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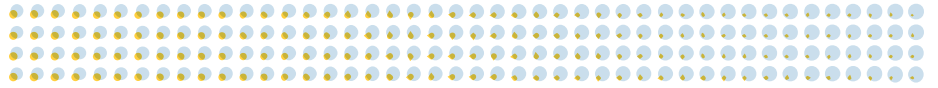
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# PROHIBITING GENDER-AFFIRMING MEDICAL CARE for Youth

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Due to government efforts over the past two years, more than 58,000 transgender youth and young adults across 15 states are in jeopardy of losing access to gender-affirming care. In total, more than a third<sup>1</sup> of the 150,000 transgender youth ages 13-17 in the U.S. live in the 15 states that have restricted access to gender-affirming care or are currently considering laws that would do so. More than 4,000 young adults ages 18 to 20 would also be at risk of losing access to gender-affirming care under the three proposed bills that would apply to young people over the age of 18.

In 2021, the Arkansas legislature enacted a ban on gender-affirming care for minors,<sup>2</sup> aiming to restrict access to treatment for nearly 1,500 transgender youth in the state.

In February 2022, the governor of Texas issued an order restricting access to gender-affirming medical care for transgender youth—including the use of hormones to delay puberty and to promote physical development that is consistent with a child's gender identity. The order classifies the provision of gender-affirming care as "child abuse" and directs the state's Department of Family and Protective Services to investigate any reported instances of health care providers or parents who provide or seek out gender-affirming care for children.<sup>3</sup> The order impacts as many as 13,800 transgender youth in the state. Both the Arkansas law and Texas order are currently being challenged in court.<sup>4</sup>

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<sup>1</sup> There are an estimated 53,800 transgender youth ages 13-17 who live in the 15 states that are currently considering or have enacted bans on access to gender-affirming medical care. There are an estimated 4,400 transgender young adults ages 18-20 who live in the three states that have proposed or enacted bans on access to gender-affirming medical care for people of those ages.

<sup>2</sup> To Create the Arkansas Save Adolescents from Experimentation (SAFE) Act, H.B. 1570, 93rd General Assemb., 2021 Reg. Sess. (Ark. 2021), *codified at* Ark. Code §§ 20-9-1501 to -1504 (2021).

<sup>3</sup> Letter from Greg Abbott, Governor, State 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>.

<sup>4</sup> Enforcement of Arkansas's ban was blocked by a district court in July 2021. The case is now on appeal to the Eighth Circuit. *Brandt v. Rutledge*, 4:21-cv-00450-JM, 2021 U.S. Dist. LEXIS 135534 (E.D. Ark. July 21, 2021). A Texas court also blocked enforcement of the governor's order. *Order Granting Plaintiffs' Application for Temporary Injunction, Doe v. Abbott*, No. D-1-GN-22-000977 (Tex. Dist. Mar. 11, 2022).

As of March 2022, 13 other states are considering bills that would deny gender-affirming medical care to transgender youth.<sup>5</sup> Access to gender-affirming care is in jeopardy for an additional estimated 42,950 transgender youth across these 13 states. State-specific estimates of the numbers of at-risk youth are provided in the table below.

The bills carry severe penalties for health care providers, and sometimes families, who provide or seek out gender-affirming care for minors. In each of these states, the bills would either criminalize health care providers who provide gender-affirming care to minors or subject them to discipline from state licensing boards.<sup>6</sup> Bills in 10 states would also allow individuals to file civil suits for damages against medical providers who violate these laws.<sup>7</sup> Bills in six states provide penalties for parents who facilitate minors' access to gender-affirming medical care.<sup>8</sup>

About half 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 seven states would prohibit certain health insurance plans from offering coverage for gender-affirming care.<sup>9</sup> In eight states, bills would prohibit 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.<sup>10</sup> In five states, bills would prohibit gender-affirming care by or in government-owned or operated facilities, and by individual providers employed by government entities.<sup>11</sup> In four states, bills would exclude gender-affirming care as a tax-deductible health care expense.<sup>12</sup>

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<sup>5</sup> These states are Alabama (S.B. 5/H.B. 150, and S.B. 184/H.B. 266), Arizona (S.B. 1138, S.B. 1045, S.B. 1130, and H.B. 2608), Georgia (H.B. 401), Iowa (H.F. 193), Kansas (H.B. 2210), Kentucky (H.B. 253/S.B. 84), Louisiana (H.B. 570), Missouri (H.B. 2649 and S.B. 843), North Carolina (S.B. 514), Ohio (H.B. 454), Oklahoma (S.B. 583, S.B. 676, and H.B. 3240), South Carolina (H.B. 4047), and Tennessee (S.B. 657/H.B. 578 and H.B. 2835/S.B. 2696). See *Legislative Tracker*, Freedom for All Am., <https://freedomforallamericans.org/legislative-tracker> (last visited Mar. 15, 2022); *Legislation Affecting LGBT Rights Across the Country*, ACLU (Mar. 14, 2021), <https://www.aclu.org/legislation-affecting-lgbtq-rights-across-country>. Per publicly available materials, such bills introduced in Idaho, Florida, Indiana, Mississippi, New Hampshire, Utah, Wisconsin, and West Virginia no longer appear under consideration for this legislative session. *Id.*

<sup>6</sup> More specifically, six states would make it a felony for health care professionals to provide gender-affirming care (Alabama, Arizona (all except S.B. 1138), Georgia, Kansas, Oklahoma (S.B. 676 only), and South Carolina) and one state would make provision of care a misdemeanor (Tennessee, S.B. 657 and H.B. 578 only). Eleven states would allow or require state licensing boards to discipline health care professionals who provide gender-affirming care, including by revoking or suspending state licenses required to practice (Arizona (H.B. 2608 only), Georgia, Iowa, Kansas, Kentucky, Louisiana, Missouri, North Carolina, Ohio, Oklahoma (H.B. 3240 and S.B. 583 only), and Tennessee).

<sup>7</sup> These states are Arizona (H.B. 2608 only), Georgia, Iowa, Kentucky, Louisiana, Missouri (H.B. 2649 only), North Carolina, Ohio, Oklahoma (H.B. 3240 only), and Tennessee.

<sup>8</sup> These states are Alabama, Idaho, Kansas, North Carolina, Oklahoma (S.B. 676 only), South Carolina, and Tennessee.

<sup>9</sup> These states are Arizona (H.B. 2608 only), Kentucky, Louisiana, Missouri (H.B. 2649 only), Ohio, Oklahoma (H.B. 3240 only), and Tennessee. States cannot enact laws that regulate self-funded insurance plans (such as employer-sponsored health plans offered by private sector employers) due to the Employee Retirement and Income Security Act (ERISA). As a result, these bills would not affect coverage for gender-affirming care offered through these plans. See *ERISA Plans*, KFF.org <https://www.kff.org/wp-content/uploads/sites/3/2015/06/c11.pdf> (last visited Mar. 10, 2022).

<sup>10</sup> These states are Arizona (H.B. 2608 only), Kentucky, Louisiana, Missouri (H.B. 2649 only), North Carolina, Ohio, Oklahoma (H.B. 3240 only), and Tennessee (H.B. 2835/S.B. 2696 only).

<sup>11</sup> These states are Arizona (H.B. 2608 only), Kentucky, Louisiana, Missouri (H.B. 2649 only), and Ohio.

<sup>12</sup> These states are Arizona (H.B. 2608 only), Kentucky, Missouri (H.B. 2649 only), and Ohio.

Finally, a bill proposed in Missouri would attempt to limit access to gender-affirming care by classifying it as child abuse similar to the order recently issued in Texas.<sup>13</sup>

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 by the American Academy of Pediatrics and the Endocrine Society and is viewed by the American Academy of Child and Adolescent Psychiatry (AACAP) and the American Psychiatric Association (APA) as evidence-based patient care.<sup>14</sup> Moreover, the American Medical Association supports insurance coverage for gender-affirming care for transgender people.<sup>15</sup>

Research shows that gender-affirming care improves mental health and overall well-being for transgender people,<sup>16</sup> 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.<sup>17</sup> Similarly, research conducted by the Williams Institute concluded that risk of past-year suicide attempts was lower among transgender people who wanted and received gender-affirming medical care.<sup>18</sup> More generally, research indicates that efforts to support transgender youth in living according to their internal sense of gender is associated with better mental

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<sup>13</sup> S.B. 843.

<sup>14</sup> American Academy of Child & Adolescent Psychiatry (AACAP). (2019, November 8). AACAP Statement Responding to Efforts to Ban Evidence-Based Care for Transgender and Gender Diverse Youth. Retrieved from [https://www.aacap.org/AACAP/Latest\\_News/AACAP\\_Statement\\_Responding\\_to\\_Efforts-to\\_ban\\_Evidence-Based\\_Care\\_for\\_Transgender\\_and\\_Gender\\_Diverse.aspx](https://www.aacap.org/AACAP/Latest_News/AACAP_Statement_Responding_to_Efforts-to_ban_Evidence-Based_Care_for_Transgender_and_Gender_Diverse.aspx); American Psychiatric Association (APA). (2021, April 2). *Frontline Physicians Oppose Legislation That Interferes in or Criminalizes Patient Care*. Retrieved from <https://www.psychiatry.org/newsroom/news-releases/frontline-physicians-oppose-legislation-that-interferes-in-or-criminalizes-patient-care.>; Hembree, W. C., Cohen-Kettenis, P. T., Gooren, L., Hannema, S. E., Meyer, W. J., Murad, M. H., Rosenthal, S. M., Safer, J.D., Tangpricha, V., & T'Sjoen, G. G. (2017). Endocrine treatment of gender-dysphoric/gender-incongruent persons: An Endocrine Society clinical practice guideline. *The Journal of Clinical Endocrinology & Metabolism*, 102(11), 3869-3903.; Rafferty J, American Academy of Pediatrics [AAP] Committee on Psychosocial Aspects of Child And Family Health, AAP Committee On Adolescence, AAP Section On Lesbian, Gay, Bisexual, And Transgender Health And Wellness. (2018). Ensuring comprehensive care and support for transgender and gender-diverse children and adolescents. *Pediatrics*; 142(4), 1-14.

<sup>15</sup> American Medical Association and GLMA (2019). Health insurance coverage for gender affirming care of transgender patients. Issue brief. Retrieved from <https://www.ama-assn.org/system/files/2019-03/transgender-coverage-issue-brief.pdf>

<sup>16</sup> Cornell University Public Policy Research Portal. (2017). What does the scholarly research say about the effect of gender transition on transgender well-being? Retrieved from <https://whatwewknow.inequality.cornell.edu/topics/lgbt-equality/what-does-the-scholarly-research-say-about-the-well-being-of-transgender-people>

<sup>17</sup> Turban, J. L., King, D., Carswell, J. M., & Keuroghlian, A. S. (2020). Pubertal suppression for transgender youth and risk of suicidal ideation. *Pediatrics*, 145(2), 68-76

<sup>18</sup> Herman, J. L., Brown, T. N. T., & Haas, A. P. (2019). *Suicide Thoughts and Attempts Among Transgender Adults Findings from the 2015 U.S. Transgender Survey*. The Williams Institute, Los Angeles, CA. Retrieved from <https://williamsinstitute.law.ucla.edu/research/suicide-transgender-adults>

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.<sup>19</sup>

**Table 1. Estimated number of transgender youth ages 13 and up<sup>a</sup> at risk of being denied access to gender-affirming medical care through enacted\* or proposed state bans**

	STATE	ESTIMATE	LOWER BOUND	UPPER BOUND
Ages 13-20 <sup>b</sup>	North Carolina	7,450	4,750	11,900
	Oklahoma	3,950	1,750	6,150
Ages 13-18 <sup>c</sup>	Alabama	2,950	1,600	5,350
Ages 13-17	Arizona	3,650	2,450	5,450
	Arkansas*	1,450	850	2,500
	Georgia	4,950	3,200	7,550
	Iowa	800	400	1,500
	Kansas	1,300	800	2,100
	Kentucky	1,850	950	3,600
	Louisiana	2,350	1,350	4,100
	Missouri	2,500	1,300	5,000
	Ohio	5,900	3,400	10,450
	South Carolina	2,150	1,400	3,400
	Tennessee	3,150	1,850	5,300
	Texas*	13,800	8,200	23,700
Total		58,200	34,250	98,050

<sup>a</sup>Children under the age of 13 would be impacted by the proposed bills but are not counted here due to the lack of reliable estimates of the number of transgender children of this age. <sup>b</sup>North Carolina and Oklahoma's bills apply to people under the age of 21. <sup>c</sup>Alabama's bill applies to people under the age of 19.

<sup>19</sup> Clark, T. C., Lucassen, M. F., Bullen, P., Denny, S. J., Fleming, T. M., Robinson, E. M., & Rossen, F. V. (2014). The health and well-being of transgender high school students: results from the New Zealand adolescent health survey (Youth'12). *Journal of Adolescent Health*, 55, 93-9; McGuire, J. K., Anderson, C. R., Toomey, R. B. & Russell, S. T. (2010). School climate for transgender youth: a mixed method investigation of student experiences and school responses. *Journal of Youth and Adolescence*, 39, 1175-88; Russell, S. T., Pollitt, A. M., Li, G., & Grossman, A.H. (2018). Chosen name use is linked to reduced depressive symptoms, suicidal ideation, and suicidal behavior among transgender youth. *Journal of Adolescent Health*, 63(4), 503-505; Simons, L., Schrager, S. M., Clark, L. F., Belzer, M., & Olson, J. (2013). Parental support and mental health among transgender adolescents. *Journal of Adolescent Health*, 53, 791-3; Turban, J. L., King, D., Reisner, S. L., & Keuroghlian, A. S. (2019) Psychological attempts to change a person's gender identity from transgender to cisgender: Estimated prevalence across US States, 2015. *American Journal of Public Health*, 109, 1452-1454; Wilson, E. C., Chen, Y.-H., Arayasirikul, S., Raymond, H. F., & McFarland, W. (2016). The impact of discrimination on the mental health of trans\*female youth and the protective effect of parental support. *AIDS and Behavior*, 20(10), 2203-2211.

## TECHNICAL NOTES

Estimates of the number of transgender youth ages 13-17 in each state were first published in the report *Age of Individuals Who Identify as Transgender in the United States*.<sup>20</sup> The estimate of the number of transgender people ages 13-18 in Alabama was created by adding the published estimated number of youth ages 13-17 with an estimate of the number of transgender people age 18 in the state. This was created by multiplying the estimated percentage of people aged 18-24 who identify as transgender in Alabama, as published in Herman et al., by the number of 18-year-olds in the state as per the U.S. Census Bureau's 2013 American Community Survey estimates.<sup>21</sup> A similar method was used to create the estimate of transgender people in North Carolina and Oklahoma under the age of 21. Estimates were rounded to the nearest 50th.

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<sup>20</sup> Herman, J. L., Flores, A. R., Brown, T. N. T., Wilson, B. D. M., & Conron, K. J. (2017). *Age of Individuals who Identify as Transgender in the United States*. The Williams Institute, Los Angeles, CA. Retrieved from <https://williamsinstitute.law.ucla.edu/wp-content/uploads/TransAgeReport.pdf>

<sup>21</sup> 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. Source: U.S. Census Bureau, Population Division. Release Date: June 2019. Retrieved from <https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-detail.html>

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