

Amanda Stulman
USA Director, Keep Prisons Single Sex

Dear Committee,

As you consider today LD 1044 which includes this language:

Sec. 3. 34-A MRSA §3031, sub-§10 is enacted to read:

10. Gender affirmation. Have the person's consistently held gender identity respected and acknowledged, irrespective of anatomy or physique, including ensuring housing and search procedures that are consistent with the gender identity and for all staff and representatives of the correctional or detention facility use the pronouns, titles and names as identified by the person.

I draw your attention to the following:

1. A long term study in Sweden found that following sex reassignment surgery "male-to-females...retained a male pattern of criminality. The same was true regarding violent crime." Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden ([plos.org](https://doi.org/10.1371/journal.pone.0151111))
"Male pattern" criminality is presented in statistics showing that the majority of crimes by males are classified as violent while the majority of crimes by females are non-violent (such as property or drugs). Prisoners in 2019 ([bjs.gov](https://www.bjs.gov)) See also, FBI statistics which show that 88% of the arrests for murder and nonnegligent manslaughter is of males and 96.6% of the rapes and 76.5% of aggravated assaults. FBI — Table 42 Women do not commit the same level of violent or sexual crimes as men. This is true regardless of how these men "identify" their gender. In fact, a study in California showed that incarcerated males who identify as transgender were *more* likely to be registered sex offenders than the general male prison population. (PDF) Where the Margins Meet: A Demographic Assessment of Transgender Inmates in Men's Prisons ([researchgate.net](https://www.researchgate.net/publication/318111111)) (Table 1.)
2. According to a 2016 study, 0.7% of the young adult population identifies as transgender. How Many Adults Identify as Transgender in the United States? – Williams Institute ([ucla.edu](https://www.williamsinstitute.org))
According to the Bureau of Justice statistics (for 2019, the most recent year available), Maine's prison population is comprised of 2000 males and 185 females. *Prisoners in 2019 ([bjs.gov](https://www.bjs.gov)) Using these numbers, were 0.7% of males to transfer to women's prisons, they would comprise 7% of the women's prison population.
3. A 2016 report found that of jailed women in the United States, 86% had experienced sexual violence and 77% had experienced partner violence.
[overlooked-women-and-jails-report-updated.pdf](https://www.vera.org/reports/overlooked-women-and-jails-report-updated) ([vera.org](https://www.vera.org)) Confining women with members of the sex class which has inflicted this level of violence upon them further traumatizes an already traumatized population.
4. Your proposed law does not require any medicalization before males are transferred to a women's prison. However, even if it did, males who have undergone hormone treatment show a decrease in muscle area, but still significantly higher upper body strength (a female's is 25-55% of a male's) and lower body strength (a female's is 70-75% of a male's) when compared to females. Additionally, males are, on average, 4.5 inches taller than females and have a higher bone density (neither of which is reduced via medicalization). How Men and Women Differ in Terms of Strength and Power ([cathe.com](https://www.cathe.com)); Transsexuals and competitive sports - PubMed ([nih.gov](https://pubmed.ncbi.nlm.nih.gov))
5. Examples from other jurisdictions show that when incarcerated males are able to transfer to women's prisons based on self-declared gender identity, they do so in disproportionate numbers. This is another way of saying, males will take advantage of this to be moved to women's facilities and with the language in your proposed law there will be almost nothing your incarceration facilities will be able to do to prevent this. Please advise if you would like a compilation of news reports of this.
6. It is also worth noting that housing males and females together is violative of Rule 11 of the United Nation's Minimum Rules for the Treatment of Prisoners which provides that "The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex,... thus: (a) men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;..." (Emphasis added.) While these Rules are not legally binding on signatory countries, they may provide a basis for incarcerated women in your jurisdiction to claim a violation of the 8th Amendment as the internationally recognized acceptable treatment of prisoners is to separate them by sex.
7. Also, while not directly legally applicable, housing males and females together is also violative of several provisions of the Geneva Conventions. (Article 25, 29, 97, 108) This too may provide a basis for incarcerated women in your jurisdiction to claim a violation of the 8th Amendment as the internationally recognized acceptable treatment of prisoners is to separate them by sex.
8. While incarcerated women have been afraid to formally speak out on this issue due to concerns about reprisal, there is enormous fear. Reports of this appear in various public news publications from California, Washington State and from other countries such as Canada and the U.K. I would be happy to share a compilation of this with you for your consideration.

9. Additionally, your female correctional officers are likely to have concerns that, they too, are afraid to voice and they may have employment claims of harassment or sex discrimination should they be required to conduct intimate searches of incarcerated males.

I thank you for your consideration of the above and for concern for the incarcerated women and girls in your State's care and for your female employees.

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www.keep-prisons-single-sex.org.uk/USA