



# One year in, Trump Administration amasses striking anti-LGBT record

By Sean Cahill, Sophia Geffen, and Tim Wang





LOVE TRUMPS HATE

---

“As your president, I will do everything in my power to protect our LGBTQ citizens.”  
–*Donald Trump, July 2016*

---

## INTRODUCTION

While the Republican Party and Vice Presidential candidate Mike Pence had a long history<sup>1</sup> of opposing legal equality for lesbian, gay, bisexual and transgender (LGBT) people, presidential candidate Donald Trump promised to support the LGBT community.<sup>2</sup> Despite his own mixed record on LGBT issues, following the massacre and terror attack at the Pulse Nightclub in Orlando, Florida, Donald Trump vowed, “As your president, I will do everything in my power to protect our LGBTQ citizens.” Yet President Trump’s Administration has amassed a striking record of anti-LGBT actions in its first year in office. These include rescinding nondiscrimination regulations that provided some protections to LGBT people, appointing anti-LGBT judges, prohibiting transgender people from serving their country in the military, promoting religious refusal discrimination against LGBT people and same-sex couples through executive branch actions, attempting to repeal and undermine the Patient Protection and Affordable Care Act—which cut the uninsurance rate among LGBT people in half, and many other actions which will undermine LGBT people’s health and well-being.

Not all of the administration’s actions in this area have been anti-LGBT. For example, in October 2017 Attorney General Jeff Sessions sent a leading hate crimes lawyer to Iowa to prosecute a man charged with murdering a transgender high school student there.<sup>3</sup> Despite this exception, on balance the Trump Administration has pursued policies that will likely increase discrimination against LGBT people.

## I. ROLLBACK OF LGBT NONDISCRIMINATION REGULATIONS

In its first year, the Trump Administration rescinded several important Obama-era nondiscrimination regulations that offered some protection to LGBT people. In May 2016, under President Obama, the U.S. Department of Health and Human Services Office of Civil Rights (HHS OCR) published a final rule implementing Section 1557, the Affordable Care Act's primary nondiscrimination provision.<sup>4</sup> The rule stated that discrimination based on gender identity is prohibited in health facilities, programs, and activities receiving federal funding, as it constitutes a form of sex discrimination banned by Title IX of the Education Amendments of 1972. While the rule did not explicitly include sexual orientation, it stated that discrimination based on sex stereotyping is prohibited, and that some forms of anti-gay/lesbian/bisexual discrimination may be classified as a form of sex stereotyping. While this rule had major potential to reduce discrimination in health care for transgender people and, to a lesser extent, gay, lesbian and bisexual people, it was enjoined nationwide by a federal district court judge on December 31, 2016. The order prohibited HHS from enforcing the nondiscrimination rule's gender identity component.<sup>5</sup>

---

**In its first year, the Trump Administration rescinded several important Obama-era nondiscrimination regulations that offered some protection to LGBT people.**

---

In May 2017, the U.S. Department of Justice (DOJ), under the leadership of President Trump and Attorney General Jeff Sessions, signaled that it would not seek to overturn the court order which prohibited HHS from enforcing Section 1557's gender identity nondiscrimination provision. Instead, DOJ and Attorney General Sessions requested that the federal courts "remand this matter to HHS and stay this litigation...pending the completion of the rulemaking proceedings."<sup>6</sup> The DOJ requested that litigation be stayed because it wanted the opportunity to "reconsider the regulation at issue." The DOJ questioned "the reasonableness, the necessity, and the efficacy" of the Section 1557 nondiscrimination regulation related to gender identity.<sup>7</sup>

The Trump Administration has taken other steps to oppose and reverse nondiscrimination protections for transgender people. In February 2017, the DOJ and the Department of Education notified the U.S. Supreme Court that they were ordering schools across the U.S. to ignore 2016 guidance issued by President Obama's Department of Justice and Department of Education stating that discrimination on the basis of gender identity in schools is prohibited under Title IX.<sup>8,9</sup> This is consistent with the 2016 Republican Platform, which took a strong stance against interpreting sex discrimination under Title IX "to include sexual



---

Attorney General Sessions reversed a long-standing DOJ policy of interpreting Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination, to also prohibit gender identity-based discrimination.

---

orientation and other categories.”<sup>10</sup> Without explicitly naming gender identity nondiscrimination, the 2016 Republican Platform also made clear that it opposed gender identity nondiscrimination regulations covering public accommodations. The 2016 Republican Party Platform referenced Title IX, which outlaws sex discrimination, saying that it is being used

*to impose a social and cultural revolution upon the American people by wrongly redefining sex discrimination to include sexual orientation or other categories...They are determined to reshape our schools—and our entire society—to fit the mold of an ideology alien to America's history and traditions. Their edict to the states concerning restrooms, locker rooms, and other facilities is at once illegal, dangerous, and ignores privacy issues.*<sup>11</sup>

In October 2017 Attorney General Sessions reversed a long-standing DOJ policy of interpreting Title VII of the Civil Rights Act of 1964, which prohibits sex discrimination, to also prohibit gender identity-based discrimination.<sup>12</sup> A number of federal court rulings and Equal Employment Opportunity Commission rulings have found that Title VII's prohibition of sex discrimination encompasses some forms of gender identity and sexual orientation discrimination.<sup>13</sup> In 2014, then Attorney General Eric Holder stated in a memorandum that the DOJ would interpret Title VII to encompass gender identity discrimination.<sup>14</sup>

## II. ROLLBACK OF SEXUAL ORIENTATION AND GENDER IDENTITY (SOGI) DATA COLLECTION

For decades now, researchers and activists have promoted adding sexual orientation and gender identity (SOGI) questions to federal surveys to capture health and demographic data about LGBT people. Under the Obama Administration the number of federal surveys and studies measuring sexual orientation increased to 12; seven of these also measured gender identity or transgender status.<sup>15</sup> SOGI data are now included in many public health surveys, such as the Behavioral Risk Factor Surveillance System (SOGI questions) and Youth Risk Behavior Survey (sexual orientation (SO) question), the National Health Interview Survey (SO), the National Survey on Drug Use and Health (SO), and the Health Center Patient Survey (SOGI). Several other surveys are now collecting SOGI data that examine social determinants of health, such as the National Crime Victimization Survey (SOGI), which collects data on intimate partner violence, and the National Inmate Survey (SOGI), which collects data on sexual assault in prison as mandated by the Prison Rape Elimination Act.<sup>16</sup>

---

The government is **rolling back essential tools** that can determine whether supportive services are reaching all elders and disabled individuals effectively and equitably.

---

The collection of population-level data is important to better understand the experiences of LGBT Americans. LGBT people, especially Black gay and bisexual men and transgender women, experience a disproportionate burden of bias-motivated hate violence.<sup>17</sup> On a per capita basis, LGBT people are more likely to be targets of hate crimes than any other group in America.<sup>18</sup> Bisexual women and men, and lesbians, are more likely to experience intimate partner violence than heterosexual women and men.<sup>19</sup> Gay men are 11 times as likely as heterosexual men to be sexually assaulted in state prisons.<sup>20</sup> Bisexual men and transgender people<sup>21</sup> are 10 times as likely to be sexually assaulted in state prisons as heterosexual men.

The Administration on Aging added a sexual orientation question, and a follow-up question that can measure transgender status, to the National Survey of Older Americans Act Participants in 2014, and collected such data in 2015 and 2016 as well.<sup>22</sup> This survey collects data on participation in Older Americans Act (OAA)-funded programs, such as senior centers, home care assistance, and congregate meal programs. Collecting data on LGBT older adults and the extent to which they access elder services is important, as many older LGBT people experience prejudicial treatment from heterosexual age peers or from service providers, or fear they will experience such treatment based on past experiences of discrimination.<sup>23</sup> As a result, LGBT older adults may be less likely to access senior services. Older, mostly heterosexual Americans exhibit a high degree of anti-gay prejudice, and many LGBT older adults express concern about how they will be treated in mainstream senior settings.<sup>24</sup>

The Administration for Community Living (ACL) was planning to add SOGI questions to its Annual Program Performance Report for Centers for Independent Living in 2017. Collecting SOGI data in disability services would be important, as research has shown higher rates of disability among the LGBT population compared to the rest of the general population.<sup>25,26</sup>

Unfortunately, the forward momentum on adding SOGI questions to surveys appears to have ground to a halt under the Trump Administration. The Department of Health and Human Services' (HHS) proposed 2017 protocol eliminated the OAA survey's question about sexual orientation and transgender status, and reversed plans to add SOGI questions to the disability survey.<sup>27</sup>

An ACL spokesperson said that the SOGI questions were being removed from the National Survey of OAA Participants and not put onto the disability program survey because since 2014, when SOGI questions were added to the OAA survey, only a small percentage of elders identified as LGBT.<sup>28</sup> However, this is not a valid reason to remove these questions.

Other surveys that ask older people about their SOGI have also found that a relatively small percentage of older adults identify as LGBT compared to middle age and young respondents. For example, on the 2016 Massachusetts Behavioral Risk Factor Surveillance System survey, 15.5% of 18- to 24-year-olds self-identified as homosexual, bisexual, or other, while among 65- to 74-year-olds, only 2.7% did. Also, when questions are first added to a survey, often response rates are low and increase over time. While some LGBT elders and people with disabilities may choose not to self-identify on these surveys, the sample of LGBT program participants who do disclose their SOGI can tell us much about the experiences of LGBT people in the elder and disability service systems.

In response to community push-back led by SAGE, the Center for American Progress, and other groups, the ACL added the sexual orientation question back onto the OAA survey, but not the transgender status question. It continues to exclude SOGI questions from the disability survey. The collection of data on LGBT program recipients is critical to ensuring that programs meet the needs of LGBT seniors and LGBT people with disabilities, who experience high rates of economic insecurity, social isolation, and discrimination. The government is rolling back essential tools that can determine whether supportive services are reaching all elders and disabled individuals effectively and equitably. Collecting SOGI data to better understand barriers to accessing services and reduce health disparities should not be a political or partisan issue.

### **III. BAN ON TRANSGENDER PEOPLE SERVING IN THE MILITARY**

In a series of tweets on July 26, 2017, President Trump expressed his intention to ban transgender individuals from serving in the U.S. military. When strung together, the tweets read: “After consultation with my Generals and military experts, please be advised that the United States Government will not accept or allow Transgender individuals to serve in any capacity in the U.S. Military. Our military must be focused on decisive and overwhelming victory and cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail. Thank you.” These tweets were later followed by a memorandum for the Secretary of Defense and the Secretary of Homeland Security, reversing the policy that permits transgender people to serve openly in the U.S. military.<sup>29</sup>

Discrimination against transgender people, as embodied in this new policy, contributes to the physical and mental health burden of not only the transgender Americans who are serving our country, but of all transgender people. Discrimination contributes to minority stress and exacerbates health disparities. Research by social scientists at The Fenway Institute has demonstrated the negative effects on health when transgender individuals experience discrimination.<sup>30</sup> It is wrong to subject anyone, much less members of the country’s armed forces, to this kind of treatment.

The RAND Corporation, a non-profit research institution, worked with the Department of Defense to analyze the potential effects of the policy that currently permits transgender individuals to serve openly in the military.<sup>31</sup> Their research found that of the 1.3 million active service members, an estimated 1,320-6,630 are transgender, and only a smaller subset of these members would seek gender transition-related medical treatment. The analysis found that transition-related health care expenditures would represent an “exceedingly small proportion” of total health expenditures, and that there would be little to no impact on unit cohesion, operational effectiveness, or readiness. As such, the report concluded that the policy to allow transgender people to serve openly in the military would have “minimal impact” on the military in terms of medical costs or unit readiness.

---

President Trump is **vastly**  
**reshaping the federal**  
**judicial landscape** in a  
way that is very concerning  
for LGBT people.

---

Eighteen other countries allow transgender people to serve in the military, including many close allies of the U.S. such as Canada, Britain, Israel and Australia. The Netherlands has allowed transgender people to serve since 1974.<sup>32</sup> The U.S. Veterans Administration has taken many steps in recent years to improve care and services such as counseling related to gender transition, and evaluations for hormone therapy and surgery, for the approximately 5,000 transgender veterans that it serves.<sup>33</sup> An attempt by House lawmakers to prohibit transgender service members from receiving medical care related to treatment for being transgender was defeated after Secretary of Defense James Mattis called Rep. Vicky Hartzler of Missouri who sponsored the measure and urged her to withdraw it.<sup>34</sup>

In October 2017, federal judge Colleen Kollar Kotelly blocked key provisions in Trump’s transgender military ban, stating that the plaintiffs “have established that they will be injured by these directives, due both to the inherent inequality they impose, and the risk of discharge and denial of accession that they engender.”<sup>35</sup> In a memorandum opinion from October 30, 2017, the United States District Court for the District of Columbia held that the Plaintiffs “are likely to succeed on their Fifth Amendment claim.”<sup>36</sup> President Obama’s policy was supposed to allow transgender people to serve openly in the military starting in July 2017, which was later delayed by Secretary Mattis until January 1, 2018. The Trump Administration’s attempt to rescind this policy has since been enjoined, meaning that transgender individuals were able to begin enlisting on January 1, 2018. An emergency request to the DC Circuit Court to stay the lower court decision was rejected on December 21, 2017.<sup>37</sup>





## IV. JUDICIAL APPOINTMENTS

President Trump is vastly reshaping the federal judicial landscape in a way that is very concerning for LGBT people. In his first year in office, President Trump nominated 59 judges for lifetime appointments to fill federal judiciary vacancies. As of December 2017, the Senate had confirmed 18 of these judges—12 circuit court judges and 6 district court judges. The Trump Administration has already confirmed more circuit court judges than the previous three presidents had by the end of their first years in office combined. Federal circuit and district courts see far more cases than the U.S. Supreme Court, and as such, circuit and district court judges have great influence over our nation’s laws. This is especially concerning as more and more courts are deciding cases involving issues affecting the rights of LGBT people, including nondiscrimination protections in the workplace and in public accommodations, and conditions in jails and prisons for incarcerated LGBT people. Because most federal judges serve lifetime appointments, the impact of their decisions will likely last far beyond the Trump Administration’s time in office.<sup>38</sup>

Many of President Trump’s judicial nominees have voting records that clearly demonstrate strong anti-LGBT bias. Lambda Legal has publicly opposed 16 out of 59 of President Trump’s nominees because their anti-LGBT records demonstrate that they would be “unable to administer justice impartially to all Americans.”<sup>39</sup> For example, one of President Trump’s judicial nominees, Jeff Mateer, openly stated that he discriminates on the basis of sexual orientation and that he believes that transgender children are part of “Satan’s plan.”<sup>40</sup> While White House officials stated in December 2017 that Jeff Mateer will not be moving forward through the confirmation process, other anti-LGBT judicial nominees have been confirmed for life appointments.

The Trump Administration also filled a U.S. Supreme Court vacancy with Justice Neil Gorsuch. Justice Gorsuch has a record of opposing the civil rights of LGBT people. In 2005 he criticized pro-same-sex marriage litigation as representing “the politicization of the judiciary” that would invite “backlash” similar to the 11 statewide anti-gay marriage ballot measures approved by voters in the November 2004 election.<sup>41</sup> He joined a ruling against an incarcerated transgender woman who claimed that her rights were violated because she was denied medically necessary hormone treatment and prohibited from wearing feminine clothing while incarcerated.<sup>42</sup> During his tenure on the Denver-based U.S. Court of Appeals for the

10th Circuit, Judge Gorsuch joined in an opinion by the full Court of Appeals on the Hobby Lobby case.<sup>43</sup> Hobby Lobby Stores, an arts and crafts company, opposed the Affordable Care Act requirement that it provide contraceptive care to its employees, saying it violated the beliefs of the store owners. In *Burwell vs. Hobby Lobby Stores, Inc. (2014)*, the U.S. Supreme Court ruled in favor of Hobby Lobby, giving the corporation a religious exemption from providing contraception as part of employees' healthcare plans.<sup>44</sup> The Hobby Lobby ruling legitimized a for-profit corporation's claim of religious belief, a departure from previous First Amendment rulings.<sup>45</sup> As a U.S. Supreme Court Justice, Gorsuch joined the dissenting opinion in a ruling that requires states to list same-sex couples on a birth certificate.<sup>46</sup> In its first year in office, the Trump Administration has taken steps to create a federal judicial landscape that is hostile towards recognizing and protecting the civil rights of LGBT people.

## V. BAN ON CENTERS FOR DISEASE CONTROL AND PREVENTION USING CERTAIN WORDS, INCLUDING "TRANSGENDER"

On December 15, 2017, staff at the Centers for Disease Control and prevention (CDC) were told by the Trump Administration that they would be prohibited from using a list of seven words or phrases in official budget documents.<sup>47</sup> These words included "vulnerable," "entitlement," "diversity," "transgender," "fetus," "evidence-based," and "science-based." Some replacement phrases were offered in some cases, but not in others. For example, instead of "science-based" or "evidence-based," the administration suggested analysts use the phrase, "CDC bases its recommendations on science in consideration with community standards and wishes."<sup>48</sup> Two days later, in a series of tweets, CDC Director Dr. Brenda Fitzgerald asserted that "there are no banned words at CDC."<sup>49</sup>

These reports of restrictions on the use of language by public health officials at the CDC are deeply troubling. It does not matter whether this constitutes an outright ban, or whether the list originated as a strategy to gain support for the CDC budget among Congressional conservatives. Telling public health officials working to prevent Zika, HIV and other diseases what words they can use is Orwellian. It is not what we expect to see in a democracy, and such policies—whether they are formal or informal—harm public health.

Disease treatment and prevention must be driven by science and evidence. That includes the proper use of terminology, such as "transgender," which describes a population that bears a disproportionate burden of sexually-transmitted infections, including HIV, and which also experiences barriers to accessing competent and affirming health care. Accommodating intolerance of people who are transgender by discouraging the use of accurate language is dangerous and undermines public health.



## VI. DACA AND LGBT PEOPLE

In September 2017, the Trump Administration announced that it would end protections for some 800,000 undocumented immigrants under the Deferred Action for Childhood Arrivals (DACA) program.<sup>50</sup> DACA, a policy enacted by President Obama, provided temporary protections for those who would have been protected by the DREAM (Development, Relief, and Education for Alien Minors) Act, which was never passed.

---

President Trump has signaled that he and his administration **do not prioritize human rights** the way previous presidents and administrations have.

---

The Williams Institute estimates there are over 75,000 LGBT people who are eligible for DACA, with around 36,000 already enrolled.<sup>51</sup> According to a 2017 study of 3,063 DACA recipients, 10% of respondents identified as LGBT.<sup>52</sup> LGBT people of color are more likely to live in poverty, and the vast majority of DACA recipients are from Mexico (79.4%).<sup>53,54</sup> DACA has eliminated barriers to economic security for undocumented LGBT young people, with 76.4% of LGBT survey respondents reporting that DACA has allowed them to earn more money and become more financially independent. With DACA, employment

rates of LGBT recipients went from 55.8% to 94.5%. DACA has allowed LGBT recipients to not only obtain employment at a higher rate, but also to obtain higher paying jobs with benefits; average hourly wages rose 73.7%. DACA recipients are also able to pursue educational opportunities that they previously could not.

DACA has allowed recipients to live their daily lives without fear of deportation. Living without fear of deportation is particularly significant for LGBT DACA recipients, who may be forced to return to countries with particularly high rates of violence and discrimination against LGBT people. Same-sex sexual activity is criminalized in at least 72 countries, and punishable by death in 8 of those countries.<sup>55</sup> Even in countries that do not criminalize homosexuality, violence against LGBT people persists. In a survey of LGBT Mexicans, 60% reporting knowing an LGBT person who was murdered in the past 3 years.<sup>56</sup> Because DACA recipients arrived in the U.S. before the age of 16, most do not meet the legal requirement for asylum applications to be filed within one year of arrival.

With DACA recipients at an increased risk of deportation, they are also at heightened risk of facing physical, verbal, and sexual abuse while being held in detention centers. This is of particular concern for LGBT DACA recipients, due to the disproportionate rates of violence they face while in confinement. Twenty percent of sexual assault cases in ICE detention facilities between 2009 and 2013 involved a transgender victim.<sup>57</sup>

Following the Trump Administration's DACA announcement, LGBT organizations across the country mobilized to protest, including representatives from the Victory Institute, the National Center for Lesbian Rights, GLAAD, and the Transgender Law Center.<sup>58</sup> Citing data from the Williams Institute on LGBT DACA recipients, organizations highlighted the impact that this policy change would have on LGBT immigrants in the United States.

## VII. NO MENTION OF LGBT PRIDE MONTH

In June 2017, President Trump failed to officially recognize the month as LGBT Pride Month. President Bill Clinton was the first president to officially recognize June as LGBT Pride Month in honor of the 1969 Stonewall Riots, and while the tradition was halted with President George W. Bush, President Obama once again recognized June as LGBT Pride month throughout his eight-year term. The failure to recognize LGBT Pride Month is in contrast to Trump's expressed support of LGBT rights on the campaign trail.

## VIII. LACK OF DOMESTIC HIV LEADERSHIP

Following President Trump's inauguration, the web page for the Office of National AIDS Policy (ONAP) was removed. To date, it has not been restored.<sup>59</sup> Former Director Amy Lansky left ONAP on January 4, 2017, and the position had not been filled as of January 15, 2018.<sup>60</sup> Just under a year into his first term, Trump had yet to appoint an HIV/AIDS chief, the first time since Bill Clinton created the position in 1993 that a president has failed to do so. In June 2017, six members of the Presidential Advisory Council on HIV/AIDS (PACHA) resigned from their posts, stating "the Trump Administration has no strategy to address the on-going HIV/AIDS epidemic."<sup>61</sup> In late December 2017, the Trump Administration sent letters firing all of the remaining members of PACHA.<sup>62</sup> While previous administrations have asked for resignations of entire councils before, they typically ask members to resign early in their terms and promptly reappoint new members. This also made it difficult for members to reapply for the position by the January 2, 2018 deadline.<sup>63</sup>

In December 2017, President Trump released a World AIDS Day announcement that failed to include any mention of LGBT people.<sup>64</sup> The statement also ignored communities of color and the disproportionate impact of HIV on LGBT people of color. The statement does mention the United States' "sustained public and private investments in HIV prevention and treatment," the same investments the Trump Administration has threatened to cut in its FY18 budget proposal (see below).<sup>65</sup>





## IX. FOREIGN POLICY

The impact of an administration that is unsupportive of LGBT rights extends far beyond U.S. borders. Policies and priority setting under the Trump Administration have the potential to endanger LGBT people globally. The United States Department of State no longer promotes LGBT equality as a major goal of U.S. foreign policy. The page on the State Department website, promoting LGBT equality abroad, no longer exists.<sup>66</sup> In contrast, the Obama Administration prioritized LGBT rights in foreign policy through support and funding for advocacy groups globally.<sup>67</sup> President Trump has signaled that he and his administration do not prioritize human rights the way previous presidents and administrations have.<sup>68</sup> Over the past year a number of governments have unleashed campaigns of persecution against gay men or LGBT people, including Tanzania<sup>69</sup>, Chechnya<sup>70</sup>, and Indonesia.<sup>71</sup>

On May 23, 2017, President Trump released his 2018 federal budget proposal that, if enacted, would sharply cut funding for a number of important HIV prevention and care programs, including global HIV programs. The proposed budget included a \$1.1 billion reduction in funding for global HIV prevention and treatment efforts, which could lead to more than 1 million deaths according to estimates from amfAR.<sup>72</sup> The majority of the U.S. government's global HIV/AIDS efforts are focused in sub-Saharan Africa, which would be disproportionately burdened by the proposed budget cuts.

---

[T]he federal government may not condition receipt of a federal grant or contract on the effective relinquishment of a religious organization's hiring exemptions or attributes of its religious character.

—Attorney General Jeff Sessions, October 2017

---

## X. RELIGIOUS REFUSAL POLICIES

In addition to opposing and reversing federal nondiscrimination regulations regarding LGBT people, the Trump Administration has also taken a strong stance in favor of religious refusal principles that would allow individuals and businesses, including health care providers, to refuse to serve LGBT people and same-sex couples based on religious or moral beliefs. In recent years, this kind of religious refusal legislation has become more and more popular in states across the country. Since religious conservatives' U.S. Supreme Court victory in *Burwell v. Hobby Lobby Stores, Inc. (2014)*—upholding a company's refusal to cover contraception in an employee health plan<sup>73</sup>—and the two pro-same-sex marriage Supreme Court rulings in 2013<sup>74</sup> and 2015,<sup>75</sup> religious conservatives have introduced a slew of state and federal bills that frame refusal to serve LGBT people and/or same-sex couples as the Constitutionally-guaranteed “free exercise” of religion.

At least 10 states have some form of religious refusal legislation that could authorize discrimination against LGBT people.<sup>76</sup> Seven of these 10 states have religious refusal laws that permit state-licensed child welfare agencies to refuse to place children with or provide services to LGBT people and same-sex couples, if doing so would conflict with their religious beliefs.<sup>77</sup> Two states have religious exemption laws that allow businesses to refuse to serve married same-sex couples, and three allow state and local officials to refuse to marry same-sex couples.<sup>78</sup> Four states, including Mississippi and Tennessee, have religious refusal laws that allow medical professionals to refuse to serve LGBT people.<sup>79</sup> The Mississippi law, HB 1523, allows people to refuse to provide services based on their personal belief that “marriage is or should be recognized as the union of one man and one woman; sexual relations are properly reserved to such a marriage; and male (man) or female (women) refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth.”<sup>80</sup> The Tennessee law, HB 1840, allows therapists and counselors to reject any patient who has “goals, outcomes, or behaviors” that would violate the “sincerely held principles” of the provider.<sup>81</sup> It is clear that anti-LGBT religious refusal laws are becoming more and more common in states across the country.

The Trump Administration has shown that it supports religious refusal policies aimed at allowing discrimination against LGBT people. The federal First Amendment Defense Act, a bill that may be introduced during the 115th Congress, would also enable anti-LGBT discrimination in health care.<sup>82</sup> As introduced in the last session, the bill would prohibit the federal government from taking “discriminatory action” against individuals or businesses that “on the basis that such person believes or acts in accordance with a religious belief or moral conviction that: (1) marriage is or should be recognized as the union of one man and one woman, or (2) sexual relations are properly reserved to such a marriage.”<sup>83</sup> The bill has the support of the Trump Administration<sup>84</sup> and the 2016 GOP Party Platform.<sup>85</sup> This bill would authorize widespread discrimination by individuals, service providers, and business against same-sex couples and LGBT people. It could also authorize discrimination against single parents, children of single parents, and unmarried heterosexual couples.



# JAMES R. BROWNING UNITED STATES COURTHOUSE

95



In September 2017, the U.S. Department of Health and Human Services (HHS) released a Draft Strategic Plan for FY 2018-2022.<sup>86</sup> The plan made extensive mention of faith and faith-based organizations. In contrast to the last HHS Draft Strategic Plan for FY 2014-2018, which had several references to LGBT health disparities, the current draft strategic plan made no mention of LGBT health.<sup>87</sup> The language of the Draft Strategic Plan FY 2018-2022, namely that HHS will “vigorously enforce” and “affirmatively accommodate” religious beliefs, closely mirrored the language of state and federal religious refusal legislation that is being used to discriminate against LGBT people under the guise of religious freedom. The Draft Strategic Plan FY 2018-2022 stated that HHS should “strengthen partnerships between...faith-based and community organizations to educate and train the workforce to provide high-quality, culturally competent care.” Faith-based organizations can play a key role in providing cultural competency education. However, given that the motivation for much of the religious refusal legislation and executive branch actions is opposition to legal equality for same-sex couples and LGBT people, an expansion of the role of faith-based service providers in health care and training of health care, elder care, and other service providers is a cause for concern, especially in the absence of sexual orientation and gender identity nondiscrimination regulations and laws at the federal level.



On October 6, 2017 Attorney General Jeff Sessions issued a "Memorandum for all executive departments and agencies." In the memo, Attorney General Sessions stated very strongly that "free exercise" of religion, guaranteed by the First Amendment to the U.S. Constitution, protects actions far beyond worship in a church, synagogue, mosque, temple, or other house of worship. Sessions argued that the Free Exercise Clause "protects the right to perform or abstain from performing certain physical acts in accordance with one's beliefs." This protection "encompass[es] aspects of observance and practice, whether or not central to, or required by, a particular religious faith." These freedoms apply to "private associations, and even businesses" as well as individuals and religious organizations.<sup>88</sup>

This memo ostensibly protected the right of individuals and organizations to discriminate against LGBT people and same-sex couples in health care and social services, including health care and services funded by government contracts. It could also be seen as protecting the right of government employees in a wide range of fields to refuse service to LGBT people, same-sex couples, unmarried heterosexual couples, and single-parent families. In the memo, Sessions also stated that religious organizations should be able to accept federal government grants and discriminate in hiring for programs funded by those grants. The memo stated:

*...to the greatest extent practicable and permitted by law, religious observance and practice should be reasonably accommodated in all government activity, including employment, contracting, and programming.*





---

**An expansion of the role of faith-based service providers** in health care and training of health care, elder care, and other service providers is a cause for concern.

---

*...individuals and organizations do not give up their religious-liberty protections by providing or receiving social services, education, or health care; by seeking to earn or earning a living; by employing others to do the same; by receiving government grants and contracts; or by otherwise interacting with federal, state, or local governments.*

*[T]he federal government may not condition receipt of a federal grant or contract on the effective relinquishment of a religious organization's hiring exemptions or attributes of its religious character. Religious organizations...may not be required to alter their religious character to participate in a government program...nor effectively to relinquish their federal statutory protections for religious hiring decisions.<sup>89</sup>*

The October 2017 memorandum from the DOJ clearly authorized and encouraged anti-LGBT discrimination in health care and access to other services, as well as in hiring to provide these taxpayer-funded services, at the hands of both private nonprofits and government agencies.

A Request for Information (RFI) issued by HHS on October 25, 2017 reiterated the Administration's view that religious organizations could receive funding from HHS to provide health care and other services, even if they discriminate in providing care and services and in hiring based on their religious views. The Trump Administration continued to show its support for anti-LGBT discrimination under the guise of free exercise of religion in its *amicus curiae* (friend of the court) brief regarding the Masterpiece Cake Shop case, currently before the U.S. Supreme Court. The case involves a baker who violated a state nondiscrimination law by refusing to bake a wedding cake for a gay couple. The Trump Administration's *amicus curiae* brief supported the cake shop in its decision to violate Colorado state law and refuse to serve the gay couple. In the brief, the U.S. Department of Justice stated that while there is a compelling federal government interest in prohibiting racial discrimination by a private business, there is no compelling interest in prohibiting anti-gay discrimination.<sup>90</sup> If bakers are granted the right to discriminate against LGBT customers, then other professions will likely follow suit, applying this same logic to their own businesses.

In its first year in office, the Trump Administration has clearly expressed its support for religious refusal policies that will increase discrimination against LGBT people. The Trump Administration has directed all federal agencies to uphold and enforce a distorted definition of "religious freedom" which would allow for widespread discrimination against LGBT people in health care, other social services, in employment, and even at the hands of government officials performing public duties.

## **XI. UNDERMINING AND ATTEMPTING TO REPEAL THE PATIENT PROTECTION AND AFFORDABLE CARE ACT**

Throughout 2017, the Trump Administration and the Republican-led Congress repeatedly attempted to repeal the 2010 Patient Protection and Affordable Care Act (ACA). When legislative repeal attempts failed, President Trump took several steps to undermine the law and insurance markets. The ACA resulted in 20 million more Americans gaining access to health insurance who were previously unable to obtain it due to pre-existing conditions or cost.<sup>91</sup> The ACA has benefitted all Americans, but it has especially benefitted marginalized communities that traditionally experience high rates of uninsurance, including lesbian, gay, bisexual, and transgender (LGBT) people, people living with HIV (PLWH), and people of color.

In 2013, before key provisions to expand access to health insurance were implemented, PLWH commonly experienced discrimination based on preexisting conditions from insurance providers, and low-income PLWH could not qualify for Medicaid based on income alone without a diagnosis of AIDS. The U.S. Centers for Disease Control and Prevention and the Kaiser Family Foundation estimate that the percentage of PLWH who lacked any kind of health insurance coverage was 22% in 2012 and dropped to 15% in 2014, following implementation of key elements of health care reform.<sup>92</sup> The percentage of PLWH on Medicaid increased from 36% in 2012 to 42% in 2014.<sup>93</sup> The ACA, and Medicaid expansion in particular, have been very important to covering the health care costs and needs of PLWH. A 2014 Gallup study found that LGBT Americans were more likely to report being uninsured than non-LGBT Americans.<sup>94</sup> Between June/September 2013 and December 2014/March 2015, however, the percentage of LGB adults without health insurance decreased from 22% to 11%, which is a larger decrease than in the non-LGB adult population.<sup>95</sup>



The Kaiser Family Foundation found that among Black nonelderly individuals, uninsurance rates dropped from 17% in 2013 to 12% in 2016.<sup>96</sup> Uninsurance rates among Latino nonelderly people dropped from 26% in 2013 to 17% in 2016.<sup>97</sup> While uninsurance rates among Black and Latino people are still higher than uninsurance rates among White people, the racial/ethnic disparities in health care coverage are improving. The National Center for Health Statistics reports that the difference in uninsurance rates between Latino people and White people decreased from a 26% gap in 2013 to 18% today.<sup>98</sup> The gap in health insurance coverage between Black people and White people decreased from 10% to 5% over the same time period.<sup>99</sup> These improvements are due in large part to the ACA.

---

## **Racial/ethnic disparities**

### **in health care coverage have declined thanks to the ACA.**

---

Both House and Senate Republicans attempted to pass bills to repeal the ACA in the spring and summer of 2017. In March 2017, House Republicans introduced the American Health Care Act (AHCA).<sup>100</sup> The AHCA would have cut Medicaid funding, eliminated Medicaid expansion, capped federal insurance funding for Medicaid, eliminated the individual mandate, provided lower tax subsidies to low-income and older Americans, and defunded Planned Parenthood. The Congressional Budget Office (CBO) estimated that 24 million Americans would lose their health insurance by 2026 as a result of the AHCA. Among those that would have lost their health insurance, LGBT people, PLWH, and people of color would have been overrepresented.

In June 2017, Senate Republicans introduced the Better Care Reconciliation Act (BCRA) to repeal and replace the ACA.<sup>101</sup> Like the AHCA, the BCRA included significant funding cuts to Medicaid, a per capita cap funding mechanism for Medicaid, elimination of Medicaid expansion, and smaller tax subsidies for low-income Americans. The CBO reported that the BCRA would result in 22 million more Americans becoming uninsured over the next decade. Neither the AHCA nor the BCRA could garner enough support to pass through Congress. In a last-ditch effort to repeal the ACA, Republicans introduced a “skinny repeal” plan that would have repealed the individual and employer mandates, but would have left Medicaid untouched for the time being.<sup>102</sup> The CBO estimated that such a plan would result in 16 million more Americans losing health insurance. The “skinny repeal” also failed.



While Congressional attempts to replace the ACA had failed, the Trump Administration continued its efforts to undermine the ACA. In August 2017, the Trump Administration cut funding for marketplace outreach and consumer enrollment assistance just two months before the start of the open enrollment period. In September 2017, the Department of Health and Human Services prevented staff in regional offices from participating in open enrollment marketing events. This was a stark contrast from previous years, when regional staff had an active role in outreach and promotion for open enrollment. In October 2017, the Trump Administration announced that it would stop the cost-sharing reduction payments that helped to lower the deductibles and out-of-pocket health costs for millions of low- and middle-income Americans. Also in October 2017, President Trump signed an executive order which directed relevant agencies to consider ways in which they could sell health insurance plans that are exempt from ACA requirements, including the requirement to cover essential health benefits such as preventive screenings, medications, mental health care, and maternity care. Offering cheap plans that do not cover essential health benefits will further contribute to destabilizing the market and undermine important ACA protections for people with preexisting conditions.<sup>103</sup>



In December 2017, Congress passed and President Trump signed a new tax bill, which undermined the ACA by repealing the individual mandate. The individual mandate is a tax that the federal government imposes on individuals who fail to purchase health insurance. It motivates healthy Americans to sign up for affordable and comprehensive health care coverage. With the repeal of the ACA's individual mandate, healthy people will be less motivated to purchase health insurance, while many people who are sick or living with chronic conditions will still need to purchase health insurance. As a result, the markets will destabilize and costs will be driven up overall because people signing up for health insurance will disproportionately represent those already requiring care, much of it lengthy and ongoing. This is what happened in the mid-1990s, when seven states experimented with health care reform laws that did not include individual mandates.<sup>104</sup> In each case, the individual insurance market either collapsed, or lawmakers intervened and imposed a mandate to keep the markets from failing. The CBO estimated that the 2017 tax bill will result in 13 million more Americans losing insurance coverage over the next decade. Repealing the individual mandate could result in skyrocketing insurance costs for people with chronic illnesses, such as PLWH.

Through continued efforts to undermine the ACA, the Trump Administration and Congress have chipped away at a policy that has cut the uninsurance rate among lesbian, gay and bisexual people in half, and also reduced it significantly for transgender people and people living with HIV. The ACA also reduced racial/ethnic disparities in access to health insurance, a key structural driver of racial/ethnic health disparities in our country.

## **XII. BUDGET**

On December 21, 2017, Congress approved a Continuing Resolution to keep the federal government open through January 19, 2018. Since the Trump Administration came into being a year ago, President Trump and Congress have not been able to agree upon a federal budget. But we do have a sense of how President Trump and Vice President Pence would spend the government's money were they able to get a budget passed. On May 23, 2017, President Trump released his Fiscal Year 2018 federal budget proposal that, if enacted, would sharply cut funding for a number of important HIV prevention and care programs. For example, the budget would reduce funding for the Ryan White HIV/AIDS Program by \$59 million. The Ryan White Program is critical for ensuring access to care for people living with HIV (PLWH) in the U.S., a population that increases annually as approximately 40,000 people are newly diagnosed with HIV each year, and as people with HIV live longer thanks to better antiretroviral medications. The Ryan White Program has been essentially flat funded since the early 2000s, even though the number of people accessing Ryan White services has nearly doubled, and the value of the funding has decreased due to inflation.<sup>105</sup>

Trump's budget called for the total elimination of AIDS Education and Training Centers (AETCs) and Special Projects of National Significance (SPNS), which are run under the auspices of the Ryan White HIV/AIDS Program. AETCs and SPNS projects are vitally important for pioneering and evaluating innovative HIV care models to improve access and retention in care for vulnerable populations that are disproportionately burdened by HIV. This is especially important for PLWH who experience unique challenges and have long experienced discrimination in health care settings, such as transgender people. These projects help PLWH sustain their healthcare treatment regimens, and when PLWH are retained in care, their viral load decreases, which reduces the risk of transmitting the virus. The education centers and special projects program also assist with rapid response to outbreaks of disease. When nearly 200 people were diagnosed with HIV in rural Scott County, Indiana over a 15-month period in 2014-15, the Midwest AIDS Education and Training Centers provided in-depth training to doctors and care providers in the area and helped get those newly diagnosed with HIV into immediate care.<sup>106</sup> Ironically, Vice President Pence is proposing to eliminate a program that helped him, as Indiana's Governor, respond to an infectious disease outbreak there.

The proposed Trump budget also included a 16.6% cut in funding for the prevention of HIV/AIDS, viral hepatitis, sexually transmitted disease, and tuberculosis at the Centers for Disease Control and Prevention. Funding for the National Institutes of Health would be cut by \$5.7 billion under the proposed budget. The National Institute of Allergy and Infectious diseases, where most HIV/AIDS research is conducted, would be cut by \$838 million. Furthermore, the budget also included a \$1.1 billion reduction in funding for global HIV prevention and treatment efforts.

In addition to funding cuts for HIV prevention and care programs, the Trump proposed budget also included a 13.1% cut in funding to the Office of Civil Rights at the Department of Health and Human Services, and a 36.7% cut in funding for the Office of the National Coordinator for Health Information Technology. Under the Obama Administration, the Office of Civil Rights was instrumental in promoting nondiscriminatory care for transgender patients. The Office of the National Coordinator for Health Information Technology has led important efforts to shift the U.S. health system from paper medical records to electronic health records, and has promoted the collection of sexual orientation and gender identity data from patients to better understand and address LGBT health disparities. This budget would undermine important progress we have made in preventing and treating HIV, and in addressing LGBT health disparities.

### XIII. ANTI-LGBT ACTIVIST HEADING HHS OFFICE OF CIVIL RIGHTS RESTRICTS LGBT ACCESS TO HEALTH CARE

President Trump has appointed a number of individuals and activists with long records of opposition to LGBT equality to important positions in his administration. Among the most concerning from the perspective of LGBT health is Roger Severino, described by The Atlantic as “an outspoken advocate against abortion and same-sex marriage,” and by the Human Rights Campaign as “a radical anti-LGBTQ rights activist.”<sup>107</sup> As a legal scholar at the Heritage Foundation, a conservative think tank, Severino strongly opposed same-sex marriage and public accommodations nondiscrimination laws inclusive of gender identity. He served as legal counsel in court cases challenging marriage equality for same-sex couples.<sup>108</sup> He denounced the Obama Administration’s prohibition of some anti-LGBT discrimination in health care through Section 1557 of the ACA. In a January 2016 Heritage Foundation report, Severino and coauthor Ryan Anderson argued that sexual orientation and gender identity can be changed and should not be included in nondiscrimination laws. In 2017 President Trump appointed Severino to head the Office of Civil Rights (OCR) at the U.S. Department of Health and Human Services.<sup>109</sup>

---

In a January 2016 Heritage Foundation report, Severino and coauthor Ryan Anderson **argued that sexual orientation and gender identity can be changed** and should not be included in nondiscrimination laws.

---

As we went to press with this report, Politico reported that Severino was preparing “new protections for health workers who...refuse to treat transgender patients based on their gender identity or provide other services for which they have moral objections.” This would be only the latest religious refusal regulation from the Trump Administration that would limit the ability of LGBT people to access health care. Similar rules were in place under the administration of President George W. Bush, and led to discrimination against lesbian couples seeking fertility treatments.<sup>110</sup>

## CONCLUSION

Donald Trump vowed to be a uniquely pro-LGBT Republican while he was on the campaign trail, but the first year of his Administration has proved otherwise. Instead of protecting the rights of LGBT Americans, the Trump Administration has amassed a striking list of anti-LGBT actions in just one year. These actions increase LGBT people's vulnerability to discrimination in health care, social services, employment, and access to government services. They are likely to increase minority stress and negatively affect people's health and well-being. They are also out of step with the American public, 69% of whom support LGBT nondiscrimination laws that cover employment, housing, and public accommodations.<sup>111</sup> Previous presidents have enacted anti-gay policies. However, in the case of former President George W. Bush, for example, this took place over the course of his first four-year term.<sup>112</sup> The Trump Administration has enacted anti-LGBT policies and appointed anti-LGBT officials with alarming speed.

---

Instead of protecting the rights of LGBT Americans,  
**the Trump Administration has amassed a striking list  
of anti-LGBT actions in just one year.** These actions are  
likely to increase minority stress and negatively affect  
people's health and well-being.

---



## AUTHORS

### **Sean Cahill, PhD**

Director of Health Policy Research  
The Fenway Institute

### **Sophia Geffen**

Project Manager of HIV Prevention Research  
The Fenway Institute

### **Tim Wang, MPH**

Health Policy Analyst  
The Fenway Institute

## ACKNOWLEDGEMENTS

### **Jennifer Potter, MD**

Co-Chair of The Fenway Institute and Director of LGBT Population Health  
Reviewer

### **Erica Sawyer**

Designer

Inside cover photo by Ron Harris, 2016

All other photos purchased through Getty Images

© The Fenway Institute, 2018

## REFERENCES

1. Wang T, Bishop J, Primus B. (2016). The 2016 presidential candidates on important health equity issues. The Fenway Institute, Harlem United.
2. Lopez, German. (2017, July 27). Trump promised to be a uniquely pro-LGBTQ Republican. It was total bullshit. Vox. <https://www.vox.com/identities/2017/7/26/16034404/trump-lgbtq-rights>
3. Apuzzo, M. (2017, October 15). Aiding transgender case, Sessions defies his image on civil rights. The New York Times. <https://www.nytimes.com/2017/10/15/us/politics/jeff-sessions-transgender.html>
4. Department of Health and Human Services, Office of the Secretary. (2016). 45 CFR Part 92. RIN 0945-AA02. Nondiscrimination in health programs and activities. <https://www.federalregister.gov/documents/2016/05/18/2016-11458/nondiscrimination-in-health-programs-and-activities>. Accessed August 11, 2017.
5. Jost T. (2017, Jan. 2). ACA pregnancy termination, gender identity protections blocked; wellness program incentives survive (updated). Health Affairs Blog. <http://healthaffairs.org/blog/2017/01/02/aca-pregnancy-termination-gender-identity-protections-blocked-wellness-program-incentives-survive/> Accessed April 29, 2017.
6. Johnson C. (2017, May 2). DOJ signals plan to undo rule banning anti-trans bias in health care. Washington Blade. <http://www.washingtonblade.com/2017/05/02/doj-signals-plan-undo-rule-barring-anti-trans-bias-health-care/> Accessed May 3, 2017.
7. Ibid.
8. Somashekar S, Brown E, Vucci E. (2017, Feb. 22). Trump Administration rolls back protections for transgender students. Washington Post. [https://www.washingtonpost.com/local/education/trump-administration-rolls-back-protections-for-transgender-students/2017/02/22/550a83b4-f913-11e6-bf01-d47f8cf9b643\\_story.html?utm\\_term=.11ef42f0311c](https://www.washingtonpost.com/local/education/trump-administration-rolls-back-protections-for-transgender-students/2017/02/22/550a83b4-f913-11e6-bf01-d47f8cf9b643_story.html?utm_term=.11ef42f0311c)
9. Department of Justice press release (2016, May 13). U.S. Departments of Justice and Education release joint guidance to help schools ensure the civil rights of transgender students. <https://www.justice.gov/opa/pr/us-departments-justice-and-education-release-joint-guidance-help-schools-ensure-civil-rights>
10. Republican Platform 2016. p. 35. [https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT\\_12\\_FINAL\[1\]-ben\\_1468872234.pdf](https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf)
11. Republican Platform 2016. p. 35. Available online at: [https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT\\_12\\_FINAL\[1\]-ben\\_1468872234.pdf](https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf)
12. Greenwood M. (2017, Oct.5). Sessions reverse DOJ policy on transgender employee protections. The Hill. <http://thehill.com/blogs/blog-briefing-room/news/354023-sessions-reverses-doj-policy-on-transgender-employee>
13. U.S. Equal Employment Opportunity Commission (updated 2017). Examples of court decisions supporting coverage of LGBT-related discrimination under Title VII. [https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt\\_examples\\_decisions.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt_examples_decisions.cfm)
14. Greenwood, 2017.
15. Federal Interagency Working Group on Improving Measurement of Sexual Orientation and Gender Identity in Federal Surveys. (2016, August). Current measures of sexual orientation and gender identity in federal surveys. [https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/242/2014/04/WorkingGroupPaper1\\_CurrentMeasures\\_08-16.pdf](https://s3.amazonaws.com/sitesusa/wp-content/uploads/sites/242/2014/04/WorkingGroupPaper1_CurrentMeasures_08-16.pdf)
16. Special Legislative Commission on Lesbian, Gay, Bisexual and Transgender Aging. (2015). Report to the Commonwealth of Massachusetts. Boston, MA: Joint Committee on Elder Affairs. [http://www.mcoaonline.com/sites/mcoa/files/file/file/lgbt\\_commission\\_report.pdf](http://www.mcoaonline.com/sites/mcoa/files/file/file/lgbt_commission_report.pdf)
17. Waters E, Jindasurat C, Wolfe C. (2016). Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-affected Hate Violence in 2015. National Coalition of Anti-Violence Programs. [http://www.avp.org/storage/documents/ncavp\\_hvreport\\_2015\\_final.pdf](http://www.avp.org/storage/documents/ncavp_hvreport_2015_final.pdf)

18. Park H, Mykhyalshyn I. (2016, June 16). L.G.B.T. People Are More Likely to Be Targets of Hate Crimes Than Any Other Minority Group. The New York Times. <http://nyti.ms/1YtDYV8>
19. Brown TNT, Herman JL. (2015). Intimate partner violence and sexual abuse among LGBT people: A review of existing research. The Williams Institute. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Intimate-Partner-Violence-and-Sexual-Abuse-among-LGBT-People.pdf>
20. Beck AJ, Johnson C. (2012). Sexual victimization reported by former state prisoners, 2008. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. <http://www.bjs.gov/content/pub/pdf/svrfsp08.pdf>
21. Beck AJ, Johnson C. (2014). Sexual victimization in prisons and jails reported by inmates, 2011-12. Supplemental tables: Prevalence of sexual victimization among transgender adult inmates. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. <http://www.bjs.gov>.
22. Singh S, Durso LE, Tax A. (2017). The Trump Administration is rolling back data collection on LGBT older adults. Center for American Progress. <https://www.americanprogress.org/issues/lgbt/news/2017/03/20/428623/trump-administration-rolling-back-data-collection-lgbt-older-adults/>
23. MetLife Mature Market Institute and American Society on Aging. (2010). Still out, still aging: The MetLife study of lesbian, gay, bisexual and transgender baby boomers. MetLife. <https://www.metlife.com/assets/cao/mmi/publications/studies/2010/mmi-still-out-still-aging.pdf>
24. Orel N. (2006, May). Community needs assessment: Documenting the need for affirmative services for LGB older adults. In: Lesbian, Gay, Bisexual, and Transgender Aging: Research and Clinical Perspectives. Edited by Kimmel D, Rose T, and David S. New York, NY: Columbia University Press, 227-246.
25. Fredriksen-Goldsen KI, Kim HJ, Barkan SE. (2012). Disability among lesbian, gay, and bisexual adults: Disparities in prevalence and risk. *Am J Public Health*: 102, e16-e21.
26. Fredriksen-Goldsen KI, Kim HJ, Emlet CA, et al. (2011). The Aging and Health Report: Disparities and Resilience among Lesbian, Gay, Bisexual, and Transgender Older Adults. Seattle, WA: Institute for Multigenerational Health.
27. Singh S, Durso LE, Tax A, 2017.
28. Ibid.
29. President Donald Trump. (2017, August 25). Memorandum for the Secretary of Defense, the Secretary of Homeland Security: Military service by transgender individuals. The White House. <https://www.documentcloud.org/documents/3964535-Trump-Transgender-Military-Memo.html>
30. Reisner SL, White Hughto JM, Dunham E, Heflin K, Begenyi JB, Coffey-Esquivel J, Cahill S (2015). Legal protections in public accommodations settings: A critical public health issue for transgender and gender nonconforming people. *Milbank Quarterly*. 1-32.
31. Schaefer AG, Iyengar R, Kadiyala S, et al. (2016). Assessing the Implications of Allowing Transgender Personnel to Serve Openly. RAND Corporation. [https://www.rand.org/pubs/research\\_reports/RR1530.html](https://www.rand.org/pubs/research_reports/RR1530.html). Also available in print form.
32. LeBlanc, Paul. (2017, July 27). The countries that allow transgender troops to serve in their armed forces. CNN. <http://www.cnn.com/2017/07/27/us/world-transgender-ban-facts/index.html>
33. Cramer, Tom. (2017, January 3). Transgender Vets, the VA and respect. Veterans Health Administration, The U.S. Department of Veteran Affairs. <https://www.va.gov/HEALTH/NewsFeatures/2017/January/Transgender-Vets-the-VA-and-Respect.asp>
34. Herb, Jeremy. (2017, July 26). House defeats bid to block Pentagon funding transgender surgeries. CNN Politics. <http://www.cnn.com/2017/07/13/politics/house-defeats-bid-block-pentagon-transgender-surgeries/index.html>
35. De Vogue, Ariane. (2017, October 30). Judge blocks enforcement of Trump's transgender military ban. CNN Politics. <http://www.cnn.com/2017/10/30/politics/judge-blocks-trump-transgender-military-ban/index.html>

36. Kheel R. (2017, October 30). Court partially blocks Trump's transgender military ban. The Hill. <http://thehill.com/policy/defense/357827-court-partially-blocks-trumps-directive-on-transgender-military-ban>
37. Lopez, German. (2017, December 21). Appeals court refuses to delay January 1 start date for transgender people enlisting in military. Vox. <https://www.vox.com/identities/2017/12/21/16807442/trump-transgender-military-ban-appeals-court>
38. Lambda Legal. December 20, 2017. Trump's Judicial Assault on LGBT Rights. [https://www.lambdalegal.org/blog/20171220\\_trumps-judicial-assault-on-lgbt-rights](https://www.lambdalegal.org/blog/20171220_trumps-judicial-assault-on-lgbt-rights)
39. Ibid.
40. Lopez, German. October 19, 2017. Trump judicial nominee: I discriminate against gay people, and trans kids are part of 'Satan's plan'. Vox. <https://www.vox.com/identities/2017/10/19/16504104/trump-jeff-mateer-lgbtq>
41. Gorsuch, Neil. (2005, February 7). Liberals'N' Lawsuits. National Review. <http://www.nationalreview.com/article/213590/liberalsnlawsuits-joseph-6>
42. Lambda Legal. (2017, January 31). Neil Gorsuch Has an Unacceptable, Hostile Record Towards LGBT People. [https://www.lambdalegal.org/blog/20170131\\_no-to-neil-gorsuch](https://www.lambdalegal.org/blog/20170131_no-to-neil-gorsuch)
43. Ibid.
44. Supreme Court of the United States. (2014, June 30). *Burwell, Secretary of Health and Human Services, et al. v. Hobby Lobby Stores, Inc., et al.* <https://www.aclu.org/legal-document/burwell-v-hobby-lobby-stores-supreme-court-opinion>
45. University of Pennsylvania, Wharton School of Business. (2015, June 26). After Hobby Lobby, is there a limit to corporate religious freedom?. <http://knowledge.wharton.upenn.edu/article/after-hobby-lobby-is-there-a-limit-to-corporate-religious-freedom/>
46. Stern, Mark Joseph. (2017, June 26). Supreme Court Orders States to List Same-Sex Parents on Birth Certificates; Gorsuch Dissents. Slate. [http://www.slate.com/blogs/outward/2017/06/26/supreme\\_court\\_orders\\_states\\_to\\_list\\_same\\_sex\\_couples\\_on\\_birth\\_certificates.html](http://www.slate.com/blogs/outward/2017/06/26/supreme_court_orders_states_to_list_same_sex_couples_on_birth_certificates.html)
47. Sun LH & Eilperin J. (2017, December 15). CDC gets list of forbidden words: Fetus, transgender, diversity. The Washington Post. [https://www.washingtonpost.com/national/health-science/cdc-gets-list-of-forbidden-words-fetus-transgender-diversity/2017/12/15/f503837a-e1cf-11e7-89e8-edec16379010\\_story.html?utm\\_term=.c45fa4ca6dd2](https://www.washingtonpost.com/national/health-science/cdc-gets-list-of-forbidden-words-fetus-transgender-diversity/2017/12/15/f503837a-e1cf-11e7-89e8-edec16379010_story.html?utm_term=.c45fa4ca6dd2)
48. Ibid.
49. Dr. Brenda Fitzgerald. (2017, December 17). Twitter. [https://twitter.com/CDCDirector/status/942423509124427776?ref\\_src=twsrc%5Etfw&ref\\_url=https%3A%2F%2Fwww.pbs.org%2Fnewshour%2Fpolitics%2Fcdc-director-says-there-are-no-banned-words-at-the-agency](https://twitter.com/CDCDirector/status/942423509124427776?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fwww.pbs.org%2Fnewshour%2Fpolitics%2Fcdc-director-says-there-are-no-banned-words-at-the-agency)
50. Gruberg S. (2017, October 11). What ending DACA means for LGBTQ dreamers. Center for American Progress. <https://www.americanprogress.org/issues/lgbt/news/2017/10/11/440450/ending-daca-means-lgbtq-dreamers/>
51. Conron K and Brown TNT. (2017, February). LGBT DREAMers and deferred action for childhood arrivals (DACA). The Williams Institute, UCLA School of Law. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-DREAMers-and-DACA-February-2017.pdf>
52. Wong et al. (2017, August 28). DACA recipients' economic and educational gains continue to grow. Center for American Progress. <https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/>
53. Movement Advancement Project. (2017). Paying an unfair price: The financial penalty for LGBT people of color. MAP. <http://www.lgbtmap.org/unfair-price-lgbt-people-of-color>



54. Pew Research Center. (2017, September 25). Top countries of origin for DACA recipients. Pew Research Center. [http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/ft\\_17-09-25\\_daca\\_topcountries/](http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/ft_17-09-25_daca_topcountries/)
55. Carroll A and Mendos LR. (2017, May). State-sponsored homophobia, a world survey of sexual orientation laws: Criminalisation, protection and recognition. The International Lesbian, Gay, Bisexual, and Intersex Association. [http://ilga.org/downloads/2017/ILGA\\_State\\_Sponsored\\_Homophobia\\_2017\\_WEB.pdf](http://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf)
56. Bureau of Democracy, Human Rights, and Labor. (2016). Country reports on Human Rights Practices for 2016, Mexico. U.S. Department of State. <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dclid=265600#wrapper>
57. United States Government Accountability Office. (2013, November). Immigration, Detention, additional actions could strengthen DHS efforts to address sexual abuse. GAO. <https://www.gao.gov/assets/660/659145.pdf>
58. Ring T. (2017, September 5). LGBT groups denounce plan to end DACA. Advocate. <https://www.advocate.com/politics/2017/9/05/lgbt-groups-denounce-plan-end-daca>
59. Lang N. (2017, January 30). All evidence points to Trump having zero plans to battle HIV. Advocate. <https://www.advocate.com/hiv-aids/2017/1/30/all-evidence-points-trump-having-zero-plans-battle-hiv>
60. Lang N. (2017). Reports of people being fired for having HIV spiked in 2016. Trump could make it worse. Mic. <https://mic.com/articles/171246/reports-of-people-being-fired-for-having-hiv-spiked-in-2016-trump-could-make-it-worse#.On6lvE9aM>
61. Schoettes SA. (2017, June 16). Trump doesn't care about HIV. We're outta here. Newsweek. <http://www.newsweek.com/trump-doesnt-care-about-hiv-were-outta-here-626285>
62. Scott E. (2017, December 30). An 'effort to erase LGBTQ people': Activists denounce Trump's firing of HIV/AIDS council. The Washington Post. [https://www.washingtonpost.com/news/the-fix/wp/2017/12/30/an-effort-to-erase-lgbtq-people-activists-denounce-trumps-firing-of-hiv-aids-council/?utm\\_term=.26d2457e625d](https://www.washingtonpost.com/news/the-fix/wp/2017/12/30/an-effort-to-erase-lgbtq-people-activists-denounce-trumps-firing-of-hiv-aids-council/?utm_term=.26d2457e625d)
63. Ibid.
64. Delk J. (2017, November 30). Trump's World AIDS Day proclamation fails to mention LGBT community. The Hill. <http://thehill.com/blogs/blog-briefing-room/362701-trumps-world-aids-day-proclamation-fails-to-mention-lgbt-community>
65. The White House. (2017, November 30). Subject: President Donald J. Trump proclaims December 1, 2017, as World AIDS Day. Public Pool. <http://publicpool.kinja.com/subject-president-donald-j-trump-proclaims-december-1-1820887680>
66. U.S. State Department fact sheet. (2013). Advancing the human rights of lesbian, gay, bisexual and transgender persons worldwide: A State Department priority. U.S. Department of State. <http://www.state.gov/documents/organization/211690.pdf>
67. Maza, Christina. (2017, October 26). Trump Administration says it's in solidarity with intersex people. But is it? Newsweek. <http://www.newsweek.com/trump-state-department-intersex-solidarity-693811>
68. Margon, Sarah. (2017, April 6). Trump's damning global retreat on human rights. Foreign Policy. <http://foreignpolicy.com/2017/04/06/trumps-damning-global-retreat-on-human-rights/>
69. Gaffey, Conor. (2017, June 27). Gay in Africa: 'Even cows' disapprove of homosexuality, says Tanzanian president amid crackdown. Newsweek. <https://www.nytimes.com/aponline/2017/12/08/world/africa/ap-af-tanzania-gays.html>
70. Kramer, Andrew E. (2017, April 1). Chechen authorities arresting and killing gay men, Russian paper says. New York Times. <https://www.nytimes.com/2017/04/01/world/europe/chechen-authorities-arresting-and-killing-gay-men-russian-paper-says.html?mtrref=www.google.com>

71. Hutton, Jeffrey. (2017, December 20). Indonesia's crackdown on gay men moves from bars into the home. New York Times. <https://www.nytimes.com/2017/12/20/world/asia/indonesia-gay-raids.html?mtrref=www.google.com>
72. Harris, Gardiner. (2017, May 23). Cuts to AIDS Treatment Programs Could Cost a Million Lives. New York Times. <https://www.nytimes.com/2017/05/23/world/africa/cuts-to-aids-treatment-programs-could-cost-a-million-lives.html>
73. Supreme Court of the United States. (2014, June 30). Burwell, Secretary of Health and Human Services, et al. v. Hobby Lobby Stores, Inc., et al. Retrieved from: <https://www.aclu.org/legal-document/burwell-v-hobby-lobby-stores-supreme-court-opinion>
74. Supreme Court of the United States. 2013. United States v. Windsor. 570 U.S. \_\_ Docket No. 12-307.
75. Supreme Court of the United States. 2015. Obergefell v. Hodges. 576 U.S. \_\_ Docket No. 14-556
76. Movement Advancement Project. (2017). State Religious Exemption Laws. [http://www.lgbtmap.org/equality-maps/religious\\_exemption\\_laws](http://www.lgbtmap.org/equality-maps/religious_exemption_laws)
77. Ibid.
78. Ibid.
79. Ibid.
80. Mississippi House of Representatives. 2016. House Bill No. 1523. <http://billstatus.ls.state.ms.us/documents/2016/pdf/HB/1500-1599/HB1523SG.pdf>
81. Tennessee State Legislature. (2016). An Act to amend Tennessee Code Annotated, Title 4; Title 49 and Title 63, relative to conscientious objections to the provision of counseling and therapy. Amendment No. 1. Available online at: <http://www.capitol.tn.gov/Bills/109/Amend/HA1006.pdf>
82. O'Hara ME. (2016, Dec. 21). First Amendment Defense Act would be "devastating" for LGBTQ Americans. NBC News. <http://www.nbcnews.com/feature/nbc-out/first-amendment-defense-act-would-be-devastating-lgbtq-americans-n698416>
83. H.R.2802 – First Amendment Defense Act. 114th Congress. 2015-2016. <https://www.congress.gov/bill/114th-congress/house-bill/2802>
84. Lang N. (2017). 2017 is shaping up to be a banner year for anti-LGBT discrimination. Los Angeles Times. <http://www.latimes.com/opinion/opinion-la/la-ol-first-amendment-defense-act-trump-20170106-story.html>
85. Republican Platform 2016. p. 11. [https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT\\_12\\_FINAL\[1\]-ben\\_1468872234.pdf](https://prod-static-ngop-pbl.s3.amazonaws.com/media/documents/DRAFT_12_FINAL[1]-ben_1468872234.pdf)
86. U.S. Department of Health and Human Services. (2017). Draft Strategic Plan FY 2018-2022. <https://www.hhs.gov/about/strategic-plan/index.html>
87. Demko P, Pittman D, Ehley B. (2017, Oct. 3). Why Price's conservative imprint on HHS is likely to endure. Politico. <https://www.politicopro.com/ehealth/story/2017/10/why-prices-conservative-imprint-on-hhs-is-likely-to-endure-162718>
88. Attorney General Jeff Sessions. 2017. Federal law protections for religious liberty. Memorandum for all executive departments and agencies. Washington, DC. <https://www.justice.gov/opa/press-release/file/1001891/download>
89. Sessions memo, October 2017.
90. U.S. Department of Justice 2017. No. 16-111. In the Supreme Court of the United States. Masterpiece Cake Shop, Ltd., et al., Petitioners, v. Colorado Civil Rights Commission, et al. On writ of certiorari to the Colorado Court of Appeals. Brief for the United States as Amicus Curiae Supporting Petitioners. <https://www.documentcloud.org/documents/3988525-16-111-United-States.html>
91. United States Department of Health and Human Services. (2016, March 3). 20 million people have gained health

insurance coverage because of the Affordable Care Act, new estimates show. <https://www.hhs.gov/about/news/2016/03/03/20-million-people-have-gained-health-insurance-coveragebecause-affordable-care-act-new-estimates>

92. Belluz J (2017, February 15). Why Obamacare repeal would be devastating to people with HIV. Vox. <http://www.vox.com/2017/2/8/14532310/obamacare-aca-repeal-hiv-aids>
93. Ibid.
94. Gates, Gary J. (2014, August 26). In U.S., LGBT More Likely Than Non-LGBT to be Uninsured. Gallup. <http://www.gallup.com/poll/175445/lgbt-likely-non-lgbt-uninsured.aspx>
95. Karpman M, Skopec L, Long S. (2015, April 5). QuickTake: Uninsurance Rate Nearly Halved for Lesbian, Gay, and Bisexual Adults since Mid-2013. Health Reform Monitoring Survey. <http://hrms.urban.org/quicktakes/Uninsurance-Rate-Nearly-Halved-for-Lesbian-Gay-and-Bisexual-Adults-sinceMid-2013.html>
96. Kaiser Family Foundation. (2017). Uninsured Rates for the Nonelderly by Race/Ethnicity. Source: Kaiser Family Foundation estimates based on the Census Bureau's March Current Population Survey (CPS: Annual Social and Economic Supplements), 2014-2017. <https://www.kff.org/uninsured/state-indicator/rate-by-raceethnicity>
97. Ibid.
98. Zernike K, Pear R. (2017, December 16). Bracing for reversals in health coverage as Trump cuts kick in. New York Times. Page A 10.
99. Ibid.
100. American Health Care Act of 2017. H.R. 1628. 115th Congress. March 20, 2017.
101. Better Care Reconciliation Act of 2017. H.R. 1628. 115th Congress. June 26, 2017.
102. Health Care Freedom Act. H.R. 1628. 115th Congress. July 27, 2017.
103. Center on Budget and Policy Priorities. (Updated November 2017). Sabotage Watch: Tracking Efforts to Undermine the ACA. <https://www.cbpp.org/sabotage-watch-tracking-efforts-to-undermine-the-aca>
104. Gruber, Jonathan. (2016, November 27). Trump's tricky Obamacare operation. New York Daily News. <http://www.nydailynews.com/opinion/trump-tricky-obamacare-operation-article-1.2885567>
105. Cahill S, Mayer K, & Boswell S. (2015). The Ryan White HIV/AIDS Program in the age of health care reform. American Journal of Public Health. 105(6): 1078-1085.
106. Ehley B. (2017, February 20). How Mike Pence used Obamacare to halt Indiana's HIV outbreak. Politico. <https://www.politico.com/story/2017/02/mike-pence-obamacare-indiana-hiv-235153>
107. Green E. The man behind Trump's religious-freedom agenda for health care. The Atlantic. June 7, 2017. <https://www.theatlantic.com/politics/archive/2017/06/the-man-behind-trumps-religious-freedom-agenda-for-health-care/528912/>
108. Diamond D, Haberkorn, J. Administration to shield health workers who refuse to perform abortions or treat transgender patients. Politico. January 16, 2018. <https://www.politico.com/story/2018/01/16/conscience-abortion-transgender-patients-health-care-289542>
109. Green, 2017.
110. Diamond and Haberkorn, 2018.
111. Cox D, Piacenza J. (2015, July 1). Nearly one-quarter of Americans oppose same-sex marriage while supporting nondiscrimination laws. PRRI. <https://www.prri.org/spotlight/nearly-one-quarter-of-americans-oppose-same-sex-marriage-while-supporting-nondiscrimination-laws/#.VZQ2jO1Viko>
112. Cahill S. (2004). Same-sex marriage in the United States: Focus on the facts. Lanham, MD: Lexington Books. 86-97.



TEL 617.927.6400

WEB [thefenwayinstitute.org](http://thefenwayinstitute.org) EMAIL [information@fenwayhealth.org](mailto:information@fenwayhealth.org)

THEFENWAYINSTITUTE 1340 Boylston Street, Boston, MA 0221