

GOVERNOR STITT'S ANTI-TRANS EXECUTIVE ORDER (EO) FAQs

On August 1, 2023, Governor Stitt signed Executive Order 2023-20 (EO), discriminating against people who are transgender in Oklahoma. Below are some explanations of what this EO means for the people of our state.

What Does This EO Do?

It defines words such as female, male, woman, girl, man, boy, and sex. The governor's definitions of these words will be used when administrative agencies, boards, commissions, etc., need to make decisions based on Oklahoma law that includes these words.

Few Oklahoma laws use the words defines in the EO. The intended impact of the EO is on identification documentation given out by the State of Oklahoma. This includes driver's licenses and birth certificates, because Oklahoma law requires that these documents include the individuals sex. The EO attempts to ensure "sex" markers on those documents align with the EO's definition.

Can I Change the Gender Marker on Oklahoma Documents?

Maybe. Service Oklahoma (driver's licenses) has promulgated regulations that say they will respect court orders for gender-marker corrections, but it is unclear whether Service Oklahoma is adhering to its own regulations in all cases. The Oklahoma State Department of Health (birth certificates) will not amend gender markers on birth certificates, citing the EO.

An individual will still be able to change their name to a name that aligns with their gender identity on both documents.

Can I Keep Documents That Previously had the Gender Marker Changed?

It is uncertain at this time. There is nothing in the order that demands previous documents be handed in, and there is no current law that gives a penalty for an individual's documents not being in accordance with their "sex at birth," as defined by the EO.

GOVERNOR STITT'S ANTI-TRANS EXECUTIVE ORDER (EO) FAQs (CONTINUED)

How Will Oklahoma Enforce the EO?

There is no enforcement mechanism or penalties described in the EO. This does not mean an agency is free to do as they please, but it does make any potential penalty less clear. As things progress and state agencies begin implementing the EO, we will know more about the impact of the order. What is clear is that under Oklahoma law, a governor has no power to change or make law by executive orders, and agencies remain bound by the law as authoritatively determined by the courts.

Does This EO Change My Rights?

Outside of government documents, it does not. An EO by a state governor is limited to the scope of that state's law and cannot affect federal law or the scope of federal protections. Policies of programs like domestic violence shelters and homeless shelters are predominately dictated by federal law. Also, Oklahoma state law includes protections against discrimination in place of public accommodation and is enforced by the Oklahoma Attorney General. If a person is discriminated against in a place of public accommodations, they can file a complaint with the Civil Rights Enforcement Unit of the Oklahoma Attorney General.

What Is The ACLU Doing About This?

The ACLU of Oklahoma, in tandem with our national partners, is currently monitoring the situation and documenting the practical impact of the EO through the policies and practices of implementing state agencies.

What Should I Do If This EO Harms Me?

If you experience a problem or hardship as a result of this EO (for example, if you are denied a judicial order for a gender-marker correction, or if you successfully obtained such an order but an agency is refusing to respect it), please record as much information about the incident as you can and contact the ACLU of Oklahoma. We would like to hear about it. You can email our team at: intake@acluok.org.

In addition to letting us know, if you are experiencing discrimination in the context of employment or housing you can file a complaint with the following federal agencies.

- Employment: Reporting Employment Discrimination with the EEOC
- Housing: Reporting Housing Discrimination with HUD.

You can also contact the Civil Rights Division of the Department of Justice.