



Transgender Law Center

Making Authentic Lives Possible

ADVOCATING FOR YOURSELF WHILE IN CUSTODY IN CALIFORNIA

Health Care

- To get **hormones**, you will need to be diagnosed with **Gender Dysphoria (GD)**. Ask to speak with a mental health professional. Tell them about your gender identity and describe any distress caused by the difference between your gender identity and your sex assigned at birth. Tell them you think you have GD and want to be evaluated and/or provided treatment options.
- If you believe **surgery, such as sex reassignment surgery (SRS)** would help your GD, you should mention it to every doctor or mental health provider you see and ask for an evaluation to determine if SRS is medically necessary for you. If you have distress about not having your body match your gender identity, it is important you say this to your medical and/or mental health provider. Ask that medical and/or mental health professionals document your request and the medical necessity for SRS in writing. (If someday you bring a lawsuit to get surgery, you will need to prove that prison officials knew you were in distress and failed to do anything about it.)
- Ask for a specialized medical or mental health provider who knows about transgender health. Or, if you have a supportive medical or mental health provider who does not seem to be an expert in transgender health care, you can ask them to contact TransLine by going to www.project-health.org/transline/. This website has information about many clinical transgender issues. Always make sure medical or mental health staff document your request, and keep copies of all the paperwork you are given from health staff.

Housing and Privacy

- Under the Prison Rape Elimination Act (PREA), your **housing assignment** is supposed to be based in part on where you would feel safest. Your housing should not be based only on your genitalia. If you are a transgender woman and would like to be housed in a women's facility, you should make this request under PREA. Unfortunately, there are very few prisons/jails where such a request will be granted, but as PREA gets used more and more, facilities should begin to follow these standards. You can find information on PREA in the law library if there is one at the facility where you are.
- Prison officials are not supposed to place you in solitary confinement (also known as ad seg (single cell), Protective Custody (single cell) or the SHU) "for your own protection."
- Transgender and intersex prisoners are supposed to have access to private showers.
- Unfortunately, you are not allowed to sue a prison for failing to follow PREA. But you can report violations to the PREA Auditor (you can ask for their contact information or keep an eye out for postings). If you notice lots of violations of PREA, you can also contact the Department of Justice:
U.S. Department of Justice
Civil Rights Division—Special Litigation Section
950 Pennsylvania Avenue NW
Washington, D.C. 20530
(202) 514-6255 or (877) 218-5228
- If you or other transgender people are in a facility that is not following PREA, contact TLC and we may be able to give you more information that can help you change current policies.

Name Changes

- To get a **legal name change** you must petition a court (which means filing paperwork), and it is the court's order that allows you to update your name on official records, like an ID card. Before you can petition a court, though, you will need to get the warden's permission to change your name. You can find the rules in California Code of Regulations Title 15, section 3294.5. Unfortunately, the warden can deny your request for almost any reason. If this happens you should contact TLC.
- Before you ask the warden for permission to get a legal name change, it may help to tell doctors and mental health providers about your wish to change your name. Tell them that your name change is medically necessary because of your gender dysphoria and explain how being called by your old name is distressing to you. If you are going to be released, tell them how getting ID with your preferred name is important to get a job, find shelter/housing and remain stable upon reentry.

Gender Changes on a Birth Certificate

- If you were born in California, you can update the gender on your **California Birth Certificate** without going to court and without the warden's permission. You will need to get a letter from a medical doctor that says the following:
 - “I, (physician's full name), (physician's medical license or certificate number), am a licensed physician in (jurisdiction). I attest that (name of petitioner) has undergone clinically appropriate treatment for the purpose of gender transition to (male or female). I declare that the foregoing is true and correct to the best of my knowledge.”
- “Clinically appropriate treatment” does not mean any particular surgical or medical treatments. To obtain the necessary forms, you will need to write to your County Recorder's Office and request a VS-24 form.

Assault and Rape

- Prison staff have an obligation to protect you from violence, sexual assault, and rape.
- The law requires that prison staff cannot be “deliberately indifferent” to imprisoned people facing violence and sexual assault. This means that prison officials must know that you are at risk and then do not do anything to protect you. In order to be able to bring a potential lawsuit, you must report threats or abuses. It is best to do so both verbally and in writing.
- Unfortunately, though they are not supposed to, prison staff may put you in administrative segregation or solitary “for your own protection” after reporting abuses. If this happens, contact TLC.

Steps to follow before filing a lawsuit

- If you plan to file a lawsuit for any purpose, you must first “exhaust” your “administrative remedies.” This means that you must file a grievance (in California it is called a 602 form). If that grievance is denied, you must appeal to every level of review (in California there are three levels of review). If all the appeals are denied at every level of review, then you have exhausted your administrative remedies and can file a lawsuit.
- You must file your first grievance within 30 days of the harm happening. If you do not, you may not be allowed to bring that lawsuit.
- If you would like to file a lawsuit over a continuing issue—for example, continued denial of SRS—you may file a lawsuit as long as that issue continues, so long as you have exhausted your administrative remedies.