

## The Growing Danger with Passports

By Kelly Darroch

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USA Passport with recently banned X Gender-Marker (Photo: iStock.com/golibtolibov)

For the average American, obtaining a United States passport is one of the less favored processes, but the end result is worthwhile. The same can not be said for transgender, nonbinary, or intersex individuals living in America.

Santa Barbara City College student Eris<sup>1</sup> is packing up her entire life into two suitcases and moving to Belgium as a result of concern for her safety as a transgender woman living in the United States. Eris, who has lived the majority of her life in the US, is taking advantage of her EU passport to relocate to a country with her partner, where she feels her rights are better protected.

This decision follows the executive order President Donald Trump administered on his first day in office titled [“Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government.”](#) In this order, Trump declared that the United States will only recognize two sexes: male and female. This then led the U.S. Department of State to cease issuing passports with “X” as the gender marker and suspend the policy that allowed trans, intersex, and nonbinary people to update the sex field on their passports.

“I wasn't too surprised that that was put into effect,” Eris said. “Really, what I see it as is political theater.”

She was, however, shocked at how quickly it happened and saw danger in the hyper-focus on passports from day one, feeling a sense that things were only going to get worse.

On the Department of State’s website, [Travel.State.Gov](#), it clearly states: “Under the executive order, we will no longer issue U.S. passports or Consular Reports of Birth Abroad (CRBAs) with an X marker. We will only issue passports with an M or F sex marker that matches the customer’s

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<sup>1</sup> Eris (last name undisclosed for personal safety), quote acquired through Zoom interview on March 5, 2025.

biological sex at birth.” The website prefaces that under the International Civil Aviation Organization (ICAO), all passports administered with gender markers that do not adhere to the executive order will remain valid for travel until expiration.

The executive order outlines its justification as a defense of women’s rights and protection of freedom of conscience by using “clear and accurate language” to recognize women and men. Section 2 of the executive order states: “‘Sex’ shall refer to an individual’s immutable biological classification as either male or female. ‘Sex’ is not a synonym for and does not include the concept of ‘gender identity.’”

The “X” gender marker was introduced as a third gender option in the U.S. in April of 2022. Through this policy, transgender applicants were allowed to self-select their gender, without the requirement of providing medical documentation if their gender did not match other documents of identification such as their birth certificate or state driver’s license.

Australia was the first country to officially adopt the “X” marker on a wider scale for transgender, nonbinary, and intersex individuals in 2011. Preceding this was the single instance of an X passport issuance to Alex MacFarlane, an intersex person, in 2003. Other countries then followed suit after Australia, including Bangladesh, Canada, Denmark, Iceland, India, Nepal, New Zealand, and Pakistan.

Although the origins of the X marker are disputed, Gina Wilson, an intersex activist and founding president of Intersex Human Rights Australia, has [claimed the X marker dates back to](#)

[the 1940s](#), following WWII. After the ICAO was delegated the responsibility of overseeing passports by the United Nations, they had to prioritize efficiency when managing passports during the massive migration of displaced persons from the war. Due to language barriers and the difficulty of issuing passports face-to-face, the ICAO allowed “X” as a designator when sex was unknown. Through this claim, Wilson suggests that the X marker was not created by or for intersex people initially.

The primary concern for transgender people following Trump’s executive order is the threat imposed on their safety in America and while traveling.

“My initial reaction was, and I think a lot of trans people's initial reaction was ‘How can I get to safety? How can I get the hell out of here?’” Eris said.

Despite the security of holding an EU passport, Eris explained that she is still terrified to travel out of the country at the end of the month.

“TSA already harasses trans people, and like, I'm expecting to be groped,” Eris said. “To have to interact with the federal government in that capacity and be dealing with all of this stuff is terrifying, and I am losing sleep.”

Harassment while traveling is the reality for trans and gender non-conforming populations. They often face difficulty with border control authorities and security technologies due to their

physical appearance not meeting the expectations of authority. This leads to many transgender people being questioned or detained due to being accused of falsifying identity documents.

A [survey conducted by the National Center for Transgender Equality](#) in 2022 reports that 22% of all 92,239 respondents in their survey reported being verbally harassed, assaulted, asked to leave a location, or denied services when they showed someone an ID with a name or gender that did not match their physical presentation.

Geneva Gesek-Teamer<sup>2</sup>, a 19-year-old nonbinary individual from Los Angeles, explained how safety factored in as the primary reason for not attempting to obtain a passport or state ID with the “X” gender marker.

“I’ve definitely considered it because it’s something that makes me feel like the fullest authentic version of myself and who I am down to my spirit, but in terms of actually taking action to do that, no,” said Geneva. “It’s mostly because I get worried for my safety.”

The mental well-being of the gender non-conforming population has also become a state of concern for many following the president’s actions in January.

A study conducted by [Lancet Public Health](#) reveals that possession of inaccurate IDs is associated with serious psychological distress, suicidal ideation, and suicide planning. Having a gender-concordant ID was not associated with suicide attempts.

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<sup>2</sup> Geneva Gesek-Teamer, quote acquired through phone call on March 10, 2025.

There are LGBTQ+ support groups that work to support queer individuals who are struggling with mental health. One of these groups, local to the Santa Barbara area, is the Pacific Pride Foundation. They serve as the foremost resource for the LGBTQ+ community in Santa Barbara County and neighboring communities.

“We understand that when you are being misgendered and when your gender identity is being challenged, that is a form of violence that does cause trauma,” said Pacific Pride Foundation Executive Director, Julio Roman<sup>3</sup>. “I like to tell folks in the community that we can be responsive to everything, but being responsive to mental health is one of our primary goals here at PFF.”

The risks do increase in cases of intersectionality for trans, nonbinary, and intersex people of color, especially at the border.

“Several of our trans clients have also experienced not being able to be located or put in safe spaces because of how they identify or because of the language barrier that exists, that doesn't allow that person to articulate how they identify with, let's say, agents or folks at the border,” said Roman.

Geneva also cited experiences where, as a Black American, they've observed a difference in the public treatment of white nonbinary people compared to nonbinary people of color.

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<sup>3</sup> Pacific Pride Foundation Director Julio Roman, quote acquired through Zoom interview on March 4, 2025

“Especially with Trump and a lot of people in office and power, they don’t just spew homophobia and transphobia. It’s also racism and severely hateful stuff,” said Geneva. “I feel like in that sense, my fellow black LGBTQ members, we kind of get the harder end of the stick”.

Famous 26-year-old trans actress and public figure Hunter Schafer has also revealed in a video posted to her [TikTok](#) account that she received her new passport in the mail with the “M” gender, despite having her gender markers first changed in her teens. In the video, she acknowledged her privilege as a wealthy, famous, white trans woman who conforms to contemporary beauty standards to highlight the reality of the issue.

“No one, no matter their circumstance, no matter how wealthy or white or pretty or whatever, is excluded; this is real,” said Schafer.

As a response to the threats transgender, nonbinary, and intersex people are facing following Trump’s executive order, the American Civil Liberties Union (ACLU) has filed several lawsuits on behalf of seven gender non-conforming people. In the lawsuit of [Orr v. Trump](#), the ACLU argues that the policy violates the right to travel and right to privacy under the Due Process Clause of the U.S. Constitution, violates the Equal Protection Clause of the Constitution, and violates the First Amendment rights of transgender, nonbinary, and intersex passport holders.

“The court is required to evaluate the executive order under what's called heightened scrutiny, which is a more demanding standard of review,” explained Rachel Berg<sup>4</sup>, a staff attorney who works on impact litigation cases at the National Center for Lesbian Rights (NCLR). “The

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<sup>4</sup> NCLR Staff Attorney Rachel Berg, quote acquired through Zoom interview on March 4, 2025.

government will be required to show that there's a legitimate government purpose that's substantially related to what they're trying to do here.”

Berg further explained the claims outlined in the ACLU lawsuits against Trump.

“The second cause of action is a right to travel, which means that because these individuals aren't going to be able to have accurate passports, they won't be able to travel because they can't enter in and out of the country,” said Berg. “They'd be unidentifiable from their identification, and the right to travel is something that's firmly embedded in the constitution.”

She also explained how the right to privacy is violated because a passport that displays a different gender than how they present will out them as transgender.

“The direct harm is actually revealing their transgender status, which is against their will,” said Berg. “That might expose them to other types of discrimination, harassment, and violence.”

Through a series of other claims, the ACLU also argued that Trump exceeded the scope of his authority as the president, and this executive order is in violation of his role in the executive branch.

While Berg believes the ACLU complaint did a great job of outlining the individual stories of the people being impacted by Trump's order, some are not confident in the efforts to combat the current administration.

“I’m planning for it not to hold water,” said Eris when asked about her confidence in these litigation efforts. “I’m holding my breath, but if this goes up to the Supreme Court level and the Supreme Court issues a ruling they don't like, the only people who can enforce that are the DOJ, which is under executive control. I'm not convinced that the people who are currently in charge of the federal government care about the rules.”

Eris did note that she does see the nobility in litigating these things and that actions at the state level are very meaningful in protecting the rights of many.

Although the rights of transgender Americans are not protected on the federal level, the State Department’s refusal to approve sex designations has no impact on state identification, like the driver’s license, which can be used to travel within the United States. In 22 states and the District of Columbia, one may obtain an “X” gender marker on their state ID. Despite this current protection in the states, many still raise concern for the future.

"I don't think there's anything directly related, but it might encourage other state laws from Republican legislatures that would try to restrict the ability to amend the driver's license is moving forward,” said Berg when asked if there are any potential threats to other identity documents.

Margaret Gray<sup>5</sup>, a nonbinary third-year UCSB student who holds a California state ID with an “X” gender marker, expressed conflicting feelings about their identity documentation.

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<sup>5</sup> Margaret Gray, quote acquired through in-person interview on March 9, 2025.

“I’m not too worried as of right now about having the X on my state ID... but I do have friends who reached out to me right after this happened and told me that the absolute first thing I should do is go into the DMV and get all my documents switched over because I was going to be in danger if my documents had transgender markings on them,” said Margaret. “I hope that’s not the case, but on the other hand, I do need to do my driver’s license, and I am planning to put F on it just because it seems like the safest thing to do and the smartest thing to do.”

The sense of urgency, concern, and confusion has certainly swept the trans, nonbinary, and intersex communities across the nation.

“We have a helpline where people can call and get some legal advice or get referred to an attorney in their area that we think would be helpful,” said Berg. “We’ve seen an increase, I think, in up over a third... but yeah, we have seen a surge.”

This feeling of unsafety is not a new phenomenon for the trans people of this country. It is something that many report they are always prepared for.

“I think being a trans woman means making it up as you go along. There’s never really anywhere that’s fully safe and stable, even for anyone,” said Eris. “Always have a plan for what you’re gonna do if things go wrong.”

Even in a blue state like California, with a democratic stronghold, many trans people, like Eris, do not feel completely secure. While she cannot say she feels unsafe in California, Eris claims to “feel a fire brewing.”

“I think when the political conditions become such that Democrats have to throw trans people under the bus to save their own asses, like the Labour Party did in Britain, that's going to be the case because we're just not like a huge segment of the population,” said Eris.

Despite uncertainty for the future, the transgender and queer communities' support for one another and sharing of resources is not something lacking in history.

Margaret, who is also a close friend of Eris, described how their community has been present in supporting one another. They recounted a recent going-away style event they held for Eris and their partner, where they invited friends from all over the place to attend.

“It was beautiful,” said Margaret. “I mean, I think almost every single one of our friends is trans. So it was very much like a trans community event.”

Although Eris has no foreseeable plans to return to the United States, she stressed the importance of people using their power and refusing to comply with what is going on until they are forced to comply.

“The vast majority of people in this country are not as in danger as they think they are and have a lot more power than they think they do,” said Eris.