Title
Prohibiting Gender-Affirming Medical Care for Youth

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Publication Date
2023-03-30

Data Availability
The data associated with this publication are not available for this reason: Licensing restrictions

RESEARCH THAT MATTERS

PROHIBITING GENDER-AFFIRMING MEDICAL CARE for Youth

MARCH 2023

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EXECUTIVE SUMMARY

Gender-affirming care is considered safe, effective, and medically necessary by major professional health associations, including the American Medical Association, the American Academy of Pediatrics, and the Endocrine Society. Yet, a growing number of states have taken action to restrict access to this care for youth through enacted or proposed legislation or executive actions. Bills that limit access to gender-affirming health care for minors include criminal penalties against health professionals and parents who provide or enable access to such care.

The Williams Institute estimates that

- 156,500 transgender youth live in 32 states where access to gender-affirming care has been restricted or was at risk of being banned due to legislation filed this legislative session.
    - 146,300 transgender youth in 30 states have lost access to care or are currently at risk of losing access to care due to pending legislation.
        - 77,900 transgender youth live in 11 states that passed bans or took other executive actions this year or in prior years to prohibit or limit their access to gender-affirming care.
            - 18,700 transgender youth impacted by legislative bans recently signed into law in Georgia, Iowa, Mississippi, South Dakota, Tennessee, and Utah and 59,200 transgender youth impacted by bans or executive action in prior years in Alabama, Arizona, Arkansas, Florida, and Texas.
        - 68,400 transgender youth in 19 states remain at risk of losing access to gender-affirming care due to pending legislation. These states are Hawaii, Idaho, Indiana, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Washington, and West Virginia.
    - 10,200 youth live in two states—Virginia and Wyoming—where bills were introduced this year but did not pass.

This report provides information about the current bans, which include over 126 bills filed this legislative session,[1] and the impacts of these bans. It also reviews the larger landscape of state efforts to restrict care and provides an estimate of the number of transgender youth at-risk of losing access to gender-affirming health care due to these efforts.

[1] See appendix for a full list of the bills considered in this report.

OVERVIEW

Due to efforts by state legislatures and administrations over the past four years, transgender youth in many states have lost access to gender-affirming care or are in imminent danger of losing access to such care. An estimated 156,500 transgender youth live in 32 states where access to gender-affirming care has been restricted or was at risk of being banned due to legislation filed this year.

An estimated 146,300 transgender youth in 30 states have lost access to care or are currently at risk of losing access to care due to pending legislation.

An estimated 77,900 transgender youth live in 11 states that have enacted bans or taken executive actions this year or in prior years to prohibit or limit their access to gender-affirming care. This includes 18,700 youth impacted by legislative bans recently enacted this year in Georgia, Iowa, Mississippi, South Dakota, Tennessee, and Utah and 59,200 impacted by bans or executive action in prior years. An estimated 13,200 transgender youth reside in Alabama, Arizona, and Arkansas, where legislative bans to restrict access to gender-affirming care were enacted in prior years, and another 46,000 youth reside in Florida and Texas where executive actions were taken to restrict access to care in 2022.

An estimated 68,400 youth in 19 states are in jeopardy of losing access to gender-affirming care if pending legislation is enacted in Hawaii, Idaho, Indiana, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Washington, and West Virginia. Bans that would have impacted 10,200 transgender youth who reside in two states—Virginia and Wyoming—did not pass this year.

State-specific estimates of the number of youth at risk are provided in the table below.

WHAT IS GENDER-AFFIRMING CARE?

Gender-affirming care, including the use of hormones to delay puberty and to promote the development of secondary sex characteristics that are consistent with a child's gender identity, is recommended for transgender youth[2] by the American Academy of Pediatricians and the Endocrine Society and is viewed by the American Academy of Child and Adolescent Psychiatry (AACAP) and the American Psychiatric Association (APA), and the American Medical Association (AMA) as evidence-based patient care.[3]

Research shows that gender-affirming care improves mental health and overall well-being for transgender people,[4] including youth. A 2020 study published in *Pediatrics* found that access to pubertal suppression treatment was associated with lower odds of lifetime suicidal ideation among transgender adults.[5] Similarly, a 2022 *Pediatrics* study conducted with youth who sought gender-affirming care at a gender clinic reported lower odds of depression and suicidality among those who initiated puberty blockers or gender-affirming hormone therapy.[6] Research conducted by the Williams Institute noted that fewer transgender people who wanted and received gender-affirming medical

[2] More specifically, the Endocrine Society recommends care for with a diagnosis of gender dysphoria – defined by the American Psychiatric Association in the Diagnostic Statistical Manual DSM-5-TR as "a marked incongruence between one's experienced/expressed gender and assigned gender, of at least 6 months duration." Wylie C. Hembree, Peggy T. Cohen-Kettenis, Louis Gooren, Sabine Hannema, Walter J. Meyer, M. Hassan Murad, Stephen M. Rosenthal, Joshua D. Safer, Vin Tangpricha & Guy G. T'Sjoen, *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*, 102 J. of Clinical Endocrinology & Metabolism 3869-903 (2017); *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)*. American Psychiatric Association. 2022.

[3] Am. Acad. of Child & Adolescent Psychiatry, *AACAP Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth*. (Nov. 8, 2019) https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx; Am. Psychiatric Assoc., *Frontline Physicians Oppose Legislation That Interferes in or Criminalizes Patient Care*. (Apr. 2, 2021) https://www.psychiatry.org/newsroom/news-releases/frontline-physicians-oppose-legislation-that-interferes-in-or-criminalizes-patient-care; Wylie C. Hembree, et. al., *Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline*. 102 J. of Clinical Endocrinology & Metabolism 3869-903 (2017); Jason Rafferty, et. al., Am. Acad. of Pediatrics Comm. on Psychosocial Aspects of Child & Fam. Health, AAP Comm. On Adolescence, AAP Section On Lesbian, Gay, Bisexual, And Transgender Health And Wellness, *Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents*, 142 Pediatrics 1-14 (2018); Press Release, Am. Med. Assoc., *AMA Reinforces Opposition to Restrictions on Transgender Medical Care*, (June 15, 2021), https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care.

[4] Cornell Univ. Pub. Pol'y Rsch. Portal, *What does the scholarly research say about the effect of gender transition on transgender well-being?* (last visited Mar. 10, 2023) https://whatweknow.inequality.cornell.edu/topics/lgbt-equality/what-does-the-scholarly-research-say-about-the-well-being-of-transgender-people/.

[5] Jack L. Turban, Dana King, Jeremi M. Carswell & Alex S. Keuroghlian, *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*, 145 Pediatrics 68-76. (2020).

[6] Diana M. Tordoff, Jonathon W. Wanta, Arin Collin, Cesalie Stepney, David J. Inwards-Breland & Kym Ahrens, *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, 5 JAMA Network Open e220978 (2022) https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2789423.

care attempted suicide in the prior year compared to those who did not receive such care (6.5% vs. 8.9%, respectively).[7]

More generally, research indicates that efforts to support transgender youth in living according to their internal sense of gender is associated with better mental health and feelings of safety at school, while efforts to change the gender identity of transgender people (i.e., conversion therapy) are associated with suicidality.[8]

[7] Jody L. Herman, Taylor N.T. Brown & Ann P. Haas, The Williams Inst., Suicide Thoughts and Attempts Among Transgender Adults: Findings from the 2015 U.S. Transgender Survey (Sept. 2019), https://williamsinstitute.law.ucla.edu/publications/suicidality-transgender-adults/.

[8] Terryann C. Clark, Mathijs F.G. Lucassen, Pat Bullen, Simon J. Denny, Theresa M. Fleming, Elizabeth M. Robinson & Fiona V. Rossen, *The Health and Well-Being of Transgender High School Students: Results from the New Zealand Adolescent Health Survey (Youth '12)*, 55 J. of Adolescent Health 93-9 (2014); Jenifer K. Mcguire, Charles R. Anderson, Russell B. Toomey & Stephen T. Russell, *School Climate for Transgender Youth: A Mixed Method Investigation of Student Experiences and School Responses*, 39 J. of Youth and Adolescence 1175-88 (2010); Stephen T. Russell, Amanda M. Pollitt, Gu Li & Arnold H. Grossman, *Chosen Name Use Is Linked to Reduced Depressive Symptoms, Suicidal Ideation, and Suicidal Behavior Among Transgender Youth*, 63 J. of Adolescent Health, 503-505 (2018); Lisa Simons, Sheree M. Schrager, Leslie F. Clark, Marvin Belzer, & Johanna Olson, *Parental Support and Mental Health Among Transgender Adolescents*, 53 J. of Adolescent Health 791-3 (2013); Jack J. Turban, Dana King, Sari L. Reisner, & Alex S. Keuroghlian, *Psychological Attempts to Change a Person's Gender Identity From Transgender to Cisgender: Estimated Prevalence Across US States, 2015*, 109 Am. J. of Pub. Health, 1452-54 (2019); Erin C. Wilson, Yea-Hung Chen, Sean Arayasirikul, H. Fisher Raymond & Willi McFarland, *The Impact of Discrimination on the Mental Health of Trans*female Youth and the Protective Effect of Parental Support*, 20 AIDS & Behavior 2203–11 (2016).

BANS ON GENDER-AFFIRMING CARE

CURRENT BANS ON GENDER-AFFIRMING CARE FOR YOUTH

Currently, nine states,[9] described below in order of recency, have enacted legislative bans on gender-affirming care for youth and young adults:

Georgia. Senate Bill 140 was signed into law in March 2023, affecting Georgia's 8,500 transgender youth.[10] Georgia's law, which applies to medical practitioners as well as medical institutions licensed in the state, does not explicitly ban medications to delay puberty and allows a limited exception to continue treatment for those who began receiving care prior to July 1, 2023.[11]

Iowa. Iowa also enacted a ban on gender-affirming care for minors in March 2023, which will impact the state's 2,100 transgender youth.[12] The law includes provisions shared by other bills, including characterizing such care as unprofessional conduct, enhancing civil liability for medical practitioners, and prohibiting conduct which "aids or abets" youth access to gender-affirming care.[13]

Tennessee. Earlier in March 2023, the governor of Tennessee signed H.B. 0001/S.B. 0001, which denies gender-affirming care to Tennessee's 3,100 transgender youth aged 13-17, from July 1, 2023 onward.[14] In 2021, Tennessee put a law in place banning hormone treatments for "prepubertal" minors.[15] It is unclear how many are affected by this ban, since the type of hormone treatments banned by the law do not typically begin until the onset of puberty.[16]

Mississippi. In February 2023, the governor of Mississippi signed the Regulate Experimental Adolescent Procedures (REAP) Act, which will prevent access to gender-affirming care for 2,400

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[9] These states are Arkansas, Arizona, Alabama, Iowa, Mississippi, South Dakota, Tennessee and Utah. Oklahoma additionally passed and enacted a law in a special session (S.B. 3 of 2022) which revokes specific pandemic recovery funds for public Oklahoma University Hospital Authority facilities that provide gender-affirming care. S.B. 3, 58th Leg., 2nd Spec. Sess. (Okla. 2022); *See also* Jo Yorcuba, Assoc. Press, *Oklahoma governor signs bill withholding hospital funding over trans youth care*, NBC News, Oct. 5, 2022, https://www.nbcnews.com/nbc-out/out-politics-and-policy/oklahoma-governor-signs-bill-withholding-hospital-funding-trans-youth-rcna50804.

[10] Maxine Tamsett, Pamela Kirkland, and Jack Forrest, *Georgia's governor signs ban on certain gender-affirming care for minors*, CNN, Mar. 23, 2023, https://www.cnn.com/2023/03/23/politics/brian-kemp-georgia-gender-affirming-care/index.html

[11] S.B. 140, 157th Gen. Assemb., Reg. Sess. (Ga. 2023).

[12] Press Release, Gov. Reynolds Signs Several Bills into Law (Mar. 22, 2023), https://governor.iowa.gov/press-release/2023-03-22/gov-reynolds-signs-several-bills-law.

[13] S.F. 538, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).

[14] H.B. 0001, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023); S.B. 0005, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).

[15] S.B. 126, 112th Gen. Assemb., Reg. Sess. (Tenn. 2021), 2021 Tenn. Pub. Acts Ch. 460, https://publications.tnsosfiles.com/acts/112/pub/pc0460.pdf.

[16] See, World Pro. Assoc. for Transgender Health (WPATH), Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People 10-20, (7th ed. 2012) https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English2012.pdf?_t=1613669341; Endocrine Society, *Gender Dysphoria/Gender Incongruence Guideline Resources*, https://www.endocrine.org/clinical-practice-guidelines/gender-dysphoria-gender-incongruence#2 (Sept. 1, 2017).

transgender youth under 18.[17] The Act prevents anyone from engaging in conduct which "aids or abets" youth access to gender-affirming care. Additionally, the act prohibits tax deductions and use of public funds for gender-affirming care, exempts gender-affirming treatments from coverage under Mississippi health insurance plans, and establishes liability for state employees who assist with access to this care for minors.

South Dakota. Signed by the governor in February 2023, South Dakota's law[18] prevents access to gender-affirming care for an estimated 500 transgender youth under 18.

Utah. In January, Utah became the first state in 2023 to ban gender-affirming care for minors.[19] Utah's law bans gender-affirming surgeries and creates a moratorium on gender-affirming hormone treatments for minors, allowing those currently receiving treatment to continue to do so for a set period of time. This law will impact an estimated 2,100 transgender youth.

Alabama. The Vulnerable Child Compassion and Protection Act[20] was signed into law in April 2022. This law makes it a felony for any person to provide gender-affirming care to a person under age 19, restricting access for 4,100 transgender young people.

Arizona. The Arizona's Children Deserve Help Not Harm Act[21] went into effect in March 2022, cutting off access to care for the state's estimated 7,300 transgender youth under 18. In addition to banning treatments and referrals for treatment, the use of public funds, and Medicaid coverage, the bill includes a ban on tax reimbursements for gender-affirming care expenses for young people.

Arkansas. In April 2021, Arkansas was the first state to enact a ban on gender-affirming care for minors, restricting access to treatment for the estimated 1,800 transgender youth in the state. [22] Known as the Save Adolescents from Experimentation (SAFE) Act, the bill prohibits physicians and healthcare professionals from providing gender-affirming care to minors, includes restrictions on the use of state funds for this care, and bans coverage under state health insurance plans. On March 14, 2023, Arkansas passed S.B. 199, which imposes separate and additional restrictions on access to gender-affirming care.[23]

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[17] H.B. 1125, 2023 Leg., Reg. Sess. (Miss. 2023).

[18] H.B. 1080, 98th Leg., Reg. Sess. (S.D. 2023); *See* Sydney Kashiwagi, *South Dakota governor signs bill prohibiting gender-affirming treatment for transgender minors*, CNN, Feb. 13, 2023, https://www.cnn.com/2023/02/13/politics/south-dakota-kristi-noem-transgender-minors/index.html.

[19] S.B. 16, 2023 Leg., Gen. Sess. (Utah 2023); *See* Rebekah Riess and Zoe Sottile, *Utah governor signs bill banning gender-affirming hormone treatment and surgery for minors*, CNN, Feb. 10, 2023, https://www.cnn.com/2023/01/29/us/utah-governor-minors-transgender-care-ban/index.html.

[20] S.B. 184, 2022 Leg., Reg. Sess. (Ala. 2022).

[21] S.B. 1138, 55th Gen. Assemb., 2nd. Reg. Sess. (Ariz. 2022).

[22] H.B. 1570, 93rd Gen. Assemb., 2021 Reg. Sess. (Ark. 2021), To Create the Ark. Save Adolescents from Experimentation (SAFE) Act, 2021 Ark. Acts 2819 (codified at Ark. Code Ann. § 20-9-1501, et seq. 2021).

[23] Arkansas S.B. 199 creates an enhanced civil liability structure for providers. S.B. 199, 94th Gen. Assemb., Reg. Sess. (Ark. 2023). *See also*, Andrew DeMillio, *Sanders Signs Arkansas trans care malpractice bill into law*, Assoc. Press, March 14, 2023, https://apnews.com/article/huckabee-sanders-transgender-malpractice-lgbtq-arkansas-41b7cd39b167b3bf2f3796d8be37ecf6.

In total, 31,900 transgender youth live in the nine states where the legislature has enacted a ban on access to care.

Similarly, two states[24] have restricted access to gender-affirming care for 46,000 transgender youth through their executive branches:

Florida. In April 2022, the Florida Department of Health issued guidelines discouraging gender-affirming care for youth, including "social transition" such as the use of affirming names, pronouns, or clothing.[25] Subsequently, the Florida Boards of Medicine and Osteopathic Medicine approved a proposed ban on gender-affirming care for youth under 18.[26] In February 2023, the Boards adopted the proposed rules, finalizing bans on gender-affirming care which will impact 16,200 transgender youth in the state.[27]

Texas. In February 2022, the Texas Attorney General issued an opinion memorandum defining most forms of gender-affirming care for youth as "child abuse."[28] A few days later, the governor of Texas issued a directive which is a de facto ban on gender-affirming medical care for transgender youth.[29] The governor's directive requires the state's Department of Family and Protective Services ("DFPS") to investigate any reported instances of health care providers or parents who provide or seek out gender-affirming care for children. These restrictions on care in Texas impact as many as 29,800 transgender youth.

Limitations on access to gender-affirming care in Alabama, Arkansas, and Texas are currently subject to litigation.

In **Alabama**, enforcement of the Vulnerable Child Compassion and Protection Act is currently prevented by a court injunction, allowing transgender youth to continue to receive care while the case is resolved.[30]

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[24] Additionally, the Attorney General of Missouri has announced intention to limit gender-affirming care through an emergency rule. *See* Raja Razek and Shawna Mizelle, *Missouri AG seeks to restrict gender-affirming care for minors*, CNN (Mar. 21, 2023), https://www.cnn.com/2023/03/21/politics/missouri-gender-affirming-care-trans-restriction/index.html.

[25] Off. of the State Surgeon Gen., Fla. Dept. of Health, Treatment of Gender Dysphoria for Children and Adolescents (April 20, 2022) https://www.floridahealth.gov/_documents/newsroom/press-releases/2022/04/20220420-gender-dysphoria-guidance.pdf.

[26] Agenda, Fla. Brds. Of Med. And Osteopathic Med., Joint Brd. Meeting (Nov. 4, 2022) https://ww10.doh.state.fl.us/pub/medicine/Agenda_Info/Public_Information/Public_Books/2022/November/11042022_JointFB_Publicbook.pdf

[27] Romy Ellenbogen & Sam Ogozalek, *Florida to ban care for transgender youth – even in clinical trials*, Tampa Bay Times, Feb. 10, 2023, https://www.tampabay.com/news/health/2023/02/10/transgender-youth-gender-affirming-care-banned-florida-clinical-trials/. Rule 64B8-9.019 was filed February 24, 2023 with an effective date of March 16, 2023. Fla. Admin Code Ann. r. 64B8-9.019, https://www.flrules.org/gateway/RuleNo.asp?id=64B8-9.019#:~:text=64B8%2D9.019%20%3A%20Standards%20of%20Practice,Register%20%2D%20FAC%2C%20FAR%2C%20eRulemaking.

[28] Letter from Ken Paxton, Att'y Gen. of Tex., to Matt Krause, Texas State Rep., Opinion No. KP-0401 (Feb. 18, 2022), https://texasattorneygeneral.gov/sites/default/files/global/KP-0401.pdf.

[29] Letter from Greg Abbott, Gov. of Tex., to Jaime Masters, Comm'r, Tex. Dep't of Family & Protective Servs. (Feb. 22, 2022), https://gov.texas.gov/uploads/files/press/O-MastersJaime202202221358.pdf.

[30] *See* Eknes-Tucker v. Marshall, Case No. 2:22-cv-184-LCB, 2022 U.S. Dist. LEXIS 87169, 2022 WL 1521889 (M.D. Ala. May 13, 2022).

Similarly in **Arkansas**, enforcement of the state's Save Adolescents from Experimentation (SAFE) Act was temporarily blocked by the District Court.[31] This ruling was upheld by the Court of Appeals for the Eighth Circuit, allowing transgender youth to continue to receive care.[32] However, the newly enacted S.B. 199 may serve as a de facto ban despite the court ruling, as the law significantly increases risks and burdens for medical providers.[33]

In **Texas**, a judge ruled in July 2022 that DFPS could continue investigating families of transgender youth while shielding the named plaintiffs from state enforcement until the court issues its final decision.[34] In September 2022, the judge clarified that its ruling also protects families who are members of Texas's PFLAG organization, as PFLAG is one of the plaintiffs.[35] This means that many transgender youth may continue to receive care without facing DFPS investigations, at least until the case is resolved, but others are still at risk.

BANS PROPOSED IN 2023 STATE LEGISLATIVE SESSIONS

As of March 24, 2023, 19 additional states are currently considering bills that would deny or further restrict gender-affirming medical care to transgender youth.[36] Access to gender-affirming care is in jeopardy for an estimated 68,400 transgender youth across these states. In two of those states—Kentucky[37] and West Virginia[38]—bills have been passed by the legislature but have not yet been signed

[31] *See* Brandt v. Rutledge, 551 F. Supp. 3d 882 (E.D. Ark. 2021).

[32] *See* Brandt by and through Brandt v. Rutledge, 47 F. 4th 661 (8th Cir. 2022), *reh'g denied* 2022 WL 16957734 (8th Cir. Nov. 16, 2022).

[33] *See e.g.* Ronak Patel, *Governor signs gender transition medical lawsuit bill into law*, Talk Business & Politics, Mar. 14, 2023, https://talkbusiness.net/2023/03/governor-signs-gender-transition-medical-lawsuit-bill-into-law/.

[34] PFLAG v. Abbott, Cause No. D-1-GN-22-002569 (Travis Cnty., Tex. Dist. Crt., June 10, 2022) (issuing a temporary restraining order). Defendants, representing the interests of the state of Texas, appealed to the Texas State Court of Appeals, an action that overrode the injunction. However, the Court of Appeals reinstated the injunction, first on a temporary basis on July 7, 2022 and then ordered the reinstatement on September 20, 2022. Masters v. Voe, No. 03-22-00420-CV (Tex. Crt. of Apps., 3d Dist. Sept. 20, 2022). District Court proceedings continued during the appeal, and the temporary restraining order was converted into a temporary injunction on July 8, 2022 for all plaintiffs other than PFLAG and two parents. PFLAG v. Abbott, Cause No. D-1-GN-22-002569 (Travis Cnty., Tex. Dist. Crt., June 10, 2022). *See also* PFLAG v. Abbott, ACLU, https://www.aclu.org/cases/pflag-v-abbott# (last visited March 13, 2023).

[35] The temporary restraining order was converted into a temporary injunction by the trial court for the remaining plaintiffs, including PFLAG, on September 16, 2022. PFLAG v. Abbott, Cause No. D-1-GN-22-002569 (Travis Cnty., Tex. Dist. Crt., Sept. 16, 2022).

[36] These states are Hawaii, Idaho, Indiana, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Washington and West Virginia. *See Mapping Attacks on LGBTQ Rights in U.S. State Legislature*, American Civil Liberties Union, https://www.aclu.org/legislative-attacks-on-lgbtq-rights?impact=&state= (last accessed Feb. 24, 2023); *Anti-Transgender Medical Care Bans*, Equality Federation, https://www.equalityfederation.org/tracker/anti-transgender-medical-care-bans (last accessed Mar. 22, 2023).

[37] Kentucky H.B. 150 was passed by the Kentucky legislature on March 16, 2023. *See* Bruce Schreiner, AP News, Kentucky Lawmakers pass ban on youth gender-affirming care (Mar. 16, 2023), https://apnews.com/article/transgender-rights-health-care-kentucky-legislature-848343fe842e714dfc2bb734745f3cd5.

[38] West Virginia H.B. 2007 was passed on March 11, 2023. Chris Schulz and Curtis Tate, *Lawmakers Approve Gender-Affirming Health Care Ban, With Exception*, West Virginia Public Broadcasting, Mar. 11, 2023, https://wvpublic.org/gender-affirming-care-ban-for-minors-gets-exception-returns-to-house/.

into law. Kentucky's bill was vetoed by the governor, but the legislature could still override the veto.[39] Additionally, six states that already have legislative or executive bans (Arizona, Iowa, Florida, Georgia, Tennessee, and Texas) are considering new or additional legislation that would expand the impact of the existing bans.[40] Legislative attempts to ban care have failed in two additional states.[41] In two additional states, New Mexico and Pennsylvania, laws were introduced in 2023 which may limit access to gender-affirming care, but do not directly prohibit access.[42] They are not included in our estimates. Please refer to Appendix A for a full list of bills considered in this report.

Although most pending bills[43] considered in this report would apply to youth under age 18, several bans proposed in 2023 would limit access to care for older youth. In three states, bills were proposed that would extend the ban on gender-affirming care up to age 26.[44] This formerly included Oklahoma, which was the first state to propose the higher age restriction in what was called the "Millstone" act, but subsequently removed the language.[45] However, Texas and South Carolina still have bills proposing this age restriction.[46] Bills in Kansas, Oklahoma, and South Carolina propose to restrict access to care up to age 21[47] and a Nebraska bill proposes to restrict up to and including age 18.[48]

[39] Olivia Krauth, Gov. *Andy Beshear vetoes Kentucky's sweeping anti-trans bill*, Louisville Courier J., Mar. 24, 2023, https://www.courier-journal.com/story/news/politics/2023/03/24/kentucky-senate-bill-150-andy-beshear-vetoes-anti-trans-legislation/70029905007/.

[40] *See* Arizona (S.B. 1702), Iowa (multiple), Florida (H.B. 1421, S.B. 254), Georgia (S.B. 141, H.B. 653), Tennessee (H.B. 1378, S.B. 0005), and Texas (multiple). For example, Arizona S.B. 1702 would expand the scope of prohibited treatments. Tennessee H.B. 1378 and S.B. 0005 would add mandatory disclosure requirements and a restriction on public funds and government insurance policies to the state's ban on gender-affirming care, among other changes. Iowa and Georgia passed other bills banning gender-affirming care during the 2023 legislative session and therefore the remaining bills may be less likely to advance.

[41] These states were Virginia (S.B. 791, S.B. 960, and S.B. 1203) and Wyoming (S.F. 0111, S.F. 0144).

[42] New Mexico H.B. 490 would require parental consent to obtain gender-affirming care under 18 but does not prohibit care. Pennsylvania H.B. 135 extends the statute of limitations for claims related to gender-affirming care but does not explicitly prohibit the care.

[43] For these purposes, pending bills include active legislation that was proposed but not yet enacted in the 2023 legislative session. Bills that did not advance are not considered here, unless specifically noted.

[44] These states are Oklahoma (S.B. 129, later amended), South Carolina (H. 3730) and Texas (H.B. 4754). In Texas, where access to care for those under 18 is currently restricted, an additional 21,600 additional young people could lose access if H.B. 4754 is enacted.

[45] Press Release, Okla. Sen., Bullard filed bill prohibiting genital mutilation of youth under 26 (Jan. 10, 2023), https://oksenate.gov/press-releases/bullard-files-bill-prohibiting-genital-mutilation-youth-under-26. "Millstone" is a reference to a biblical passage, *Matthew* 18:6.

[46] This language was removed from Oklahoma S.B. 129.

[47] Kansas S.B. 12, Oklahoma H.B. 1011 and S.B. 345 (which could impact an additional 4,100 youth), and South Carolina S. 0274.

[48] Nebraska L.B. 574.

Table 1. Estimated number of transgender youth ages 13 and up[a] at risk of being denied access to gender-affirming medical care in 30 states through enacted state bans* or executive actions or those filed in 2022-2023 legislative sessions**

	STATE	ESTIMATE	LOWER BOUND	UPPER BOUND
Ages 13-25	South Carolina	8,100	2,300	21,300
Ages 13-20	Kansas	4,500	2,000	11,200
Ages 13-18	**Alabama***	**4,100**	**1,200**	**15,500**
	Nebraska	1,500	400	5,700
Ages 13-17	**Arizona***	**7,300**	**2,000**	**26,900**
	Arkansas*	**1,800**	**500**	**6,700**
	Florida**	**16,200**	**11,900**	**20,500**
	Georgia*	**8,500**	**2,300**	**32,800**
	Hawaii	1,700	1,300	2,100
	Idaho	1,000	300	3,700
	Indiana	4,100	1,100	15,500
	Iowa*	**2,100**	**600**	**7,800**
	Kentucky	2,000	500	7,800
	Michigan	8,900	6,400	11,300
	Mississippi*	**2,400**	**600**	**9,200**
	Missouri	2,900	800	10,500
	Montana	500	100	2,000
	New Hampshire	700	200	2,400
	New Jersey	3,800	1,100	6,500
	North Carolina	8,500	2,400	31,400
	North Dakota	500	100	1,800
	Ohio	8,500	2,200	31,900
	Oklahoma	2,600	700	9,400
	Oregon	2,900	800	10,500
	South Dakota*	**500**	**100**	**1,900**
	Tennessee*	**3,100**	**800**	**11,800**
	Texas**	**29,800**	**7,700**	**106,700**
	Utah*	**2,100**	**600**	**7,700**
	Washington	5,000	1,300	18,800
	West Virginia	700	200	2,600
Total		**146,300**	**52,500**	**453,900**

[a] Children under the age of 13 would be impacted by the enacted and proposed bills but are not counted here due to the lack of reliable estimates of the number of transgender children of this age.

* Legislative ban enacted

** Executive action taken to restrict access to gender-affirming care.

Note: At the time of writing, legislative attempts to ban gender-affirming care had failed in the 2023 sessions in Virginia and Wyoming, home to 10,000 transgender youth ages 13 to 20 and 200 transgender youth ages 13 to 17, respectively.

IMPACTS AND RESTRICTIONS

IMPACT ON MEDICAL PROFESSIONALS

The bills carry severe penalties for health care practitioners or other professionals who provide gender-affirming care for minors or refer minors or their families for such care. In 13 states, bills would make it a crime to provide gender-affirming care to minors.[49] Bills in 18 states would subject providers to discipline from state licensing boards, including potential loss of their ability to practice medicine.[50] Bills in 19 states would allow individuals to file civil suits for damages against medical providers who violate these laws, and many extend the statute of limitations to allow a longer time to bring such lawsuits.[51] A few states have proposed bills which would prevent professional liability insurance from covering claims related to the provision of gender-affirming care to minors.[52] Bills in 10 states would additionally prohibit medical practitioners from making referrals to other practitioners for gender-affirming care.[53] Additionally, bills in eight states would make it illegal to

[49] More specifically, Idaho (H.B. 71), Hawai'i (H.B. 891), Kansas (S.B. 12), Michigan (H.B. 4257), Missouri (H.B. 463, H.B. 164), North Dakota (H.B. 1254), Oklahoma (H.B. 1011, S.B. 613), South Carolina (H. 3730), Texas (H.B. 122, H.B. 4754) and Washington (H.B. 1214) bills would subject providers to a felony. Florida (S.B. 254) would subject providers to a felony for administering gender-affirming treatments to minors, and to a misdemeanor for violating strict new rules on informed consent for adults. Indiana H.B. 1118 would impose a felony for surgeries and a misdemeanor for providing hormones. In New Jersey, S. 3076 would make participation in gender-affirming care for a minor "a crime of the third degree, which is punishable by imprisonment for three to five years, a fine up to $15,000, or both."

[50] These states are Florida (S.B. 254), Georgia (S.B. 141, H.B. 653), Hawai'i (H.B. 891), Indiana (H.B. 1118, H.B. 1220, S.B. 480), Kansas (S.B. 12, S.B. 233), Kentucky (H.B. 120, H.B. 470), Missouri (H.B. 419, H.B. 463, H.B. 540, H.B. 916, S.B. 164, S.B. 236, S.B. 281, S.B. 49, S.B. 598), Montana (S.B. 99), Nebraska (L.B. 574), North Carolina (H.B. 43), Ohio (H.B. 68), Oklahoma (H.B. 1377, H.B 2177, S.B. 252, S.B. 613, S.B. 878), Oregon (H.B. 3137), South Carolina (S. 3551, H. 3730), Tennessee (H.B. 1378, S.B. 0005), Texas (H.B. 41, H.B. 122, H.B. 776, H.B. 1532, H.B. 1686, H.B. 4754, S.B. 250, S.B. 625), Washington (H.B. 1214), and West Virginia (S.B. 692, S.B. 697).

[51] These states are Florida (H.B. 1421), Georgia (S.B. 141, H.B. 653), Indiana (H.B. 1118, H.B. 1220, H.B. 1231, H.B. 1589, S.B. 480), Iowa (S.F. 110), Kansas (S.B. 233), Kentucky (H.B. 120, H.B. 470), Missouri (S.B. 164, H.B. 419, H.B 463, H.B 540, H.B. 916, S.B. 49, S.B. 236, S.B. 598), Montana (S.B. 99), Nebraska (L.B. 574), New Hampshire (H.B. 619), Ohio (H.B. 68), Pennsylvania (H.B. 135), Oklahoma (H.B. 1011, H.B. 1377, H.B. 1466, H.B. 2177, S.B. 613, S.B. 614, S.B. 786, S.B. 787, S.B. 788, S.B. 789), Oregon (H.B. 3137), South Carolina (H. 3730, S. 0627), Tennessee (H.B. 1378, S.B. 0005), Texas (H.B. 1752, H.B. 888, H.B. 4754), Washington (H.B. 1214), and West Virginia (S.B. 692, S.B. 697). Pennsylvania H.B. 135 extends the statute of limitations for claims related to gender-affirming care but does not explicitly prohibit the care. Oklahoma S.B. 614, S.B. 786, S.B. 787 and S.B. 788 would remove the Statute of Limitations for filing such claims altogether. Texas H.B. 1752 would explicitly limit enforcement to private civil actions and would seek to establish immunity for the state from reviewability. *C.f.* Texas S.B. 8, 87th Leg., Reg. Sess. (Tex. 2022). Similarly, Oklahoma H.B. 1466 contains a private enforcement clause.

[52] *E.g.*, Oklahoma H.B. 1466, Texas H.B. 41, H.B. 122, H.B. 1532, and S.B. 250.

[53] These states are Indiana (H.B. 1220, H.B. 1231, S.B. 480), Iowa (H.S.B. 214, S.S.B. 1197), Kentucky (H.B. 120), Missouri (S.B. 164, H.B. 419, H.B. 463, H.B. 540, H.B. 916, S.B. 236, S.B. 598), Oklahoma (H.B. 1011, H.B. 1377, S.B. 878), New Hampshire (H.B. 619), South Carolina (H. 3730), Texas (H.B. 4754), Washington (H.B. 1214), and West Virginia (S.B. 697). Arizona also proposes to expand its existing prohibition on referrals (S.B. 1702).

"aid and abet" the provision of gender-affirming care.[54] At least one bill would subject mental health providers to reporting requirements on transgender patients.[55]

IMPACT ON FAMILIES OF TRANSGENDER YOUTH

In some states, family members of transgender youth are also at risk. At least three states would create penalties or liability for parents who facilitate minors' access to gender-affirming medical care.[56] Six states have bills that would specifically classify such care as child abuse, which could impact both providers and parents or guardians.[57] Two of these states have bills that would categorize some forms of gender-affirming care as genital mutilation.[58]

Additionally, several states have introduced bills that would require public employees or medical professionals to disclose to parents or guardians if a young person seeks affirmation of a gender that differs from their assigned sex.[59]

RESTRICTIONS ON FUNDING AND RESOURCES FOR GENDER-AFFIRMING CARE

Many of these bills would further limit access to gender-affirming care for transgender youth by barring certain insurance providers from offering coverage for gender-affirming care, by placing restrictions on the use of state funds or state facilities to provide this care, or by excluding gender-affirming care as a tax-deductible health care expense. Bills in 12 states would prohibit certain health insurance plans from offering coverage for gender-affirming care.[60] In 16 states, bills would prohibit

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[54] These states are Georgia (H.B. 653), Indiana (S.B. 480), Kentucky (H.B. 470), Missouri (H.B. 419, H.B. 463), Ohio (H.B. 68), Oklahoma (H.B. 1466, H.B. 2177), South Carolina (H. 3551, S. 0627), and West Virginia (H.B. 692). Iowa enacted a law including "aid and abet" language in the 2023 legislative session, and therefore pending laws H.S.F 214 and S.S.F. 1197 would not make this an additional state. *See* Iowa S.F. 538.

[55] *See* Ohio H.B. 68.

[56] These states are Missouri (S.B. 281), Oklahoma (S.B. 345, S.B. 788, S.B. 789) and Texas (H.B. 672).

[57] These states are Idaho (H. 71), Indiana (H.B. 1118, S.B. 1232), Michigan (H.B. 4257), Missouri (H.B. 463, H.B. 164, S.B. 281), Oklahoma (S.B. 788, S.B. 789), and Texas (H.B. 42, H.B. 436, H.B. 672 – criminal endangerment, H.B. 1532, H.B. 1752 – genital mutilation, S.B. 249). New Hampshire (H.B. 417) and Wyoming (S.F. 0111) also introduced similar bills, but they did not advance. Indiana H.B. 1407 is a narrower bill similar to Indiana S.B. 1232, which would specifically shield parents and guardians from allegations of child abuse for not providing gender-affirming care.

[58] Idaho (H. 71) (surgeries and hormone treatments) and Texas (S.B. 249) (surgeries only).

[59] Those states include Georgia (S.B. 141), Oregon (H.B. 3137), South Carolina (H. 3197, H. 3485, H. 3551, S. 0234, S. 0274), and Tennessee (H.B. 1378, S.B. 0005). New Mexico (H.B. 490) also has a bill pending that would require parental consent to obtain gender-affirming care under 18.

[60] These states are Florida, Indiana, Kentucky, Missouri, Montana, New Hampshire, Ohio, Oklahoma, Tennessee, Texas, Washington, and West Virginia. Tennessee S.B. 0005 prohibits public funds from being used to cover insurance expenses related to the care. Ohio (H.B. 68), Oklahoma (H.B. 1011, S.B. 250, S.B. 878), Missouri (H.B. 916, S.B. 598), Montana (S.B. 99), Kentucky (H.B. 120, H.B. 470), Texas (H.B. 1686, S.B 625, S.B. 1029), and West Virginia (H.B. 3097) seek to ban coverage of gender-affirming procedures for youth under their state Medicaid plans. Kentucky (H.B. 470), Texas (H.B. 1686, S.B. 625), and West Virginia (H.B. 3097) bills would also ban coverage under their state Child Health Insurance Plans. Florida (S.B. 254) would ban coverage of gender-affirming care for minors under any state insurance plan. Indiana (H.B. 1231), Missouri (H.B. 419, H.B. 540), New Hampshire (H.B. 619), and Oklahoma (H.B. 1377, H.B. 2177) would ban coverage under insurance plans for gender-affirming care for youth, and exempt insurance providers from covering

the use of state funds for gender-affirming care or more broadly prohibit distribution of state funds to any organization or individual that provides gender-affirming care to minors, seemingly regardless of what the funding is used for.[61] In several states, bills would prohibit gender-affirming care by or in government-owned or operated facilities, and by individual providers employed by government entities.[62] In three states, bills would exclude gender-affirming care as a tax-deductible health care expense.[63] One bill in Missouri would impose a tax on institutions that perform gender-affirming treatments.[64]

INSURANCE-BASED LIMITATIONS ON ACCESS TO GENDER-AFFIRMING CARE FOR TRANSGENDER ADULTS

Six states have proposed legislation which could restrict access to gender-affirming care for transgender adults enrolled in state insurance programs, including Medicaid. Texas has proposed the broadest ban, which would prohibit the use of any state funds to pay for gender reassignment procedures, without age restriction.[65] At least one state has proposed a categorical ban on gender-affirming care under the state's Medicaid plan,[66] joining Texas and six other states which currently ban Medicaid coverage for at least one form of gender-affirming care.[67] As a result of the pending bills, many of the 88,200 transgender adults who rely on Medicaid in these states may face increased barriers to accessing care.[68] Tennessee, which already bans Medicaid reimbursement for gender-affirming care, has proposed a bill to restrict coverage for the care under managed care plans as well, which extends to carriers that provide gender-affirming care anywhere, not limited to Tennessee.[69] Additionally, four states have proposed bills which would allow insurance plans in the state to opt out of coverage for gender-affirming care entirely.[70]

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gender-affirming care for adults. Missouri bills (H.B. 419 and H.B. 540) would additionally exempt federal plans from providing gender-affirming care. Washington (H.B. 1214) would remove coverage for gender-affirming care for minors from its state law mandating coverage for gender-affirming care and require a study on coverage of such care under state plans.

[61] These states are Florida (S.B. 254), Indiana (H.B. 1231), Iowa (S.F. 110), Kentucky (H.B. 120, H.B. 470), Missouri (H.B. 419, H.B. 540, H.B. 916, S.B. 598), Montana (S.B. 99), Nebraska (L.B. 574), New Hampshire (H.B. 619), North Carolina (H.B. 43), Oklahoma (H.B. 1011, H.B. 1377, H.B 2177, S.B. 129, S.B. 878), Oregon (H.B. 3137), South Carolina (H. 3730, S. 0274, S. 0627), Tennessee (H.B. 1378, S.B. 0005), Texas (H.B. 1686, H.B. 4754, S.B. 625), Washington (H.B. 1214), and West Virginia (S.B. 697). Oklahoma H.B. 2177 creates a complaint system for reporting the use of public funds for gender-affirming treatment. Additionally, Iowa H.F. 2 would prohibit boycott or divestment of public funds because a funded entity refuses to provide gender-affirming care.

[62] These states include Florida (S.B. 254), Indiana (H.B. 1220, H.B. 1231, S.B. 480), Kentucky (H.B. 120, H.B. 470), Missouri (H.B. 419, H.B. 540), Montana (S.B. 99), New Hampshire (H.B. 619), Oklahoma (H.B. 2177, S.B. 878), and Texas (H.B. 4754), West Virginia (H.B. 2972). West Virginia's bill is specific to public universities. Montana S.B. 99 also prohibits state employees from providing or promoting gender-affirming care. Florida S.B. 254 would require all state-licensed facilities to certify that they do not provide gender-affirming care.

[63] These states are Kentucky (H.B. 120, H.B. 470), Missouri (H.B. 419, H.B. 540), and Montana (S.B. 99).

[64] Missouri H.B. 1332.

[65] Texas S.B. 1029

[66] Oklahoma S.B. 250.

[67] Those states are Arizona, Florida, Missouri, Nebraska, South Carolina, Tennessee, and Texas. Christy Mallory & Will Tentindo, The Williams Institute, Medicaid Coverage for Gender-affirming Care (Dec. 2022), https://williamsinstitute.law.ucla.edu/publications/medicaid-trans-health-care/.

[68] *Id.*

[69] Tennessee H.B. 1215 and S.B. 1335.

[70] Indiana (H.B. 1231), Missouri (H.B. 419, H.B. 540), New Hampshire (H.B. 619), and Oklahoma (H.B. 1377, H.B. 2177)

BANS AS AN ADDITIONAL STRESSOR FOR TRANSGENDER YOUTH AND THEIR FAMILIES

Cumulative exposure to stressors is a risk for poor mental,[71] as well as physical health.[72] Prior to the introduction of bans on access to gender-affirming care in 2020, more than a third (34.6%) of transgender high school students who completed a 2017 survey conducted by the Centers for Disease Control and Prevention reported attempting suicide in the prior 12 months—at four to six times the rate reported by their cisgender peers.[73] Transgender youth are exposed to much higher levels of school-based violence, including being threatened or injured with a weapon at school than their cisgender peers,[74] and some experience rejection from their own families because they are transgender.[75]

Bans on access to medically appropriate health care add to the burden of stress experienced by transgender youth and their families. A recent survey of LGBTQ youth found that many (93%) transgender youth worry about access to gender-affirming medical care.[76] Parents of transgender youth in two separate studies reported considerable concern about worsening mental health and increased risk of suicidality for their child due to proposed legislative restrictions on access to gender-affirming care.[77] Moreover, research on LGBTQ issues has shown than having one's social status and

would exempt insurance providers from covering gender-affirming care for adults. Florida bills (H.B. 1265, S.B. 952) would make employers liable for downstream costs if they cover gender-affirming care and a person detransitions.

[71] Ilan H. Meyer, *Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: conceptual issues and research evidence*. 129 Psych. Bull. 674-97 (2003); Katie A. McLaughlin, Kerith J. Conron, Karestan C. Koenen & Stephen E. Gilman, *Childhood Adversity, Adult Stressful Life Events, and Risk of Past-Year Psychiatric Disorder: a Test of the Stress Sensitization Hypothesis in a Population-Based Sample of Adults*. 40 Psych. Med. 1647-58 (2010); Jody L. Herman, Taylor N.T. Brown, Ann P. Haas, The Williams Inst., Suicide Thoughts and Attempts Among Transgender Adults: Findings from the 2015 U.S. Transgender Survey (Sept. 2019), https://williamsinstitute.law.ucla.edu/publications/suicidality-transgender-adults/.

[72] Am. Psych. Assoc., *Stress effects on the body* (Mar. 8, 2023), https://www.apa.org/topics/stress/body.

[73] Michelle M. Johns, Richard Lowry, Jack Andrzejewski, Lisa C. Barrios, Zewditu Demissie, Timothy McManus, Catherine N. Rasberry, Leah Robin & J. Michael Underwood, *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students - 19 States and Large Urban School Districts, 2017*, 68 Morbidity & Mortality Wkly Rep. 67-7 (2019).

[74] *Id.*

[75] Juline A. Koken, David S. Bimbi & Jeffrey T. Parsons, *Experiences of Familial Acceptance-Rejection Among Transwomen of Color* 23 J. Fam. Psych. 853-60 (2009). Sandy E. James, Jody L. Herman, Susan Rankin, Mara Keisling, Lisa Mottet & Ma'ayan Anafi, Nat'l Ctr. for Transgender Equality, The Report of the 2015 U.S. Transgender Survey (2016).

[76] The Trevor Project, 2022 National Survey on LGBTQ Youth Mental Health (2022), https://www.thetrevorproject.org/survey-2022/.

[77] Roberto L. Abreu, Jules P. Sostre, Kirsten A. Gonzalez, Gabriel M. Lockett, Em Matsuno & Della V. Mosley, *Impact of Gender-Affirming Care Bans on Transgender and Gender Diverse Youth: Parental Figures' Perspective*, 36 J. of Fam. Psych. 643-52 (2022); Kacie M. Kidd, Gina M. Sequeira, Taylor Paglisotti, Sabra L. Katz-Wise, Traci M. Kazmerski, Amy Hillier, Elizabeth Miller & Nadie Dowshen, *"This Could Mean Death for My Child": Parent Perspectives on Laws Banning Gender-Affirming Care for Transgender Adolescents*, 68 J. Adolesc. Health 1082-88 (2021).

rights publicly debated can have a negative impact on mental health,[78] as do efforts to codify anti-LGBTQ+ prejudice into law.[79]

IMPACT ON INTERSEX YOUTH

Nearly all proposed bills include language to exempt medical providers from liability for administering hormones to and performing surgeries on intersex[80] minors. Most bills use diagnostic terms or the phrase "disorder of sexual development" to outline exceptions for treating intersex people[81] and a few use the term "intersex."[82] Tennessee's bill, which was enacted this legislative session, uses the term "congenital defect."[83]

Intersex children who are subjected to non-consensual, unnecessary medical procedures to "normalize"[84] their bodies are vulnerable to trauma associated with such procedures[85] and negative consequences later in life, such as suicidality.[86] The American Bar Association has issued a resolution in opposition to the enactment of these provisions in state laws, explaining that they "eliminate the individual's bodily autonomy and disregard the standard of informed consent."[87]

[78] The Trevor Project & Morning Consult, Issues Impacting LGBTQ Youth: Polling Presentation, (Jan. 2023) https://www.thetrevorproject.org/wp-content/uploads/2023/01/Issues-Impacting-LGBTQ-Youth-MC-Poll_Public-2.pdf; Andrew R. Flores, Mark L. Hatzenbuehler & Gary J. Gates, *Identifying Psychological Responses of Stigmatized Groups to Referendums*, 115 Proceedings of the Nat'l Acad. of Scis. 3816 (2018).

[79] Mark L. Hatzenbuehler, Katie A. McLaughlin, Katherine M. Keyes, & Deborah S. Hasin, *The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study*, 100 Am. J. of Pub. Health 452-59 (2010); Julia Raifman, Ellen Moscoe, S. Bryn Austin, Mark L. Hatzenbuehler & Sandro Galea, *Association of State Laws Permitting Denial of Services to Same-Sex Couples with Mental Distress in Sexual Minority Adults: A Difference-in-Difference-in-Differences Analysis*, 75 JAMA Psychiatry 671-77 (2018).

[80] Intersex people, or people with differences in sex development, are individuals who are born with or develop differences in the development of sex traits, including sex chromosomes, hormones, internal anatomy, and/or gonads.

[81] *E.g.*, H.B. 120 2023 Gen. Assemb., Reg. Sess. (Ky. 2023).

[82] *E.g.*, H.B. 436 & S.B. 249, 88th Leg., Reg. Sess. (Tex. 2023).

[83] *E.g.*, S.B. 0001 & S.B. 0005, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).

[84] Morgan Carpenter, *The "Normalization" of Intersex Bodies and "Othering" of Intersex Identities in Australia*, 15 J. Bioeth. Inq. 487 (2018); Georgiann Davis, Jodie M. Murphy & Erin L. Murphy, *Giving Sex: Deconstructing Intersex and Trans Medicalization Practices*, 30 Gender & Soc. 490 (2015).

[85] *See* Bonnie Hart and Jean Shakespeare-Finch, *Intersex lived experience: trauma and posttraumatic growth in narratives*, 13 Psych. & Sexuality 912-930 (2022).

[86] Tiffany Jones, *The Needs of Students with Intersex Variations*, 16 Sex. Ed. 602 (2016).

[87] Am. Bar Ass'n, Resolution 511 (Feb. 6, 2023), https://www.americanbar.org/content/dam/aba/directories/policy/midyear-2023/511-midyear-2023.pdf.

TRENDS OVER TIME

Since 2020, 36 states have attempted to restrict access to gender-affirming care—primarily through legislative action. Over time, the number of states attempting to restrict access to care has increased from at least 16 in 2020,[88] 23 in 2021,[89] 23 in 2022,[90] up to 31 states with bills so far in 2023.[91] Bills were filed in three or more years in at least 19 states[92]—eight of those states restricted access to care: seven through the legislature (Alabama, Arizona, Georgia, Iowa, Mississippi, Tennessee, and Utah), and, in the case of Florida, through executive action after failure to ban care through the legislature. It is important to note that most of these bills were defeated. However, youth in the remaining 11 states where bills have been filed over three or more years may be particularly vulnerable to current and future legislative efforts to restrict access to gender-affirming care. These are Idaho, Indiana, Kansas, Kentucky,[93] Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, South Carolina, and West Virginia.[94]

[88] These states include Alabama, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Kentucky, Mississippi, Missouri, New Hampshire, Ohio, Oklahoma, South Carolina, South Dakota, and Tennessee. *See Past Legislation Affecting LGBT Rights Across the Country 2020*, American Civil Liberties Union, https://www.aclu.org/past-legislation-affecting-lgbt-rights-across-country-2020 (last visited Mar. 28, 2023); New Hampshire H.B. 163, 2019 Gen. Crt., Reg. Sess. (N.H. 2019).

[89] These states include Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, and West Virginia. *See Legislation Affecting LGBTQ Rights Across the Country 2021*, American Civil Liberties Union, https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country-2021 (last visited Mar. 28, 2023); New Hampshire H.B. 68, 2021 Gen Crt., Reg. Sess (N.H. 2021); North Dakota H.B. 1476, 67th Legis. Assemb., Reg. Sess. (N.D. 2021); *See also* West Virginia H.B. 2171 85th Leg., Reg. Sess. (W. Va. 2021).

[90] These states include Alabama, Arizona, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Utah, West Virginia, and Wisconsin. *See Legislation Affecting LGBTQ Rights Across the Country [2022]*, https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country-2022 (last visited Mar. 28. 2023).

[91] In the 2023 legislative session, this includes 10 of the 11 states which have already enacted at least one ban (Arkansas, Arizona, Florida, Georgia, Iowa, Mississippi, South Dakota, Tennessee, Texas, Utah; Alabama has not introduced a new ban yet in this legislative session), two states where legislation failed (Virginia, Wyoming), and 19 states where bans are still pending (Hawaii, Idaho, Indiana, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, Washington and West Virginia). In two additional states, laws were introduced in 2023 which may limit access to gender-affirming care, but do not directly prohibit access. Those states are New Mexico (H.B. 490) and Pennsylvania (H.B. 135). New Mexico and Pennsylvania are not counted among the states that have filed legislation this legislative session to prohibit access to gender-affirming care in our analysis. New Mexico H.B. 490 would require parental consent to obtain gender-affirming care under 18 but does not prohibit care. Pennsylvania H.B. 135 extends the statute of limitations for claims related to gender-affirming care but does not explicitly prohibit the care.

[92] These states are Alabama, Arizona, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, New Hampshire, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Utah, and West Virginia.

[93] Kentucky passed a gender-affirming care ban but it was vetoed by the governor. *See* notes 37, 39, *supra*.

[94] West Virginia passed a gender-affirming care ban that has not yet been enacted. *See* note 38, *supra*.

TECHNICAL NOTES

Estimates of the number of transgender youth ages 13-17 in each state were culled from the report *How Many Adults and Youth Identify as Transgender in the United States.*[95] The estimate of the number of transgender people ages 13 to 18, 13 to 20, or 13 to 25 in several states was created by adding the published estimated number of youth ages 13-17 with an estimate of the relevant number of transgender people age 18 and up in the state. This was created by multiplying the estimated percentage of people aged 18-24 or 25-34 who identify as transgender in a particular state, as published in Herman et al., by the relevant number of people ages 18 and up in the state as per the U.S. Census Bureau's 2019 estimates.[96] Estimates were rounded to the nearest 100th.

The age range selected to produce youth estimates was determined by the age range specified in enacted legislation or executive actions or the age range in bills that were the furthest along as of March 24, 2023, based on publicly available resources.

[95] Jody L. Herman, Andrew R. Flores, Taylor N.T. Brown, Bianca D.M. Wilson, & Kerith J. Conron, The Williams Inst., Age of Individuals Who Identify as Transgender in the United States (Jan. 2017), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Age-Trans-Individuals-Jan-2017.pdf.

[96] U.S. Census Bureau, Population Division, Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2019. (June 2020) (Retrieved from https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-detail.html).

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ACKNOWLEDGEMENTS

The authors thank Christy Mallory, Renberg Senior Scholar and Legal Director, and Jody Herman, Reid Rasmussen Senior Scholar of Public Policy at the Williams Institute for helpful reviews of earlier iterations of this report.

SUGGESTED CITATION

Redfield, E. & Conron, K.J. (co-first authors), Tentindo, W., Browning, E. (2023). Prohibiting Gender-Affirming Medical Care for Youth. The Williams Institute, UCLA, Los Angeles, CA.

Due to a calculation error, an earlier version of this report estimated 144,500 youth had lost or were at risk of losing access to gender affirming care due to state bill or executive actions.

APPENDIX

Arizona (1 bill introduced)

- S.B. 1702, 55th Leg., Reg. Sess. (Ariz. 2023).

Arkansas (1 bill introduced)

- S.B. 199, 94th Gen. Assemb., Reg. Sess. (Ark. 2023) (enacted).

Florida (4 bills introduced)

- H.B. 1265, 2023 Leg., 125th Reg. Sess. (Fla. 2023).
- S.B. 254, 2023 Leg., 125th Reg. Sess. (Fla. 2023).
- S.B. 952, 2023 Leg., 125th Reg. Sess. (Fla. 2023).
- S.B. 1421, 2023 Leg., 125th Reg. Sess. (Fla. 2023).

Georgia (3 bills introduced)

- S.B. 140, 157th Gen. Assemb., Reg. Sess. (Ga. 2023) (enacted).
- S.B. 141, 157th Gen. Assemb., Reg. Sess. (Ga. 2023).
- H.B. 653, 157th Gen. Assemb., Reg. Sess. (Ga. 2023).

Hawaii (1 bill introduced)

- H.B. 891, 31st Leg., Reg. Sess. (Haw. 2023).

Idaho (1 bill introduced)

- H.B. 71, 67th Leg., Reg. Sess. (Idaho 2023).

Indiana (8 bills introduced)

- H.B. 1118, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1220, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1231, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1232, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1407, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1525, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- H.B. 1589, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).
- S.B. 480, 123rd Gen. Assemb., Reg. Sess. (Ind. 2023).

Iowa (5 bills introduced)

- H.F. 2, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).
- H.S.B. 214, later renumbered H.F. 623, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).
- S.F. 110, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).
- S.F. 129, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).
- S.S.B. 1197, later renumbered S.F. 538, 90th Gen, Assemb., Reg. Sess. (Iowa 2023).

Kansas (2 bills introduced)

- S.B. 12, 2023-2024 Leg., Reg. Sess. (Kan. 2023).
- S.B. 233, 2023-2024 Leg., Reg. Sess. (Kan. 2023).

Kentucky (3 bills introduced)

- H.B. 120, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023).
- H.B. 150, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023) (passed).
- H.B. 470, 2023 Gen. Assemb., Reg. Sess. (Ky. 2023).

Michigan (1 bill introduced)

- H.B. 4257, 102nd Leg., Reg. Sess. (Mich. 2023).

Mississippi (12 bills introduced)

- H.B. 456, 2023 Leg., Reg. Sess. (Miss. 2023).
- H.B. 576, 2023 Leg., Reg. Sess. (Miss. 2023).
- H.B. 1124, 2023 Leg., Reg. Sess. (Miss. 2023).
- H.B. 1125, 2023 Leg., Reg. Sess. (Miss. 2023) (enacted).
- H.B. 1126, 2023 Leg., Reg. Sess. (Miss. 2023).
- H.B. 1127, 2023 Leg., Reg. Sess. (Miss. 2023).
- H.B. 1258, 2023 Leg., Reg. Sess. (Miss. 2023).
- S.B. 2760, 2023 Leg., Reg. Sess. (Miss. 2023).
- S.B. 2770, 2023 Leg., Reg. Sess. (Miss. 2023).
- S.B. 2861, 2023 Leg., Reg. Sess. (Miss. 2023).
- S.B. 2864, 2023 Leg., Reg. Sess. (Miss. 2023).
- S.B. 2883, 2023 Leg., Reg. Sess. (Miss. 2023).

Missouri (11 bills introduced)

- H.B. 419, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- H.B. 463, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- H.B. 540, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- H.B. 916, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- H.B. 1157, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- H.B. 1332, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- S.B. 49, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- S.B. 164, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- S.B. 236, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- S.B. 281, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).
- S.B. 598, 102nd Gen. Assemb., Reg. Sess. (Mo. 2023).

Montana (1 bill introduced)

- S.B. 99, 68th Leg., Reg. Sess. (Mont. 2023).

Nebraska (1 bill introduced)

- L.B. 574, 108th Leg., Reg. Sess. (Neb. 2023).

New Hampshire (2 bills introduced)

- H.B. 417, 2023 Gen. Crt., Reg. Sess. (N.H. 2023).
- H.B. 619, 2023 Gen. Crt., Reg. Sess. (N.H. 2023).

New Jersey (1 bill introduced)

- S. 3076, 220th Leg., 2022-2023 Reg. Sess. (N.J. 2022).

New Mexico (1 bill introduced)

- H.B. 490, 56th Leg., 1st Sess. (N.M. 2023).

North Carolina (1 bill introduced)

- H.B. 43, 2023 Gen. Assemb., Reg. Sess. (N.C. 2023).

North Dakota (2 bills introduced)

- H.B. 1254, 68th Legis. Assemb., Reg. Sess. (N.D. 2023).
- H.B. 1301, 68th Legis. Assemb., Reg. Sess. (N.D. 2023).

Ohio (1 bill introduced)

- H.B. 68, 135th Gen. Assemb., Reg. Sess. (Ohio 2023).

Oklahoma (15 bills introduced)

- H.B. 1011, 59th Leg., Reg. Sess. (Okla. 2023).
- H.B. 1377, 59th Leg., Reg. Sess. (Okla. 2023).
- H.B. 1466, 59th Leg., Reg. Sess. (Okla. 2023).
- H.B. 2177, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 129, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 250, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 252, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 345, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 613, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 614, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 786, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 787, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 788, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 789, 59th Leg., Reg. Sess. (Okla. 2023).
- S.B. 878, 59th Leg., Reg. Sess. (Okla. 2023).

Oregon (2 bills introduced)

- H.B. 3137, 82nd Legis., Assemb., Reg. Sess. (Or. 2023).
- S.B. 452, 82nd Legis., Assemb., Reg. Sess. (Or. 2023).

Pennsylvania (1 bill introduced)

- H.B. 138, 2023 Gen. Assemb., Reg. Sess. (Penn. 2023).

South Carolina (7 bills introduced)

- H. 3197, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- H. 3485, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- H. 3551, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- H. 3730, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- S. 0243, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- S. 0274, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).
- S. 0627, 125th Gen. Assemb., Reg. Sess. (S.C. 2023).

South Dakota (1 bill introduced)

- H.B. 1080, 98th Leg., Reg. Sess. (S.D. 2023) (enacted).

Tennessee (6 bills introduced)

- H.B. 0001, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023) (enacted).
- H.B. 1215, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).
- H.B. 1378, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).
- S.B. 0001, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023) (enacted).
- S.B. 0005, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).
- S.B. 1335, 113th Gen. Assemb., Reg. Sess. (Tenn. 2023).

Texas (16 bills introduced)

- H.B. 41, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 42, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 122, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 436, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 672, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 776, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 888, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 1029, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 1532, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 1686, 88th Leg., Reg. Sess. (Tex. 2023).

- H.B. 1752, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 4624, 88th Leg., Reg. Sess. (Tex. 2023).
- H.B. 4754, 88th Leg., Reg. Sess. (Tex. 2023).
- S.B. 249, 88th Leg., Reg. Sess. (Tex. 2023).
- S.B. 250, 88th Leg., Reg. Sess. (Tex. 2023).
- S.B. 625, 88th Leg., Reg. Sess. (Tex. 2023).

Utah (2 bills introduced)

- H.B. 132, 2023 Leg., Gen. Sess. (Utah 2023).
- S.B. 16, 2023 Leg., Gen. Sess. (Utah 2023) (enacted).

Virginia (4 bills introduced)

- H.B. 2432, 162nd Gen. Assemb., Reg. Sess. (Va. 2023).
- S.B. 791, 162nd Gen. Assemb., Reg. Sess. (Va. 2023).
- S.B. 960, 162nd Gen. Assemb., Reg. Sess. (Va. 2023).
- S.B. 1203, 162nd Gen. Assemb., Reg. Sess. (Va. 2023).

Washington (1 bill introduced)

- H.B. 1214, 2023 Leg., Reg. Sess. (Wash. 2023).

West Virginia (6 bills introduced)

- H.B. 2007, 86th Leg., Reg. Sess. (W. Va. 2023).
- H.B. 2972, 86th Leg., Reg. Sess. (W. Va. 2023).
- H.B. 3183, 86th Leg., Reg. Sess. (W. Va. 2023).
- H.B. 3097, 86th Leg., Reg. Sess. (W. Va. 2023).
- S.B. 692, 86th Leg., Reg. Sess. (W. Va. 2023).
- S.B. 697, 86th Leg., Reg. Sess. (W. Va. 2023).

Wyoming *(2 bills introduced)*

- S.F. 0111, 67th Leg., Reg. Sess. (Wyo. 2023).
- S.F. 0144, 67th Leg., Reg. Sess. (Wyo. 2023).