

A Know Your Rights Guide for Transgender New Yorkers Navigating COVID-19



Please note that this Guide has not been updated since June 1, 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 New York 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 **June 1, 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 the local health department. Please call ahead at 311 in New York City or 1-888-364-3065 elsewhere in the state, where you can 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, state, and local law, including the *New York State Human Rights Law* and the *New York City Human Rights Act*, explicitly prohibit discrimination trans and nonbinary people.

- 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 and state 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 or arm) 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 normally allowed. However, many New York 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, you may be able to sign up for Medicaid (free public insurance for children or for adults with low incomes), or obtain low cost insurance, at the [New York State of Health](#) marketplace. There is a special open enrollment period for all New Yorkers, until June 15, 2020; after that date, you will be unable to sign up unless you lose your current insurance.

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

What is “New York on PAUSE” and how is New York reopening?

The “New York on PAUSE” order means that all New Yorkers are directed to stay at home until at least June 27, 2020, except for four reasons: if they are essential workers; to meet basic needs like exercise, shopping for food or medicine, or seeking medical care; to attend gatherings, such as social or religious events, that have no more than ten people, as long as social distancing can be maintained; or to go to work in a workplace that has been allowed to reopen. Additionally, if you do leave your home, you must wear a face-covering if you cannot stay at least six feet away from others. Businesses may deny you entry if you are not wearing a face-covering. If you cannot maintain six feet of separation from others at work, your employer must provide a face-covering for you. If your employer does not, you can [file a complaint with the Department of Labor](#). You can be fined up to \$1,000 for violating the “New York on PAUSE” order.

New York is reopening. You can learn more about New York’s reopening plan [here](#). Reopening is occurring in phases. “Phase One” allows some non-essential workplaces to reopen; and “Phase Two” allows most to do so, if they can do so safely. Some workplaces may only be allowed to reopen with limitations. For example, in Phase Two, offices should only allow half of their maximum occupancy to be inside at a time. New York City is expected to enter Phase One on June 8, 2020; the rest of the state is already in Phase One or Phase Two. If your workplace reopens and your employer requires you to return to work, and you do not do so, you will not be eligible for unemployment benefits if your employer terminates you. 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. Know that it remains your employer’s obligation to ensure workplace safety, including providing face coverings and allowing workers to remain six feet apart where possible.

If your workplace is unsafe, you may [file a complaint with the Department of Labor](#). You may also be required to be tested for COVID-19 before you return to work, and if you test positive, the State may follow up with you and with people with whom you have been in contact to provide for further testing and access to treatment. Your rights to take time off if you have been diagnosed with COVID-19 are described below on page 8.

COMMON QUESTIONS & ANSWERS

If my transition-related surgery was postponed, when will it be rescheduled?

The state is experiencing an extraordinary public health crisis that has forced medical providers to make critical decisions that do not overwhelm our health care system. Most transition-related surgeries were postponed. Some hospitals are now rescheduling those procedures, even in areas of the state that have not yet started phase one of the reopening plan. Each surgery is evaluated on a case-by-case basis, so make sure to check-in with your surgeon about whether your surgery has been rescheduled. While it can be extremely difficult to wait, remember your surgery 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 or gender marker change?

If you're changing your name, there may be some delay because the courts had closed for non-essential business. Although most courts have since reopened, they are generally only accepting electronic filings, meaning name change petitions have to be filed online and may not be filed in person. If you have a lawyer, ask for an update on your petition. If you don't have a lawyer, you can find instructions on how to file your name change [here](#), or you can call the courts' coronavirus telephone hotline at 1-833-503-0447. Note that New York City Civil Court, where name change petitions are usually filed in New York City, is now deciding petitions that were submitted by March 16, 2020; but it is still not accepting new petitions. However, if you are a New York City resident, and you want to file a new name change petition without further delay, you may file your petition in New York City Supreme Court, following the instructions [in this link](#) (do **not** click on the link for "NYC Civil Court").

You cannot currently change your gender marker on your driver license or state ID, because this requires a visit to the DMV, and all DMVs are now closed. Check the [NY DMV website](#) for updates. Changing the gender marker on your birth certificate or NYC ID does not require an in person visit. If you already changed your name but cannot update your ID, and you experience problems obtaining an absentee ballot, updating your voting registration, 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?

Stimulus payouts started to be sent out by direct deposit or mail in April 2020. Payouts were 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 is to 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, no. Evictions and foreclosures have been suspended until August 20, 2020. If you are experiencing financial hardship, you may also apply your security deposit to your rent. Utility companies have also suspended shutoffs. Additionally, homeowners with federally-backed mortgages (this is most mortgages) can suspend mortgage payments for six months if they have financial hardship, and borrowers from local banks and credit unions (this is not most mortgages) may also suspend their mortgage payments for 90 days if they have financial hardship. However, you will need to make up those payments, so talk with your lender first about a repayment schedule.

COMMON QUESTIONS & ANSWERS

Can I defer my other bills?

Some of them. Federal student loan payments (most student loans are federal—check with your loan servicer) are suspended through the end of September 2020, and most private lenders have agreed to defer student loan collection until after July 8, 2020. Life insurance premium payments may be suspended for 90 days due to financial hardship. You can apply [here](#) to suspend collection of debts you owe to the State of New York (such as unpaid state taxes) due to financial hardship.

Can I get or keep emergency shelter?

If you need emergency shelter, contact the department of homeless services. In New York City, you can call 311; elsewhere, call the number listed [here](#). If you do not have shelter, you cannot be arrested or fined for being homeless, even though the state has issued the New York State on "PAUSE" order, which requires most people to remain in their homes except for essential workers and meeting basic needs such as buying food and receiving medical care. You have a right to be placed into housing according to your gender identity, and it is to discriminate against transgender and nonbinary people in emergency shelters.

Can I take time off from work?

Yes, if you've been diagnosed with COVID-19, or if you've been ordered to stay home and are unable to work from home, you can take time off work. If your employer has more than ten employees or more than a million dollars in annual revenue, your employer must pay you for at least some of this time. If your employer is smaller than that, this time may be unpaid. Additionally, if your employer has between 50 and 500 employees, the federal *Family First Coronavirus Response Act* allows you to take two weeks while your children's school is closed. You cannot be fired or demoted for taking leave that you have a right to take.

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, as well as 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 the state government was 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, you can file a charge of discrimination with the New York State Division of Human Rights or, in New York City, the New York City Human Rights Commission. Please note that, after you apply for unemployment benefits, you must claim reclaim your benefits each week that you are unemployed and looking for work, including while you are waiting for your benefits to begin.

Can I receive or keep unemployment insurance, SNAP, disability, or other types of public assistance?

Yes, if you qualify. These safety net programs have not been changed by the COVID-19 crisis, except that if your child is eligible for school lunch assistance, you may be able to receive assistance through SNAP, instead. You can apply online [here](#) if you live in New York City, and [here](#) if you live outside of New York City. Government programs cannot discriminate against you because you are trans or nonbinary.

COMMON QUESTIONS & ANSWERS

Can I vote by mail?

Yes. In advance of the June 2020 elections, the Board of Elections mailed an absentee ballot application, including postage, to every registered New York voter who lives in a district with a primary or special election. (You can check [the website of your county board of elections](#) to see if there will be an election in your district.) You will need to fill out and return this application in order to receive an absentee ballot itself. If you did not receive an application, you should [request an absentee ballot from the Board of Elections](#) as soon as possible, and you should also [update your voter registration information](#). When you vote absentee, you should check “temporary illness or physical disability” in box number 1 as the reason for your absentee vote.

Am I at risk for COVID-19 if I get arrested?

Yes. In some places, police officers are beginning to write tickets telling people to appear in court at later date rather than arrest them for minor or non-violent crimes, in order to reduce the risk of transmitting COVID-19 in jails or police stations. A ticket is not a dismissal. 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 and your chosen name, even if you have not received a legal name change. 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) **Human Rights Offices.** New York state and city non-discrimination laws prohibit discrimination against transgender and nonbinary people in many circumstances, including employment, housing, healthcare, and public accommodations, among others. Instructions for making a complaint with the New York City Human Rights Commission are [here](#). Instructions for making a complaint with the New York State Human Rights Division are [here](#). **There are deadlines to file such complaints**, so make sure to contact your local agency for more information.

2) **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.

WHERE TO FILE A COMPLAINT

3) **Doctors, nurses, and other health professionals.** You can file a complaint with your state's licensing board: for doctors, with the [Health Department](#); and for all other licensed professionals, with the [Office of the Professions](#).

4) **Federal Government.** The U.S. Health and Human Services Department's [Office of Civil Rights](#) oversees discrimination complaints against most health care providers and facilities. You have **180 days** from the incident to file a complaint.

5) **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](#).

NEW YORK STATE APPENDIX



New York State coronavirus website:

<https://coronavirus.health.ny.gov>

New York City coronavirus website:

<https://www1.nyc.gov/site/doh/covid/covid-19-main.page>

Health

APICHA Community Health Center: <https://www.apicha.org/>

Callen Lorde: <https://callen-lorde.org/>

GMHC: <http://gmhc.org/>

New York State free mental health services hotline: 1-844-863-9314

Emergency Housing & Support Services

Ali Forney Center: <https://www.aliforneycenter.org/>

Coalition for the Homeless: <https://www.coalitionforthehomeless.org/>

Griot Circle: <https://griotcircle.org/>

Hetrick Martin Institute: <https://hmi.org/>

Housing Works: <https://www.housingworks.org/>

Sylvia Rivera Food Pantry - <http://www.mccny.org/mccnycharities.html>

Advocacy & Organizing

New York Trans Advocacy Group: <https://www.nytag.org/>

New York State LGBT Health & Human Services Network (The Network):

<https://gaycenter.org/recovery-health/health/lgbt-health-network/>

Sylvia Rivera Law Project: <https://srlp.org/>

TransLatinx Network: <https://translatinxnetwork.org/>

NEW YORK STATE APPENDIX

Community Centers

The LGBT Community Center (Manhattan)

<https://gaycenter.org/>

Brooklyn Community Pride Center (Brooklyn)

<https://lgbtbrooklyn.org/>

Pride Center of State Island (Staten Island)

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

Destination Tomorrow (Bronx)

<https://destinationtomorrow.org/>

The Queens LGBT Center (Q-Center) (Queens)

<https://lgbtnetwork.org/q-center>

Hudson Valley LGBTQ Community Center

<http://lgbtqcenter.org/>

Long Island LGBT Community Center

<https://lgbtnetwork.org/the-center>

Pride Center of the Capital Region (Capital Region)

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

The Loft (Westchester)

<http://www.loftgaycenter.org/>

Out Alliance (Rochester)

<https://outalliance.org/>

Pride Center of Western New York (Buffalo)

<http://www.pridecenterwny.org/>

Cortland LGBT Community Center (Cortland)

https://www.cortlandprevention.org/lgbt_resource_center/

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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