



**NATIONAL  
WOMEN'S  
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# **Our Bodies, Our Futures: Connecting Abortion Rights and Trans and Intersex Rights**

The gender equity and reproductive rights movements are committed to ensuring that people of all genders can access the health care they need to protect their health and make their own decisions about their bodies and their futures. The ability to make these decisions and access the health care people need is fundamental to gender equity, equality, and justice.

This is a critical moment. The Supreme Court has just overturned *Roe v. Wade* and declared that there is no constitutional right to abortion, overturning nearly 50 years of precedent that allowed people to make this fundamental decision about their bodies, lives, and futures.<sup>1</sup> States across the country are banning abortion and people are losing access to basic, necessary health care. The Court's decision also threatens other fundamental rights that have protected other health care decisions and LGBTQ+ equality.<sup>2</sup>

At the same time, enforcing gender conformity by limiting transgender and intersex youth's health care options is fast becoming a priority for the same anti-abortion politicians and organizations that are conspiring to end access to abortion. The same extreme organizations are funding, backing, and fighting in court to block patients from accessing both abortion and gender affirming care—while promoting sterilizing and “normalizing” surgeries on intersex infants and children.<sup>3</sup>

## **Banning abortion care harms people of all genders**

People of all genders need reproductive health care—banning abortion means everyone who needs that care will face the untenable situation of either having to travel out-of-state to get the care they need—which comes with high costs and logistical difficulties—or being forced to carry a pregnancy to term, with lifelong effects.<sup>4</sup> Just one month after the Court took away the guaranteed nationwide right to abortion, 43 abortion clinics across 11 states have stopped providing abortion care,<sup>5</sup> with a total of 26 states poised to make abortion illegal.<sup>6</sup> And because family planning and abortion care providers increasingly are providing gender-affirming care, including hormone therapy for their transgender patients,<sup>7</sup> shutting these clinics down means transgender patients may lose access to critical gender-affirming care, among other reproductive health care that these clinics provide.

## Banning gender affirming care takes away critical decisions from transgender youth

Gender-affirming care—like access to hormone therapy and puberty blockers—is critical for transgender youth. For many transgender youth, access to puberty blockers, as prescribed by their providers, is essential to preserving their ability to control their own futures. Having this access can delay irreversible changes from puberty—changes that can be extremely distressing and have permanent effects on their mental health<sup>8</sup>—and allow youth and their families and providers to decide what sort of puberty is right for them. This also gives youth more time to consider their reproductive futures and options—including fertility preservation options if they later need treatment that could affect their fertility.

The extreme politicians and groups that have sought to ban abortion care are now making an unprecedented drive to ban access to puberty blockers and hormone therapy for transgender youth. These bans were introduced in at least 19 states so far in 2022 and over 20 states in 2021, as well as in Congress.<sup>9</sup> As of August 2022, three states—Arizona, Arkansas, and Alabama—have enacted bans on some or all gender-affirming medical care for trans youth, going against medical best practices.<sup>10</sup> Two other states, Florida and Texas, have announced administrative policies that seek to do the same. One of those bills—Arkansas HB 1570—became law (Act 626), and makes it illegal for doctors to provide, or refer for, gender affirming care for transgender teens.<sup>11</sup> Arkansas doctors who provide this care—in accordance with medical standards of care supported by the American Medical Association and American Academy of Pediatrics<sup>12</sup>—could lose their license under this law. While Arkansas’ law is currently blocked by court order, litigation continues.<sup>13</sup>

Politicians are also threatening families that support their children in seeking gender-affirming medical treatments. Texas Attorney General Ken Paxton in February 2022 released a nonbinding legal opinion arguing that gender-affirming surgery constitutes “child abuse.”<sup>14</sup> In an accompanying directive, Governor Abbott asked the Texas Department of Family Protective Services (DFPS) to investigate instances of families seeking gender-affirming surgery.<sup>15</sup> The directive also calls on other state agencies to investigate medical professionals who provide gender affirming care.<sup>16</sup> Further, the directive says that such gender-affirming care is illegal, and requires licensed professionals, including doctors, nurses, and teachers, to report violations, or risk criminal penalties.<sup>17</sup> Families and advocates for

trans youth—including PFLAG, an organization dedicated to supporting LGBTQI+ people and their families—quickly filed suit against the directive, asking the court to block state investigations of families in Texas who are supporting transgender youth with medically necessary care.<sup>18</sup> As of this writing, a court blocked DFPS from investigating PFLAG families who are supporting their trans children.<sup>19</sup>

In Texas and in Arkansas, these efforts have had an immediate and detrimental effect on transgender youth, on families, on providers, and on all who support them. Families and providers are having to make difficult decisions to keep themselves and their communities safe. In both Texas and Arkansas and other states with restrictions on access to transgender youth healthcare, like Florida, Alabama, and Arizona, several families have moved or have made plans to leave the state and move to states with more protections for their transgender children.<sup>20</sup> But for many, moving out of state is not a financially or logistically viable option.<sup>21</sup> And for those who live in states that are hostile to transgender youth health care, gender affirming care bans are forcing families to travel to other states—and sometimes hundreds of miles, for multiple visits—to obtain the care they need.<sup>22</sup> The bans have also had immediate effects on mental health, with parents, providers, and crisis hotlines reporting sharp upticks of youth in crisis.<sup>23</sup> Providers specializing in caring for transgender youth are also facing professional and legal uncertainty as proposed bills loom in their states.<sup>24</sup>

## Legislation approving surgeries on intersex infants and children harms their autonomy and bodily integrity

Millions of Americans are born with differences in sex traits or reproductive anatomy, also known as variations in sex characteristics or intersex traits.<sup>25</sup> These normal, healthy variations in human development are only rarely related to immediate health concerns. Yet, “normalizing” surgeries are often performed to alter the genitals or remove the gonads of these children, absent medical necessity. These procedures typically occur before age two—an age where they are unable to consent, assent, or play any meaningful role in decisions that may have lifelong impacts on health and fertility.<sup>26</sup> There is a better alternative: letting intersex kids grow up until they are old enough to say for themselves if their bodies need changing. Yet parents are often urged to consent to these procedures quickly in early childhood, without full information on the risks, or the potential benefits of waiting.<sup>27</sup>

A recent report from the National Academies of Science, Engineering, and Medicine concluded that “elective genital surgeries on children with intersex traits who are too young to participate in consent are dangerous to the[ir] health and well-being.”<sup>28</sup> These practices needlessly strip young children of their autonomy around future reproductive decisions—and in some cases, may violate children’s bodily integrity by subjecting them to genital mutilation and involuntary sterilization.<sup>29</sup> Medical associations<sup>30</sup> and global human rights bodies<sup>31</sup> have called to end these practices, and several major hospitals have recently moved to prohibit them.<sup>32</sup>

Yet, even though early “normalizing” surgeries are increasingly controversial, extremist politicians are seeking to enshrine them in law. These harmful provisions advocating for sterilizing surgeries on intersex children are written into the very state and federal bills that seek to ban gender affirming care for transgender youth, including all three enacted state laws.<sup>33</sup> Thus, these laws would simultaneously *promote practices that limit* intersex youth’s decisions about their bodies and futures, while *banning health care that enables* those same decisions for transgender youth. The passage of Arkansas Act 626 has emboldened state legislatures across the country to consider and pass similar laws. The same day that Act 626 became law, North Carolina politicians introduced a similar bill.<sup>34</sup>

## Protecting personal decisions and people’s own self-determined futures

These simultaneous legislative and legal battles over abortion access and the health care rights of transgender and intersex youth center on the same fundamental rights to personal autonomy and gender equality—ultimately, to people controlling their own destinies. Gender equity and reproductive rights movements must work together with LGBTQI+ communities to protect these rights for all people, resisting all attempts to strip people of these decisions and allow someone else to force their vision on people of all genders.

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