

# Under West Virginia bills, exposing minors to transgender people could be a crime

The bills primarily target sexually explicit performances but would also ban schools from exposing students to any materials that include transgender people.

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By Jo Yurcaba

Two West Virginia bills aim to protect minors from obscene performances and materials, which the bills define, in part, as anything that includes exposure to or performances by transgender people.

The bills, introduced this week by state Sen. Michael Azinger, a Republican, would prohibit obscene and sexually explicit materials in or within 2,500 feet of the state's schools and would bar children from being present for obscene performances or displays.

The bills' four-point definition of "obscene matter" is, for the most part, general, and includes material that appeals to the "prurient interest" or that is "patently offensive." But the fourth part of the definition specifically defines "indecent displays of a sexually explicit nature," in part, as "any transvestite **[Obsolete Term, Ed]** and/or transgender exposure, performances or display to any minor." No other group of people or specific type of performance is included.

**[As I read this law, a completely dressed transgender individual showing a Bugs Bunny or Donald Duck cartoon to a group of children could be arrested. Bugs is completely naked and Donald doesn't wear any pants. The person who proposed this law is obviously missing a few screws. Ed.]**

School personnel who violate the school-related bill, [SB 252](#), could be charged with a misdemeanor, which can carry a fine of up to \$500 and/or up to one year in prison.

People who violate the bill regulating venues and performances, [SB 278](#), could face a misdemeanor, a fine of up to \$1,000 and/or jail time. Venues that allow minors to be present for performances that the bill defines as obscene or sexually explicit could face a public nuisance complaint.

Advocates in the state say the bills declare transgender people's existence as inherently sexual and harmful to children.

Andrew Schneider, the executive director of Fairness West Virginia, a statewide LGBTQ rights group, compared the bills to Florida's [Parental Rights in Education law](#) (dubbed the "Don't Say Gay" bill by critics), which prohibits classroom instruction on "sexual orientation or gender identity ... in kindergarten through grade 3 or in a manner that is not age appropriate or developmentally appropriate for students in accordance with state standards."

These bills, he said, "are like the 'Don't Say Gay,' but on steroids."

"They seem like they're about protecting kids from harm, but really it's a ploy to erase LGBTQ people from public life," Schneider said. "It's a scare tactic that we see all the time, but even scare tactics have a real impact on our community." **[Let's not get carried away. LGBTQ people weren't mentioned. Ed.]**

Jack Jarvis, the group's communications director, said they have heard from transgender people who work in the state's schools who fear that SB 252 would prohibit them from being in classrooms.

"They don't know if this means they're going to have to leave the state or leave their jobs, or if they're going to be thrown in jail just because they are trans around a young person," Jarvis said. "They're

definitely scared, but they're willing to fight.”

Azinger did not immediately return a request for comment about whether SB 252 could affect transgender school personnel, or whether SB 278 could prohibit transgender people from performing in any capacity in front of minors, including in a play or during a karaoke night.

Eli Baumwell, the interim executive director of the American Civil Liberties Union of West Virginia, described the bills as “plainly unconstitutional” and “too extreme for even this Legislature.” He said he doesn't expect them to be taken up in committee.

“However, just the introduction of such cruel legislation takes a toll,” Baumwell said in an email. “A [recent study from the Trevor Project](#) found that 86 percent of trans and nonbinary youth say that listening to lawmakers debate stripping away their rights has impacted their mental health. To suggest that the law should define a person's mere existence as ‘obscene’ is cruel, harmful and frankly unconscionable.”

Lawmakers in other states have introduced similar legislation, much of it intended to bar minors from attending drag performances, which have increasingly come under criticism from conservatives and attacks from white nationalist groups over the last year. A [bill in Arizona](#), for example, would require businesses that host drag performers to be zoned as adult performance venues. It defines a drag performer as “a person who dresses in clothing and uses makeup and other physical markers opposite of the person's gender at birth to exaggerate gender signifiers and roles and engages in singing, dancing or a monologue or skit in order to entertain an audience.” [Advocates have said this broad definition](#) would include any trans person performing in any capacity.

So far this year, lawmakers have introduced [more than 120 bills targeting](#) LGBTQ people, according to an NBC News analysis.

In West Virginia, legislators have introduced at least 10. One would [bar gender-affirming surgeries for minors](#), though gender-affirming surgery is rarely performed on minors.

Another West Virginia bill would allow 15% of voters in a city to recall “any ordinance or city code provision previously enacted by the governance.” Schneider said [this bill](#), though it doesn't explicitly name LGBTQ issues or people, could be used to repeal local nondiscrimination protections for LGBTQ people, which have passed in 18 cities in West Virginia.

“All of our local fairness laws could be at risk,” Jarvis said. “The threshold is so low that all of them will be at risk.”

Schneider added, “They're basically giving veto power to the fringe elements in any community.”