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Authors

Mallory, Christy

Redfield, Elana

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RESEARCH THAT MATTERS

THE IMPACT OF 2023 LEGISLATION ON TRANSGENDER YOUTH

OCTOBER 2023

Christy Mallory
Elana Redfield

EXECUTIVE SUMMARY

The legal landscape for transgender youth shifted significantly in 2023. Nearly 500 pieces of legislation restricting the rights of LGBTQ people were introduced in state legislatures this year.¹ Over half of these bills specifically targeted transgender youth.² Although most of these bills did not pass, state legislatures enacted new laws that impact transgender youth across the country in a variety of ways.³

At the same time, a number of states moved toward creating a more supportive and accepting environment for transgender youth. In these states, legislatures and governors enacted laws and policies that support access to health care and ban harmful practices.⁴

This report estimates the number of transgender youth ages 13-17 who are impacted by five types of laws and policies that gained traction across several states in 2023.⁵ These laws and policies include those that restrict the rights of transgender youth—gender-affirming care bans, bans on sports participation, and bathroom bans—and those that support transgender youth—gender-affirming care “shield” laws and conversion therapy bans.⁶

KEY FINDINGS

- 105,200 transgender youth—about one-third of transgender youth in the U.S.—live in states that ban access to gender-affirming care.
 - 92,700 transgender youth ages 13-17 live in states that passed laws banning access to gender-affirming care in 2023.
 - 26,000 transgender youth live in states with gender-affirming care bans that cannot currently be enforced due to court orders.
- 101,500 transgender youth—about one-third of transgender youth in the U.S.—live in states that restrict access to school sports for transgender students.

¹ *Mapping Attacks on LGBTQ Rights in State Legislatures*, ACLU, <https://www.aclu.org/legislative-attacks-on-lgbtq-rights> (last visited Aug. 25, 2023).

² *Id.*

³ *Id.*

⁴ See e.g., *Conversion “Therapy” Laws*, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/conversion_therapy (last visited Aug. 25, 2023); *Transgender Healthcare “Shield” Laws*, MOVEMENT ADVANCEMENT PROJECT, https://www.lgbtmap.org/equality-maps/healthcare/trans_shield_laws (last visited Aug. 25, 2023).

⁵ To estimate the number of youth impacted, we rely on state level estimates of the number of transgender youth ages 13-17 published in the Williams Institute report, *How Many Adults and Youth Identify as Transgender in the United States?* We are unable to estimate the impact of these laws on youth younger than age 13 because the data sources used to create these estimates do not survey children below age 13. JODY L. HERMAN, ANDREW R. FLORES, & KATHRYN K. O’NEILL, WILLIAMS INST., *HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES?* (2022).

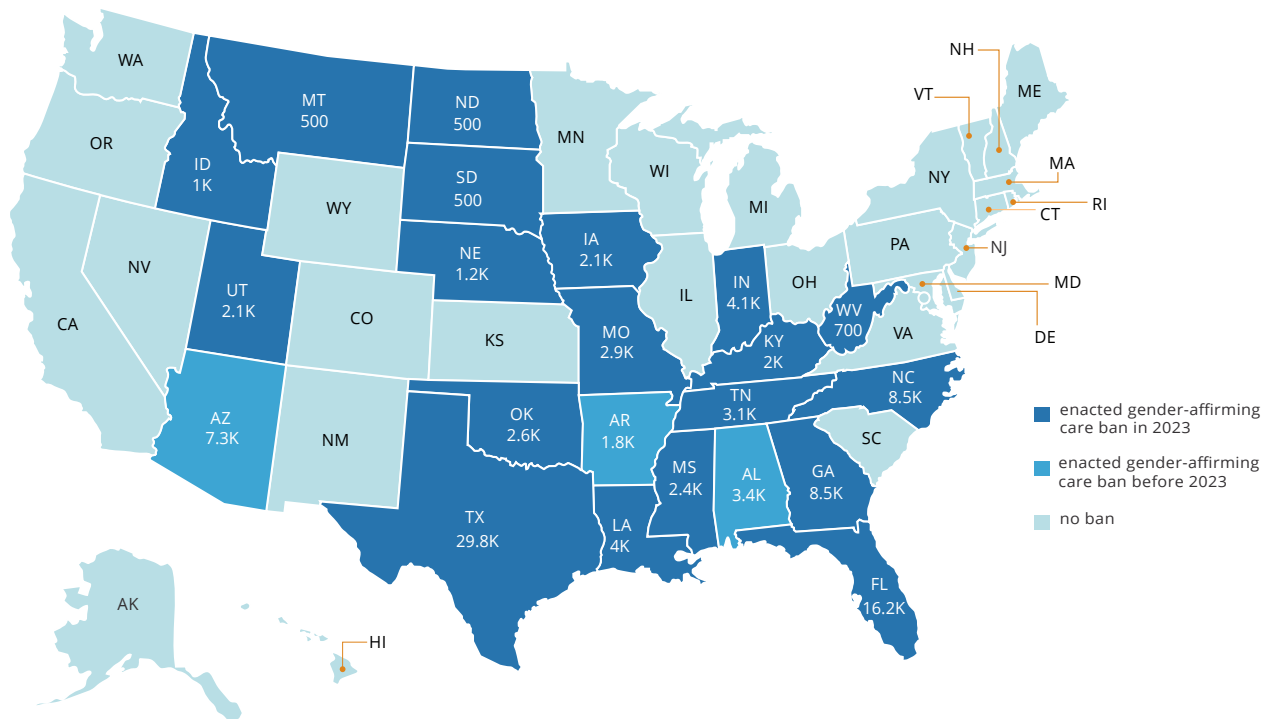
⁶ Many states considered or passed other types of laws and policies that impact transgender, and LGBTQ youth more broadly, in 2023. This brief estimates only the impact of the five types of laws and policies listed here; it is not intended to provide a comprehensive look at all forms of legislation and policymaking that has impacted transgender youth over the past year.

- 14,200 transgender youth ages 13-17 live in states that passed laws restricting access to school sports for transgender students in 2023.
- 11,100 transgender youth live in four states with sports participation bans that cannot currently be enforced due to court orders.
- 32,700 transgender youth live in states that ban transgender students from using school bathrooms and other facilities that align with their gender identity.
 - 23,600 transgender youth ages 13-17 live in states that passed laws banning transgender students from using school bathrooms and other facilities that align with their gender identity in 2023.
- 146,700 transgender youth—about half of transgender youth in the U.S.—live in states with gender-affirming care “shield” laws.
 - 88,000 transgender youth ages 13-17 live in states that passed gender-affirming care “shield” laws in 2023.
- 198,000 transgender youth—about two-thirds of transgender youth in the U.S.—live in states with conversion therapy bans.
 - 21,800 transgender youth ages 13-17 live in states that passed conversion therapy bans in 2023.

LAWS THAT RESTRICT THE RIGHTS OF TRANSGENDER YOUTH

GENDER-AFFIRMING CARE BANS

Gender-affirming care bans generally restrict access to care by imposing penalties on physicians who prescribe or administer gender-affirming medical treatment to youth. The penalties range from disciplinary action by a state licensing board, including revocation of a medical license, to felony charges, which can carry a prison sentence.⁷ Most of these laws ban access to a range of treatments, including puberty blockers, hormones, and surgical care, which are considered best-practice medical care for transgender youth by major medical associations in the U.S.⁸



⁷ For a more detailed description of the penalties imposed by these laws, see Christy Mallory, Madeline G. Chin & Justine C. Lee, *Legal Penalties for Physicians Providing Gender-Affirming Care*, 329 JAMA 1921 (2023); ELANA REDFIELD ET AL., WILLIAMS INST., PROHIBITING GENDER-AFFIRMING MEDICAL CARE FOR YOUTH (2023), <https://williamsinstitute.law.ucla.edu/publications/bans-trans-youth-health-care/>.

⁸ *Id.*

Twenty-two states have laws that ban access to gender-affirming care for transgender youth.⁹ An estimated 105,200 transgender youth ages 13-17 live in these states.¹⁰ This is about one-third of transgender youth in the U.S.¹¹

STATE	TRANS YOUTH POPULATION
Alabama	3,400
Arizona	7,300
Arkansas	1,800
Florida	16,200
Georgia	8,500
Idaho	1,000
Indiana	4,100
Iowa	2,100
Kentucky	2,000
Louisiana	4,000
Mississippi	2,400
Missouri	2,900
Montana	500
Nebraska	1,200
North Carolina	8,500
North Dakota	500
Oklahoma	2,600
South Dakota	500
Tennessee	3,100
Texas	29,800
Utah	2,100
West Virginia	700
Total	105,200

Nineteen gender-affirming care bans—all but three—were passed in 2023.¹² An estimated 92,700 transgender youth live in these states.

⁹ HEALTHCARE LAWS AND POLICIES: BANS ON BEST PRACTICE MEDICAL CARE FOR TRANSGENDER YOUTH, MOVEMENT ADVANCEMENT PROJECT (2023), <https://www.lgbtmap.org/img/maps/citations-youth-medical-care-bans.pdf>. While Nebraska has a state-level law that bans access to care, the Nebraska Department of Health and Human Services has issued guidance that allows some minors to receive care if certain requirements are met. Though this rule could preserve access to care for many youth, we have included the state in the group of states with statutory bans on care due to the state-level statute that is still in place. NEB. DEP'T OF HEALTH & HUM. SCVS., 181 NEB. ADMIN. CODE 8 § 001 ET SEQ. (2023).

¹⁰ Two states, Alabama and Nebraska, prohibit access to gender-affirming care for young people up to and including age 18. While this report is focused on the impact of recent legislation on transgender youth ages 13-17, a prior Williams Institute report estimated that 700 transgender eighteen-year-olds live in Alabama (4,100 transgender young people between pages 13-18 live in the state) and 300 transgender eighteen-year-olds live in Nebraska (1,500 transgender young people between ages 13-18 live in the state). *Id.* at 4-5; REDFIELD ET AL. *supra* note 7.

¹¹ HERMAN ET AL., *supra* note 5.

¹² *Id.* at 7.

2023 STATE BANS	TRANS YOUTH POPULATION
Florida	16,200
Georgia	8,500
Idaho	1,000
Indiana	4,100
Iowa	2,100
Kentucky	2,000
Louisiana	4,000
Mississippi	2,400
Missouri	2,900
Montana	500
Nebraska	1,200
North Carolina	8,500
North Dakota	500
Oklahoma	2,600
South Dakota	500
Tennessee	3,100
Texas	29,800
Utah	2,100
West Virginia	700
Total	92,700

As of October 2023, bans in five states are unenforceable under court orders. These states are Alabama, Arkansas, Florida, Indiana, and Montana.¹³ Courts in four of these states (Arkansas, Florida, Indiana, and Montana) have held that the bans likely violate the federal or state constitutions.¹⁴ Alabama's ban is not currently enforceable under procedural rules, although the Eleventh Circuit Court of Appeals issued a decision reinstating the ban in August 2023.¹⁵ As a result, states are prohibited from taking action under these laws as the cases proceed through the judicial system. These court orders preserve access to gender-affirming care for an estimated 26,000 transgender youth who live in these five states.

¹³ Brandt v. Rutledge, No. 4:21CV00450 JM, 2023 U.S. Dist. LEXIS 106517 (E.D. Ark. June 20, 2023); Doe v. Ladapo, No. 4:23cv114-RH-MAF, 2023 U.S. Dist. LEXIS 99603 (N.D. Fla. June 6, 2023); K.C. v. Individual Members of the Medical Licensing Bd. of Ind., No. 1:2023cv00595 (S.D. Ind. June 16, 2023) (does not apply to surgical care); Van Garderen v. Montana, No. DV-23-541 (4th Judicial Dist. Mont. Sept. 27, 2023). A state district court in Texas also issued a preliminary injunction against the state's ban, holding that it likely violated the Texas constitution. However, the decision has been appealed, and under Texas law, the injunction is stayed during the appellate process, allowing the ban to go back into effect. Loe v. Texas, No. D-1-GN-23-003616 (Judicial Dist. Aug. 25, 2023); Press Release, Ken Paxton, Tex. Atty. Gen., Office of the Attorney General Files Appeal to Texas Supreme Court, Blocking District Judge's Ruling and Upholding Protections for Children from "Gender Transition" Procedures (Aug. 25, 2023), <https://www.texasattorneygeneral.gov/news/releases/office-attorney-general-files-appeal-texas-supreme-court-blocking-district-judges-ruling-and>.

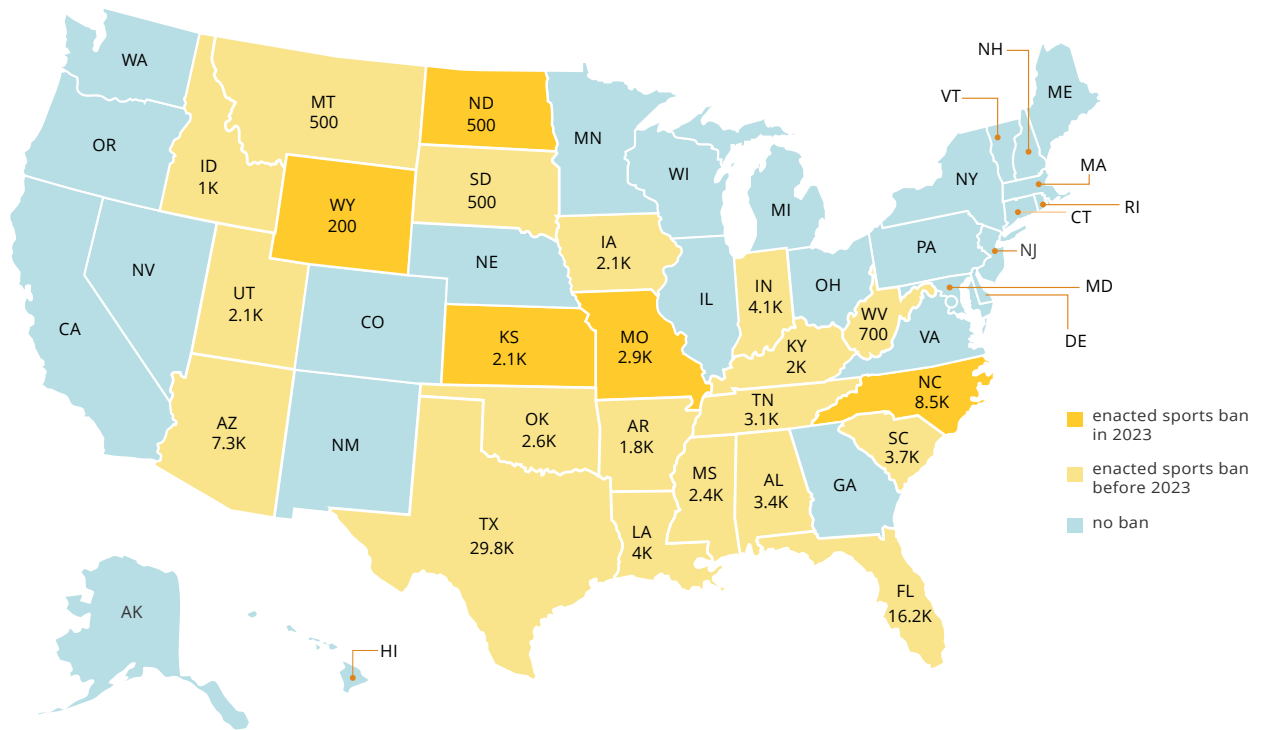
¹⁴ *Id.*

¹⁵ The Eleventh Circuit has been asked to rehear the case en banc. The lower court's preliminary injunction will remain in place until the full Eleventh Circuit decides whether or not it will rehear the case. Eknes-Tucker v. Ala. Gov., No. 22-11707, 2023 U.S. App. LEXIS 21942 (11th Cir. Aug. 21, 2023); Eknes-Tucker v. Marshall, 603 F.Supp.3d 1131 (MD. Ala. 2022).

UNENFORCEABLE	TRANS YOUTH POPULATION
Alabama	3,400
Arkansas	1,800
Florida	16,200
Indiana	4,100
Montana	500
Total	26,000

BANS ON SPORTS PARTICIPATION FOR TRANSGENDER YOUTH

Laws regulating access to sports prohibit transgender students from participating on school sports teams consistent with their gender identity. All of these bans prohibit transgender girls and women from participating on girls’ and women’s teams, and a few also prohibit transgender boys and men from participating on boys’ and men’s teams.¹⁶ Most of these bans are broad, prohibiting participation in K-12 sports as well as collegiate sports.¹⁷ Some states have enacted more limited bans, which do not restrict participation in lower grade levels.¹⁸



Twenty-three states have laws that restrict access to sports for transgender students.¹⁹ An estimated

¹⁶ For a more detailed overview of these bans, see Williams Institute Scholars, Comment Letter on Proposed Rule Re: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance: Sex-Related Eligibility Criteria for Male and Female Athletic Teams, 88 Fed. Reg. 22,860 (April 13, 2023), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Comment-Title-IX-Sports-May-2023.pdf>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ MOVEMENT ADVANCEMENT PROJECT, LGBTQ YOUTH: BANS ON TRANSGENDER YOUTH PARTICIPATION IN SPORTS 2 (2023), <https://>

101,500 transgender youth ages 13-17 live in these states.²⁰ This is about one-third of transgender youth in the U.S.²¹

STATE	TRANS YOUTH POPULATION
Alabama	3,400
Arizona	7,300
Arkansas	1,800
Florida	16,200
Idaho	1,000
Indiana	4,100
Iowa	2,100
Kansas	2,100
Kentucky	2,000
Louisiana	4,000
Mississippi	2,400
Missouri	2,900
Montana	500
North Carolina	8,500
North Dakota	500
Oklahoma	2,600
South Carolina	3,700
South Dakota	500
Tennessee	3,100
Texas	29,800
Utah	2,100
West Virginia	700
Wyoming	200
Total	101,500

Five of these laws were passed in 2023.²² An estimated 14,200 transgender youth live in these states.

2023 STATE BANS	TRANS YOUTH POPULATION
Kansas	2,100
Missouri	2,900
North Carolina	8,500
North Dakota	500
Wyoming	200
Total	14,200

www.lgbtmap.org/img/maps/citations-sports-participation-bans.pdf.

²⁰ This report does not consider the impact of these laws on young transgender adults who may be impacted by collegiate-level bans.

²¹ HERMAN ET AL., *supra* note 5.

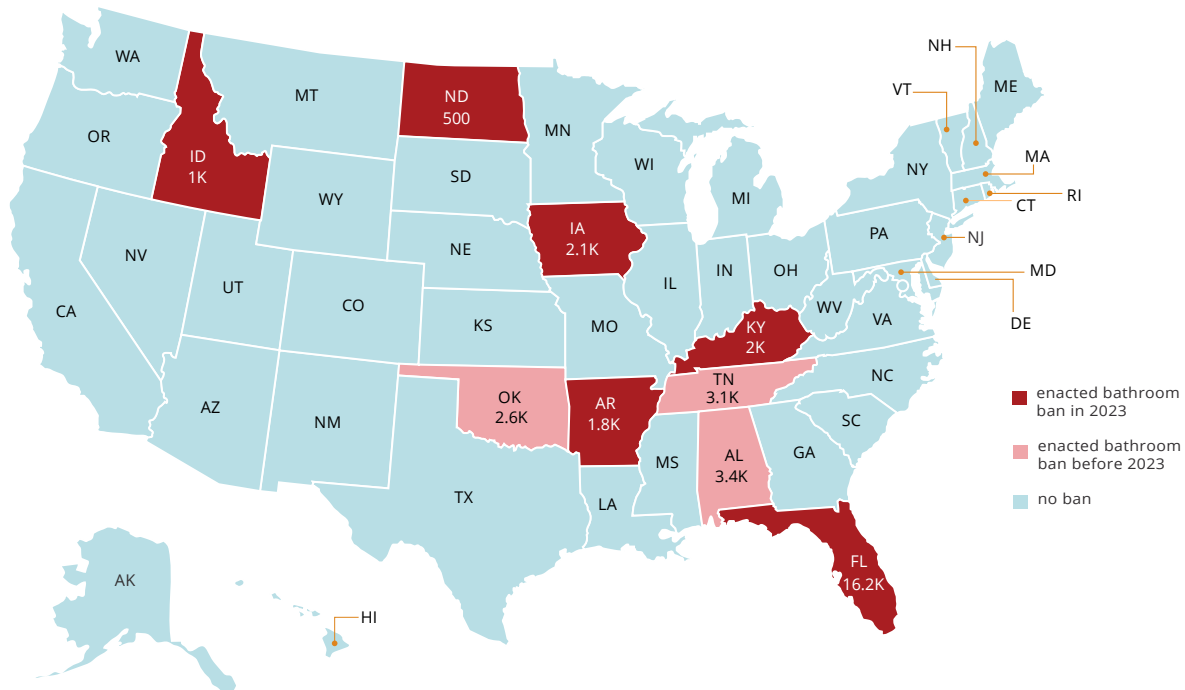
²² *Id.*

As of October 2023, bans in four states cannot be enforced in high school sports under court orders.²³ These states are Arizona, Idaho, Utah, and West Virginia. Courts in these states, where bans have been challenged through litigation, have held that the laws are likely unconstitutional and violate Title IX of the Education Amendments of 1972.²⁴ As a result, states are prohibited from taking action under the laws as the cases proceed through the judicial system. These court orders preserve access to school sports for 11,100 transgender youth ages 13-17 who live in these four states.

UNENFORCEABLE	TRANS YOUTH POPULATION
Arizona	7,300
Idaho	1,000
Utah	2,100
West Virginia	700
Total	11,100

SCHOOL BATHROOM BANS

Laws restricting access to bathrooms and other shared facilities prohibit transgender people from using sex-segregated facilities that align with their gender identity.²⁵ Most of these laws apply only to bathrooms and facilities in K-12 schools, but some further restrict access in colleges and other



²³ Doe v. Horne, No. CV-23-00185-TUC-JGZ, 2023 U.S. Dist. LEXIS 125488 (July 20, 2023 D. Ariz.); Hecox v. Little, 479 F.Supp.3d 930 (D. Idaho 2020), *aff'd* Hecox v. Little, No. 20-35813, 2023 U.S. App. LEXIS 21541 (9th Cir. 2023); Roe v. Utah High School Activities Assoc., No. 220903262 (Judicial Dist. Aug. 19, 2022) (finding that the ban likely violates the state constitution); B.P.J. v. W.V. State Bd. of Educ., No. 23-1078, 2023 U.S. App. LEXIS 8379 (4th Cir. 2023) (staying an order of the district court which dissolved its earlier injunction, effectively halting enforcement pending appeal).

²⁴ *Id.*

²⁵ MOVEMENT ADVANCEMENT PROJECT, NONDISCRIMINATION/LGBTQ YOUTH: BANS ON TRANSGENDER PEOPLE’S USE OF BATHROOMS AND FACILITIES 2 (2023), <https://www.lgbtmap.org/img/maps/citations-bathroom-facilities-bans.pdf>.

government-owned buildings.²⁶

Nine states have laws that restrict access to bathrooms and other facilities consistent with gender identity in K-12 schools.²⁷ An estimated 32,700 transgender youth ages 13-17 live in these states.

STATE	TRANS YOUTH POPULATION
Alabama	3,400
Arkansas	1,800
Florida	16,200
Idaho	1,000
Iowa	2,100
Kentucky	2,000
North Dakota	500
Oklahoma	2,600
Tennessee	3,100
Total	32,700

Most of these states—six states—enacted these bans in 2023. These bans impact an estimated 23,600 transgender youth who live in these six states.

2023 STATE BANS	TRANS YOUTH POPULATION
Arkansas	1,800
Florida	16,200
Idaho	1,000
Iowa	2,100
Kentucky	2,000
North Dakota	500
Total	23,600

LAWS THAT SUPPORT TRANSGENDER YOUTH

GENDER-AFFIRMING CARE “SHIELD” LAWS

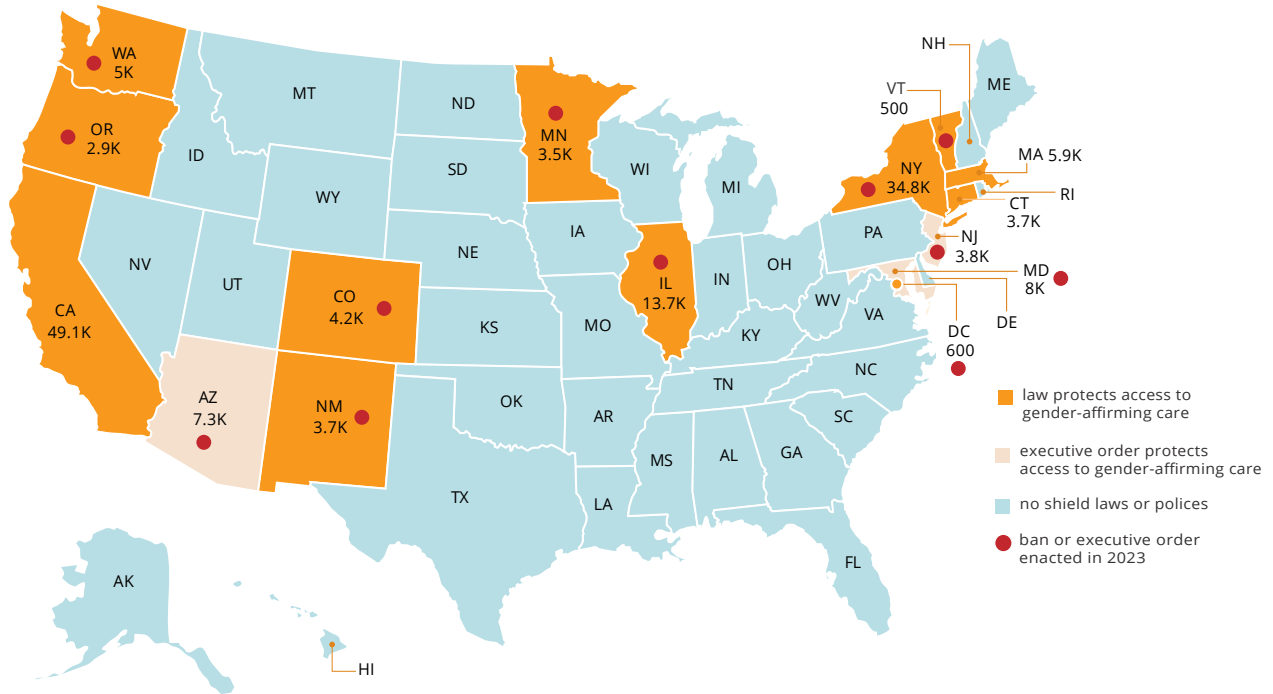
Gender-affirming care “shield” laws support access to care for transgender youth by protecting doctors and parents who prescribe or seek access to medical care for youth. The specific provisions of these laws and policies vary from state to state, but there are some common key provisions. Many of the laws and policies prohibit courts and law enforcement from participating in another state’s enforcement actions against physicians related to the provision of gender-affirming care, and prohibit health care providers and insurers from releasing medical records related to gender-affirming care in connection with an enforcement action.²⁸ Many also protect parents who seek care for their children

²⁶ *Id.*

²⁷ *Id.*

²⁸ See, e.g., Cal. S.B. 107, Gender-Affirming Health Care, 2021-2022 Sess. (2022); N.Y. S .2475B, 2023-2024 Reg. Sess. (2023).

within the state.²⁹ Some states also prohibit insurers and licensing entities in the state from taking adverse action against physicians seeking to practice medicine in the state based on out-of-state determinations.³⁰ For example, if a physician lost their license for providing gender-affirming care in a state that bans the practice, a “shield” law state cannot then use the outcome of that proceeding as grounds to deny in-state licensure.



Fourteen states and DC have “shield” laws or policies that support access to gender-affirming care for youth.³¹ In eleven of these states, state legislatures have enacted statutes that protect access to care; in three states, state governors have extended protections through executive orders.³² An estimated 146,700 transgender youth live in states with “shield” laws or policies. This is about half of transgender youth in the U.S.³³

STATES WITH LAWS	TRANS YOUTH POPULATION
California	49,100
Colorado	4,200
Connecticut	3,700
DC	600
Illinois	13,700

²⁹ See, e.g., Cal. S.B. 107, Gender-Affirming Health Care, 2021-2022 Sess. (2022); N.Y. S .2475B, 2023-2024 Reg. Sess. (2023).

³⁰ See, e.g., Mass. H. 5090, An Act Expanding Protections for Reproductive and Gender-Affirming Care, 192nd Gen. Ct. (2022); Or. H.B. 2002, 82nd Leg. Assemb., 2023 Reg. Sess. (2023).

³¹ MOVEMENT ADVANCEMENT PROJECT, HEALTHCARE LAWS AND POLICIES: “SHIELD” OR “REFUGE” LAWS PROTECTING ACCESS TO GENDER-AFFIRMING HEALTH CARE 3 (2023), <https://www.lgbtmap.org/img/maps/citations-trans-shield-laws.pdf>.

³² *Id.*

³³ HERMAN ET AL., *supra* note 5.

STATES WITH LAWS	TRANS YOUTH POPULATION
Massachusetts	5,900
Minnesota	3,500
New Mexico	3,700
New York	34,800
Oregon	2,900
Vermont	500
Washington	5,000
Total	127,600

STATES WITH EXECUTIVE ORDERS	TRANS YOUTH POPULATION
Arizona	7,300
Maryland	8,000
New Jersey	3,800
Total	127,600

Combined Total	146,700
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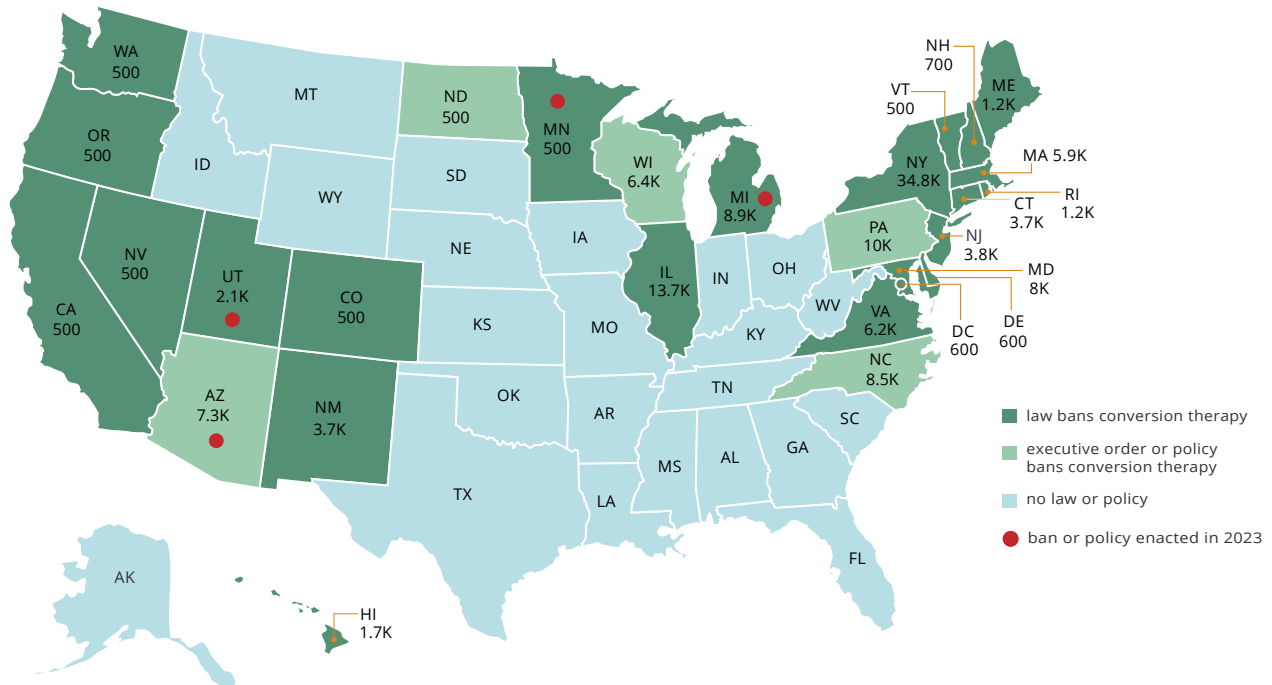
Most of these states—eleven states and D.C.—enacted “shield” laws and policies in 2023.³⁴ An estimated 88,000 transgender youth live in these states.

2023 STATE LAWS OR POLICIES	TRANS YOUTH POPULATION
Arizona	7,300
Colorado	4,200
DC	600
New Jersey	3,800
Illinois	13,700
Maryland	8,000
Minnesota	3,500
New Jersey	3,800
New Mexico	3,700
New York	34,800
Oregon	2,900
Vermont	500
Washington	5,000
Total	88,000

³⁴ *Id.* Note that Arizona has both a statutory law that prohibits physicians from providing gender-affirming surgical care to youth, which is considered a form of best-practice medical care, and a “shield” executive order. The executive order offers protections to physicians who provide gender-affirming care other than surgical care to minors, such as puberty blockers and hormones. The executive order does not override any statutory provisions. Ariz. Exec. Order No. 2023-12, Ensuring Access to Medically Necessary Health Care (June 27, 2023).

CONVERSION THERAPY BANS

Conversion therapy bans prohibit licensed mental health care providers from subjecting youth to practices that are intended to change their sexual orientation or gender identity. These laws generally allow state licensing boards to take disciplinary action against licensed providers who do not comply.³⁵ Some states also consider conversion therapy, when performed in exchange for money, a fraudulent business practice and allow for enforcement and penalties consistent with other state laws barring such practices.³⁶ In addition, some states have enacted partial bans on conversion therapy through executive orders or administrative policies.³⁷ Partial bans generally prohibit the use of state funds for conversion therapy or classify conversion therapy as unethical conduct in professional codes.³⁸



Twenty-seven states and DC ban or limit the use of conversion therapy through laws or policies.³⁹ Legislatures in 22 states and DC have enacted statutory bans on the practice.⁴⁰ In five other states, executive orders or administrative policies limit the use of conversion therapy.⁴¹ An estimated 198,000

³⁵ For a more detailed analysis of conversion therapy bans, see CHRISTY MALLORY, TAYLOR N.T. BROWN & KERITH J. CONRON, WILLIAMS INST., *CONVERSION THERAPY AND LGBT YOUTH* (2019), <https://williamsinstitute.law.ucla.edu/publications/conversion-therapy-and-lgbt-youth/>.

³⁶ *Id.*

³⁷ See e.g., Ariz. Exec. Order No. 2023-13, Protecting Young People from Conversion Therapy (June 27, 2023).

³⁸ *Id.*

³⁹ MOVEMENT ADVANCEMENT PROJECT, *LGBTQ YOUTH: CONVERSION “THERAPY” LAWS* (2023), <https://www.lgbtmap.org/img/maps/citations-conversion-therapy.pdf>.

⁴⁰ *Id.*

⁴¹ *Id.*

transgender youth live in states that ban or limit the practice of conversion therapy.⁴² This is about two-thirds of transgender youth in the U.S.⁴³

STATES WITH FULL BANS	TRANS YOUTH POPULATION
California	49,100
Colorado	4,200
Connecticut	3,700
Delaware	600
DC	600
Hawaii	1,700
Illinois	13,700
Maine	1,200
Maryland	8,000
Massachusetts	5,900
Michigan	8,900
Minnesota	3,500
New Hampshire	700
New Jersey	3,800
New Mexico	3,700
Nevada	3,300
New York	34,800
Oregon	2,900
Rhode Island	1,200
Utah	2,100
Vermont	500
Virginia	6,200
Washington	5,000
Total Full Bans	165,300

STATES WITH PARTIAL BANS	TRANS YOUTH POPULATION
Arizona	7,300
North Carolina	8,500
North Dakota	500
Pennsylvania	10,000
Wisconsin	6,400
Total Partial Bans	32,700

Combined Total	198,000
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⁴² Conversion therapy bans also protect LGBQ youth from conversion therapy. Those youth are not included in our estimates.

⁴³ HERMAN ET AL., *supra* note 5.

Four states banned or limited the practice of conversion therapy in 2023.⁴⁴ An estimated 21,800 transgender youth live in these states.

2023 STATE BANS	TRANS YOUTH POPULATION
Arizona	7,300
Michigan	8,900
Minnesota	3,500
Utah	2,100
Total Partial Bans	21,800

⁴⁴ *Id.*

CONCLUSION

A record number of laws impacting transgender youth were introduced in 2023. An estimated 96,800 transgender youth ages 13-17 live in states that restricted their access to health care, sports, or school bathrooms in 2023. Tens of thousands of transgender youth ages 13-17 who live in other states gained protections under state laws supporting access to gender-affirming care and banning conversion therapy this year.

AUTHORS

Christy Mallory, J.D., is the Legal Director at the Williams Institute.

Elana Redfield, J.D., is the Federal Policy Director at the Williams Institute.

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The Williams Institute, UCLA School of Law
Box 951476, Los Angeles, CA 90095-1476
williamsinstitute.law.ucla.edu

