

Policy Analysis on Anti-Trans Legislation Implicating Domestic Violence and Sexual Assault Support Services



National LGBTQ Institute on Intimate Partner Violence

A PROJECT OF THE LOS ANGELES LGBT CENTER

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Introduction

Over the last two years, the National LGBTQ Institute on Intimate Partner Violence (Institute) has provided technical assistance to the domestic violence field on navigating anti-transgender laws that implicate domestic violence and sexual assault service providers and the services that they are able to provide. States across the country have introduced harmful legislation that seeks to prohibit transgender and nonbinary survivors from accessing public spaces that align with their gender identity including restrooms, locker rooms, prison facilities, and more. Starting in 2023, a new wave of legislation has explicitly sought to prohibit transgender and nonbinary people from accessing domestic violence (DV) shelters and sexual assault (SA) service providers, thereby removing their ability to access safe shelter space to escape an abusive relationship or healing services to recover from an experience of abuse or violence. This case study aims to shed light on patterns within the legislation introduced and analyze language and rhetoric used to justify these practices, with the hopes of equipping the field to identify and respond to this type of policy.

This study will cover:

- A Policy Breakdown
- Regional Implications
- Patterns on Language and Terminology Used to Justify Policy
- An Analysis on the Language Used
- Enforcement Mechanisms and Disciplinary Frameworks
- Contradictions With Federal Non-Discrimination Laws
- Improving the Domestic Violence and Sexual Assault Field's Responses to Transgender Survivors



Policy Breakdown

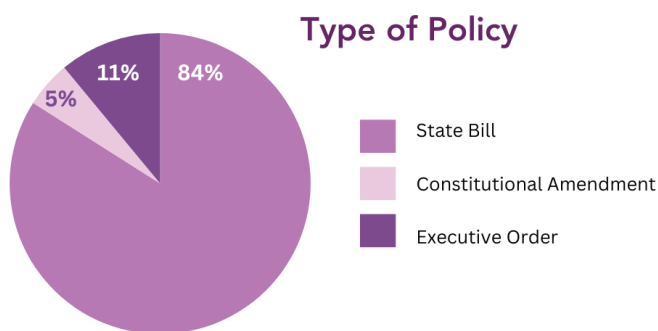
Using FiscalNote policy tracking software, the Institute tracked policies that have been introduced or passed that sought to bar transgender people from public accommodations and facilities that aligned with their gender identity. The Institute identified 23 pieces of legislation introduced or passed in the following states from 2023-2024.

Alabama ¹	Florida (3*) ²	Georgia ³	Indiana ⁴	Iowa ⁵	Kansas ⁶
Michigan ⁷	Minnesota (2*) ⁸	Mississippi ⁹	Nebraska ¹⁰	New Mexico ¹¹	Oklahoma (2*) ¹²
Oregon ¹³	Utah ¹⁴	Virginia ¹⁵	West Virginia (2*) ¹⁶	Wyoming ¹⁷	

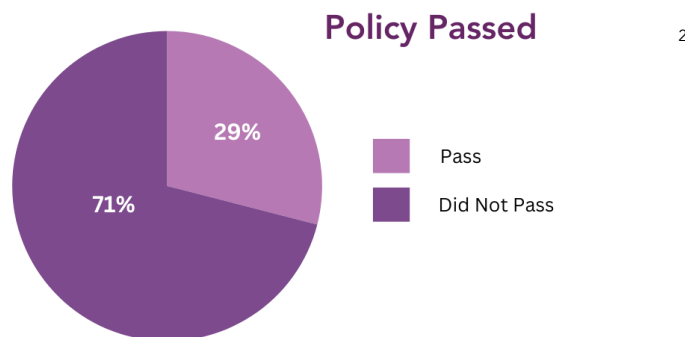
* Three states, Florida, Minnesota, Oklahoma, and West Virginia had multiple attempts to pass this type of policy, as noted above.

Over half (12 out of 23) of these policies specifically named DV shelter spaces and rape crisis centers as facilities that must restrict access to transgender people. The remaining 11 had broader definitions of public accommodations which could be interpreted to include domestic violence and sexual assault (DVSA) service providers, though they were not specifically named.

There were 16 states that introduced this type of anti-trans legislation as a bill, one as a constitutional amendment, and two as an executive order.



The majority of states were not successful in passing this legislation (71%). However, five states (29%) were able to pass legislation.



¹ **Amendment to Constitution:** Michigan

Executive Order: Nebraska, Oklahoma

State Bill: Alabama, Florida, Georgia, Indiana, Iowa, Kansas, Minnesota, Mississippi, New Mexico, Oklahoma, Oregon, Utah, Virginia, West Virginia, Wyoming

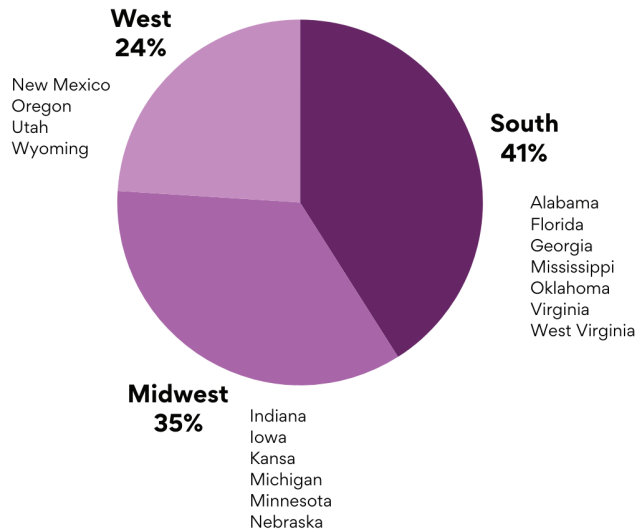
² **Passed:** Florida, Kansas, Nebraska, Oklahoma, Utah

Did not pass: Alabama, Georgia, Indiana, Iowa, Michigan, Minnesota, Mississippi, New Mexico, Oregon, Virginia, West Virginia, Wyoming



Regional Implications

Of the states that proposed legislation, 41% were in the South, 35% were in the Midwest, 24% were in the West, and 0% were in the Northeast.



These numbers are consistent with trends on anti-LGBTQ+ policies in general. The Movement Advancement Project tracks anti-LGBTQ+ policies and assigns metrics based on the quantity of LGBTQ+ hostile state policies. Of this metric score, the South has the lowest overall LGBTQ+ safety ranking, with 93% of LGBTQ+ people in the South living in a negative or low equality state.³ The Midwest followed the South with the Movement Advancement Project determining that 45% of LGBTQ+ people in the Midwest lived in negative or low equality states, followed by the West with 11% and Northeast with 0%.⁴ A third of LGBTQ+ adults live in the South, more than any other region of the U.S.⁵ Therefore, these anti-trans policies are targeting the largest demographic of LGBTQ+ adults and will have deep and widespread impacts on the transgender community at large, and transgender survivors in particular.

LGBTQ+ survivors in the South and Midwest already face greater economic vulnerabilities. The Williams Institute found that LGBTQ+ individuals in the Midwest reported a household income of \$24,000 less than non-LGBTQ+ people and were 82% more likely to report being food insecure than non-LGBTQ+ Midwesterners.⁶ LGBTQ+ people experiencing DV in these regions face added vulnerabilities. According to a report done by the organization Free From on how race, gender identity, sexual orientation, and disability shape survivors' experiences and needs,

³ Movement Advancement Project. May 2020. LGBTQ Policy Spotlight: Mapping LGBTQ Equality in the U.S. South. www.lgbtmap.org/regional-south-tally

⁴ [Ibid](#)

⁵ [Ibid](#)



survivors reported an average of \$10,120 in abuse-related costs.⁷ This report also showed a stark difference between LGBTQ+ survivors' financial needs and cisgender and heterosexual survivors' financial needs. For example, 31.9% of queer and trans survivors reported needing support with costs related to the DV (medical bills, healing costs, mental health care, pharmacy costs, etc.), a rate that was 1.6x that of cisgender and heterosexual survivors.⁸ These numbers are not surprising. LGBTQ+ people in general experience poverty at a higher rate (21.6%) compared to heterosexual, cisgender people (15.7%).⁹ Transgender survivors are therefore stuck in a triple bind of being disproportionately financially harmed by DV, facing heightened financial and economic barriers placed on the LGBTQ+ community, and then experiencing added vulnerabilities from anti-trans legislation in the South and Midwest.

Additionally, the South is home to over half of all Black people in the U.S.¹⁰ Therefore, Black transgender people are at higher risk of living in a state where their reproductive capabilities are being tied to the ability to access support, safety, and even public spaces and facilities. The Williams Institute found that Black LGBTQ+ individuals are more likely to live in states that do not have employment protections for sexual orientation and gender identity and therefore face disproportionate barriers and economic vulnerabilities.¹¹ It is also critical to include in the analysis of this type of legislation how Black bodies are constantly policed and controlled. According to the University of Illinois Chicago's Women's Leadership and Resource Center, "[r]eproductive oppression refers to the regulation and exploitation of individuals' bodies, sexuality, labor, and procreative capacities as a strategy to control individuals and entire communities. Reproductive oppression against Black women is rooted in the US history of commodification of Black women's bodies, sexuality, and reproductive lives. During slavery, Black women were treated as factories of property and producers of wealth for their masters, and were often encouraged to bear children, subjected to systemic rape, and punished for the failure to procreate. In fact, the very economic value of an enslaved woman was attached to her fertility."¹²

6 Amira Hasenbush, Andrew R. Flores, Angeliki Kastanis, Brad Sears & Gary J. Gates, The Williams Inst. Univ. of Cal. L.A. Sch. of Law, *The LGBT Divide: A Data Portrait of LGBT People in the Midwestern, Mountain & Southern States* (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-divide-Dec-2014.pdf>.

7 FreeFrom, *Support Every Survivor: How Race, Ethnicity, Gender, Sexuality, and Disability Shape Survivors' Experiences and Needs*, August 17, 2022, <https://www.freefrom.org/support-every-survivor>

8 FreeFrom, *Support Every Survivor: How Race, Ethnicity, Gender, Sexuality, and Disability Shape Survivors' Experiences and Needs*, August 17, 2022, <https://www.freefrom.org/support-every-survivor>

9 Lee Badgett, M.V., Soon Kyu Choi, and Bianca D.M. Wilson, "LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups," Williams Institute, October 2019, <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct2019.pdf>

10 Amira Hasenbush, Andrew R. Flores, Angeliki Kastanis, Brad Sears, & Gary J. Gates. "The LGBT Divide: A Data Portrait of LGBT People in the Midwestern, Mountain & Southern States". The Williams Institute. December 2014. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Divide-Dec-2014.pdf>

11 Amira Hasenbush, Andrew R. Flores, Angeliki Kastanis, Brad Sears, & Gary J. Gates. "The LGBT Divide: A Data Portrait of LGBT People in the Midwestern, Mountain & Southern States". The Williams Institute. December 2014. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Divide-Dec-2014.pdf>

12 "Reproductive Oppression Against Black Women". Women's Leadership and Resource Center, University of Illinois Chicago. <https://wlrc.uic.edu/reproductive-oppression-against-black-women/>



Given this history, this legislative pattern of assigning access to services and public facilities based on someone's perceived fertility or reproductive ability sets a dangerous precedent and follows on a history of institutional power and control over Black people's bodies. These anti-transgender laws exist on a continuum of policies we are increasingly seeing that aim to control people's bodies and reproductive abilities and choices, with Black transgender people in the South disproportionately impacted.



Language and Terminology Used to Justify Policy

In analyzing these policies, multiple patterns in language and terminology were identified that were used to justify the rationale behind these policies. A common theme was that establishing policies around facilities was critical to “biology,” “safety,” “privacy,” and “health.”

State Policy	Language Used
Alabama HB 405	“There are legitimate reasons to distinguish between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, bathrooms, and other areas where biology, safety, or privacy are implicated. ”
Georgia HB 1128	“Distinctions between the sexes with respect to athletics, living facilities, locker rooms, domestic violence shelters, rape crisis centers, restrooms, and other areas where biology, safety, or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety, and privacy of individuals in such circumstances.
Kansas SB 180	“distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where biology, safety or privacy are implicated that result in separate accommodations are substantially related to the important governmental objectives of protection.”
Michigan MI JR E	“distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms, and other areas where biology, safety, or privacy are implicated and result in separate accommodations are substantially related to the important governmental objectives of protecting the health, safety, and privacy of individuals in those circumstances.”
Mississippi HB 1607	“Biological differences between the sexes are enduring and, in some circumstances, may warrant the creation of separate social, educational, athletic or other spaces in order to ensure safety or allow members of each sex to succeed and thrive. ”
Wyoming HB 50	“laws, rules and regulations that recognize or enforce distinctions between the sexes with respect to athletics, prisons or other detention facilities, domestic violence shelters, rape crisis centers, locker rooms, restrooms and other areas where safety or privacy are implicated and that result in separate accommodations between the sexes are substantially related to the important governmental objectives of protecting the health, safety and privacy of persons in such circumstances.”

Another common theme was that establishing these policies would establish “clarity, certainty, and uniformity.”

West Virginia SB 601	“The purpose of the West Virginia Women’s Bill of Rights is to bring clarity, certainty, and uniformity to the laws of West Virginia regarding sex discrimination, equality of the sexes, and benefits or services specifically provided to males/men and to females/women.”
Oklahoma HB 1449	“The purpose of the Women’s Bill of Rights is to bring clarity, certainty, and uniformity under the laws of this state with respect to natural persons of both biological sexes and the manner in which they are treated as such under the laws of this state.”



Many of these policies were framed using similar titles. 11 out of 23 of these policies were titled “Women’s Bill of Rights,” and three were titled “What is a Woman Act.”

Women’s Bill of Rights	What Is a Women Act
Georgia HB 1128	Alabama HB405
Kansas SB 180	Wyoming HB 50
Michigan MI HJR E	Oklahoma Executive Order 2023-20
Minnesota SF 5466	
Minnesota HF 5128	
Mississippi HB 1607	
Nebraska Executive Order NO 23-16	
New Mexico HB 205	
Oklahoma HB 1449	
West Virginia SB 601	
West Virginia HB 5243	

Additionally, 19 out of 23 of these policies framed the issue around ability to produce ova or reproductive ability.

State Policy	Language Used
Alabama HB 405	“FEMALE: An individual whose biological reproductive system is designed to produce ova. ”
Florida HB 1521	“Sex” means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role , as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.
Florida SB 1674	““Sex” means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role , as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth”
Florida HB 1233	““Sex” means the classification of a human person as either male or female based on the organization of the body of such person for a specific reproductive role , as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.”
Georgia HB 1128	The term ‘sex’ means the biological state of being male or female, in the context of reproductive potential or capacity , based on the individual’s sex organs, chromosomes, naturally occurring sex hormones, gonads, and unambiguous internal and external genitalia present at birth, including secondary sex characteristics;
Indiana H B 1291	““Female” means a person with a reproductive system that but for a medically verifiable genetic disorder of sex development, at some point produces ova. ”



Kansas SB 180	"a "female" is an individual whose biological reproductive system is developed to produce ova, and a "male" is an individual whose biological reproductive system is developed to fertilize the ova of a female"
Minnesota SF 5466	"female," when used in reference to a natural person, means an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces ova ; "male," when used in reference to a natural person, means an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces sperm for fertilization of female ova "
Minnesota HF 5128	"female," when used in reference to a natural person, means an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces ova ; "male," when used in reference to a natural person, means an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces sperm for fertilization of female ova "
Mississippi HB 1607	"Female," when this term is used in reference to a natural person, means an individual who has, had, will have through the course of normal development, or would have, but for a developmental anomaly, genetic anomaly, or accident, the reproductive system that at some point produces ova. "
Nebraska Executive Order 23-16	"a female is an individual whose biological reproductive system is developed to produce ova "
New Mexico HB 205	"female" means a person who has had, will have through biological development or would have but for a developmental anomaly, genetic anomaly or accident, the reproductive system that at some point produces ova "
Oklahoma HB 1449	"Female" means an individual who naturally has, had, will have, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes eggs for fertilization "
Oklahoma Executive Order 2023-20	"female"...shall be defined as a person whose biological reproductive system is designed to produce ova. "
Utah HB 257	"Female" means the characteristic of an individual whose biological reproductive system is of the general type that functions in a way that could produce ova. "
West Virginia SB 601	"A "female", when used in reference to a natural person, is an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces ova "
West Virginia HB 5243	"A "female", when used in reference to a natural person, is an individual who has, had, will have, or would have (but for a developmental anomaly, genetic anomaly, or accident) the reproductive system that at some point produces ova "
Wyoming HB 50	"Female" means a person whose biological reproductive system is developed to produce ova"



Analysis on Language

It becomes clear in looking at these examples that many of these policies are copying one another and using nearly identical language. This suggests that these legislative efforts are part of a larger national strategy. It also demonstrates the capability of this type of rhetoric to quickly spread across legislative bodies.

The most common theme was the use of ova and reproductive potential to categorize who qualifies as a woman. In addition to attacking transgender women, this categorization is problematic to cisgender women who may not have the ability to reproduce or produce ova. These policies set a concerning precedence around cisgender women's access to services being contingent on reproductive abilities. They pose a barrier to intersex individuals who have diversity in reproductive organs, genitals, chromosomes, hormonal patterns, and more. Intersex people can have a range of gender identities and may identify as a man, woman, nonbinary, or another gender. These policies leave intersex people in legal limbo with complete lack of clarity on where and how they can access facilities from bathrooms, locker rooms, prison facilities, domestic violence shelters, sexual assault service providers, and more. However, the target of this type of legislation, and those primarily impacted, are transgender people. The language used in these laws seek to eliminate understanding of gender that goes beyond the sex someone is assigned at birth to prevent transgender people from accessing public facilities. Much of this language attempts to constrain someone's gender to the physiological conditions of their birth to counteract any potential argument that someone who has had gender affirming surgery or hormone replacement therapy could be allowed to access facilities that align with their gender identity.

It is critical to also analyze how language around the binary of sex and gender is rooted in white supremacy. ¹³Dr. C. Riley Snorton writes extensively about the creation of Western gender norms using the bodies of enslaved Black people to convey how race constructs biology. Dr. J. Marion Sims "the father of gynecology" specifically forced painful procedures on enslaved Black women to find the cure for vesicovaginal fistula.¹⁴ The exploration of anatomy and sex through the nonconsensual experimentation on Black women conveys how systematic racism impacted the understanding of the human body in the United States and is

13 Snorton, C. Riley, *Black on Both Sides: A Racial History of Trans Identity* (Minneapolis, MN, 2017; online edn, Minnesota Scholarship Online, 20 Sept. 2018), <https://doi.org/10.5749/minnesota/9781517901721.001.0001>, accessed 25 Sept. 2024.

14 Snorton, C. Riley, *Black on Both Sides: A Racial History of Trans Identity* (Minneapolis, MN, 2017; online edn, Minnesota Scholarship Online, 20 Sept. 2018), <https://doi.org/10.5749/minnesota/9781517901721.001.0001>, accessed 25 Sept. 2024.

15 Snorton, C. Riley, *Black on Both Sides: A Racial History of Trans Identity* (Minneapolis, MN, 2017; online edn, Minnesota Scholarship Online, 20 Sept. 2018), <https://doi.org/10.5749/minnesota/9781517901721.001.0001>, accessed 25 Sept. 2024.



also connected to how gender is racialized. For example, Snorton explored how the Fugitive Slave Act was enacted against a Black trans woman- Mary Jones- to arrest her in the 1850s.¹⁵ This was a legal enforcement of acceptable race and gender presentations. The collection of medical and legal frameworks created a continuous binary of sex and gender through the pain of Black people.

Furthermore, the framework of women's rights, particularly in the context of naming domestic violence organizations and "Women's Bill of Rights" disguises itself as messaging that is feminist, for women's equality, and supported by the DV movement. Yet these policies are overwhelmingly not supported by the DV field.¹⁶ The field has consistently asserted that the health, safety, and privacy of survivors is in fact threatened by this type of law. Legislative attacks like these are rooted in harmful and dangerous stereotypes about transgender people, with anti-LGBTQ extremists claiming 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 DVSA service providers as fear-mongering, with hundreds of DVSA service providers across the country signing public statements in 2018¹⁷, 2020¹⁸, and again in 2023¹⁹ asserting that this dangerous myth is not rooted in the reality that they are seeing on the ground as direct service providers. Meanwhile, service providers agree that anti-transgender rhetoric and legislation have a direct correlation to increasing sexual assault, domestic violence, and hate violence against transgender people. No jurisdiction has seen a rise in sexual violence due to these nondiscrimination laws. However, research shows that anti-transgender policies that limit access to bathrooms and other public facilities are linked to an increased risk of sexual assault of trans and nonbinary people.²⁰ So, the "health, safety, and privacy" that these policies claim to be preserving is in fact threatened by these very policies.

16 <https://lgbtqipvoinstitute.org/wp-content/uploads/2024/01/National-Sign-On-Letter-Alphabetical-4.pdf>

17 "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-andnews/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>

18 "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://nnedv.org/wp-content/uploads/2020/04/Library_Policy_Sign-on_116_HUD_Survivor_Services_22Sept2020.pdf

19 x "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://lgbtqipvoinstitute.org/national-letter/>

20 Harvard School of Public Health, *Transgender teens with restricted bathroom access at higher risk of sexual assault*, <https://www.hsph.harvard.edu/news/hsph-in-the-news/transgender-teens-restricted-bathroom-access-sexual-assault/>.



Enforcement Mechanisms and Disciplinary Frameworks

Another theme that emerged in this analysis was around the criminalization of trans identity and the implicit endorsement of vigilante enforcement mechanisms. Utah’s HB 257 and Florida’s HB 1521 and SB 1674 clarify that people entering sex-segregated facilities that do not correspond with their sex assigned at birth are committing a criminal offense. Florida’s bills also include language that asks people to take it upon themselves to enforce these anti-transgender policies. Each bill states that they are:

“requiring covered entities to establish disciplinary procedures relating to restrooms and changing facilities; providing that specified persons are subject to discipline for refusing to depart certain restrooms and changing facilities under certain circumstances; providing that specified persons who enter certain restrooms or changing facilities and refuse to depart when asked to do so commit the criminal offense of trespass.”

The implication is that the public should be taking it on themselves to discipline transgender people accessing facilities that align with their gender identity. This contributes to a growing and dangerous belief that anti-transgender surveillance practices should be normalized, and that civilians should act as vigilantes to determine and enforce others’ access to restrooms through bodily characteristics and gender expression. The codification of anti-transgender hate gives legitimacy to hate violence. The extreme negative impacts of these policies compelled the American Medical Association to publish a report urging policymakers to uphold transgender students’ ability to use restrooms and locker rooms that align with their gender identity. They found that in surveys, “70% of transgender respondents reported verbal harassment and 9% reported physical assault in gender segregated restrooms”.²¹ This type of language sets a dangerous precedent for who is allowed to enforce gender norms. In particular, BIPOC transgender people carry the highest burden of the negative impacts of this precedent. According to the U.S. Transgender Survey, 16% of respondents were denied equal treatment or service in a public place. However, 30% of American Indian, 23% of Middle Eastern, 22% of multiracial, and 20% of Black respondents reported being denied equal treatment. Similarly, 26% of all transgender respondents were denied access to restrooms; had their presence in a restroom questioned; or were verbally harassed, physically attacked, or sexually assaulted in a restroom. However, Black, Indigenous, and People of Color (BIPOC) transgender individuals faced higher rates. This was nearly twice as high for undocumented residents (50%), American Indian (36%), and multiracial (32%) respondents.²² The death of Nex Benedict, a nonbinary youth who died by suicide after being bullied and physically assaulted by classmates because

21 <https://ama-assn.org/delivering-care/population-care/exclusionary-bathroom-policies-harm-transgender-students>

22 United States Transgender Survey. “2015 U.S. Transgender Survey.” National Center for Transgender Equality. 2015. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>



of their gender identity in their school's bathroom—shortly after Oklahoma passed a bill preventing trans youth from using school bathrooms aligned with their gender identity—has drawn attention to the deadly consequences of this belief system that people have a right to decide who does or does not belong in gendered restrooms and facilities.²³ In 2024, the Trevor Project's research team published a peer-reviewed study on the impact that anti-transgender state laws have on suicide risk among transgender and nonbinary youth in the U.S. This study found that anti-transgender laws caused up to a 72% increase in suicide attempts among trans and nonbinary youth.²⁴

Contradictions With Federal Non-Discrimination

For anti-transgender legislation seeking to specifically limit DVSA service providers' ability to provide services to transgender and nonbinary survivors, there is uncertainty as to how these policies will be enforced, particularly as they contradict federal non-discrimination clauses in the Violence Against Women Act (VAWA) and the Family Violence Prevention and Services Act (FVPSA). 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."²⁵

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."²⁶ VAWA and FVPSA are two of the primary sources of federal funding that DVSA service providers rely on to fund their services. If DVSA 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, they burden service providers with 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. 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. For example, the U.S

23 <https://apnews.com/article/nonbinary-student-death-nex-owasso-oklahoma-1e07834d6aad2475a8f744974d66e765>

24 "State-level anti-transgender laws increase past-year suicide attempts among transgender and non-binary young people in the USA" *Nature Human Behaviour*. December 12, 2023. <https://doi.org/10.1038/s41562-024-01979-5Article>

25 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>

26 "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.



Transgender Survey found that 54% of transgender people will experience domestic violence in their lifetime.²⁷ Despite these extremely high rates, this survey found that only 1% of those surveyed even attempted to utilize domestic violence services in the past year. Of those who did go, 28% reported having a negative experience and 22% reported being mistreated, harassed, or attacked because of being transgender.²⁸ Transgender women of color are even further disproportionately impacted. Fifty-six percent of respondents experienced IPV with transgender men (62%) and those who work in underground economies (76%) more deeply impacted.²⁹ There is therefore clearly a need for improvement in accessibility, cultural responsiveness, and outreach in the domestic violence field to better meet the shelter needs of transgender survivors. Placing further legal restrictions or complicating transgender survivors' access to safe shelter and supportive resources would make it even harder for transgender survivors to exit abusive relationships safely and seek support in the aftermath of domestic and sexual violence.

Improving the Domestic Violence and Sexual Assault Field's Responses to Transgender Survivors

The DVSA field is no stranger to navigating complicated legal battles for the sake of supporting the dire needs and safety of survivors. It is essential that DVSA organizations respond as a strong and unified front to this new wave of attacks to protect the safety of transgender survivors across the country. DVSA service providers should proactively engage in outreach and awareness efforts to ensure that services and shelter spaces are explicitly advertised to the transgender community. DVSA service providers should also ensure that they are equipped to respond adequately to transgender and nonbinary survivors so that they do not cause more harm or contribute to transgender survivors exiting shelter and support services due to discrimination. Providers can ensure that they are meeting these needs by 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. The National LGBTQ Institute on Intimate Partner Violence is a training and technical assistance provider that can provide such training and technical assistance upon request: <https://lgbtqipvoinstitute.org/training/>

27 United States Transgender Survey. "2015 U.S. Transgender Survey." National Center for Transgender Equality. 2015. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

28 United States Transgender Survey. "2015 U.S. Transgender Survey." National Center for Transgender Equality. 2015. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

29 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>



In addition, it is imperative that the field is equipped to identify and respond to anti-transgender legislative attacks to eliminate confusion among DVSA advocates and professionals and provide clear guidance as a united front on to provide best-practice support services to transgender survivors. The American Bar Association collaborated with the National LGBTQ Institute on Intimate Partner Violence to create a toolkit that provides guidance to DVSA state coalitions and other leaders in the field to support this endeavor:

https://www.americanbar.org/content/dam/aba/administrative/domestic_violence1/Resources/admin_publications/navigating-anti-trans-rhetoric.pdf

Transgender survivors need and deserve proactive and consistent support from the DVSA field now more than ever. It is up to all of us to support the safety, well-being, and health of transgender survivors.



Endnotes

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