn more about these on the website of your state or county health department. You cannot be fired or demoted for taking leave that you have a right to take.

Can I receive or keep unemployment insurance, SNAP, disability, or other types of public assistance?

Yes, if you qualify. Eligibility for these safety net programs have not been changed by the COVID-19 crisis, except that if your child is eligible for school lunch assistance, and their school has closed, you may be able to receive assistance through SNAP, instead. You may be unable to apply for public assistance in person because government offices might be closed to the public, but you can still apply online or by phone. These government programs cannot discriminate against you because you are transgender or nonbinary.

Am I at risk for COVID-19 if I get arrested?

Yes. Many states, counties, and cities have stopped booking people they arrest for either non-violent or minor crimes, to keep jail cells and police stations less crowded. Instead, people are given tickets and required to return to court at a later date. However, this is not a dismissal of the charge. If you receive a ticket and do not go to court on your assigned date, you can be arrested and prosecuted for that, as well as the original crime. If you are arrested, you have a legal right to be processed and housed according to your gender identity. This will help to keep you safer from physical or sexual violence. You also have the right to receive medical treatment if you are detained and feel sick.

WHAT TO DO IF YOU EXPERIENCE DISCRIMINATION



1. **Advocate for yourself.** Calmly, but firmly tell the person who is discriminating against you that it is both wrong and unlawful for them to misgender you, use the wrong name, or treat you differently because of who you are.
2. **Report each incident to the appropriate staff.** If necessary, ask to speak to a supervisor.
3. **Take notes.** Document the date, time, place, what happened, and who was present.
4. **Obtain names** of perpetrators and witnesses (including contact information), if possible.
5. If the discrimination is documented in writing in any way (i.e., letters, e-mails, etc.), be sure to **obtain and save a copy**.
6. **File a complaint.** If you have experienced discrimination because you are trans or nonbinary from a medical provider or facility, a government or law enforcement official, or an employer, you can file a discrimination complaint for investigation.

WHERE TO FILE A COMPLAINT



Each agency below enforces a different law or policy, so you can file with multiple agencies. If you are considering filing a lawsuit, consult with an attorney before filing a complaint.

1) **Hospital or medical facility.** Often medical facilities maintain a “patient advocate,” “patient navigator,” or ombudsperson who is charged with receiving and investigating complaints. Their contact information can be found by visiting the hospital’s website or contacting the hospital and asking how to file a complaint. You can also file a complaint with the [Joint Commission](#), an association that accredits hospitals and prohibits discrimination against transgender and nonbinary people. 1-800-994-6610.

2) **Doctors, nurses, and other health professionals.** You can file a complaint with your state’s licensing board. Conduct an Internet search by using the following keywords: “*doctor complaint (insert your state)*,” “*nurse complaint (insert your state)*,” or “*physician assistant complaint (insert your state)*,” to find the proper complaint form for where you live.

WHERE TO FILE A COMPLAINT

3) **Federal Government.** The U.S. Health and Human Services Department's [Office for Civil Rights](#) oversees discrimination complaints against most health care providers and facilities. You have **180 days** from the incident to file a complaint.

4) **HIPAA complaints.** If your trans status or other private health information has been improperly shared by a medical provider or insurance company, you can file a complaint with the U.S. Department of Health and Human Services' [Office for Civil Rights](#).

5) **State and Local Non-Discrimination Laws.** State and local non-discrimination laws prohibit discrimination against transgender and nonbinary people in many circumstances, including employment, housing, healthcare, and public accommodations among others. To check your state's non-discrimination laws, consult the [Equality Tracker](#) maintained by the Equality Federation. You may be able to file a complaint with your state's non-discrimination enforcement agency or Attorney General's office. **There are deadlines to file such complaints**, so make sure to contact your local agency for more information. To locate your state agency, consult this listing provided by [FindLaw](#).

NATIONAL APPENDIX



Advocacy & Organizing

Transgender Law Center: <https://transgenderlawcenter.org/>

National Center for Transgender Equality: <https://transequality.org/>

National LGBTQ Task Force: <https://www.thetaskforce.org/>

Legal Advocacy

Transgender Legal Defense & Education Fund (TLDEF): <http://transgenderlegal.org/>

American Civil Liberties Union (ACLU): <https://www.aclu.org/>

GLBTQ Legal Advocates & Defenders (GLAD): <http://www.glad.org/>

Lambda Legal: <https://www.lambdalegal.org/>

National Center for Lesbian Rights (NCLR): <http://www.nclrights.org/>

National Lawyers Guild: <https://www.nlg.org/>

Community Centers

CenterLink: The Community of LGBT Centers: <https://www.lgbtcenters.org/>

Elders

Services & Advocacy for Gay, Lesbian, Bisexual & Transgender Elders (SAGE):

<https://www.sageusa.org/>

Immigration

Immigration Equality: <https://www.immigrationequality.org/>

National Immigration Law Center: <https://www.nilc.org/>

General Health

Health Professionals Advancing LGBT Equality (GLMA): <http://www.glma.org/>

Lighthouse LGBT-Affirming Health and Wellness Network: <https://www.lighthouse.lgbt/>

My Trans Health: <https://mytranshealth.com/>

Mental Health

Trans Lifeline 877-565-8860; <https://www.translifeline.org/>

The Gay, Lesbian Bisexual and Transgender National Hotline: (888) 843-4564;

<http://www.glbtnationalhelpcenter.org/>

National Suicide Prevention Lifeline: (800) 273-8255; <https://suicidepreventionlifeline.org/>

The Trevor Project: (866) 488-7386; <https://www.thetrevorproject.org/>



520 Eighth Avenue, Suite 2204
New York, NY 10018
646.862.9396
transgenderlegal.org

Photo Credits: The Gender Spectrum Collection