

# Sage Reference

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**Pub. Date:** 2024

**Product:** Sage Reference

**DOI:** <https://doi.org/10.4135/9781071891414>

**Keywords:** bathrooms

**Disciplines:** Gender & Sexuality (general), Gender & Sexuality, Gay & Lesbian Studies, Sociology

**Access Date:** March 21, 2024

**Publishing Company:** SAGE Publications, Inc.

**City:** Thousand Oaks,

**Online ISBN:** 9781071891414

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## Restrooms

Restrooms represent a major locus of the fight for safety and acceptance for trans and gender-diverse individuals, particularly in the United States. Because restrooms are facilities that are often both gendered and used by groups of people, they represent a context where gender experience and gender expression become both public and salient. Furthermore, because restrooms are a context in which private activities occur and where people are, by necessity, at least partially unclothed (if usually in an enclosed area), discussions of bathroom access and bathroom use for trans people often focus on individuals' genital configuration. Hijacking narratives of rape culture and female victimhood, such discussions often center on the notion that trans people represent a sexual threat—an idea that is completely unsupported by research or even anecdotal evidence. Trans women, rather than cis women, face high rates of harassment and violence in restrooms, and many try to avoid using gendered bathrooms, which can affect their physical and mental health and place unfair restrictions on their lives. The access of trans people to gendered facilities has become one of the most contentious issues in the 21st century, with states, the courts, and the federal government often taking different and sometimes changing positions. The growing development of gender-inclusive restrooms offers trans people a way to have equal access without having to worry as much about personal safety.

## The Gender Policing of Restrooms

Restroom access is a critical concern for many trans people because they often experience harassment and discrimination in trying to use gendered restrooms, and they cannot reasonably hold a job, attend school, or participate in the public sphere if they are constantly worrying about having a place to pee in peace. More than a quarter of the respondents to the 2015 U.S. Transgender Survey, the largest study to date of trans people, reported that they were denied access to a restroom, had their presence in a restroom challenged, and/or were verbally, physically, or sexually assaulted in a restroom, in just the previous year. The figure was even higher among the trans respondents of color, undocumented respondents, and respondents who worked in the underground economy. The participants who stated that others could always, usually, or sometimes tell they were trans without being told were also more likely to report one or more negative restroom experiences.

Because of having faced harassment or violence in bathrooms in the past, or fearing that this would happen, 80% of the respondents who said that others can always or usually tell that they are trans and 72% of those who said that others can sometimes tell indicated that they avoided using public restrooms. They “held it,” which ultimately led some to develop urinary tract or kidney-related problems. Others limited what they drank and ate to prevent needing to go to a restroom, which can also have negative long-term health effects.

In another study, which was conducted by Jody Herman and involved trans people in the Washington, DC, area, 65 of the 93 participants (70%) indicated experiencing mistreatment—denial of access, verbal harassment, and/or physical assault—in a restroom at some point in their lives. A majority also reported having health problems because they avoided using public bathrooms. These individuals decided that they would rather endanger their physical health than risk experiencing physical violence in a restroom. As one respondent stated, “I have kidney problems already. I know it’s not good for me to hold it, but the alternative could be much worse.”

Beyond physical health, having negative restroom experiences can also have a deleterious effect on an individual’s mental health and sense of well-being. For example, in a study of more than 7,300 trans youth between the ages of 13–24, 58% indicated that they had been prevented from using, or were challenged when they tried to use, a restroom that corresponded to their gender identity. Of these young people, 85% reported depressive mood symptoms and 60% had seriously considered suicide, with 1 in 3 having attempted suicide in the previous year. Even after adjusting for demographic variables and other experiences of anti-trans discrimination, the researchers still found that restroom discrimination significantly increased the trans young people’s likelihood of having depressive mood symptoms, seriously considering suicide, and making one or multiple suicide attempts.

## Bathroom Bills

Laws and regulations designed to restrict access to public restrooms according to a person’s “chromosomal sex,” “biological sex,” or “anatomical sex” (i.e., their sex assigned at birth) are colloquially referred to as *bathroom bills*. Since 2015, dozens of states have proposed these laws, and additional states have considered related legislation. North Carolina was able to pass a law requiring individuals to use the public bathrooms that correspond to their “birth gender” in 2016. Although it was later overturned by the North Carolina legislature as a result of economic boycotts of the state, the law that replaced it explicitly prohibited any new LGBTQ anti-discrimination laws from being put into place for several years. Anti-trans lawmakers have had greater success limiting the rights of trans youth. As of 2023, three states—Alabama, Oklahoma, and Tennessee—have enacted laws that prohibit trans students from using the school bathrooms and locker rooms that reflect their gender identity, and several other states have similar bills pending.

Proponents of bathroom bills argue that allowing trans individuals to access restrooms and other gendered public accommodations according to their gender identity, rather than the sex on their original birth certificate, poses a safety risk for women and girls. The backers of such legislation suggest that men would pose as trans

women to access these private spaces and sexually threaten or assault the women for whom access is intended. This assertion is inherently flawed for several reasons; the first and foremost basis being that anyone accessing a bathroom for a nefarious purpose is presumably already committing a crime. Second, the claim ignores that not only is there no evidence that trans women commonly harass other women in restrooms, but also that, as discussed above, trans women are actually at a greater risk of harassment and sexual assault in restrooms than their cisgender counterparts. This argument reflects several aspects of transmisogyny, in both the devaluing of the femininity of trans women and the devaluing of women more broadly.

The right-wing narrative that providing access to public facilities based on gender identity poses a threat to women's and girls' sexual safety represents the acceptance of several aspects of rape culture that can collectively be described as "existential penis threat." Specifically, these narratives reflect the belief that people with penises have no control or agency over their sexual desire and will act to commit sexual violence against women if given the opportunity to do so. In other words, the argument assumes that anyone who has a penis is a man and that every man inherently, and at baseline, constitutes a sexual risk.

The embedding of bathroom bills in narratives of male irresponsibility and rape culture can also be seen in the ways that discussions of these bills focus almost entirely on trans women and women's bathrooms—elevating the inherent positionality of (presumably cisgender) women and girls as victims and (people they see as) men as threats. These narratives generally completely ignore the existence of trans men, who, if acknowledged, would undermine the stated reasons for such arguments. Under bathroom bills, trans men would be both expected and required to use women's bathrooms, where their masculinity would presumably be both unwelcome and viewed as a threat. This has been demonstrated in situations where masculine-presenting women have been assaulted when using the facilities that are appropriate for their gender by people who often feel empowered to police the bathroom use of others in response to these types of laws.

## State-Inclusive Public Accommodation Laws and Titles VII and IX

In contrast to the states that have attempted to restrict the rights of trans individuals through bathroom laws, anti-health care laws, and related legislation, other states have passed laws that affirm access to public accommodations based on an individual's gender identity, rather than the sex on their original birth certificate. *Public accommodations* is a legal term referring to businesses and facilities that are open to the public or that provide goods and services to the public. As of 2023, 22 states and the District of Columbia have passed laws

prohibiting discrimination based on gender identity, including in public accommodations.

Two federal laws have also been interpreted, although not consistently, as providing trans individuals with equal access to public accommodations. Title VII of the Civil Rights Act of 1964 is a federal law that prohibits both private and public sector employers with 15 or more employees from discriminating on the basis of several factors, including sex. In 2020, the U.S. Supreme Court ruled in *Bostock v. Clayton County* that Title VII's prohibition against sex discrimination also includes discrimination on account of sexual orientation and gender identity, stating that "it is impossible to discriminate against a person for being homosexual or trans without discriminating against that individual based on sex." The decision avoided addressing the issue of restrooms, but it is hard to imagine the ruling not being applied to one of the main areas where trans people face discrimination in the workplace.

Another federal civil rights law that prohibits sex discrimination is Title IX of the Education Amendments of 1972, which applies to any school, college, or educational program that receives funding from the federal government. The Obama administration considered Title IX to apply to trans students and issued guidance to schools in 2016 on how they should respect the rights of trans students under the law, which included providing equal access to restrooms and locker rooms. This guidance was revoked the following year by the Trump administration, but it was reinstated with the added weight of the *Bostock* decision when the Biden administration took office. In a 2021 executive order, Biden stated that because the Supreme Court had ruled that Title VII's prohibition against sex discrimination covered sexual orientation and gender identity, then all federal laws that ban sex discrimination, including Title IX, offer similar protections.

## Gender-Inclusive Restrooms

To provide a space for trans people who are uncomfortable in gendered facilities, a growing number of schools, businesses, government agencies, and other institutions are creating gender-inclusive restrooms. These are commonly lockable, single-stall facilities designed for one person, but in response to the rising demand for gender-inclusive restrooms, some institutions have established facilities for multiple people that have semi-private or entirely enclosed cubicles and a public mirror and sink area. However, in some jurisdictions, state and municipal plumbing codes prevent or limit the creation of gender-inclusive restrooms, especially multi-stall facilities, even though the International Plumbing Code allows for the installation of multi-user gender-inclusive restrooms.

Along with addressing the need for gender-inclusive restrooms, many colleges and universities are listing the

locations of these bathrooms on their websites so that students, staff, and faculty can more easily find them. As of 2023, more than 420 colleges offer such sites, with most having created them in the past few years. Some webpages, social media sites, and apps provide this same service for cities, and Refuge Restrooms (<https://www.refugerestrooms.org>) lists a number of gender-inclusive restrooms worldwide. It is widely hoped that there will come a time when all restrooms are gender-inclusive, or at least are ubiquitous, so that such lists are no longer needed.

See **also** [Cisnormativity](#); [Discrimination Against LGBTQ People in the Public Sector](#); [Hate Crimes](#); [Trans People and Violence](#); [Trans/Gender-Nonconforming Youth and the Legal System](#); [Transmisogyny](#); [Trans Students, Access to Sex-Segregated Facilities and Programs](#)

## Further Readings

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