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THEN THEY CAME FOR US: ACCESS TO JUSTICE HARM AND OPPORTUNITY FOR OUR TRANSGENDER AND NONBINARY YOUTH

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ARTICLE

THEN THEY CAME FOR US: ACCESS TO JUSTICE HARM AND OPPORTUNITY FOR OUR TRANSGENDER AND NONBINARY YOUTH

SARAH STEADMAN*

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INTRODUCTION

A fourteen-year-old transgender youth:

I shouldn’t have to be worried about my rights being taken away. I should not have to go out of my way to make other people happy. I’m not a problem to society. They are saying there are things wrong with us because of who we are. It doesn’t make me feel valued in the slightest. I just hope by the time I’m [eighteen], things are better, because I don’t want other kids to have to grow up at age [ten] and have their basic human rights debated.¹

A fourteen-year-old transgender youth:

“Kids like me are under attack across the nation[.] Do we not deserve the same rights and freedoms as the people who write the laws? If the children are the future, please leave us with one.”²

² Zane McNeill, “We Have to Fight”: LGBTQ Kids Stage Walkouts, Marches Against Anti-Trans Bills, Salon (Mar. 29, 2023, 5:09 AM), https://www.salon.com/2023/03/29/we-have-to-
An eighteen-year-old transgender young adult:

“Seeing these people who are supposed to protect you, who are supposed to make laws to protect children, say all these horrible things and make it clear that you are not worth fighting for . . .”

The United States Surgeon General, Dr. Vivek Murthy, and children’s healthcare providers call the nation’s current youth mental health crisis a national emergency. Unconscionably, amid this crisis, many states across the country have introduced an unprecedented onslaught of hostile legislation targeting transgender youth. The laws harm already vulnerable children by denying them healthcare, prohibiting their participation in school sports, banning discussion of their identities in classroom instruction, and stigmatizing their school bathroom use.

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5. See generally KFF, KFF/THE WASHINGTON POST TRANS SURVEY (2022), https://files.kff.org/attachment/REPORT-KFF-The-Washington-Post-Trans-Survey.pdf [https://perma.cc/GCF5-V8H3] (“Six in ten adults whose gender identity differs from their sex assigned at birth do not identify as either a “trans man” or a “trans woman,” but rather say “trans, gender non-conforming” (22%) or “trans, nonbinary” (40%) are the best ways of describing themselves. Nearly half of trans adults [ages eighteen to thirty-four] say “trans, nonbinary” is the best way to describe themselves, compared to one-third of trans adults thirty-five or older. Given the majority of trans adults are younger than thirty-five, nonbinary or gender non-conforming identities may become even more prevalent among trans adults as the population ages.”); see also Press Release, Hum. Rts. Campaign, Working to Defeat 340 Anti-LGBTQ+ Bills at State Level Already, 150 of Which Target Transgender People—Highest Number on Record (Feb. 15, 2023), https://www.hrc.org/press-releases/human-rights-campaign-working-to-defeat-340-anti-lgbtq-bills-at-state-level-already-150-of-which-target-transgender-people-highest-number-on-record [https://perma.cc/9RMF-BHGJ].

6. See Hum. Rts. Campaign, supra note 5; see also Levin, supra note 1; MOVEMENT ADVANCEMENT PROJECT, LGBTQ POLICY SPOTLIGHT: EFFORTS TO BAN HEALTH CARE FOR TRANSGENDER YOUTH 2 (2021), https://www.lgbtmap.org/file/policy-spotlight-trans-health-care-
Transgender youth internalize the vitriolic messages, which are damaging their already fragile mental health, stating: “It makes us fearful, makes us scared of the future and what it has to offer.”

Adolescents are highly sensitive to rejection, and transgender youth are particularly so. The current legislative and cultural hostility toward transgender youth represents social rejection and poses risks as they age. Transgender and nonbinary youth were already alarmingly vulnerable before this concerted attack on their existence. Studies document high rates of suicidality and self-harm among transgender youth. According to the largest LGBTQ youth mental health survey, more than half of...
transgender and nonbinary youth had seriously considered suicide.\textsuperscript{12} Transgender youth of color face compounded discrimination and bias, putting them more at risk of attempting suicide.\textsuperscript{13}

Transgender and nonbinary youth are paying close attention to the news that impacts them.\textsuperscript{14} According to national mental health surveys of LGBTQ youth, 85\% percent of respondents reported that politics negatively affected their mental health.\textsuperscript{15} That impact is evidenced by the extraordinary increase in calls received by The Trevor Project, a national crisis intervention organization for LGBTQ youth, during the 2021 legislative onslaught.\textsuperscript{16} The legislation reinforces stigmatization, causing long-lasting and exponential consequences.\textsuperscript{17} Even when the bills do not pass, transgender youths’ long term physical and mental health is nonetheless affected by the stigma along with increased violence and social rejection.\textsuperscript{18} Social rejection exacerbates distress among

\begin{itemize}
\item \textsuperscript{12} See id.; see also THE TREVOR PROJECT, 2021 NATIONAL SURVEY, supra note 7, at 3 (52\% of transgender and nonbinary youth, when surveyed, said they had considered suicide).
\item \textsuperscript{14} See THE TREVOR PROJECT, ISSUES IMPACTING LGBTQ YOUTH 5 (2022), https://www.thetrevorproject.org/wp-content/uploads/2022/01/TrevorProject_Public1.pdf [https://perma.cc/8QWQ-R7NV] (reporting that 70\% of LGBTQ+ youths follow the news closely, and transgender and nonbinary youths are the most likely to follow the news).
\item \textsuperscript{16} See West, supra note 3; see also Sparks, supra note 15 (highlighting that Texas’s politics led to an alarming rise in transgender youths needing mental health support); see Arika Herron, Anti-Trans Bills Take Toll on Mental Health, AXIOS (Apr. 11, 2023), https://www.axios.com/2023/04/11/anti-trans-bills-toll-mental-health [https://perma.cc/9Z37-JSHH].
\item \textsuperscript{17} See West, supra note 3.
\item \textsuperscript{18} See Marisa Fernandez & Orion Rummler, Doctors Fear Next Steps if States Ban Care for Trans Youth, AXIOS (May 4, 2021), https://www.axios.com/transgender-youth-bills-doctors-health-care-bdefd950-b41d-4728-a1f1-26af284840.html [https://perma.cc/W7QU-6RRP] (stating that patients will carry a stigma with them even if the bills do not pass); see also, Nathaniel Frank, What the Science Says About ‘Don’t Say Gay’ and Young People, N.Y. TIMES (Apr. 20, 2023), https://www.nytimes.com/2023/04/20/opinion/dont-say-gay-bill-florida.html
\end{itemize}
transgender youth and leads them to believe that “others would be better off if they were dead.”

Anti-transgender legislation purposefully stigmatizes and rejects transgender youth. The bills’ titles and provisions, which allege to protect children, instead harm them by denying their basic needs. The U.S. Department of Justice characterized “anti-transgender bias” as the motivation behind laws targeting transgender youth. For example, the twenty-seven states that proposed or passed laws prohibiting gender-affirming medical care allow the same medical treatment for children with other medical conditions, such as precocious puberty and intersexuality. Furthermore, the Department stated that “[t]he biases and moral disapproval articulated by the law and its sponsors are not justifiable reasons to legislate.”

Growing up, lesbian, gay, and bisexual elders similarly faced antagonistic legislation—discriminatory laws that pathologized their identities and criminalized their intimate relationships and behavior. In response, many avoid seeking legal services for fear of bias and
mistreatment.\textsuperscript{26} Therefore, it is likely that many transgender youth among the current generation will also avoid seeking legal services as they age.\textsuperscript{27} This could prevent them from obtaining remedies for harms such as employment discrimination, domestic violence, family law matters, eviction, or personal injury.\textsuperscript{28} They may also neglect their legal health by avoiding other court protections, such as a name change, which protects their safety and affirms their identity.\textsuperscript{29} Similarly, gender-affirming health care powers of attorney and advance directives, which protect their identity if they are unable to advocate for themselves.\textsuperscript{30}

As legal professionals, we must ameliorate the harm perpetrated by anti-transgender lawmakers. To transgender and nonbinary youth today, our entire legal system may now be associated with and implicated by the bias and hostility expressed by lawmakers.\textsuperscript{31} Unfortunately, bias by association risks coloring transgender and nonbinary youths’ perspectives of courts and legal service providers. That prospect represents an access to justice barrier.

In sum, there is a historic risk that the current adverse legislative and political environment will lead our transgender and nonbinary youth to perceive the legal system itself as unjust and hostile, and they may avoid seeking justice through those systems.\textsuperscript{32} Such avoidance can lead to poor legal health and outcomes throughout their lives.\textsuperscript{33} To mitigate the resulting barriers to justice, we must proactively educate law students, lawyers, and judges through gender identity education and anti-bias

\textsuperscript{26} See Chan & Barrington, \textit{supra} note 25, at 7 (“Among older LGBT adults who came of age during a time of rampant discrimination the fear of mistreatment or discrimination may prevent them from seeking the legal help they need. Or they may seek legal help for one issue, but not mention . . . gender identity, effectively hiding other issues that they need assistance with.”).

\textsuperscript{27} See id. at 3.

\textsuperscript{28} See id. at 10.


\textsuperscript{31} E.g., Steadman, \textit{supra} note 29, at 4–5.

\textsuperscript{32} See Chan & Barrington, \textit{supra} note 25, at 7 (“Among older LGBT adults who came of age during a time of rampant discrimination, the fear of mistreatment or discrimination may prevent them from seeking the legal help they need.”).

\textsuperscript{33} See id. at 10.
training to create safe and inclusive legal services and judicial environments.

Part I of this article exposes the animus expressed by politicians and lawmakers against transgender youth—the source behind legislation codifying harm and imposing barriers to access. Part I also briefly explores instances of judicial bias mirroring the bias expressed by politicians. Part II presents an overview of laws and policies that contribute to unsafe school environments for transgender youth, including bathroom and gender identity curriculum bans, as well as restrictions on sports participation. Part III describes the harms of denying transgender youth necessary gender-affirming health care and other access barriers. Part IV focuses on avoidance of services, including legal services, as a dangerous impact of discrimination and bias. Finally, Part V proposes strategies to address the access to justice barriers, involving the education of law students, legal service providers, and judges on gender identity and bias, as well as ways to establish safe and inclusive legal settings.

I. POLITICAL HOSTILITY

Trans youth, age fifteen:

I could be spending this time with my friends . . . I could be doing anything, but I can’t because I’m worried and I’m scared that even more bills are going to be put through . . . It’s like, ‘By the way, tomorrow’s a Senate hearing that could quite literally end your life.’ They just don’t care.

If the transgender youth quoted above watched a legislative hearing or read media statements by politicians on legislation targeting them, they likely heard statements like the following:

34. See infra I. Political Hostility.
35. Id.
36. See infra II. Hostile School Climates.
37. See infra III. Denying Gender-Affirming Health Care and Access to Care Barriers.
38. See infra IV. Avoidance of Services Due to Fear of Bias and Efforts to Ameliorate Harms.
39. See infra V. Proactively Addressing Avoidance of Legal Assistance to Prevent Poor Legal Health.
40. Levin, supra note 1.
• Florida Rep. Webster Barnaby:

“... [I]t's like we have mutants living among us on planet Earth . . . . That’s right—I called you demons and imps who come and parade before us and pretend that you are part of this world.”\(^\text{41}\)

• Arkansas Rep. Jim Wooten:

“What if your child comes to you and says I want to be a cow?”\(^\text{42}\)

• Arkansas Rep. Mary Bentley:

“This bill is just a first step to help protect our teachers but when we have students in school now that don’t identify as a boy or a girl but as a cat, as a furry, we have issues.”\(^\text{43}\)

• Minnesota State Rep. Eric Lucero:

The last several years have been witness to a rise in the number of confused boys and men mistakenly believing themselves to be girls and women when the science says otherwise, yet demanding to play on female sport teams, use female bathrooms, and even shower with females, causing outrage and concern among parents by the threat to their daughters’ safety.\(^\text{44}\)

• Alabama Governor, Kay Ivey:

There are very real challenges facing our young people, especially with today’s societal pressures and modern culture. I believe very strongly that


if the Good Lord made you a boy, you are a boy, and if he made you a girl,
you are a girl. We should especially protect our children from these
radical, life-altering drugs and surgeries . . . Instead, let us all focus on
helping them to properly develop into the adults God intended them to be.\footnote{Sophia Alvarez Boyd, Doctors Who Provide Gender-Affirming Care are Preparing for Growing Restrictions, NPR 1A WAMU (Apr. 14, 2022), https://the1a.org/segments/doctors-who-provide-gender-affirming-care-are-preparing-for-growing-restrictions/ [https://perma.cc/L6DY-L2DS].}

- Oklahoma Governor, Kevin Stitt:

“I believe that people are created by God to be male or female . . . There is
no such thing as nonbinary sex.”\footnote{Kimberly Kindy, Oklahoma Stakes Out New Battleground on LGBTQ Rights: Birth Certificates, WASH. POST (Apr. 30, 2022, 6:00 AM), https://www.washingtonpost.com/politics/2022/04/30/oklahoma-birth-certificate-ban-nonbinary/ [https://perma.cc/2TA5-7PXK].}

As one transgender advocate commented: “[E]very single transgender
person is feeling the effect of this attack. It’s the government, pure and
simple, saying, ‘You don’t belong.’ It’s such an antagonistic and heartless

Another advocate stated: “It is important to
recognize this is hate disguised as legislation. It sets a tone and sends a
message to the larger community that discrimination against the

That message was reinforced by Texas Governor Greg Abbott when he ordered the Texas Department of Family and Protective Services to
investigate parents of transgender children for child abuse if their children
politically “winning issue.” In contrast, certain Republican governors validated the concerns about the hostile messaging. For example, Arkansas’ Governor Asa Hutchinson stated that his state’s ban on gender-affirming healthcare for youth “puts a very vulnerable population in a more difficult position” and “sends the wrong signal to them.” Governor Spencer Cox of Utah also acknowledged the harms when he vetoed that state’s transgender student sports ban, writing:

Rarely has so much fear and anger been directed at so few. I don’t understand what they are going through or why they feel the way they do. But I want them to live. And all the research shows that even a little acceptance and connection can reduce suicidality significantly.

Additionally, while Gov. Eric Holcomb of Indiana supported the goal of “fairness in K–12 sports,” he ultimately vetoed his state’s transgender student sports ban. The same transgender youth who heard politicians speak of the need to protect cisgender girls from them heard the same politicians claiming to now protect them by denying them healthcare. One example is State Representative Robin Lundstrum’s support of the Arkansas Save Adolescents From Experimentation Act, the “SAFE” Act, in which she


53. Letter from Spencer J. Cox, Governor of Utah, to President of the Senate and Speaker of the House (Mar. 22, 2022) (on file with author), https://drive.google.com/file/d/1emUTFbEmNmsD9uhhRsAeVNr4ePIv9/view [https://perma.cc/WT48-KV8].


articulated the view that children can “choose” to identify as transgender but must wait until they reach age eighteen.  

Transgender and nonbinary youth are expected to be the target of anti-trans culture wars in the upcoming 2024 presidential primary and election. These youth will be subjected to the all-too-familiar spread of misinformation and hostility from Republican presidential candidates. For example, Governor Ron DeSantis of Florida made the following statements:

- “Clearly, right now, we see a lot of focus on transgenderism, telling kids that they may be able to pick genders and all that.”

- “We’re going to protect kids when it’s popular, we’ll protect kids even when you take some incoming as a result of maybe offending some ideologies or some agendas out there.”


58. See Lee, supra note 57; see also Nagourney & Peters, supra note 57.


• After signing into Florida law, a multitude of restrictions on transgender and nonbinary minors: “We are going to remain a refuge of sanity and a citadel of normalcy, and kids should have an upbringing that reflects that.”61

• On restricting gender identity pronoun use in public schools: “We never did this through all of human history until like, what, two weeks ago? Now this is something? They’re having third graders declare pronouns? We’re not doing the pronoun Olympics in Florida.”62

Another Republican presidential candidate, Nikki Haley, suggested that transgender children in girls’ locker rooms were responsible for suicidal ideation in adolescent girls.63

Similarly, presidential candidate Donald Trump made clear his anti-transgender youth agenda:

• [H]e promised to cut federal funding for any school pushing . . . “transgender insanity” or “any other inappropriate racial, sexual or political content on our children.”64


63. See Eric Bradner, Nikki Haley Connects Teen Girls’ Suicidal Ideation to Transgender Girls in Locker Rooms During CNN Town Hall, CNN (June 5, 2023, 2:46 PM), https://www.cnn.com/2023/06/05/politics/nikki-haley-transgender-girls-teen-suicide/index.html [https://perma.cc/T6DB-ZAZG] (“How are we supposed to get our girls used to the fact that biological boys are in their locker room? And then they wonder why a third of our teenage girls seriously contemplated suicide last year . . . We should be growing strong girls; confident girls.”).

• Ensure that teachers “promote positive education about the nuclear family, the roles of mothers and fathers and celebrating, rather than erasing, the things that make men and women different.”

• Push Congress to pass a law banning gender-affirming care for minors nationwide, and task federal agencies to police, and ultimately, “stop” gender-affirming care for minors.

• Summarizing his thoughts: “The left-wing gender insanity being pushed at our children is an act of child abuse. Very simple. Here’s my plan to stop the chemical, physical[,] and emotional mutilation of our youth.”

Next, the misinformation and bias transgender and nonbinary youth hear from politicians and lawmakers may mirror their experience in court, should they find themselves in front of certain judges.

A. Cases of Judicial Bias Mirror Political Hostility and Impact Access to Justice

Like some politicians, certain judges share misinformed beliefs and biases regarding gender identity—reflecting the general population’s perspective. To illustrate, an Ohio probate judge denied a legal name change for a fifteen-year-old transgender male and stated, “[a] name change request today by a child could be motivated by short-term desires or beliefs that may change over the passage of time as the child matures . . . [Elliott’s] brain is still growing and changing and is simply not ready to make this life-altering decision.”

The judge’s biased statement mirrors the sentiments expressed by Alabama State Representative Wes Allen. Representative Allen, commenting on his state’s ban on gender-affirming care, stated: “This legislation is about

66. See id.
67. Id.
68. See Matter of H.C.W, 123 N.E.3d 1048, 1051 (Oh. 2019) (presenting a novel issue for the court at the time involving a mother who petitioned to change her transgender child’s name).
69. Id.
70. Compare id. (deciding the outcome of an application for a name change), with Branigin, supra note 18 (discussing proposed legislation involving transgender rights).
protecting children from making decisions as children that their brains are not yet developed enough to understand.”71 Similarly, Arkansas State Representative Robin Lundstrum, a Republican who proposed the Arkansas SAFE Act, stated that being transgender is a “choice” better reserved for adults because transgender children “need to grow up first.”72 To the contrary, a gender identity development expert stated: “[C]hildren who are prepubertal and assert [a transgender identity] know their gender as clearly and as consistently as their developmentally equivalent peers who identify as cisgender . . . ”73

Alarmingly, Representative Allen further stated: “Just as we do not allow children, even with parental permission, to drink alcohol or vape, we passed this legislation to protect children.”74 His views are misinformed and concerning. First, equating a youth’s harmful use of substances that lack any positive health benefit with accessing potentially lifesaving, well-researched medical care, is unfounded and dangerous.75 Second, gender-affirming care, when desired, is protective and those youth are harmed when denied access.76

The Ohio probate judge displayed further bias and disrespect toward transgender youth by intentionally misgendering Elliot.77 The judge stated:

Whether [Elliott] is experiencing Gender Dysphoria or is just not comfortable with her [sic] body is something that only time will reveal. Is [Elliott’s] distress brought about by confusion, peer pressure, or other non-transgender issues—or is it truly a mismatch between her [sic] gender identity and her [sic] body?78

Transgender litigants have also faced judicial bias in federal court, including intentional misgendering.79 Importantly, however, other

71. Branigin, supra note 18.
72. Cole, supra note 56.
73. Jason Rafferty, Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents, 142 PEDIATRICS 1, 4 (2018).
74. Branigin, supra note 18.
75. See generally id.
76. E.g., Rafferty, supra note 73, at 5.
77. See generally Matter of H.C.W., 123 N.E.3d 1048, 1055 (Oh. 2019) (summarizing the Ohio probate court’s discussion involving a transgender child’s proposed name change).
78. Id.
79. See Brief of Amici Curiae Lambda Legal Defense & Education Fund, Inc., HRC, National Center for Transgender Equality, National LGBT Bar Ass’n, National Trans Bar Ass’n,
federal judges in rulings blocking (in-part or fully) some state’s gender-affirming care bans sent a powerful counter-message of affirmation and protectiveness to transgender and nonbinary youth. When federal courts express solidarity with transgender youth, they become a source of justice and harm prevention within the judicial system.

For example, Judge Robert L. Hinkle stated that “gender identity is real” and characterized the states’ argument of banning gender-affirming care as “a laundry list of purported justifications for the statute and rules” that were “largely pretextual,” adding “the statute and the rules were an exercise in politics, not good medicine.” Similarly, Judge Moody Jr. of Arkansas stated, “rather than protecting children or safeguarding medical ethics, the evidence showed that the prohibited medical care improves the mental health and well-being of patients and that by prohibiting it, the State undermined the interests it claims to be advancing.”

Judge Moody Jr.’s message was profound to at least one transgender youth. Plaintiff Dylan Brandt stated, “I’m so grateful the judge heard my experience of how this health care has changed my life for the better and saw the dangerous impact this law could have on my life and that of countless other transgender people.” However, most transgender and nonbinary litigants will not be in federal court on a constitutional claim, but rather, in a state court on claims unrelated to their gender identity;

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81. See generally id.
therefore, the awareness and knowledge of any particular state judge about gender identity and respectful practices may vary widely.\textsuperscript{85}

Experiencing stigmatization in court leads the litigant to view that system broadly as discriminatory.\textsuperscript{86} Because judges represent the legal system, expressions of bias risks dissuading transgender individuals from seeking assistance and relief through that system and, by association, the legal system generally.\textsuperscript{87} That risk underscores the need for judicial education about gender identity and anti-bias training, and the need for gender-affirming judges who increase access to justice and prevent court avoidance by transgender individuals who fear the judicial system is antagonistic.

In the next section, I discuss the hostility and discrimination transgender youth face in school, from malignant policies that deny their identity to those preventing them from participating in sports and restricting their bathroom use.

\section{II. Hostile School Climates}

“Since the different bills have passed . . . the bullying for [transgender] kids here has gone through the roof,” Freet said.\textsuperscript{88} “It’s making it seem like they’re outcasts. Like they don’t belong there . . . they’re being bullied to the point where they don’t like who they are.”\textsuperscript{89}

Attending school is a primary stressor for transgender children.\textsuperscript{90} Identity-hostility harms them at school, their primary public sphere, where they often face antagonistic policies and laws.\textsuperscript{91} They may endure

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\textsuperscript{85}. See generally id. (examining other legal actions that transgender youth may be facing, such as consumer issues, traffic violations, and domestic matters).
\textsuperscript{86}. See generally ALEXI JONES, PRISON POL’Y INITIATIVE, VISUALIZING THE UNEQUAL TREATMENT OF LGBTQ PEOPLE IN THE CRIMINAL JUSTICE SYSTEM, 10 (2021), https://www.prisonpolicy.org/blog/2021/03/02/lgbtq/ [https://perma.cc/92BH-JG5D].
\textsuperscript{87}. See generally id. (citing to specific incidents where transgender people do not feel safe within the judicial and law enforcement system).
\textsuperscript{88}. Stanton, supra note 7.
\textsuperscript{89}. Id.
\end{flushleft}
bans on their participation in school sports, discussions of gender identity, misgendering, and prevention from using gender identity congruent bathrooms and locker rooms.  

A. Antagonistic Policies and Gender Identity Curriculum Bans

According to national surveys, schools today are dangerous and distressing environments for many transgender and nonbinary youth.  

For instance, 43.2% of LGBTQ students felt unsafe at school because of their gender expression, with 91.8% having heard negative remarks about gender expression.  

A majority were called names or threatened based on gender expression, 22.4% percent experienced physical harassment, and 60.3% of the students who reported victimization to school staff said that staff were unresponsive.  

Further, in the 2019 school survey, 66.7% percent of students reported hearing hostile comments about gender expression from teachers and staff; and such negative comments by staff increased from 2019 to 2021.  

“School-based harassment, victimization, and rejection can have life-threatening consequences for transgender youth.” Transgender students facing bullying had two-and-a-half times the rate of suicidality compared to transgender students who had not been bullied, three times the rate of attempted suicide, and nearly three times the rate of depression. 


94. See id. at 5, 6.  

95. See id. at 7, 8.  


98. See id.
hostile school environment is associated with even greater rates of suicidality in students of color.\textsuperscript{99}

Schools and school systems with discriminatory or nonprotective policies, such as prohibiting transgender students from using their chosen name, expose students to harm.\textsuperscript{100} Yet, twenty-nine states do not protect transgender and gender nonconforming students from bullying by students, staff, and teachers.\textsuperscript{101} South Dakota and Missouri exacerbated the issue by passing legislation preventing schools or districts from adding LGBTQ protections to anti-bullying and nondiscrimination policies, thus protecting those who harm rather than their victims subject to the harm.\textsuperscript{102}

Further, ten states currently restrict teachers and staff from discussing LGBTQ topics with “Don’t Say Gay or Trans” policies.\textsuperscript{103} For example, Florida prohibits classroom instruction about gender identity or sexual orientation through high school.\textsuperscript{104} In addition, five states require schools to notify parents before students receive instruction on sexual orientation or gender identity.\textsuperscript{105} These policies also allow a parent or guardian to excuse their student from such instruction.\textsuperscript{106} This identity censorship sends a message of exclusion and shame to transgender students and their cisgender peers.\textsuperscript{107} As one transgender student stated, “The students who need to be taught about LGBTQ issues the most are also the students whose parents are going to opt them out of this. The students who really

\begin{itemize}
  \item \textsuperscript{99} See id. (“[H]ighlighting how experiences of transgender people of color can intersect to increase risk for within-transgender disparities.”).
  \item \textsuperscript{100} See GLSEN, THE 2021 NATIONAL SCHOOL CLIMATE SURVEY: EXECUTIVE SUMMARY 9 (2021) (noting that 29.2\% of students were prohibited from using their chosen name or pronoun); see also Mischief and Mayhem: A Symposium on Legal Issues Affecting Youth in the Child Welfare and Juvenile Justice Systems, 14 CARDOZO J.L. & GENDER 609, 691 (2008) (“[T]ransgender youth often encounter teachers and school administrators who refuse to recognize their chosen name and pronoun . . . ”).
  \item \textsuperscript{102} See id.
  \item \textsuperscript{103} See id.
  \item \textsuperscript{104} See H.B. 1557, 125th Reg. Sess. (Fla. 2023) (amending § 1001.42 of the Florida Education Code through the passage of the Florida Parental Rights in Education Bill to limit the discussion of sexual orientation in elementary and middle schools).
  \item \textsuperscript{105} See Equality Maps: LGBTQ Curricular Laws, supra note 101.
  \item \textsuperscript{106} See TENN. CODE ANN. § 49-6-1305 (2012) (stating that a parent or guardian can excuse their student from instruction).
  \item \textsuperscript{107} See Frank, supra note 18.
\end{itemize}
need to be learning these things and unlearning certain biases wouldn’t be able to."

Finally, five states require school staff to tell parents whether “information related to a minor’s perception that his or her gender or sex is inconsistent with his or her sex,” or if the student asks to change their name or pronoun. Six other states promote—but do not require—the outing of children by their schools. This forced or encouraged outing of young transgender, nonbinary, or gender-questioning children may expose them to harm if their parents are unsupportive, or worse, regarding their gender identity.

B. School Sports Participation Restrictions

As a 13-year-old transgender football player explained, “For some, sports is a pastime. But for others like me, it’s their whole life. You can’t just take away someone’s life.”

Sports participation provides many benefits for all youth, especially for at-risk transgender youth, including mental health and social connection. Sports may provide an essential support network because transgender youth experience higher rates of family and peer rejection. Playing sports also gives children confidence and self-esteem-building

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111. See generally H.B. 1608, 123rd Gen. Assemb., 1st Reg. Sess. (Ind. 2023) (opining on the harm H.B. 1608 may cause when the school is required to reach out to the parent if the parent is unsupportive of the student’s gender identity).


114. See GOLDBERG, supra note 97.
opportunities, team membership and inclusion, and more. Critically, sports participation can protect against suicidality for transgender youth. Conversely, excluding them presents a mental health risk, which transgender youth cannot afford. Nonetheless, 34% of transgender youth, ages thirteen to seventeen, live in the twenty-one states with laws preventing them from participating in sports consistent with their gender identity.

Most sports bans target transgender females, although several also restrict transgender males from participation. For example, a Minnesota bill proposed criminalizing transgender female athletes, ages twelve and older, for playing school sports. The bill stated that a transgender girl (misgendered by the proposed law as “male”) who “[tries] out for or participate[s] on a female-only team” . . . “is guilty of a petty misdemeanor.” Transgender females already face compounded, intersectional harms, including higher rates of violence, abuse, gender discrimination, and for many, racial discrimination.

116. See Beers, supra note 113.
117. See id. (“Forcing transgender children to play on teams according to their sex assigned at birth, rather than the gender they live in, [sic] puts their physical and mental health at risk.”).
119. See H.R.J. Res. 53, 101st Gen. Assemb., Reg. Sess. (Mo. 2021) (“Athletic teams or sports designated for ‘females,’ ‘women,’ or ‘girls’ shall not be open to students of the male sex. Students of the female sex who previously participated in athletic teams or sports designated for ‘females,’ ‘women,’ or ‘girls’ and who have begun gender or sex transitioning shall not participate in athletic teams or sports designated for ‘females,’ ‘women,’ or ‘girls.’”).
120. See H.F. 1657, 92nd Leg., Reg. Sess. (Minn. 2021) (“Subd. 1a. Definition. For the purposes of this section, 'male; means a person with a heterogametic sex chromosome pair consisting of one X chromosome and one Y chromosome.”).
121. Id. (emphasis added).
122. See generally Kimberlé Crenshaw, Kimberlé Crenshaw on Intersectionality, More than Two Decades Later, COLUMBIA L. SCH. NEWS (June 8, 2017), https://www.law.columbia.edu/news/archive/kimberle-crenshaw-intersectionality-more-two-decades-later [https://perma.cc/7QUE-L4VE] (“Intersectionality is a lens through which you can see where power comes and collides, where it interlocks and intersects. It’s not simply that there’s a race problem here, a gender problem here, and a class or LGTQ problem there. Many times that framework erases what happens to people who are subject to all of these things.”).
Additionally, transgender females (along with nonbinary youth assigned male at birth) experience the lowest rate of peer support compared to other gender and sexual minority youth and the poorest health outcomes. Transgender females of color are especially at risk. Therefore, the laws are disproportionately harmful.

Even bills purported to apply to both sexes explicitly target transgender girls. For example, a 2021 Iowa bill was titled, “[A]n act relating to student participation in interscholastic or intramural athletic teams or sports based on biological sex.” It did not expressly exclude transgender girls, as the act appeared gender-neutral throughout. Yet, it contained this provision: “[S]tudents of the male sex shall be ineligible to participate in athletic teams or sports designated for females, women, or girls, notwithstanding a provision of the Iowa Civil Rights Act of 1965.” It did not have a similar provision that explicitly excluded transgender males from participating in certain categories of sports based on gender. In 2022, Iowa enacted a ban on sports participation based on gender identity.

Similarly, in 2022 South Carolina enacted its “Save Women’s Sports Act.” That Act’s stated purpose is: “[T]he General Assembly finds that participation in extracurricular sports is beneficial for children and their mental and physical health and that the law is necessary to protect the health of girls.”

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124. See generally Kevin Jefferson ET AL., Transgender Women of Color: Discrimination and Depression Symptoms, 6 ETHN INEQUAL HEALTH SOC. CARE 121, 2 (2013), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4205968/ (finding the exposure to discriminatory events increases negative mental health effects for transgender women of color); see also Goldberg, supra note 91.


126. See Myths and Facts: Battling Disinformation About Transgender Rights, HUM. RTS. CAMPAIGN, https://www.hrc.org/resources/myths-and-facts-battling-disinformation-about-transgender-rights (explaining that the legislation is “designed to exclude transgender people, particularly women and girls, from participating in athletics . . . ”).


128. See id.

129. Id. (emphasis added).

130. See id. (emphasis added).

Further, “[i]t is in the state’s best interest to ensure that fair opportunities are preserved for all children to compete in sports.”

However, as its title demonstrates, the bill’s text explicitly barred transgender females from playing sports beginning in middle school. It stated, “An athletic team or sport designated for ‘females,’ ‘women,’ or ‘girls’ may not be open to students of the male sex.”

Given the lower rates of peer support experienced by transgender girls, singling them out through the sports bans exacerbates the disparities and risks, sowing division within the transgender youth community—further decreasing vital peer support. This possibility is especially concerning because many transgender youth face rejection at home and, thus, rely on their peers for necessary social support.

Moreover, proponents of restricting transgender female student-athletes from participating in female sports do not have evidence to support the specter of transgender youth athletes displacing cisgender athletes. For example, when opponents of West Virginia’s “Save Women’s Sports Bill” filed for injunctive relief, U.S. District Court Judge Joseph Goodwin stated:

[P]ermitting B.P.J. to participate on the girls’ team would not take away athletic opportunities from other girls. Transgender people make up a small percentage of the population: 0.6% of the adult population generally, and 0.7% of thirteen-to seventeen-year-olds. The number of transgender people who wish to participate in school-sponsored athletics is even

133. H.B. 4153 (enacted); see also S.C. CODE ANN. § 59-1-500.
134. See H.B. 4153; see also S.C. CODE ANN. § 59-1-500 (2022).
137. See, e.g., JAMIE M. GRANT ET AL., NAT’L CTR. FOR TRANSGENDER EQUALITY AND NAT’L GAY AND LESBIAN TASK FORCE, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 94 (2011), https://www.thetaskforce.org/resources/injustice-every-turn-report-national-transgender-discrimination-survey/ [https://perma.cc/585L-3JF2] (noting that 40% of respondents reported being rejected by parents or other family members due to their gender identity and expression; however, 60% were not rejected).
138. See GOLDBERG, supra note 91 (asserting that the arguments against including transgender female athletes are largely without basis or rationale and lack evidentiary support).
smaller. Insofar as I am aware, B.P.J. is the only transgender student at her school interested in school-sponsored athletics.\textsuperscript{139}

Notably, West Virginia’s governor could not identify any transgender student athletes competing in sports in his state.\textsuperscript{140} Similarly, the sponsor of Idaho’s sports ban, Rep. Barbara Ehardt, did not dispute the lack of evidence.\textsuperscript{141} Instead, she tellingly stated that “[t]here’s never a bad time to protect opportunities for girls and women.”\textsuperscript{142} Finally, Utah Governor Spencer Cox called out the nonissue, noting that of 75,000 high school kids playing sports in Utah, there are four transgender participants and only one transgender female.\textsuperscript{143} Governor Cox wrote, “That is what this is all about. Four kids who aren’t dominating or winning trophies or taking scholarships. Four kids who are just trying to find some friends and feel like they are a part of something.”\textsuperscript{144}

Aiming to address the public’s concerns about competitive fairness and physical safety when transgender students are allowed to participate in sports aligning with their gender identity, the U.S. Department of Education proposed changing the Title IX regulation on student athletes’ eligibility for sports teams.\textsuperscript{145} The regulation suggests a compromise recognizing that in higher grade levels, such as high school and college, athletics become competition focused, in contrast with elementary grade


\textsuperscript{142} Id.

\textsuperscript{143} See Letter from Spencer J. Cox, supra note 52.

\textsuperscript{144} Id.

sports where the focus is on teamwork, fitness, and fundamental skills. Therefore, it proposes that elementary school children be able to participate on school sports teams consistent with their gender identity but that “sex-related criteria” limiting transgender student participation would be allowed in later grade levels if not based on identity disapproval or a wish to harm the students.

C. Bathroom Use

Concern about bathroom access among the transgender community is high, with 91% of transgender and nonbinary youth worried about being denied bathroom access due to state or local laws. Transgender students have faced a sustained political attack against their access to restrooms and locker rooms consistent with their gender identity. In a 2020 national survey, 61% of transgender and nonbinary youth respondents reported being prevented or discouraged from using a bathroom that corresponds with their gender identity. In 2021, six bills restricting gender identity based bathroom access were introduced, nine were introduced in 2022, and another eight in 2023, with four becoming law. Currently, nine states prohibit K–12 students from using bathrooms and facilities consistent with their gender identity. Florida has the most extreme bathroom ban—the state criminalizes the use of bathrooms for transgender people.

146. See U.S. Dep’t of Educ., supra note 145.
147. See id.
148. See THE TREVOR PROJECT 2022 NATIONAL SURVEY, supra note 7, at 14.
149. See id. at 13.
bathrooms consistent with a person’s gender identity by potential imprisonment.\textsuperscript{153}

An Oklahoma law allows parents and students to report violations of the rule to school officials and requires the school officials to investigate and they may discipline the students.\textsuperscript{154} Republican state Rep. Danny Williams, the bill’s author, said of the legislation, “It’s about safety, it’s about protection, it’s about common sense.”\textsuperscript{155} However, the distress transgender students endure by restricting their bathroom access demonstrates that the law is not about the safety or protection of transgender students.\textsuperscript{156} Moreover, it is nonsensical that cisgender students would need protection from their transgender peers given the rates of bullying experienced by transgender students and the lack of evidence of harm in shared school bathroom usage.\textsuperscript{157}

The Tennessee Accommodations for All Children Act is another example of a trend toward implementing punitive bathroom bans.\textsuperscript{158} That Act restricts transgender students’ access to gender identity congruent bathrooms and locker rooms in school.\textsuperscript{159} In addition, the bill

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\item[153.] See H.B. 1521, 125th Reg. Sess. ( Fla. 2023).
\item[154.] See OKLA. STAT. tit. 70, § 1-125 (2022).
\item[155.] Id.; see also Anne Branigin, Oklahoma Just Passed Its Third Anti-Trans Bill of the Year, WASH. POST (May 23, 2022, 6:01 PM), https://www.washingtonpost.com/nation/2022/05/23/oklahoma-bathroom-bill-passed-legislature/ [https://perma.cc/BFV9-2LJN].
\item[156.] See, e.g., Myeshia Price-Feeney ET AL., Impact of Bathroom Discrimination on Mental Health Among Transgender and Nonbinary Youth, 68, J. ADOLESCENT HEALTH, at 1 (June 2021) (“Of the youth surveyed who had experienced bathroom discrimination, 85% reported depressed mood, 60% had seriously considered suicide, and 1 in 3 had attempted suicide (1 in 5 had attempted multiple times).”).
\item[158.] See S.B. 1367, 112th Gen. Assemb. (Tenn. 2021); see also Wyatt Ronan, Tennessee Gov. Lee Signs Anti-Transgender ‘Business Bathroom Bill’ into Law, HUM. RTS. CAMPAIGN (May 17, 2021), https://www.hrc.org/press-releases/tennessee-gov-lee-signs-anti-transgender-business-bathroom-bill-into-law [https://perma.cc/PNX3-DZRM] (stating that “HB 1182 (SB 1224) is part of the 2021 ‘Slate of Hate’ rippling through the Tennessee state legislature. This anti-transgender bill is the fourth discriminatory piece of legislation signed by Governor Lee this session, following SB 228 an anti-transgender sports ban, SB 1229, a sweeping anti-LGBTQ education, bill, and HB 1233, anti-transgender student bathroom bill.”).
\item[159.] See Tenn. S.B. 1367; see also Grimm, at 594–95 (comparing the bill to a similar discriminatory bathroom bill under litigation in which the Supreme Court denied certiorari in Grimm v. Gloucester County School Board—a case regarding discriminatory bathroom usage policies by schools against transgender students. Thus, the Court left in place a ruling by the U.S. Court of Appeals for the Fourth Circuit affirming the Virginia district court’s holding that
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includes a civil cause of action for “monetary damages for all psychological, emotional, and physical harm suffered” if a cisgender student believes they shared a sex-segregated bathroom, locker room, or another changing facility with a transgender student. That provision not only harms transgender youth by restricting their bathroom use during school but also implies that their mere presence inflicts harm on cisgender students; and likewise, it says to cisgender students that being merely exposed to transgender youth is harmful.

Next, I discuss access barriers in health care, where misinformation and gender identity denial has resulted in laws barring transgender and nonbinary youth from potentially lifesaving gender-affirming care.

III. DENYING GENDER-AFFIRMING HEALTH CARE AND ACCESS TO CARE BARRIERS

A 14-year-old transgender youth in Missouri stated:

I want them to know that I’m a kid just like any other kid. My personal life journey has definitely not been easy. Being trans itself is not difficult. The hard part is the societal view. People don’t attempt suicide because they’re trans, they harm themselves because of how society views them. How they view us affects how they treat us, and that affects our mental health.

In Texas, a 19-year-old transgender college student, Andy Hackett, expressed his concerns with the closing of the only clinic in the state to treat transgender adolescents due to political pressure from the state’s Republican politicians.

Hackett remarked, “[t]he mind-set almost feels like, if you take away the resources then the kids will stop being

Gloucester County School Board’s restroom policy violated Title IX and the Equal Protection Clause."

160. See Tenn. S.B. 1367.

161. See generally Associated Press, Tennessee Gov Signs Transgender ‘Bathroom Bill’ for Schools, NBC NEWS, https://www.nbcnews.com/nbc-out/out-news/tennessee-gov-signs-transgender-bathroom-bill-schools-rca953 [https://perma.cc/L625-874R] (May 18, 2021, 10:53 AM) (quoting the ACLU of Tennessee Executive Director as stating that “[t]ransgender students should be treated with respect and dignity, just like everyone else . . . this bill sends the opposite message—that students should be able to discriminate against a group of their classmates . . . .”).

162. Levin, supra note 1.

queer . . . [b]ut that doesn’t mean there’s going to stop being trans kids.”

The Pediatric Endocrine Society warned that “the support and implementation of [bills denying gender-affirming healthcare] will worsen mental health, increase the risk of suicide, and contribute to poorer overall health in our [transgender and gender diverse] patients.”

According to the largest nongovernmental survey of transgender adults in the U.S., seventy-eight percent reported that transitioning, or outwardly presenting their gender differently from their sex assigned at birth, made them “more satisfied” with their lives. A longitudinal study of transgender and gender diverse youth found that receiving gender-affirming hormones (GAH) improved life satisfaction and decreased symptoms of depression and anxiety.

Importantly, the standards of care require healthcare professionals to take an individualized and varied approach with each patient considering a medical transition. Most survey responders had “socially transitioned,”—meaning they changed their clothing, hairstyle, name and/or pronouns; fewer than a third used puberty blockers or hormone treatment; almost forty percent sought out counseling or therapy as part of their transition; and only sixteen percent had gender-affirming

164. Id.


167. See Diane Chen ET AL., Psychosocial Functioning in Transgender Youth After 2 Years of Hormones, 388 NEW ENG. J. MED. 240, 245 (2023) (noting that their “findings are consistent with those of other longitudinal studies involving transgender and nonbinary youth receiving GAH.”).

168. See World Professional Association for Transgender Health Standards of Care for Transgender and Gender Diverse People, Version 8 Frequently Asked Questions (FAQs), supra note 10 (acknowledging “the importance of individualized care for transgender and gender diverse people in lieu of one-size-fits-all health care models.”).
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Transitioning, when desired, is a highly personal journey that varies among individuals and by gender identity.\(^{169}\) Finally, counter to claims by opponents of gender affirming care, recent studies provide strong evidence that a large number of transgender and nonbinary individuals who choose to transition do not regret the choice.\(^{171}\) Furthermore, those who do detransition do not always “regret” their initial transition, but rather have other reasons for stopping or reversing treatment.\(^{172}\) Moreover, a study found that when gender-affirming treatment is commenced in adolescence, the rate of regret is “very low.”\(^{173}\)

A. Prohibiting Necessary Medical Care

A 15-year-old transgender youth, identified in court records by her initials H.W. stated: “The possibility of losing access to my medical care because of this law causes me deep anxiety...I would not feel like myself anymore if this lifesaving medication was criminalized.”\(^{174}\)

169. See Kirzinger et al., supra note 166, at 8 (noting there are many ways an individual may seek to “transition” or express their gender identity).

170. See id. (reporting that over sixty percent of transgender adults prefer the terms “nonbinary” or “gender-non-conforming”); see also Parks et al., supra note 90 (commenting on the survey’s findings and noting that those who identify as a “trans man” or “trans woman” are three times more likely than those who identify as nonbinary or gender-nonconforming to seek hormone treatments or undergo gender-affirming surgery).


172. See Olson et al., supra note 171, at 4–5 (suggesting that reasons for de-transitioning may range from regret to suffering side effects or transphobia).


Post transitioning, a 37-year-old Black nonbinary person commented that “[l]iving doesn’t hurt anymore.”\textsuperscript{175} For those who want to medically transition, major medical associations and transgender health professional organizations are adamant that gender-affirming healthcare is a critical need.\textsuperscript{176} Furthermore, “families and doctors of transgender children often report that the gender transition process is transformative—even lifesaving.”\textsuperscript{177} A study found that when transgender adolescents receive gender-affirming care, their well-being improves to a level comparable to their cisgender peers.\textsuperscript{178} Therefore, major advocates of LGBTQ+ rights oppose legislation banning or restricting access to gender-affirming care for transgender and gender diverse people.\textsuperscript{179} It follows that denying such care may lead to “tragic consequences.”\textsuperscript{180} Thus, providing gender-affirming care for transgender

\footnotesize{\begin{thebibliography}{99}
\bibitem{note175} Parks ET AL., supra note 90.
\bibitem{note177} GABE MURCHISON ET AL., SUPPORTING & CARING FOR TRANSGENDER CHILDREN 7 (Hum. Rts. Campaign, 2016)https://assets2.hrc.org/files/documents/SupportingCaringforTransChildren.pdf [https://perma.cc/X2LD-U3U5] (“With their gender identity no longer in conflict, the child can focus on the important work of learning and growing alongside their peers.”); \textit{see also} Chen ET AL., supra note 167, at 243–44.
\bibitem{note178} See Outlawing Trans Youth: State Legislatures and the Battle Over Gender-Affirming Healthcare for Minors, supra note 50, at 2168–69 (criticizing legislative attempts to prevent gender-affirming care and exploring scientific evidence that gender-affirming care greatly benefits trans youth (citing Annelou L.C. de Vries ET AL., Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment, 134 PEDIATRICS 696 (2014))).
\bibitem{note180} See, e.g., Letter from James L Madara, supra note 171 (opposing state legislation prohibiting gender-affirming healthcare in part because “[t]ransgender individuals are up to three times more likely than the general population to report or be diagnosed with mental health disorders,” which is often a result of transphobia).
\end{thebibliography}}
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2024] youth who want it protects them, while prohibiting it exacerbates the risk of harm. 181 Nonetheless, over half of all transgender youth ages thirteen to seventeen either have lost or are at risk of losing access to gender-affirming health care amid a growing list of states adopting such health care restrictions. 182 In contrast, eleven states and the District of Columbia enacted “shield” or “refugee” laws that protect access to gender-affirming health care and its providers. 183

By enacting the Save Adolescents From Experimentation (SAFE) Act, Arkansas became the first state to enact a law prohibiting health care providers from providing gender-affirming treatment to transgender minors. 184 For patients under eighteen, the SAFE Act prohibited physicians from providing gender-affirming healthcare or referring patients to other providers. 185 Alarmingly, the Act did not provide for

181. See id. (calling the “troubling bills” “a dangerous intrusion into the practice of medicine”); see also TRANSGERDER HEALTH POSITION STATEMENT, ENDOCRINE SOC’Y (Dec. 2020), https://www.endocrine.org/-/media/endocrine/files/advocacy/position-statement/position_statement_transgender_health_pes.pdf [https://perma.cc/33VS-57BR] (“[G]ender diverse youth who have barriers to accessing adequate healthcare have poorer overall physical and mental health compared to their cisgender peers.”).


continued medical care for youth already undergoing treatment. Furthermore, medical facilities that provided gender-affirming care risked losing their state funding. State-operated health insurers were prohibited from covering the care, and providers who continued to offer such care risked losing their licenses. Following Arkansas’s lead, Tennessee banned gender-confirming hormone treatments for prepubescent minors—a treatment not prescribed to prepubescent minors. This exposes its purely political purpose.

These healthcare bans are “strategically” titled to communicate a benevolent intent and elicit popular support while camouflaging their harm. For example, the Alabama Vulnerable Child Compassion and Protection Act makes it a felony for medical providers to provide gender-affirming healthcare to minors. Four additional states enacted similar laws, including Florida whose law characterizes transition care—including hormonal therapy—as child abuse, penalizing providers with

186. See id.
187. See id.
188. See id. (“Any referral for or provision of gender transition procedures to an individual under eighteen (18) years of age is unprofessional conduct and is subject to discipline by the appropriate licensing entity or disciplinary review board with competent jurisdiction in this state.”).
190. See id. (noting the governor of Tennessee is “a Republican” and considering the veto of a similar bill by Republican Governor Hutchinson of Arkansas “a rare move for a Republican elected official.”).
191. See Brandt v. Rutledge, No. 4:21-CV-00450-JM, 2023 WL 4073727, at *1 n.2 (E.D. Ark. June 20, 2023) (calling the title “Arkansas Save Adolescents from Experimentation (SAFE) Act” “misleading” and subsequently referring to it as “Act 626” for the entire opinion); see also B.P.J. v. W. Va. State Bd. of Educ., 550 F.Supp.3d 350, 352 (S.D. W. Va. 2021) (noting the “strategic” title of the law at issue when it was introduced as a bill at issue—“Save Women’s Sports Bill”).
192. See, e.g., ALA. CODE §§ 26-26-4(c) (2022) (providing that “[a] violation of this section is a Class C felony.”).
up to five years imprisonment and altering child custody laws. A federal judge issued a preliminary injunction against the Florida law, indicating that plaintiff families of transgender youth had a strong argument the law was unconstitutional. Two years after its enactment, the SAFE Act was held unconstitutional by a federal district court judge.

Oklahoma’s law banning gender-affirming care, states unequivocally that “[a] health care provider shall not knowingly provide gender transition procedures to any child.” Further, the law adds Oklahoma to a list of five other states that force youth already receiving gender-affirming treatment to be weaned off that treatment typically within six months—effectively reversing the medical transition and ultimately terminating ongoing necessary medical care.

Arguing against the health care bans, the U.S. Professional Association for Transgender Health (USPATH) opposes the characterizations of gender-affirming medical interventions as “experimental.” In fact,
healthcare providers commonly prescribe the medications used in transition care. For example, pubertal suppression is a common treatment for children who experience early puberty. The U.S. Department of Justice confirmed that these are not experimental treatments but universally accepted standards of care. Moreover, transgender adolescents received the now prohibited medical care for several decades.

Disturbingly, Texas Governor Greg Abbott described gender-affirming care as “abusive gender-transitioning procedures.” The Texas Department of Family and Protective Services (TDFPS) removed a webpage that included a suicide prevention hotline for LGBTQ+ children from its website due to political tensions following an order from the governor to the TDFPS to investigate parents for child abuse if they accessed gender-affirming care on behalf of their transgender children. Critics accused Governor Abbott and TDFPS of “promoting transgender sexual policies to Texas youth.”

Texas is one of numerous states that attempted to redefine its child abuse statute, enabling criminal investigations of parents for accessing gender-affirming medical care for their children. However, the Texas

202. See *Statement of Interest of the United States, supra* note 22, at 23–25 (highlighting that gender-affirming care is “recognized as part of the standards of care by major medical associations,” making it non-experimental).
203. See Jack L. Turban ET AL., *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*, 145 PEDIATRICS 2, 2–3 (2020); see also Rafferty, *supra* note 73, at 5.
204. Letter from Greg Abbott, *supra* note 43 (directing the Commissioner of Texas Department of Family and Protective Services to treat and investigate “so-called ‘sex change’ procedures” as child abuse).
206. Id.
207. See, e.g., S.B. 1646, 87th Leg., Reg. Sess. (Tex. 2021) (penalizing those who give consent to or administer gender affirming care to minors); see also Devan Cole, *GOP Lawmakers Escalate Fight Against Gender-Affirming Care with Bills Seeking to Expand the Scope of Bans,*
Senate bill explicitly exempted intersex children and their parents from the prohibition, exposing the pretext of its stated purpose.\textsuperscript{208} This threat of separating transgender children from gender-affirming and supportive parents is unconscionable and increases their fear and anxiety.\textsuperscript{209} Even before state bans on health care, transgender youth struggled to find medical providers knowledgeable about gender identity and gender-affirming care.\textsuperscript{210} In the states still allowing such care, the lack of providers poses a greater problem because of the bans.\textsuperscript{211}

### B. Lack of Gender-affirming Care Providers

About 3 in 10 trans adults say they have had to teach a doctor or other health care provider about trans people so they could get appropriate care, had a doctor or other health care provider refuse to acknowledge their preferred gender identity and instead refer to their sex assigned at birth, or been asked unnecessary or invasive questions about their gender identity unrelated to their visit. . . Nearly half (47 percent) trans adults health-care providers they have come in contact with know “not too much” or “nothing at all” about providing health care to trans people.\textsuperscript{212}

Difficulty finding a transgender-competent healthcare provider is a common barrier for transgender people seeking gender-affirming health care.\textsuperscript{213} This is especially true for low-income and youth of color, who

\textsuperscript{208} See S.B. 1646, 87th Leg., Reg. Sess. (Tex. 2021) (characterizing as abuse the acts of consenting to or assisting in the administration of a puberty suppression prescription to a child, unless that child is intersex).


\textsuperscript{210} See generally Fenit Nirappil, For Trans People, Medical Visits Can be More Traumatizing Than Healing, WASH. POST (March 24, 2023, 6:00 AM), https://www.washingtonpost.com/health/interactive/2023/transgender-health-care/ [https://perma.cc/TBF4-AGE2].

\textsuperscript{211} See id. (noting that trans people struggled to access respectful and knowledgeable healthcare providers in all settings, regardless of the political affiliations in the region).

\textsuperscript{212} Id.

\textsuperscript{213} See Joshua D. Safer ET AL., Barriers to Health Care for Transgender Individuals, 23 CURRENT OP. ENDOCRINOLOGY, DIABETES, & OBESITY 168, 171 (2016) (“[T]ransgender patients report that lack of providers with expertise in transgender medicine represents the single largest component inhibiting access.”); see also Fenit Nirappil, For Trans People, Medical Visits Can be
face disproportionate barriers to finding gender-affirming care. Further, transgender adults experience the same scarcity of knowledgeable and competent providers. Health care providers often do not have adequate knowledge to treat transgender individuals’ needs, and one in three transgender adults report delaying or avoiding seeking treatment because they are fearful of encountering bias. Moreover, long waitlists for gender-affirming care demonstrate the need for more knowledgeable and competent service providers.

Although healthcare systems have offered trans-specific care for years, legal service providers generally have not provided competent and knowledgeable legal services for this population. For example, consider a national website, transgendermap.com, which is devoted to listing trans-focused resources by state, including health and legal care services. On its main “medical” page, it provides over fifty links to a wide range of healthcare resources and information, but the main “legal”


215. Id.
216. See Safer ET AL., supra note 213, at 171 (listing the reported barriers to healthcare by transgender individuals as lack of sufficiently knowledgeable providers, lack of insurance or income, discrimination, lack of cultural competence by providers, shortcomings in health care systems, and socioeconomic barriers such as housing, access to reliable transportation, and mental health).
218. See, e.g., Branigin, supra note 18 (noting that one of the largest hospitals in Colorado has “a huge waiting list” for gender-affirming care”).
220. See Andrea James, Welcome to Transgender Map!, TRANSGENDER MAP, https://www.transgendermap.com/ [https://perma.cc/LZ5B-HT3Q].
page lists only nine legal advocacy organizations. As an example, for New Mexico, that website lists three national legal organizations—no local legal services are listed. In contrast, the same page lists thirty-one healthcare providers and organizations.

The scarcity of culturally fluent or competent legal service providers represents an access to justice issue. To mitigate this issue, cultural fluency or competency education must begin in law school. Moreover, to educate the already practicing attorneys, state bar programs should offer continuing legal education on those topics and the legal issues impacting transgender individuals.

The following section examines other lasting impacts on transgender youth when growing up during unprecedented political attacks and discrimination. These impacts contribute to long-term behavioral changes, including unwillingness to access essential services. However, peer and advocate initiatives can help combat the discriminatory harms.

IV. AVOIDANCE OF SERVICES DUE TO FEAR OF BIAS AND EFFORTS TO AMELIORATE HARMS

Transgender and nonbinary youth are experiencing a range of negative emotions with long-term implications arising from anti-transgender legislation.


223. See id.

224. See Kristie L. Seelman ET AL., Transgender Noninclusive Healthcare and Delaying Care Because of Fear: Connections to General Health and Mental Health Among Transgender Adults, 21 TRANSGENDER HEALTH 17, 18 (2017).


85% of transgender and nonbinary youth indicated recent debates around anti-transgender bills negatively impacted their mental health.\(^{227}\)

74% of transgender and nonbinary youth felt angry, 57% felt sad, 43% felt stressed, and nearly 1 in 3 felt scared in response to the sports participation bans.\(^{228}\)

73% of transgender and nonbinary youth feel angry, 57% feel sad, 47% feel stressed, 40% feel scared, and more than 1 in 3 feel hopeless, helpless, and/or nervous in response to the gender-affirming medical care bans.\(^{229}\)

Transgender youth, as a stigmatized group, already faced chronic adversity due to “minority stress,”\(^{230}\) which negatively affects their overall well-being.\(^{231}\) Minority stress includes ongoing stressors like bias and hostility from bullying and stigmatizing laws.\(^{232}\) Those stressors significantly increase the risk of suicide among transgender youth.\(^{233}\) Moreover, gender nonconforming children of color experience compounded bias and its adverse effects.\(^{234}\)

\(^{227}\) See id.

\(^{228}\) See THE TREvor PROJECT, supra note 14, at 7.

\(^{229}\) See id.

\(^{230}\) See generally Austin ET AL., supra note 11, at 2697 (defining minority stress as “exposure to identity-based stressors such as prejudice, stigma, discrimination, rejection, bullying, and other forms of violence . . . ” and interpersonal microaggressions include “daily negative messages targeting youth’s marginalized identity.”).

\(^{231}\) See Jaimie F. Veale ET AL., Enacted Stigma, Mental Health, and Protective Factors Among Transgender Youth in Canada, 2.1 TRANSGENDER HEALTH 207, 214 (2017) (finding that negative mental health outcomes are strongly correlated to minority stressors); see also Letter from James L Madara, supra note 171 (“Because of this [minority] stress, transgender minors also face a significantly heightened risk of suicide.”).

\(^{232}\) See generally Hatzenbuehler & Pachankis, supra note 8, at 985; see also Rafferty, supra note 73, at 3 (explaining that mental illness in transgender or gender diverse people stems from multiple factors such as: 1) the internal conflict between one’s gender identity and physical appearance, 2) limited availability of mental health services, 3) lack of access to knowledgeable healthcare providers, 4) discrimination, and other factors).

\(^{233}\) See, e.g., Letter from James L Madara, supra note 171 (“The increased prevalence of these mental health conditions [in transgender individuals] is widely thought to be a consequence of minority stress . . . .”); see also Thoma ET AL., supra note 10, at 2.

\(^{234}\) See GABE MURCHISON ET AL., supra note 172, at 6.
Transgender youth encounter their highest rates of discrimination at school, followed by public places.\textsuperscript{235} Such discriminatory harm reverberates across the lifespan of these individuals.\textsuperscript{236} Victimization and discrimination based on gender expression at school results in lower self-esteem, increased rates of depression, greater likelihood of dropping out of school, and less likelihood of pursuing further education.\textsuperscript{237} The adverse effects persist into adulthood, negatively impacting both physical and mental health.\textsuperscript{238} Those with intersectional identities encounter even more discrimination and acute harm, particularly Black and Hispanic LGBTQ people.\textsuperscript{239}

Discrimination changes the behavior of its target because they anticipate repeated mistreatment.\textsuperscript{240} Thus, it’s not uncommon for LGBTQ+ people who experienced discrimination to avoid medical or
legal services as a way to evade further intolerance.241 “Many LGBTQ people report altering their lives to avoid [sic] discrimination and the trauma associated with unequal treatment.”242 In 2020, a national study of the LGBTQ community found that thirty-nine percent of transgender people who experienced discrimination in the prior year refrained from seeking public services, and forty-seven percent avoided medical care altogether.243 Legal services are less prioritized and not considered essential like medical care, and therefore, likely more often avoided.244

Many transgender youths avoid attending school because they feel unsafe about how others view their gender expression.245 Transgender youths’ fear of such a fundamental public service is also predictive of their avoidance of the legal system. On the contrary, when systemic policies safeguard the well-being of transgender youth, like school student guidelines, transgender youths encounter reduced discrimination and are more inclined to attend.246

A. Peer Support and Other Efforts to Ameliorate Harms of Discrimination

As noted, peer support of transgender students protects against hostile school environments.247 LGBTQ advocates suggest that social support groups, such as Gay-Straight Alliances and other LGBTQ student resources, provide a safe haven that diminishes social isolation and stress while improving the student’s coping ability.248 School anti-bullying and gender identity-inclusive curricula also increase safety and student attendance.249

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241. See Rooney & Durso, supra note 236, at 3–4 (noting that LGBTQ+ people who had faced discrimination in the prior year were seven times more likely to avoid public accommodations than LGBTQ+ people who had not experienced discrimination).
243. See id.
244. See id.
245. See Kosciw et al., supra note 237, at 4.
246. See id.
248. See id. at 150.
249. See id. at 149.
LGBTQ advocacy groups organized lawmakers nationwide to introduce refuge laws that enable designated states to serve as sanctuaries for families seeking gender-affirming care for their children and the medical providers who provide it. For example, Connecticut lawmakers included treatment for gender dysphoria in its definition of “reproductive health care services,” which applies to those seeking or providing abortions. New Mexico recently passed a law that protects gender-affirming care providers from prosecution by other states that penalize this care.

National legal advocacy organizations, including the National Center for Lesbian Rights, are at the forefront of litigation opposing the legislative assault against transgender youth. The voices of transgender youth and their parents when testifying against antagonistic legislation and engaging in political protests are especially powerful demonstrations of advocacy.

Next I propose that the legal system, including academia, needs to mitigate avoidance of legal services among transgender youth through inclusive law school curricula and continuing education offerings.

V. PROACTIVELY ADDRESSING AVOIDANCE OF LEGAL ASSISTANCE TO PREVENT POOR LEGAL HEALTH

A 2022 Gallup poll reported over seven percent of U.S. adults identify as LGBTQ, doubling from ten years prior. According to the William...
Institute at UCLA Law, “[a]pproximately 1.6 million people ages 13 and older—0.6% of the population—identify as transgender . . . includ[ing] 1.4% of youth ages 13–17.” A Center for Disease Control (CDC) study found that nearly two percent of high school students in the United States identify as transgender. Additionally, a Pittsburgh study found that almost one in ten students attending public high schools “identified as gender–diverse — five times the current national estimates.”

Therefore, it is probable that legal practitioners will serve transgender or nonbinary individuals at some point in their careers.

Accordingly, legal professionals must receive cultural and issue specific training to offer competent legal services to transgender, nonbinary, and gender-nonconforming individuals, facilitating their access to justice. Effective engagement with and representation of transgender clients must begin in law school to ensure graduates are culturally responsive and can effectively serve their clients. To accomplish this, law schools can offer courses on gender identity and the law and integrate gender identity education into the curriculum.


258. See Dan Avery, Nearly 1 in 10 Teens Identify as Gender–Diverse in Pittsburgh Study, NBC NEWS (May 21, 2021, 8:02 AM), https://www.nbcnews.com/nbc-out/out-news/nearly-1-10-teens-identify-gender-diverse-pittsburgh-study-rcna993 [https://perma.cc/6NBY-R54M] (analyzing data from “3,168 student surveys from 13 Pittsburgh high schools” to find that the number of gender diverse individuals is higher than expected).


Likewise, the state bar could increase the number of practicing attorneys who are educated on the effective representation of and legal issues impacting transgender clients, such as misgendering in legal proceedings, and discrimination in employment and housing.

Considering the elevated incidence of trauma experienced by transgender individuals due to discrimination, hostility, and violence, it is essential that law students, as future legal practitioners, receive training in trauma-informed lawyering to effectively engage and represent this population. Therefore, clinical programs should teach trauma-informed lawyering skills before students engage with transgender and nonbinary clients. Further, because those who identify as transgender often have multiple intersecting identities, training should include intersectional identity awareness and its impact.

A. In Law School

Law schools should educate students on gender identity and the law by adopting inclusive curriculums and diversifying experiential programs.

1. Curriculum and Training

More law schools in the U.S. should offer a course on gender identity and the law, focusing on the laws that impact transgender and nonbinary individuals. Substantive law courses should include the representation of transgender and nonbinary individuals in issue spotting fact patterns.


263. See JODY L. HERMAN ET AL., HOW MANY ADULTS AND YOUTH IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 6 (2022); Johns ET AL., supra note 243, at 149 (demonstrating that intersectionality, which is comprised of “ability status, ethnicity, gender, racial, sexual orientation and socioeconomic status” is used in understanding “young peoples’ diverse social identities [and how they] affect many other individual-, interpersonal-, and school-level protective factors”).

when discussing systemic biases and legal issues such as discrimination and remedies.

LGBTQ+ law student associations contribute to furthering gender identity education by organizing collaborative discussions at their schools. Such trainings aim to enhance understanding and accurately inform students about the range of transgender individual’s experiences while decreasing misconceptions, biases, and discrimination. The trainings should include education and exercises on correct pronoun usage, the impact of misgendering, avoiding asking inappropriate questions about a client’s gender identity when unrelated to their legal issues, and strategies for affirming advocacy during representation.

2. Experiential Education

Transgender youth should also have greater access to law school clinics focused on their needs, like the Harvard Law School LGBTQ+ Advocacy Clinic, and externships serving LGBTQ+ youth, such as the LGBTQ Rights Externship by New York University Law School. Alternatively, clinical programs that do not have an LGBTQ-specific focused practice can offer legal services often wanted by transgender and nonbinary youth, such as name change clinics. A name change can be profoundly significant to transgender and nonbinary youth by providing legal recognition of their identity. Offering assistance to transgender clients with the name change process and gender changes on identity documents can positively impact their lives by reducing discriminatory
barriers to healthcare, education, employment, and housing. However, before offering legal services to transgender and nonbinary youth, clinical law students must be trained in culturally competent engagement to avoid, for example, misgendering and other disrespect.

It is important to offer gender affirming legal services in trusted and safe community spaces, like a local LGBTQ+ community resource center, a transgender youth group meeting, or in a public school in collaboration with a student group such as a Gay, Lesbian & Straight Education Network (GLSEN). By proactively offering legal assistance to transgender and nonbinary youth, legal service providers demonstrate their commitment to creating inclusive and safe environments that counter fears of bias associated with the legal profession.

B. Best Practices for Lawyers

Practicing attorneys have access to best practice resources on advocating for transgender and nonbinary individuals. For example, in 2021, the American Bar Association’s Commission on Sexual Orientation and Gender Identity collaborated with the Transgender Law Center and the Transgender Legal Defense & Education Fund to create a special webinar titled Trans Awareness for Legal Professionals: Why it Matters and Tools to Help. The Transgender Law Center developed a


273. See KOSCIW ET AL., supra note 232, at 12 (illustrating the positive impact of having safe, inclusive spaces for transgender and nonbinary youth).

274. See Sarah Steadman, From Out to In: The Opportunity and Need for Clinical Law Programs to Effectively Serve Low-Income LGBT Individuals, 26 REV. OF L. AND SOC. JUST. 1, 28 (2016) (advocating for institutions to provide safe and inclusive spaces for LGBT clients to encourage gender diverse clients to access necessary services).


brochure on working with transgender clients. The brochure outlines best practices, such as incorporating the client’s chosen name and pronouns in all correspondence, court documents, and settlement agreements. The brochure also cautions that the legal challenges impacting a transgender or nonbinary client may be unrelated to their gender identity. The ABA offers practice tips on working with transgender clients. State bar associations, like Minnesota’s, also developed materials on representing transgender clients. Additionally, legal professionals can learn from health care professional’s modeling on how to create a safe environment for transgender and nonbinary youth. Suggestions include:

1. Displaying flyers and information on LGBTQ legal issues to be more inclusive to transgender, nonbinary, or gender–nonconforming children and their families.

2. Transgender, nonbinary, or gender–nonconforming patients should have access to a gender-neutral restroom to foster comfort.


278. See id.

279. See id. (warning that focusing too “narrowly on the fact that a person is transgender” could result in “making that characteristic more important than the actual reason the person is seeking your services.”).


281. See MINN. STATE BAR ASS’N, supra note 269.


283. See Am. Psych. Ass’n, supra note 282, at 841.

284. See id.
3. Office staff should receive diversity training to ensure sensitivity to transgender, nonbinary, or gender–conforming youth and their families.  

4. Staff should use patient-asserted names and pronouns for record-keeping and documentation.

5. Providers should explain confidentiality procedures to transgender, nonbinary, or gender–nonconforming clients to promote openness and trust.

1. Continuing Legal Education

State bar associations should regularly offer gender identity cultural fluency courses for continuing legal education (CLE) credit. For example, a course offered by the Minnesota State Bar Association covered the following topics:

- “What it means to be ‘trans’;
- What professionals can do to make a trans person feel welcomed and accepted;
- How to help ensure court system access; and
- What actions or words to use and avoid.”

A Pennsylvania CLE covered substantive legal topics impacting transgender individuals—including name and gender changes on identifying documents, employment discrimination, and access to health care under Medicaid and the Affordable Care Act.

The New York State Bar Association offered a CLE course on creating gender identity and expression inclusive spaces. The focus of this

285. See id.
287. See Rafferty, supra note 73, at 5.
290. See Holt, supra note 288.
CLE was to aid employers, schools, and colleagues in creating safe working environments by using correct pronouns and names and ensuring proper restroom access.\textsuperscript{292}

The Lewis and Clark Graduate School offers professional development courses on gender diversity, focusing on identity, myths, and stereotypes.\textsuperscript{293} Participants are trained to: 1) “Identify the differences between gender identity, gender expression[,] and sexual orientation;” 2) “Demonstrate a basic understanding of gender identity development and [recognize] the similarities and differences between transgender and cisgender (non-transgender) populations;” and 3) “Apply knowledge to support [and bring awareness to] gender diverse, transgender, and gender-questioning children and youth.”\textsuperscript{294} Continuing legal education courses on trauma–informed lawyering skills should include the representation of transgender and nonbinary clients with a history of trauma.

2. Addressing Bias in the Courts Through Judicial Education

Judicial codes of conduct affirm that “[j]udges have an ethical duty to ensure that all people, including transgender people, are treated fairly and respectfully in court.”\textsuperscript{295} This ethical duty includes refraining from exhibiting bias against transgender litigants, such as by misgendering them.\textsuperscript{296} Consequently, model judicial education should include trainings on gender identity and bias awareness.

The American Bar Association (ABA) created a supplemental training toolkit designed for legal professionals on transgender representation and inclusion.\textsuperscript{297} A judicial education program offers instruction on legal

\begin{itemize}
\item \textsuperscript{292} See id.
\item \textsuperscript{293} See TransActive Professional Development: Removing the Mystery (Gender Diversity 101), LEWIS & CLARK GRAD. SCH., https://graduate.lclark.edu/programs/continuing_education/transactive/professional-development/gender-diversity-101/ [https://perma.cc/UQ3L-GEAB].
\item \textsuperscript{294} See id.
\item \textsuperscript{295} See Brief of Amici Curiae, supra note 79, at 5 (discussing the role and duties of judges in maintaining and enforcing high and equitable standards of conduct).
\item \textsuperscript{296} See id. (emphasizing that judges are prohibited from engaging in conduct or behavior exhibiting “discrimination based on gender identity.”).
\end{itemize}
Theories and data to aid in making well-informed decisions concerning various gender identity issues. The National Association of Women Judges (NAWJ) also provides resources for judges that discuss how to effectively address gender identity in court proceedings.

Continuing education courses on gender identity should discuss legal name changes and highlight the recent landmark United States v. Varner, an opinion that discusses legal barriers for transgender and nonbinary individuals. The course could address challenges regarding gender identity and the bias exhibited by opinion authors, which conflict with judicial obligations, ethical responsibilities, and professional behavior.

CONCLUSION

A 17-year-old nonbinary youth stated: "Being a teenager is already really hard. You put all of these things on top of it, and it just adds more and more weight," . . . too many kids are getting crushed." Transgender and nonbinary youth are under legislative and political siege as the latest victims in our nation’s culture wars. For example, the numerous state bans on gender-affirming care mean that many of those who may want and need access to such care will not receive it, contributing to poor health and mental health outcomes. In addition, we should anticipate and proactively address the impact of the current hostility and bias on their legal health. These youth are acutely aware that lawmakers are advocating against their best interests. The risk exists that the youth will associate biased and hostile lawmakers with legal service providers and our judicial system generally.

Fear of encountering discrimination and bias leads targeted individuals to avoid accessing services, and unaddressed legal needs would negatively impact their lives. Consequently, we must proactively reassure

300. See United States v. Varner, 948 F.3d 250, 254–58 (5th Cir. 2020).
301. Stanton, supra note 7.
them that our legal and judicial systems are not biased against them; we must commit to their access to justice. In addition to vital litigation challenges to the discriminatory laws, individual legal service providers and judges must be educated on gender identity and anti-bias so that offices and courts are safe and affirming spaces for these youth to address their legal health needs. That requires addressing gender identity misinformation and bias in law school, educating future practicing attorneys on respectful engagement, effective representation of trans and nonbinary clients, and their common legal needs. We must also educate currently practicing attorneys through continuing legal education courses and our judges and court staff through professional education programs. Collectively, we can improve the legal health and well-being of this generation of transgender and nonbinary youth who face untenable obstacles to both.