



Center For
POLICING EQUITY

DO NOT INVESTIGATE:

**Anti-Abortion,
Anti-Trans, and
Anti-LGBTQ+ Laws**

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EXECUTIVE SUMMARY

We at the Center for Policing Equity (CPE) advocate reducing the footprint of law enforcement by removing police from places where they do not belong and cannot help. People's health care, their pregnancy outcomes, and their gender and queer identities exemplify situations that should not involve police. Law enforcement can and should step back from enforcing such laws, as police have traditionally done.

Enforcement of anti-abortion, anti-trans, and anti-LGBTQ+ laws would divert finite police resources away from serious and violent crimes that communities care about; squander the goodwill police have built with communities; embolden extremist violence; and endanger vulnerable communities—all while doing nothing to keep the public safe. **We urge mayors and municipal governments to instruct law enforcement agencies to deprioritize enforcement** of these new, victimless crimes. Instead, officers' time and departmental resources should be used to prevent and investigate serious crimes that affect public safety.

Police and municipal governments can take the following steps to deprioritize enforcement and protect their communities against the threats and harms these laws create:

Municipal governments and law enforcement should take these actions:

1. Affirm a public commitment to the rights and safety of LGBTQ+ and pregnant people.
2. [Consult with affected communities](#), on a structured and ongoing basis, about how to deprioritize enforcement.
3. Consult with affected communities about [how loud and public to be](#) about deprioritizing enforcement.
4. [Ban discrimination](#) on the bases of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcome, and provision or receipt of reproductive health care, abortion care, and gender-affirming care (whether real or perceived).
 - a. Ban discrimination against municipal employees, including police officers, on these bases.
 - b. Ban discrimination by municipal employees, including police officers, on these bases.
5. [Provide employment benefits](#) such as medical leave, comprehensive health coverage, travel for out-of-state health care, and assurances that any investigation or prosecution by another agency for breach of anti-abortion, anti-trans, or anti-LGBTQ+ laws will not affect the person's employment.

Municipal governments should take these actions:

6. [Direct law enforcement leadership to allocate no funds](#) to enforce anti-trans, anti-LGBTQ+, and anti-abortion laws.

7. **Ban discrimination by municipal contractors** and by local businesses on the bases of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcome, and receipt of abortion care and gender-affirming care.
8. **Consider using municipal funds to ensure community access** to health care needs such as prenatal care, doula care, lactation support, and out-of-state gender-affirming and reproductive health care.
9. **Oppose any effort to criminalize use of municipal roads** to access abortion, gender-affirming care, or any other health care.

Law enforcement should take these actions:

10. **Protect people and communities against hate crimes** and vigilante violence. Use and enforce restraining orders and, when warranted, laws against trespass and disorderly conduct.
11. **Consult** with abortion providers, reproductive justice advocates, and escorts; gender-affirming care providers; hospital management and staffers; and trans and LGBTQ+ advocates about the risks they face and about how best to protect their rights and safety.
12. Amend policy manuals, as needed, to clarify that it is **misconduct for police officers and civilian employees to discriminate** against members of the public on the bases of sexual orientation, gender identity, pregnancy, pregnancy outcome, or receipt of abortion care or gender-affirming care.
13. **Do not enforce** anti-trans, anti-LGBTQ+, or anti-abortion laws. Allocate no resources to their enforcement. Conduct no investigations and make no arrests. Amend policies and procedures to direct law enforcement employees as follows:
 - a. Do not conduct electronic, in-person, or other surveillance to detect violations of these laws.
 - b. Do not use traffic-safety laws, pretextual stops, or any other means to investigate whether drivers, passengers, or pedestrians may be pregnant, may be transgender, or may be traveling within or out of state to receive prohibited health care.
 - c. Take no action on any report of a violation of anti-abortion, anti-trans, or anti-LGBTQ+ laws except, as needed, to protect the person against potential violence by the caller.
 - d. Do not investigate whether anyone is or has been pregnant, or how or why their pregnancy may have ended.
 - e. Do not investigate anyone's gender identity, their biological sex, or their assigned sex at birth.
 - f. Take no action when you see a person you think may be transgender unless you have reasonable grounds to suspect the person is committing a crime for which a cisgender person would be investigated.
 - g. Do not enter bars, theaters, libraries, or anywhere else to identify drag performances.
 - h. Apply the same standards of obscenity to LGBTQ+ content or performance as to heteronormative¹ content or performance.
 - i. Do not enter bathrooms, changerooms, or anywhere else to ascertain the assigned sex at birth or sex characteristics of people who are there.

- 14.** Require multiple levels of written supervisory approval, including by the chief of police, before an officer can initiate an arrest or investigation for any alleged violation of an anti-abortion, anti-trans, or anti-LGBTQ+ law.
- 15.** Ensure that officers and dispatchers are aware of agency policy not to investigate alleged violations of such laws, and that they understand specific laws in the state and locality.
- 16.** Remind officers that they and other people cannot know by looking whether someone is transgender, what their assigned sex at birth was, or whether they are pregnant.
 - a.** Do not assume that a person is engaged in sex work based on their gender presentation.
 - b.** Do not treat possession of condoms as evidence that a person intends to engage in sex work.
- 17.** Do not treat the presence or existence of a person who is – or is perceived to be – transgender, queer, or gender-expansive as a threat to anyone.
- 18.** Ensure that law enforcement does not interfere with provision of health care.
 - a.** Do not station police officers in emergency departments or at hospitals or clinics to investigate patients.
 - b.** Do not investigate or interrogate patients or health care providers about a patient's health care, gender identity, biological sex, pregnancy, health condition, or any reason they may have sought or received medical treatment.
 - c.** Do not seek disclosure of patients' health information or records to investigate any suspected violation of an anti-abortion, anti-trans, or anti-LGBTQ+ law.
 - d.** Do not partner with hospitals or health providers to surveil or investigate patients who are pregnant, miscarrying, birthing, thought to be transgender, or suspected of using substances.
- 19.** Do not second-guess medical determinations of whether an abortion procedure was medically necessary within the meaning of a state's criminal laws.
- 20.** Meet with hospital management, together with local prosecutors – and with physician representatives and emergency health care providers – to understand their concerns about criminal liability and to clarify that police and prosecutors will not second-guess their medical decisions about pregnancy or gender-affirming care.

DO NOT INVESTIGATE:

ANTI-TRANS, ANTI-LGBTQ+, AND ANTI-ABORTION LAWS

Introduction

The past two years have seen a flood of anti-abortion, anti-trans, and anti-LGBTQ+ legislation. Many states have imposed civil penalties and criminal bans on where trans people can go, gender-affirming health care, and even people's clothing and drag performances. Meanwhile, when a majority of the United States Supreme Court overturned *Roe v. Wade* in 2022, criminal abortion bans proliferated. Law enforcement may be called upon to enforce these laws through surveillance, investigation, and arresting the people these laws target.

All these new laws threaten the health, rights, and safety of community members and do nothing to advance public safety. **We urge municipalities and law enforcement leadership to deprioritize enforcement of these laws — that is, to use no time or resources to enforce them.**

Law enforcement should not use time or resources to enforce such laws

At the Center for Policing Equity, we aim to reduce the footprint of law enforcement by urging the removal of police from places where they do not belong and cannot help. People's health care, their pregnancy outcomes, and their gender identity exemplify situations and characteristics that should not involve police. Law enforcement can and should step back in these situations, [as they have traditionally done](#).

To understand community safety needs and the effects of these laws, we met with grassroots and national reproductive rights advocates, health care providers, and trans and LGBTQ+ organizations. We confirmed that **all affected community groups worry that these laws will make them less safe**. Enforcement of these stigmatizing laws would endanger vulnerable communities, not protect them. These laws also expose people to prosecution for exercising what were, until recently, their legal and constitutional rights. They may also embolden bigots and extremists, who—being newly empowered to activate law enforcement — now have reason to think police are on their side. This makes trans and queer people, pregnant people, and health care providers [even less safe](#). **Communities deserve reassurance that their police departments won't arrest them for who they are or what health care they receive.**

To understand how these laws affect law enforcement, local governments, and public safety, we also met with police chiefs and municipal leaders in affected states. They told us they seldom, if ever, receive calls seeking enforcement of these laws. Members of the community do not demand that police or mayors enforce them. Instead, municipal leaders and police chiefs say, community members ask them to prioritize serious violent crimes (such as robberies and gun violence) and nuisances that affect their quality of life (such as noise). Controlling others' sexual orientation, gender identity, and health care are not priorities for the communities they serve.

Many law enforcement leaders recognize that police must build trust with communities to establish legitimacy, ensure procedural justice, and effectively protect public safety. Historically, Black and Latine LGBTQ+ people, reproductive health care providers, and other groups have [not had the benefit of trusting relationships with criminal legal systems](#). Nowadays, police leaders told us, many law enforcement agencies invest considerable time and resources to build relationships and community trust. Arresting people because of their health care or identity would squander the goodwill police have worked hard to build.

Moreover, enforcing such laws would be impractical. **Neither strangers nor police officers can tell whether a person is pregnant or transgender by looking at them.** But such laws invite busybodies to call police to report anyone who is dressed or styled in a way that doesn't seem feminine or masculine enough for them. Likewise, these laws invite people to report their acquaintances, relatives, or ex-partners to police when they suspect the person stopped being pregnant without a live birth.

The near-simultaneous proliferation of anti-abortion and anti-LGBTQ+ laws is not a coincidence. Emboldened by a conservative Supreme Court majority that overturned *Roe v. Wade*, [the same small group of activists](#) who advanced abortion bans in many states has now set its sights on trans and LGBTQ+ rights.

The existence of these laws does not mean that cities or police departments must enforce them. Governments and police have limited resources: **They need not deploy any time or funds to enforce laws that create victimless crimes** when they and their communities want to prevent and investigate more serious crimes that affect community safety. Law enforcement need not divert resources from these priorities to impose one faction's puritanical views on a populace whose majority [does not share them](#). Enforcement of conventional gender norms and conservative sexual morality do not fit within the proper scope of law enforcement.

Police leaders and policing experts recognize that **strategic nonenforcement is a necessary and effective tool to ensure public safety and build community trust**. Both the President's Task Force on 21st Century Policing and the International Association of Chiefs of Police recommend that law enforcement agencies should "[promote public trust by initiating positive nonenforcement activities](#)."

Based on our consultations, we concluded that city governments and law enforcement have an important role to play in reducing the harms of such laws, and we identified [concrete steps that law enforcement and local governments can take](#) to advance public safety by deprioritizing enforcement. The rest of this introduction provides relevant historical and political context to show why deprioritizing these laws is not only appropriate, but essential to public safety.



The history of deprioritizing enforcement of morality laws

Although many states have enacted a wave of anti-abortion, anti-trans, and other anti-LGBTQ+ laws in the past two or three years, such laws are not new. For many decades between the mid-nineteenth century and the 1970s, all states criminalized at least some of the following: abortion, birth control, homosexuality, interracial sex and marriage, "sodomy" (whether between partners of the same or different sex), adultery, premarital sex, and cross-dressing. Those laws, like their modern counterparts, used the threat of criminal punishment to impose puritanical views of sexuality and gender roles held by one narrow segment of society on everyone else.

Even before landmark cases such as [Griswold v. Connecticut](#), [Roe v. Wade](#), and [Lawrence v. Texas](#) invalidated such laws, many police and prosecutors simply ignored them, declining to enforce them in most instances.² Arrests and prosecutions for violations of such laws were rare. As Supreme Court Justice Clarence Thomas acknowledged even while dissenting from the Supreme Court’s decision to overturn a criminal law banning so-called “sodomy,” “Punishing someone for expressing his sexual preference...does not appear to be a worthy way to expend valuable law enforcement resources.”³

This tradition of nonenforcement continues with similar laws today. For example, a number of states — including California, Illinois, Louisiana, Missouri, New York, North Dakota, Oregon, Texas, Wisconsin, and Wyoming — currently set the age of sexual consent as high as 17 or 18 years old, with no exception for consensual sex between age-matched peers. Yet law enforcement does not typically surveil or investigate teenage romantic relationships to ensure that no sex is taking place. Even when such relationships are brought to the attention of police, [prosecutions are rare](#).

Focus law enforcement resources on serious violent crimes that affect community safety

Nonenforcement of such laws is a legitimate way to allocate finite police resources. Law enforcement agencies are already overburdened with the responsibility of preventing and investigating serious crime; about [half of all murders](#) known to police go unsolved. Understandably, police leaders may not be eager to seek out sexual morality infractions.

In 2016, just after the passage of North Carolina’s notorious HB2 (a law banning people from using a bathroom that did not align with the sex on their birth certificate), spokespeople for four North Carolina police departments told a reporter that they would not be investigating people’s assigned gender at birth at public restrooms. One police spokesperson said, “So that means people have to go to the bathroom with birth certificates? Yeah, that was curious to me.” Another said, “We don’t have police officers sitting at public bathrooms all day long.” (For details, see [Recommendation 2](#) below.)

Police leadership and officers have always used their discretion to prioritize some criminal laws over others. No one expects police to treat jaywalking, personal drug use, or bicycle theft as though they were equal priorities with homicide or armed robbery. Fair and Just Prosecution, a group of elected prosecutors, points out that enforcing abortion bans “would mean [taking time, effort, and resources away from the prosecution of the most serious crimes](#) — conduct that truly impacts public safety.” Thus, as an Austin City Council member observed, the decision to allocate zero funds for abortion enforcement “is an entirely legal exercise of our city’s right to discretion when it comes to prioritizing the public safety matters that our residents consider to be important.”

Local law enforcement agencies do not routinely surveil pregnant people or investigate their pregnancy outcomes. Most violations of anti-abortion laws will never be detected, reported, or investigated. When such prosecutions occur, they are not usually initiated by law enforcement: Pregnancy-loss prosecutions typically seem to [begin](#) when a health provider, social worker, or hospital staffer [reports](#) a patient’s miscarriage, stillbirth, or positive toxicology result to police.⁴ But because of racial bias in health care, patients who are reported by health care providers are [disproportionately](#) Black.

This means that **when someone is prosecuted for violating an anti-abortion, anti-trans, or anti-LGBTQ+ law, their arrest is likely to be quite arbitrary.** Queer and trans people already report [high rates](#) of unwarranted police contact and discriminatory, violent, or humiliating treatment relative to their share of the population, [especially if they are Black or Latine](#). Arrests for pregnancy outcomes have also [disproportionately targeted Black, Latine, and Indigenous women](#). The more police refrain from enforcing these laws, the lower the risk of disparate, degrading, or violent law enforcement interactions with LGBTQ+ people and people who are pregnant or have recently given birth.

Moreover, as mentioned [above](#), a single investigation, arrest, or prosecution for violating an anti-trans, anti-LGBTQ+, or anti-abortion law could undo years of relationship-building. LGBTQ+ people and survivors of sexual assault and intimate partner violence have traditionally experienced (and, too often, continue to experience) discrimination, injustice, and violence at the hands of law enforcement, especially when they are Latine or Black. In recent years, many law enforcement agencies have invested considerable time and resources [listening to these communities](#) and reforming police practices in order to build trust. Police leaders recognize that these efforts must include [“positive nonenforcement.”](#) As Fair and Just Prosecution observed in a statement: When people know they could be prosecuted for who they are or for health care they may have received, “they are far less likely to call [police] for help in the event of an emergency.” Victims of crime will not come forward to police for fear of being arrested themselves. “Prosecutors, police, and our medical partners cannot do our jobs when many victims and witnesses of crime or other emergencies are unwilling to work with us for fear that their private medical decisions will be criminalized.”



The potential harmful effects of enforcing anti-abortion, anti-trans, and anti-LGBTQ+ laws

The most obvious harm of anti-abortion, anti-trans, and anti-LGBTQ+ laws is the risk that people will be prosecuted for the health care they received or for who they are. While prosecutions under the most recent wave of conservative sexual morality laws have been rare, [a few](#) such prosecutions [have occurred](#).

The harms of these laws reach well beyond the risk of prosecution. These laws invite intrusive surveillance over the most intimate aspects of people’s personal lives; they obstruct people’s ability to obtain medically necessary health care and express their identity; they threaten to separate LGBTQ+ children from [supportive families](#); and they reinforce anti-trans, anti-LGBTQ+, and anti-abortion stigma, harming the physical and psychological health of pregnant, trans, and queer people and exacerbating the risk of violence.

Police should not surveil the most intimate aspects of people’s personal lives

Many anti-trans, anti-drag, and anti-abortion laws are deliberately drafted so vaguely that it is hard to know which behaviors are allowed and which are now crimes. This leads to a chilling effect. Does a ban on “drag performance” apply to a person in drag who sings at karaoke night? If a woman arrives at the emergency department experiencing a miscarriage, can the physician terminate her pregnancy safely, or must they wait until she is dying from infection or blood loss? Can a pregnant person take medication that is prescribed to treat their health condition? What if the medication could harm

the fetus? If someone uses an illegal drug that causes no known harm to fetal health, should their pregnancy make it more of a crime? What if they sought treatment for substance use disorder but no rehab programs would accept pregnant patients? Must a trans man who looks and feels masculine use the women's public restroom because he was assigned female at birth? Will his presence in the women's restroom make anyone safer – or simply put him at risk of [arrest or assault](#)? **The vagueness of these laws means that people may feel they have to forgo critical health care – or hide their identities entirely – to avoid being arrested.**

The harmful effects of these laws are not limited to states that have passed anti-abortion, anti-trans, or LGBTQ+ laws. Many people, including health professionals, social workers, and even police officers, are confused about what their state's laws actually prohibit. Strangers have called police about people they think are transgender for being in a public restroom in states that [do not have any restrictive bathroom laws](#).⁵ Patients have been [denied medication](#) and denied emergency abortion care [in states where abortion is legal](#).

Anti-abortion, anti-trans, and anti-LGBTQ+ laws also risk [authorizing intrusive surveillance of pregnant, queer, trans, and gender-expansive people](#). This surveillance is sometimes electronic: a person's social media, browsing history, period-tracking apps, or private messages may provide evidence of their reproductive or gender-affirming health care. In Nebraska, police served Meta a warrant to investigate the mother of a 17-year-old girl for allegedly helping her obtain an abortion. Meta shared their Facebook messages, resulting in 90 days in jail for the girl and [two years in prison](#) for her mother. What's more, as many as 60 law enforcement agencies across the country use [Fog Reveal](#), a surveillance product that "provides location data [from people's cell phones] to police at a steep discount."

Police and prosecutors have also sought or obtained access to people's health records, and – in the context of prosecuting pregnant people – [health care providers have often unlawfully shared health records with police](#). As the U.S. Department of Health and Human Services [reminded providers](#) in July 2022, it is a **violation of the HIPAA Privacy Rule**⁶ for a provider to disclose health records or information to police without a subpoena or other enforceable court order, whether that disclosure is initiated by health care providers or police. We urge law enforcement agencies not to request patients' health records, and we urge them not to act on health information that providers may share with them in violation of patient privacy. (For details, see [Recommendation 13\(c\)](#) below).

Surveillance can also happen in person, such as when anti-abortion activists photograph or record license plates at an abortion clinic; when strangers or former partners bring a lawsuit about someone else's alleged abortion; when self-deputized strangers [confront, harass, or physically attack](#) people who don't seem feminine or masculine enough to them; or when an acquaintance reports parents to child welfare authorities if their children don't seem boyish or girlish enough. Anti-trans, anti-drag, and anti-abortion laws encourage bystanders and conservative activists to call police on pregnant and LGBTQ+ people, and to report supportive families to police or child welfare agencies. We encourage police not to act upon such tips. (See [Recommendations 13\(c\)-\(f\)](#) below.)

Criminalizing abortion and pregnancy loss

According to the [Center for Reproductive Rights](#) and [The New York Times](#), more than a dozen states have banned practically all abortions, making it a felony to perform an abortion or help another person obtain one. Several other states criminalize abortion at 12, 15, or 20 weeks of pregnancy. But few prosecutions have been reported. Rather, abortion clinics in those states have had to [close, move to other states](#), or [stop providing abortion care](#). People in those states can no longer access abortion

care, except in case of life-threatening medical emergency — and even then (as described below), pregnant people have been subjected to dangerous delays and refusals to provide lifesaving care.

In abortion-ban states, people who need to end a pregnancy have to [self-manage their abortion](#) (also called self-induced or at-home abortion) — if they know medication abortion exists, can figure out how to source a prescription via telehealth, and can afford it. Or they have to [travel to another state](#) if they can afford it. Because many people cannot travel, can't access medication abortion, or fear being arrested if they do — abortion bans have [forced many women, girls, and other pregnant people to give birth](#), often locking them into cycles of poverty, domestic violence, or both. Compared to women who are able to obtain abortion care, a woman who seeks abortion care and is denied it faces [increased risk of violence](#) from the man involved in the pregnancy, as well as [psychological, medical, and economic harms](#) to themselves and their children. In September 2024, a [ProPublica investigation](#) revealed that after the overturn of *Roe v. Wade*, at least two women in Georgia have died from complications related to denial of abortion care.

Abortion bans have also forced women in multiple states — sometimes under explicit threat of arrest — to give birth even when their fetus had a fatal diagnosis and could not survive birth. In Texas, women have been forced to complete [unviable pregnancies](#) so often that the state's infant death rate has increased. "I think about these women that had to carry these gestations and give birth to them, knowing that they were likely going to die shortly after birth and the trauma related to that," says Dr. Alison Gemmill of Johns Hopkins Bloomberg School of Public Health. Law enforcement should not take part in decision-making about when an abortion is medically indicated.

Meanwhile, abortion bans increase penal surveillance of everyone who is pregnant, miscarries, or gives birth — even in states where abortion is legal. Even before *Roe v. Wade* was overturned, from 2000 to 2020, police and prosecutors' resources were used to [prosecute at least 61 women for alleged self-managed abortion](#), even though it was not explicitly criminalized in most states.

A number of states have criminalized pregnancy in other ways. In 38 states, "fetal homicide laws" have been [used to prosecute pregnant people for miscarriage or stillbirth](#). Prosecutors, police, and health providers have also partnered to [prosecute women for miscarriages or stillbirths under general criminal laws](#) — such as reckless endangerment, child abuse, or manslaughter — that were not designed for that purpose. Recently, prosecutors in Ohio attempted to charge a Black woman with felony "abuse of a corpse" after she [miscarried over a toilet](#), as people who miscarry at home (or [at work or in public](#) or on the road) usually do. Eventually, both before and after the Supreme Court overturned *Roe v. Wade*, anti-abortion prosecutors have attempted to punish pregnant people, especially Black and Indigenous women, "on the theory that subjecting a fetus to a perceived risk of harm in utero [constitutes felony 'child abuse'](#) or that experiencing a pregnancy loss is murder." Appellate courts have usually rejected such prosecutions. Nonetheless, 25 states require health care workers to report suspected or confirmed prenatal drug use to child welfare authorities, actions that often result in prosecution and child removal, especially from Black, Indigenous, and other non-White families.

Pregnancy prosecutions are arbitrary, unpredictable, and infused with racial bias. There is [no scientific evidence](#) that cocaine, methamphetamine, opioids, or cannabis can cause any specific or certain harm to the fetus, nor does any of these drugs cause miscarriage or fetal demise. (Alcohol and tobacco can cause such harms.) **White women report using substances during pregnancy more frequently** (including tobacco, alcohol, and all other substances) than Black women do — **yet Black women are much more frequently prosecuted and have their children removed more often** for alleged substance use during pregnancy. A recent study found that compared to White pregnant

women, [Black pregnant women were more likely to be tested for drugs, even though Black women's test results were less likely to be positive](#). [Clinician bias](#) may lead health care providers to stereotype Black patients as drug users, [test them without consent](#), and report them to police. Police should refuse to act on such reports. (For details, see [Recommendation 13\(c\)](#)).

The threat of prosecution deters people from obtaining lifesaving prenatal health care. It also deters people with substance use disorder from seeking help to recover so they can take better care of the fetus and their already-born children. Because of this chilling effect on health care access, the [White House](#) and [professional associations](#) of [physicians](#) in various relevant [disciplines](#) — including neonatal health, as well as other [health professionals](#) — unanimously denounce the prosecution of pregnant people for behavior that allegedly might harm the embryo or fetus. Pregnancy Justice has called on law enforcement agencies to “decline to investigate, arrest, and prosecute these types of cases.”

Many women have been denied abortion care in life-threatening medical emergencies

Because clinics have been forced to close, the only physician-assisted abortions that now take place in abortion-ban states are emergency procedures performed in hospitals. At the time of writing, [every abortion ban contains an exception](#) that allows for abortion care to be performed to “prevent the death” or “preserve the life” of the pregnant person. Several states also contain exceptions that allow for abortion “when there is a serious risk of substantial impairment of a major bodily function” or when the embryo or fetus is too sick to survive birth. Yet pregnant women experiencing pregnancy loss in abortion-ban states have often been subjected to [life-threatening delays and denials of care](#), and in at least two confirmed instances, [died as a result](#).

To protect themselves against enforcement of abortion bans, hospitals and physicians have interpreted “life” and “health” exceptions extremely narrowly, often delaying and refusing abortion care to patients who urgently need it. Patients experiencing pregnancy loss have had their care delayed until they suffered agonizing pain, hemorrhage, sepsis, loss of fertility, and stays in the intensive care unit. Other patients were [forced to travel](#) to other states — often while in the midst of premature labor — to obtain emergency abortion care that had been refused locally.

Physicians and hospitals have every reason to fear arrest, loss of licenses, and [liability](#) if police and prosecutors disagree with their medical judgment that abortion care is medically necessary. This threat forces physicians “to hold off while things get riskier for their patients because [they're not dying yet](#).” As one physician points out, “You don't automatically go from living to dead. You slowly get sicker and sicker.” Another emergency physician notes, “There's just no moment where I'm standing in front of a critically ill patient where I know: OK, before their health was just in danger. But now, their life is in danger,” she said. Physicians in abortion-ban states have no way to know whether a patient experiencing pregnancy loss is close enough to death that a court would agree that abortion is not a crime. This “predictably chill[s] care, sometimes with grave consequences.”⁷

As a result, in abortion-ban states (and [even in at least one state](#) where abortion is legal), pregnant women have been denied care when they had ectopic pregnancies, premature rupture of the membranes, and when the embryo had not developed a skull (a fatal condition). In these and other common pregnancy complications, the embryo or fetus cannot survive. Delay or denial of emergency abortion care cannot save the pregnancy. [Immediate treatment is often needed](#) to save the life, health, and future fertility of the person who is miscarrying.

If timely abortion care is not provided, the patient will progress to life-threatening risks, such as hemorrhage or sepsis (a fatal condition in about one third of cases).⁸ Instead of delivering timely abortion care, healthcare providers have to somehow “[determine whether a woman is ‘sick enough’](#) to justify an abortion” and are at risk of being imprisoned if a judge disagrees. One Texas physician described the traumatic effect on a patient: “We physically watched her get sicker and sicker and sicker” until the fetal heartbeat stopped the next day, “and then we could intervene,” he said. The patient developed complications, required surgery, lost multiple liters of blood, and had to be put on a breathing machine “all because we were essentially 24 hours behind.”

Sadly, this situation [is not unusual](#): Another woman whose water broke at 19 weeks was told, “you can either [stay here and wait to get sick](#) where we can monitor you, or we discharge you and you monitor yourself. Or you wait till your baby’s heartbeat stops.” This patient said, “Abortions are sometimes needed out of an act of an emergency, out of an act of saving a woman’s life. Or hell — honestly it shouldn’t even get to the point where you’re having to save a woman’s life.” The Texas Supreme Court denied an abortion to a woman whose fetus had an inevitably fatal condition, and gave no guidance about when the state’s medical exception allows or doesn’t allow emergency abortion care. Leaders of law enforcement agencies can relieve the fears that lead to these patient harms by letting health care providers know that [law enforcement will not second-guess](#) whether abortion care was medically necessary.

Women and children have been denied nonreproductive health care in case they might get pregnant

Fear of abortion prosecution has also caused providers to deny many other kinds of health care.

Women have been [denied cancer care](#) because they are pregnant, and denied abortion care so they can get cancer treatment; women [and children](#) who have lupus, arthritis, and other autoimmune conditions have been denied [commonly prescribed medication](#) that treats their symptoms because it could cause a miscarriage if they were to become pregnant. Hospitals’ and providers’ fear about abortion bans leads them to [refuse to diagnose or treat a miscarriage](#); in Louisiana the abortion ban has led some hospitals to stop providing prenatal care prior to 12 weeks of pregnancy (when the [risk of pregnancy loss](#) is especially high); the abortion ban has led several Idaho hospitals to [stop providing prenatal and maternity care](#) altogether.

Police and prosecutors can alleviate providers’ fears caused by abortion bans, and the harms to patients that result, by reassuring physicians and hospitals that law enforcement will not get involved in abortion care. (For details, see [Recommendations 18](#) to [20](#) below).

Criminalizing trans and LGBTQ+ identities

Transgender, nonbinary, and other gender-expansive identities are healthy and normal — and their expression is a fundamental human right. The consensus among medical experts (including, for example, the [World Professional Association for Transgender Health](#), the [American Psychiatric Association](#), the [American Association of Child Psychiatry](#), the [American Academy of Pediatrics](#), and the [American Medical Association](#)) is that trans and nonbinary children and adults need acceptance

and support, including social, legal, and medical affirmation. That is, **gender-affirming care is medically necessary**. Efforts to coerce a child to assume a gender identity or gender expression that does not accord with their sense of self, such as conversion therapy or parental rejection, are [psychologically and physically harmful](#). Anti-trans laws [exacerbate anti-trans stigma](#), increasing the risk of anxiety, depression, and self-harm for transgender and gender-expansive young people and adults. Anti-trans and anti-LGBTQ+ laws also risk exacerbating the [high levels of harassment and violence by police](#) that trans people, especially Black trans people, already experience.

Gender-affirming health care is medically necessary for children and adults

Nonetheless, anti-trans and anti-LGBTQ+ activists have [adapted and built upon their successful anti-abortion tactics](#) to devise laws that authorize discrimination against LGBTQ+ people and [pressure gender-affirming care clinics](#) to close. For example, many states have banned gender-affirming health care for young trans people.⁹ Typically, these bans (such as [HB 1080](#) in South Dakota and [SB 140](#) in Georgia) threaten health care providers with civil liability or professional sanctions, but some of them (such as [HB 1254](#) in North Dakota) make it a crime for a clinician to provide gender-affirming treatment. **If a supportive family cannot travel to another state for treatment, their children face being forcibly detransitioned,**¹⁰ harming their physical and psychological health.

Not only does gender-affirming care help trans people feel more comfortable in their bodies — helping mitigate gender dysphoria¹¹ and [improving](#) health, including mental health — it can also mitigate their risk of [violence and victimization](#).

In states such as Texas and Florida, loving and supportive parents of gender-expansive children may [fear being reported to child welfare authorities and being prosecuted for “child abuse.”](#) LGBTQ+ children often end up in foster care because their families of origin abuse them or kick them out; once in foster care, [LGBTQ+ children are subjected to higher rates of physical violence and emotional harm in the system](#). **Enforcement of anti-trans laws would risk removing LGBTQ+ children from safe, loving homes to place them in unsafe situations.**

Anti-trans bathroom laws make a person’s existence in a gendered public space lawful or unlawful, depending on their biological characteristics or assigned sex at birth. If such laws were enforced, they would force [feminine-looking trans women to use men’s restrooms](#) and force manly-looking and bearded trans men to use women’s restrooms. This would expose trans people (and people mistaken for trans) to harassment and violence, while making no one safer.

For example, a [Williams Institute survey](#) (conducted before the passage of anti-trans bathroom restrictions) found that 68% of transgender and gender-expansive respondents had been verbally harassed in a public bathroom and 9% had been physically assaulted there. Many cisgender women have also [been](#) confronted, or had police called to report them, because someone thought their hair was too short or they didn’t look feminine enough to use the women’s bathroom. The passage of bathroom bans can only exacerbate this danger.

68% of transgender respondents had been verbally harassed in a public bathroom

No one can know another person’s biological sex or assigned sex at birth by looking at them. But bathroom bans invite strangers to scrutinize the gender presentation of everyone — cisgender, transgender, or nonbinary — who may use a women’s public restroom. These laws invite “[harassment, intimidation, and surveillance](#)” of everyone whose gender presentation isn’t conventional enough to satisfy a stranger.

Bathroom bans invite strangers to scrutinize everyone and call police to report those who don’t look feminine enough for them

Worse, because proponents of anti-trans laws [manufacture disingenuous concerns about sexual assault](#) to justify criminalizing trans existence, fearful callers may call police about trans people for no reason, demanding that they investigate a stranger’s gender identity.



The public safety benefits of deprioritizing enforcement

New criminal laws codifying conservative morality ban previously lawful behavior and create victimless crimes. To make this seem reasonable, proponents of such laws frame abortion bans, healthcare bans, bathroom bans, and drag bans as somehow addressing violent sexual offenses. For example, Texas Attorney General Ken Paxton issued an [opinion](#) claiming that parents or physicians who provide necessary gender-affirming care are guilty of “child abuse” by obtaining health care for their children. [Idaho](#) recently banned adults from helping a person under 18 who needs an abortion to get one, calling it “abortion trafficking.” And several states, including [Tennessee](#) and [Florida](#), have made it a criminal offense to perform drag in public or where the performance “could be viewed” by a minor, ostensibly because the sight of a trans or cross-dressed person somehow “sexualizes children.” Florida even nicknamed its drag ban the “[Protection of Children Act](#).”

Abortion care, gender-affirming care, and trans existence are not violent crimes

These claims are disingenuous. Legislators old enough to pass anti-drag laws themselves grew up with many films and TV shows involving characters who cross-dressed, works that were officially rated appropriate for children and teens.¹² Many (not all) of these films and TV shows presented cross-dressed characters as figures of transphobic ridicule — but their widespread acceptance shows that **legislators know drag is harmless, including when children see it.** Current anti-trans and anti-drag laws target cross-dressing as a supposed threat to children by criminalizing normal activities such as story hour, sports participation, musical performance, or visiting the bathroom.

Notably, these laws take no steps to prevent heteronormative “sexualization” of children, such as child beauty pageants or [child marriage](#) (allowed in all but nine states). [Bans on gender-affirming health care for transgender children explicitly permit](#) cisgender children to receive [gender-affirming health care](#), medical treatment for precocious puberty, medical treatment of excessive hair growth in cis girls,

breast implants or nose jobs for cis girls, and medical or surgical treatment of excessive breast growth in cis boys all remain lawful.¹³ Gender-affirming care bans also [explicitly permit](#) nonconsensual surgery on [healthy intersex infants](#) to make their [bodies appear](#) more consistent with binary expectations about gender (“normalizing” genital surgeries on babies and other children too young to consent are opposed by [intersex advocates](#), [civil liberties advocates](#), [human rights organizations](#), and [medical organizations](#)).

Along the same lines, a frequent rationale offered for anti-trans bathroom bans is a [baseless claim](#), described as the “bathroom predator myth,” which was first advanced by conservatives who opposed laws that would protect LGBTQ+ people from discrimination. Proponents of anti-trans laws claim that trans women are actually cis male rapists who want to sexually assault cis women in the bathroom. This **has long been debunked as an [urban legend](#)**. Of course, [a large majority of sexual assault perpetrators are men](#), whether in a women’s bathroom or elsewhere; rapists do not often disguise themselves as women to sexually assault women. As Laura Palumbo, the communications director at the National Sexual Violence Resource Center, points out, [people who are planning to sexually assault someone will enter a bathroom, even if it doesn’t correspond to their gender](#).

The overwhelming majority of sexual assault perpetrators are cisgender men, not transgender women

Meanwhile, [LGBTQ+ people face higher risk of being victimized by sexual assault](#) than cis straight people do, and the existence of restrictive bathroom rules is associated with an even higher rate of sexual assault of trans and nonbinary teens. Bathroom restrictions are also associated with an [elevated risk that trans and nonbinary teens will experience depression and suicidal ideation](#).

By framing LGBTQ+ people as sexual threats to cis women and children, proponents of anti-trans laws misconstrue the reality of who is truly at risk of assault by whom. This framing also [increases the likelihood of violence against trans, queer, and gender-expansive people](#), as well as anyone else who is thought not to look sufficiently feminine or masculine. Furthermore, baseless sexual assault stereotypes echo 20th-century [homophobic tropes](#) about gay men and hundreds of years of [White supremacist myths](#) that Black men wanted to sexually assault White women. All these imaginary sexual threats offer justifications for discrimination and violence against gay men, trans and gender-expansive people, and Black adults and children of all genders. **This transphobic stereotyping encourages calls to police about benign behaviors** because busybodies may worry that anyone they think looks unfeminine or unmasculine might seem to pose some kind of sexual threat simply by existing.



Deprioritizing enforcement is not political.

Responsible police leaders pride themselves on providing nonpolitical public safety to all members of the community. We do not invite police to refuse to enforce laws simply because they disagree with them. Responsible police leaders are appalled by far-right “[constitutional sheriffs](#)” who believe that their own political views supersede state and federal laws, refusing to enforce [gun registration](#) laws because they disagree with them. We are troubled that some law enforcement agencies have

deprioritized enforcement of serious violent crimes such as [hate crimes](#) or [sexual assault](#). Law enforcement leaders should not pick and choose which laws to enforce based on their own political preferences.

But deliberate nonenforcement is [well recognized](#) to be an [appropriate police practice](#) to protect members of vulnerable communities and build legitimacy and trust. None of the police leaders we interviewed in the course of this report had received any reports alleging violations of anti-trans, anti-abortion, or anti-drag laws. But many police leaders we spoke with had received calls from LGBTQ+ people, health providers, and abortion-rights advocates worried about how these new laws may jeopardize the safety of their communities. That is, **most communities do not want police to monitor the population for violations of these laws.**

It is right to focus police resources on serious violent crimes that affect public safety. Criminal rules that aim to enforce one group’s vision of morality on everyone else do nothing to advance community safety. Law enforcement agencies should not spend their limited time, resources, or goodwill to enforce victimless morality crimes.

RECOMMENDATIONS

For Municipal Governments and Law Enforcement

1. Affirm a public commitment to the rights and safety of LGBTQ+ and pregnant people.

Mayors, city managers, city councilors, and law enforcement leadership should publicly affirm that they recognize each person’s right to make their own decisions about sexuality, gender, reproduction, and health care. Declare that LGBTQ+ people and pregnant people are valued members of the community who deserve full rights to autonomy and nondiscrimination. Declare that bodily autonomy, gender identity, and whether and when to start or expand a family are all decisions for people to make themselves, in consultation with their loved ones and health care providers, without interference from law enforcement.

“It is not my job to make it easier for the state legislature and governor to drag women back to the ‘50s and strip their rights, it’s my job to make that harder.”

—CINCINNATI MAYOR AFTAB PUREVAL

For example, in response to the U.S. Supreme Court’s 2022 decision to repeal *Roe v. Wade*, [Cincinnati Mayor Aftab Pureval](#) said, “Our Supreme Court, Congress and state legislature have failed us. Local officials must do whatever we can to protect the women of our communities. It

is not my job to make it easier for the state legislature and governor to drag women back to the 50's and strip their rights, it's my job to make that harder.”

- 2. Consult with affected communities on a structured and ongoing basis about how to deprioritize enforcement.** Set up regular, recurring meetings with members and representatives of affected communities, such as LGBTQ+ advocacy groups, abortion-rights advocates, and providers of reproductive health care and gender-affirming care to discuss how to protect their rights and ensure their safety – and/or that of their patients. These communities have [historically](#) had [every reason](#) to fear injustice under state law and through criminal law enforcement. Acknowledge that, by emboldening violence and by raising the prospect of arrest, these new criminal laws jeopardize these community members’ safety as well as their rights.

Communities are experts on how these laws affect their rights and safety. Advocates know how these laws are affecting people in their communities and how local government and law enforcement can protect them against emerging threats to their rights and safety. Partnering with them will help build trust, facilitate open communication, and ensure that government and law enforcement agencies remain informed about evolving public safety risks and needs.

- 3. Consult with affected communities about how loud and public to be about deprioritizing enforcement.** Many municipal councils – including those of Atlanta, Boise, Austin, Cincinnati, Memphis, Nashville, and Tucson – have passed ordinances or resolutions rejecting enforcement of anti-abortion laws. (For details, see [Recommendation 6](#) below). Similarly, a number of municipalities in Arkansas have passed ordinances protecting LGBTQ+ people against discrimination (see [Recommendation 7](#) below), in defiance of a state law banning such measures. **Other municipal governments may have taken a quieter route to deprioritization** after determining, based on local circumstances, that a public declaration might be counterproductive.

The advantage of a public declaration is that it conveys to all members of the community that these laws will not be enforced, reassuring members of targeted communities that police will not harm them. A public declaration may also alleviate the burden on law enforcement, allowing everyone – including potential callers who might otherwise complain to police about morality infractions – that police will not dedicate resources to investigate such reports. If communities do not know that their police department has a nonenforcement policy, these laws are likely to have a chilling effect on people’s behavior, forcing them to hide their identities for fear of being arrested. A public declaration will do the most to alleviate this chilling effect.

“ We’re not checking birth certificates. We just don’t have the police power to be able to do that in the bathrooms. ”

—POLICE SPOKESPERSON, ASHEVILLE, NORTH CAROLINA

On the other hand, **deprioritization can also look more circumspect**. For example, in response to North Carolina’s notorious 2016 anti-trans bathroom ordinance, [HB2](#), spokespeople for [four police departments deftly replied to a journalist’s questions](#) about how they would enforce the law:

“That’s a very interesting question. We don’t have police officers sitting at public bathrooms all day long,” a spokesman told me with a laugh. “Our staff, particularly our attorney’s office, is trying to figure out what it all means. We haven’t mobilized our police force in any kind of different way. We’re still digesting.” (Raleigh)

“We would respond if we received a complaint. It’s not like we would be standing guard at bathrooms,” said a spokeswoman, also suppressing a laugh. (Greensboro)

“So that means people have to go to the bathroom with birth certificates? Yeah, that was curious to me.” (Wilmington)

“We’re not checking birth certificates. We just don’t have the police power to be able to do that in bathrooms.” (Asheville)

Communities, law enforcement leaders, and elected municipal leaders will need to **consider whether a public declaration could backfire**. Local law enforcement agencies (LEAs) are typically accountable to the municipality, not the state, but state interference with law enforcement is not unheard of: In March 2023, both the [Mississippi](#) and [Missouri](#) state legislatures tried to take over local law enforcement in Jackson and St. Louis. Although these police takeovers were unrelated to anti-abortion and anti-trans laws, state governments in [Texas](#) and [Florida](#) tried to retaliate against prosecutors who declared publicly that they would not enforce anti-abortion or anti-LGBTQ+ criminal laws. In Texas, where five district attorneys signed joint statements promising not to zealously enforce anti-abortion laws and not to treat gender-affirming healthcare as child abuse, one of the DAs who signed the statement now says it might have been [“smarter for us to move in silence.”](#)

In consultation with communities, municipal governments and law enforcement should determine whether a public declaration or a quieter effort would best protect the safety of their communities and the priorities of their constituents.

- 4. Ban discrimination on the bases of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcome, and provision or receipt of reproductive health care, abortion care, and gender-affirming care (whether actual or perceived).**
 - a.** Ban employment discrimination *against* municipal employees, including police officers, on these bases. The Tennessee Equality Project, an LGBTQ advocacy organization, notes that although state legislation prohibits local governments from banning anti-LGBTQ+ discrimination by *nongovernment* entities (such as private citizens, local businesses, or government contractors), in Tennessee [“local governments CAN forbid discrimination against their own employees based on sexual orientation and gender identity.”](#)

- b. Ban discrimination by municipal employees, including police officers, on these bases. (For details, see [Recommendations 7](#) and [12](#) below).

5. Support pregnant, transgender, nonbinary, and other LGBTQ+ employees, including police officers and other municipal employees, by providing benefits. Reassure municipal employees, including police officers, that they are valued members of the department and that these laws do not affect their status. Municipal governments and law enforcement agencies should further support, protect, and affirm these employees by providing benefits such as:

- **No-questions-asked medical leave:** Authorize medical leave with a note from a health provider saying that the person needs to be away for medical reasons, and the anticipated time needed off work, without requiring any specifics about what the condition is.
- **Comprehensive health insurance coverage** of reproductive health and gender-affirming care, including all forms of contraception, prenatal care, doula care, birthing and postnatal care, miscarriage care, abortion care, and gender-affirming medication or surgery.
- **Travel coverage for out-of-state health care** that is not available in state, such as abortion care or gender-affirming health care. As [Cincinnati Mayor Aftab Pureval](#) announced shortly after the *Dobbs* decision, “The city’s travel reimbursement policy will not only cover travel for abortion-related services . . . [but make] sure our city employees have access to any eligible medical care that isn’t available here, regardless of future statewide laws.”
- **Employment assurances:** If a police officer or other municipal employee faces investigation or prosecution by another agency for a breach of anti-abortion, anti-trans, or anti-LGBTQ+ laws, that will have no effect on their employment with the department.

For Municipal Governments

6. Direct law enforcement leadership to allocate no funds to enforce anti-trans, anti-LGBTQ+, or anti-abortion laws. For example, city councils in [Atlanta](#), [Austin](#), [Boise](#), [Memphis](#), [Metro Nashville](#), [New Orleans](#), and [Tucson](#) passed resolutions along the following lines:

- City funds cannot be used to record, surveil, investigate, or prosecute abortion or pregnancy outcomes;
- City funds cannot be used to share any data with other government agencies about abortion or pregnancy outcomes, except as required by law; and
- Abortion investigations should be “the lowest priority” for law enforcement.

Forbid use of city funds to enforce anti-abortion, anti-trans, and anti-LGBTQ+ laws

Municipalities should pass (or expand) resolutions or ordinances so that these rules apply equally to these types of laws:

- laws that criminalize abortion, contraception, or any other kind of reproductive health care, including pregnancy or birth outcomes;
- laws that criminalize transgender or LGBTQ+ people; and
- laws that criminalize gender-affirming health care.

Mayor Lauren McLean of Boise, Idaho, explained that [Boise has higher priorities when it comes to public safety](#). “There’s an expectation that we will divert public safety resources from other priorities to investigate claims and to investigate doctors, to investigate individuals,” she said. “That’s not something that our city will do.”

Along the same lines, when reporters asked the Metro Nashville police chief about a similar resolution by Nashville Metro council, a spokesperson for the department replied, “[We are not the abortion police](#).”

- 7. Ban discrimination by municipal contractors and local businesses on the bases of sexual orientation, gender identity, gender expression, pregnancy, pregnancy outcome, and receipt of abortion care and gender-affirming care** (whether real or perceived). In Arkansas, for example, the state’s 2015 passage of an act designed to ban protections for LGBTQ+ people inspired towns and cities such as Eureka Springs, Conway, North Little Rock, Little Rock, and Hot Springs to [pass antidiscrimination laws protecting LGBTQ+ people](#). Even such ordinances are preempted by state law, they send an important message to LGBTQ+ people that their local government values and protects them.

If they have not already done so, local governments should pass ordinances banning discrimination based on sexual orientation, gender identity, pregnancy, pregnancy outcome, and receipt of reproductive health and gender-affirming care in their city. An antidiscrimination ordinance sends a strong signal that the targeted groups — transgender children and adults, other LGBTQ+ people, pregnant people, and anyone seeking health care — are valued members of the community who deserve equal treatment and will be treated that way by city government and law enforcement.

At the time of writing, two states — [Tennessee](#) and [Arkansas](#) — have passed laws ordering cities not to pass antidiscrimination ordinances. Local governments in such states should consult legal counsel about passing antidiscrimination ordinances in defiance of such laws. Although an antidiscrimination ordinance would likely be preempted if state law contradicts it, members of the communities under attack may feel more supported, and, if the state law blocking the ordinance is repealed or invalidated, the antidiscrimination ordinance might become enforceable.

- 8. Consider using ARPA (COVID-19 relief) funds¹⁴ or other municipal funds to ensure community access to prenatal care, doula care, lactation support, and out-of-state gender-affirming and reproductive health care.** For example, St. Louis [Board Bill No. 61](#) created a fund that makes grants to community organizations “to provide access to abortion through logistical support including but not limited to the funding of childcare, transportation, and other logistical support needs” as well as to fund doulas and lactation support.

- 9. Oppose any effort to [criminalize use of municipal roads](#) to access abortion care, gender-affirming care, or any other health care.** Idaho has created a [new crime](#) of helping a minor travel within or outside the state to get an abortion without parental consent. Two Texas towns have passed what they call “abortion trafficking” laws that ban use of roads within town limits to transport anyone to get an abortion. As *The Texas Tribune* reported, “Antiabortion advocates ... are targeting regions along interstates and in areas with airports, with the goal of blocking off the main arteries out of Texas and keeping pregnant women hemmed within the confines of their antiabortion state.”

Many [similar proposals have been tabled or defeated](#), even in conservative towns, because of council members’ concerns about constitutionality and about the logistics of enforcement. Even where laws or ordinances restricting travel have been passed, police need not – and should not – enforce them. It is unclear how police officers could know why people are driving on their roads, how they would know whether a driver or passenger was pregnant or seeking gender-affirming care, and how officers could verify any of this without extremely intrusive questioning at traffic stops. (For details, see [Recommendation 13\(b\)](#) below, recommending that police not conduct stops for this purpose.) If an officer thinks someone in a car might be pregnant or transgender, they should not ask where they are driving or why.

For Law Enforcement

- 10. Protect the people and communities targeted by anti-abortion, anti-trans, and anti-LGBTQ+ laws against hate crimes and vigilante violence. Use and enforce restraining orders.**

The same communities that have long been targeted by anti-LGBTQ+ [hate crimes](#) and anti-abortion [vigilante violence](#) are now being targeted by anti-abortion, anti-trans, and anti-LGBTQ+ laws. Anti-abortion extremists have frequently resorted to violence. Given the shared tactics and personnel of anti-abortion and anti-trans/anti-LGBTQ+ activists, law enforcement must be vigilant about these risks to providers of gender-affirming health care as well.

Anti-abortion extremists have frequently subjected clinics, hospitals, staff, patients, and helpers to death threats, bomb threats, damage to phone and electrical wires, arson, firebombs, blockades, and invasions. Hospitals have also been [targets of coordinated telephone and digital denial-of-service attacks](#).

People who threaten or carry out this violence seem to have been emboldened by abortion bans. The June 2022 *Dobbs* decision, which allowed states to ban abortion, was followed by a [sharp increase in “major incidents like arsons, burglaries, death threats, and invasions](#) overall . . . [and] a sharp increase in violence and disruption.”

While many states have laws requiring anti-abortion protesters to keep a set distance from clinic entrances, anti-abortion protesters frequently defy these rules, intimidating patients, providers, staff, and escorts by photographing them and their cars, intruding into a protected zone, approaching them, touching them, and threatening violence. **Law enforcement agencies must use and enforce restraining orders** – and, where warranted, laws against trespass and disorderly conduct – to protect vulnerable communities, patients, and clinics and their personnel against intimidation and violence.

Protect the people and communities targeted by anti-abortion, anti-trans, and anti-LGBTQ+ laws against hate crimes and vigilante violence

- 11. Consult with abortion providers, advocates, and escorts; hospital management and staff; and trans and LGBTQ+ advocates and gender-affirming care providers, about the risks they face and how best to protect their rights and safety.** Acknowledge that these new laws encourage discrimination and risk emboldening people to threaten or carry out violence against LGBTQ+ people and reproductive health clinics.

Communities and health care providers are experts on emerging tactics used by anti-abortion and anti-LGBTQ+ pressure groups. Harassment, intimidation, and violence against abortion clinics and providers are likely to be replicated against LGBTQ+ people and the health care providers who serve them; indeed, providers such as Planned Parenthood [provide both abortion care and gender-affirming care](#). Law enforcement should consult with providers and community groups to learn about their safety risks and needs, and help ensure that they are protected against harassment, intimidation, and violence before it occurs.

- 12. Amend policy manuals as needed to clarify that it is misconduct for police officers and civilian employees to discriminate against members of the public on the bases of sexual orientation, gender identity, pregnancy, pregnancy outcome, and receipt of abortion care or gender-affirming care,** whether actual or perceived. Department leaders must assure communities and officers that they will not tolerate such discrimination and that they will take complaints about such discrimination seriously. In consultation with communities, implement the steps communities and advocates say are needed to keep them safe.

Do not enforce anti-trans, anti-LGBTQ+, or anti-abortion laws

- 13. Do not enforce anti-trans, anti-LGBTQ+, or anti-abortion laws. Prohibit the use of resources to enforce these laws. Direct officers not to conduct any investigations or make any arrests** under such laws. The only exceptions to the following recommendations would be when violence, threats, or coercion are credibly alleged.

To implement nonenforcement, make sure departmental policies and procedures include the following directives:

- a. Do not conduct any surveillance (electronic, in-person, or otherwise)** to detect violations of these laws. Do not seek or obtain data from social media or period-tracker apps. Do not seek to identify people who might be trans, might be pregnant, or might have been pregnant.

- b. Do not use traffic safety laws, pretextual stops,¹⁵ or any other means to investigate** whether drivers, passengers, or pedestrians may be pregnant, may be transgender, or may be traveling within or out of the state to receive health care. (Also see [Recommendation 9](#) above.)
- c. Take no action on any report of a violation of anti-abortion, anti-trans, or anti-LGBTQ+ laws — except, as needed, to protect the person against potential violence by the caller.** If a caller, health care worker, institution, or other person alleges that someone has had an abortion, induced a pregnancy loss, received gender-affirming or reproductive health care, had a positive toxicology result, performed in drag, or used the wrong bathroom, take no steps to investigate the allegation.
- Callers have no real way to know what a stranger’s or acquaintance’s assigned sex at birth was, or whether they are or have been pregnant.
 - Health care providers who report their patients to police may be violating federal HIPAA privacy obligations.
 - In response to such a call, send no police officer unless their presence is needed to protect the safety of anyone who may be at risk of violence, including protecting the suspected person against violence by the caller.
- d. Do not investigate whether anyone is or has been pregnant – or of how or why their pregnancy may have ended.**
- Do not ask anyone to disclose whether they are or have been pregnant.
 - Do not investigate whether or how a person’s behavior may have affected their pregnancy outcome. Many people believe that use of criminalized drugs such as cocaine will kill or harm the fetus, but this is a myth: as discussed [above](#), there is [no scientific evidence that cocaine, methamphetamine, opioids, or cannabis can cause any specific or certain harm to the fetus, nor do any of these drugs cause miscarriage or fetal demise.](#)
 - Do not test anyone for pregnancy without their consent. This prohibition includes people who are incarcerated or otherwise detained.
 - Do not seek anyone’s consent for pregnancy testing for investigative purposes.
 - If a person who is detained volunteers that they are or may be pregnant, [provide appropriate accommodations for pregnancy](#), such as these:
 - Do not use restraints on the person; handcuff them in front rather than behind; or place restraints around the person’s abdomen, torso, or feet.
 - Provide prenatal care and all other needed health care, including all medications, prescription or nonprescription ([including methadone or buprenorphine](#) if the person has an opioid use disorder) and prenatal nutrition/dietary supplements as recommended by the person’s treating physician.
 - Follow and comply with [best practices](#) for [prenatal nutrition](#) and dietary supplements for pregnant people in detention, particularly if they have no treating physician to guide their care and nutrition at the time.

- If a person who may be pregnant begins to bleed, their water breaks, or they say they are experiencing labor symptoms, take them to hospital immediately for emergency evaluation and treatment.
- e. Do not investigate anyone's gender identity, their biological sex, or their assigned sex at birth.**
- Do not ask anyone to disclose whether they are transgender, their biological sex, or their assigned sex at birth.
 - Do not question anyone about their gender transition, such as whether they are taking hormones or have had surgery.
 - Do not ask anyone to provide identification for the purpose of ascertaining their biological sex or their assigned sex at birth.
 - Respect people's identities: Use people's correct names and pronouns. Among transgender people who'd interacted with a police officer whom they thought knew they were trans, half (49%) said that the officer "[kept using the wrong gender pronouns.](#)"
 - Be aware that people's gender identity or chosen name may not align with the gender or name stated on their birth certificate, driver's license, or other government ID. This does not mean that the person is necessarily transgender and it does not mean that their stated or apparent gender identity, chosen name, or ID document is false. It is not uncommon for people to use a name different from the one on their documents: It is commonplace for married women, transgender and nonbinary people, and many others to change their name for personal reasons and for that name change not to be reflected on their government ID.
- f. Take no action when you see a person you think may be transgender** unless you have reasonable grounds to think the person is committing a crime for which a cisgender person would also be investigated.
- g. Do not enter bars, theaters, libraries, or anywhere else to identify drag performances.**
- h. Apply the same standards of obscenity to pro-LGBTQ+ content or performances as to heteronormative content or performances.** For example, in Florida, undercover agents from the state's liquor licensing authority, the Department of Business and Professional Regulation were sent to [enforce an anti-drag law](#) by reporting on whether children were being exposed to "lewd" content at a touring drag performance. The officers applied the standards for lewd content that they normally use and found no "lewd acts prohibited by state law had occurred." State authorities nonetheless filed a complaint about the nonprofit theater and two other Florida venues that hosted the touring show, but [federal courts have since suspended the show.](#)
- i. Do not enter bathrooms, changerooms, or anywhere else to ascertain the assigned sex at birth** or sex characteristics of people there.

Require written approval by the chief of police before any investigation or arrest under anti-abortion, anti-trans, or anti-LGBTQ+ laws

14. Require multiple levels of written supervisory approval, including written approval by the chief of police, before any arrest can be made or any investigation can begin for any alleged violation of an anti-abortion, anti-trans, or anti-LGBTQ+ law. This requirement will not only protect residents against unwarranted prosecutions but will protect the law enforcement agency against litigation and safeguard the goodwill the agency has built with communities. A single arrest under an anti-abortion, anti-trans, or anti-drag law could undermine community trust and legitimacy, confirming suspicions by people who have faced longstanding mistreatment by law enforcement that [police may still want to target](#) instead of protect them.

- Require extensive documentation by the officer who proposes to start an investigation or make an arrest under such a law. This documentation should set out the grounds for suspicion that an infraction has occurred and the effect such an investigation might have on affected communities.
- Require multiple levels of written supervisory approval, including that of the chief of police, before an officer can begin an investigation or make an arrest.
- Written authorization of such an investigation or arrest must specify not only probable cause for any authorized arrest but the reason such an investigation or arrest is in the public interest and would not undermine the department's efforts to build trust with the affected communities.

15. Ensure that officers and dispatchers are aware of agency policy not to investigate or enforce alleged violations of such laws, and that they understand specific laws in the state and locality. As mentioned [above](#), members of the public, including health professionals and other people who may call police, are not always clear on what the law actually prohibits. Callers might believe, mistakenly, that it is a criminal offense to seek or self-manage an abortion or to be transgender in public. In nearly all states, seeking, obtaining, and self-managing abortion are not criminalized. In nearly all states, it is not a crime for a transgender person to compete in sports, use a public restroom, or appear onstage. Most bans on gender-affirming health care, bathroom restrictions, and related to sports rely on civil liability or professional discipline rather than criminal enforcement. **Police should not participate in enforcement of noncriminal rules or investigate professional disciplinary offenses.**

In states that have passed anti-abortion, anti-trans, or anti-LGBTQ+ criminal laws, **many have been [invalidated](#) or [suspended](#) by state and federal courts.** In many states, appeals are ongoing. In Texas, the attorney general's opinion that gender-affirming care may be "child abuse" has not only been [largely suspended by the court](#), but police might not be under any reporting obligation anyway, as [Texas Family Code § 261.101\(a\)a and 261.103\(c\)](#) require police officers to report to child abuse to the Department of Family and Protective Services if they have "reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect" (emphasis added). Law enforcement leaders and city governments should consult with counsel about whether mandatory reporting obligations are applicable **if the child's health or welfare isn't "adversely affected" by their receipt of gender-affirming health care** that conforms to the [standards of care recognized by medical experts](#).

To prevent officers from being dispatched to deal with noncriminal complaints and deprioritized offenses, 911 call center operators should be made aware of agency policy not to investigate reports of lowest-priority calls alleging violations of anti-abortion, anti-trans, or anti-LGBTQ+ laws (see, for example, [Recommendation 13](#) above).

- 16. Remind officers that nobody can know by looking whether someone is transgender, what their assigned sex at birth was, or whether they are pregnant. [People \(including callers and police officers\) who think someone is pregnant may be mistaken](#):** people can be pregnant without “looking” pregnant, and can “look” pregnant without being pregnant. Nobody should make assumptions.

Likewise, police officers cannot know whether a person they interact with is transgender or LGBTQ+. Again, nobody should make assumptions.

Among transgender people who said police had stopped them in the previous year, [only 35% believed the officer realized they were transgender; 65% believed that the officer did not notice](#). In California, where [over 9% of the population identifies as LGBT](#), state law requires officers to record demographic information including whether the officer thought the person was LGBT, yet police [make such a notation in fewer than 1% of all stops](#). The Racial and Identity Profiling Act of 2015 offers [no criteria officers could use](#) to form an impression of whether the person is transgender or cisgender, straight or queer. It would be impossible to devise such criteria and it would be a bad idea. Typically, when an officer arrests someone or pulls them over for speeding, the officer knows nothing about the person’s thoughts, feelings, or romantic relationships.

Police officers, like other strangers, can’t know a person’s assigned sex at birth by looking at them. Nor can officers realistically demand that everyone carry their birth certificate at all times in case they need to use a public restroom. If a caller complains that they think someone in the bathroom is transgender, there’s not much a police officer can do about it.

Police should not respond to such a call unless the person is alleged to be doing something that would be threatening or unlawful if a cisgender person did it — or if the officers need to protect the allegedly trans person from violence by the caller.

- a. Do not assume that a person is engaged in sex work based on their gender presentation.** Transgender women report that police and other people routinely stereotype them by [assuming they are sex workers](#). In Iowa, for example, a hotel clerk [called police to report a Black trans woman](#) who tried to check in. The clerk said it was “to make sure they’re not hookers.”

If an officer thinks a person looks trans, queer, or is dressed in a way that is not conventional according to the officer’s perception of their sex, the officer should not investigate, ask questions, or do anything about it at all.

- b. Do not treat possession of condoms as evidence of sex work.** Many people carry condoms to protect themselves and their partners against HIV and other sexually transmitted infections (STIs), or to share condoms with others so that they too can practice safer sex. When [police treat possession of condoms as evidence of sex work](#), they incentivize sex workers (and transgender people who might be assumed to be sex workers) to [mitigate the risk of arrest by either not carrying condoms or concealing them](#), increasing the risk that they and their partners will contract or transmit STIs. It is not fair, rational, [nor in the public interest](#) to treat condoms as evidence of crime.

- 17. Do not treat the presence or existence of a person who is — or is perceived to be — transgender, queer, or gender-expansive as a threat** to anyone. Coexistence with transgender, nonbinary, or other LGBTQ+ people is not a privacy violation or a threat to cisgender children or adults. People of all gender identities and sexual orientations are members of the communities that law enforcement serve, and they deserve the same level of protection.

As discussed [above](#), proponents of anti-trans, anti-LGBTQ+, and anti-abortion laws pretend that such laws aim to [prevent](#) serious violent or sexual crime. These slanders may inspire calls to police about benign behaviors from callers who suspect that — simply by existing — trans and gender-expansive people pose some kind of sexual threat. **Remind officers that gender-affirming care, abortion care, and trans/queer acceptance are not child abuse, sexual assault, or any other violent crime; a caller’s homophobic or transphobic thoughts do not count as victimization.**

Coexistence with transgender, nonbinary, or LGBTQ+ people is not a privacy violation or a threat

- 18. Ensure that law enforcement does not interfere with provision of health care.**

- a. Do not station police officers in emergency departments or at hospitals to investigate patients.** If a healthcare facility such as a hospital or clinic requires police presence to address external threats, ensure that the scope of the officers’ work is clearly defined to prohibit police investigation of the care that patients receive.
- b. Do not investigate or interrogate patients seeking health care, people who accompany them, or health care providers** about the patient’s gender identity, biological sex, pregnancy, health condition, or any reason they have sought or received medical treatment.
- c. Do not seek disclosure of patients’ health information or records** to investigate any suspected violation of an anti-abortion, anti-trans, or anti-LGBTQ+ law.
- d. Do not partner with hospitals or health providers to surveil or investigate patients who are pregnant, miscarrying, birthing, thought to be transgender, or suspected of using substances.** The Supreme Court has held that a hospital violated the Fourth Amendment when it colluded with police and prosecutors to test pregnant patients for toxicology without their consent and report positive results to police for arrest and prosecution.¹⁶ Law enforcement agencies should never participate in schemes to surveil and prosecute people who seek health care. If a positive toxicology result is reported to police, take no action on it. Patients, including pregnant patients who may have substance use disorders, need and deserve to seek health treatment without risk of arrest.

19. Do not second-guess a hospital or physician’s determinations of whether an abortion procedure was medically necessary within the meaning of state or federal law. These are medical determinations: Law enforcement and prosecutors lack expertise to scrutinize whether a patient’s condition justifies abortion care under state law. Moreover, federal law overrides state laws, including abortion bans, if they contradict it (though a recent Supreme Court [order sows confusion](#) about this).¹⁷ The federal Emergency Medical Treatment and Labor Act (EMTALA) provides that when a patient presents with a medical emergency, [the hospital must “provide stabilizing treatment”](#) or an appropriate transfer to another hospital that can provide it.¹⁸ If [timely abortion care is needed to stabilize the patient](#), for example in case of “ectopic pregnancy, [complications of pregnancy loss](#), or emergent hypertensive disorders, such as preeclampsia with severe features,” [EMTALA does not allow physicians to refuse or delay care.](#)¹⁹

Given the conflict between federal and state law, law enforcement need not endanger patients’ lives and health by worsening physicians’ and hospitals’ legal dilemma. Law enforcement need not weigh in.

Do not investigate people’s health care

20. Meet with hospital management, together with local prosecutors – and with physician representatives and emergency health care providers, to understand their concerns about criminal and civil liability and to clarify that police and prosecutors will not second-guess their medical decisions about pregnancy or gender-affirming care. If emergency health providers and hospital lawyers understand that they are not at risk of arrest or prosecution, they may be less likely to impose life-threatening delays and refusals of reproductive and other health care.

By meeting with hospitals and emergency health providers, **law enforcement and prosecutors can alleviate fears of prosecution** and help ensure that patients receive the timely health care they need. Assure hospitals and providers that law enforcement will not second-guess their medical judgment about when an abortion is medically necessary, within the meaning of federal and state law.

CONCLUSION

By working in consultation with affected communities, advocates, and health care providers, municipal governments and law enforcement can help safeguard the rights and safety of their communities, mitigate the fears and harms associated with these laws, and focus their enforcement efforts on crimes that affect public safety. No law enforcement time or resources should be used to enforce anti-abortion, anti-trans, or anti-LGBTQ+ laws.

¹ The worldview or attitude that heterosexuality is the normal, default, preferred, or only sexuality.

² “Laws prohibiting sodomy do not seem to have been enforced against consenting adults acting in private.” *Lawrence v. Texas*, 539 U.S. 558, at 569. Eskridge found evidence of 203 “sodomy” prosecutions in the United States from 1880 to 1995—a per-state average of one prosecution every 28 years: Eskridge, W. N. (1999). *Gaylaw: Challenging the Apartheid of the Closet*. Harvard University Press at 375, quoted by Scalia J., dissenting in *Lawrence v. Texas* at 597.

Historians of abortion point out that before *Roe v. Wade*, abortion prosecutions were similarly rare: David Garrow observes that “the practical reality [was] that the [abortion] procedure was commonplace even in states where it was banned when the 14th Amendment was added and that criminal prosecutions were rare.” Lawrence Hurley, (2022, May 6). Alito’s abortion history lesson in dispute. *Reuters*. [reuters.com/legal/government/us-supreme-court-justice-alitos-abortion-history-lesson-dispute-2022-05-06/](https://www.reuters.com/legal/government/us-supreme-court-justice-alitos-abortion-history-lesson-dispute-2022-05-06/). Historian Evan Hart has also observed: “Generally, when abortions were performed safely, prosecutors either didn’t know about the procedures or chose to look the other way since there was no harm to the patient. But when a complication arose, it was a different story.” Evan Hart (2022, September 8). Medical exemptions in abortion bans won’t protect women’s health. *The Washington Post*. [washingtonpost.com/made-by-history/2022/09/08/medical-exemptions-abortion-bans-wont-protect-womens-health/](https://www.washingtonpost.com/made-by-history/2022/09/08/medical-exemptions-abortion-bans-wont-protect-womens-health/)

³ *Lawrence v. Texas*, at 605 (Thomas J., dissenting).

⁴ Mandatory reporting statutes do not require police to conduct any criminal investigation of alleged prenatal substance use, nor do they require police to make any arrest. About half of states make health care providers and/or social workers [mandatory reporters](#) of maternal substance use, neonatal fetal alcohol syndrome, or neonatal symptoms of substance withdrawal. A [handful of states](#) also make police mandatory reporters of prenatal substance use. Many states also count prenatal substance use as “child abuse,” but [state and federal laws do not require or encourage criminal prosecution](#). Instead, the federal Child Abuse Prevention and Treatment Act (CAPTA), [42 U.S.C. § 5106a\(b\)\(2\)\(B\)\(iii\)-\(iii\)](#) and [many state laws](#) require health care workers to notify child protective services, not police. CAPTA also requires the state to develop “[a plan of safe care](#) for the infant . . . including . . . through addressing the health and substance use disorder treatment needs of the infant and affected family or caregiver.” Investigation and arrest would not tend to advance the infant’s safety or the parent’s recovery from substance use disorders.

⁵ At least one such incident happened in 2019. In October 2018, a federal court had held that North Carolina’s 2017 anti-trans bill, HB 142 (which had replaced North Carolina’s notorious HB2) could not be used to [prevent transgender people from using the bathrooms](#) that accord with their gender identity.

⁶ U.S. Department of Health and Human Services. (Updated 2003, April 3). 45 CFR part 160 and subparts A and D of part 164. [hhs.gov/sites/default/files/introduction.pdf](https://www.hhs.gov/sites/default/files/introduction.pdf)

⁷ Fox, D. Medical disobedience. (2023). *Harvard Law Review*, 136(4), 1030, 1102, [harvardlawreview.org/print/vol-136/medical-disobedience/](https://www.harvardlawreview.org/print/vol-136/medical-disobedience/)

⁸ In North America, almost [35% of people who are diagnosed with septic shock die](#) within 30 days. The CDC [advises about sepsis](#) that “healthcare providers should immediately evaluate and treat people who might have sepsis.”

⁹ All states with laws banning gender-affirming care for transgender children explicitly allow it for cisgender children, despite [federal law forbidding health care discrimination](#) on the basis of sex or gender identity. [Whether a child is cis or trans, gender-affirming treatments](#) may include puberty blockers (safe, reversible, and approved by the FDA as “the [gold standard treatment](#) for precocious puberty in cisgender youth” since 1993); hormonal or [surgical](#) treatment to address, for example, what is seen as excessive breast growth in cis boys and cosmetic treatments such as breast implants for cis girls.

¹⁰ Stopping or reversing changes—including social, medical, or legal—that resulted in living with a different gender identity than the one determined via sex at birth.

¹¹ Significant distress or impairment caused by a feeling that one’s biological sex at birth does not assign with one’s gender identity.

¹² See, for example, [Bugs Bunny](#) (in the 1940s and beyond), *Monty Python’s Flying Circus* (1969–1974, PG-13), *Tootsie* (1982, PG), *Victor/Victoria* (1982, PG), *Yentl* (1983, PG), *Mrs. Doubtfire* (1993, PG-13), *Kinky Boots* (2005, PG-13), and *Diary of a Mad Black Woman* (2005, PG-13).

¹³ Footnote 8 provides sources on medical and surgical gender-affirming care for cisgender children.

¹⁴ [Coronavirus State and Local Fiscal Recovery Funds](#), a program authorized by the American Rescue Plan Act, can be used, along with other purposes, to “respond to the far-reaching public health and negative economic impacts of the pandemic.”

¹⁵ When police pull someone over for a minor traffic violation so that they can investigate a crime for which they lack reasonable suspicion, often on the basis of a hunch or racial bias.

¹⁶ *Ferguson v. Charleston*, 532 U.S. 67 (2001)

¹⁷ In its 2022 [guidance](#) (the “HHS guidance”) the U.S. Department of Health and Human Services reminded emergency health providers that the EMTALA obligation to provide stabilizing treatment “[preempts any directly conflicting state law or mandate](#) that might otherwise prohibit or prevent such treatment.” If a state abortion ban defines medical emergency more narrowly than EMTALA does, “*that state law is preempted*” [emphasis in original]. Nonetheless, in *Texas v. Becerra*, [No. 23-10246](#) (5th Cir. 2024), affirming *Texas v. Becerra*, No. 5:22-CV-185-H (N.D. Tex. 2022), the Fifth Circuit enjoined the enforcement of the HHS guidance in Texas, requiring hospitals and physicians to comply with the state’s abortion ban regardless of the HHS guidance on emergency abortion care. A three-judge panel of the Ninth Circuit similarly required hospitals and physicians to comply with Idaho’s abortion ban regardless of the HHS guidance: *U.S. v. Idaho*, 83 F.4th 1130 (9th Cir. 2023), but the Ninth Circuit en banc reestablished the district court’s order that Idaho’s abortion ban could not be enforced, deciding to rehear the appeal: *U.S. v. Idaho*, No.23-35440, 23-35450 (9th Cir. 2023). But in early January 2024, the U.S. Supreme Court again [lifted the district court’s order](#) staying enforcement of the abortion ban, announcing that the Supreme Court would hear an appeal—to resolve the question of whether and how the HHS guidance applies in abortion-ban states—in April 2024.

¹⁸ [42 U.S. Code § 1395dd](#).

¹⁹ For more on HHS guidance, see note 13. The Department of Health and Human Services’ implementation of its own guidance has also been inconsistent, finding EMTALA violations in [some](#) denial-of-pregnancy-care cases and not others.



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