



NATIONAL CENTER TO ADVANCE PEACE
for Children, Youth, and Families



IMPACTS OF GENDER AFFIRMING CARE BANS AND RELATED ANTI-TRANSGENDER LEGISLATION

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Bans on gender affirming care can have significant negative impacts on gender non-conforming¹ individuals. Gender affirming care includes a variety of social, psychological, behavioral, and medical interventions that support and affirm an individual's gender identity, in age-appropriate manners, when it does not align with the gender they were assigned at birth. This may include treatments such as puberty blockers or hormone therapy for adolescents or young adults, but also encompasses non-medical forms of care, such as using an individual's preferred name and pronouns or supporting their decision to dress in ways that align with their gender identity.

Supporters of these bans often cite different reasons, including:

- **Concerns about Age and Capacity:** Some proponents believe that decisions regarding medical interventions such as hormone therapy or surgeries should be deferred until individuals reach the age of majority and have the capacity to provide informed consent.
- **Moral or Religious Beliefs:** Bans on gender affirming care can be driven by moral, religious, or ideological beliefs that consider gender non-conformity as an affront to their values and beliefs regarding the strictness of gender roles and creation.
- **Medical and Ethical Controversies:** Some individuals argue that the long-term effects and risks of certain interventions on developing bodies are not yet fully understood, leading to differing opinions about the age-appropriateness of different gender-affirming interventions.
- **Concerns about Detransition:** Supporters of bans on gender affirming care may emphasize concerns about potential regret or detransition² cases, arguing that limiting access to such care is a precautionary measure.

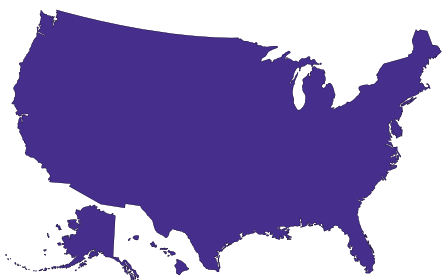
¹ Throughout this brief, we use the term gender non-conforming to refer to the diverse spectrum of individuals who identify as something other than cisgender, inclusive of those who identify as transgender, non-binary, gender expansive, etc.

² Detransition refers to individuals who transitioned and later decide to revert to their assigned gender at birth.

Opinions in the medical community differ regarding the appropriate use of gender-affirming medical interventions with children. However, there is significant support for providing gender-affirming care in some capacity, which is substantiated by research showing mental health benefits for young individuals. Several medical and professional organizations, including the American Academy of Pediatrics and the World Professional Association for Gender non-conforming Health (WPATH), advocate for the advantages of gender-affirming care for gender non-conforming youth, especially when delivered in a comprehensive, affirming, and age-appropriate manner. For young people, this typically involves non-invasive and reversible interventions, like the use of puberty blockers, coupled with socially acknowledging and accepting the youth's preferred gender expression.

As of June 2023, twenty states have banned gender-affirming medical surgery and medication for gender non-conforming youth, while another seven states are currently considering such bans. As a result, of the more than 300,000 gender non-conforming youth ages 13-17, 44% have lost access to or are at risk of losing access to gender-affirming care because they live in states with discriminatory laws and policies. Additionally, some states, such as Oklahoma, Texas, and South Carolina, have considered banning care for gender non-conforming people up to 26 years of age.

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Click [here](#) for a map of U.S. States that ban gender affirming care for gender non-conforming youth



Click [here](#) to learn more about the concepts of gender, sex, and sexual orientation

³ <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf>

⁴ <https://www.hrc.org/resources/attacks-on-gender-affirming-care-by-state-map>

While a lot of the focus in the media has been on the impact of these bans on children and youth, these laws also impact gender non-conforming adults. For example, a 2019 report by the Williams Institute estimated that among the 1.4 million transgender adults living in the United States, approximately 152,000 had Medicaid coverage. While many state Medicaid programs cover some aspects of gender-affirming health services, there is considerable variation in coverage for specific services, and some states do not have policies addressing coverage in their state Medicaid programs, potentially leaving many low-income gender non-conforming individuals without access to medically necessary health services.⁵ Moreover, some states have recently moved to implement or consider actions aimed at limiting access to gender-affirming health care, including restrictions on coverage of benefits as well as bans on the provision of gender-affirming care by health care providers.

In addition, many of these bans go beyond restricting access to health care services, sometimes restricting access to other public services and facilities. Some states are proposing and implementing legislation that could prevent gender non-conforming individuals from accessing domestic violence and homeless shelters. These services are already challenging for gender non-conforming individuals to access due to stigma, bias, and inequities embedded within these systems.⁶ Moreover, veiled behind the rhetoric of protecting children, a significant portion of currently proposed anti-transgender legislation effectively prohibits gender non-conforming individuals from participating in public life. It denies them access to crucial resources and subjects them to heightened policing and criminalization. Below, we highlight a few of these implications.

⁵ <https://www.kff.org/womens-health-policy/issue-brief/update-on-medicaid-coverage-of-gender-affirming-health-services/>. See also: <https://www.kff.org/report-section/update-on-medicaid-coverage-of-gender-affirming-health-services-appendices/> Stating specifically that only two of the 41 states who responded to a survey, Maine and Illinois, reported covering surgery, hormone therapy, voice/communication therapy, fertility, and mental health services. Two states, Alabama, and Texas, reported they do not cover any of these services under Medicaid.

⁶ See, e.g., Apsani (2018), <https://doi.org/10.15779/Z38125Q91G>; Guadalupe-Diaz & Jasinski (2016), <https://doi.org/10.1177/1077801216650288>; Calton, et al. (2015), <https://doi.org/10.1177/1524838015585318>.

POTENTIAL IMPACTS OF BANS ON GENDER AFFIRMING CARE FOR GENDER NON-CONFORMING SURVIVORS OF DATING VIOLENCE AND DOMESTIC VIOLENCE

Gender non-conforming survivors face unique barriers in accessing services and supports, which may be further exacerbated by emerging anti-transgender legislation. Gender non-conforming survivors may be impacted by gender affirming care bans in the following ways:



Mental Health

Gender non-conforming survivors of domestic violence may already experience significant psychological distress due to the abuse they have endured. Denying them access to gender affirming care can exacerbate their mental health challenges, increasing feelings of dysphoria, anxiety, depression, and trauma.



Autonomy and Empowerment

Gender affirming care plays a crucial role in allowing gender non-conforming individuals to align their physical appearance with their gender identity, promoting a sense of self-affirmation and empowerment. Bans on such care can undermine survivors' autonomy, limiting their ability to heal and reclaim control over their bodies and identities.



Healing and Recovery

Gender affirming care can be an integral part of the healing and recovery process for gender non-conforming survivors of domestic violence. It enables them to rebuild their self-esteem, improve body image, and regain a sense of agency after experiencing trauma. Denying access to these treatments can impede their recovery journey.



Safety and Well-being

Gender non-conforming survivors who require gender affirming care may face increased risks if denied access. In some cases, the inability to access appropriate medical interventions can contribute to their vulnerability, making it harder for them to establish safety and find stability after leaving an abusive environment. The restriction on gender non-conforming individuals accessing certain facilities such as domestic violence shelters further threatens survivor safety. For example, in Kentucky, SB 180 mandates “distinctions between the sexes with respect to...domestic violence shelters [and] rape crisis centers.”

POTENTIAL IMPACTS OF GENDER AFFIRMING CARE BANS FOR GENDER NON-CONFORMING YOUTH IN THE CHILD WELFARE SYSTEM

Bans on gender-affirming care can have diverse implications within child welfare systems, especially concerning gender non-conforming youth. Access to gender-affirming care is crucial for their healthy development and overall well-being. Potential implications include:

- **Access to Care:** Access to appropriate healthcare is already a challenge for gender non-conforming youth within the child welfare system. The presence of bans on gender-affirming care can exacerbate this issue, restricting their access to essential medical interventions. Such limitations may have adverse effects on their mental health and hinder their identity development.
- **Disruption of Treatment:** Gender non-conforming youth already receiving gender affirming care may face interruptions or discontinuation of treatment due to legal restrictions. This can be detrimental to their progress and may exacerbate existing dysphoria or distress.

⁷<https://legiscan.com/KS/text/SB180/id/2780011>

- **Well-being and Placement Stability:** When child welfare agencies are involved in the care of gender non-conforming youth, it is essential to prioritize their well-being and placement stability. A ban on gender affirming care can impact decisions about their placement and may contribute to a lack of culturally competent and affirming foster care or residential settings.
- **Legal and Ethical Considerations:** Child welfare agencies may face legal and ethical dilemmas when bans on gender affirming care conflict with their duty to act in the best interest of the child. Balancing the child's rights to appropriate medical care and societal expectations can be challenging for these agencies.
- **Redefining Child Abuse:** In some states, bans on gender affirming care have further defined the actions of parents who seek such care for their gender non-conforming children as child abuse. In Texas, for example, Governor Abbott instructed the Attorney General's Office to investigate cases of gender-affirming care as child abuse.⁸ This could result in unnecessary foster care placements and inflicting the trauma of removal from a supportive family onto gender non-conforming youth.

POTENTIAL IMPACTS OF GENDER AFFIRMING CARE BANS IN CHILD CUSTODY DISPUTES



⁸<https://www.nytimes.com/2022/02/23/science/texas-abbott-transgender-child-abuse.html>

Child custody cases are another arena where gender affirming care bans may have a negative impact on the well-being of gender non-conforming children. Some of the ways in which gender affirming care bans could impact custody cases include:

- ***Disruption of Continuity of Care:*** Even if both parents are supportive of their child receiving gender affirming care, such as hormone therapy, prior to the custody proceedings, a ban on such care can disrupt their ongoing treatment in cases where one parent lives in a state that bans the practice. This can lead to physical discomfort, emotional distress, and a regression in their gender identity development.
- ***Parental Disputes:*** In custody cases where one parent supports gender affirming care while the other opposes it, bans on gender affirming care may intensify disagreements and conflicts. The differing views on appropriate medical interventions can become a point of contention, potentially influencing custody decisions and creating additional stress for the gender non-conforming youth.
- ***Child's Best Interest:*** Custody proceedings are typically guided by the principle of determining the child's best interest. Bans on gender affirming care can complicate this determination, as it may involve weighing the child's need for appropriate medical care against a parent's objections or beliefs. Additionally, when deciding what is in the best interest of the child, courts could be forced to weigh a child's physical and psychological well-being against these narrowly defined laws.
- ***Legal Precedent and Inconsistencies:*** The existence of bans on gender affirming care in a jurisdiction can create legal precedents and influence custody determinations. Inconsistencies among different jurisdictions can further complicate matters, as custody outcomes may differ based on the geographical location and prevailing laws.
- ***Emotional Impact on the Child:*** Custody battles can be emotionally challenging for any child involved. For gender non-conforming youth, the additional stress of potential restrictions on their gender affirming care can negatively impact their emotional well-being, exacerbating feelings of marginalization, anxiety, and uncertainty about their future.

Conclusion

It is crucial for healthcare providers, domestic violence support services, and policymakers to recognize and address the unique needs of gender non-conforming survivors. Access to gender affirming care should be considered an essential component of comprehensive support services for these individuals, facilitating their healing, well-being, and empowerment.

To ensure the well-being of gender non-conforming youth within the child welfare system, inclusive and affirming policies and practices that respect their gender identity are crucial. Collaboration among child welfare agencies, healthcare providers, and advocacy organizations is essential to address these complex intersections and meet the rights and needs of gender non-conforming youth.

In custody proceedings, it is vital for courts and legal systems to consider the specific well-being and needs of gender non-conforming youth, particularly when parents have differing views on appropriate care. Recognizing the significance of gender affirming care and consulting relevant medical professionals can lead to a more comprehensive assessment of what is in the child's best interest.





NATIONAL CENTER TO ADVANCE PEACE for Children, Youth, and Families

The National Center to Advance Peace for Children, Youth, and Families (NCAP), is a coalition led by Caminar Latino-Latinos United for Peace and Equity and includes Ujima: National Center on Violence Against Women in the Black Community, the Alaska Native Women's Resource Center, the National Indigenous Women's Resource Center, and Futures Without Violence.



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