

# The Landscape of Student Travel in the U.S. and Canada

Jeffery L. Ment, Esq.  
The Ment Law Group PC

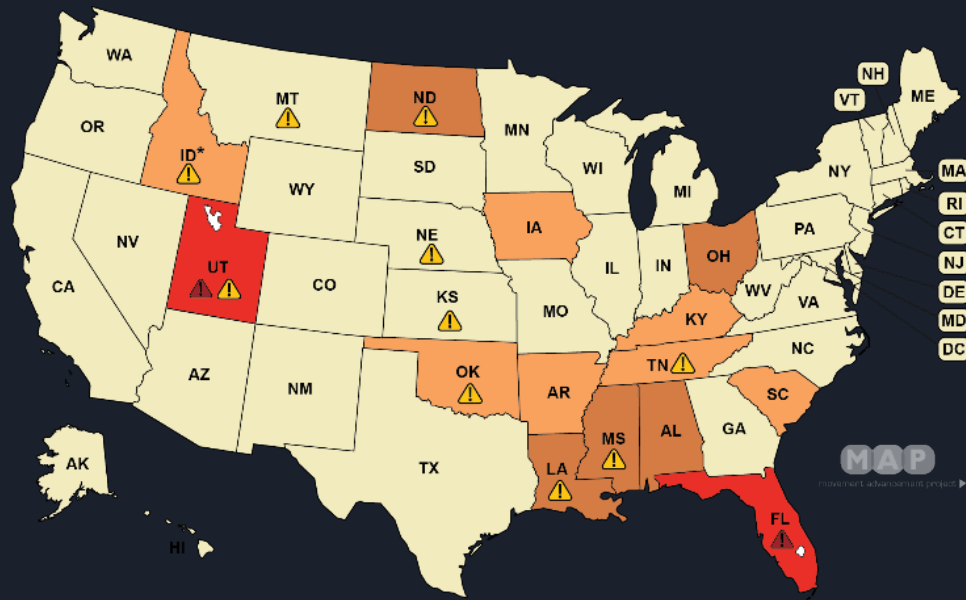




## Webinar Objectives:

- Present data on LGBTQ+ travel as it relates to passport gender designations and bathroom usage.
- Analyze future travel intentions paying particular attention to the State of Florida
- Discuss the impact of anti-LGBTQ+ executive orders by the Trump Administration
- Evaluate the influence of travel advisors on travel decisions
- Explore strategies to encourage LGBTQ+ tourism amid challenging policies.

# U.S. Laws on Transgender Bathroom Usage



U.S. Territories

American Samoa

Commonwealth of the Northern Mariana Islands

Guam

Puerto Rico

U.S. Virgin Islands

- State bans transgender people from using bathrooms and facilities consistent with their gender identity in all government-owned buildings and spaces, including K-12 schools, colleges, and more (2 states)
- State bans transgender people from using bathrooms and facilities consistent with their gender identity in K-12 schools and at least some government-owned buildings (5 states)
- State bans transgender people from using bathrooms and facilities consistent with their gender identity in K-12 schools (7 states)
- No state ban on transgender people's use of bathrooms or facilities (36 states, 5 territories + D.C.)
- ⚠ State law makes it a criminal offense, in certain circumstances, for transgender people to use bathrooms or facilities consistent with their gender identity (2 states)
- ⚠ State has law or policy defining "sex" in ways that may impact transgender people's access to bathrooms or facilities according to their gender identity (10 states)



# Florida

- In 2023, the Florida legislature passed an anti-trans bathroom law that—in certain settings—makes it criminal trespass to refuse to leave a restroom or changing facility that does not align with an individual’s sex assigned at birth after being told to do so by a government employee. Fla. Stat. § 553.865.
- The law is complex, confusing, and vague. This document discusses some basic questions and considerations regarding the law.





# Where can I use the bathroom in Florida?

Because of Florida's anti-trans stance, one might think the law applies in all public places. Instead, the law only applies to bathrooms and changing facilities in buildings owned or leased by the state of Florida or a local government entity in Florida.

Generally, the law applies to bathrooms and changing facilities in:

- State government buildings, including courthouses, legislative offices, public-benefits offices, and other state agency offices
- City or county government buildings, libraries, tax collectors, and HSMV offices
- State prisons or jails, plus immigration detention centers run by local law enforcement
- Bathrooms in state parks and service plazas located on Florida toll roads.

The law purports to apply to all schools in the state at all levels, whether public or private. If you are a student, teacher, or otherwise work at the school, the criminal trespass provision does not apply, but the law requires that schools discipline individuals who refuse to leave restrooms inconsistent with their sex assigned at birth after being told to do so. However, members of the public who visit a school can be subject to the criminal provision.



## Florida bathrooms continued...

Some public buildings like airports and sports arenas are owned by state or local governments and are covered by this law. It may be very difficult to determine whether a particular building such as these are covered by the law, which in turn may impact the likelihood of enforcement of the law in those settings.

Federal buildings are not covered. That means the ban does not apply to:

- Federal courthouses, office buildings, international embassies, and the like
- Federal public-benefit offices for Social Security and Medicare
- Military bases
- Federal detention centers
- National parks, monuments, and facilities operated by the National Park Service

Private businesses, organizations, and religious institutions are not covered unless they operate inside a state-owned building.

The law does not apply to bathrooms in private homes or apartment buildings.



## How can I protect myself when using a bathroom in public?

1. Use the bathroom with purpose: go to the toilet or sink you need, use it as needed, wash and dry your hands, and leave.
2. If someone confronts you, claiming that you are in the wrong bathroom, relay that you will be done momentarily or that you will leave as soon as you finish, and avoid further confrontation.
3. If someone threatens violence against you, leave as immediately as you can.
4. If asked to leave by a police officer or by a government employee associated with that building, leave as immediately as you can.



# Are there exceptions to the law?

Yes, you can use a “unisex” bathroom or changing facility that locks to prevent others from entering. You can bring family members with you into these facilities.

The law also provides five exceptions for specific situations. These exceptions apply to anyone regardless of their gender identity and are identified in Fla. Stat. § 553.865(6). A person can enter any bathroom for these reasons:

1. “To accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of 12, an elderly person as defined in s. 825.101, or a person with a disability as defined in s. 760.22 or a developmental disability as defined in s. 393.063.”
2. “For law enforcement or governmental regulatory purposes”
3. “For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk”
4. “For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use”
5. “If the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex”





## But just in case...

While in Florida, and any of the following applies to you or your child, there are entities out there ready to help:

1. You or they are a member of the LGBTQIA+ community or someone who has been perceived by others as gender-nonconforming and have been directly impacted by this law;
2. Since July 1, 2023, you or they have been told or forced to leave a restroom or changing facility located in a building that you believe may be owned or leased by a government entity in Florida on account of your or their perceived gender identity or expression or intersex traits;
3. Since July 1, 2023, you or they have been harassed or otherwise harmed for using a restroom or changing facility on account of your or their perceived gender identity or expression or intersex traits in a building that you believe may be owned or leased by a government entity in Florida.

Visit: <https://action.aclu.org/signup/fl-impacted-florida-public-building-restroom-ban-we-want-connect-you>

# What are other states doing?

State	Enacted Date	Effective Date	Lawsuits	Law or lawsuit status
<b>Alabama</b> (K-12)	April 8, 2022	July 1, 2022		
<b>Alabama</b> (colleges)	March 20, 2024	October 1, 2024		
<b>Arkansas</b>	March 21, 2023	90 days after legislature adjourns		
<b>Florida</b>	May 17, 2023	July 1, 2023	<a href="#"><u>Women in Struggle et al. v. Bain et al.</u></a>	Filed Sept 2023
<b>Idaho</b>	March 22, 2023	July 1, 2023	<a href="#"><u>Roe v. Critchfield</u></a>	Ban temporarily blocked
<b>Iowa</b>	March 22, 2023	March 22, 2023		
<b>Kentucky</b>	March 29, 2023	March 29, 2023		
<b>Louisiana</b>	June 3, 2024	August 1, 2024		
<b>Mississippi</b>	May 13, 2024	May 13, 2024		
<b>North Dakota</b> (K-12)	May 8, 2023	August 1, 2023		
<b>North Dakota</b> (college dorms and prisons)	April 25, 2023	August 1, 2023		
<b>Ohio</b>	Nov 27, 2024	90 days later		
<b>Oklahoma</b>	May 25, 2022	May 25, 2022	<a href="#"><u>Bridge v. Oklahoma State Department of Education</u></a>	Filed Sept 2022
<b>South Carolina</b>	July 3, 2024	July 1, 2024 – but must be renewed annually because it was passed as part of the annual budget		
<b>Tennessee</b>	May 14, 2021	July 1, 2021	<a href="#"><u>D.H. v. Williamson County Board of Education</u></a>	Filed August 2021
<b>Utah</b>	Jan 30, 2024	Jan 30, 2024		
<b>Virginia</b>	July 18, 2023	July 18, 2023		

# North Carolina-Only State to Repeal a Transgender bathroom ban law

## Previous Ban No Longer in Effect

State	Enacted Date	Effective Date	Other Notes
North Carolina	March 23, 2016	March 23, 2016	Bathroom ban repealed by <a href="#">HB142</a> (March 30, 2017)





## Other States

- In four other states — Alabama, Louisiana, Mississippi and North Dakota — bathroom bans are in effect for K-12 schools and at least some other government-owned buildings. In Arkansas, Idaho, Iowa, Kentucky, Oklahoma, South Carolina and Tennessee, bans exist in K-12 schools.
- New Hampshire passed a bill that would have permitted "classification of individuals based on biological sex" in places including bathrooms and locker rooms, which could have been used to prevent transgender people from using the facilities that correspond with their gender identity. Gov. Chris Sununu vetoed that bill in July, and the Legislature did not override the veto.

# Let's talk about passports

Canada added a third gender descriptor to its passports in 2019, allowing individuals to choose M, F, or X as their gender marker. However, passport holders using the X gender marker may face additional restrictions while travelling outside of Canada, particularly in countries that do not recognize your gender.

If your passport indicates "X" as a gender marker or if it indicates, "the sex of the bearer should read as X, indicating that it is unspecified," you might face entry restrictions into some countries that do not recognize your gender.



# Trump Administration's Impact On Gender Designation On Passports

The lawsuit was filed by the ACLU, ACLU of Massachusetts and law firm Covington & Burling on behalf of seven people. The suit describes the Trump administration's policy as "abrupt, discriminatory and dangerous."

It argues the policy violates the First Amendment of the Constitution, the Administrative Procedures Act and the rights of transgender, intersex and nonbinary people under the U.S. Constitution's Due Process Clause and Equal Protection Clause.

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN,  
SAWYER SOE, CHASTAIN ANDERSON,  
DREW HALL, BELLA BOE, and REID  
SOLOMON-LANE, on behalf of themselves  
and others similarly situated,

*Plaintiffs,*

v.

DONALD J. TRUMP, in his official capacity  
as President of the United States; U.S.  
DEPARTMENT OF STATE; MARCO  
RUBIO, in his official capacity as Secretary  
of State; and UNITED STATES OF  
AMERICA,

*Defendants.*

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT  
FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is an action for declaratory and injunctive relief arising out of the Trump Administration's abrupt, discriminatory, and dangerous reversal of settled United States passport policy. The United States previously issued passports to transgender, intersex, and nonbinary people that reflected the sex they live as and express, rather than the sex they were assigned at birth. Under the government's new arbitrary and unlawful policy (the "Passport Policy"), the United States now refuses to issue passports to otherwise eligible Americans because they are transgender, intersex, or nonbinary—except on terms that expose them to grievous harms and violate their constitutional rights to equal protection, travel, privacy, and speech and flout the Administrative Procedure Act (the "APA").

# The Executive Order's Impact on Transgender People

A major consequence of the new passport policy is that it forces transgender individuals to carry identification documents that do not match their gender presentation. This can lead to:

1. Harassment by TSA and border officials who flag perceived discrepancies between appearance and passport data.
2. Denial of entry to countries with strict gender norms, particularly where transgender rights are not recognized.
3. Involuntary “outing” to airline staff, hotel clerks, and foreign officials, increasing the risk of discrimination and violence.

# A Reversal of Progress

Before Trump's policy change, the U.S. had been aligning with global trends:

- The State Department first allowed transgender people to change sex markers in 2010.

- In 2021, the "X" gender marker was introduced, following the lead of countries like Canada, Germany, and Argentina.

- The United Nations has consistently affirmed that legal gender recognition is a human rights issue, urging nations to adopt self-determination laws.


With the new passport restrictions, the U.S. now stands apart from democratic allies, aligning instead with nations that refuse to acknowledge gender diversity.



# Is Traveling to the U.S. Safe?

- YES!
- Canada's immigration minister says U.S. 'safe' amid Trump transgender policy concerns
- "To suggest that the U.S. is not a safe space for trans people, for the LGBT community, I think is a bit of a bridge too far,"
  - -Canadian Immigration Minister Marc Miller





# What the Trans Community Says About Traveling to the U.S.

- “I live here, and I’ve never run into an issue...Orlando is very chill and liberal honestly.”
- “I’d be shocked if anyone in Orlando said anything to you.”
- “I was in Orlando in February (coming from the UK) and everything was fine for me. One person complimented me on my outfit and another on my nails. Orlando was chill for me.”
- “Orlando is mostly a progressive bubble of acceptance within Florida, and Disney in particular takes extra effort to make sure everyone feels welcome.”

Source:

[https://www.reddit.com/r/asktransgender/comments/1chnjsg/visiting\\_orlando\\_w\\_trans\\_bf\\_bathroom\\_ban/?rdt=36255](https://www.reddit.com/r/asktransgender/comments/1chnjsg/visiting_orlando_w_trans_bf_bathroom_ban/?rdt=36255)

# Before you go, read ahead!

Visit the [Travel Advice and Advisories](#) pages for your destination countries. The “Laws and culture” tab may contain information on the laws and social customs that could affect LGBTQ Canadians.

If your passport indicates “X” as a gender marker or if it indicates, "the sex of the bearer should read as X, indicating that it is unspecified," you might face entry restrictions into some countries that do not recognize your gender. Check the [Travel Advice and Advisory](#) for each destination and transit country to find out if you could face entry restrictions.

# How to Support Tour Directors Re: DEI

We can support Tour Directors—and alleviate teachers' concerns regarding discussions about Diversity, Equity, and Inclusion (DEI) and LGBT+ topics by taking the following steps:

- Clarify the distinction between classroom instruction and tour content. Emphasize that Tour Directors, while sharing educational stories, are operating in an independent setting that isn't subject to the same school district restrictions.
- Develop clear internal guidelines and approved messaging around DEI and LGBT+ topics. These materials should outline how to present such content in a way that is both inclusive and compliant with local rules.
- Offer specialized training and resources on cultural competence and best practices for discussing sensitive topics. This training can include scenario-based exercises so that Tour Directors feel confident in addressing questions and concerns.
- Provide access to legal or policy experts who can explain that content shared during tours falls outside of the regulated curriculum and therefore does not jeopardize teachers' employment in their home districts.
- Establish a support network or forum for Tour Directors to share experiences and advice, ensuring they feel backed by the organization when facing external criticism or misunderstanding.