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A federal executive order banning gender marker changes on passports would likely be unconstitutional due to equal protection violations, infringement on personal autonomy, and possible First Amendment concerns. It would almost certainly be challenged in court, and past rulings suggest a high likelihood of it being struck down.

**Possible Constitutional Issues:****Equal Protection Violation (Fifth Amendment Due Process Clause)**

While the Fourteenth Amendment's Equal Protection Clause applies to states, the Fifth Amendment's Due Process Clause has been interpreted to provide similar protections at the federal level.

A blanket ban on gender marker changes would discriminate based on gender identity, which courts have increasingly recognized as a form of sex-based discrimination.

Heightened scrutiny (which applies to sex-based classifications) would require the government to prove that such a policy is substantially related to an important government interest. A broad prohibition would likely fail this test.

**First Amendment (Freedom of Expression)**

Some legal arguments suggest that gender identity is a form of expressive conduct. Forcing people to carry passports that do not reflect their gender identity could be viewed as compelled speech, violating First Amendment protections.

**Substantive Due Process (Fifth Amendment)**

The Supreme Court has recognized certain privacy rights related to personal identity and autonomy. For example, in *Lawrence v. Texas* and *Obergefell v. Hodges*, the Court ruled in favor of LGBTQ+ rights based on substantive due process.

A prohibition on gender marker changes might violate the fundamental right to personal dignity and identity.

**Administrative Law Challenges**

The State Department typically handles passport regulations, and a sudden reversal of existing policy through an executive order might be challenged as arbitrary and capricious under the Administrative Procedure Act (APA).

**Precedents and Legal Landscape**

In *Bostock v. Clayton County* (2020), the Supreme Court ruled that discrimination against transgender individuals is a form of sex discrimination under Title VII. While not directly related to passports, this reasoning could apply to an executive order restricting gender marker changes.

Federal courts have ruled in favor of allowing gender marker changes on government documents in cases such as *Zzyym v. Pompeo*, where a nonbinary person successfully sued for an accurate gender marker on their passport.