

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

---

Honors Theses, University of Nebraska-Lincoln

Honors Program

---

Spring 3-2022

## Trans Legal Aid: Resources for Lawyers Representing Trans Clients

Sydney Miller

*University of Nebraska - Lincoln*

Follow this and additional works at: <https://digitalcommons.unl.edu/honorsthesis>



Part of the [Lesbian, Gay, Bisexual, and Transgender Studies Commons](#), [Psychology Commons](#), and the [Social Justice Commons](#)

---

Miller, Sydney, "Trans Legal Aid: Resources for Lawyers Representing Trans Clients" (2022). *Honors Theses, University of Nebraska-Lincoln*. 448.

<https://digitalcommons.unl.edu/honorsthesis/448>

This Thesis is brought to you for free and open access by the Honors Program at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Honors Theses, University of Nebraska-Lincoln by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

Written Explanation/Reflection

An Undergraduate Honors Thesis  
Submitted in Partial fulfillment of  
University Honors Program Requirements  
University of Nebraska-Lincoln

by  
Sydney Miller, BA  
Psychology  
College of Arts & Sciences

14 March, 2022

Faculty Mentors:  
Ashley Votruba, J.D., Psychology  
Rosemarie Holz, P.hD, Women's and Gender Studies

## Abstract

This project covers important information about transgender Americans and their relationship with the legal system. The website reviews a timeline of important federal and state court cases that clarify or have an impact on transgender rights. The site also covers important facts about medical and employment discrimination laws, including resources, precedents and arguments for lawyers to use to secure a medical transition treatment or file an employment discrimination lawsuit. Finally, the site provides a variety of other resources about state laws and other psychological journals that discuss transgender issues.

*Keywords:* transgender legal rights, American law, psychology of transgender people, medical transitioning, employment discrimination

## Written Explanation/Reflection

For my senior honors thesis, I created a website ([translegalaid.net](http://translegalaid.net)) that compiles information about laws as they pertain to transgender people in a way that will be beneficial to lawyers representing transgender clients. As a trans person and aspiring lawyer, this project is very important to me. Throughout my time at the University of Nebraska-Lincoln, the parts of my education I've enjoyed the most were the classes and projects that allowed me to look at issues through a lens of intersectionality. From my freshman honors seminar about gender and the law in America to my course about the history of sexuality, I've learned a great deal about the history of women and queer people when it comes to the law. I've researched and written papers on the psychological impacts of being assigned to a prison that does not align with one's gender identity and the dark history of forced sterilization of Latina women in California.

Something I've noticed while writing these papers and participating in these courses, as well as my own outside research, is how little historical and legal research there is concerning the transgender population of America. As an aspiring lawyer who will be starting at the University of Colorado Law in the fall, I knew I wanted my final project for my undergraduate education to be just as intersectional as the other projects I've completed during my time here. So I put together this website that lawyers can use when working with transgender people in hopes that I can fill in some gaps in information or point people toward more information on the subject.

I believe it is fairly obvious why this project is needed, but in case it is not, I will explain more. As I explain on my website, transgender Americans have the least legally protected rights of any group of people in this country. Trans people are under attack in a multitude of states. In Texas, Arkansas and Idaho, there are laws which are being written, passed, or are already in law

that prevent trans children from receiving gender-affirming medical care. There are no landmark court cases that set a precedent about this issue. Though not all transgender individuals will choose to undergo medical treatment, early access to puberty blockers or hormones can have a huge impact in a trans child's life. A lawyer who is willing to take on these challenges and help ensure that child can live their life in a body they want will be much better prepared in court if they understand the motivations and research behind transgender youth transitioning treatments, which is the work my project collects and presents for them. Transgender children's rights are also under attack in Illinois and Iowa, as "biology" is used as an excuse to exclude transgender girls from sports while at the same time the government is withholding access to "biological" treatments for trans children.

A similar strain of logic applies to my other main focus, workplace harassment and discrimination. Unlike medical issues, there are multiple Supreme Court cases that explicitly protect queer people from being fired or discriminated against on account of their sexuality or gender identity, but these cases are overseen by the Equal Employment Opportunity Commission, a federal commission, that often does not have time to process and follow up on harassment or discrimination claims. Part of the issue is that the EEOC is responsible for all workplace discrimination cases, and after the Civil Rights Act of 1964, their responsibility grew as their employment numbers remained stagnant. It can take months for a complaint file to even be considered, and there is no promise of monetary relief. This is where independent civil lawyers can come in. Since the EEOC isn't always able to pick up these discrimination cases, individual lawyers have an opportunity to make a significant impact on an individual's life by litigating for compensatory damages such as front pay, back pay, lost benefits and even emotional distress or punitive damages on behalf of their transgender client.

My website obviously cannot provide a comprehensive overview of everything related to transgender people and the law. However, I believe this project has provided readers, hopefully future lawyers, with valuable insights in regard to medical care and employment discrimination when it comes to transgender people.

Some of the biggest challenges I faced when completing this project had to do with lack of resources. Even though part of the inspiration for this website came from the laws being passed in states like Texas that limit transgender people's rights, trans people and the law aren't thought about all that often in academic literature. In fact, when I was researching information about employment discrimination, the majority of the studies I found had to do with "LGBT" workers, but all the data was actually from cis queer people.

Another issue I ran into was the fact that my faculty advisors did not have any experience with an applied project thesis, so it was difficult to set guidelines and standards to adhere to as I progressed in my project. It was also difficult and confusing to navigate the College of Arts & Sciences' guidelines compared to the honors programs' guidelines. I regularly received emails with deadline updates and information and forms attached that provided me with what I needed to be doing, but since I had no similar direction from the honors department, I worried that I may have been going in the wrong direction with my project. However, as a writing consultant at the Writing Center and senior opinion editor of the Daily Nebraskan, I didn't really have time to try and make two different projects to cater to each of these institution's needs; I just had to hope that what I did held up to the honors program's standards.

However, I did learn a great deal from this project, and I am grateful for this opportunity to do research into an area that needed more attention. The fact that I was applying to law schools in the fall gave me the motivation to get started with a lot of the research and initial planning

during the summer. Being able to have a plethora of knowledge about the previous research made it easier to talk about the project in my application essays and interviews, and it has helped me be more informed about current events as it pertains to laws being introduced or passed about transgender children.

The most difficult part of my project was assembling my information together into a website. I don't have much skill with web design, but I wanted my project to be a website because that would be the most accessible to future lawyers and easiest to disseminate. To that end, I had to do a lot of pre planning about how I wanted to present my information on the website. Then I had to make sure that the formatting lined up, and even though I used some templates, the formatting got messed up when I copy and pasted my text, so I ended up having to type in all of the information directly into the website.

After I put all the information in, I had to fiddle around and make sure it was all easy to read. I had to ask a lot of my coworkers if things were looking okay, and my advisors didn't have much experience in graphic design, so they were unsure how to help. I ended up spending a more significant amount of time making it look presentable than I expected I would, and that made it so that I didn't feasibly have the time to expand on a couple of the topics I initially wanted to expand on like housing discrimination and more background on the psychological vulnerabilities of transgender people, how they're more likely to have mental illnesses and addiction issues. I wanted to take this information about vulnerabilities and use it as another page that explains specifically to prosecutors who are prosecuting trans defendants, to make it more clear to these prosecutors that they should treat trans defendants with care and compassion. However, I ultimately decided that I wanted to focus my time on resources for lawyers who were actively looking to help transgender clients, rather than targeting it toward people who do need to learn

this information, but are less likely to seek it out on their own, or be researching topics that will lead them to my site.

After I had put all my information in my website, I reviewed it and decided to make some major changes to the layout, which took several weeks to complete. Then, I decided that the website would look better if it consisted of mostly bullet points and I attached a longer written document about specific advice and information about trans-specific medical care as well as employment discrimination. When I presented this information to my advisors, they liked everything I had, but one of them suggested that I make the psychological side of transgender identity a larger point in the website (i.e., saying that I should talk about the psychological diagnoses that trans people need to access medical care, and reinforcing the idea that transgender identities are validated by the American Psychological Association). Though I know their main inspiration for this was to bring more psychology into my project, I have a personal objection to listing psychology facts to validate trans identities, so I told them I would not be able to do that. Thankfully, my advisors understood, and did not press this point further.

All in all, I feel very proud of the work I've done on this project, and though it was hard, I'm glad that the Honors program gave me this opportunity to make something that has so much potential to help people and start a conversation about extremely important and timely issues in our justice system today.

## References

- Baboolall, D., Greenberg, S., Obeid, M., & Zucker, J. (2021). Being transgender at work. *McKinsey Quarterly*, 4.
- Bostock v. Clayton County, 17-1618 (The Supreme Court June 15, 2020).
- Burns, C., & Krehely, J. (2011). Gay and transgender people face high rates of workplace discrimination and harassment: Data demonstrate need for federal law. *LGBT Research and Communications Project*.
- Clark, B. A., & Virani, A. (2021). "This wasn't a split second decision": An empirical ethical analysis of transgender youth capacity, rights, and authority to consent to hormone therapy. *Journal of Bioethical Inquiry*, 18, 151-164.
- Colizzi, M., Costa, R., Pace, V., & Todarello, O. (2013). Hormonal treatment reduces psychobiological distress in gender identity disorder, independently of the attachment style. *Journal of Sexual Medicine*, 10(12), 3049-3058.
- Commission, U. E. (n.d.). Sex-Based Charges (Charges filed with EEOC) FY 1997 - FY 2020. *U.S. Equal Employment Opportunity Commission Data Tools and Products*.
- Connolly, M. D., Zervos, M. J., Barone II, C. J., Johnson, C. C., & Joseph, C. L. (2016). The mental health of transgender youth: Advances in understanding. *Journal of Adolescent Health*, 59(5), 489-495.
- de Vries, A. L., McGuire, J. K., Steensma, T. D., Wagenaar, E. C., Doneleijers, T. A., & Cohen-Kettenis, P. T. (2014). Young adult psychological outcome after puberty suppression and gender reassignment. *Journal of the American Academy of Pediatrics*, 134(4).
- Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011).
- Hergatt Huffman, A., Mills, M., Howes, S., & Albritt, M. (2020). Workplace support and affirming behaviors: Moving toward and transgender, gender diverse and non-binary friendly workplace. *International Journal of Transgender Health*, 22(3).
- Heylens, G., Verroken, C., De Cock, S., T'Sojen, G., & De Cuypere, G. (2014). Effects of Different Steps in Gender Reassignment Therapy on Psychopathology: A Prospective Study of Persons with a Gender Identity Disorder. *Journal of Sexual Medicine*, 11(1), 119-126.

- Jameel, M., & Yerardi, J. (2019). Workplace discrimination is illegal. But our data shows it's still a huge problem. *Vox*.
- Keo-Meier, C. L., Herman, L. I., Pardo, S. T., Sharp, C., & Babcock, J. C. (2015). Testosterone treatment and MMPI-2 improvement in transgender men: a prospective controlled study. *Journal of Consulting and Clinical Psychology, 83*(1), 143-156.
- McCann, E., & Sharek, D. (2016). Mental health needs of people who identify as transgender: A review of the literature. *Arches of Psychiatric Nursing, 30*(2).
- Office, U. N. (1898). *Convention on the Rights of the Child*.
- Rosich, G. R. (2020). Sexual Citizenship Theory and Employment Discrimination among Transgender-Identified People. *Societies, 10*(1), <https://doi.org/10.3390/soc10010017>.
- Vergani, F. (2019). Why transgender children should have the right to block their own puberty with court authorization. *FIU Law Review, 13*(4).