

KNOW YOUR RIGHTS: SB 12 (DRAG BAN)



CURRENT STATUS: BLOCKED. A federal court entered a final order declaring SB 12 to be unconstitutional and permanently blocking the Texas Attorney General and other government defendants from enforcing it. That decision is currently on appeal and the law remains blocked until the appeals court issues a final ruling.

What is Senate Bill 12?

- SB 12 was passed during the 2023 Texas legislative session.
- It seeks to ban any performance where minors could be present or on public property that could be categorized as a “sexually oriented performance,” vaguely defined as a “visual performance . . . that appeals to the prurient interest in sex” and that, among other things, “exaggerates male or female sexual characteristics” using “accessories or prosthetics” and “sexual gesticulations.”
 - It would subject performers to harsh criminal penalties, including up to a year in jail.
 - It would fine business owners \$10,000 for hosting such performances anywhere that someone under 18 might be present.

What is the status of SB 12 and the lawsuit against it?

- SB 12 is currently blocked from taking effect, because the ACLU of Texas and Baker Botts LLP filed suit to block the law on behalf of The Woodlands Pride, Abilene Pride Alliance, Extragrams, 360 Queen Entertainment, and Brigitte Bandit.
- Find updates on our lawsuit and the current status of SB 12 [here](#).

Does the law only affect “sexually oriented performances?”

- While SB 12 only applies to performances that “appeal to the prurient interest in sex,” this phrase is completely undefined and doesn’t clarify who determines a “prurient interest” or how. As a result, even a performance that is a common and beloved work of art—like a showing of Romeo and Juliet—could be swept up by this law.
- Because SB 12 is so vague, broad, and undefined, it could be used to target any kind of performer, even if they don’t intend for a performance to be sexual, from actors and comedians, to wrestlers or cheerleaders.

How does SB 12 target drag shows?

- The law specifically prohibits the “exhibition of sexual gesticulations using accessories or prosthetics that exaggerate male or female sexual characteristics.” While this provision is vague and undefined, it is clearly meant to target drag artists, who often use accessories or prosthetics to “exaggerate” male or female characteristics.
- Lawmakers also made clear that the law’s purpose and intent is to target drag shows, with Governor

Abbott declaring: “Texas Governor Signs Law Banning Drag Performances in Public. That’s Right” when he signed it.

What are our concerns about the bill?

- SB 12 is written so vaguely that it gives officials the ability to target nearly any performance with which they disagree.
- Black and Brown Texans already face over-policing and hypersexualization by law enforcement and society, so this bill will disproportionately harm these communities, especially Black trans women.
- SB 12 is likely to inspire even more threats and armed protests against drag performers, venues who host drag performances, and audience members.
- Any performer, especially drag performers, using nearly any kind of clothing, makeup, accessories, or prosthetics could be accused of violating this law. The vague and sweeping definitions in this law mean that even Shakespeare plays, Broadway musicals, or professional cheerleading could be targeted and curtailed.
- These restrictions could decimate small businesses in Texas and deter numerous artists and performers from even coming to the state. Artists like Janelle Monae, P!nk, and Harry Styles who would play music festivals and concerts in Texas might choose to skip the state to avoid defying the law.

For those who may be impacted by SB 12:

- Remember that this law is currently not in effect.
- Remember that you have rights. If you are stopped or questioned by the police, you have a right to remain silent and other rights [described here](#).
- Keep up with ACLU of Texas updates for information regarding our [court case](#).
- Support drag artists and performers. Even with this law now blocked, they still face threats of violence and discrimination.
- Keep an eye out for funds and mutual aid groups for drag performers and consider donating to help artists protect themselves in Texas, including The Mahogany Project’s [Drag Rapid Relief Fund](#).
- If the law does go into effect, consult with an attorney about how to navigate performances that you might want to host.
- Pay attention to state-level elections in 2024 and note the candidates who will support drag and drag performers.
- If you become impacted by SB 12, reach out to us as soon as possible. We’re here to support you.

Contact us:

ACLU of Texas - intake.aclutx.org

Equality Texas - info@EqualityTexas.org

Human Rights Campaign - feedback@hrc.org

Lambda Legal - lambdalegal.org/helpdesk

Texas Freedom Network - tfn@tfn.org

Transgender Education Network of Texas - info@transtexas.org

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