

TRANS RIGHTS, SAFETY & JUSTICE

Our Vision

We envision and work toward a future in which all people of trans experience are supported to live fulfilling, secure and happy lives, free from all forms of violence, harassment, hostility or discrimination.



TRANS RIGHTS, SAFETY AND DIGNITY
PEOPLE OF TRANS EXPERIENCE DESERVE SAFETY, ACCEPTANCE AND THE
FREEDOM TO THRIVE

Current State of Play:

People of trans experience are forced to navigate social and political hostility, prejudice, discrimination and violence that compromise their safety and most basic rights on a daily basis. Since the 2016 election, there have been increased efforts to dismantle protections against discrimination based on gender identity in schools, at work, and in health care facilities. New “religious objection” policies have been proposed and implemented at the federal and state levels, explicitly permitting discrimination against transgender people in all areas of their lives.

Failure to protect transgender people from discrimination based on gender identity means that autonomy to exist in one’s own body is subject to the whims of employers, medical professionals and the government. People of trans experience may be at more risk than ever of being denied employment, housing, health services and medication, along with access to public restrooms that match their gender. In health care settings, stigma and bias against people of trans experience may compromise access to quality services, as well as policies restricting what can be covered by payer sources. For transgender people living with HIV, it can be nearly impossible to find culturally relevant and non-stigmatizing health services and providers.

Widespread societal stigma against people of trans experience means that they are routinely subject to misinformed and oppressive policies that deny them dignity and agency over their own bodies. Because transgender people also face significant barriers to employment, poverty rates are also high, which may increase vulnerability to acquiring HIV.

The administration has made comments alleging that providing health care for transgender people in the military poses an undue burden. People of trans

experience have always been more likely than cisgender people to be targeted by violence, but an increase in discriminatory policies and corresponding rhetoric by the highest levels of government appear to correlate with an increase in hate crimes against transgender people.

Data shows that law enforcement may disproportionately target trans and gender non-conforming people. If incarcerated or detained, people of trans experience generally do not have access to gender-appropriate facilities, increasing the risk of assault and violence. Gender-affirming care is rarely available in jails, prisons, or detention facilities.

At the Federal Level, We Support:

1. Maintaining Section 1557 of the ACA: Non-discrimination Protections for Sexual Orientation and Gender Identity

Section 1557 of the Affordable Care Act prohibits discrimination in health care coverage. In 2016, the Health and Human Services Department (HHS) adopted a rule clarifying that sex discrimination in the section also includes gender discrimination against people of trans experience. However, in May 2017, the Trump administration announced that it was considering

rescinding that clarification. Without this critical protection, people of trans experience would likely face more discrimination in health care settings including the denial of services or gender-affirming care. To prevent providers from attempting to deny care to people of trans experience, PWN-USA demands that the clarifying rule explicitly protecting gender identity be maintained.

2. Passing the Do No Harm Act

Introduced by Representatives Joe Kennedy III (D-MA) and Bobby Scott (D-VA) in 2017, the Do No Harm Act would amend the federal Religious Freedom Restoration Act (RFRA) to ensure that federal religious freedom protections are not used to discriminate against women and LGBTQ people. RFRA was originally created to protect the right of minority groups to exercise their religious freedom. However, it has since been used to allow imposition of religious freedom at the expense of other people's rights. In the 2014 Hobby Lobby decision, the Supreme Court ruled that corporations could use RFRA to make religious objections. Hobby Lobby used RFRA to justify denying their employees insurance coverage for birth control. Since then, RFRA has also been used by a business owner to justify firing their employee for being transgender. The Do No Harm Act would change the language of RFRA to specifically prevent it from being used as a defense for discrimination against marginalized people.

At the Federal Level, We Oppose:

1. Religious Exemption Guidance and Laws Granting License to Discriminate

Efforts that seek to protect the ability to object to providing services on "religious" grounds essentially argue that it is a violation of people's religious beliefs to compel them to provide services that go against those beliefs. This effort to legalize discrimination based on "religious objections" was cemented in the creation of the Department of Health and Human Services' new Conscience and Religious Freedom Division, announced in January 2018. This division provides an avenue for medical professionals to sue on the basis of religious discrimination if they are compelled to provide certain services or are punished for not providing them. Providers could easily use this to deny abortions, contraceptives or any health care to LGBTQ individuals. HHS should promote health equity and protections for marginalized communities who are more likely to experience discrimination while seeking health care.

At the State Level, We Support:

1. Laws Facilitating Gender Marker Corrections on Legal Documents

Having correct legal documents is a necessary step to finding employment, getting medical care, and traveling without harassment. Many states require proof of clinical treatment, often surgery, before people of trans experience are allowed to make gender marker changes on legal documents like birth certificates and driver licenses. These requirements are coercive and compel transgender people to get costly, permanent, medically unnecessary and sometimes unwanted procedures just to have their gender identity recognized. States should eliminate clinical treatment and court-ordered requirements and follow in the steps of states like Oregon, Washington and California, which permit gender marker change through an affidavit alone, where an individual attests that no fraud is intended.

2. Expanding Gender Identity Options on Legal Documents

In 2017, California passed SB 179 (The Gender Recognition Act) which allows for a non-binary gender marker option on driver's licenses. This is important because it recognizes that individuals who identify outside of the gender binary of male/female should be able to get legal documents that affirm their identity.

3. State and Local Gender Identity Non-discrimination Laws

While the fate of federal anti-discrimination protections is still uncertain, states and cities can adopt anti-discrimination protections that explicitly protect people of trans experience by including gender identity. This can include protecting against discrimination in workplaces, schools, public businesses, and health care facilities. States should take the initiative to protect their residents of transgender experience. Currently, 20 states have implemented such laws, as have a number of cities.

4. Policies that Preserve the Dignity of Transgender People in Prisons

When people of transgender experience are incarcerated, their gender identity puts them at increased risk of assault, violence, and harassment from both incarcerated people and correctional officers. Additionally, transgender women in particular are more likely to be housed in non-gender-affirming facilities where they are then repeatedly placed in isolation units for extended periods of time. This is supposedly done to protect incarcerated transgender individuals, but is a dehumanizing and trauma-inducing practice. California has recently introduced legislation (SB 990) that would implement guidelines on the intake and subsequent treatment of transgender people who are incarcerated. This legislation would allow them to register their gender identity and name and require that correctional staff use their correct name and pronouns.

Additionally, transgender individuals who have been removed from the general population for safety concerns would maintain access to programming and work opportunities. Other states should pass legislation that supports and protects people of trans experience who are incarcerated.

At the State Level, We Oppose:

State and Local “Bathroom Bills” Requiring Individuals to Use the Bathroom That Matches Their Sex Assigned at Birth

People of trans experience, gender non-conforming and non-binary individuals should be able to use the facilities that are safest and most comfortable for them. No one should have to fear violence and harassment in restrooms.

Restricting people of trans experience to private or separate bathrooms only feeds into the malicious narrative that transgender people are different and should be segregated. According to the National Center for Transgender Equality’s 2015 nationwide survey on discrimination against transgender people, 59% of respondents reported that they sometimes or always avoided public bathrooms. 32% avoided drinking or eating so that they would not need to use the restroom, and 8% reported having a urinary tract infection or kidney related medical problem from avoiding restrooms.

Policing the most basic bodily functions of people of trans experience undermines their autonomy, safety, dignity and health. These laws must be repealed and anti-discrimination protections installed in their place.