



by Joe Fraioli
With support from Amanda Goad and John Knight,
National ACLU LGBT & HIV Project
And Rita Bettis, ACLU of Iowa

For more information:

E-mail: legal.program@aclu-ia.org (strongly preferred)

Phone: 515-243-3576

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Please note: This document provides general information about some of the legal issues that impact transgender people in Iowa. It does not contain legal advice. If you need individualized advice about a specific legal issue, we encourage you to consult an attorney promptly.

1. Discrimination and Harassment: **The Iowa Civil Rights Act and the Iowa Civil Rights Commission**

Chapter 216 of the Iowa Code is known as the Iowa Civil Rights Act of 1965 (ICRA). ICRA provides protection against various forms of discrimination.

Among other things, ICRA prohibits discrimination on the basis of sexual orientation and gender identity, which were added as protected classes in 2007. ICRA defines “gender identity” as “a gender-related identity of a person, regardless of the person’s assigned sex at birth.” ICRA also prohibits discrimination based on the *perception* that someone possesses a characteristic. This means that you cannot be discriminated against even if someone merely thinks you are transgender, or thinks you are gay; a mistake as to exactly how you identify is not a defense.

ICRA applies in both the public and private sectors. It specifically addresses discrimination in the areas of employment, housing, education, public accommodations & services, and credit practices. The next few sections of this guide explain the law on each issue in more detail.

ICRA also established the Iowa Civil Rights Commission (ICRC), the body tasked with receiving and resolving complaints arising under ICRA.

After a discrimination complaint is filed, ICRC can investigate and arrange free mediation between the parties. If mediation does not successfully resolve the matter but ICRC finds enough evidence to believe that the law may have been broken, ICRC can assign the case to an administrative law judge for a hearing on whether illegal discrimination occurred and will represent the interests of the victim of discrimination as well as the public’s interest in stopping discrimination. If the administrative law judge finds that illegal discrimination occurred, the discriminating party can be ordered to fix it for the victim of discrimination (such as by rehiring an employee or admitting a student to a school) and for others who might be harmed by the discrimination (such as through policy changes or training), as well as to pay the victim damages for any harm resulting from the discrimination and attorneys’ fees. More details about the ICRC complaint process are available [here](#).

The [ICRC’s website](#) offers extensive information about discrimination on the basis of gender identity and other civil rights issues in Iowa.

Local Protections

There may be local civil rights or human rights ordinances in your area that provide additional protections.

IF YOU BELIEVE YOU HAVE EXPERIENCED ILLEGAL DISCRIMINATION:

If you believe you have been discriminated against, the time limit for filing a complaint with the ICRC is **within 300 days** of when you became aware of the discrimination. For more information or to file a complaint, visit the ICRC's website: <https://icrc.iowa.gov/file-complaint> or call them at (515) 281-4121.

If you believe you have been discriminated against, you may also wish to contact us at the ACLU of Iowa at legal.program@aclu-ia.org or by phone at (515) 243-3576. Although we cannot provide legal representation to everyone who contacts us, we may be able to provide you additional useful information and help you understand your options.

Finally, we suggest that in any situation where you believe you may have been discriminated against, you do your best to remain calm, get contact information for any witnesses, and keep a written or photographic record of what happened and how it affected you. This might include saving copies of emails or text messages; sending a follow-up email to the other person to "confirm" what happened in a phone conversation; or taking your own dated notes as soon as possible after an incident to record the who, what, where, when, etc. of the incident and any emotional or physical injuries or monetary losses caused by the incident.

Retaliating against someone for filing a complaint under ICRA is illegal.

A. Employment

Iowa Code section 216.6 makes it illegal for any employer to "refuse to hire, accept, register, classify, or refer for employment, to discharge any employee, or to otherwise discriminate in employment against any applicant for employment or any employee" on the basis of gender identity (as well as on the basis of sex, sexual orientation, race, color, creed, religion, national origin, pregnancy, disability, or age). This law applies to employers, labor organizations, and employment agencies.

Of course, transgender employees are not immune from termination for legitimate reasons, such as poor performance or violation of employment policies or contracts. ICRA simply prohibits employers from making employment decisions *based on* your gender identity.

Exemptions:

- ICRA does not apply to employers with fewer than four employees, or to employees who work at their employer's current residence.
- In addition, bona fide (genuine) religious institutions are exempt in certain circumstances.

Question: Can my employer require me to adhere to a dress code?

- Yes, employees may be required to adhere to reasonable workplace appearance, grooming, and dress standards, *so long as* the employer allows all employees to do so consistent with their gender identity.
- In other words, employers can impose dress codes including separate “men’s” and “women’s” dress codes, but transgender women should be held to the “women’s” dress code (and vice versa for transgender men).

Question: Does ICRA cover harassment based on gender identity in the workplace?

- Yes, an employer must address harassment based on gender identity if it is serious enough to create an intimidating, hostile or offensive work environment, or to unreasonably interfere with your work performance, or to affect your employment opportunities or compensation. This applies to harassment either by coworkers *or* third parties, such as customers or vendors *if* the employer is aware of the problem or should have known about it. It also applies to supervisors, *unless* the employer can prove that it exercised reasonable care to prevent and remedy harassment and the victim failed to take advantage of available means to prevent or stop the harassment, through complaining, for example.
- If, therefore, you are the target of harassment, *notify* your employer immediately and keep a written record of your communications with the employer and any measures your employer takes to address the problem. ICRC guidance affirms that harassment of transgender workers can take many forms, including deliberate ongoing use of the wrong gender pronouns to refer to someone.

Question: What about the restrooms at work?

- The ICRC has published [guidance](#) stating that an employer must allow transgender employees to access the restrooms corresponding to their gender identity, rather than their assigned sex at birth. Iowa courts have not yet addressed this question, though we are hopeful they would agree.

Question: Can my employer restrict me to certain positions because I am transgender?

- No. ICRC guidance confirms that Iowa law prohibits gender identity discrimination in “job assignments.” We believe this means it is illegal for an employer to, for example, transfer an employee to a position where they have no customer contact, because they think customers will not want to work with a transgender person. We also think that in the very rare instances where gender is a bona fide (genuine) occupational qualification for a particular job, transgender men must be eligible for “men’s” positions and

transgender women must be eligible for “women’s” positions. However, Iowa courts have not yet directly addressed this question.

Question: Are transgender people also protected from employment discrimination under federal law?

- We believe so, but it’s not clear yet. Title VII of the 1964 Civil Rights Act prohibits discrimination on the basis of sex (among other characteristics) by an employer with 15 or more employees. Although there are some court decisions, mostly older ones, saying that Title VII does not prohibit gender identity discrimination, several federal appeals courts that have considered the issue recently have found some protections in the Civil Rights Act for transgender people. In addition, a federal district court in Washington, D.C. ruled that employment discrimination for transitioning from one gender to another is illegal sex discrimination under the Civil Rights Act. The Equal Employment Opportunity Commission has also found discrimination against transgender employees to be sex discrimination that violates Title VII (see below). In 2014, U.S. Attorney General Eric Holder announced that his office agrees with this position, and that going forward the U.S. Department of Justice will consider discrimination against transgender people to be discrimination “because of sex” in violation of federal employment law.
- Transgender people anywhere in the country who feel they have experienced employment discrimination can file “sex” discrimination complaints with the U.S. [Equal Employment Opportunity Commission](#) (EEOC). In a 2012 decision, the EEOC ruled that discriminating against someone because that person is transgender is discrimination based on sex, which [violates Title VII](#). Much like the ICRC, the EEOC investigates the reports of discrimination it receives, and can arrange mediation, broker a settlement between an employer and an employee, sue an employer, or give the person complaining permission to bring her own lawsuit.

B. Housing

Iowa Code section 216.8 prohibits housing discrimination on the basis of gender identity (as well as sex, sexual orientation, and other grounds). This makes it illegal for any person, or the owner of any rental property, to do any of the following:

- To refuse to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable any real property, or deny an interest in any real property, on the basis of gender identity.
- To discriminate on the basis of gender identity with respect to the terms, conditions, or privileges of a sale, rental, lease assignment, or sublease of any real property, or the provision of services related to such property.
- To discriminate on the basis of gender identity with respect to the advertisement of such property.

- To ask potential buyers or renters about their gender identity, either directly or indirectly.
- To misrepresent whether a property is available or unavailable to prospective buyers or renters based on their gender identity.

This applies to landlords, apartment agents, nursing homes, public shelters for homeless people or survivors of domestic violence, condo associations, real estate agents and brokers, builders, architects, developers, advertising media, sellers of property and housing services, and insurance companies and agents.

Exceptions and Exemptions:

- Religious institutions may be permitted to discriminate on the basis of gender identity in housing, if they can explain a reason for doing so related to an actual religious purpose.
- If the owner resides in a multi-unit dwelling that can house no more than two families, or in a single dwelling in which fewer than four rooms are available for rent, then the owner has the right to discriminate as to individuals renting and moving into the other parts of his home.
- People who appraise property may consider factors protected under ICRA when assessing real estate value.

Question: May a real estate agent only show me certain properties or neighborhoods that she thinks are appropriate for the LGBT community?

- No, that would violate ICRA.

Question: Can my landlord evict me for having my transgender parent come to stay with me?

- Not if your parent’s gender identity is the reason. It’s illegal under ICRA for a property owner to prevent renters from having transgender people visit their property as guests or move in as roommates, if having guests or roommates is otherwise allowed.

Question: Can a property owner say “no transgenders” or something similar in its advertisements?

- No, that would violate ICRA. This includes online advertising, such as Craigslist posts.

Question: Can my landlord hold me to different standards than other tenants because of my gender identity?

- No. Among other things ICRA prohibits, a housing provider may not charge you more rent, refuse to refund a security deposit, refuse to make repairs, or evict you because of your gender identity.

Question: Are transgender people also protected from housing discrimination under federal law?

- Signs point to yes. The U.S. Department of Housing and Urban Development (HUD) [has said](#) that discrimination against transgender tenants or home buyers based on their gender identity or gender nonconformity may be illegal sex discrimination under the federal Fair Housing Act.

C. Public Accommodations

Iowa Code section 216.7 makes it illegal for any owner, lessee, sublessee, proprietor, manager, or superintendent of any public accommodation from denying access to or otherwise discriminating in providing such accommodations on the basis of gender identity. This includes advertising that persons of a particular gender identity are not allowed to use such accommodations.

Question: What is a public accommodation?

- A public accommodation includes:
 - o Any place that offers goods or services to the public at a price, whether privately or publicly owned. This includes retail stores, restaurants, hotels, bars, clubs, medical facilities, gyms, etc.
 - o Any place that offers free services and receives government subsidies.
 - o Any state, local, or governmental unit that receives tax support, such as police departments, schools, public transportation, courthouses, etc.

Question: What is not a public accommodation?

- Any private place that is exclusively private, and does not cater to the public. Examples of this might include a private book club or a Bible study group. Such entities are not subject to these provisions of ICRA. *However*, if a group that started out purely private decides to offer facilities, services, or goods to the general public, they are then considered a public accommodation for purposes of ICRA.
- Exemptions: As with other areas, religious institutions are exempt *so long as* they are using gender identity as a qualification related to an actual religious purpose. So, ICRA does not require churches or other religious congregations to allow LGBT people to participate in religious services. However, if a church offers its facilities, goods, or services to the general public – such as by operating a homeless shelter or food pantry – and it charges for the use of the facilities or services or receives government subsidies, then it could not exclude transgender people from those activities unless it could show that doing so was necessary for a specific religious purpose.

Question: What about harassment? Is harassment in public accommodations illegal?

- Yes. Similar to maintaining a hostile work environment in the employment context, a provider of a public accommodation may be responsible for the actions of its employees, and even other patrons. As with employers, public

accommodation operators are only legally responsible for harassment if management was involved in the harassment or they were made aware of employee or customer harassment and had an opportunity to correct it.

Question: What about restrooms and locker rooms at public accommodations? Can I use whichever restroom or locker room I want?

- The law does not prohibit sex-segregated restrooms or locker rooms. It is the position of the ICRC that you must be permitted to use a restroom or locker room in accordance with your gender identity, regardless of the sex assigned to you at birth, and you have a right to do so without being harassed or questioned. The issue, however, is complicated. The ICRC has consistently held that people must be permitted to use these facilities in accordance with their gender identity, but the ICRC doesn't necessarily have the final say on the issue. An administrative judge from the Iowa Department of Inspections and Appeals recently held that the ICRA did not require a transgender woman to be allowed to use the female locker room at the YMCA. That decision is in conflict with the ICRC's interpretation and was not appealed so the issue has yet to be decided by the courts. The ACLU believes the decision conflicts with the ICRA and are hopeful that future cases will come out differently. If you experience a problem with access to a restroom or other gender-specific facility, please contact the ACLU of Iowa, and we'll be happy to help you sort out your options.

Question: Are transgender people also protected against discrimination in public accommodations under federal law?

- Generally, no. The federal civil rights laws don't currently prohibit "sex" discrimination by public accommodations, so the "sex stereotyping" and other arguments people have successfully made as to housing and employment discrimination don't work here.
- However, a few kinds of public accommodations are covered by other federal laws. For example, because homeless shelters count as "housing" under the Fair Housing Act, HUD has told homeless shelters around the country that where shelter housing is segregated by gender, they must allow transgender people access based on their gender identity. In addition, transgender people can't be discriminated against in shelters or other programs for survivors of violence that receive federal funding under the Violence Against Women Act.

D. Education

Iowa Code section 216.9 makes it illegal for "any educational institution" to discriminate "in any program or activity" on the basis of gender identity. This includes, but is not limited to: "any academic, extracurricular, research, occupational training, or other program;" denial of comparable opportunities in intramural and interscholastic athletic programs; and employment

in educational institutions. The protections apply to students, teachers, other school employees, and volunteers.

Question: What counts as an “educational institution?”

- ICRA covers both public and private institutions, including: preschools, elementary and secondary schools; community colleges; colleges and universities; governing boards; and education agencies.
- Exception: Religious institutions may impose qualifications based on gender identity if the qualifications are related to a specific religious purpose.

Question: As a transgender boy, can I legally be excluded from an all-boys’ school?

- We don’t think so. ICRA allows an institution to admit members of only one “sex,” but if a school tried to enforce this in a way that excluded transgender students, that would likely be gender identity discrimination in violation of ICRA. There haven’t been court decisions on this subject yet in Iowa.

Question: When I let the people at school know that I’m transgender, they told me I could only use the bathroom in the nurse’s office and change for sports in the coach’s office. Is that legal?

- We don’t think so. ICRA allows schools to maintain separate restrooms, locker rooms, and so forth for boys and for girls, but if a school tried to enforce this in a way that excluded transgender students from the restrooms and locker rooms that match their gender identity, that would likely be gender identity discrimination in violation of ICRA (and federal law, as described below). There haven’t been court decisions on this subject yet in Iowa, although there have been recent positive decisions from other states.
- At the ACLU, we think gender neutral restrooms are GREAT and where schools make them available, that’s very useful (for transgender people and others), but no one should be forced to use only the gender neutral restroom when they would prefer to use the restroom that matches their gender identity!

Question: Are transgender people also protected against discrimination in schools under federal law?

- Yes, at any school that receives federal funding (meaning all public schools and many private schools, from preschools through universities). At these schools, discrimination based on “sex” (and failure to respond adequately to harassment based on “sex”) are prohibited under Title IX of the Education Amendments of 1972. The U.S. Department of Education’s Office of Civil Rights, which enforces Title IX, has said that discrimination against a student for gender nonconformity or being transgender is a form of sex discrimination that violates Title IX.
- At least two transgender students have filed Title IX complaints against their schools that resulted in good resolutions requiring the schools to allow

transgender students to use the restrooms and other sex-segregated facilities that match their gender identity.

- A student who believes their rights under Title IX have been violated can [file a complaint](#) with the Office of Civil Rights. Please contact the ACLU of Iowa if you would like assistance with filing such a complaint.

Question: As a transgender girl, do I have the right to try out for the girls' soccer team at my high school?

- We think so. ICRA requires schools to maintain “comparable opportunities in intramural and interscholastic athletic programs,” meaning that separate boys’ and girls’ teams are okay but boys and girls should have the same opportunity to participate in sports.
- The Iowa High School Athletic Association ([IHSAA](#)) has adopted “[Guidelines for Respectful Treatment and Inclusion of Transgender Athletes](#)” (see p. 2) that explain ICRA’s prohibition on gender identity discrimination and advise schools on how to address important issues like privacy and confidentiality, uniforms, and locker room access. The guidelines also say that a “transgender student...who identifies as male...shall be allowed to fully compete as a male as long as he consistently identifies as a male at school, home and socially.”
- Unfortunately the IHSAA guidelines don’t spell out that transgender *female* students also shall be allowed to compete on girls’ teams, but we think they should, based on ICRA as well as federal law.

In addition to the Iowa Civil Rights Act, The Iowa Safe Schools Law requires both public and private schools to institute anti-harassment and anti-bullying policies against students by school employees and other students. Iowa Code section 280.28 defines “harassment” and “bullying” as verbal or physical conduct towards a student “based on any actual or perceived trait or characteristic,” including gender identity.

Section 280.28 requires educational institutions to create an official anti-harassment and anti-bullying policy which must include, among other things:

- A statement declaring bullying and harassment to be against state and school policy;
- Definitions and descriptions of the types of prohibited behaviors;
- The consequences of such behavior and appropriate remedial action;
- Formal procedures for reporting harassment and bullying, and for investigating complaints.

E. Credit Practices

Lastly, Iowa Code section 216.10 makes it illegal to engage in unfair credit practices based on gender identity. This includes: refusing to enter into consumer credit transactions; imposing onerous or unfavorable terms or conditions on commercial transactions and loans; or refusing to offer credit life or health and accident insurance because of gender identity.

Question: I applied for a mortgage but the bank said they were turning me down because the name on my credit report doesn't match the legal name I'm using now. Was that legal?

- Refusing someone credit because of their gender identity is against the law in Iowa. If you experience this type of problem, you may wish to consider filing a complaint with ICRC. It's also possible that this kind of problem may be worked out if you are able to speak to a supervisor at the bank and explain that the different name on your credit documents is not a mistake or an attempt to commit fraud.

2. Name Change & Identity Documentation

The University of Iowa College of Law Rainbow Legal Clinic recently published an excellent resource on name change and identity documentation for transgender individuals in Iowa: Len Sandler et al., *The Iowa Guide to Changing Legal Identity Documents*, Univ. of Iowa College of Law Rainbow Legal Clinic (April 2014). For more specific information on the issues in this Section, [consult the Guide](#).

A. Legal Name Change in Iowa

You must first obtain a court-ordered name change before you may change your name on other government-issued documents.

To get a court-ordered name change in Iowa, you must be 18 years of age or older (younger people can have their parents or guardians file the legal papers on their behalf).

To begin the legal name change process, you must have a certified copy of your birth certificate. If you were born in Iowa, [you can get this](#) from the Iowa Department of Public Health, Bureau of Vital Statistics. If you were born in another state or country, you'll need to contact their vital records agency to find out how to get a certified copy of your birth certificate.

You will then need to file a petition for a legal name change in the district court for the county in which you reside, along with the certified copy of your birth certificate and a filing fee. The filing fee is currently \$185, although this can be waived if you prove you are unable to pay it.

You can go to court to petition for a name change on your own, without an attorney. More details about this process, as well as all of the forms you'll need, are available [here](#).

Before you seek a legal name change, make very sure you're comfortable with the name you have chosen. Under Iowa law, a person is generally only allowed to get a legal name change once.

Unlike many states, Iowa currently does NOT require you to publish notice of your legal name change in a newspaper.

B. Name & Gender Change on Birth Certificate

If you have obtained a legal name change, then you can request that your name be changed on your Iowa birth certificate. You can also request a change of the gender marker on your Iowa birth certificate. For the latter, you will need an affidavit from your treating physician affirming that your sex designation has been permanently changed.

To update your Iowa birth certificate, complete the "[Amendment to Iowa Certificate of Birth](#)" form provided by the Department of Public Health. You will need to get the form notarized. Then submit the form, together with the required fees of approximately \$40, a copy of your driver's license or other photo identification, and your doctor's affidavit if applicable, to the Department of Public Health at the mailing address listed on the form.

If your birth certificate was issued from another state, you will need to follow the procedures established in that state, even if you live in Iowa now. Currently most states, but not all, will issue a birth certificate reflecting your gender rather than the sex assigned to you at birth, although some states require proof of a surgical procedure.

C. Name & Gender Change on an Iowa Driver's License or State ID Card

To change the gender marker on your Iowa driver's license (or "non-operator" identification card), you will need to provide the Iowa Motor Vehicle Division with either a certified copy of a birth certificate with the correct gender marker or a court order of gender change.

To change the name on your Iowa driver's license or ID card, you will need to provide the Iowa Motor Vehicle Department with a copy of the court order granting your name change.

There is a \$10 fee for obtaining an amended driver's license or ID card.

The Iowa Motor Vehicle Division typically checks driver's license application information against the Social Security Administration's databases. For this reason, it works best if you update your name and gender with the Social Security Administration before you try to do so with the Iowa MVD.

If you experience a problem in obtaining an amended driver's license or ID card in Iowa, please contact the ACLU of Iowa, and we'll be happy to help you sort out your options.

D. Name and Gender Change on Social Security Records

To change your name with the Social Security Administration (SSA) and get a new Social Security card, submit to SSA a court order reflecting the name change.

To change the gender marker in SSA's records, you can submit any of the following:

- A passport or state-issued birth certificate with the new gender marker;
- A court order of gender change;
- A doctor's letter certifying that you have had appropriate clinical treatment for transition to the new gender. (This "appropriate clinical treatment" doesn't have to include surgery.)

Although Social Security cards don't show a gender marker, having an updated gender marker in your SSA records can help avoid problems. For example, the Iowa MVD often checks whether the information used on a driver's license application matches the person's SSA record.

E. Name and Gender Change on U.S. Passports and Immigration Documents

A copy of the court order confirming the name change is required to change the name on your passport.

To change the gender on a passport, or to get a first passport with the correct gender marker, you must submit a letter from your doctor certifying that you have undergone "appropriate clinical treatment" for transition to the new gender. (This "appropriate clinical treatment" doesn't have to include surgery.) This letter can be used to obtain a new passport valid for 10 years. There is also a two-year passport available for applicants who present a letter stating that their clinical transition is "in process," but any transgender person who has begun a course of treatment should be able to qualify for a full 10-year passport. Along with the physician letter, the applicant must submit the other parts of a standard passport application. [Detailed instructions](#) for updating the name and gender on a passport are available from the U.S. Department of State.

To change the name on a "green card" or other immigration papers issued by U.S. Citizenship and Immigration Services (USCIS), you will need to submit to USCIS a copy of the court order changing your name. To change the gender marker on immigration documents, submit to USCIS a doctor's letter verifying that you have had "appropriate clinical treatment," as described above.

[More specific information](#) about updating immigration papers is available from the National Center for Transgender Equality.

F. Other

Depending on your personal circumstances, you may also wish to change your name and gender marker on a variety of other legal and financial documents. For more information on how to do this, consult [The Iowa Guide to Changing Legal Identity Documents](#) published by the University of Iowa College of Law Rainbow Legal Clinic.

If you run into difficulties securing identity documents, please contact us.

3. Family Matters

A. Marriage & Divorce

Since the Iowa Supreme Court's landmark 2009 ruling in Varnum v. Brien, marriage in Iowa has been legal between any two persons regardless of sex.

Question: If I married someone of a different gender before same-gender marriage became legal in Iowa, but I or my partner have since transitioned, is our marriage still valid?

- Yes. A marriage is valid unless and until the couple gets a divorce or annulment.

Question: I had already transitioned when I got married to someone of a different gender in Iowa, before same-gender marriage became legal in Iowa. Is there a risk that our marriage would be considered invalid?

- It's unlikely but possible that someone (such as an ex-spouse) would try to challenge the validity of a marriage to a transgender person, entered into in a state that didn't at the time recognize the marriages of "same-sex couples." In the past, courts considering the validity of transgender people's post-transition marriages to people of a different gender have reached mixed conclusions. We don't know of any decisions on this issue from Iowa courts, but we don't have any reason to worry that they would be inclined to disrespect transgender people's marriages, either.
- To help protect against any potential legal problems related to marriage in this circumstance, we recommend crafting a written relationship agreement that sets out each spouse's rights and responsibilities with respect to property, finances, health, and children. Furthermore, both spouses should have a last will and testament and assign one another durable powers of attorney for financial and medical decisions. An attorney can prepare these documents for you and your family.

B. Parenting

Being transgender shouldn't really have anything to do with your ability to be a good parent, and thus it shouldn't have anything to do with your legal rights as a parent, but unfortunately issues do sometimes come up.

Many parents who come out as transgender are able to maintain a close relationship with their children, including some who divorce but work out an amicable custody arrangement with their ex-spouse.

But other people who transition after having children may see their gender transition used against them by an ex-spouse in a child custody fight.

There is no clear legal precedent in Iowa concerning the rights of transgender parents, and what cases exist in other states are mixed. In some cases, transgender parents have fared well, with courts appropriately rejecting claims that transgender people can't be good parents and fairly considering what would be in the best interest of the child (e.g., looking at the nature of the child's relationship with each parent and each parent's ability to provide for the child's physical, emotional, and educational needs). In other cases, parents have been denied custody or visitation solely based on the court's conclusion that being in the care of a transgender parent would be harmful to the child. In some of these cases, the courts improperly based their decisions on imagined harm, rather than evidence. In others, the transgender parent didn't (perhaps for financial reasons) present testimony from expert witnesses such as psychologists, and the courts relied on the negative characterization of transgender parents by the other side's "expert." It is very important in any contested child custody case to submit evidence disproving the negative claims the other side may make about transgender parents.

The ACLU and the National Center for Transgender Equality have published a guide to [Protecting the Rights of Transgender Parents](#) that provides more detailed information about these issues.

There have also been cases where the child's gender nonconforming or transgender identity became an issue in a custody battle. This usually happens when one parent accepts and supports the child's gender identity, but the other parent doesn't and argues that affirming the child's gender identity is harming the child. Here, too, refuting negative claims about the consequences of affirming a child's gender identity, preferably with expert testimony, is very important.

If your parental rights are being challenged because you are transgender, please contact us.

C. Adoption & Foster Care

The Iowa Department of Human Services' [non-discrimination policy](#) ensures that "no person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination for any services because of protected category status," including gender identity. This means you cannot legally be denied or turned away from adoption or foster parenting opportunities, nor otherwise treated less favorably in the provision of these services, based on your gender identity.

4. Health Care

A. Care Unrelated to Gender

ICRA clearly prohibits gender identity discrimination in the *provision* of insurance or medical care, which are both forms of “accommodations or services.” This means that insurance carriers and healthcare providers may not refuse to provide service for persons based on that gender identity or previous diagnosis of gender dysphoria. Similarly, the U.S. Department of Health and Human Services has said that the “sex discrimination” ban in the federal Affordable Care Act means that a person’s insurance benefits cannot be cancelled or reduced because they are transgender, and the formerly common practice of denying any insurance coverage to people who have been diagnosed with gender dysphoria is now illegal under the Affordable Care Act provision that says no one can be denied coverage because of a “pre-existing condition.”

B. Gender-Confirming Treatments

Historically, almost all health insurance plans in the United States refused to cover hormone therapy, gender confirmation surgeries, or other types of health care related to gender transition. However, this is getting better, and transition-related health care is now covered under some public insurance plans as well as some private plans.

Public Plans

In Iowa, Medicaid currently classifies “sex reassignment” surgery as a “cosmetic” treatment that it will not cover. Although a federal appellate court ruled in 1980 that Iowa could not “arbitrarily” deny coverage for surgery when it was medically necessary as treatment for an individual undergoing gender transition, the same court in 2001 held that the Iowa Medicaid regulation excluding gender reassignment surgery was valid, because the court felt the state demonstrated that the rule was based on sound medical research.

Transgender people in Iowa have been able to secure Medicaid coverage for hormone therapy, mental health care, transportation, and other services and treatments.

Medicare also covers transition-related hormone therapy. A 2014 administrative ruling struck down the previous blanket Medicare policy of refusing coverage for any form of gender confirmation surgery, though we’re still working to clarify which specific procedures Medicare will cover. Also, many transgender people have had difficulty finding surgeons who are willing to perform gender confirmation surgeries at Medicare’s low reimbursement rates.

Health insurance provided to veterans through the federal Veterans’ Administration covers hormone therapy, but not gender confirmation surgeries. The health insurance program for active duty military service members, and their dependents, currently will not cover any type of transition-related health care.

Private Plans

Whether private health insurance (purchased on an individual basis or provided by an employer) covers transition-related care depends on what the employer's or insured individual's contract with the health insurance company says. Many insurance contracts either definitively exclude transition-related services or are unclear about whether such services are covered.

If your private insurance plan is resisting paying for transition-related health care, we suggest you ask for a written explanation of the reason of the denial. The denial letter will include instructions for appealing the denial, which you can usually do simply by writing a letter to the insurance company, with supporting documentation from your health care provider, about why you need the care. If that's unsuccessful, you typically have the right to appeal again, and this time the decision will be reviewed by an independent medical expert who does not work for the insurance company. Some transgender people have successfully forced insurance companies to pay for transition-related surgery or other treatments when the contract didn't clearly exclude this coverage.

In several states (e.g., California, Colorado, Illinois, Massachusetts, New York, Oregon, Vermont, Washington State, and the District of Columbia), the state government has said that state laws against gender identity discrimination and/or discrimination based on medical diagnosis mean that insurance policies issued in those states must cover transition-related treatments if they cover the same treatment for other medical conditions. This has helped many transgender people living in those states to get coverage for gender confirmation surgeries. We are still working to secure this kind of clarification of Iowa law.

As awareness grows that treatment for gender dysphoria is medically necessary for many transgender people and the cost of covering it is manageable, more and more employers are choosing to participate in health insurance plans that cover transition-related medical treatment. Hundreds of employers around the country now offer health insurance plans that cover transition-related medical treatment, from Fortune 500 corporations to smaller firms and nonprofits. More and more government entities also cover transition-related care through their employee health plans. Some employers have set up programs to pay for transition-related health care not covered by their health insurance plans, although this approach may pose privacy risks. Additionally, many public and private universities now cover transition-related medical treatment for students.

We are still working to ensure that health insurance obtained through federal and state exchanges under the Affordable Care Act will cover all medically necessary treatment for transgender people.

C. Gender Incongruent Care

Another issue arises when insurance companies ask people to state their gender and then limit coverage to treatment that the insurer thinks matches that gender (aka “gender congruent” care). This obviously causes problems for transgender people who need screenings or treatment the insurer sees as inconsistent with their gender, such as Pap smears for a transgender man. Although some transgender people have tried to avoid this problem by leaving their “old” gender marker on medical records, this approach can also make it harder to receive appropriate care and respect in health care settings. Sometimes, transgender people and their health care providers have been able to fix these problems by simply explaining the situation to an insurer and getting a human to override a computer-based denial.

The ACLU believes that ICRA’s ban on gender identity discrimination in provision of services, as well as nondiscrimination provisions in the federal Affordable Care Act, prohibit denial of coverage for “gender incongruent” health care in Iowa. There have been few court decisions on this so far.

If you’re having a problem securing health insurance coverage, please contact us.

5. Criminal Law, Police, and Prison

A. Dealing with Police

Police often target for suspicion anyone who looks “different” or does not conform to their expectations, which may include transgender people. Transgender women of color, in particular, have often faced extra scrutiny from law enforcement officers who wrongly assume that they must all be engaging in unlawful sex work. Fortunately, in recent years law enforcement officials have begun to acknowledge that such practices are unfair and do not help prevent crime. In 2014, the U.S. Department of Justice advised federal law enforcement agencies, including the FBI and ICE, that they may not profile or target individuals based on their gender identity. Some local police departments have also adopted policies that prohibit profiling of transgender people and/or that instruct officers on things they should do to treat transgender people respectfully, such as using preferred names and pronouns.

Searches by police often pose particular privacy concerns for transgender people. If police stop someone on the street for questioning and do a quick “frisk” or “pat-down” without arresting the person, that person does not have a legal right to ask that a different officer perform the pat-down. However, if a transgender person has been arrested and/or taken to jail and is being strip-searched, they can request to be searched by an officer of the same gender. Whether this request will be honored is likely to depend on local policies, whether the individual can show identification reflecting his or her gender identity, and whether any sort of “emergency” exists. It is important for people in police custody to stay calm while making such a request and to

bear in mind that arranging for an officer of the same gender to do the search may cause the arrest and booking process to take longer.

B. Prisoners' Rights

We believe that the U.S. Constitution, the Iowa Constitution, and federal law require prison and jail officials to acknowledge transgender prisoners' identities and meet many of their particular needs within the prison environment. However, the law on these issues is still evolving. In 1995, an Iowa federal court ruled against a transgender woman who requested classification as female within the prison system, housing with other women, and transition-related medical procedures, but the legal and medical picture has changed since then.

Most jails and prisons still categorically house transgender women (particularly those who haven't had genital surgery) in male facilities, and transgender men in female facilities. The Iowa Supreme Court held in 2010 that ICRA does not apply to prison housing policies, so it would not work to argue that prison housing assignments based on sex assigned at birth violate ICRA. However, a growing number of jail and prison systems around the country are developing more nuanced and respectful housing policies, in part because they fear being held liable in court if they fail to protect transgender inmates from rape and other forms of abuse.

The federal Department of Justice has enacted regulations pursuant to the Prison Rape Elimination Act (PREA) that require determination of appropriate housing for transgender inmates on a case-by-case basis, taking into account factors like personal preference and safety needs, and not solely based on their genitals. These regulations also limit the use of "protective custody" (which has sometimes resulted in severe isolation and torture-like experiences for transgender prisoners), restrict the use of segregated and potentially stigmatizing LGBT units, require training for staff on communication with and treatment of transgender inmates, require improved avenues for reporting abuse, and ban genital searches of transgender inmates just to determine their gender. The PREA regulations currently apply to all correctional facilities that receive federal funding, including Iowa state prisons and local jails. The ACLU has published a "[toolkit](#)" providing more information about PREA and how it can be helpful for LGBTI individuals in prison, jail, and detention facilities.

The Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment, which courts have said includes "deliberate indifference" to a prisoner's medical needs. Using this argument, some prisoners have been able to persuade judges to order prison officials to provide hormone therapy and/or evaluate them for surgery.

Under a policy enacted in 2011, transgender people detained in federal prisons and federal jails have the right to receive an evaluation for gender dysphoria, and gender-confirming medical treatment if the evaluation shows they need it. This is true whether or not a prisoner was prescribed hormone therapy before entering federal custody. Many state prison systems and some local jails now have similar policies, and the Iowa Department of Corrections says that hormone therapy is available when a prisoner can demonstrate a medical need for it. In

practice, however, even prisoners in systems with good policies on the books often encounter numerous obstacles to getting the health care they need.

The ACLU and the National Center for Lesbian Rights have published a more detailed [guide](#) to issues transgender people face in prison and jail, and strategies for addressing those issues.

C. Hate Crimes

Iowa Code section 729A, which provides additional remedies for victims of hate crimes that target particular groups of people, does not cover “gender identity” as a protected characteristic. Of course, violence or harassment directed toward transgender people in Iowa is subject to criminal prosecution just like an equivalent crime committed for a reason unrelated to hate or bias.

However, the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 added gender identity as a protected characteristic under federal hate crimes law. This means that the federal government can assist local law enforcement in investigating and prosecuting crimes where the victim was targeted because of his or her gender identity, and people who commit such crimes may be subject to tougher penalties.

6. Additional Resources

ACLU: The American Civil Liberties Union (<http://www.aclu.org>) is the nation’s largest public interest law firm. More than a dozen Projects within the national ACLU focus on addressing specific civil liberties and civil rights issues, and work closely with ACLU chapters and affiliates in every state.

The LGBT and HIV Project of the national ACLU works to advance the rights of trans people across the United States through litigation, legislative and policy advocacy, and public education. Their website offers additional information about the rights of transgender people under state and federal law: <https://www.aclu.org/lgbt-rights/discrimination-against-transgender-people>.

ACLU of IOWA: The ACLU of Iowa is the statewide affiliate of the ACLU. The ACLU of Iowa has worked for decades to advance LGBT rights, filing the first lawsuit seeking to recognize marriage equality in Iowa in 1976 and playing an active role, either directly or through amicus curiae briefs, in major court decisions for LGBT rights in our state ever since. In addition, the ACLU of Iowa actively lobbies for LGBT rights in the Iowa legislature and through public education. To find out more, visit our website at <http://www.aclu-ia.org>.

University of Iowa LGBTQQ Clinic: The LGBTQQ Clinic at the University of Iowa provides a vast array of services and resources, including health care services specifically tailored for the LGBTQQ community. Their website offers a wealth of information potentially useful for transgender Iowans: <http://www.uilgbtqclinic.com/>.

Iowa Civil Rights Commission: People who wish to bring complaints pursuant to the Iowa Civil Rights Act can do so through the ICRC. In addition, the ICRC's website provides extensive information about civil rights in Iowa, including many of the topics discussed here: <https://icrc.iowa.gov/>.

The Iowa Judicial Branch: For information about Iowa courts, the Iowa Judicial Branch is an excellent resource. Its website contains forms and instructions for individuals who wish to pursue their own cases without a lawyer (see section on *pro se* representation), as well as general background about the judicial system: <http://www.iowacourts.gov/>.

One Iowa: One Iowa is a statewide LGBT focused organization working toward full equality for LGBT individuals in Iowa through grassroots efforts and education: <http://www.oneiowa.org>.

For more information:

E-mail: legal.program@aclu-ia.org (strongly preferred)

Phone: 515-243-3576

Submit a request for legal assistance

www.aclu-ia.org/legal/contact-us-with-a-legal-problem

