Nondiscrimination: Defining “Sex” to Allow Discrimination Against Transgender and Nonbinary People

No updates required since February 5, 2024

What’s in this document (click to jump to that section)

Background ........................................................................................................................................ 2
Equality Map .................................................................................................................................... 2
Summary Table ................................................................................................................................... 2
Chronology ....................................................................................................................................... 3
State-by-State Sources and More Detail ............................................................................................ 3

To donate to support MAP’s work tracking these policies, click here: https://mapresearch.org/donate

Recommended citation:

1905 15th Street #1097 • Boulder, CO 80306-1097 • Phone: 1-844-MAP-8800 • Fax: 303-578-4602 • www.lgbtmap.org
Background

As part of a broader, coordinated attack on transgender people across the country, these newly emerging laws explicitly define “sex” throughout all state law to effectively allow discrimination against transgender people. These laws define sex as only male or female, typically based on a person’s presumed reproductive anatomy, chromosomes, hormones, or other physical characteristics at birth. These laws also define sex as a permanent category, implying that transgender people would never be legally recognized as their gender identity under state law. These laws could have dangerous implications for transgender people when it comes to bathrooms, identity documents, and other areas of law or policy, but because these sex definition laws are often vaguely written, their actual impact remains to be seen.

Equality Map & Additional Resources

- See our Equality Map: Defining “Sex” To Allow Discrimination Against Transgender People, which is updated and maintained in real time alongside this document.

- See MAP’s ongoing (2023) research series Under Fire: The War on LGBTQ People in America, for more on the broader, coordinated attack on LGBTQ and especially transgender people across the country—including the new wave of bills seeking to define “sex” in discriminatory ways.

Summary Table

<table>
<thead>
<tr>
<th>Category</th>
<th>States</th>
<th>Bill</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>State law explicitly defines “sex” to allow discrimination against transgender and nonbinary people (5 states)</td>
<td>Kansas</td>
<td>SB 180</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>Montana</td>
<td>SB 458</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>North Dakota</td>
<td>HB 1474</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>Tennessee</td>
<td>SB 1440</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>Utah</td>
<td>HB 257</td>
<td>2024</td>
</tr>
<tr>
<td>State executive order explicitly defines “sex” to allow discrimination against transgender and nonbinary people (2 state)</td>
<td>Nebraska</td>
<td>Executive Order No. 23-16</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>Oklahoma</td>
<td>Executive Order 2023-20</td>
<td>2023</td>
</tr>
<tr>
<td>No state law or policy explicitly defining “sex” to allow discrimination against transgender or nonbinary people (43 states, D.C., and 5 territories)</td>
<td>All others</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chronology

Order of Laws & Policies
(by date of governor signature or veto override; not by effective date)

2023
1. Kansas – SB180 – April 27, 2023 (effective July 1, 2023), overriding governor’s veto
2. North Dakota – HB1474 – May 8, 2023 (effective August 1, 2023)
3. Tennessee – SB1440 – May 17, 2023 (effective July 1, 2023)
4. Montana – SB458 – May 19, 2023 (effective October 1, 2023)
5. Oklahoma – Executive Order 2023-20 – August 1, 2023 (effective immediately)
6. Nebraska – Executive Order No. 23-16 – August 30, 2023 (effective immediately)

2024

State-by-State Sources & More Detail

Alabama
- State law does not define “sex” to allow discrimination against transgender people

Alaska
- State law does not define “sex” to allow discrimination against transgender people

Arizona
- State law does not define “sex” to allow discrimination against transgender people

Arkansas
- State law does not define “sex” to allow discrimination against transgender people

California
- State law does not define “sex” to allow discrimination against transgender people

Colorado
- State law does not define “sex” to allow discrimination against transgender people

Connecticut
- State law does not define “sex” to allow discrimination against transgender people

Delaware
- State law does not define “sex” to allow discrimination against transgender people
District of Columbia
- State law does not define “sex” to allow discrimination against transgender people

Florida
- State law does not define “sex” to allow discrimination against transgender people

Georgia
- State law does not define “sex” to allow discrimination against transgender people

Hawai’i
- State law does not define “sex” to allow discrimination against transgender people

Idaho
- State law does not define “sex” to allow discrimination against transgender people

Illinois
- State law does not define “sex” to allow discrimination against transgender people

Indiana
- State law does not define “sex” to allow discrimination against transgender people

Iowa
- State law does not define “sex” to allow discrimination against transgender people

Kansas
- State law defines “sex” throughout state law to allow discrimination against transgender people
- See SB180 (April 2023; effective July 1, 2023), overriding governor’s veto (April 20)

Kentucky
- State law does not define “sex” to allow discrimination against transgender people

Louisiana
- State law does not define “sex” to allow discrimination against transgender people

Maine
- State law does not define “sex” to allow discrimination against transgender people

Maryland
- State law does not define “sex” to allow discrimination against transgender people

Massachusetts
- State law does not define “sex” to allow discrimination against transgender people
Michigan
- State law does not define “sex” to allow discrimination against transgender people

Minnesota
- State law does not define “sex” to allow discrimination against transgender people

Mississippi
- State law does not define “sex” to allow discrimination against transgender people

Missouri
- State law does not define “sex” to allow discrimination against transgender people

Montana
- State law defines “sex” throughout state law to allow discrimination against transgender people
  - See SB458 (May 2023; effective October 1, 2023)

Nebraska
- State executive order defines “sex” throughout state law to allow discrimination against transgender people
  - See Executive Order No. 23-16 (2023)

Nevada
- State law does not define “sex” to allow discrimination against transgender people

New Hampshire
- State law does not define “sex” to allow discrimination against transgender people

New Jersey
- State law does not define “sex” to allow discrimination against transgender people

New Mexico
- State law does not define “sex” to allow discrimination against transgender people

New York
- State law does not define “sex” to allow discrimination against transgender people

North Carolina
- State law does not define “sex” to allow discrimination against transgender people

North Dakota
- State law defines “sex” throughout state law to allow discrimination against transgender people
  - See HB1474 (May 2023; effective August 1, 2023)
Ohio
- State law does not define “sex” to allow discrimination against transgender people

Oklahoma
- State executive order defines “sex” throughout state law to allow discrimination against transgender people
- See Executive Order 2023-20 (2023)

Oregon
- State law does not define “sex” to allow discrimination against transgender people

Pennsylvania
- State law does not define “sex” to allow discrimination against transgender people

Rhode Island
- State law does not define “sex” to allow discrimination against transgender people

South Carolina
- State law does not define “sex” to allow discrimination against transgender people

South Dakota
- State law does not define “sex” to allow discrimination against transgender people

Tennessee
- State law defines “sex” throughout state law to allow discrimination against transgender people
- See SB1440 (May 2023; effective July 1, 2023)

Texas
- State law does not define “sex” to allow discrimination against transgender people

Utah
- State law defines “sex” throughout state law to allow discrimination against transgender people
- See HB257 (January 2024; effective immediately)

Vermont
- State law does not define “sex” to allow discrimination against transgender people

Virginia
- State law does not define “sex” to allow discrimination against transgender people

Washington
- State law does not define “sex” to allow discrimination against transgender people
West Virginia
• State law does not define “sex” to allow discrimination against transgender people

Wisconsin
• State law does not define “sex” to allow discrimination against transgender people

Wyoming
• State law does not define “sex” to allow discrimination against transgender people

U.S. Territories

American Samoa
• Territory law does not define “sex” to allow discrimination against transgender people

Guam
• Territory law does not define “sex” to allow discrimination against transgender people

Northern Mariana Islands
• Territory law does not define “sex” to allow discrimination against transgender people

Puerto Rico
• Territory law does not define “sex” to allow discrimination against transgender people

U.S. Virgin Islands
• Territory law does not define “sex” to allow discrimination against transgender people