



HUMAN RIGHTS CLINIC
THE UNIVERSITY of TEXAS SCHOOL of LAW

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Texas Violates the Rights of Transgender Incarcerated Persons

AUSTIN, TEXAS - A newly released report by the Human Rights Clinic of the University of Texas at Austin School of Law, Austin Community Law Center, and Trans Pride Initiative details the human rights violations occurring against transgender incarcerated individuals. The report concludes the Texas Family Code (TFC) prevents incarcerated transgender individuals from changing their legal name. This Texas law's restriction produces feelings of mental harm and gender dysphoria for transgender incarcerated persons.

"Naming and Shaming: Violations of the Human Rights of Transgender Persons with Felonies in Texas," is a 54-page report representing the culmination of a more than a year and a half of research and includes information from over 130 surveys collected from transgender incarcerated persons. The surveys compiled extensive personal testimony from current and formerly incarcerated transgender individuals.

Nell Gaither, the President of Trans Pride Initiative said that "among its key findings the Report demonstrates that incarcerated transgender persons suffer unique and additional challenges within the Texas Department of Criminal Justice (TDCJ), compared to cisgender incarcerated persons, and these unique and additional challenges are exacerbated by the implementation of TFC 45.103." Gaither added that "the effects of TFC 45.103 exacerbates the effects of gender dysphoria such as anxiety, depression and suicidal ideation in TDCJ inmates."

The report asserts that the Texas Family Code violates rights transgender individuals are afforded under International Human Rights Law. Ariel Dulitzky, Director of the Human Rights Clinic, stated, “the Texas Family Code violates the rights of persons deprived of liberty, including their right to a name, to freedom of expression, to equality and non-discrimination, to humane treatment and right to a remedy.”

Transgender incarcerated persons suffer multiple forms of harassment and discrimination. The Report quotes one TDCJ officer telling Maria, a transgender incarcerated individual, “I don’t give a damn what you want to be called. You have no rights. What’s on your ID is what I’d call you. You’re not special or will you or anyone else receive special treatment.”

“Texas must comply with international law protecting the human rights of persons with felony convictions who wish to change their legal name” said Brian McGiverin, the Director of Austin Community Law Center. McGiverin calls on Texas legislators to allow name changes for incarcerated persons by amending or abolishing the Texas Family Code Section 45.103 in the upcoming legislative session. The report also recommends that TDCJ recognize and use preferred names when addressing transgender incarcerated persons and implement more rigorous training for all state employees on human rights. Additionally, Nell Gaither stressed the importance of “providing further psychological and mental support to the individuals who have been harmed by the implementation of the Texas Family Code Section 45.103”.

The Human Rights Clinic is part of the University of Texas School of Law. In the Clinic, an interdisciplinary group of law students and graduate students work under the supervision of Clinic Director Ariel Dulitzky on human rights projects through fact finding, reporting, and other public advocacy. The Clinic is involved in a multitude of activities including supporting advocacy in domestic and international fora, investigating and documenting human rights violations, and engaging with global and local human rights campaigns.

Trans Pride Initiative (TPI) is a non-profit organization located in Dallas, Texas and run by President Nell Gaither. The organization works to provide assistance and support for transgender, and gender nonconforming persons in areas of healthcare, housing, employment, education, and public accommodations.

The Austin Community Law Center (ACLCL) is a non-profit law firm run by Brian McGiverin. ACLC's mission is to make legal representation radically more affordable, invest in a stronger community, and fight for justice.