



FOR IMMEDIATE RELEASE
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**The Province has f'X'ed it Up Completely:
Cases To Continue in the Courts**

“While it’s encouraging that the provincial government is recognizing that two letters, ‘m’ and ‘f’, can never accurately represent the full spectrum of gender, it is infuriating that the government still insists on putting any gender markers at all on identity documents,” says Kori Doty. “Adding one more letter doesn’t solve the human rights violation of coercive gendering.”

Doty, a member of the Gender Free I.D. Coalition and the plaintiff in a court case to remove gender markers from birth certificates, was responding to BC’s announcement on Friday that they are extending ‘x’ to the currently-restrictive M and F gender identifiers on government documents.

There are two problems with requiring citizens to carry documents like birth certificates, driver’s license, etc which include a gender marker. Many people have a fluid gender identity which can never be captured by a single-letter gender marker because their gender identity changes from time to time. To insist that people display gender markers is therefore discriminatory.

And the government’s proposed system of M/F/X still rests on the discredited practice of labelling a baby’s gender at birth.

Since a baby’s gender does not develop for some years after birth, no one can determine a child’s gender at birth.

“To continue the harmful and discriminatory practice of certifying babies’ genders is unforgivable, especially in the wake of the government’s apparent commitment to human rights in this province,” said Felix Gilliland of the Gender Free I.D. Coalition.

Gilliland adds, “Because getting identity documents changed is a bureaucratic nightmare, only trans people with access to money and lawyers will be able to get an ‘x’ marker. We have already seen this play out with passports. Despite knowing that overwhelming numbers of trans people live in poverty, the government has again shown that it only cares about trans people with money.”

In response to court challenge there, Saskatchewan has taken the right first step by implementing a system which includes the option, from birth, of birth certificates with no gender markers.

Doty emphasized their commitment to continuing their B.C. constitutional challenge to remove all gender markers on identification documents. Ironically the government has already provided Doty’s child with a medical services card with a ‘U’ in place of the gender marker.

“We are confident of success because we know, and the governments knows, that labelling infants’ genders is so harmful to their development,” said barbara findlay QC, counsel for Doty.



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BACKGROUNDER

Saskatchewan

In May, 2018 the Court of Queen's Bench of Saskatchewan in 2018 SKQB 159, found that it was discriminatory to not allow people to change the sex marker on their birth certificate and it was discriminatory to require folks to have a sex designation on their birth certificate. The Court therefore ordered that the health ministry allow an option for people to request no gender marker on birth certificates, without needing medical proof. This decision, gave the right to all Saskatchewan citizens, regardless of their age to change their gender identity or sex designation on their birth certificate to choose M or F or removing any reference to gender or sex or having a birth certificate issued without such a marker. Prior to that, one could not change gender in Saskatchewan prior to turning 18.

BC Challenges

Human Rights

Eight complainants have filed human rights complaints with the BC Human Rights Tribunal alleging that it is discriminatory to require gender markers on identity documents; and requesting an order to remove sex designations on birth certificates. The complainants argue

- That it is impossible to know a baby's gender at birth;
- Therefore in "certifying" a baby's gender the government is "certifying" something it cannot know;
- It is impossible to have a regime requiring identification to have gender markers while respecting every individual's human rights to protection from discrimination on the basis of their gender identity or gender expression, especially since individuals' gender identities may often change over time and they then have a recurring onus to change their documents.

Judicial Review

Kori Doty is the Applicant in a judicial review of the decision by the Vital Statistics Agency to refuse a birth certificate for their child. Searyl was born in BC, but outside of the medical system, so there was no medical 'genital inspection' when the child was born. The denial of a birth certificate initially also meant that Doty, themselves a non-binary trans parent, could not get a medical number, until June of 2017 when Vital Statistics issued a health card. The Judicial Review is still pending a decision in the Supreme Court and the case is moving forward. Doty's child will be turning 2 next week and still does not have a birth certificate.



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In January, 2017 with the settlement of a case between Christin Milloy and the Employment and Social Development Canada (ESDC), the federal government recognized that the collection of personally-identifiable gender information is unjustified in the absence of a specific, legitimate purpose. That was a landmark case in its recognition that the government has no general right to collect gender information.

The Gender-Free Coalition continues to assert that the only way to effectively eliminate discrimination against trans and intersex people on identity documents is to remove all sex designations from the birth certificate from birth.