

## LEGAL BRIEFS

by Susan Murray and Beth Robinson



## Laws Advancing for Trans Folk

What an embarrassment of riches—so many exciting and significant developments for transgender people in the workplace, at school, and at the altar.

claims of sex discrimination. The decision defined transsexual people to include a broad range of individuals who do not conform to gender stereotypes, regardless of whether or

much-discussed case of *Littleton v. Prange*, the 4th Court of Appeals in San Antonio, Texas, considered a medical malpractice claim by Christie Lee Littleton following the death of her husband of seven years, Mark Littleton.

The Court dismissed her case, concluding that Christie Lee didn't have the right to bring the case, because her marriage to Mark was invalid based on the fact that Christie Lee had been born male. Christie Lee had undergone sex reassignment surgery prior to her marriage, and her husband knew about her sex change operation. Further, Christie Lee and Mark had been issued a marriage license in Kentucky. Despite all this, in the eyes of the Texas court, Christie Lee was born a male and would always be a male. That made her marriage to Mark a same-sex marriage, and hence invalid under Texas law—at least in Bexar County.

Although the decision struck a blow to transgender rights, it also opened a door. Talk about making lemonade out of lemons—now same-sex couples with a transgender partner are traveling to Bexar County to get their marriage licenses!

For example, Jessica and Robin Wicks obtained a marriage license in Bexar County in October, after being denied a license in Harris County. Jessica Wicks was born a male, but had a sex change operation after years of struggling with the gap between her biological sex and her own sense of herself. The Harris County clerk denied the marriage license on the ground that Jessica and Robin were both females, and same-sex marriage is not allowed in Texas. The Bexar County clerk, in contrast, issued the license on the

not they have or intend to have surgery. The Commission relied in part on a 1989 United States Supreme Court case in which a female accountant at Price Waterhouse was denied partnership because many of her partners felt she was too "masculine, macho and aggressive." The Supreme Court in that case had recognized that enforcing sex stereotypes is a form of sex discrimination.

**Schools for All Children**

In another significant case led by Levi, the Massachusetts Appeals Court upheld a trial court's order allowing a transgender student who is biologically male to attend school wearing girl's clothing. After nearly two years of disciplinary action, the school had prohibited the student, identified in the decision as "Pat Doe," from attending school wearing what the principal considered to be girls' clothing. Pat began wearing girls' clothes when she began to identify as transgendered.

The Massachusetts courts ruled that Pat should be allowed to attend school wearing girls' clothing, following the guidance of mental health professionals who determined that it is medically necessary for the student to be able to express her female gender identity.

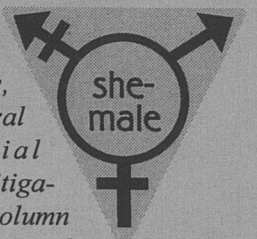
**Making it to the Altar**

Vermont isn't the only state that has dealt with freedom-to-marry issues lately. In the

ground that Jessica was "really" male, and therefore the couple was permitted to marry under Texas laws. Now a transgendered Texan can marry regardless of the partner's sex if they just go to the right county (unless perhaps both partners were born male and have transitioned to female, or vice versa). All this because Texans are so determined to make sure that a same-sex couple, however defined, doesn't get a marriage license.

Susan Murray and Beth Robinson are attorneys at Langrock Sperry & Wool in Middlebury, Vermont whose practices include employment issues, family matters, estate planning, personal injury and

worker's compensation cases, and general commercial and civil litigation. This column features timely information about legal issues of interest to our community. We hope to provide information about important laws and court cases that may affect our rights, as well as practical nuts and bolts advice for protecting ourselves and our families. If you'd like to see us cover a particular topic, please feel free to write OITM or call us at 388-6356. ▼



Discriminating against someone because he is male or she is female is no worse than discriminating against someone because he or she is neither strictly male nor strictly female. Unfortunately, most courts have rejected this approach.

**Breakthrough in the Workplace**

The Connecticut Commission on Human Rights and Opportunities ruled last month that state laws prohibiting sex discrimination protect transgender people. You may recall that back in 1997, we considered laws around the country concerning workplace discrimination against transgender employees. Although some municipalities, and at least one state, ban job discrimination against transgender employees, in most places transgender workers can be fired simply for being transgendered.

Advocates for transgender rights have long argued that an employer who fires an employee because the employee is transgendered not only discriminates on the basis of gender identity, but also discriminates on the basis of sex. Discriminating against someone because he is male or she is female is no worse than discriminating against someone because he or she is neither strictly male nor strictly female. Unfortunately, most courts have rejected this approach.

However, the Connecticut Commission got it. Responding to a request by a coalition of groups led by Jennifer Levi (from Baker counsel Gay & Lesbian Advocates & Defenders), the Commission concluded that transgender people may bring

P.O. Box 875  
90 Main Street  
Burlington, VT 05402  
802-863-2517  
fax: 802-863-0262

**BLACKWOOD ASSOCIATES, PC**  
attorneys

blackwylaw@aol.com

*Employment and Special Education Law,  
Civil Rights Law, Wills and Mediation,  
LGBT Adoptions and Domestic Issues,  
Personal Injury Law and other litigation*

## Good legal advice can make all the difference.

Langrock Sperry & Wool offers the services of 22 lawyers with over 300 years combined experience in all areas of the law — including two lesbian attorneys with special expertise serving the legal needs of the g/l/b/t/q community.

**SUSAN MURRAY & BETH ROBINSON**

With offices in Middlebury and Burlington

Middlebury (802) 388-6356

Burlington (802) 864-0217

smurray@langrock.com brobinson@langrock.com

**Langrock Sperry & Wool, LLP**

ATTORNEYS AT LAW

## Schoenberg & Associates

ATTORNEYS AT LAW

### matrimonial and family law

131 CHURCH STREET  
BURLINGTON, VERMONT  
05401  
P. 802.864.3120  
F. 802.864.3635  
www.vermontfamilylaw.com  
info@vermontfamilylaw.com