

Is the legal deprivation of gender-affirming care an ACE?

ACEs Health Champions Network

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November 8, 2024



What Is Gender-Affirming Health Care?

The term *gender-affirming care* is a broad concept encompassing a range of medical, mental health, surgical, and nonmedical services (Wagner et al., 2019). The American Academy of Pediatrics (AAP) has built a gender-affirmative care model (GACM) to advise pediatric health care providers on “developmentally appropriate care” of transgender and gender-diverse (TGD) youth (Rafferty et al., 2018). From a



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Do you know what
gender-affirming care is?

POLL QUESTION #1

What is gender-affirming care?

Gender-affirming care is “a broad concept encompassing a range of medical, mental health, surgical, and nonmedical services (Wagner et al., 2019). The American Academy of Pediatrics (AAP) has built a genderaffirmative care model (GACM) to advise pediatric health care providers on “developmentally appropriate care” of transgender and gender-diverse (TGD) youth (Rafferty et al., 2018).” (Persyn and Palusci, APSAC Alert 14(1)).

Originated in 2018 and reaffirmed in 2023, the AAP GACM envisions treatment in which “pediatric providers offer developmentally appropriate care that is oriented toward understanding and appreciating the youth’s gender experience. A strong, nonjudgmental partnership with youth and their families can facilitate exploration of complicated emotions and gender-diverse expressions while allowing questions and concerns to be raised in a supportive environment.”

Key messages of the GACM

- transgender identities and diverse gender expressions do not constitute a mental disorder;
- variations in gender identity and expression are normal aspects of human diversity, and binary definitions of gender do not always reflect emerging gender identities;
- gender identity evolves as an interplay of biology, development, socialization, and culture; and
- if a mental health issue exists, it most often stems from stigma and negative experiences rather than being intrinsic to the child.

Do you provide gender-affirming care (medical or psychological)?

POLL QUESTION #2

Spring 2022: TGNC youth abruptly targeted in Texas



February 18, 2022: Texas Attorney General Ken Paxton's opinion

Based on the analysis herein, each of the “sex change” procedures and treatments enumerated above, when performed on children, can legally constitute child abuse under several provisions of chapter 261 of the Texas Family Code.

- These procedures and treatments can cause “mental or emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning.” TEX. FAM. CODE § 261.001(1)(A).
- These procedures and treatments can “caus[e] or permit[] the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning.” *Id.* § 261.001(1)(B).
- These procedures and treatments can cause a “physical injury that results in substantial harm to the child.” *Id.* § 261.001(1)(C).
- These procedures and treatments often involve a “failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child[,]” particularly by parents, counselors, and physicians. *Id.* § 261.001(1)(D).

APSAC emphasizes professional standards

APSAC strongly opposes the characterization of gender-affirming care as child abuse when provided in accordance with professional and ethical responsibilities and accepted standards of care. The Centers for Disease Control and Prevention has defined “child abuse” as “words or overt actions that cause harm, potential harm, or threat of harm to a child.” (CDC, Child Maltreatment Surveillance: Uniform Definitions for Public Health, 2008.) Gender-affirming care is not child abuse. APSAC is uniquely qualified to make this judgment. APSAC is the most authoritative multidisciplinary professional society addressing child abuse and neglect in the United States for over 35 years. APSAC stands with the [American Academy of Pediatrics](#), the [American Academy of Child & Adolescent Psychiatry](#), and many other prominent professional societies in making this statement.

The heart of our argument: Trans youth exist, and they deserve care

III. The Attorney General Opinion Incorrectly Defines “Child Abuse” Under Texas Law By Ignoring the Existence of Gender Dysphoria.

The Attorney General opens his opinion by dismissing the possibility that gender-affirming care is medically necessary. He does so by distinguishing procedures for “children with a medically verifiable genetic disorder of sex development” or other disorders “as determined by a physician through genetic testing,” and by stating that “[t]his opinion does not address or apply to medically necessary procedures.” AG Op at 2. In doing so, the Attorney General ignores well-established standards of care, along with the professional opinion of the American Academy of Pediatrics and other medical professionals. See, Amici Brief of the American Academy of Pediatrics, pp. 7-8. But the Attorney General’s dismissal of medically necessary “procedures,” a term he uses to sweep in a broad continuum of gender-affirming care, is necessary to his Opinion for another reason: to characterize gender-affirming care as child abuse, the Attorney General must first exclude gender-affirming care from the ambit of medically necessary health care. Under well-established standards of care, the Attorney General cannot do so.



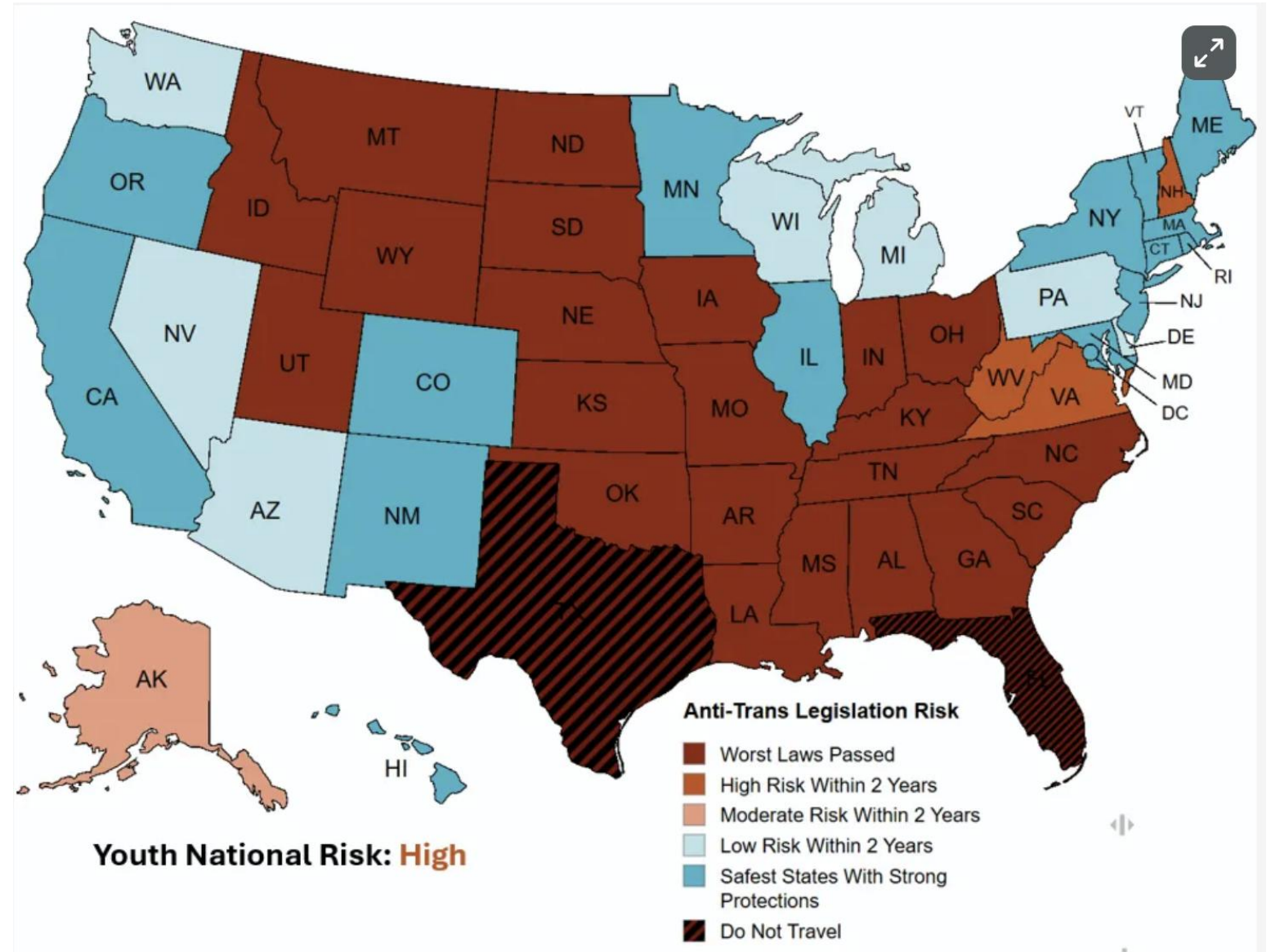
Trans youth in the crosshairs

The red states in this map indicate states where laws threatening trans youth have been passed by state legislatures.

For youth, the most concerning laws are those eliminating gender-affirming health care and mandating detransition.

For youth as well as adults, Florida and Texas are now do-not-travel states.

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Examples of anti-trans youth laws, rules, lawsuits

Teachers required to “out” students

Students required to use the wrong bathroom

Students excluded from youth sports

Gender marker correction for driver’s licenses prohibited

Discussion of SOGI-minority topics eliminated from classrooms and library books

Students prohibited from using names and pronouns appropriate to their identity

1. The Biden Administration is trying to shoehorn gender identity into the statutes governing our Nation’s foster care system by requiring States like Texas to provide special treatment and special placements for so-called “LGBTQI+”¹ youth. Under a broad new rule, Title IV-E and Title IV-B agencies must ensure that a foster-care placement that affirms a child’s LGBTQI+ status is available for, and may be requested by, any child in foster care who so identifies

¹ To avoid confusion, Texas uses the language of the Final Rule, which uses “LGBTQI+” and similar euphemisms to refer to individuals who identify themselves based on the contested metaphysical concepts of sexual orientation or gender identity.

and must enforce a new prohibition on “retaliation” against “LGBTQI+” foster children. Dep’t of Health & Hum. Servs., *Designated Placement Requirements Under Titles IV-E and IV-B for LGBTQI+ Children*, 89 Fed. Reg. 34,818–19 (April 30, 2024) (to be codified at 45 C.F.R pt. 1,355) (the Final Rule).

Do some U.S. states
prohibit psychological
gender-affirming care?

POLL QUESTION #3

Psychological care is not directly prohibited, but laws are ambiguous

Mandating specific evaluation criteria or limiting treatment options

“Aiding and abetting”

Implied criminal law theories

Vague terms

Out-of-state GAC

The presidential election and Project 2025

Today, America and the conservative movement are enduring an era of division and danger akin to the late 1970s. Now, as then, our political class has been discredited by wholesale dishonesty and corruption. Look at America under the ruling and cultural elite today: Inflation is ravaging family budgets, drug overdose deaths continue to escalate, and children suffer the toxic normalization of transgenderism with drag queens and pornography invading their school libraries. Overseas,

The CDC should immediately end its collection of data on gender identity, which legitimizes the unscientific notion that men can become women (and vice versa) and encourages the phenomenon of ever-multiplying subjective identities.

The presidential election and Project 2025

The next conservative President must make the institutions of American civil society hard targets for woke culture warriors. This starts with deleting the terms sexual orientation and gender identity (“SOGI”), diversity, equity, and inclusion

(“DEI”), gender, gender equality, gender equity, gender awareness, gender-sensitive, abortion, reproductive health, reproductive rights, and any other term used to deprive Americans of their First Amendment rights out of every federal rule, agency regulation, contract, grant, regulation, and piece of legislation that exists.

Pornography, manifested today in the omnipresent propagation of transgender ideology and sexualization of children, for instance, is not a political Gordian knot inextricably binding up disparate claims about free speech, property rights, sexual liberation, and child welfare. It has no claim to First Amendment protection. Its

The presidential election and Project 2025

- **OCR should return its enforcement of sex discrimination to the statutory framework of Section 1557 and Title IX.**

Specifically, it should:

1. Remove all guidance issued under the Biden Administration concerning sexual orientation and gender identity under Section 1557, particularly the May 2021 announcement of enforcement⁸² and March 2022 statement threatening states that protect minors from genital mutilation.⁸³
2. Issue a general statement of policy specifying that it will not enforce any prohibition on sexual orientation and gender identity discrimination in the Section 1557 regulation and that it will prioritize compliance with the First Amendment, RFRA, and federal conscience laws in any case implicating those claims. DOJ should commit to defending these actions

The presidential election and Project 2025

3. Issue a proposed rule to restore the Trump regulations under Section 1557, explicitly interpreting the law not to include sexual orientation and gender identity discrimination based on the textual approach to male and female biology taken by Congress in the ACA, the need to recognize biological distinctions as part of the sound practice of health care, and the need to ensure protections of medical judgment and conscience. DOJ should agree to defend this rule to the Supreme Court if necessary.

State-level anti-transgender laws increase past-year suicide attempts among transgender and non-binary young people in the USA

‘The young people feel it’: A look at the mental health impact of transgender legislation

Psychological science points to an increased risk of suicide and poor mental health amid a record number of bills aimed at restricting the rights of the LGBTQ+ population

Trans youth exist, and they deserve care.
The last thing they deserve is attacks by adults.

THE BILLS AND THE RHETORIC THAT ACCOMPANIES THEM FURTHER ISOLATE, HUMILIATE, AND INTIMIDATE TRANS YOUTH, ALREADY A MARGINALIZED AND VULNERABLE GROUP.

Harm extends to LGBTQ youth generally

Anti-LGBTQ laws claiming to protect children actually harm them, University experts say

Author: Michael S. Broder

June 12, 2023



Photo Credit: SF State students march in the 2019 San Francisco Pride parade

A flood of attacks on LGBTQ rights reveals a familiar pattern, Professor of History Marc Stein and Family Acceptance Project Director Caitlin Ryan warn

ARTICLE

Impact of Anti-LGBTQ+ Legislative and Executive Branch Action on Children's Well-Being

Maia Zelkind and [Marshall Currey Cook](#)

American Journal of
Preventive Medicine

RESEARCH ARTICLE

The Sexual and Gender Minority Adverse Childhood Experiences Scale



Phillip W. Schnarrs, PhD,¹ Armin A. Dorri, MA,² R. Andrew Yockey, PhD,³ Amy L. Stone, PhD,⁴
Stephen T. Russell, PhD,² Joshua G. Rosenberger, PhD, MPH⁵

Anti-LGBTQ youth laws: are these ACEs?

What are ACEs?

Adverse childhood experiences, or ACEs, are potentially traumatic events that occur in childhood (0-17 years). Examples include:

- Experiencing violence, abuse, or neglect.
- Witnessing violence in the home or community.
- Having a family member attempt or die by suicide.

Also included are aspects of the child's environment that can undermine their sense of safety, stability, and bonding. Examples can include growing up in a household with:

- Substance use problems.
- Mental health problems.
- Instability due to parental separation.
- Instability due to household members being in jail or prison.

The SOGI ACEs Scale

A 2023 study published in the American Journal of Preventive Medicine found that sexual and gender minority people reported higher levels of depression, anxiety, and PTSD, with gender identity minority people experiencing the highest levels.

The SGM-ACEs framework makes a case that exposure to cisheteronormativity both increases the risk of traditional ACEs and also that exposure to it, as a SGM-minority person, should be understood as an ACE. Evidence suggests that this exposure disrupts neurodevelopment and leads to biological dysregulation and poor mental health as an adult.

This study didn't examine the impact of anti-SGM legislation, but did recommend it as an important future avenue of study. In any case, the study finds that cisheteronormativity is a significant risk factor.

Is the deprivation of gender-affirming care an ACE?

Not in a technical sense. It hasn't been tested and validated like other traditional and expanded ACEs have been.

However, it's APSAC's opinion that state prohibitions of gender-affirming care are likely a form of medical neglect. And neglect is certainly an ACE.

APSAC Alert 14(1), March 2023, Persyn and Palusci



Steps for Professionals to Take

Regardless of specialty or practice, all professionals, especially child welfare and child protection professionals, should

- Be knowledgeable about the legislation in their state regarding gender-affirming health care, which is changing almost daily.
- Participate in the public discussion of transgender youth rights to medical care and join with other advocacy groups such as APSAC State Chapters and the American Academy of Pediatrics to support children and families needing this care.
- Explain how gender-affirming care is not child maltreatment and families and professionals should not be penalized for meeting the medical and mental health needs of this vulnerable population.



Coda: my own “why”

Questions and Audience Discussion

Thank you for being here
today!

