

Memorandum

Date: April 14, 2022

To: Opponents of legal sex change

From: Twiss Butler and Patrick Butler

Subject: Second Step: Outlaw legal sex change!

Our “first step” memo recommends that we do not repeat “the master’s words.” Using plain words instead will expose the baselessness of court and executive orders allowing people to change their legal sex. Overturning these orders by legislation is the focus of this “Second Step” memo. Legislative debate on allowing people to change their “sex” on official records will alert voters to the consequences of government deception about a person’s sex.

First, voters need to know the goals of legal sex change promoters. These goals are described by journalist Helen Joyce in her book “Trans: When Ideology Meets Reality.”

[G]overnments should allow citizens to *change their sex* on any document whenever they want.... Everyone should be allowed to play sports without regard to ‘sex characteristics’ and to receive ‘gender-affirming’ health care – that is, hormones and surgeries – on demand, covered by insurance or the public purse. (Italics added.)

Voters also need to know that promoters are already reaching these goals.\* Promoters are successfully bypassing legislatures and instead obtaining court orders that changing “sex” on legal documents must be allowed. Justifications for these orders often rely on inventing new meanings for the plain meanings of words like “male” and “female.” In an endnote see the twisted meanings of words used in a lawsuit suing for sex changes on birth certificates.\*\*

Joyce describes how promoters in other countries also reached their goals through court orders:

One effective technique for capturing government policy is to persuade bureaucrats and courts to take baby steps....[C]ampaign groups have first argued that if governments allow doctors to offer sex-change operations at all, they are recognising a lived sex role that may differ from natal sex, and should therefore grant it legal status....Once the principle of *legal sex change* has been established, campaigners seek to weaken the conditions....[T]hey now describe making surgery a condition of *legal sex change* as a human-rights violation, since that surgery causes sterilisation. In 2017, that argument persuaded the European Court of Human Rights, and it ordered all European countries to allow *legal sex change* without surgery. (Italics added.)

One consequence of reaching these goals is that men who are voyeurs, exhibitionists, rapists, sexually attracted to minors—or simply publicity seekers—can acquire the legal right to be in female-only spaces without “disarming” themselves.

In response, legislatures in some states have passed laws to prevent specific harms consequent on legal sex change. However, state laws barring male athletes from entering into female sports and locker rooms and other state laws banning irreversible medical changes to psychologically distressed children have been temporarily blocked by federal courts. New legislation to ban sex changes on birth certificates and other legal records is just beginning to be considered but not much attention is being paid to the reasons it is needed.

Humans comprise society. In the social and legal relations we have with each other, age and sex are essential considerations. Every one of us has an age and sex, both of which need to be public knowledge. Use of official documents by anyone to misrepresent either their age or sex is

generally forbidden by law. People are rightly angered on finding that they have been deceived about someone's sex whether through media reports or through government documents.

Loss of age and sex categories also has the effects on public policy described by philosopher Kathleen Stock in a 2022 article in *Law and Contemporary Problems* titled "The Importance of Referring to Human Sex in Language." She concludes:

Generally speaking, the harms of losing the biologically based versions of "woman," "man," "girl" and "boy" should now be clear...[W]e are losing the capacity to clearly and easily communicate about a property—biological sex, cross-referenced with developmental maturity or the lack of it—which is partly causally contributory to a wide range of effects in the world, and generates distinctive needs and norms as a result. The categories don't go away just because we are no longer talking about them. They continue to have real causal effects, in the worlds of health, sport, education, crime, leisure, business, the workplace, the home, and many other places.

Stock describes causal effects on one of the categories:

With respect to *girl*, for instance, being a female child has a number of distinctive causal roles in the world, and associated needs, that being a female adult lacks. These include vulnerability to certain health conditions; specific educational needs (for instance, in sex education); and a need for special protection from exposure to the sexual desires of adult heterosexual males. (Italics original.)

Introducing legislation banning legal sex change is a good way to engage the interest of voters. This will compel promoters to try to convince voters—instead of only having to convince a judge—why individuals should be helped by government to be deceptive about their sex.

Following is our proposal for a simple "deceptive records" law that voters can understand.

*Except to correct error, the sex of an individual recorded on a birth certificate shall not be subsequently changed nor changed in any other government record. Following enactment of this provision, agencies, and the successors to these agencies, that have allowed legal sex changes will revert all these changes back to the sex first recorded on birth certificates. These agencies will report biennially to each legislature on the progress of reversion and on what additional resources the agency needs to complete all the reversions.*

Backed by voters who have been fully informed in plain words, legislators can succeed in overturning court and executive orders requiring legal sex changes on demand.

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\* According to information on the [Lambda Legal](https://www.lambdalegal.com/) website, only a few states strictly ban changing the sex recorded on birth certificates.

\*\* Oklahoma temporarily allowed legal sex change until November 2021 when Governor Stitt ordered an end to the practice because it was based on court and agency orders and not on any duly enacted law. In response, in March 2022 Lambda Legal filed a [complaint in federal court](#) against this order. The complaint states that "few things are as essential to personhood and regular interaction in the world as being able to *accurately* present a person's identity to those with whom they come into contact." The relief the complaint seeks for one of the plaintiffs, a man, is "Ms. [] wishes to correct her Oklahoma birth certificate, which currently indicates that her sex is male, to *accurately* reflect her sex as female, consistent with her female gender identity." (Italics added.)