



FAQ on the Trump Administration's Anti-Trans Executive Order

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On January 20, 2025, President Trump signed a sweeping number of executive orders that pose significant harm to marginalized communities, including LGBTQ+ individuals, BIPOC individuals, people with special health needs or living with disabilities, and individuals living at the intersections of these identities.

The executive order, titled "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," is just one piece of a broader set of anti-trans actions that collectively impact LGBTQ+ individuals.

Most importantly, no attempt to erase trans people will ever succeed. Trans people, including trans youth, have always been here and always will be. Trans youth are loved, valued, and belong exactly as they are. No executive order or legal document can change that truth. Everyone deserves the chance to thrive, and we stand with youth. Together, we will build a world where LGBTQ+ youth have boundless possibilities for joy, and all people know liberation.

1. What does the executive order entail?

The executive order mandates federal agencies to recognize only two immutable (unchanging) sexes, male and female. Additionally, it denies the "concept of gender identity." Below are areas addressed in the executive order:

- **Attempts to Narrow Interpretation of *Bostock v. Clayton County*:** In *Bostock*, the Supreme Court ruled that discrimination based on sexual orientation and gender identity is a form of sex discrimination, which is prohibited under Title VII of the Civil Rights Act of 1964. This decision extended legal protections to LGBTQ+ individuals.

The executive order seeks to have federal agencies reconsider or limit the scope of that ruling, possibly allowing them to argue that discrimination against LGBTQ+ individuals—particularly on the basis of gender identity or sexual orientation—does not fall under the protections granted by *Bostock*. If implemented, this could weaken protections of LGBTQ+ individuals from discrimination in areas of workplace, education, healthcare, and housing. The Department of Justice, under the Attorney General, will issue guidance to federal agencies on how to implement this aspect of the order.

- **Federal Documentation:** The order directs the secretaries of the State Department, Department of Homeland Security, and the Office of Personnel Management to effectively erase recognition of transgender and nonbinary identities in all federal documentation. Transgender and nonbinary individuals may no longer obtain federal identification documents (i.e. passports) that reflect their gender identity, because the order requires documents to align with sex assigned at birth.

On Tuesday January 21, 2025, The White House told [NOTUS](#) that the executive order is not retroactive and does not invalidate current passports. Secretary of State Marco Rubio directed the State Department on Wednesday, January 22, 2025 to suspend all passport applications seeking to change a sex marker and all applications requesting an “X” sex marker.

- **Stops Federal Funding for “Gender Ideology” and Gender Identity Data Collection:** Under the executive order, federal agencies are prohibited from using grants or contracts to fund content that – in the Administration’s view – promotes “gender ideology.” The order also mandates agencies to deny existing guidance, toolkits, and memoranda related to LGBTQ+ issues provided by the

Department of Justice, Department of Education, Attorney General, and Equal Employment Office Commission.

- **Safety Concerns:** It mandates that individuals use facilities corresponding to their sex assigned at birth increases the risk of harassment and violence against transgender individuals in settings like schools and other public spaces.
- **Rolling Back Protections for LGBTQ+ Individuals in Housing and Shelters:** Mandates the Department of Housing and Urban Development (HUD) to end the longstanding Equal Access Rule, which protects LGBTQ+ individuals from discrimination in housing. Additionally, it instructs HUD to introduce policies that would bar transgender women from accessing domestic violence shelters.
- **Incarceration Policies Targeting Transgender Individuals:** It calls for federal agencies to establish regulations that would require transgender women to be placed in men's prisons or detention facilities, knowingly increasing their risk of harm and violence. It also directs the Bureau of Prisons to stop gender-affirming healthcare for incarcerated individuals.

2. Is this legal?

Executive orders must be lawful and they DO NOT have the authority to override the United States Constitution, federal statutes, or established legal precedent. In a press release issued by [The Human Rights Campaign](#) that provides background on the anti-trans executive order, it states that:

“Many of these directives do just that or are regarding matters over which the president does not have control. Given that, many of these orders will be difficult, if not impossible, to implement, and efforts to do so will be challenged through litigation.”

In addition to these legal hurdles, the Administration cannot legally act without public input. Administration actions must comply with the Administrative Procedures Act (APA), a 1946 law requiring a “notice and comment period” for policy changes and to prove that public input was considered. This is often where executive orders and other administrative actions fail.

For example, during Trump's first term, more than 246 agency regulations, guidance documents, and memoranda were challenged in federal courts. Many of those cases were filed by state attorney generals, public interest groups, and others. Those same groups, including [Vermont's Attorney General](#), may similarly challenge this Administration's proposals.

Also, the Supreme Court recently heard arguments in *United States v. Skrmetti*, a case challenging a Tennessee law that bans gender-affirming care for transgender individuals under the age of 18. The central question in that case is whether the state law, which prohibits medically necessary gender-affirming care, violates the Equal Protection Clause of the 14th Amendment, which prohibits discrimination on the basis of sex. The decision is expected in June 2025. You can learn more [here](#).

3. If executive orders have to be lawful, and this executive order may not be, can it be implemented?

We are uncertain how, when, or if the Administration will successfully implement aspects of the executive order - legally or otherwise.

What we do know is that executive orders are utilized by the president to manage the operations of the federal government. If the executive order - in whole or in part - is unlawful, and the administration implements unlawful actions, here's what can happen:

- **Legal Challenges:** Individuals, organizations, or states can sue to stop the implementation of the executive order. Courts will review whether the President overstepped their authority or violated the Constitution.
- **Injunctions:** A court may issue an injunction, temporarily halting the executive order's enforcement while the case is decided.
- **Court Decisions:** If found unconstitutional or beyond the President's authority, courts can strike down the executive order in whole or in part.
- **Congressional Action:** Congress can pass legislation to override an executive order or limit its scope. However, the President could veto such a bill.

- **Agency Non-Compliance:** Agencies tasked with implementing the executive order may hesitate or refuse to enforce it if they believe it conflicts with their legal mandates.

The above actions take time, ranging from months to possibly years.

4. How does this order affect transgender and nonbinary youth?

This remains to be seen. Although executive orders can direct how federal agencies enforce existing laws or allocate resources, potentially creating barriers to access for transgender and nonbinary youth, they cannot override the Constitution, federal laws, or established legal precedent. The ultimate legality depends on judicial review and how the order is implemented.

5. What protections remain in place for LGBTQ+ youth in Vermont?

Outlined below, Vermont has comprehensive laws that safeguard LGBTQ+ youth in many ways. And, we know the current Federal Administration aims to dismantle these important protections and support using a variety of tactics, including the weaponization of federal health and education funding. For this reason and others, we must remain proactive, and advocate for the rights and protections of LGBTQ+ students. Below are relevant protections under Vermont law:

- **Inclusive Schools:** Vermont schools are legally obligated to protect transgender and nonbinary students from discrimination and harassment based on sexual orientation, gender identity, or expression. Students have the right to access facilities that align with their gender identity, form a Gender and Sexuality Alliance (GSA), dress aligned with their gender identity, etc. In 2017, the [Vermont Agency of Education issued guidance](#) on how to support transgender and gender nonconforming youth in schools. Additionally, Vermont schools are required by law to have policies in place to prevent the hazing, harassment, and/or bullying of students. The state has implemented the [Hazing, Harassment and Bullying Model Policy to provide](#) clear guidance and protocols for action when hazing, harassment, or bullying occurs.

- **Vermont's Shield Law:** [Vermont's Shield Laws](#) offer strong protections related to both patients and providers of reproductive health **and** gender-affirming care. These laws protect patients and health care providers from out-of-state investigations, prosecutions, professional discipline, and civil liability. This means:
 - "Claw back" lawsuits are allowed, enabling individuals to recover damages if they are targeted by out-of-state legal actions.
 - Health care providers can continue to practice medicine without fear of repercussions when offering health care that is legally protected in Vermont.
 - Vermont officials do not need to cooperate with out-of-state attempts to criminalize patients or providers.

(Source: [ACLU of Vermont](#))

6. What about access to gender-affirming care in Vermont?

If an executive order results in the weaponizing of health funding by restricting access to gender-affirming care in federally funded programs or healthcare systems, this could indirectly affect state practices. For example, if federal funds were tied to compliance to the executive order, states that accept those funds could face pressure to align their laws or practices with the federal policy.

Another cascading impact is that federal funding limits on gender-affirming care may destabilize the ability of hospitals to provide gender-affirming care by reducing resources, increasing costs, and creating inequities in care delivery.

7. If the federal government limits or prohibits gender-affirming care for minors under Medicaid, could the state create a state-funded option the way they have with abortion?

Yes, that may be possible, and we will need your help in advocating for it. We are working closely with our partners to follow this issue and will keep you informed of any advocacy efforts as this issue unfolds.

8. What about Vermont drivers' licenses?

Vermont allows individuals to update their gender markers on state-issued IDs without requiring medical documentation. The executive order does not directly change state

policies on driver's licenses, although it may create inconsistencies between state and federal identification documents. This potentially complicates the use of such documents in federal contexts, and affects the daily lives of transgender and nonbinary individuals. (i.e. A transgender woman goes to pick up a package at the post office, but the clerk refuses to give it to her because the ID indicates "male," even though she is female.)

9. Should someone attempt to change the gender marker on their federal documents now, before the possibility of any implementation of executive order?

This is a personal decision that requires weighing the risks. As each individual circumstance is different, we cannot advise you on these personal decisions.

It's possible that the Administration may unlawfully implement the anti-trans executive order (and others), either in whole or in part, with the knowledge that any legal accountability or recourse may take years. This approach reflects a broader strategy of testing or bypassing legal boundaries, often putting marginalized communities—like LGBTQ+ youth and immigrant families—at heightened risk.

What's hard but true is that at this time, we cannot offer any certainty on whether executive order actions will successfully move forward, nor can we predict the level of risk involved. We are here with you, watching as these initiatives unfold, and are prepared to respond with commensurate action in good time.

10. How are advocacy groups responding?

In Vermont and nationally, a response is underway and has been afoot in anticipation of a Trump Administration.

Outright is a part of the [Rise Up for Youth Coalition](#), a network of organizations united to support and protect young people from the impacts of today's challenging political and social climate. In addition, we are calling on public officials to take action and support LGBTQ+ youth. We have met with key officials and are continuing our dialogue following the issuing of the executive order to determine the best line of action. We will provide timely updates as we move forward.

We anticipate that national organizations, such as the [American Civil Liberties Union](#), [Lambda Legal](#), [Trans Law Center](#), [GLAD](#), the [Human Rights Campaign](#), and others will mount a legal defense and work on the ground in states throughout the country for change. However, moving through the courts and passing or defending protections legislatively takes time, and we will need to continue our work together – community-by-community – to protect and support LGBTQ+ youth.

11. What can parents and caregivers of LGBTQ+ youth do to support the young people in their lives during this time?

- **Create a Culture of Care:** You are the best line of support and defense for the LGBTQ+ youth in your life. Aim to create an accepting, warm, and caring environment for the young person in your life to thrive.
- **[Download Handling With Care:](#)** This toolkit was designed to offer you best practices, supportive resources, and an introduction to a community of affirming parents and caregivers who share a piece of this story. Find [Handling With Care](#) at outrightvt.org
- **Be an Askable Adult:** Askable adults are committed to having open, affirming and strong relationships with youth. For more information, visit <https://www.vtnetwork.org/create-change/askable-adult/>
- **Seek Resources:** Outright hosts a resource page on our website for legal, health, and crisis support. Additionally, we offer social and support groups as well as other opportunities to connect. Find the resources you need at outrightvt.org.

12. What specific actions can Vermonters take to support LGBTQ+ youth?

- **Stay Informed** – We know the overwhelm is real for everyone, including parents and caregivers. Find opportunities to stay informed and educate yourself on the relevant issues that impact LGBTQ+ youth. Follow us on social media and join our email list for timely information and opportunities to connect to our amazing community!
- **Be a Visible and Vocal Supporter** – Whether it's a bumper sticker, a button, or a letter to the editor, be visible and vocal in your support for LGBTQ+ youth.
- **Build Support Networks:** Lean on Vermont's strong LGBTQ+ community, including youth drop-in spaces, camps, and mentorship programs.

- **Educate and Advocate:** Participate in advocacy training and initiatives led by local organizations to help amplify Vermont's voice against harmful policies.
- **Write a Letter to the Editor** – Write a letter to the editor in support of increased support and protections of LGBTQ+ youth in our schools, health care systems and communities.
- **Call on Leaders to Act** – The danger we face is a new normal that yields inaction by elected leaders. Call on your Vermont representatives, senators and our Governor to exhaust all possibilities to protect LGBTQ+ youth.
- **Encourage Local Schools to Act:** Advocate for schools to adopt and implement affirming policies, such as gender-inclusive curricula and safe spaces for LGBTQ+ youth.
- **Celebrate Vermont's Progress:** Remember that Vermont has been a trailblazer for LGBTQ+ rights and remains a supportive and affirming place for LGBTQ+ youth and their families.

13. Are there ways Vermont can push back against this federal order?

Yes, Vermont has a history of leading on LGBTQ+ rights and could take actions such as:

- **Judicial Challenge:** The Vermont Attorney General can join other states in filing lawsuits to stop the implementation of unlawful or unconstitutional actions.
- **Sanctuary Policies:** Passing laws ensuring Vermont agencies uphold gender identity protections, regardless of federal directives.
- **State-Funded Healthcare:** Expanding state funding to offset any federal cuts to gender-affirming care.
- **Public Statements:** Vermont leaders could issue statements affirming the state's commitment to LGBTQ+ inclusion, sending a clear message of resistance to harmful federal policies.