
REPORT FROM THE DOCUMENTATION LAW PROJECT

(formerly called the Personal Identification Law Project)

Saturday, August 28, 1993

Second Annual International Conference on Transgender Law and Employment Policy

PROJECT MODERATOR: Sister Mary Elizabeth, SSE, author of Legal Aspects of Transsexualism

By Phyllis Frye:

Good morning. It's Saturday at the law conference. We are now going to have what we've been working for, for the past two days. That is, the reports from all of our hard work and our legal project workshops. We have ten reports today, and I'm not going to waste a lot of time telling you about them. You are here and you know about them, and if you're reading or listening, you've already read about that.

So, we're going to start off in the area of Personal Identification Law. Sister Mary, please start coming up. I wish to introduce to you the Project Moderator for the Personal Identification Law Project, Sister Mary Elizabeth from the State of California. Sister Mary is not an attorney, but she is the author of "Legal Aspects of Transsexualism," which is very well known throughout our community — extremely well researched. She does a lot of lay and paralegal work and maintains a lot of our legal resource computer banks. Sister Mary, you have 27 minutes for your project report.

By Sister Mary Elizabeth:

Thank you. Perhaps as much should have been completed here this week wasn't completed. Some of the problems we face in identity and identification are the things that we take for granted per se. But when we make the transition, they become a real obstacle or challenge to many of us. The major problem is there are so many jurisdictions out there that we have to deal with. The laws vary from jurisdiction to jurisdiction. Not only in the states, but then you've got the federal level and you've got different agencies.

Number one on the items of change when you decide to make a transition is going to be a change of name. This can be as simple as simply saying, "I am going to be Mary Doe from now on instead of John Doe." In many states, the common-law is perfectly adapted very well for changing your name. In other states, it's a little more difficult; you need a court order of name change. Some agencies will accept common-law name changes, others will insist on something in writing. From the name change, you have your social security card, you have your driver's license, the birth certificates, passport, school records and on and on and on. The older you are it seems the more complex it gets.

In terms of birth certificates, about ten states now have passed specific legislation that will allow you to change your birth certificate. The degree of difficulty varies within each one of those states. Other states have looked at their laws and said they're broad enough, "We can affect a change of name and a change of sex without changing our law." The difficulty there is that because the laws are vague it then becomes a matter of who is on the other side of the counter and who is in power in the bureaucracy at that time. And so you may go for years and have great success and no difficulty in changing a name and change of sex on a record. And

then suddenly you get a new person who comes in and is confronted with a request to change, looks at the law and says, "No way. This is not going to happen."

And then you're faced with what to do. Go to court or perhaps try to change the law. And even when the law is changed, there's no guarantee to get a law written well enough that will make it perfectly clear to the agency that, yes, in fact, they are authorized to, and they are required to. This happened I believe in Ohio back in '83 when there was an attempt to change the law. They did effect a change, but it did not specifically state that it had to be done. From what I've been able to ascertain from people that tried to change their birth certificate they still won't do it despite the efforts of the legislature there.

The last survey I did on birth certificates was a little over two and half, almost three years ago. Likewise going through all the statutes for name change, the DMV's and what have you is about two and a half years. The most current thing I have is passports. And the letter I got back from them was there had been no change in the policy. This again presents a problem in that many of these agencies, such as the passport



Sister Mary Elizabeth, SSE, Author, Legal Aspects of Transsexualism, with Executive Director passing mantle of Documentation Law Project Moderator to Marian Beddill

agency, don't write it into the regulations. They just simply sent out a letter of understanding to all their different regional passport offices and it gets buried in the correspondence directory.

The bottom line is, you can take three different people that have identical records in their hands that they require for changing the passport. They can walk in the door at the same time at the agency. Client 1 goes up to Counter A and gets a one-year passport because that's what the letter says that you can have when you're in the final stages of reassignment. Client B walks up to Window B. The clerk looks at it and says, "Fine, no problem," and gives you a ten-year passport. The third client walks up to Window C and gets a clerk on the other side who just graduated from The Jerry Falwell School of Fundamentalism who looks at it and says, "No way! It will be a cold day in hell before I issue you a new passport." Then you have to fight the bureaucracy and get somebody that's understanding and will do it.

There have been various degrees of reports that have come in over the last two years. One person in New York City was detained for eight hours trying to get their records changed. Finally an understanding supervisor came up, called Washington, and they were able to go ahead and change their records for him and give him a

new passport. But he was put through a lot of humiliation, a lot of unnecessary stress.

In Los Angeles recently, a person who had been born in Texas did not have a birth certificate. She did not have a birth certificate, being born to a midwife out on a farm somewhere or ranch. The midwife had since died, and the family had died. The grandparents have disappeared. She had announced at fourteen that she was going to be a woman so she had no contact with the family. She had her school records that she had attended school here in kindergarten when she was five years of age. She had all her other documentation, but nothing to actually show that she was born here. And she was of Hispanic origin.

She sent the paperwork into the passport office. She received a phone call and was told to come in. She went in unsuspecting. Two male agents took her into a room, forced her to strip naked so they can examine her, harassed her for eight hours and finally gave her her clothes back and sent her home. They did not give her a passport. She was so traumatized it took her two weeks before she called anybody to complain. And she called Dr. Hurd and told him. By then it was pretty late. She didn't remember the names of the agents. She couldn't give us all the details necessary. We did find out that she had been called in, but she couldn't identify who it was.

There's such a broad latitude of things that can happen or go wrong. In discussions yesterday afternoon and last night we decided what to do. Marian, here, who has been elected recently to the Board of Directors in Ingersoll Center — I'm going to invite her up — I asked her if she would kind of become the project director. And what we're intending on doing is to do a completely new survey of all the agencies out there that we can think of — educational records in the military, resurvey the military, the DMV's — any agency that you might come in contact.

So we're not going to be able to do places like schools. There's just too many schools out there and each school is going to deal with it with in their own policy format. My schools, by the way, all my records have been changed except one thing. That was my high school transcript, and they absolutely refuse. There's no way they'll ever do it. On the other hand, the school in the next school district has no problem doing it, in changing transcripts and what have you.

So, we're going to do a new survey, identify problems as best we can, and write a report from that. Hopefully we'll prepare a statement that will give people some guidance in what to do and how to work around the problems more effectively when they're confronted with them. It will probably take us close to a year, I would imagine, depending on the cooperation we can get, not only out of the agencies, but within the community too. One thing we're going to need to know is if you have a problem or you know someone who's having a problem. We need to document it, find out just what went wrong, and then go from there and see what we can do. We want to come up with some type of document that we might be able to present to the agencies out there and say, "Hey there's a better way to do this for everybody all the way around." So, with that, I'm going to turn it over to Marian.

By Marian Beddill:

Thank you very much, Mary Elizabeth. It's my pleasure to be here and to take on this little task which might contribute a bit to make our future lives easier. I'm going to approach this as a project activity with goals and objectives in the process, but I can't do the whole thing myself by a long, long shot. As Mary Elizabeth said, we will work towards building a network of support people within our community. Associated with it, we will try to initially identify some immediate short-term places where we can do very beneficial goals in particular — finding spots which are troublesome — and try to judge those which we think might be achievable in terms of improving the process and the facility for identity changes within the system. Driver's licenses, birth certificates, social security, passports, military records, and schooling records are those which we are aware are the principal elements and those that apply to the most of us.

I intend to use many of the computer bulletin nets as a method of dissemination of our program and objectives and goals. They can also be very useful for a process of gathering information — both good and bad — reports from the field, places which are troublesome, and the converse — equally useful — those places where the process is good and simple and adequate. What we would like to do is make a merge; picture those places which are good, beneficial, and simple, and try to transform those into models which can then be implemented in the places where an improvement is needed. Mary Elizabeth's bulletin board has data storage space and can be utilized in any number of ways as a recipient point and a data point for the communication, together with the gender net that most of you know about.

Over the next few weeks, I will post some guidelines and project goals and objectives and processes that I think will be effective for accomplishing this resurvey. I would very much appreciate, and we would all be benefitted by, contributions from the community — reports of success and reports of problem areas and editing and review on the proposed questionnaire and inquiry process that we will use into the various agencies.

The theme and the thesis that I hope to use on this is the art of the possible. We know enough about politics and administrative processes to know that you try to find the most comfortable way to work within the system, try to discover through local contact and expertise, those elements which can move towards achieving effective results within a system and use that. One of the keys for that is to make our goal in some way compatible with the goals and the benefits of the agency, of the personnel, of the legislative group that we may be addressing. You achieve these sorts of objectives when it is also apparent to the other group that they are benefitting as well as benefitting us.

It's finding their hot buttons and convincing them that this change, beneficial to us, will also be beneficial to them. One of the biggest arguments for that is simplification of management, simplification of administrative procedure for them, reduction of conflict and lawsuit and management problem resolution. If we can simplify and standardize procedures and publicize the new procedure, then the agency can recognize that their own life will be made better and simpler.

This is the essence of what we're going to do. I plead and invite the rest of the community to contribute your ideas and your assistance as we go through the process of revising and hopefully reissuing the documentation of gender identity or the document change for identity documentation.



Marian Beddill

By Phyllis Frye:

This is significant. I didn't know this was coming out of our committee. I'm going to charge you to have your report ready by the third conference next year, and I'm also going to charge you to make sure that it does have some international flavor to it, not just 50 states. To assist you, again for the video and the audio and the written proceedings and the CD/TS organizations that are going to be lifting things out of the "Proceedings" to publish, I want you to very slowly and articulately — and when it comes to some words, maybe even spelling them out — I want you to give the name that you want things mailed to you, your P.O. Box or whatever your address is, and any computer bulletin boards. Go very slowly because we've got our court reporter and we've got people watching the video and listening to the audio who are writing as fast as they can.

By Sister Mary Elizabeth:

For contacting us electronically, being the electronic bulletin board process, our board is the AEGISN, that stands for AIDS, Education General Information System Network Board in San Juan Capistrano. The phone number there is (714) 248-2836. It's on line 24 hours a day, 7 days a week. When you get to the main menu of the bulletin board, it'll say in big blue letters AEGISN.

You can use a command that isn't showing there called "B". "B" as in boy, "B" as in beautiful, "B" as in bountiful. That command will take you into the gender section of the board and you can leave messages there, upload files, download files and what have you. And if you will, leave a message for either Marian or myself. Mary Elizabeth not Sister Mary Elizabeth, the computer won't recognize me as Sister; my doing, not the computers. You can go ahead and upload any information you want to us and also feel free to read the mail there in the section.

If you're trying to contact us — and I want Marian to give her address also for mailing stuff to us — my address is the Sisters of Saint Elizabeth, Post Office Box 184, San Juan Capistrano, California 92693, USA. The FAX number is (714) 248-2839.

By Marian Beddill:

Mailings can be done to me at my personal box number. Marian Beddill, 1050 Larrabee Avenue #104-316, Bellingham, Washington 98225, USA.

By Phyllis Frye:

Thank you both. Give them a round of applause.

IN "BUBBAVILLE" WITH DIGNITY

By Phyllis Frye:

I want to fill you in just a second with an interesting story about name change. I hear so many, many stories about people who are just scared to death because they don't live in big urban complexes like Houston or some other place. Two weeks ago I was in an extremely rural county in Texas. It was "Bubbaville", and it's known as being a "Bubbaville". It was rural in that there was only one judge in the whole county. And the courthouse — I would love to practice law in that courthouse — was the kind of courthouse you see in the television shows

about the old-timey courthouses. It was gorgeous; I just was really taken back, but that's beside the point.

I was doing work for a client to change this person's name and also to get, to effect, a preoperative change of gender identification. In preparation I contacted the court, filed my papers, paid my fees, talked to the court coordinator. I said, "Now, this is a transsexual person. Would you please alert the judge to that?" "No problem, I'll alert the judge." I sent the judge a letter identifying the fact that I, too, was transgendered, and, if the judge had any questions, please converse with me prior, or leave a message and I would call the judge. Blah, blah, blah. Fine, I heard nothing. I met my client and my client's spouse in "Bubbaville" County, Texas. We went to the courthouse and walked in.

Here's this old rural setting. Even though it was a civil matter, they had accorded me the courtesy, because they knew I was flying in from out of town, to come after noon when they did their criminal docket. So, there's two prosecutors, a bunch of defense attorneys, a whole bunch of people in jail clothes, and deputy sheriffs to guard them. Plus there's a court clerk, a court reporter, all these people. I walked in as I do every place — like I own the place. Everybody either knew or should have known because I forewarned them. Nobody snickered. Nobody said, "Boo!" Nobody said anything. Everybody was very cordial. Everyone was very professional. Everyone was very courteous.

I went to the court coordinator and I said, "I'm Phyllis Frye." "Oh, Ms. Frye, I'm glad to meet you. I've been looking forward to meeting you. Your letters have been very interesting." I asked of Ms. So-and-so, "Is the judge in?" "Yes." "Has the judge read my stuff?" "I don't know." "Is everything ready to go?" She says, "Everything is ready to go. We'll pop you in first off, and then we'll do our criminal docket."

The judge came onto the bench. Before he called docket, I went up and said, "Judge, may I approach?" "Yes, you may." "I'm Phyllis Frye." "Oh, Ms. Frye, I've been looking forward to meeting you." Blah, blah, blah. We talked a little while over on the side. Everybody else was doing their business. It wasn't a show. It wasn't a carnival. It wasn't a circus. People were doing their business, because that's all this was — business.

The judge and I talked; he had a few questions. He said, "I know I can do the name change, but what's this other gender change stuff? I've searched all my law books, and I can't find it." I said, "Well, Your Honor, you know, I'm transgendered." "Oh, yeah, I knew that." "And I've been practicing for a long time, and I just kind of pulled it out of my ass, Your Honor. I figured that my pleadings stated what needed to be done. It was fair and a logical extension of what I was asking for under the law for the name change. I think my client deserves it. I know that you have both in your equity powers and in your powers of discretion to make decisions." He says, "Oh." And he thought about it and he said, "Well, I don't know. Bring your client up."

I brought my client up. Here's my client, a preoperative transsexual person standing there right beside me. The court reporter's doing "the fingers" just like she is now. The clerk's sitting there like "who cares?" The prosecutors and the defense attorneys are conducting their deals on the side. We're standing up there talking just as loud as I'm talking right now, "Are you so-and-so?" I'm naming the person's original name which doesn't match the gender that's appearing. "You so and so?" "Yes." It didn't get quiet all of a sudden. "Are you doing this for such and such, this sexual reassignment, blah, blah, blah, gender reassignment?" And we went on for about five minutes. The judge reached over, and he signed the order; he granted the preoperative change of gender.

He said thank you very much. He told my client to go ahead and leave. I told my client to get out of there before the judge changed his mind. My client and spouse left. I started to leave the judge called me back. He said, "Ms. Frye I need to talk to you." I went back and he had a couple of medical questions, technical questions. I answered them and he said, "Oh, okay. That makes sense. Well what about so and so? Oh, that makes sense, okay." I educated another judge. This was in "Bubbaville".

I walked out. People were still doing their business. Prosecutors and defense lawyers were still doing their

business. Defense lawyers and prisoners were still doing their business. Deputy sheriffs were still sitting there doing their business guarding their prisoners. Nobody cared!!!!!!

So, get your personal identification business done. If you can't do it yourself, get an attorney. If you're out of state, I won't do it. If you're in-state, call me. If you don't want to make me "rich-off-the-community" because I assure you, I don't get rich that way, then call somebody else. But make sure that if you call somebody else that they have either bought or read our "Proceedings", that they know who you are, and that they can present you with dignity.

The reason why I pulled it off is because I knew what I was talking about. And I was speaking with dignity. And I was representing a client with dignity and my client was standing with dignity, because I coached. And my client was not ashamed. And it just went through like business. Y'all can do that, too. We can all do that.