



National LGBTQ Institute on Intimate Partner Violence

A PROJECT OF THE LOS ANGELES LGBT CENTER

In partnership with the National Coalition of Anti-Violence Programs and In Our Own Voices, Inc.

## **Full and Equal Access to Services and Shelter for Transgender Survivors**

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### **ABSTRACT**

States across the country have introduced legislation that prohibits transgender and nonbinary people from accessing public spaces that align with their gender identity, including domestic violence shelters and rape crisis centers. These types of attacks are overwhelmingly opposed by the domestic violence and sexual assault survivor advocacy field as rooted in harmful myths and actively dangerous to transgender and nonbinary survivors' safety.<sup>i</sup> The transgender community is already at higher risk of experiencing sexual assault and domestic violence and faces disproportionate barriers and obstacles in accessing support services and shelter needed to escape and heal from violence.<sup>ii</sup> These types of laws are an unconscionable added barrier that jeopardizes the safety, well-being, and lives of transgender and nonbinary survivors. It is essential that the survivor support field respond swiftly and vocally to this new type of legislative attack, and proactively work to enhance and increase visibility and responsiveness of services to meet the needs of transgender and nonbinary survivors.

### **ANALYSIS**

#### ***Recent Legislation***

States across the country have introduced harmful legislation that seeks to erode non-discrimination protections and prohibit transgender and nonbinary survivors from accessing public spaces that align with their gender identity including restrooms, locker rooms, prison facilities, and more. An added cruelty is that recent proposals have explicitly sought to prohibit transgender and nonbinary people from accessing domestic violence shelters and rape crisis centers, thereby removing their ability to access safe shelter space to escape an abusive relationship or healing services to recover from an experience of sexual violence. In 2023 alone, we have seen five legislative attacks that attempt to define services and public accommodations designed for women to explicitly only be allowed for cisgender women. Three of these attacks in Kansas, Alabama, and Nebraska, contained explicit mentions of domestic violence and sexual assault (DV/SA) support services and shelter spaces. SB180 in Kansas explicitly limited public accommodations, including domestic violence shelters and rape crisis centers, to people who are cisgender, going so far as defining who has access to gendered facilities based on the ability of their "biological reproductive system" to "produce ova" or "fertilize ova".<sup>iii</sup> Alabama introduced HB405 shortly after, a nearly identical copy-cat bill that also included restrictions on DV/SA support services and shelter, but that fortunately did not pass in this legislative cycle.<sup>iv</sup> Nebraska went as far as to issue an executive order with what they are calling "The Women's Bill of Rights" which specifically names DV/SA support services and shelter in the order and defines a person's gender as only their sex assigned at birth.<sup>v</sup> Similar attacks occurred in Florida and Oklahoma that limit public accommodations for transgender and nonbinary people that, while not explicitly mentioned as it was in Kansas and Alabama, could

be interpreted to include domestic violence and sexual assault support services and shelter. Florida passed HB1521 that restricts public facilities requirements to the sex someone was assigned at birth, not their gender identity.<sup>vi</sup> Oklahoma issued an executive order similarly restricting public facilities that stated that “female, when used in reference to a natural person, shall be defined as such a person whose biological reproductive system is designed to produce ova”, again defining gender by reproductive capabilities and even going so far as to imply that transgender people are not “natural”.<sup>vii</sup>

### ***Harmful Ideology***

Legislative attacks like these are rooted in harmful and dangerous stereotypes about transgender people. Anti-LGBTQ extremists claim that allowing transgender people in bathrooms, shelters, and other public accommodations will lead to women and children being attacked. This myth has been overwhelmingly debunked by domestic violence and sexual assault service providers as fear-mongering, with hundreds of domestic violence and sexual assault service providers across the country signing public statements in 2018<sup>viii</sup>, 2020,<sup>ix</sup> and again in 2023<sup>x</sup> asserting that this dangerous myth is not rooted in the reality that they are seeing on the ground as direct service providers. Law enforcement leaders also agree that laws restricting transgender people’s access to public accommodations are not associated with any increase in safety-related incidents.<sup>xi</sup> Meanwhile, what hundreds of service providers in each of these statements have agreed on is that they do see that anti-trans rhetoric and legislation have a direct correlation to increased sexual assault, domestic violence, and hate violence against transgender people.<sup>xii</sup> The impact is that the very services that are now needed more than ever are being stripped away. This type of legislation erodes the critical resources transgender people need to escape abusive relationships and heal after violence. To further strip transgender survivors of safe and stable shelter is extremely dangerous to their well-being and safety.

### ***Risks for Transgender Survivors***

These legislative attacks that are gaining momentum across the U.S. are a direct affront to transgender and nonbinary individuals who are already disproportionately impacted by homelessness, domestic violence, sexual violence, and unemployment. Transgender survivors often have no or ineffective trauma-informed, LGBTQ-specific safe spaces to help them escape an abusive relationship. Placing further legal restrictions on LGBTQ people’s access to safe shelter would make it even harder for LGBTQ survivors to exit abusive relationships safely.

Transgender individuals are at higher risk of domestic violence and sexual assault due to the disproportionate discrimination, stigma, and barriers, including access to financial and housing security, that the transgender community experiences, and transgender women of color are even further disproportionately impacted. For example, the U.S Transgender Survey found that 54% of transgender people will experience domestic violence in their lifetime.<sup>xiii</sup> In a study done by the Williams Institute, 8% of transgender adults experienced homelessness in the past year, compared to 2.5% of cisgender gay, lesbian, and bisexual adults.<sup>xiv</sup> Transgender people are also three times more likely to experience homelessness than their cisgender LGB counterparts, and eight times more likely than cisgender straight people—which speaks to the enormous need for shelters to be welcoming and affirming to transgender people experiencing homelessness. Limiting domestic violence

shelter access for transgender individuals would exacerbate this problem.<sup>xv</sup> Placing further legal restrictions on LGBTQ people's access to safe shelter and supportive resources would make it even harder for LGBTQ survivors to exit abusive relationships safely and seek support in the aftermath of domestic and sexual violence.

### ***Federal Non-Compliance***

Anti-transgender legislation seeking to limit sexual assault and domestic violence service providers' ability to provide services to transgender and nonbinary survivors additionally puts providers at risk of losing access to federal grants. These grants are a common funding source across the country and are needed to provide support services to survivors of sexual assault and domestic violence. However, this type of anti-transgender legislation contradicts the federal non-discrimination clauses in the Violence Against Women Act (VAWA) and Family Violence Prevention and Services Act (FVPSA), which name sexual orientation and gender identity as protected classes. VAWA states that "No person in the United States shall, on the basis of actual or perceived...sex, gender identity, [or] sexual orientation...be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under VAWA".<sup>xvi</sup> FVPSA similarly contains provisions stating that "No person shall on the ground of actual or perceived sexual orientation be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part through FVPSA."<sup>xvii</sup> VAWA and FVPSA are two of the primary sources of federal funding that domestic violence and sexual assault service providers rely on to fund their services. If domestic violence and sexual assault service providers discriminate or deny services to protected classes, they risk losing their funding. While the enforcement mechanisms of many of these laws have been unclear, these types of legislation weigh down service providers with the burden of navigating contradictory laws and force them to choose between possibly losing the federal funding that they rely on to operate or breaking state law, as well as possibly losing state funding.

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## **RECOMMENDATION**

To protect the safety of transgender survivors, it is critical to pass full federal and state nondiscrimination protections and to issue guidance to ensure that transgender survivors have access to domestic violence and sexual assault support services and shelter. Legislation that attempts to ban transgender and non-binary people from survivor support services are not rooted in the realities that those on the ground doing direct services need or want. This notion is supported by the fact that more than [188 domestic violence and sexual assault service providers](#) across the country signed a letter supporting transgender and nonbinary survivors' right to access shelter spaces that align with their gender identity. It is critical that not only is the domestic violence and sexual assault field continuing to oppose this type of legislation, but also that we are taking active steps to increase shelter services for transgender and nonbinary survivors. Domestic violence and sexual assault service providers should be proactively engaging in outreach and awareness efforts to ensure that services and shelter spaces are explicitly advertised to the LGBTQ community. Domestic violence and sexual assault service providers should also ensure that they are equipped to respond adequately to transgender and

nonbinary survivors so that they are not causing more harm or contributing to transgender survivors exiting shelter and support services due to discrimination. Finally, these service providers should be engaging in consistent training and technical assistance in providing culturally responsive care to LGBTQ survivors so that when transgender and nonbinary survivors do access services, they receive culturally responsive care that meets their unique and specific needs.

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<sup>i</sup> “National Letter of Domestic Violence, Sexual Assault, and Trafficking Organizations in Support of Full and Equal Access to Services and Shelter for Transgender Survivors “. *The National LGBTQ Institute on Intimate Partner Violence*. <https://lgbtqipvinstitute.org/national-letter/>

<sup>ii</sup> United States Transgender Survey. “Report on the Experiences of Black Respondents.” National Center for Transgender Equality. 2015. <https://www.transequality.org/sites/default/files/docs/usts/USTS-Black-Respondents-Report.pdf>

<sup>iii</sup> “SB 180”. *Kansas Legislature*. January 8, 2023. [http://www.kslegislature.org/li/b2023\\_24/measures/sb180/](http://www.kslegislature.org/li/b2023_24/measures/sb180/)

<sup>iv</sup> “Alabama House Bill 405”. *Leg Scan*. April 27, 2023. <https://legiscan.com/AL/bill/HB405/2023>

<sup>v</sup> “Executive Order No 23-16: Establishing a Women’s Bill of Rights”. *State of Nebraska: Office of the Governor*. August 30<sup>th</sup>, 2023. <https://governor.nebraska.gov/sites/governor.nebraska.gov/files/doc/press/EO%20No.%2023-16%20-%20Establishing%20a%20Women's%20Bill%20of%20Rights.pdf>

<sup>vi</sup> “CS/HB 1521: Facility Requirements Based on Sex”. *The Florida State Senate*. June 1, 2023. <https://www.flsenate.gov/Session/Bill/2023/1521/?Tab=BillHistory>

<sup>vii</sup> “Executive Order No 23-20. *State of Oklahoma: Office of the Governor*. August 1st, 2023. <https://www.iwv.org/wp-content/uploads/2023/08/OK-gov-stitt-executive-order-womens-bill-of-rights.pdf>

<sup>viii</sup> “National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community.” *The National Task Force*. April 13, 2018. <http://www.4vawa.org/ntf-action-alerts-and-news/2018/4/12/national-consensus-statement-of-anti-sexual-assault-and-domestic-violence-organizations-in-support-of-full-and-equal-access-for-the-transgender-community>

<sup>ix</sup> “National Sign-on letter of Domestic Violence, Sexual Assault, and Trafficking Organizations and Programs in Support of Full and Equal Access to Shelter for the Transgender Community “. National Network to End Domestic Violence. September 22, 2020. [https://nnev.org/wp-content/uploads/2020/04/Library\\_Policy\\_Sign-on\\_116\\_HUD\\_Survivor\\_Services\\_22Sept2020.pdf](https://nnev.org/wp-content/uploads/2020/04/Library_Policy_Sign-on_116_HUD_Survivor_Services_22Sept2020.pdf)

<sup>x</sup> “National Letter of Domestic Violence, Sexual Assault, and Trafficking Organizations in Support of Full and Equal Access to Services and Shelter for Transgender Survivors “. *The National LGBTQ Institute on Intimate Partner Violence*. <https://lgbtqipvinstitute.org/national-letter/>

<sup>xi</sup> “Gloucester County School Board vs. G.G. By His Next Friend and Mother, Deidre Grimm”. *Supreme Court of the United States*. March 2, 2017. <https://www.scotusblog.com/wp-content/uploads/2017/03/16-273bsaclawenforcementofficers.pdf>

<sup>xii</sup> “National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community.” *The National Task Force*. April 13, 2018. <http://www.4vawa.org/ntf-action-alerts-and-news/2018/4/12/national-consensus-statement-of-anti-sexual-assault-and-domestic-violence-organizations-in-support-of-full-and-equal-access-for-the-transgender-community>

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<sup>xiii</sup> United States Transgender Survey. “Report on the Experiences of Black Respondents.” National Center for Transgender Equality. 2015. <https://www.transequality.org/sites/default/files/docs/usts/USTS-Black-Respondents-Report.pdf>

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<sup>xiv</sup> Wilson, Bianca D.M., et al. "Homelessness Among LGBT Adults in the US." UCLA School of Law Williams Institute. May 2020.

<https://williamsinstitute.law.ucla.edu/publications/lgbt-homelessness-us/>

<sup>xv</sup> Ibid.

<sup>xvi</sup> "Nondiscrimination Grant Condition in the Violence Against Women Reauthorization Act of 2013". U.S. Department of Justice: Office of Civil Rights. April 9, 2014. <https://www.justice.gov/archives/ovw/file/29386/download>

<sup>xvii</sup> "FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS". Title 45. Subtitle B, Chapter XIII, Subchapter H, Part 1370. *Code of Federal Regulations, National Archives*. November 2, 2016.