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Saskatchewan Leaves BC in the Dust; BC Parents Told Their Children Must be Labelled M or F

A Saskatchewan court has blazed a trail for its citizens who want to choose what their birth certificates say about their sex. SK people, including parents of infants, can request a gender marker with the traditional M or F, or request to have no gender marker at all on their birth certificate. The Court determined this is a fundamental and important human right – to be able self-identify as opposed to being forced to identify sex/gender on government identification and to be forced into only two options.

The ability to request a birth certificate without a gender marker is a goal sought nation wide by trans communities, for whom gendered identification documents are a major source of discrimination. Kori Doty, who identifies as non-binary and trans, says “I have a pocket full of i.d. with different gender markers. My birth certificate says one thing, my drivers license another, and none of my documents reflect my actual gender. Doty says the situation is particularly difficult for them when they have to show their id and the service provider doesn’t think they “match” the gender marker on their i.d. Doty says, “I have been denied services and threatened because of my gendered i.d. documents.

The SK court recognized the serious harm that is caused particularly to transgender people by a universal requirement that citizens carry birth certificates that show their genital configuration from birth.

But British Columbia is going in the opposite direction.

A midwife in BC has been threatened with professional consequences if they do not assign a traditional marker. Montana Burgess requested her midwife not provide information about her infant’s sex. But when her midwife registered the birth without a sex designation, she was told that unless she registered the child as M or F, she could face disciplinary consequences from her professional association.

The Gender Free I.D. Coalition (GFID) argues that the only thing that can be “known” about a baby is the configuration of the baby’s genitals and that gender is uniformly assigned under the assumption that the babies will be cisgender. That configuration may or may not be consistent with the child’s gender identity, something that takes years to develop. Felix Gilliland of GFID says, “Neither the doctors nor the government can know, when a baby is born, what their gender is, but they require everyone to carry a birth certificate based on what someone assigned when they were born. This is an incredible burden for trans folk who must first discern, then “out” themselves as trans, explaining that they do not identify as the gender assigned to them at birth.” He added that “X” is not a solution. Having an “X” on identity documents (such as they are doing with passports) has the effect of making the world even more



dangerous for trans people because it outs them as most likely being trans and exposes them to transphobia.”

Says Burgess, “This culture pushes gender on infants, in a way that is almost impossible to escape. I am committed to supporting my child to be whoever they feel they are — girl, boy or someone in between — rather than me, the government or anyone else forcing a gender on my child.”

Doty adds, “It is also a violation of my child’s privacy, and mine, to be told we both have to carry i.d. that describes the configuration of our genitals. That information is deeply personal and nobody’s business. Doty has written to the Vital Statistics Agency in light of the SK decision and in light of BC’s privacy legislation, requesting again that their infant’s birth certificate be issued without a gender marker. Doty also has a case going on in BC Supreme Court challenging the Vital Statistics Act requirements as a breach of the Charter of Rights.

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