Traveling as a TGNCI Immigrant

Domestic Travel

Traveling within and outside of the U.S. as an immigrant and TGNCI person presents unique challenges. Many immigrants have limited options for travel, depending on their immigration status. If you have a currently valid immigration ID, like a work permit or green card, you have the right to travel freely within the U.S. (including states and territories not part of the U.S. mainland, like Alaska, Hawaii, or Puerto Rico). You can also use your immigration ID as your domestic travel document.

If you have legally recognized immigration status (for example, asylum) but no form of currently valid immigration ID, or if you have a pending immigration application and do not yet have any immigration ID, you have the right to travel freely within the U.S., but you may face some risks and challenges because of the inconsistent application of immigration laws. If you are in this situation and must travel domestically, SRLP recommends taking extra safety measures, such as bringing USCIS or immigration court documents proving you were granted immigration status or receipt documents of your pending immigration application along with your state-issued ID (like a passport or U.S. state ID). For more information, please speak with an immigration attorney.

If you are undocumented, you are at greatest risk when traveling (whether by air, train, bus, or car), especially travel within 100 miles (~161 km) of any U.S. border (see this map by the ACLU: www.aclu.org/other/constitution-100-mile-border-zone). For example, while it is possible to board domestic carriers with only state-issued ID, you may also be subjected to random requests for additional proof of valid immigration status. If you are asked for proof of your immigration status by a government official, SRLP advises you to say you do not have such proof on you and to ask if you can go. For more information, please speak with an immigration attorney.

Traveling Abroad

Traveling outside of the U.S. is often even more difficult for many immigrants, including, but not limited to, people who have applied for or received asylum who are restricted in their ability to travel to their country of origin and green card holders with complex immigration and/or criminal histories. If you are hoping or planning

to travel outside the U.S. as an immigrant, and are concerned about your rights, risks, and/or eligibility to apply specifically for permission to travel abroad (for example, through a Refugee Travel Document), SRLP recommends speaking with an immigration attorney.

Traveling with "Inconsistent" Documents or Other Issues for the TGNCI Community

Traveling as a TGNCI person can also be limiting when you have legal documents that do not match your gender identity or expression or documents that do not have the same name and/or gender marker as each other. Please know that as long as your immigration status permits, you do have a legal right to travel as a TGNCI person, **even with "inconsistent" documents** – the only requirement is that you purchase your travel tickets in the name and gender on the state-issued ID that you will use for your travel. You may wish to plan or prepare additional safety measures to decrease the possibility of discrimination or harassment by government officials. Such measures could include bringing a copy of your name change order or healthcare professional's letter confirming your gender identity. If you encounter any difficulty with traveling because of your **gender identity**, please contact SRLP at 212-337-8550, ext. 308.

SYLVIA RIVERA LAW PROJECT

The Sylvia Rivera Law Project works to guarantee that all people are free to self-determine gender identity and expression, regardless of income or race, and without facing harassment, discrimination or violence.

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KNOW YOUR RIGHTS

Your Immigration Rights

Transgender, Gender Non-Conforming, and Intersex Immigrants in New York

In this brochure:

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What are Your Immigration Options to Determine if You Are Eligible for Any Immigration Applications?

As a transgender, gender non-conforming, and/or intersex (TGNCI) person, there may be specific immigration options available to you. There may also be important things to keep in mind if you are seeking legally recognized immigration status, want to apply for permanent residency (also known as a green card) or for citizenship.

How Do I Find an Immigration Lawyer?

SRLP encourages TGNCI individuals who are undocumented to get full immigration screenings as soon as possible and to get new immigration screenings if it has been several years since the last time you spoke to an immigration attorney. Because immigration law is unnecessarily complicated, TGNCI immigrants with documentation are also encouraged to consult with an immigration lawyer to discuss eligibility for other immigration benefits, like permanent residency or citizenship, before applying.

There are many good-quality and free resources in the U.S. for getting information and legal representation for immigration matters. For example, every state has a legal aid program, which provides free legal assistance to low-income individuals, including in immigration matters. Many non-profit organizations also specialize in TGNCI immigration and will be able to provide TGNCI-specific advice and representation in your case.

If you are located in the New York City area and are interested in an immigration consultation and screening, please come to SRLP's walk-in legal intake hours every Thursday from 1-4:30 pm, February through October, at

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147 W. 24th Street, 5th Floor, New York, New York 10011, or call us at 212-337-8550, ext. 308.

Other legal resources specializing in TGNCI immigration:

- Immigration Equality (nationwide)
- Trans Immigrant Defense Effort (TIDE) at the Transgender Law Center (nationwide)
- The New York City Anti-Violence Project (NYC only)
- New York Legal Assistance Group LGBT Project (NYC only)
- Peter Cicchino Youth Project (PCYP) (NYC only, for street-involved youth, ages 25 and under)

You can also use this website to locate a free immigration legal services provider near you: www.immigrationlawhelp.org.

Finally, if you are considering hiring a private immigration lawyer, you may wish to ask them if they offer a reduced rate based on ability to pay and if they have experience working with TGNCI individuals. Be careful of notario fraud! Get more information at: https://www.americanbar.org/groups/public_services/immigration/projects_initiatives/fightnotariofraud/about_notario_fraud.html

Applying for Asylum

Asylum is one of many ways to apply for immigration status in the U.S. Asylum may be an option for you if you have been persecuted in your country of origin and/or are afraid of being persecuted in the future if you are forced to return to your country of origin, especially if the persecution is because you are TGNCI. People from many countries in the world have successfully argued that the U.S. should grant them asylum based on the fact that they are TGNCI and fear transphobic or other gender identity-based harassment and violence.

One of the most unforgiving requirements of asylum is that you are supposed to apply for asylum **within one year of entering the U.S.** There are some exceptions that might apply if you missed the deadline, but it is very important to look for legal help as soon as you can. Deciding whether to apply for asylum is not easy. If you apply for asylum and do not get it, you may be deported.

Before you decide, we encourage you to talk to an immigration lawyer to find out more about asylum and to get advice about your case.

Applying for U Visas, T Visas, and Other Immigration Applications

Two other common "humanitarian visas" that you may want to know about are U Visas, an immigration benefit for victims of crime, and T Visas, an immigration benefit for victims of trafficking.

A U Visa may be an option for you if you have ever been a **victim of a crime** in the U.S. which caused you physical or mental suffering. Reporting the crime to police is often an important part of qualifying for a U Visa. Undocumented immigrants in New York City have the right to call police without fear of being harassed about their own immigration status, but calling the police as a TGNCI person can be overwhelming or traumatic. We strongly encourage you to talk to an immigration attorney as soon as possible if you have been or become a victim of a crime, and seek other support you may need.

A T Visa may be an option for you if you have ever been **forced or coerced to work in the U.S.**, or hurt, threatened, abused, or under someone's control **while working in the U.S.** This includes in survival economies, such as sex work. Traditionally, the T Visa is designed to protect those who are trafficked into survival economies or other labor, but an immigration lawyer can also talk to you about how you may qualify for a T Visa, even if you have not been trafficked into the U.S. for work. Sometimes, TGNCI individuals may also qualify for a T Visa or for other immigration benefits if they have ever been in coercive, threatening, abusive, controlling, or otherwise violent situations with a domestic partner.

Other than asylum, U Visas, and T Visas, there are many other immigration options that you may be eligible for. For information on getting a complete immigration screening with an immigration attorney, see How Do I Find an Immigration Lawyer? on page 1.

Criminal Arrests/Convictions and Immigration

As an immigrant, your arrest and conviction record is unfortunately going to be a part of your relationship with U.S. immigration. With almost any application submitted to the U.S. Citizenship & Immigration Services (USCIS), you are required to disclose your entire criminal history, including arrests that never show up in any fingerprint searches. Therefore, it is important to know what your complete criminal record is. An attorney can help you with obtaining a rap sheet or other documents to understand your own criminal history.

If you are an immigrant and have been arrested or convicted before for a crime in the U.S. or abroad, even if it happened a long time ago, SRLP recommends that you speak to an immigration attorney to understand your legal situation and immigration options and to learn how to stay safe. Simply having arrests or convictions does **not** necessarily mean that you will be ineligible for various immigration benefits like asylum, a green card, or citizenship; but it is very likely to make your immigration matter more complex, so it is very important you work with an immigration attorney. Certain convictions might make you deportable, which means you could be put into deportation proceedings in immigration court, **even if you are a green card holder. Even if you are considered deportable, you may still have good legal defenses against deportation.**

If you have just been arrested for a crime, make sure that your public defender or criminal defense lawyer knows that you are an immigrant. Also, get in touch with an immigration attorney as soon as you can. Call SRLP at 212-337-8550, ext. 308 if you are located in the New York City area or if you need resources in your own geographic area.

Getting Immigration Documents in the Correct Name and Gender

You **always** have the option of telling USCIS your preferred name and gender, even without a legal name change, doctor's letter, or other changed IDs. This applies to people applying for an immigration benefit for the first time as well as those who already have a record with USCIS under a different name or gender marker. USCIS will be most convinced to address you by your preferred name and gender if you do submit legal or medical documents. According to its April 2012 policy, USCIS is **required** to recognize your correct gender marker, and issue IDs and other documents accordingly, if you submit a letter from a healthcare professional attesting to your gender identity. USCIS will also issue all letters and documents in your legal name if you submit a name change order with your application.

If you do have a name change order and/or healthcare professional letter and want to update your name and/or

gender marker with USCIS, SRLP recommends:

1. Submitting an application to replace an ID you already have (such as I-765 form to replace a work permit; I-90 form to replace a green card; N-565 form to replace a Certificate of naturalization); or
2. Submitting a new application for an immigration benefit you are eligible for (such as applying for asylum, permanent residency, naturalization, etc.)

Please note that even a renewal of an ID you already have might involve some risks if things have changed in your life since you originally received that benefit (for example, you have been arrested). Please contact an immigration attorney if you have any specific questions about your case.

For a comprehensive guide on how to update other ID documents with the correct name and gender marker, please visit www.srlp.org/changeid.

Name Changes for Immigrants in New York

People with all types of immigration status can have their names changed in New York courts. If you have a work permit or any kind of permanent or temporary immigration status in the U.S. and live in New York, you can change your name in New York. It is possible to change your name as an undocumented immigrant, but **if you are undocumented, we recommend that you talk to a lawyer before trying to get a name change, so that you are fully informed of any immigration enforcement risks that might exist** and can come up with a safety plan.

Once you have a name change order from a judge, you can use it to change your name on your IDs, such as your work permit, driver's license, benefits card, and Social Security card. See Getting Immigration Documents in the Correct Name and Gender for more information on changing your name on U.S. immigration documents. A name change order you get in New York may or may not be seen as valid outside of the U.S. Different countries have different rules about when they recognize U.S. court orders. For a complete guide on how to change your name in NYC, please visit www.srlp.org/namechange.

If you are a permanent resident who is eligible to apply for citizenship, it is also possible to change your name as part of the naturalization process.