Nondiscrimination: Regulating Gender to Allow Discrimination Against Transgender and Nonbinary People

No updates required since May 14, 2024

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

Background ........................................................................................................... Error! Bookmark not defined.
Equality Map ........................................................................................................ 2
Summary Table ....................................................................................................... 2
Chronology ............................................................................................................ Error! Bookmark not defined.
State-by-State Sources and More Detail ......................................................... Error! Bookmark not defined.


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Recommended citation:
Background

As part of a broader, coordinated attack on transgender people across the country, these newly emerging laws explicitly regulate gender by defining “sex” throughout all state law to effectively allow discrimination against transgender people. These laws regulate and 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—and in some states, already do have—dangerous implications for transgender people when it comes to bathrooms, identity documents, and other areas of law or policy, but because these government gender regulation laws are often vaguely written, their actual impact may vary across each state.

Equality Map & Additional Resources

- See our Equality Map: Regulating Gender 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 regulate gender and 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 regulates gender to allow discrimination against transgender and nonbinary people (7 states)</td>
<td>Idaho</td>
<td>H 421</td>
<td>2024</td>
</tr>
<tr>
<td></td>
<td>Kansas</td>
<td>SB 180</td>
<td>2023</td>
</tr>
<tr>
<td></td>
<td>Mississippi</td>
<td>SB 2753</td>
<td>2024</td>
</tr>
<tr>
<td></td>
<td>Montana</td>
<td>SB 458</td>
<td>2023</td>
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<tr>
<td></td>
<td>North Dakota</td>
<td>HB 1474</td>
<td>2023</td>
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<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 regulates gender to allow discrimination against transgender and nonbinary people (2 states)</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 regulating gender to allow discrimination against transgender or nonbinary people (41 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
8. Idaho – H421 – April 9, 2024 (effective July 1, 2024)
9. Mississippi – SB2753 – May 13, 2024 (effective immediately)

Order of Governor Vetoes

1. Kansas – SB180 – April 20, 2023 (read veto statement here) (later overridden)
2. Arizona – SB1628 – April 16, 2024 (read veto statement here)
State-by-State Sources & More Detail

Alabama
  • State law does not regulate gender to allow discrimination against transgender people

Alaska
  • State law does not regulate gender to allow discrimination against transgender people

Arizona
  • State law does not regulate gender to allow discrimination against transgender people

Arkansas
  • State law does not regulate gender to allow discrimination against transgender people

California
  • State law does not regulate gender to allow discrimination against transgender people

Colorado
  • State law does not regulate gender to allow discrimination against transgender people

Connecticut
  • State law does not regulate gender to allow discrimination against transgender people

Delaware
  • State law does not regulate gender to allow discrimination against transgender people

District of Columbia
  • State law does not regulate gender to allow discrimination against transgender people

Florida
  • State law does not regulate gender to allow discrimination against transgender people

Georgia
  • State law does not regulate gender to allow discrimination against transgender people

Hawai`i
  • State law does not regulate gender to allow discrimination against transgender people

Idaho
  • State law regulates gender throughout state law to allow discrimination against transgender people
    • See H 421 (2024; effective July 1, 2024)
Illinois
• State law does not regulate gender to allow discrimination against transgender people

Indiana
• State law does not regulate gender to allow discrimination against transgender people

Iowa
• State law does not regulate gender to allow discrimination against transgender people

Kansas
• State law regulates gender throughout state law to allow discrimination against transgender people
• See SB180 (2023), overriding governor’s veto

Kentucky
• State law does not regulate gender to allow discrimination against transgender people

Louisiana
• State law does not regulate gender to allow discrimination against transgender people

Maine
• State law does not regulate gender to allow discrimination against transgender people

Maryland
• State law does not regulate gender to allow discrimination against transgender people

Massachusetts
• State law does not regulate gender to allow discrimination against transgender people

Michigan
• State law does not regulate gender to allow discrimination against transgender people

Minnesota
• State law does not regulate gender to allow discrimination against transgender people

Mississippi
• State law regulates gender throughout state law to allow discrimination against transgender people
• See SB2753 (2024)

Missouri
• State law does not regulate gender to allow discrimination against transgender people
Montana
- State law regulates gender throughout state law to allow discrimination against transgender people
- See SB458 (2023)
- In December 2023, a lawsuit was filed challenging this law. See Reagor, Cloverdale, et al vs. Montana.

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

Nevada
- State law does not regulate gender to allow discrimination against transgender people

New Hampshire
- State law does not regulate gender to allow discrimination against transgender people

New Jersey
- State law does not regulate gender to allow discrimination against transgender people

New Mexico
- State law does not regulate gender to allow discrimination against transgender people

New York
- State law does not regulate gender to allow discrimination against transgender people

North Carolina
- State law does not regulate gender to allow discrimination against transgender people

North Dakota
- State law regulates gender throughout state law to allow discrimination against transgender people
- See HB1474 (2023)

Ohio
- State law does not regulate gender to allow discrimination against transgender people

Oklahoma
- State executive order regulates gender throughout state law to allow discrimination against transgender people
- See Executive Order 2023-20 (2023)
Oregon
  • State law does not regulate gender to allow discrimination against transgender people

Pennsylvania
  • State law does not regulate gender to allow discrimination against transgender people

Rhode Island
  • State law does not regulate gender to allow discrimination against transgender people

South Carolina
  • State law does not regulate gender to allow discrimination against transgender people

South Dakota
  • State law does not regulate gender to allow discrimination against transgender people

Tennessee
  • State law regulates gender throughout state law to allow discrimination against transgender people
  • See SB1440 (2023)

Texas
  • State law does not regulate gender to allow discrimination against transgender people

Utah
  • State law regulates gender throughout state law to allow discrimination against transgender people
  • See HB257 (2024)

Vermont
  • State law does not regulate gender to allow discrimination against transgender people

Virginia
  • State law does not regulate gender to allow discrimination against transgender people

Washington
  • State law does not regulate gender to allow discrimination against transgender people

West Virginia
  • State law does not regulate gender to allow discrimination against transgender people

Wisconsin
  • State law does not regulate gender to allow discrimination against transgender people
Wyoming
- State law does not regulate gender to allow discrimination against transgender people

U.S. Territories

American Samoa
- Territory law does not regulate gender to allow discrimination against transgender people

Guam
- Territory law does not regulate gender to allow discrimination against transgender people

Northern Mariana Islands
- Territory law does not regulate gender to allow discrimination against transgender people

Puerto Rico
- Territory law does not regulate gender to allow discrimination against transgender people

U.S. Virgin Islands
- Territory law does not regulate gender to allow discrimination against transgender people