

Oppose HB 619 – Protect LGBTQ+ Youth Rights in New Hampshire

Bill Summary: If made into law, HB 619 would ban gender-affirming healthcare for minors in New Hampshire, as well as any affirmation or education related to being transgender or non-binary in public schools. The bill would also functionally repeal the state’s ban on conversion therapy by changing the definition in a way that fails to recognize the coerciveness frequently inherent to this dangerous practice. HB 619 is hostile legislation that unfairly targets and discriminates against LGBTQ+ youth in the Granite State.

Legislation like HB 619 has been demonstrated to have negative health effects on transgender youth. Medical experts agree: gender-affirming care is medically necessary care that can be life-saving for transgender youth. If this bill becomes law, minors would not only lose access to gender-affirming hormone therapy medication, but also the ability to transition socially in schools. Gender-affirming care is widely recognized as the only evidence-based approach to addressing the health care needs of transgender youth, including severe mental health risks. In a letter to the National Governor’s Association urging elected officials to oppose harmful legislation that would limit the ability of physicians to care for gender-diverse patients, the American Medical Association cited evidence indicating that restricting access to gender-affirming care can produce tragic effects on transgender persons disproportionately at risk of “anxiety, stress, substance use disorder and suicide.”ⁱ Specifically, research has found that lack of access to gender-affirming care yields poorer mental health outcome measures in transgender youth, such as heightened suicidal ideation.ⁱⁱ According to the American College of Physicians (ACP), gender-affirming care is “supported by many prestigious medical organizations”ⁱⁱⁱ and there numerous studies^{iv,v} indicating gender-affirming care lowers rates of depression and suicide in transgender youth.^{vi} The ACP, among other medical associations, have “condemned^{vii} efforts to criminalize gender-affirming care and legislation that interferes with the physician-patient relationship.”^{viii} Legislators should not intervene with the medical decisions that belong to individuals and their doctors and instead listen to the medical experts: gender-affirming care saves lives.

HB 619 would make schools hostile to transgender youth. As so much of gender-affirming care provided for youth is relative to the ability to socially transition, it’s important to ensure that youth have access to environments where their identity is validated and respected. According to the American Medical Association, it has been well documented that transgender youth perform equally as well on mental health metrics as their classmates when provided encouragement at home, in school and in their communities, and with access to gender-affirming care.^{ix} Transgender youth thrive when they are affirmed in their gender identity, which includes being called by a name and pronouns that reflect who they are. However, HB 619 would penalize educators for using the correct pronouns for non-binary and transgender students. Moreover, HB 619’s impact on curriculum and sports or other afterschool activities would negatively affect *all* students. The bill’s proposed ban on classroom discussion of transgender people harms students by giving them an education that does not reflect or prepare them for the world around them. The bill also bans transgender youth from school sports and prompts what would be aggressive policing of all students’ genders via an invasive biological sex verification process, which feeds into a false narrative aimed to paint transgender individuals as dangerous. Conversely, data shows that transgender youth actually face *disproportionately higher* incidents of harassment and violence relative to their cisgender peers.^x This process of verifying a student’s biological sex would undermine student safety and privacy and detract from student learning.^{xi} Evidence shows that when schools have inclusive policies where transgender youth feel safe to play sports or use restrooms and locker rooms that align with their gender identities, those youth report higher levels of belongingness.^{xii} For transgender youth, especially those who cannot be safe at home, school may be one of the few places where they can be themselves.^{xiii} Elected officials should recognize that a safe and affirming environment in schools is vital to the wellbeing of gender diverse students.

HB 619 functionally repeals New Hampshire's ban on conversion therapy; this will inevitably put LGBTQ+ Granite Staters at risk of abuse and coercion. HB 619 would change New Hampshire's current definition of conversion therapy so the practice would only be considered such if youth express it is "against their clearly expressed will." This added language makes it difficult to classify harmful practices as conversion therapy; minors are extremely unlikely to meet the requirements of this bill, especially if they are experiencing coercion. This is language doesn't serve as a compromise, but rather a total removal of the state's current protections in place against this practice. Conversion therapy is inhumane, it causes significant harm,^{xiv} is not rooted in scientific evidence,^{xv} and should not be tolerated in the Granite State.

HB 619 undermines existing state and federal protections afforded to Granite Staters. New Hampshire offers constitutional and statutory protections for transgender individuals to be free from discrimination on the basis of sex and gender identity.^{xvi} Further, there have been numerous federal and state court rulings nationwide that set precedent individuals of all gender identities shall be free of discrimination. For example, in 2020, the U.S. Supreme Court decision in *Bostock v. Clayton County* recognized that it is impossible to discriminate against a person based on their sexual orientation or gender identity without discriminating against that person based on sex. This ruling has been interpreted as applicable to numerous spheres of life. In 2021, influenced by the decision, the U.S. Department of Education's Office for Civil Rights issued a Notice of Interpretation explaining that it would enforce Title IX's prohibition on discrimination on the basis of sex to include: (1) discrimination based on sexual orientation; and (2) discrimination based on gender identity. The statute applies to all aspects of education, including athletics. Additionally, The White House issued an Executive Order (EO) In January 2021 reaffirming existing federal protections, stating that laws that prohibit sex discrimination "prohibit discrimination on the basis of gender identity or sexual orientation." The Department of Education, the Department of Justice, and the Department of Health and Human Services have all taken actions responsive to this order. Currently, bans on gender-affirming care have been blocked in other states, like Arkansas, for violating Equal Protection by discriminating based on sex without a persuasive justification, *Brandt v. Rutledge*, 47 F.4th 661 (8th Cir. 2022), as well as Alabama, for violating parents' fundamental rights to direct the medical care of their children. *Eknes-Tucker v. Marshall*, 2022 U.S. Dist. LEXIS 87169 (M.D. Ala. 2022).

HB 619 unjustly targets transgender and LGBTQ+ youth. This legislation does nothing to help gender-diverse youth and ultimately puts an already at-risk population in harm's way. Legislation that aims to marginalize and further stigmatize our fellow Granite Staters have no place in our state.

Oppose HB 619 – Protect LGBTQ+ Youth Rights in New Hampshire

ⁱ American Medical Association, *AMA reinforces opposition to restrictions on transgender medical care*, Jun 15, 2021, available at <https://www.ama-assn.org/press-center/press-releases/ama-reinforces-opposition-restrictions-transgender-medical-care>

ⁱⁱ Lindsey Dawson, Jennifer Kates, and Mary Beth Meusumci, *Youth Access to Gender-affirming Care: The Federal and State Policy Landscape*, June 1, 2022, Kaiser Family Foundation, available at <https://www.kff.org/other/issue-brief/youth-access-to-gender-affirming-care-the-federal-and-state-policy-landscape/>

ⁱⁱⁱ Barbara Simon, *Medical Association Statements Supporting Trans Youth Healthcare and Against Discriminatory Bills*, April 19, 2021, GLAAD, available at <https://www.glaad.org/blog/medical-association-statements-supporting-trans-youth-healthcare-and-against-discriminatory>

^{iv} Green, Amy E., et al. "Association of gender-affirming hormone therapy with depression, thoughts of suicide, and attempted suicide among transgender and nonbinary youth." *Journal of adolescent health* 70.4 (2022): 643-649. available at [https://www.jahonline.org/article/S1054-139X\(21\)00568-1/fulltext](https://www.jahonline.org/article/S1054-139X(21)00568-1/fulltext)

^v Tordoff, Diana M., et al. "Mental health outcomes in transgender and nonbinary youths receiving gender-affirming care." *JAMA network open* 5.2 (2022): e220978-e220978. available at <https://pubmed.ncbi.nlm.nih.gov/35212746/>

^{vi} American College of Physicians, *Attacks on Gender-Affirming and Transgender Health Care*, Nov 11, 2022, available at <https://www.acponline.org/advocacy/state-health-policy/attacks-on-gender-affirming-and-transgender-health-care>

^{vii} American Academy of Family Physicians, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, American College of Physicians, American Osteopathic Association, American Psychiatric Association, *Physicians Oppose Texas Efforts to Interfere in the Patient-Physician Relationship and Criminalize Gender-Affirming Care*,

Feb 28, 2022, available at

https://assets.acponline.org/acp_policy/statements/joint_statement_opposing_texas_efforts_to_interfere_in_the_patient-physician_relationship_and_criminalize_gender-affirming_care_feb_2022.pdf

^{viii} Ibid.

^{ix} Jack Resneck Jr., MD, *Everyone deserves quality medical care delivered without bias*, Aug 16, 2022, The American Medical Association, available at <https://www.ama-assn.org/about/leadership/everyone-deserves-quality-medical-care-delivered-without-bias>

^x Norris, A. L., & Orchowski, L. M. (2020). Peer victimization of sexual minority and transgender youth: A cross-sectional study of high school students. *Psychology of Violence*, 10(2), 201–211. available at <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fvio0000260>

^{xi} Freedom for All Americans, *School “Gender Inspection” Bills, Everyone Deserves Privacy and Safety*, n.d., available at <https://freedomforallamericans.org/school-gender-inspection-bill/>

^{xii} National Council on Family Relations, *Critical Benefits of Familial and Community Support for Transgender Youth*, April 26, 2021, available at <https://www.ncfr.org/news/critical-benefits-familial-and-community-support-transgender-youth>

^{xiii} Kosciw, J. G., Clark, C. M., Truong, N. L., & Zongrone, A. D. (2020). The 2019 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools. New York: GLSEN. www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf

^{xiv} Alempijevic, Djordje, et al. "Statement on conversion therapy." *Journal of Forensic and Legal Medicine* 72 (2020): 101930. Available at <https://www.sciencedirect.com/science/article/pii/S1752928X20300366>

^{xv} American Academy of Child & Adolescent Psychiatry, *Conversion Therapy*, 2018, available at https://www.aacap.org/aacap/Policy_Statements/2018/Conversion_Therapy.aspx

^{xvi} *NH Const. art. 2, prohibits discrimination based on sex, as well as, NH RSA 354-A: 17, prohibits discrimination based on sex and gender identity generally, and NH RSA 193:38-39, prohibits discrimination based on sex and gender identity specifically in public schools.*