

# UNPACKING HB2

## WHAT HAPPENED IN NORTH CAROLINA?

On February 22, 2016, the city of Charlotte passed a non-discrimination ordinance that would have protected local residents from being discriminated against at work and in places open to the public based on their gender identity or sexual orientation.

Instead of allowing the Charlotte law to go into effect on April 1, the North Carolina State Legislature held a special legislative session on March 23 to repeal the Charlotte ordinance.

During the legislative session, the Legislature passed House Bill 2 (HB2) also known as the "Public Facilities Privacy & Security Act" and Governor Pat McCrory signed HB2 into law on the same day.



## HB2 DOES 5 THINGS:

1. Prevents public schools, colleges, and government agencies in the state of North Carolina from allowing transgender people to use bathrooms or changing rooms that match their gender identity—instead, those institutions must restrict bathroom and changing room usage to the sex listed on a person's birth certificate.
2. Takes away the power of city councils to **pass laws** protecting local residents from discrimination in employment and places that are open to the public based on gender identity and sexual orientation.
3. Stops cities and county governments from passing laws related to worker wages, benefits, and treatment of workers under the age of 18 years old.
4. Removes existing laws passed by city governments that protect against discrimination based on sexual orientation or gender identity and local laws related to worker wages and benefits.
5. Removes the right to sue for discrimination at the state level. Instead, people must appeal to the "Human Relations Commission."

# ANSWERS TO A FEW COMMON QUESTIONS:

**If I'm transgender and my birth certificate has not been changed, will I be arrested for just going into the bathroom that matches my gender identity?**

No, HB2 does not create a new criminal law, and no existing law makes it a crime to access a bathroom that matches your gender identity.

However – even though HB2 is unconstitutional – if you are using a bathroom at a public school or a government-owned building, there may now be policies under HB2 that require you to use the bathroom based on the sex listed on your birth certificate.

It's also possible that a police officer could incorrectly interpret the law and you could be arrested for charges like trespassing or indecent exposure – even though such arrests are NOT authorized by the law and would be unconstitutional.

**Is discrimination against transgender people legal now? Can I do anything if I am denied access to the bathroom at my school or college?**

No, discrimination based on gender identity or sexual orientation is NOT legal at schools and colleges that receive federal funding. (The vast majority of colleges and universities and public K-12 schools receive federal funding.) HB2 takes away any existing local protections under North Carolina state law for discrimination based on gender identity or sexual orientation. However, federal law prohibits discrimination based on sex, including gender identity, in schools that receive federal funding. The Department of Education has said this means schools have to allow people to use facilities that match their gender identity. If you are denied access to the bathroom that matches your gender identity at school, you can file a complaint with the Department of Education's Office of Civil Rights to report this discrimination.

**So if I get fired because I'm transgender, can I do anything about that?**

Yes, federal law prohibits employers with 15 or more employees from discriminating against you at work because you're transgender, which includes denying you the right to use a bathroom or changing facility consistent with your gender identity. If you experience this kind of discrimination at work, you can file a complaint with the federal Equal Employment Opportunity Commission (EEOC).

**Will businesses in the state of North Carolina be stopped from allowing transgender customers and their employees to use the bathroom based on their gender identity?**

No, HB2 does not affect private businesses in the state of North Carolina. Private businesses are free to have policies that make sure customers and employees can use bathrooms that match their gender identity.

**HB2 Does NOT:**

Make it a crime to use the bathroom based on your gender identity.

Prevent private businesses from allowing bathroom usage based on gender identity.

Make it legal for a school or employer to discriminate against you based on your gender identity, gender expression, or sexual orientation.

## HOW CAN YOU FIGHT BACK AGAINST HB2?

Call the Transgender Law Center legal helpline at 415.865.0176 or fill out our online form <http://bit.ly/hb2stories> if you have been discriminated against or arrested at school or work based on your gender identity.

[southernersonnewground.org](http://southernersonnewground.org)

[transgenderlawcenter.org](http://transgenderlawcenter.org)

