



Ohio Department of Health to allow sex marker changes on birth certificates

December 22, 2020

6/8/2021 Update: The Ohio Department of Health has now established procedures to allow transgender people to correct the marker on Ohio Birth Certificates. A court-ordered correction of a birth certificate must be obtained from a probate court for correction of their birth certificate. For more information on how to correct a birth certificate please see this [FAQ from the ACLU](#).

On December 16, 2020, in *Ray et al. v. Breda et al.*, the United States District Court for the Southern District of Ohio found that the Ohio Department of Health's (ODH) policy to deny requests for sex marker changes on birth certificates by transgender individuals is unconstitutional, aligning Ohio with the 48 other states that have already permitted such changes.

In 2019, four transgender individuals (Plaintiffs) filed suit against ODH challenging its policy that denied a transgender person the ability to change the sex marker on their birth certificate, while permitting other changes to birth certificates, such as for adoptions and legal name changes. Relying heavily on the Equal Protection Clause of the U.S. Constitution, the U.S. District Court of Southern District of Ohio held that the Plaintiffs were being treated differently than other individuals in Ohio who sought amendment to their birth certificates. Judge Watson noted that the policy has "no rational relation to a legitimate government purpose" and concluded that the ODH policy was unconstitutional. The Order permanently enjoined ODH from enforcing the policy.

What does this mean for health care providers in Ohio? First, transgender Ohioans will be able to change their birth certificates so

that the document is consistent with their gender identities. Second, the court's reasoning suggests that transgender individual's ability to amend official government issued or created records should not be denied simply because the individual is transgender, nor should the process they are required to use be different from any other Ohio citizen's right to do so. Providers should consider how this case impacts their operations and record keeping.

Authors

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