

HEALTH

# Intersex advocates say Arizona's ban on surgeries for trans minors hurts both groups

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Arizona's controversial ban on gender reassignment surgery for minors has been criticized as damaging for transgender youth, but advocates say a less-discussed aspect of such laws is also harmful: an exception for intersex children.

The problem with the exception, advocates say, is that it is common for intersex youth to be given medically unnecessary “gender-normalizing” procedures when they are too young to consent.

Laws that limit treatments for transgender children but have exceptions for intersex youth hurt both groups, said Bria Brown-King, director of engagement for interACT Advocates for Intersex Youth, a national intersex advocacy group.

Intersex is an umbrella term that refers to various conditions where a person is born with physical sex characteristics that differ from the traditional male-female binary.

For instance, a person may be born with what is considered female external genitalia but have internal genitalia more typical of males. This is different from being transgender, which means a person identifies as a gender different from the one they were assigned at birth, although a person can be both transgender and intersex.

“Trans people are fighting to access care that they need and that they want, while intersex people, intersex youth specifically, are fighting for their right to bodily autonomy,” said Brown-King, who uses the pronoun they.

“Intersex youth are being forced to undergo medical interventions to essentially erase their intersex traits to make their body conform to a more typical understanding of what it means to be a ‘male’ or ‘female.’”

Estimates of the number of intersex people vary, but a frequently cited statistic is that as much as 1.7% of the population is born with intersex traits — similar to the number of people with red hair.

Given that 77,375 babies were born in Arizona last year, that would mean that approximately 1,321 of them were born with intersex traits.

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## **Arizona passed a controversial ban on trans surgeries for minors**

Senate Bill 1138, signed into law March 30 by Gov. Doug Ducey, prohibits physicians from providing “irreversible gender reassignment surgery” to anyone under 18 years old. It began as a broader ban on “gender transition procedures” for minors, but it was narrowed to a surgery ban after the initial version failed to pass out of committee. The law is expected to go into effect in April 2023.

SB 1138's sponsor, Sen. Warren Petersen, R-Gilbert, did not respond to multiple requests for comment.

The World Professional Association for Transgender Health’s standards of care already say genital surgery should not be performed until a patient has reached the legal age of majority. However, SB 1138 also prohibits chest surgeries on minors, which the standards say may be performed earlier.

State legislatures across the nation are considering a wave of bills targeting the LGBTQ+ community.

Among these are bills restricting minors' access to gender-affirming care, which consists of various types of treatments, including surgeries, puberty-blocking drugs and cross-sex hormones, meant to help transgender people feel more comfortable in their bodies.

Proponents of such laws say they are necessary to protect children from medical changes they may regret later in life. Opponents, including LGBTQ+ advocates and major medical organizations, say the laws prohibit needed treatment for trans youth.

## **'Denying both groups control over their bodies'**

Many bills restricting gender-affirming care for minors contain specific exemptions for intersex youth. SB 1138 states that it does not apply to “services to an individual born with a medically verifiable disorder of sex development,” language which Brown-King said is used to pathologize intersex people.

The difference between gender-affirming care for trans youth and gender-normalizing procedures performed on intersex youth, interACT says in a statement about such bills, is that trans youth typically seek out medical care to affirm their gender and alleviate gender dysphoria.

On the other hand, the statement says, procedures to “normalize” intersex bodies, including surgeries to create a vaginal opening, reduce the size of a clitoris or remove hormone-producing gonads, are frequently performed without the person's consent, often before the age of two.

In the vast majority of cases, interACT writes, such procedures could safely be delayed until the intersex person is old enough to decide for themselves what, if any, procedures they want.

**LGBTQ+ Politics:** Arizona Gov. Doug Ducey won't say transgender people exist

"Denying both groups control over their bodies upholds a very narrow and fear-based definition of 'normal' — one that looks like a 'typical' (binary and cisgender) body, at whatever cost to the individual," the statement says.

"In practice, this would mean that transgender people must be prevented from changing their bodies, while intersex people must be prevented from keeping theirs."

Restrictions on trans health care that have intersex exceptions harm intersex youth by encouraging the continuation of such procedures, interACT says in the statement.

Many intersex people grow up to wish they could have had a say in the decision-making about such procedures, interACT writes. These procedures can come with serious risks, the statement says, including chronic pain, scarring, loss of sexual function, urinary incontinence and sterilization.

Such procedures can also result in PTSD, the statement says, and they force an individual into a surgically enforced sex assignment that may not end up matching their gender identity.

## **Phoenix Children's leaves the decision up to families**

Some U.S. hospitals, such as Boston Children's Hospital, have stopped performing at least some types of intersex surgeries on children too young to consent.

Phoenix Children's Hospital, however, says it prefers to let families make the decision for their children.

Phoenix Children's Reproductive Anomalies & Differences of Sex Development Clinic specializes in caring for intersex youth. The clinic's director, Dr. Kathleen van

Leeuwen, said the clinic has worked closely with interACT and includes the group's website in the resources it gives to families to help them make decisions.

In addition to such resources, van Leeuwen said the clinic introduces families to other families with intersex children who can give them advice and share their experiences.

There are many factors that go into deciding whether to give an intersex child surgery, van Leeuwen said, including the child's mental health as well as physical health concerns like the potential for urinary or menstrual obstruction issues if they don't have surgery.

**Transgender bills:** Arizona bills banning sports participation, surgery for transgender youth signed into law by governor

She said that introducing families to others who are going through the same experience creates an environment that tends to alleviate the feeling that their child needs to have surgery in order to be normal.

“I think interACT is right that a lot of people are still probably experiencing this pressure to put somebody into a binary category, but I think a lot of people are not,” van Leeuwen said. “And we just try to lead families into situations where they can get all of that information so that they can relax a little bit and understand that it's not so straightforward.”

“We think that would make them more stressed, but it doesn't. It makes them less stressed because they understand, okay, I can relax and let my child just sort of grow up.”

Van Leeuwen said the clinic is there to support families as their children grow.

“(The legal debate is about) just saying yes or no to a surgery when the reality of (our services for intersex children) is so much more broad and so much more longitudinal that it almost doesn't affect us and how we do things,” she said.

## **There are no laws in the US limiting surgeries on intersex youth**

The World Health Organization has called for an end to medically unnecessary procedures on intersex youth before they are old enough to consent, as has the Office of the United Nations High Commissioner for Human Rights and the American Academy of Family Physicians.

Colombia, Malta and Germany restrict surgeries on intersex youth. In October 2020, more than 30 nations, including the U.S. signed onto a statement calling for protections for intersex people from medically unnecessary procedures performed without their consent, and the U.S. was one of more than 50 nations that signed a similar statement in October 2021.

However, there are no laws in the U.S. requiring that such procedures be delayed until the person can consent, Brown-King told The Arizona Republic. California's legislature has considered several bills limiting such procedures over the past few years, but none have passed.

Some medical professional associations oppose legislation restricting intersex surgeries, saying the decision should be left up to parents and health care providers.

"Complex medical problems should remain in the purview of the family and the expert medical team and thus should not be legislated," the Societies for Pediatric Urology and the European Society for Paediatric Urology said in a 2020 consensus statement on the issue.

"Banning surgery for all patients with (differences of sex development) is equally as harmful to individualized care as demanding surgery for all patients with DSD conditions. Clearly, neither approach is correct."

However, the interACT statement says legislators should not defer to medical authority if it violates patients' rights.

"While most doctors certainly want what is best for their patients, unfortunately medical practices do not always line up with patients' rights and well-being," interACT writes. "Let's not make the mistake of implying that no medical practices may ever be in need of regulation."

"The reason (bills restricting trans health care) are wrong is that they deny the autonomy of two vulnerable groups of individuals, not because they attempt to restrict medical practice."

Brown-King said this all comes down to stigma associated with being intersex.

"For decades, intersex people have had our right to bodily autonomy stolen from us," they said. "We've had our intersex traits erased, essentially, in order to conform to society's definition of what's considered normal."

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