



## JOINT STATEMENT FROM ELECTED PROSECUTORS AND LAW ENFORCEMENT LEADERS CONDEMNING THE CRIMINALIZATION OF TRANSGENDER PEOPLE AND GENDER-AFFIRMING HEALTHCARE

June 2021

As elected prosecutors and law enforcement leaders, we condemn the ongoing efforts to criminalize transgender people and gender-affirming healthcare across the country. These blatantly unconstitutional attacks on some of the most vulnerable Americans will deeply harm public safety. We call on policymakers to cease this extraordinary overreach and leave healthcare decisions to patients, families, and medical providers, and we pledge to use our discretion and not promote the criminalization of gender-affirming healthcare or transgender people.

As criminal justice leaders, we are responsible for pursuing justice for *all* members of our communities. Unfortunately, the full and equal protection of the law has consistently been denied to transgender people living in this country. Transgender individuals endure unconscionably high rates of violent victimization.<sup>1</sup> However, rather than fighting for their protection the criminal legal system has painted their very existence as a threat, often criminalizing trans survivors of violence rather than protecting them. As a result, transgender people, while disproportionately likely to be victims of or witnesses to serious crime, too often receive inadequate assistance from police and prosecutors or face further victimization at their hands.<sup>2</sup> These failings are both a moral travesty and an obstacle in our collective efforts to prevent crime, build public trust, and promote community well-being.

Rather than working to remedy these harms, many state legislatures have instead intensified their efforts to isolate, discriminate against, and criminalize transgender people. In fact, in just the first half of this year, state legislators have introduced a record-breaking number of bills targeting the transgender community.<sup>3</sup> Since the beginning of 2021, at least 105 bills that discriminate against transgender people have been proposed in 34 states, and 10 have been signed into law<sup>4</sup> — a significant increase from the 2020 legislative session, during which 52 such proposals were introduced in legislatures around the country.<sup>5</sup>

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<sup>1</sup> Andrew R. Flores et. al., Gender Identity Disparities in Criminal Victimization, UCLA School of Law Williams Institute, March 2021 *available at* <https://williamsinstitute.law.ucla.edu/publications/nevs-trans-victimization/>.

<sup>2</sup> National Center for Transgender Equality, Failing to Protect and Serve: Police Department Policies Towards Transgender People, May 7, 2019, *available at* <https://transequality.org/issues/resources/failing-to-protect-and-serve-police-department-policies-towards-transgender-people>.

<sup>3</sup> Wyatt Ronan, Breaking: 2021 Becomes Record Year For Anti-Transgender Legislation, Human Rights Campaign, March 13, 2021, *available at* <https://www.hrc.org/press-releases/breaking-2021-becomes-record-year-for-anti-transgender-legislation>.

<sup>4</sup> American Civil Liberties Union, Legislation Affecting LGBT Rights Across the Country, 2021 *available at* <https://www.aclu.org/legislation-affecting-lgbt-rights-across-country>.

<sup>5</sup> American Civil Liberties Union, [Past Legislation Affecting LGBT Rights Across the Country](https://www.aclu.org/past-legislation-affecting-lgbt-rights-across-country-2020), 2020 *available at* <https://www.aclu.org/past-legislation-affecting-lgbt-rights-across-country-2020>.

Among these concerning restrictions are bills that aim to block trans youth from receiving life-saving gender-affirming healthcare. So far this year, 20 state legislatures have considered a total of 29 proposals that would prevent many trans youth from receiving this essential medical care. The ongoing discrimination and hostility that trans youth face has already had a grim impact: in 2020, a national survey found that *over half* of trans and non-binary youth seriously considered suicide.<sup>6</sup> Research has firmly established that access to gender-affirming healthcare not only reduces the risk of suicide in youth<sup>7</sup>, it significantly reduces their lifetime risk of suicidal ideation.<sup>8</sup> Accordingly, a slate of medical organizations — including the American Medical Association, American Academy of Pediatrics, and Endocrine Society — all agree that access to gender-affirming care is crucial in maintaining the health of trans youth.<sup>9</sup> And yet, these dangerous bills will not only restrict the ability of healthcare providers to administer life-saving gender-affirming care, some will criminalize parents who allow their trans children to receive medically recommended treatments.

Additionally for several years, anti-trans legislators have worked to pass laws that prohibit trans people from using single-sex facilities — mainly restrooms — that align with their gender identity. Six such bills have been introduced in two states during the 2021 legislative session. Their goal is clear: to reinforce stigmatizing falsehoods that trans people pose a public safety threat and to prevent trans people from freely living, working, and traveling in these communities. These bills have no legitimate public safety justification and will only increase harassment and violence against trans people forced to use facilities that do not align with their gender identity.<sup>10</sup>

Prosecutors are trusted with immense discretion to decide how best to promote the interests of justice. We have been elected to run offices funded by taxpayers and to represent the people in court. And both chief prosecutors and law enforcement leaders have an obligation to ensure we

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<sup>6</sup> The Trevor Project, National Survey on LGBTQ Youth Mental Health 2020, *available at* <https://www.thetrevorproject.org/survey-2020/?section=Introduction>.

<sup>7</sup> The Trevor Project, Research Brief: Gender-Affirming Care for Youth, Jan. 2020, *available at* <https://www.thetrevorproject.org/2020/01/29/research-brief-gender-affirming-care-for-youth/>.

<sup>8</sup> Tim Fitzsimmons, Puberty blockers linked to lower suicide risk for transgender people, NBC News, Jan. 2020, *available at* <https://www.nbcnews.com/feature/nbc-out/puberty-blockers-linked-lower-suicide-risk-transgender-people-n112210>.

<sup>9</sup> American Medical Association, AMA to states: Stop interfering in health care of transgender children, April 26, 2021, *available at*

<https://www.ama-assn.org/press-center/press-releases/ama-states-stop-interfering-health-care-transgender-children>;

American Academy of Pediatrics, Pediatricians say state bills would harm transgender youths, March 9, 2021, *available at* <https://www.aappublications.org/news/2021/03/09/transgender-legislation-030921>;

Endocrine Society, Endocrine Society opposes legislative efforts to prevent access to medical care for transgender youth, April 15, 2021, *available at*

<https://www.endocrine.org/news-and-advocacy/news-room/2021/endocrine-society-condemns-efforts-to-block-access-to-medical-care-for-transgender-youth#:~:text=The%20Endocrine%20Society%20opposes%20legislative,accessin%20gender%20Daffirming%20medical%20care.&text=The%20proposals%20reflect%20widespread%20misinformation,of%20gender%20Daffirming%20medical%20care>;

Alexander Chen, Gender-Affirming Care Doesn't Just Help Trans Youth Survive. It Allows Them to Flourish., Slate, April 7, 2021, *available at*

<https://slate.com/human-interest/2021/04/anti-trans-bills-youth-gender-affirming-care-survive-flourish.html>.

<sup>10</sup> Stevie Borrello, Sexual Assault and Domestic Violence Organizations Debunk 'Bathroom Predator Myth,' ABC News, April 22, 2016, *available at*

<https://abcnews.go.com/US/sexual-assault-domestic-violence-organizations-debunk-bathroom-predator/story?id=38604019>.

are directing our offices' and departments' limited resources to pursuits that advance fairness and justice for *all* members of our communities. Bills that criminalize safe and crucial medical treatments or the mere public existence of trans people do not promote public safety, community trust, or fiscal responsibility. They serve no legitimate purpose. As such, we pledge to use our settled discretion and limited resources on enforcement of laws that will not erode the safety and well-being of our community. And we do not support the use of scarce criminal justice and law enforcement resources on criminalization of doctors who offer medically necessary, safe gender-affirming care to trans youth, parents who safeguard their child's health and wellbeing by seeking out such treatments, or any individuals who use facilities aligned with their gender identity.

We are committed to ending this deeply disturbing and destructive criminalization of gender-affirming healthcare and transgender people. And we urge other policymakers to join us in standing up and standing together on this important issue.

Respectfully,

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**National Organization of Black Law Enforcement Executives**