

EXHIBIT N

States Passed a Record Number of Transgender Laws. Here's What They Say.

Many of the bills denied certain medical care to transgender people, while others targeted bathroom use and preferred personal pronouns.



By Adeel Hassan

Adeel Hassan read through dozens of state laws and spoke with law professors about the implications of the new legislation.

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Statehouses around the country this year have been consumed by fights over laws governing transgender people.

Seventeen states during their most recent legislative sessions passed restrictions on medical care for transgender people, joining just three other states that passed similar bans in the last two years. A series of other laws passed regulate which bathrooms transgender people can use and whether schools can affirm transgender children's identities.

Already many of these laws are being challenged in court, and judges are scrutinizing their precise wording. A federal judge in Arkansas last week struck down that state's law forbidding medical treatments for children and teenagers seeking gender transitions. Earlier this month, a Florida judge sided with families seeking to block the state's law banning gender transition care for minors, saying that the ban is likely to be found to be unconstitutional.

Amid the fighting, it's easy to overlook the text of the laws themselves, which can get clinical very quickly.

So what's actually in these bills? Here is a closer look at the language.

Many states have banned medical treatments and various surgical procedures for minors.

Laws banning gender-transition care for minors have been enacted in 20 states; Alabama, Arkansas, Tennessee and Arizona enacted bans before 2023, though Arkansas's was recently struck down. Arizona's law focuses on surgical procedures, but the rest extend the ban to other treatments, including puberty blockers and hormones.

Out of an estimated 1.6 million Americans who are transgender, about 300,000 are under 18. A small number get surgery as part of their transition, but it is much more common for children to transition socially — changing their name, clothing, haircut or other parts of their appearance and identity — and through the use of puberty-delaying medications or hormones.

Often these laws lay out a broad list of procedures. Indiana's law, for example, includes mastectomies but also mentions procedures like liposuction and hair reconstruction. The legislation specifies that these procedures are banned for minors only if they are for the specific purpose of gender transition.

Sec. 8. As used in this chapter, "non genital gender reassignment surgery" means medical procedures knowingly performed for the purpose of assisting an individual with a gender transition, including the following:

(1) Surgical procedures for a male sex patient, including augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, hair reconstruction, or associated aesthetic procedures.

(2) Surgical procedures for a female sex patient, including subcutaneous mastectomy, voice surgery, liposuction, lipofilling, pectoral implants, or associated aesthetic procedures.

Genital surgery for minors is extremely rare. Top surgery — breast augmentation or removal — for minors is performed more often but is still very uncommon.

Proponents of the bans argue that these operations can be harmful and that children are not mature enough to make decisions about such procedures.

Leading medical organizations oppose bans on transition care, citing extensive evidence that such treatment leads to better mental health outcomes, and associating a lack of treatment with higher rates depression.

A few states passed laws that will also affect adults.

While most of these laws focus on treatments for minors, some states included provisions that will also create obstacles for transgender adults seeking transition treatments.

Florida's law includes several restrictions, including requiring that medication like puberty blockers be prescribed in person by a physician. Many transgender people receive their prescriptions via telehealth and from nurse practitioners.

(3) Sex-reassignment prescriptions or procedures may not be prescribed, administered, or performed except by a physician. For the purposes of this section, the term "physician" is defined as a physician licensed under chapter 458 or chapter 459 or a physician practicing medicine or osteopathic medicine in the employment of the Federal Government.

Florida SB 254

Laws in both Florida and Missouri prevent Medicaid from covering transition care, which could make it harder for transgender adults to afford treatments and surgeries.

Some states have created strict penalties for providers who break the law.

Many states have defined the act of providing surgeries and medical care to transgender minors as “unprofessional conduct,” which could jeopardize a doctor’s ability to practice medicine.

Some states added potential penalties for people beyond doctors. For example, Indiana and Mississippi outline legal consequences for doctors and others who “aid or abet” in administering care. This language is similar to abortion bans that include legal penalties for providers or others who “aid or abet” someone receiving an abortion.

SECTION 3. (1) A person shall not knowingly provide gender transition procedures to any person under eighteen (18) years of age.

(2) A person shall not knowingly engage in conduct that aids or abets the performance or inducement of gender transition procedures to any person under eighteen (18) years of age. This subsection may not be construed to impose liability on any speech protected by federal or state law.

Mississippi HB 1125

“In some states, such as Mississippi, the ‘aid or abet’ language is very broad,” said Elana Redfield, the federal policy director of the Williams Institute at the law school of the University of California, Los Angeles, “and could conceivably subject parents or allies to liability.”

And Montana’s ban allows people who receive care to sue their provider for up to 25 years after the procedure if they claim they were harmed by it.

While most of the laws passed this year do not include criminal liability, last month Florida joined at least four other states that make providing such care a felony. Florida’s law penalizes doctors who violate the law with up to five years in prison.

It also changes child custody rules to treat transition care as equivalent to child abuse.

“It is wrong to be sexualizing these kids,” Gov. Ron DeSantis said at the signing. “It’s wrong to have gender ideology and telling kids that they may have been born in the wrong body.”

To enforce these laws, states are defining “male” and “female.”

Both as part of the medical bans and sometimes as separate laws, states are strictly defining “male” and “female.” This could prevent transgender people from receiving identification that matches their identity and appearance.

Tennessee’s law defining sex goes into effect on July 1, and would prevent anyone from changing the sex on their birth certificate and driver’s license. This can create challenges for transgender people when they need to, say, vote or apply for a library card.

(c) As used in this code, "sex" means a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth and evidence of a person's biological sex. As used in this subsection (c), "evidence of a person's biological sex" includes, but is not limited to, a government-issued identification document that accurately reflects a person's sex listed on the person's original birth certificate.

Tennessee SB 1440

Research points to other consequences, including higher levels of anxiety and depression for transgender people who have an inconsistency between their documents and their gender identity.

There is some acknowledgment in the laws, though, that sex is not always binary. Most of the bans or restrictions include exceptions for intersex people who need or opt for medical treatments and surgery. Roughly 0.5 to 2 percent of the population

has some intersex condition, meaning a person is born with chromosomes, hormones or sexual anatomy that differs from what is considered typical for males and females.

Nearly half of all states enacted laws banning transgender women and girls from playing on female teams.

At least 21 states, including North Dakota, specifically exclude transgender women and girls from participating in sports consistent with their gender identity. Five of those states extend the bans to transgender boys. All of the bans apply to high schools, and most states include colleges in their bans.

2. An athletic team or sport designated for "females", "women", or "girls" may not be open to students of the male sex.

3. This section may not be construed to restrict the eligibility of a student to participate in interscholastic or intramural athletic teams or sports designated as "males", "men", or "boys" or designated as "coed" or "mixed".

North Dakota HB 1249

In Ohio last year, early drafts of the state's athletic ban, which is still being debated by the legislature, included language requiring a physical examination by a doctor when the sex of an athlete is disputed. That language has since been removed. But it's unclear in many of the laws how schools and organizations should enforce the bans.

Bathroom laws return, with a focus on school facilities.

In 2016, North Carolina became the first state to pass a bill barring transgender people from using public bathrooms consistent with their gender identity. The law drew nationwide outrage, and companies canceled planned expansions in the state, while the N.B.A. and N.C.A.A. moved events elsewhere. It was repealed in 2017.

But so-called bathroom bills have recently made a comeback in state legislatures. Tennessee passed one in 2021, while Alabama and Oklahoma followed in 2022. At least six states this year enacted laws regulating the use of bathrooms.

Idaho's law, like many of these laws, targets school restrooms. The law says facilities that can be used by multiple people at once must be designated male or female and may be used only by members of that sex. The reason, it says, is to limit the shame and embarrassment students may feel sharing a restroom with someone of the opposite sex.

(2) Every person has a natural right to privacy and safety in restrooms and changing facilities where such person might be in a partial or full state of undress in the presence of others;

(3) This natural right especially applies to students using public school restrooms and changing facilities where student privacy and safety is essential to providing a safe learning environment for all students;

(4) Requiring students to share restrooms and changing facilities with members of the opposite biological sex generates potential embarrassment, shame, and psychological injury to students, as well as increasing the likelihood of sexual assault, molestation, rape, voyeurism, and exhibitionism;

Idaho SB 1100

Lawmakers who back such bills say that every child must feel safe in the bathroom and that the laws can help prevent abuse. Multiple studies, however, have shown that transgender people are much more likely to be victims of violence than cisgender people.

“We’ve had a natural experiment going in colleges, universities and high schools for some time” with coed bathrooms, said Katherine Franke, a professor at Columbia University Law School. After all these years, she added, “we haven’t seen any incidence of increased risks to personal security.”

Federal appeals courts have so far been split on the issue. At least two courts have upheld transgender students’ rights to use the bathroom corresponding with their gender identity, and in January one court ruled that a transgender boy was not entitled to use the boys’ bathroom in a public high school in Florida.

Some states extended their laws to include school field trips

Since many of the bathroom bans specifically apply to school facilities, they also often include accommodations on school field trips.

Kansas passed a law specifically targeting school overnight trips, stating that students must have overnight lodging that is separated by sex.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The board of education of each school district shall adopt a policy requiring that separate overnight accommodations be provided for students of each biological sex during school district sponsored travel that requires overnight stays by students. Such policy shall be provided to parents prior to a student’s participation in an activity or travel that requires overnight stays by students.

Kansas HB 2138

Republican legislators passed the law off a report that a female student was assigned to share a room with a transgender student during an overnight trip, and overruled a veto by Gov. Laura Kelly, a Democrat.

“Conservatives who were worried about education were always committed to local school control,” Ms. Franke said. Now they’re “relying on state legislatures, which are taking away that discretion from local school boards.”

A handful of laws directed at schools restrict the discussion of personal pronouns.

At least nine states this year have passed laws regarding how pronouns are handled in school. Florida’s law explicitly prohibits teachers and students from discussing their preferred pronouns.

Kentucky has a law saying teachers can’t be required to use pronouns for students that differ from their sex.

(b) The Kentucky Board of Education or the Kentucky Department of Education shall not require or recommend policies or procedures for the use of pronouns that do not conform to a student's biological sex as indicated on the student's original, unedited birth certificate issued at the time of birth pursuant to KRS 156.070(2)(g)2.

(c) A local school district shall not require school personnel or students to use pronouns for students that do not conform to that particular student's biological sex as referenced in paragraph (b) of this subsection.

Kentucky SB 150

Other states, like Indiana, outline “parental rights” policies, requiring that parents be notified when their children request to use a different name or want to be called pronouns that don’t match their sex.

Overall, the many new laws governing transgender children and adults have yet to be tested in everyday life. But already, many are facing lawsuits seeking to stop them.

Nearly half of all the medical bans that have passed are already being challenged in court. A Florida judge issued a limited injunction this month, saying that the state’s medical ban would most likely be found unconstitutional. The judge took issue with the state’s prohibiting treatments “even when medically appropriate.” Texas’ law, which was enacted this month, is also expected to face legal challenges before going into effect in September.

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