



Transgender Law Center

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 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. As of September 1, 2018, you do **not** need to get the warden's permission to change your name. You **do** need to inform the facility when you file your petition with the court. CDCR has the right to contest your petition; if they do, a hearing on your name change will be scheduled. If the court grants your name change petition, the facility must use your new name and can only use your old name as an alias. You can find the rules in California Code of Regulations Title 15, section 3294.5. For a detailed guide to this process and copies of the required court forms, write TLC and request a copy of "Guide to Legally Changing Your Name and Gender While Incarcerated."

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. If you also want to update your name, you will need a name change court order (see above). Medical documentation is no longer required to change your gender on a California birth certificate; you only need to submit a personal affidavit. You are welcome to write TLC to request a blank affidavit form, an application to amend your birth certificate (VS 24), and more information about updating California and federal identity documents.

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 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.
- If you want to file a lawsuit because something happened to you but is not happening any more—for example, an assault by a correctional officer—you must file your first grievance within two years of the harm happening. If you do not, you will never be allowed to bring that lawsuit.
- If you want to file a lawsuit over a continuing issue—for example, continued denial of SRS—you can file a lawsuit as long as that issue continues, as long as you have exhausted your administrative remedies.