ILLINOIS JUDICIAL BRANCH

Bench Card: Transgender People at Court

July 2025 v.2

Transgender (or trans) people can be found in every community in Illinois. There are transgender court users, employees, judges, and lawyers who work at or go to the courthouse every day.

- **Gender identity** is an internally held concept of self that indicates how a person perceives themselves and can be based on sex (biological characteristics like chromosomes and phenotypes) and gender norms (the rules and expectations society holds regarding gender identity and expression).
- **Transgender** people are those who do not identify with the gender identity they were assigned at birth.
- **Cisgender** people are those who identify with the gender identity they were assigned at birth.

Judges must foster a respectful, inclusive, safe court environment where transgender people are not threatened, singled out, or discriminated against. Judges and their staff should learn about the specific considerations transgender people experience to further foster that court environment. Judges must actively prevent and address any form of discrimination in the courtroom, including disrespectful behavior, whether it comes from court staff, lawyers, or others.

Judicial Duty to Extend Respect and Dignity to Transgender People

Judges have an ethical duty to extend respect and dignity, impartiality, and fairness to transgender people. Code of Judicial Conduct:

Canon 2, Rule 2.3(B): A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice or engage in harassment, including but not limited to bias, prejudice, or harassment based upon…gender identity…

Canon 1, Rule 1.2: A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Canon 2, Rule 2.2: A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially.

For information on gender inclusive language, writing, and practices, please see **Illinois Judicial Bench Card: Promoting Gender Inclusivity at Court.** For more information on addressing bias in court, please see Illinois Judicial Bench Card: Achieving Fairness Free of Unconscious Bias.

A Note about Lawyers:

Misgendering can be a form of discrimination. According to the Illinois Rules of Professional Conduct, which guide the practice of law, lawyers are instructed to treat their clients with respect and provide effective assistance of counsel. Lawyers are in violation of the ethical rules if they intentionally misgender their clients or other case participants.

Judges should correct this behavior. For example: "Counsel, the petitioner uses she/her pronouns. Please refer to her correctly."

Judges should avoid, prevent, address, and stop instances of bias, prejudice, or harassment based on gender identity in court.

What could bias or discrimination look like?

- Treating a person differently because they are transgender or treating a person differently after assuming they are transgender.
- Purposely using a person's *deadname* (the name they no longer use) or *misgendering* them (using inaccurate pronouns) in court or when speaking about them to others.
- Writing about a transgender person using gendered language and pronouns that do not align with the person's gender identity.

Frequently Asked Questions

1. Can I tell or ask if someone is trans?

No, you cannot. It is impossible to determine by observation or assumption who is transgender and who is not. It is the trans person's right to share this deeply personal information. Generally, do not ask whether someone is trans; this is usually not relevant to court proceedings, and it is inappropriate to ask if someone is transgender in generally any setting.

2. How should I extend respect and dignity to trans people?

If a person chooses to share their pronouns and chosen name, use them. Address people how they ask to be addressed and avoid making assumptions about someone's gender. If you're unsure, use gender inclusive language until a person shares their pronouns (learn more about pronouns in "Illinois Judicial Bench Card: Promoting Gender Inclusivity at Court").

3. What if I misgender someone?

Mistakes happen. If you do make a mistake or notice that someone is being misgendered, politely correct the error and move on. Do not dwell on it or excessively apologize. This can be uncomfortable for the misgendered person.

4. What if I hear others making disrespectful comments about a person's gender?

If you witness or hear deadnaming, misgendering, or other disrespectful comments in court, address the comment directly: "We respect everyone's gender identity here and use people's chosen names and pronouns." If needed, raise the issue with supervisors or court administrators to help reinforce an inclusive environment.

5. Can I ask about gender-affirming medical care?

A transgender person's decisions about how they express their gender identity is unique to each person, cannot be qualified, and therefore should not be questioned in nearly all circumstances. Not all transgender people have access to or seek gender-affirming medical care and questions around this topic should *only* be asked sensitively, and only if relevant and if necessary for court proceedings. *Example*: (in chambers, if possible, and *out of hearing of others*) "I want to make sure you continue to receive the care you need. Do you receive gender-affirming medical care?'

6. What if a person's legal name, or the case captions, are different from the name they have asked me to use?

Deadnaming a transgender person can be a form of discrimination. It is important to use the person's chosen name, even if this differs from the legal name or the name used in case captions. If you *must* use a person's deadname, explain why you must use their legal name in that instance and *always use their shared pronouns*.