



***The Effect of the Actions of the New Administration on our LGBTQ+ Clients
March 2, 2025***

*“Continue to be who and how you are,
to astonish a mean world with your acts of kindness.”
–Maya Angelou*

*“If I didn’t define myself,
I would be crunched into other people’s
fantasies for me and eaten alive.”
–Audre Lorde*

- I. What has changed so far? Executive orders targeting transgender persons:
- A. “Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” (January 20, 2025): Declaration that there are only two genders, male and female, and that they cannot be changed.
- This executive order has profound and immediate implications for transgender persons, who are no longer able to obtain federal documents (Social Security cards and passports) to conform with their gender. Gender marker changes on these documents were abruptly halted. Trans persons who are unable to obtain a passport that conforms with their gender identity and presentation face grave risks when traveling (detention at airports, invasive and humiliating searches, inability to clear security). Trans persons who have conflicting documents (for example, a state driver’s license with their correct name and gender and a passport with their dead name and gender) are in a dangerous bind.
- A class action contesting this executive order has been filed by the ACLU in the US District Court in Massachusetts.
- B. “Prioritizing Military Excellence and Readiness” (January 27, 2025): Prohibition on transgender persons serving in the military. NCLR (National Center for Lesbian Rights) filed a lawsuit to challenge this order.
- C. “Protecting Children from Chemical and Surgical Mutilation” (January 28, 2025): Prohibition on gender-affirming medical care for transgender persons age 19 and under. This order places trans youth receiving medically approved and necessary gender-affirming medical care for a diagnosis of gender dysphoria at great physical and emotional risk. The New York State Attorney General, Letitia James, and 22 other state attorneys general filed a lawsuit and obtained a temporary injunction against the

threatened withholding of federal funds on January 31, 2025. Attorney General James issued a statement that denying gender-affirming medical services is a violation of New York state human rights law.

- D. “Ending Radical Indoctrination in K-12 Schooling” (January 29, 2025): Elimination of Federal funding or support for K-12 schools that allow the “social transition” of transgender or non-binary children (e.g., counseling, use of preferred names or pronouns or identification as “non-binary,” use of gender-appropriate bathrooms/locker rooms and participation in sports, etc.).
- E. “Keeping Men Out of Women’s Sports” (February 5, 2025): Rescission of all funds from educational programs that allow trans women/girls to participate in women’s/girls’ sports.

II. Anticipated future changes and their implications: is marriage for same-sex couples at risk?

It is likely that marriage rights for same-sex couples will be challenged in the federal court system.

In *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022), the United States Supreme Court overturned *Roe v. Wade*, which established abortion rights in 1972. Justice Thomas wrote a concurring opinion in which he specifically invited people to bring cases to overturn rulings that protect marriage equality.

Marriage equality for same-sex and non-binary couples is still the law throughout the United States, and even if the federal government were to refuse to recognize marriage equality prospectively, already-existing marriages would likely remain valid. Similarly, if a state were to roll back its freedom to marry, and a couple is already validly married, it is extremely unlikely that such decisions will impact pre-existing marriages.

It is important to remain vigilant and consult available resources for updates.

III. New York State protection; lack of federal protection; suggestions to protect clients

- A. Gender-affirming care for trans youth age 19 and under is still available in New York State and is unlikely to change.
- B. It is still possible to obtain a name change (by court order) in New York.
- C. New York State’s Gender Recognition Act allowed minors and adults to amend the gender designation on their New York State issued birth certificates and other state-issued IDs.

Change of gender designation on birth certificates requires the following:

- 1. For Adults:
 - a. A completed Application for Amendment of Certificate of Birth for Gender Designation for an Adult ([DOH-5305](#)).
 - b. A Notarized Affidavit of Gender Error for a Person 17 Years of Age or

Older ([DOH-5303](#)).

- c. If someone is simultaneously requesting a change to their name on their birth certificate, that must be noted on the application. The application must then include a copy of the court order authorizing the name change. A name change cannot be authorized without a court order.

2. For Minors:

- a. A completed Parent/Legal Guardian Application for Amendment of Certificate of Birth for Gender Designation for a Minor ([DOH-5306](#)) signed by the parent(s) or legal guardian(s).
- b. A Notarized Affidavit of Gender Error for a Person 16 Years of Age or Under ([DOH-5304](#)).
- c. If the parent(s) or legal guardian(s) is simultaneously requesting that the minor's name be changed on their birth certificate, that must be noted on the application. The application must then include a copy of a court order authorizing the name change. A name change cannot be authorized without a court order.

https://www.health.ny.gov/vital_records/gender_designation_corrections.htm

Driver's license: Gender marker can be updated online.

<https://transact3.dmv.ny.gov/UpdateSexIdentifier/>

3. Name change: The New York Courts website gives applicants the option to use the "Do-It-Yourself" name change form (or they can have an attorney make the application for them). Gender designation can also be changed using the same name change form ([UCS-NC1](#)).

Source: <https://nycourts.gov/courthelp/NameChange/forms.shtml>

Name changes on a birth certificate require a court order.

https://www.health.ny.gov/vital_records/amend_birth.htm#NameChange

Name changes can be made at DMV if there is a Social Security card with the correct name.

<https://dmv.ny.gov/driver-license/change-information-on-dmv-photo-documents>

- D. Passports and Social Security cards: Trans persons cannot currently obtain revised Social Security cards and passports to change their gender marker. Name changes on those documents can still be processed. It is inadvisable for trans persons to submit a passport application for any purpose if it can be avoided, because the existing passport

has to be submitted with the application and could be held indefinitely or confiscated. The Department of State is issuing new passports with the gender assigned at birth of trans and non-binary persons, and are changing back the gender marker for trans and non-binary persons who are renewing a passport that has the correct gender. It is unclear whether a first application for a passport will be issued in accordance with an amended birth certificate with the correct gender. There are as yet unsubstantiated reports that the Department of State requires information about what changes were made to an amended birth certificate submitted with a passport application.

- E. For now, think carefully about selecting the “X” gender marker option for nonbinary persons if it is available on the state level. It immediately identifies someone as trans/nonbinary in an increasingly hostile and dangerous environment.
- F. Always be mindful that clients, their children, and other beneficiaries could move and that we need to plan for the least supportive states, rather than assuming that protection available in New York will be available elsewhere.
- G. Encourage parents to take all possible steps to protect the parent-child relationship (judgments of parentage, second parent adoption). It is not safe in the current climate to rely on parentage rights derived from a marriage between same-sex parents or where one or both parents are trans or nonbinary. Even if the parent-child relationship is protected as a result of marriage in New York, the same does not apply in many other states.
- H. It is highly likely that New York State will continue to recognize and allow marriages for same-sex or nonbinary couples, even if marriage equality is overturned by the Supreme Court on the federal level and in some other states. It is unlikely that existing marriages will be declared invalid.
- I. For married same-sex couples, it is recommended to include a provision in documents that protects the clients if marriage is declared invalid.
- J. It is important for clients to make sure all estate planning documents (wills and trusts, power of attorney, health care proxy, living will, disposition of remains form, disposition of genetic material provisions) are up to date and drafted in a way to protect clients, their partners/spouses and children.

IV. Resources

National Center for Lesbian Rights (NCLR): www.nclrights.org

Lambda Legal: www.lambdalegal.org

Immigration Equality: www.immigrationequality.org

American Civil Liberties Union (ACLU): www.aclu.org

GLAD Law: www.glad.org