



# LEGAL BACKGROUNDER ON TRANS PARENTS AND FAMILY LAW IN ONTARIO

## Summary

This Backgrounder introduces lawyers and other legal professionals to issues of family law in Ontario as it pertains to transgender parents. Its purpose is to help these professionals represent “trans” parents in family law disputes more easily and effectively.

Unless otherwise stated, the term “trans” is used in this document to encompass all gender identities and expressions that diverge from the usual alignment of birth sex and lived gender role. Clarification and related terms are given in Section I, below.

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## **Section I – Introduction to Trans People, Terms and Concepts**

*This section serves as an introduction to trans identities and demographics. Sources for these topics are provided below, in Section IV.*

### **Trans Basics**

The term “trans” refers generally to a broad range of people whose gender identity, gender expression and/or sexed body, may differ in whole or in part from cultural expectations based on the sex-gender assigned to the person at birth. By contrast, “cisgender” (<Latin *cis-*, “on this side”), or colloquially “cis,” indicates a “non-trans” identity and/or expression.

The terms used by any given trans person to describe themselves cannot always be assumed. Because of this, it is often best to ask which gender identity terms and pronouns an individual prefers. Generally speaking, trans people transition in a direction from male towards female, or female towards male. “Male to female” identities are conventionally abbreviated MTF (or MtF or M2F); individuals may identify as trans women and use the pronouns she/her. “Female to male” identities are often abbreviated FTM (or FtM or F2M); individuals may identify as trans men as use the pronouns he/him/his. In Ontario, roughly half of trans people are FTM and half are MTF.<sup>1</sup> Many trans individuals do not clearly identify with binary sex and gender designations, and are to be referred to using the terms and pronouns they specify. “Non-binary” pronouns used by some trans people include they/them and ze/zir.

It is crucial to recognize that references to trans people in some texts (ex., older case law and medical literature) use terms that reflect birth sex designations rather than current gender identity. This leads to confusing and awkward language, such as referring to a trans man and father as a “wife” and “she.” Although gender references based on birth sex are increasingly rare (and certainly contravene the self-conception of most trans people), it is important to be attentive to the way gender descriptors are being used in any text.

### **Transphobia**

“Transphobia” describes a range of negative attitudes towards trans people and the expression of a trans identity. Since these negative biases affect trans parents in a range of settings (e.g., in court, in the family, in employment and in housing), dispelling biases through education is often an important method for helping alleviate tension and resolve legal challenges. While transitioning is associated with improvements in mental health and workplace productivity, a more direct experience of negative attitudes towards trans gender expression brings new challenges (some of which lessen throughout the process of transitioning).

98% of trans Ontarians report experiences of transphobia,<sup>2</sup> including:

- increased rates of physical and verbal attacks<sup>3</sup>
- discrimination in employment and the workplace<sup>4</sup>
- discrimination in housing<sup>5</sup>
- lack of social support<sup>6</sup>

<sup>1</sup> Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. *Who are Trans People in Ontario?* Trans PULSE e-Bulletin, 20 July, 2010. 1(1).

<sup>2</sup> Longman Marcellin R, Scheim A, Bauer G, Redman N. *Experiences of Transphobia among Trans Ontarians.* Trans PULSE e-Bulletin, 7 March, 2013. 3(2).

<sup>3</sup> *ibid.*

<sup>4</sup> Bauer G, Nussbaum N, Travers R, Munro L, Pyne J, Redman N. *We’ve Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario.* Trans PULSE e-Bulletin, 30 May, 2011. 2(1).

<sup>5</sup> <http://transequality.org/Issues/homelessness.html>

- barriers to adequate health care (i.e., biases against trans people in assisted human reproduction, scarcity of healthcare providers familiar with trans health protocols, difficulty accessing routine or emergency care due to bias, etc.)

Some of the more direct consequences of transphobia are listed above. Yet these experiences typically have other very strong effects on a person who transitions. As we indicate in Section III, below, acute mental health challenges and other disruptions often result from experiences of transphobia. It is important to reframe seemingly volatile elements of a trans parent's life as a short-term outcome of transphobia rather than being an intrinsic characteristic of the client. Demonstrating appropriate responses to such challenges by the client helps in establishing their parental fitness. Parallels between transphobia and other forms of social injustice (including racism, violence against women, ableism and homophobia) may facilitate the court's appreciation of transphobia.

Of course, transphobia is not to blame for all issues that may be facing a trans parents going through a separation. Clients should be counseled on how to address all relevant issues and how to document efforts made.

### Transitioning

The process of moving from one gender role to another is referred to as “transitioning.” Transitioning has been shown to produce numerous positive effects among trans people, including a decrease in suicidality, improved mental health and increased work productivity – despite “high levels of mistreatment.”<sup>7</sup> Most negative effects are the result of a more direct experience of transphobia, often leading to a loss of income, housing and social support.<sup>8 9</sup>

Although there is no single method of transition undertaken uniformly by all trans people, the options available in order to transition fall into three categories. Individuals may undertake some types of transition without necessarily transitioning in other ways.

*Social Transition:* may involve a change of dress (including binding and/or padding), hair and makeup, vocal style, body language, social/familial role, public spaces used and preferred name and pronoun.

*Medical Transition:* may involve hormonal interventions, minor or major surgical procedures (often altering the face, chest and/or genitals) and hair removal or transplant.

- The most widely-recognized guideline for medical transition is currently the WPATH Standards of Care (Version 7).<sup>10</sup>
- The consensus among medical practitioners is that trans identification not a pathology. Transition is not a choice, but is medically necessary (*ibid.*).
- “...sex (gender) reassignment, properly indicated and performed as provided by the Standards of Care, has proven to be beneficial and effective in the treatment of individuals

<sup>6</sup> Travers R, Bauer G, Pyne J, Bradley K, for the Trans PULSE Project; Gale L, Papadimitriou M. *Impacts of Strong Parental Support for Trans Youth: A Report Prepared for Children's Aid Society of Toronto and Delisle Youth Services*. 2 October, 2012.

<sup>7</sup> [http://transequality.org/PDFs/Executive\\_Summary.pdf](http://transequality.org/PDFs/Executive_Summary.pdf)

<sup>8</sup> Rotondi Khobzi N, Bauer GR, Travers R, Travers A, Scanlon K, Kaay M. Depression in male-to-female transgender Ontarians: Results from the Trans PULSE Project. *Canadian Journal of Community Mental Health* 2011;30(2):113-133.

<sup>9</sup> Scanlon K, Travers R, Coleman T, Bauer G, Boyce M. *Ontario's Trans Communities and Suicide: Transphobia is Bad for our Health*. Trans PULSE e-Bulletin, 12 November, 2010. 1(2).

<sup>10</sup> [http://www.wpath.org/uploaded\\_files/140/files/IJT%20SOC.%20V7.pdf](http://www.wpath.org/uploaded_files/140/files/IJT%20SOC.%20V7.pdf)

with transsexualism, gender identity disorder and/or gender dysphoria. Sex reassignment plays an undisputed role in contributing toward favorable outcomes...<sup>11</sup>

- “The medical procedures attendant to sex reassignment are not ‘cosmetic’ or ‘elective’ or for the mere convenience of the patient. These reconstructive procedures are not optional in any meaningful sense, but are understood to be medically necessary for the treatment of the diagnosed condition.”<sup>12</sup> Note that *although the need to transition is not considered elective or optional, the particular transition methods that any given person employs are at the discretion of the trans person and their medical practitioners.*

*Legal Transition:* may involve changing legal documents that specify name and sex (including driver’s license, birth certificate, passport, health card, etc.).

### Registered Sex Designation vs. Lived Sex Categories

It is helpful to recognize the distinctions between sex, gender identity, gender expression and sexual orientation.

*Sex* (male or female) is usually assigned at birth based on bodily characteristics.

*Gender Identity* refers to a person’s inner sense of being a man or woman (among other possibilities). The OHRC defines this specifically as “each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person’s sexual orientation.”<sup>13</sup>

*Gender Expression* refers to a person’s social presentation, incorporating masculine and feminine traits. The OHRC defines this as “how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways of expressing gender.” (ibid.)

*Sexual Orientation* refers to the kind of sexual attraction a person has to others (include same-sex and opposite-sex attractions).<sup>14</sup>

Sexual orientations among trans people vary considerably. In Ontario, only 30% of trans people identify as heterosexual (i.e., a trans woman attracted solely to men).<sup>15</sup>

There is no inherent connection or alliance among these sexual characteristics. The widespread misperception that there is some intrinsic or natural link among them likely derives from the “congruent” arrangement found within cisgender (i.e. non-transgender) heterosexual people (e.g., a man having XY chromosomes and a penis, a male gender identity, a masculine gender expression and an attraction to women). By contrast, these characteristics can be quite divergent and distinct among trans people (e.g., having XX chromosomes, a male gender identity, a fluid or variable gender expression and an attraction to

<sup>11</sup> [http://www.wpath.org/site\\_page.cfm?pk\\_association\\_webpage\\_menu=1352&pk\\_association\\_webpage=3947](http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1352&pk_association_webpage=3947)

<sup>12</sup> *ibid.*

<sup>13</sup> <http://www.ohrc.on.ca/en/gender-identity-and-gender-expression-brochure>

<sup>14</sup> Trans people frequently describe their sexual orientation in relation to their preferred sex, rather than their assigned sex. For instance, an MTF person attracted to women may identify as lesbian rather than heterosexual. An FTM person attracted to men may identify as a gay (trans) man.

<sup>15</sup> Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. *Who are Trans People in Ontario?* Trans PULSE e-Bulletin, 20 July, 2010. 1(1).

other men). The distinction between congruent and distinct arrangements of sex characteristics may be regarded as the basis of negative attitudes towards trans people.

While the above OHRC definitions may be referenced in Ontario family law, the terms commonly used by medical personnel and LGBT people vary and evolve. Definitions of various trans-related terms are provided by GLAAD, Colage and other sources listed in Section IV, below. Trans individuals may describe their gender identity and/or expression in terms that are unique and unfamiliar to legal personnel. It is often best to ask which gender identity terms and pronouns an individual prefers.

Statistics on the demographics of trans people in Ontario are available through the Trans PULSE study's website (transpulseproject.ca), excerpted below:

	FTM <sup>a</sup> %	MTF <sup>b</sup> %	Total %
<b>Gender spectrum</b>			
Female-to-male	--	--	54
Male-to-female	--	--	47
<b>Age</b>			
16-24	43	25	34
25-34	32	27	29
35-44	14	18	16
45-64	12	24	18
65+	0	6	3
<b>Place of birth</b>			
Canada	79	84	81
Outside of Canada	21	16	19
<b>Region of residence</b>			
Eastern Ontario <sup>c</sup>	13	15	15
Central Ontario	9	26	17
Metropolitan Toronto Area	45	23	32
Western Ontario	27	25	27
Northern Ontario	6	11	9
<b>Education</b>			
< High school	14	11	13
High school diploma	21	12	16
Some college or university	25	31	28
College or university degree	32	40	36
Grad./professional degree	8	6	7
<b>Personal annual income</b>			
<\$15,000	53	47	50
\$15,000 - \$29,999	21	21	21
\$30,000 - \$49,999	20	10	16
\$50,000 - \$79,999	3	12	7
\$80,000 +	3	11	7

	FTM <sup>a</sup> %	MTF <sup>b</sup> %	Total %
<b>Ethnoracial background<sup>c</sup></b>			
Aboriginal	5	6	6
White Can/Amer/Euro	84	91	86
East/South/Southeast Asian	10	4	7
Black Can/Amer/African	6	0	3
Latin American	4	1	3
Middle Eastern	6	1	4
Other	5	1	4
<b>Sexual orientation<sup>c</sup></b>			
Bisexual or pansexual	22	40	30
Gay	18	2	11
Lesbian	10	20	14
Asexual	4	6	5
Queer	46	14	31
Straight / heterosexual	35	25	30
Two-spirit	3	15	9
Not sure or questioning	12	15	13
Other	7	9	8
<b>Relationship status</b>			
Single, dating	40	51	44
Single, not dating	11	13	12
Monogamous relationship	37	24	32
Open or poly relationship	12	12	12
<b>Parental status</b>			
Parent	17	40	27
Non-parent	83	60	73

- a Female-to-male or transmasculine spectrum, includes those identifying as gender queer
- b Male-to-female or transfeminine spectrum, includes those identifying as gender queer
- c Participants could check multiple responses; will not sum to 100%
- \* Please note: These represent statistical estimates that have a margin of error, please use caution when interpreting these numbers.

Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. *Who are Trans People in Ontario?* Trans PULSE e-Bulletin, 20 July, 2010. 1(1).

### Trans Parents

A 2010 survey of trans people in Ontario showed that 27% were parents.<sup>16</sup> In the United States in 2011, this figure was shown to be 38%.<sup>17</sup> Trans parents may have transitioned before or after becoming parents. Those who transition *before* becoming parents often (though not always) hold a parental role that reflects their post-

<sup>16</sup> Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. *Who are Trans People in Ontario?* Trans PULSE e-Bulletin, 20 July, 2010. 1(1).

<sup>17</sup> Grant, J., L. Mottet, J. Tanis, J. Harrison, J. Herman & M. Keisling (2011). *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force.

transition gender identity. For example, trans women frequently are mothers to their child(ren), even if they contributed sperm to their child(ren)'s conception. (Precedents for a separation of biological and parental roles can be found in adoptive and other non-biological parents.) People who transition *after* becoming parents may or may not take on new gender roles and titles in the family. For example, a trans woman who has been known as "father" for most of her child's life might be happy to be known as a "lesbian father." These decisions are ultimately made by the family as a whole and can be a source of either harmony or tension in the family. Since the way a parent's gender transition is negotiated within a family is generally the primary determinant of whether a marital couple will stay together or separate, couples wishing to avoid separation are advised to obtain education and social support around trans issues.

Resources for helping families navigate a parent's gender transition are listed in Section IV (below).

### From Pathology to Protection

"Pathologizing" views of trans identities (namely, that trans people are mentally unstable or unwell) continue to be influential and widespread. This can be attributed to a number of historical factors. The medical interventions that facilitated gender transitions since the 1940s may generate connotations of "affliction." Early psychological studies support this bias (Cauldwell 1947, Green and Money 1969).<sup>18</sup> In 1980, the American Psychological Association introduced the term "gender identity *disorder*" (DSM-III; emphasis added), to describe cross-gender identifications. While this helped ensure that trans people would have access to care, the term reflected the pathologization of trans.

In recent years, most medical institutions involved in trans health care have issued statements that reflect a "depathologization" of trans experience. In 2009, the World Professional Association for Transgender Health (WPATH) affirmed that "medical procedures attendant to sex reassignment are not "cosmetic" or "elective" or for the mere convenience of the patient. These reconstructive procedures are not optional in any meaningful sense, but are understood to be medically necessary." WPATH's position has been adopted by the Canadian Professional Association for Transgender Health (CPATH).<sup>19</sup> The American Psychological Association replaced the term "gender identity disorder" with "gender dysphoria" (DSM-V, 2013), in part "to avoid stigma."<sup>20</sup> There has been similar recognition from other professional associations including the Canadian Psychiatric Association<sup>21</sup> and the American Psychological Association.

The depathologization of trans identity has facilitated human rights protections for trans people. In 2010, the Canadian Psychological Association issued a policy statement affirming that all adolescent and adult persons have the right to define their own gender identity, including the right to free expression of their self-defined gender identity. The Canadian Psychological Association indicates that it opposes discrimination on the basis of self-identified gender identity, or the expression thereof, in exercising all basic human rights.<sup>22</sup> The summary of "legislation and legal status" below (see p. 9) elaborates on these protections.

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<sup>18</sup> D.O. Cauldwell. "Desire for Surgical Sex Transmutation: An Insane Fancy of Near Males." 2001 reprint in the International Journal of Transgenderism Vol. 5 Number 2 of a paper published in 1947. Green, R. & Money, J (1969). *Transsexualism and Sex Reassignment*. John Hopkins Press.

<sup>19</sup> [http://www.cpath.ca/wp-content/uploads/2010/05/CPATH\\_PS\\_SOC\\_0609.pdf](http://www.cpath.ca/wp-content/uploads/2010/05/CPATH_PS_SOC_0609.pdf)

<sup>20</sup> APA fact sheet on "Gender Dysphoria," 2013

<sup>21</sup> <http://www.cpa.ca/aboutcpa/cpasections/sexualorientationandgenderidentity/>

<sup>22</sup> [http://www.cpa.ca/aboutcpa/policystatements/#Gender\\_Identity](http://www.cpa.ca/aboutcpa/policystatements/#Gender_Identity)

## Section II – Legal Background and Context

### Case Law

#### Canadian Case Law

Case Title	Year	Jurisdiction	Key Decision Points
<i>Ghidoni v. Ghidoni</i> , 1995 CanLII 1018 (BCSC)	1995	Nanaimo BC	<p>“There was expert evidence that the husband's gender disorder should not be considered detrimental to his having custody.”</p> <p>“It was the opinion of all of the professionals associated with the gender dysphoria clinic that Mr. Ghidoni's gender disorder should not be considered detrimental to him having custody. Dr. Marcus [psychiatrist] and Mr. Colby [psychologist] came to the same conclusion.” [para. 12]</p>
<i>Forrester v. Saliba</i> , 2000 CanLII 28722 (Ont. Ct. J.)	2000	Brampton ON	<p>“The fact that the father went through a transgendering process was not by itself a material change of circumstances. The father had recovered from the depressive episode such that she was now able to meet the child's best interests.”</p> <p>“[T]ranssexuality, in itself, without further evidence, would not constitute a material change in circumstances, nor would it be considered a negative factor in a custody determination.” [para. 19]</p>
<i>Sharp v. McLean</i> , 2004 SKQB 169 (CanLII)	2004	Regina SK	<p>Moved in together September 1992; shared same bed until August 1996; ate most meals together; shared household duties; sexual relationship; draft cohabitation agreement prepared. “I am not satisfied either was committed to a spousal relationship for any extended period of time. Whether Susan Sharp and Lorianne McLean each had similar or different reasons for the arrangement, I am satisfied the arrangement was likely to end when either someone else came along or circumstances changed. It was not a spousal relationship.” Claim for spousal support denied.</p>
<i>M. (J.D.) v. M. (L.)</i> , 2012 CarswellNS 161	2012	NS	<p>Trans man involved in caring for child since a few weeks after child's birth; mother describes relationship as a “failed experiment.” “The applicant has experienced a loss as a result of the breakdown in his relationship with the applicant and the child. There is however no evidence that the child has suffered any corresponding loss or that it is necessary to re-establish a relationship to meet some needs of the child.” No access granted.</p>

#### U.S. Case Law

Case Title	Year	Jurisdiction	Key Decision Points
<i>Christian v. Randall</i> 33 Colo. App. 129, 516 P.2d 132	1973	Colorado	<p>Reversed a trial decision which denied custody to a parent, who had been a custodial parent, was also transsexual and there was no evidence that the parent's transition from female to male had any adverse effect on the children or the relationship between the children and the parent.</p>
<i>Cisek v. Cisek</i> , WL 6161 (Ohio App. 7 Dist.)	1982	Ohio	<p>Terminated a transsexual parent's visitation based on the expert testimony offered by the opposing party that exposure of the two children would be adverse to the children. The Appellate Court also faulted the actions of the transsexual parent in undergoing sex re-assignment surgery.</p>
<i>Daly v. Daly</i> 102 Nev. 66, 715 P.2d 56	1986	Nevada	<p>Affirmed a termination of parental rights of transgendered parent. Again, the Court relied on evidence that the child reacted adversely to the parent undergoing sex re-assignment surgery. There was a strong dissent that the termination of parental rights for the father was not warranted. This decision was subject to legislative reform and cited in 58 secondary sources.</p>

<i>Re V.H.</i> 412 N.W.2d 389	1987	Minnesota	Affirmed custody order to a father. The father engaged in “cross dressing in his bedroom”. The Court found that the child was not exposed to this behaviour. The father indicated that he would engage professional assistance when discussing his transvestism with the child, when the child was older. It should be noted that the child has been subjected to physical abuse when in the prior custody and the mother.
<i>Re Custody of T.J., child</i> 1988 WL 8302 (Minn. App.)	1988	Minnesota	Affirmed the trial court’s order awarding custody to gender dysphoric father. The appellate court concluded that father was maintaining his male identity and that the son was aware and not adversely affected by his father’s gender dysphoria. The tension and conflict between the parents was a greater concern to the emotional and mental health of the child in this matter.
<i>Summers-Horton v. Horton</i> 1989 WL 29421 (Ohio App. 10 Dist.)	1989	Ohio	Affirmed the lower court’s awarding of custody to the father with an “a history of cross dressing as a woman to achieve sexual gratification”. The appellate court found that the evidence before the lower court confirmed while both parents were capable and loving, it was in the children’s best interest to award custody to the father.
<i>B. v. B.</i> 184 A.D.2d 609, 585 N.Y.S.2d 65	1992	New York	Affirmed an access order which restricted father’s access to non-overnight based on contrary evidence as to father’s “cross dressing activities”. The appellate court the child was “impressionable” and that overnight access was not warranted.
<i>Re the Marriage of D.F.D.</i> 261 Mont. 186, 862 P.2d 368	1993	Montana	Reversed a trial Court decision which denied joint custody to the father and imposed a supervised access regime sole on the finding that the father had cross dressed in the past. The evidence before the Court was not this behaviour of the father had not affected his ability to parent the parties’ son. It was also clear that the supervised access regime was not in the best interests of the child.
<i>Mayfield v. Mayfield</i> 1996 WL 489043 (Ohio App. 5 Dist.)	1996	Ohio	Upheld a lower Court order which provided shared parenting even though the appellee (respondent father in the appeal) was found to be a “fit, loving and capable parent” even though the Court also found that the appellee “had a history of cross-dressing”.
<i>J.L.S. v. D.K.S.</i> 943 S.W.2d 766	1997	Missouri	Found that before the father, who had transitioned from male to female, would have access, there should be evidence that such access would be in the best interests of the children. In this matter, all of the expert evidence supported a one year restriction on access between the father and children, that there would be counseling prior to the access resuming. The appellate court disagreed with the trial court that access should begin after the one year – there needed to be evidence as to the best interests of the children. The appellate court also found that joint custody was not appropriate.
<i>Magnuson v. Magnuson</i> , 141 Wn.App. 347, 170 P.3d 65	2007	Washington	Affirmed the trial court which awarded custody to mother. On appeal, the father, who was transgendered, argued that trial court improperly considered his status as transgender in denying him custody. In this decision there was strong dissent finding that the father’s transgender status had been improperly considered. The dissent was also concerned that the position advanced by the advocate for the children, which was supportive of the father was not given appropriate weight.

M.B. v. D.W. 2009 Kentucky  
236 S.W.3d 31

Affirmed an order which terminated “parental rights” of a parent, who following separation transitioned their gender. The decision also allowed the mother’s new to adopt the minor child and dispensed with the father’s consent. The appellate court, like the trial court, the child had an adverse reaction to the child to the knowledge that the parent had transitioned gender. Both the child and treating psychiatrist testified that the child became depressed and experienced suicidal ideation.

## Legislation and Legal Status

### Human Rights Codes: protection of gender identity and gender expression

Bill	Short Title	Date	Key Points
Ontario Bill 33	Toby's Act (Right to be Free from Discrimination and Harassment Because of Gender Identity or Gender Expression)	enacted June 19, 2012	Amended the Ontario Human Rights Code to specify that every person has a right to equal treatment without discrimination because of gender identity or gender expression with respect to items including: services, accommodation, contracting, employment, and membership in a union.
Canada Bill C-279	An Act to amend the Canadian Human Rights Act and the Criminal Code (gender identity)	second reading (Senate), as of June 5, 2014	Seeks to amend the Canadian Human Rights Act “to include gender identity and gender expression as prohibited grounds for discrimination.”  Would also amend the Criminal Code to include gender identity as a distinguishing characteristic protected under section 318 and as an aggravating circumstance to be taken into consideration under section 718.2 at the time of sentencing  Would allow trans people to use washrooms of the gender they identify with and make changing the sex on their identification—like their passports—easier.

### Change of Identity Documents

Agencies issuing each document should be consulted for full requirements and policies. Requirements for changes of sex designation on identity documents are, in many cases, under review. They may also vary according to individual circumstances (e.g., place of birth).

#### Legal Name:

Individuals who are at least 16 years of age and have lived in Ontario for the past 12 months may change their name by application to the registrar general (regardless of any gender connotation of the original name or the new name).

Among trans Ontarians who indicated they were living full-time in their felt gender as a man or woman, 99.5% had informally changed their name or pronoun in daily life. 70.1% had legally changed their name to reflect their gender.<sup>23</sup>

<sup>23</sup> Does not include those who had not socially transitioned full-time, or those who lived full-time in a non-binary or fluid identity. Bauer G, for the Trans PULSE Project. *Trans Ontarians’ Sex Designations on Federal and Provincial Identity Documents: A Report Prepared for the Canadian Human Rights Commission*. 15 November, 2012.

*Sex Designation – Ontario Birth Certificate and Birth Registration:*

Applications for a change of sex designation on an Ontario birth certificate require a written statement from a practicing physician, psychologist or psychological associate who has examined or treated the applicant, indicating that the change in the sex designation is appropriate. Surgical requirements were eliminated as of April 11 2012.<sup>24</sup>

*Sex Designation – Ontario Driver’s License:*

– requires a written statement from a practicing physician, psychologist or psychological associate who has examined or treated the applicant, indicating that the change in the sex designation is appropriate. Surgery is not required as a condition, yet those who have had sex reassignment surgery may present documentation of the surgery.

*Sex Designation – Ontario Health Card:*

– requires a birth certificate issued under the applicant’s preferred sex designation *and* a written statement from a practicing physician, psychologist or psychological associate who has examined or treated the applicant, indicating that the change in the sex designation is appropriate. Alternatively, those who have had sex reassignment surgery may present documentation of the surgery.

*Sex Designation – Canadian Passport:*

– requires a birth certificate issued under the applicant’s preferred sex designation.

Among trans Ontarians who indicated they were living full-time in their felt gender as a man or woman:

- 69.4% had changed their sex designation on their Ontario birth certificate.
- 79.8% had changed their sex designation on their Ontario driver’s license
- 91.1% had changed their sex designation on their Ontario health card.
- 58.4% had changed their sex designation on their Canadian passport.<sup>25</sup>

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<sup>24</sup> XY v. Ontario (Government and Consumer Services), 2012 HRTO 726 (CanLII)

<sup>25</sup> Does not include those who had not socially transitioned full-time, or those who lived full-time in a non-binary or fluid identity. Bauer G, for the Trans PULSE Project. *Trans Ontarians’ Sex Designations on Federal and Provincial Identity Documents: A Report Prepared for the Canadian Human Rights Commission*. 15 November, 2012.

## **Section III – Best Practices: family law and trans parents**

### General Guidelines

- Some parents may choose to settle disputes collaboratively (via collaborative family law process, or mediation or mediation/arbitration) rather than going to court. This may not be appropriate if there has been significant hostility within a family, or if a party will not participate fairly in the process.
- Barring a collaborative resolution, consider the implications of trans in family law cases (see *Transphobia* and *Transitioning* above, page 2).
  - Make a case that reflects actual parental fitness, but takes into account the particular socio-economic implications of trans experience (e.g., discrimination that may affect employment, housing and financial stability; physical and mental health challenges; inconsistent identity documents; etc.).
  - Focus attention on the obligation of a cisgender spouse/coparent to promote the relationship of the child(ren) with the trans parent. Also promote the use of community resources, peer support groups and professional counseling to assist the spouse and the child(ren) in dealing with the transition. This may allow the spouse/coparent and child(ren) to maintain a positive relationship with the trans parent. Consider the sorts of resources that a family might access in the event of other significant life transitions.
- Keep submissions and arguments focused on the best interests of the child test.

### General Representation of Trans Clients

- Establish non-pathologization and history of trans parenting by:
  - clearly presenting the client’s motivations for transitioning. *Cisek v Cisek* (1982 WL 6161 (Ohio App. 7 Dist.)) states that the “father” failed to establish that the gender transition was medically necessary and not merely “some fantasy.” Establishing medical necessity may help generate a more supportive view of the client’s transition.
  - calling in an *expert witness*;
  - seeking the participation of an *intervener* (see Section IV below for referrals);
  - referring to academic studies (while not generally admissible in court if not presented by an expert witness, some leeway *may* be given to self-represented respondents).
- Draw parallels between trans parenting and prior lesbian/gay/bisexual parenting cases. Arguments (and favoured rulings) may be similar.
- In order to redirect from the “foreignness” of trans identity, emphasize the client’s parental competency and relationship with the child(ren).

### Mediation and Other Forms of Alternative Dispute Resolution (ADR)

- Clients may be drawn to Mediation and other forms of Alternative Dispute Resolution such as Collaborative Family Law for a number of reasons:
  - they may have heard that it is a friendlier way to resolve a family law dispute or that it is less expensive or may be faster than turning to the formal court process
  - they may think their trans status will be less of an issue in mediation
  - they may feel pressured by a cisgender former partner, who may have a hostile (e.g., transphobic) agenda for wanting to use mediation

- While there are many possible benefits to mediation and other forms of ADR, there are downsides as well. Review the pros and cons of mediation with your client – trans or cis – before they make a decision about it.
- Review points of vulnerability with trans clients. For example, if the client feels guilt about the impact their transition is having on the other partner or the family, or does not want their trans status made public, they may concede to a mediated outcome that is not what they want or is not in the best interests of the child(ren). A client’s behaviour during mediation could be affected if they are worried that their former partner may be transphobic, or if they are concerned about their physical safety.
- Make sure your client understands that mediation is not mandatory in Ontario, so it is their decision whether or not to use it.
- If your trans client decides to use mediation, strongly encourage them to consult with you regularly throughout the process, particularly if they feel there is a power imbalance, an indication of transphobia on the part of the mediator, or if they feel threatened or intimidated in any way.
- Be prepared to review draft Minutes of Settlement or other documents related to mediation with a particular eye for clauses that deny your trans client legal rights or that place them in an intolerable position (e.g., an access clause that stipulates the trans parent cannot dress or appear in their preferred gender).
- If your client is the cis partner, make it clear you will not support any actions or tactics that are transphobic or that attempt to use their former partner’s trans identity against them.

### The Role of Evidence

- Emphasize to clients that *evidence about past parenting and plans for future parenting are extremely important*. Explain that this is because decisions about custody and access are made using the best interests of the child test and are very much dependent on the unique facts and circumstances of individual families.
- Especially when there is concern about possible transphobic attitudes on the part of the judge or the cis parent, it is crucial that the trans parent be able to *lead evidence that clearly establishes the absence of a negative connection between trans status and the best interests of the child*.
- Many trans parents experience feelings of guilt during the transition process and may have had their parenting capacity criticized or challenged by their cis partner and others in their family. Because of this, they may have self-doubt about their appropriateness as a parent and may have lost track of the important and positive role they have played as a parent to their child(ren). For these reasons, you may need to *spend more time with a trans client than you do with other clients* reviewing their parenting history and supporting them to put together strong and positive evidence.
- Similarly, because the period of transition is often accompanied by a certain amount of uncertainty and instability, your client may have difficulty creating a parenting plan that appears to meet the best interests of the child(ren). You can support your client in thinking of parenting strategies for custody or access that *acknowledge the realities of the transition period but also propose arrangements for the child(ren) that support a close relationship with the trans parent*. These strategies can involve using the home of a supportive family member or friend for access and maintaining contact in ways the client and their child can agree on (such as texting, Skype or visits to extracurricular events).
- It is also important to *locate instability on the part of the trans parent in social circumstances such as transphobia*. The court needs to understand that, in a largely transphobic society, transition creates challenges around employment and social support. These in turn can lead to depression, anxiety issues, sleep disorders and other forms of emotional instability. Since employment and social challenges tend to diminish as transitioning proceeds, so too does emotional stability improve. Be

sure the court understands that these challenges are temporary and are not an inherent element of the trans parent's mental health or personality.

### Importance of Fair Arrangements Immediately Upon Separation

- Parents undergoing separation must be encouraged to “try to get it right the first time,” since post-separation status quo living arrangements set a strong precedent. When a parent moves out of the home, a status quo is established that heavily influences final orders. (Exceptions to this include court orders or domestic contracts that set out other specific living arrangements and instances in which children are old enough to travel independently and make their own contact arrangements.)
- It is difficult to seek an amendment to a parenting schedule or living arrangement that is already established. Once a court order or a domestic agreement is in place, it cannot be changed unless and until there is a material change of circumstances.
- Given the challenges of transitioning and possible relationship breakdown, parents should be advised to quickly obtain favourable custody and access arrangements that reflect the historical relationship of the transitioning parent with the child(ren). *In particular*, trans parents must be urged to avoid signing agreements that restrict their access to child(ren), since such agreements can be difficult to revise.

### Employment and Financial Precautions

- Court can impute income from a parent for child support if they are seen as intentionally underemployed. Therefore, a trans parent must document all their job searching activities to prove they are not intentionally unemployed:
  - including time spent job searching, job search resources checked, results of job searches, copies of applications submitted and copies of responses received, interviews obtained, etc.
- To support the trans parent's case, establish that pervasive misunderstanding and the resulting discrimination that trans persons face in employment frequently pose an impediment to employment.

50% of trans people in Ontario earn less than \$15000/year, despite the fact that over 70% have completed at least some college or university education.<sup>26</sup> Only 37% have succeeded in obtaining full-time employment. Being trans makes it difficult for workers to obtain letters of reference and academic transcripts.<sup>27</sup> These findings present a stark contrast to the freedom of gender expression and gender identity in the workplace protected by Ontario Bill 33 (Toby's Act).

### Spousal Support

- In the case of the separation of married or common-law partners, consider issuing a request for spousal support. A trans parent may lose financial stability due to transitioning and marriage breakdown and may then be entitled to financial support (to facilitate a transition out of the relationship and/or to compensate for sacrifices made during the relationship to the benefit of the other spouse).
- Depending on circumstances, any spousal support requested may be temporary or indefinite.
- Disability is also a grounds for spousal support, and a trans parent who is separated from their spouse could explore this option if they wish. Such a client should be careful to obtain medical reports to

<sup>26</sup> Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. *Who are Trans People in Ontario?* Trans PULSE e-Bulletin, 20 July, 2010. 1(1).

<sup>27</sup> Bauer G, Nussbaum N, Travers R, Munro L, Pyne J, Redman N. *We've Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario.* Trans PULSE e-Bulletin, 30 May, 2011. 2(1).

document reasons for inability to work (for instance, pertaining to medical transition processes and/or their psychological consequences) and any suggested treatment plan and prognosis for fitness to return to work.

- Applications may be submitted to The Ontario Disability Support Program (ODSP), independent of any spousal support requests.
- The employment health and dental benefits of one parent should continue to extend to another parent regardless of their transition status. These may end at separation or on divorce.

### Parental Alienation

- Courts take allegations of Parental Alienation very seriously. If a cisgender parent is attempting to bias the child(ren) against a trans parent, it may be important to make this claim on an urgent basis, and to obtain non-disparagement orders, orders that the trans parent attend counseling with the child(ren) to facilitate bonding that may have been strained. Such a claim must be clearly documented and distinguished from generalized social/familial alienation. The strongest remedy to alienation is a reversal of primary residence with supervised access to the child for the alienating parent, but it is more common for the court to introduce access to the alienated parent in a gradually increasing way while imposing clear penalties to the other parent if they continue to attempt to alienate the child.
- If possible, try to focus language around hostility on presence of *transphobia*: the false belief that exposure to trans people creates a negative impact on the child
  - See *Ghidoni v. Ghidoni* (1995): the negative attitude of the cisgender parent's new partner was seen as a greater detriment to the child than the trans parent's gender expression was.
- If you are representing a cis parent, establish at the beginning of the working relationship that you will not tolerate transphobic behaviour of any kind (including unfounded attempts to alienate the children from the trans parent) and that it is contrary to the Rules of Professional Conduct for you to take instructions that are rooted in malice.
- If you are representing a trans parent who has been cut off from regular contact with their child(ren), *help them think about ways they can maintain a connection with the child(ren) without putting them in the middle of the adult conflict*. These should be mutually agreed upon between the child and the trans parent. For example, the trans parent may see the child(ren) during the school day (perhaps meeting them for lunch once a week). The trans parent may attend the child's extracurricular activities as an observer. Supportive grandparents or other family members could facilitate some contact. The trans parent may provide the child with a smart phone that would allow the parent and child to have ongoing contact via text messaging, email, video calls and phone calls. What is appropriate will depend very much on whether or not any kind of custody and access order is already in place, the ages of the children and how the children feel about maintaining contact with the trans parent independent of the other parent. In some situations, it may not be possible for the trans parent to have contact with the children until the custody and access issues are resolved but, where it is possible, ongoing contact with the children will strengthen the trans parent's case for access later on.

### Mental Health Challenges

- As with all other family law clients, if there is a possibility that mental health issues are affecting the client, a referral to an appropriate professional for evaluation and treatment may be appropriate. If cost is an issue, the lawyer should provide a referral to community based services or other services for low-income clients. Note that if a party does not put their own mental health in issue, they are in a much better place than someone who makes a mistake and opens the door by leading evidence of their mental health.

- Ensure that any health care provider a client sees is aware that mental health could become a legal issue (since therapists' and others' notes may be used by both parties) and is trans positive. They should take notes carefully and well and have "court-acceptable" credentials (n.b., psychiatrists or psychologists may be given more credibility by courts than social workers or psychotherapists).
- It is important to be cognizant of the fact that social and familial exclusion, and experiences of harassment and violence, play a significant role in mental health challenges and are likely to originate from transphobia; present any such challenges the client is facing and where they has turned for support with them.

Over 60% of trans people in Ontario have experienced moderate to high levels of transphobia (including emotional and physical attacks).<sup>28</sup> Transphobia is detrimental to the physical and mental health of trans people and is associated with increased risk of depression, which effects over half of trans Ontarians.<sup>29</sup> Most have seriously considered suicide, but in particular, those who have experienced verbal harassment and physical assault because of their gender identity or expression, reported higher rates of past-year suicidal ideation and attempts.<sup>30</sup> This figure rises when transitioning is planned but not begun and drops dramatically once transitioning begins.<sup>31</sup>

### Custody and/or Primary Residence

*As with any client:*

- Advise that trans parent have a good place to live: ideally in stable housing situation where children have their own beds. If rooms must be shared, there should be separate bedrooms for boys and girls (sharing a room is not desirable).
- Advise parents that main determinant in custody decisions is not material wealth but a good relationship with the child(ren) and the ability to make child-centred decisions in the child(ren)'s best interests. These determinants may often reflect the parents' roles before separation (e.g., who was the primary caregiver, etc.). At the same time, the court may be open to permitting a parent who was previously less involved "a chance up at bat."
- Ensure that parents understand the distinction between custody (the right to make major decisions regarding health, education, religion and general welfare), access and residence. Access parents have rights to receive information from child(ren)'s care providers such as schools, counselors and doctors, though this right to information should be specified in orders or agreements.

*Trans-specific considerations:*

- A claim and urgent motion for *exclusive possession* may be necessary if the trans parent is facing loss of housing, has been the primary caregiver to the child(ren) or strong joint caregiver and faces alienation by the child's other parent.
- The loss of income and housing often associated with transitioning can be a detriment when seeking custody and/or primary residence:
  - Confront this by leading strong evidence about the client's pre-transition parenting to establish:

<sup>28</sup> Scanlon K, Travers R, Coleman T, Bauer G, Boyce M. *Ontario's Trans Communities and Suicide: Transphobia is Bad for our Health*. Trans PULSE e-Bulletin, 12 November, 2010. 1(2).

<sup>29</sup> Longman Marcellin R, Scheim A, Bauer G, Redman N. *Experiences of Transphobia among Trans Ontarians*. Trans PULSE e-Bulletin, 7 March, 2013. 3(2).

<sup>30</sup> Scanlon K, Travers R, Coleman T, Bauer G, Boyce M. *Ontario's Trans Communities and Suicide: Transphobia is Bad for our Health*. Trans PULSE e-Bulletin, 12 November, 2010. 1(2).

<sup>31</sup> <http://transpulseproject.ca/wp-content/uploads/2012/08/Trans-Health-Advocacy-Summit-2012-Results-vFINAL.pdf>

- that there is a close bond with the child;
  - the historical- to current-active parenting role (i.e., that there was nothing in the past to indicate they were not an excellent parent, etc.);
  - that they have a plan for the future (including an age-appropriate plan to explain to the child what the parent’s transition means, looks like, etc.).
- Be clear that social challenges likely originate from transphobia; present any such challenges the client is facing and where she has turned for support with them.
- Advise that the parent be realistic about material disadvantages caused by transition; a request for overnight access (much less primary residence or custody) is remote if a parent has no adequate housing for the child(ren).
  - Reassure parents that “perfect” living conditions are not required for custody. The client should obtain the best living circumstances that are realistically within reach, while living close to child(ren)’s usual school.
  - Extended family of the trans parent, if supportive, may be able to facilitate overnight access or even primary residential arrangement.

### Making Your Practice Welcoming to Trans Clients

The goal in making your practice “trans-positive” is to ensure that trans clients experience the same levels of comfort as cis clients do in accessing your services. This is generally a reflection of the knowledge and attitudes your office projects. Achieving this requires that you pay attention to both large and small details.

- *Develop an expertise in trans issues if you want to practice in this area.* This is necessary when working with any marginalized community. You will need to seek out much of what you need to learn on your own, which is why developing and maintaining a relationship with LGBT organizations in your community and province is vital. These relationships will fulfill your needs for learning that go beyond legal expertise. Since trans lives likely differ from your own in legally and culturally significant ways, a learning process is inherently important and challenging.
  - Knowing about trans services and resources in your community (and, ideally, have a positive working relationship with them) will provide an understanding of trans experiences that will offer you a practical advantage in court and other settings. Improving your understanding of local trans communities will help you identify and refute misconceptions that other lawyers may have.
  - Of course, becoming familiar and comfortable with different forms of transitioning will also improve your relationship with trans clients.
- *Cultural Competency:* Ensuring that *your staff* is well educated on trans issues and presents a trans-positive attitude is as important as ensuring the same about yourself. A trans person seeking legal support for a family law issue may be in a particularly fragile emotional state. This intensifies their need to feel welcomed, accepted and understood from the time they make their first call to your office. Staff members will be better able to respond to the client’s emotional and legal requirements if they are familiar with appropriate terminology and the many ways in which trans people might present themselves.
- *Policies and Statements:* Anti-discrimination and equity statements issued by your agency should specifically name gender identity and expression, and transition status. These policies must be supported by procedures that staff are required to implement when transphobic incidents take place. In order to implement these effectively, staff must be trained to intervene with other workers, clients, volunteers or the public who violate anti-harassment policies.

- *Front Line:* Oral and written communications with clients must facilitate a range of gender identities. Forms and other documents that your agency uses must accommodate this range of gender identities in a considered and systematic way. Intake workers must be able to communicate effectively and respectfully with trans people and also be prepared to offer relevant resources that trans clients may request.
- *Publicity and Outreach:* The knowledge and acceptance you and your staff possess can be conveyed by referring to trans issues and community services in your outreach campaigns, brochures, posters and other materials. Likewise, recognition of trans legal issues can be made explicit at relevant public events. This will reassure trans clients that your office is prepared to respond to their needs.
- *Expect your clients to be initially uncomfortable with you.* Trans people are used to facing transphobia, and you will have to build your client's trust in you by your actions and the attitudes you project.
- *Be ready and open to learning from your clients,* especially if trans issues are new to you. Your clients bring with them a wealth of lived experience that offers you enormous opportunities to increase your expertise. As always, your client's experience needs to drive the legal strategy. Since these experiences are likely quite unfamiliar to you, spending the time take in these experiences will be particularly important and often challenging. Again, this learning process will offer you a strong strategic advantage in representing your client.
  - You will likely need to *spend more time with trans clients* than with clients whose lives more closely resemble your own. This is especially true initially, so you can build trust with your client and so they can tell their stories at their own pace.
  - We all make assumptions based on our own lived experiences and biases. We need to *challenge our assumptions* and be open to developing new understandings about how families work if we want to represent trans clients respectfully and effectively.
- *Your trans client may want to bring an advocate with them* (for example, a community support worker). This person can be extremely helpful: they can provide emotional support so you can focus on your job as the lawyer, help the client prepare for and follow up from meetings with you, help the client stay focused in the appointment, take notes, etc. If you are not familiar with working with an advocate present, discuss this with your client and their advocate so that everyone knows the parameters of the working relationship. Ensure that the advocate understands the importance of confidentiality. Consider having the advocate sign a confidentiality agreement and the client sign a consent waiver that can be kept in the client's file.
- Gender-neutral washrooms are preferred by some trans (and cis) people. Designating some washrooms as gender-neutral will increase the comfort levels of some clients.

## **Section IV – References and Resources**

Below is a small selection of the many resources that may be helpful in researching trans family law or accessing trans organizations. For specific resources that are not listed here, feel free to contact the LGBTQ Parenting Network.

### Professional Resources and Development

- K Bender-Baird, *Transgender Employment Experiences: Gendered Perceptions and the Law*. (Albany: State University of New York Press, 2011).
- The Canadian Bar Association’s Sexual Orientation and Gender Identity Conference: [www.cba.org/cba/sogic/main](http://www.cba.org/cba/sogic/main)
- P Currah, R Juang & S Minter (Eds.), *Transgender rights*. (Minneapolis: University of Minnesota Press, 2006).
- AW Howell, *Transgender Persons and the Law* (American Bar Association, 2014).
- JL Levi & EE Monnin-Browder, *Transgender Family Law: A Guide to Effective Advocacy*. (Bloomington: AuthorHouse, 2012).
- LR Mandlis, “Human Rights, Transsexed Bodies, and Health Care in Canada: What Counts as Legal Protection?” (2011) 26:3 Canadian Journal of Law and Society.
- Ontario Human Rights Code,
  - Gender Identity Brochure: [www.ohrc.on.ca/en/gender-identity-and-gender-expression-brochure](http://www.ohrc.on.ca/en/gender-identity-and-gender-expression-brochure)
  - Policy on preventing discrimination because of gender identity and gender expression: [www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression](http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression)
- Trans\* Legal Needs Assessment Project (HALCO): [www.halco.org](http://www.halco.org)
- Transgender Law Center (CA): [www.transgenderlawcenter.org/issues/familylaw](http://www.transgenderlawcenter.org/issues/familylaw)
- Transgender Legal Defense & Education Fund (NY): [www.transgenderlegal.org](http://www.transgenderlegal.org)
- JT Weiss, *Transgender Workplace Diversity: Policy Tools, Training Issues and Communication Strategies for HR and Legal Professionals*. (North Charleston: BookSurge Publishing, 2007.)
- Isaac West, *Transforming Citizenships: Transgender Articulations of the Law*. (New York: New York University Press, 2014).

### Cultural Awareness

- The 519 Church Street Community Centre (queer parenting and trans groups): [www.the519.org](http://www.the519.org)
- Adult Gender Identity Clinic at CAMH (Centre for Addiction and Mental Health): [www.camh.ca](http://www.camh.ca)
- Colage (Children of Lesbians and Gays Everywhere) “Kids of Trans” Resource Guide: [www.colage.org/wp-content/uploads/2010/12/KOT-Resource-Guide-Draft-2.pdf](http://www.colage.org/wp-content/uploads/2010/12/KOT-Resource-Guide-Draft-2.pdf)
- Gay & Lesbian Alliance Against Defamation (NY, CA): [www.glaad.org](http://www.glaad.org)
- Lambda Legal (NY):
  - [www.lambdalegal.org/know-your-rights/trans-parents/transgender](http://www.lambdalegal.org/know-your-rights/trans-parents/transgender)
  - [www.lambdalegal.org/know-your-rights/transgender/trans-parenting-faq](http://www.lambdalegal.org/know-your-rights/transgender/trans-parenting-faq)
- LGBTQ Parenting Network: [www.lgbtqparentingnetwork.ca](http://www.lgbtqparentingnetwork.ca)
- LGBTTQ+ Around the Rainbow (Family Services Ottawa): [www.familyservicesottawa.org/children-youth-and-families/around-the-rainbow](http://www.familyservicesottawa.org/children-youth-and-families/around-the-rainbow)
- PFLAG (Parents and Friends of Lesbians and Gays), Canada: [www.pflagcanada.ca](http://www.pflagcanada.ca)
- Rainbow Health Ontario: [www.rainbowhealthontario.ca](http://www.rainbowhealthontario.ca)
- Sherbourne Health Centre: [sherbourne.on.ca/get-involved/events-and-support-groups](http://sherbourne.on.ca/get-involved/events-and-support-groups)

- S Stryker & S Whittle, *The Transgender Studies Reader*. (New York: Routledge, 2006).
- TransParent Canada: <http://www.transparentcanada.ca>

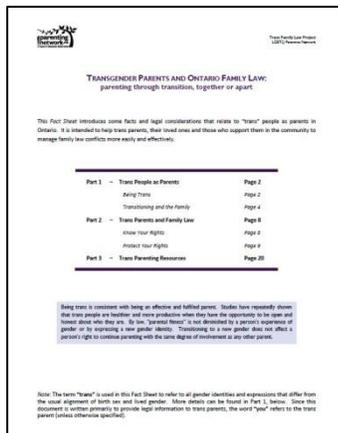
#### Trans Research and Advocacy

- CPATH (Canadian Professional Association for Transgender Health): [www.cpath.ca](http://www.cpath.ca)
- WPATH (World Professional Association for Transgender Health): [www.wpath.org](http://www.wpath.org)
- Trans PULSE (Ontario community-based trans research): <http://transpulseproject.ca>
- J Grant, L Mottet & J Tanis, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey: A Report of the National Transgender Discrimination Survey*. (Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011): [www.hogg.utexas.edu/uploads/documents/NTDS\\_Exec\\_Summary.pdf](http://www.hogg.utexas.edu/uploads/documents/NTDS_Exec_Summary.pdf)

#### Psychiatry and Social Sciences

- G Bauer for the Trans PULSE Project, “Trans Ontarians’ Sex Designations on Federal and Provincial Identity Documents: A Report Prepared for the Canadian Human Rights Commission.” 15 November, 2012. [www.transpulseproject.ca/research](http://www.transpulseproject.ca/research)
- G Bauer, N Nussbaum, R Travers, L Munro, J Pyne & N Redman, “We’ve Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario” (30 May, 2011) 2:1 Trans PULSE e-Bulletin. [www.transpulseproject.ca/research-type/e-bulletin](http://www.transpulseproject.ca/research-type/e-bulletin)
- Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K. “Who are Trans People in Ontario?” (20 July, 2010) 1:1 Trans PULSE e-Bulletin. [www.transpulseproject.ca/research-type/e-bulletin](http://www.transpulseproject.ca/research-type/e-bulletin)
- MR Longman, A Scheim, G Bauer & N Redman, “Experiences of Transphobia among Trans Ontarians” (7 March, 2013) 3:2 Trans PULSE e-Bulletin. [www.transpulseproject.ca/research-type/e-bulletin](http://www.transpulseproject.ca/research-type/e-bulletin)
- P De Sutter, K Kira, A Verschoor, A & A Hotimsky, “The Desire to have Children and the Preservation of Fertility in Transsexual Women: A Survey.” (2002) 6:3 The International Journal of Transgenderism. [www.rainbowhealthontario.ca/resources](http://www.rainbowhealthontario.ca/resources)
- Richard Green, “Sexual identity of thirty-seven children raised by homosexual or transsexual parents” (1978) 135 American Journal of Psychiatry 692. [www.ncbi.nlm.nih.gov/pubmed/655279](http://www.ncbi.nlm.nih.gov/pubmed/655279)
- ibid. “Transsexuals’ Children” (October-December 1998) 2:4 The International Journal of Transgenderism. [www.glad.org/uploads/docs/publications/i.\\_i.\\_Green\\_Transsexuals\\_Children\\_.pdf](http://www.glad.org/uploads/docs/publications/i._i._Green_Transsexuals_Children_.pdf)
- ibid. “Parental Alienation Syndrome and the Transsexual Parent” (2006) 9:1 International Journal of Transgenderism. [www.rainbowhealthontario.ca/resources](http://www.rainbowhealthontario.ca/resources)
- T White & E Randi, “Adaptation and adjustment in children of transsexual parents” (November 2006) European Child and Adolescent Psychiatry. [www.ncbi.nlm.nih.gov/pubmed/17136300](http://www.ncbi.nlm.nih.gov/pubmed/17136300)

## Other Documents In This Series



Detailed *Fact Sheet* for trans parents, their families and service providers



Abridged *Tip Sheet* for trans parents, their families and service providers

Plus: two 90-minute webinars; one for legal professionals, and one for trans parents, their families and service providers

Visit [www.lgbtqpn.ca/transfamilylaw](http://www.lgbtqpn.ca/transfamilylaw) for details.

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### Suggested Reference:

LGBTQ Parenting Network, *Legal Backgrounder on Trans Parents and Family Law in Ontario* (Toronto: 2014). Downloadable at <http://www.lgbtqpn.ca/current>



The LGBTQ Parenting Network supports lesbian, gay, bisexual, trans and queer parenting through training, research, resource development and community organizing. We work with individuals, organizations and communities from the local to the international.

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 Sherbourne Health Centre  
 333 Sherbourne Street  
 Toronto ON, M5A 2S5

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 The LGBTQ Parenting Network is a program of Sherbourne Health Centre.