

# GOP lawmakers escalate fight against gender-affirming care with bills seeking to expand the scope of bans

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Published 9:11 AM EST, Sat February 11, 2023

A flurry of bills seeking to restrict access to gender-affirming care for trans youth have been introduced by Republican state lawmakers this year, with debates around the issue reaching new heights thanks to proposals that would dramatically expand the scope of bans on such care.

More than 80 bills seeking to restrict access to gender-affirming care have been introduced around the country through February 9, according to [data compiled by the American Civil Liberties Union](#) and shared with CNN.

[Gender-affirming care](#) is medically necessary, evidence-based care that uses a multidisciplinary approach to help a person transition from their assigned gender – the one the person was designated at birth – to their affirmed gender – the gender by which one wants to be known.

Though many of the bills introduced so far this year target trans youth and their access to gender-affirming care, at least four states saw bills introduced this session that would restrict such care for individuals over the age of 18, including at least two states where proposed bans covered people under the age of 26.

Legislation aimed at trans adults has alarmed LGBTQ advocates, who worry that even if those measures don't become law, they will make future bills exclusively targeting minors seem like sensible compromises.

The slew of new bills underscores the shifting policy goals of some conservatives seeking to politicize the lives of transgender Americans by imposing restrictions on a small and vulnerable group that, LGBTQ advocates say, are largely misunderstood, making their existence ripe for attacks. A number of GOP-led states have in recent years been successful in banning trans youth from competing on sports teams that match their gender identity, but now it appears the focus has largely turned to gender-affirming care.

“It's really, I think, a big but important, notable moment that they're no longer pretending that this is about caring about young folks, and making it very clear that all that they really want to do is prevent trans folks from being able to receive medically necessary, life-saving care basically at any age,” said Cathryn Oakley, state legislative director and senior counsel for the Human Rights Campaign, one of the nation's largest LGBTQ rights groups.

“They have abandoned women's sports entirely but doubled down on trying to hurt trans kids,” she added. “So, you know, the through line here is about hurting trans people. And yes, they're looking for the next discriminatory measure that they can get passed.”

In pushing the health care bans, Republicans have argued that decisions around such care should be made after an individual becomes an adult – a position that is facing intense scrutiny as some lawmakers have moved the age goalpost this year.

Many of the bills likely won't get far in the legislative process. An [HRC report](#) released last month said

that of the 315 anti-LGBTQ bills introduced in 2022, only 29 – or less than 10% – became law. Still, the influx of bills this session is already helping to grow the small group of states that previously enacted bans on gender-affirming care.

Last month, Utah became the first state this year to [enact a ban on gender-affirming care](#) for trans youth, joining Arkansas, which enacted its ban in 2021, and Alabama, which put a similar ban on its books last year. Arizona also enacted restrictions on gender-affirming care in 2022, though its ban was less sweeping than the others.

Two of those laws have already brought forth a complicated legal landscape around the issue. The ACLU sued Arkansas over its ban and a federal judge temporarily blocked it in 2021, and Alabama’s law was partially blocked by a federal judge last May.

As states consider the dozens of health care bans introduced this year, they’ll do so under threat of federal legal action, with the legislative efforts having caused the US Department of Justice to take notice.

Last year, DOJ’s Civil Rights Division sent a stern warning to state attorneys general on the matter, saying in a [letter](#) that it “is committed to ensuring that transgender youth, like all youth, are treated fairly and with dignity in accordance with federal law.”

“Intentionally erecting discriminatory barriers to prevent individuals from receiving gender-affirming care implicates a number of federal legal guarantees,” the letter read in part.

Major medical associations agree that gender-affirming care is clinically appropriate for children and adults with gender dysphoria, which, according to the [American Psychiatric Association](#), is psychological distress that may result when a person’s gender identity and sex assigned at birth do not align.

Though the care is highly individualized, some children may decide to use reversible puberty suppression therapy. This part of the process may also include hormone therapy that can lead to gender-affirming physical change. Surgical interventions, however, are not typically done on children and many health care providers do not offer them to minors.

LGBTQ advocates have long argued that the health care bans further marginalize a vulnerable community and could cause serious harm to a group that suffers from uniquely high rates of suicide.

“LGBTQ youth are not inherently prone to mental health challenges and suicide. They are placed at higher risk by the hostility and discrimination they face because of who they are,” said Kasey Suffredini of the Trevor Project, a nonprofit that works to prevent suicide among LGBTQ youth. “It is on adults to carry young people through this period until we get to the place where lawmakers aren’t attacking these young people anymore.”

## Raising the bar

At least four states saw bills introduced this year that would restrict gender-affirming care for individuals over the age of 18, dramatically raising the bar in Republicans’ efforts to regulate such care.

Among those bills was one in [Mississippi](#) that would have criminalized people who provided or aided in the provision of gender-affirming care for individuals under the age of 21, with violators of the ban facing “the felony crime of ‘gender disfigurement.’” If convicted, a violator could have been sentenced to a maximum of five years in prison and face a fine of at least \$10,000. That bill, however, died in committee in late January.

A [Kansas bill](#) would prohibit medical professionals from “knowingly performing ... or causing to be

performed” gender-affirming care on an individual under the age of 21 and would make violations of the ban a felony under state law. The bill makes some exceptions, including in the case of someone born intersex.

A [bill in South Carolina](#), meanwhile, would impose similar restrictions. But the measure, among other things, would require someone older than 21 who is seeking gender-affirming care to first get a referral from their “primary care physician and a referral from a licensed psychiatrist who must certify that the person has been diagnosed with gender dysphoria or a similar condition by the psychiatrist and that the psychiatrist believes that gender transition procedures would be appropriate for the person.”

Two near-identical bills in [South Carolina](#) and [Oklahoma](#) go a step further, providing that a “physician or other healthcare professional shall not provide gender transition procedures” to anyone under the age of 26. Medical professionals convicted of violating the act would be guilty of a felony, with a conviction in Oklahoma carrying a maximum sentence of five years in prison. The bills also prohibit public funds from being used “directly or indirectly” at organizations that provide such care.

“Surgical and chemical genital mutilation has been occurring in our great state, and it must be stopped,” the bill’s sponsor, Oklahoma GOP state Sen. David Bullard, said in a statement, using incendiary language to describe the clinically appropriate health care he’s trying to restrict.

The statement said Bullard “chose the age of 26 to account for scientific findings that the brain does not fully develop and mature until the mid- to late 20s with the prefrontal cortex, the part responsible for critical skills like planning and controlling urges, developing last.”

Bullard’s bill was later gutted by a Senate committee, with the changes removing the ban on care but maintaining the public funds prohibition.

“These are people who are old enough to enlist in the military, buy guns, buy alcohol, buy tobacco, get married, do a variety of other things that we leave to adults to do,” Oakley said. “And yet we would be forbidding them from being able to receive gender affirming care, as if that is in some way a more permanent decision.”

The push to restrict gender-affirming care has been a central focus for a number of well-funded national right-wing groups, including the conservative American Principles Project.

The group’s president, Terry Schilling, told CNN that it works with states to introduce and pass such bans, saying their overall goal is to eliminate gender-affirming care for all Americans, regardless of age. “The movement to oppose (gender-affirming care) has never said, ‘we only care about children.’ We’ve said, ‘we want to protect children,’” he said.

“And so, we want to protect who we can as quick as possible. And the group of people that we can protect as quick as possible is children,” Schilling added. “And so that’s the thrust of the strategy – is we want to protect everyone from this stuff. But ultimately, we have to start with children because that’s where the vast majority of the American people are right now.”

## **Texas’ unique approach**

Lawmakers in Texas have introduced a number of bills that would outlaw gender-affirming care for trans youth, with most of them setting up blanket bans similar to ones being floated elsewhere.

But the state is also attempting to approach the issue in a unique way, with lawmakers there having introduced at least four bills that would expand the definition of child abuse to include providing gender-affirming care to minors.

The bills are seeking to codify a non-legally binding opinion released last year by Texas Attorney

General Ken Paxton that said providing gender-affirming surgical procedures and drugs that affect puberty should be considered child abuse under state law.

Paxton's move prompted the Texas Department of Family and Protective Services to begin investigating parents who provide their children with such care. But LGBTQ advocates sued, and a district judge ruled last September that the state cannot pursue investigations into parents providing such care if their children and those families are part of one of the groups suing the state.

One of the [bills](#) states in part that abuse "includes the following acts by a medical professional or mental health professional for the purpose of attempting to change or affirm a child's perception of the child's sex, if that perception is inconsistent with the child's biological sex."

When Republican state Rep. Bryan Slaton pre-filed the bill last year, he said in a [statement](#) that it "will designate genital removal surgeries, chemical castration, puberty blockers, and other sex change therapies as child abuse."

## Utah leads the way

Elsewhere, states are pushing ahead with bans similar to the ones in Arkansas and Alabama that are currently in legal jeopardy.

In Utah, the Republican-controlled legislature moved a ban on gender-affirming care for minors through the statehouse in under a month, with Republican Gov. Spencer Cox [giving it his stamp of approval in late January](#).

"More and more experts, states and countries around the world are pausing these permanent and life-altering treatments for new patients until more and better research can help determine the long-term consequences," Cox said in a [statement](#) explaining his decision to sign the bill into law.

"This is a devastating and dangerous violation of the rights and privacy of transgender Utahns, their families, and their medical providers," said Chase Strangio, deputy director for transgender justice at the ACLU, in a statement. "Claims of protecting our most vulnerable with these laws ring hollow when lawmakers have trans children's greatest protectors – their parents, providers, and the youth themselves – pleading in front of them not to cut them off from their care."

LGBTQ advocates hoped Cox would veto the ban, pointing to the governor's decision last year to veto an anti-trans sports bill in the state. At the time, he questioned the need for it and stressed that it targets a marginalized group that suffers from high rates of suicide. Lawmakers, however, quickly overrode his veto, with the drama underscoring how Republicans are not always in lockstep on matters pertaining to the LGBTQ community.

Last month, Mississippi's House passed a [bill](#) that similarly makes it illegal to "knowingly provide gender transition procedures to any person under" the age of 18. Physicians and other medical professionals found to have violated the ban would have their license to practice health care in the state revoked.

"I just believe a child needs to wait until they're 18-years-old, then they can make their own decision," the bill's sponsor, Republican state Rep. Gene Newman, told CNN. Decisions about the type of care Newman's bill seeks to limit, however, are made by a mix of people, including a child's parents and the medical provider.

A [South Dakota](#) bill would also prohibit health care professionals in the state from providing gender-affirming care to minors. Like the Mississippi bill, providers found to be in violation of the ban by a professional or occupational licensing board would get their license to practice medicine revoked,

according to the bill. The bill cleared South Dakota's Senate on Thursday and is now headed to Republican Gov. Kristi Noem, who is supportive of the legislation.

South Dakota has been especially hostile to trans youth in recent years, with Noem having signed a bill last year banning transgender women and girls in the state from competing on sports teams consistent with their gender at accredited schools and colleges. That legislation codified an executive order the governor signed in 2021.

As lawmakers continue to debate these bans, advocates like Strangio, who is involved in the ACLU's legal fight against some of the bans, are vowing to take states to court over any enacted restrictions.

"It will be the government's burden to defend it in court," he told a Tennessee House committee last month that went on to approve a ban there. "And Tennessee, like Alabama, like Texas, like Arkansas, will not be able to do so."

**[Perhaps. But in the meantime ... Ed.]**