

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



Please note that this Guide has not been updated since March 18, 2020. Many of the government programs mentioned in it have ended. TLDEF will update this Guide if there is additional legislation to address the pandemic.

**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 **May 18, 2020**, but conditions may have since changed.*

This Guide is dedicated to the memory of Lorena Borjas.

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. Testing for COVID-19 is free. 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

Stay safe when seeking healthcare. In order to allow social distancing and limit the spread of COVID-19, federal laws have changed to allow most healthcare providers to switch to telehealth (visits by video, such as Zoom, Facebook Messenger, or FaceTime) when possible. Additionally, some providers are now allowed to prescribe medication, such as hormone replacement therapy, for longer periods of time, reducing the need for an in-person visit. Talk to your healthcare provider and pharmacist.

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.

KEY POINTS

Involve a friend or trusted family member, if possible. Many transgender patients have found it helpful to bring a friend or trusted family member with them when seeking healthcare. This is generally allowed. However, some hospitals have restricted entrance to non-patients to stop the spread of COVID-19. You have a right to ask about the hospital's visitor policy, and if you cannot bring someone to accompany you, the hospital should allow you to keep in touch with that person on your phone, including by video. Consider bringing headphones to help you hear and to limit disruption of other patients' care. You also have a right to name another person as your health care proxy, which is a person who makes decisions about your healthcare if you become too sick to do so; and to direct what forms of care you consent to or, or refuse to ("an advance directive"); and to direct what should happen in the event of your death. To learn more, visit the National Resource Center on LGBT Aging and Whitman-Walker Health's "[Creating End-of-Life Documents for Trans Individuals: An Advocate's Guide.](#)"

If you or your family are not insured, if you have lost your insurance because you have lost your job, you may be able to sign up for Medicaid (free public insurance for children or for adults with very low incomes), or obtain low cost insurance, on your state's health insurance marketplace. Additionally, some states have added a special, limited-duration open enrollment period allowing people to sign up for health insurance for any reason due to the pandemic. You can find your state's marketplace at [Healthcare.gov](#). Employers are also allowed to add a special, limited-duration open enrollment period that allows people to sign up for health insurance for any reason due to the pandemic. You can ask your employer to do this if you need insurance.

KEY POINTS

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 country is experiencing an extraordinary public health crisis forcing medical providers to make critical decisions that do not overwhelm our health care system. Some hospitals have postponed non-emergency surgeries, so that they can treat patients who require emergency care for COVID-19. As localities begin to re-open, some hospitals are now rescheduling postponed surgeries. It's important to communicate with your surgeon about the status of your scheduled surgery date. Each surgery is evaluated on a case-by-case basis. 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. If you already changed your name but cannot update your ID, and you experience problems updating your voting registration, requesting to vote by mail (in states where this is allowed), or receiving unemployment or other government benefits, you can contact us at info@transgenderlegal.org.

COMMON QUESTIONS & ANSWERS

Will changing my name or gender affect my stimulus payout?

The first round of stimulus payouts started to be sent out by direct deposit or mail in April 2020. Payouts are to be sent to every adult with a valid social security number who meets the income qualification, except for most people married to an immigrant without a valid social security number and who filed taxes jointly with their spouse. This illegal discrimination against Americans married to certain immigrants is the subject of ongoing lawsuits. If you filed a tax return for tax year 2018 or 2019, or did not file a tax return but are receiving Social Security payments, then the stimulus payment will be sent to the bank account or address used on your most recent tax filing or social security statement; however, the Social Security Administration has said you will still need to file a tax return in order to receive any payments for your children. It does not matter if you have changed your name or gender marker, because your Social Security number will not have changed. For individuals earning up to \$75,000, or married couples earning a combined income of \$150,000, stimulus payments will be \$1,200 per adult and \$500 per child; for incomes above these amounts, payments will generally be reduced. [Visit the IRS website](#) for more information.

Can I lose my home?

For now, most likely not. If you are a renter, and your landlord has a federally-backed mortgage (many landlords do), or you rent directly from a federal agency, you cannot be evicted through late-July 2020. If you are a homeowner, and your mortgage is federally-backed (this is most mortgages—check with your lender), you cannot be foreclosed on through June 2020, and you can suspend your mortgage payments for up to six months if you have financial hardship. However, you will need to make up those payments, so talk with your lender first about a repayment schedule. Many states and localities have enacted additional protections to stop evictions and foreclosures and suspend mortgage payments. Additionally, many courts are also closed and not processing any foreclosures and evictions. Check your local 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.

COMMON QUESTIONS & ANSWERS

What if I lose my work?

If you lose your work, file for unemployment benefits. These have been expanded in several ways by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, and now include self-employed, part-time, and gig (app) workers, and people who previously exhausted their unemployment benefits. Additionally, if you have to quit your job for various reasons related to the epidemic (for example, you are sick or quarantined, or caring for a family member who is, or for a child whose school has closed) you are eligible for unemployment benefits under the *CARES Act*. Because state governments have been overwhelmed by the large number of applications for unemployment benefits, you may have to try for several weeks in order to successfully submit an application. Keep trying and do not give up. If you are found eligible, you will receive all benefits owed to you. Please note that after you file your initial claim, you must claim weekly benefits each week you continue to be unemployed.

If you believe you were let go because you are transgender or nonbinary, 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.

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 only to unpaid sick leave or leave to care for a sick family member 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.

If your state or locality is "reopening," your employer may require you to return to work. If you do not, and your employer terminates you for that reason, you will not be eligible for unemployment benefits. However, if you were laid off, and your former employer reopens, you will not lose your unemployment benefits if you choose not to accept a position with your former employer.

COMMON QUESTIONS & ANSWERS

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.

Can I defer my student loan?

Yes, if your loan is a federal loan (most are—check with your loan servicer). Federal student loan payments are suspended through the end of September 2020.

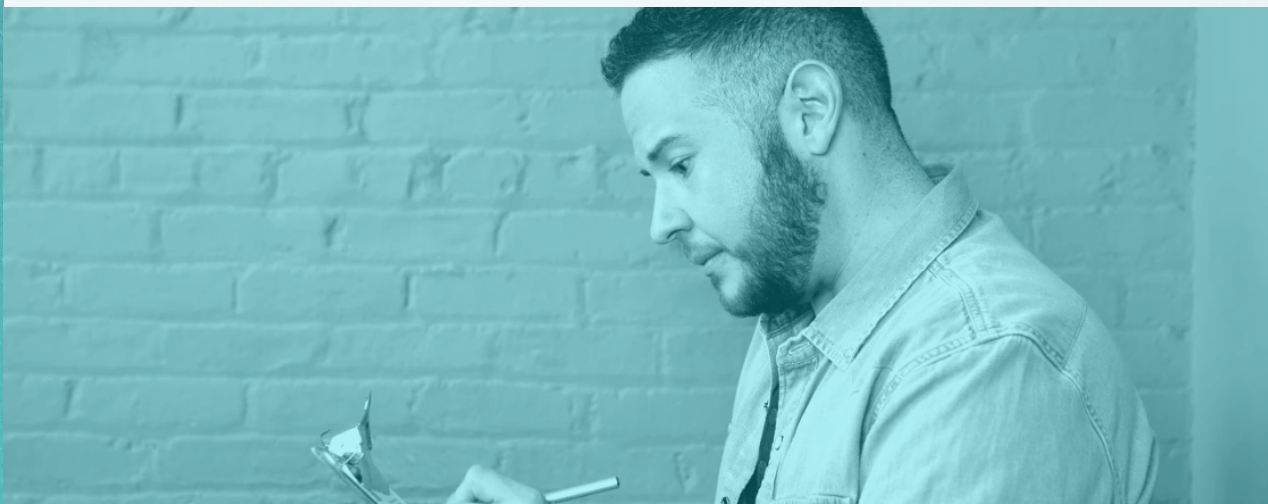
Can I vote by mail?

Many states care about protecting voters' and poll workers' health, and so have expanded access to voting by mail. You can find more information on the website of your state's election office, which you can look up [here](#).

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/>

Supporting Victims of Domestic Violence

National Network to End Domestic Violence (NNEDV): <https://nnedv.org/>

National Domestic Violence Hotline: 1-800-799-7233; text LOVEIS to 22522;

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

NATIONAL APPENDIX

Immigration

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

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

Disability Rights

Disability Rights Education & Defense Fund (DREDF): <https://dredf.org/>

#NoBodyIsDisposable: <https://nobodyisdisposable.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/>



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