

# MUNICIPALITIES HAVE THE POWER TO IMPLEMENT LGBTQ+ INCLUSIVE ABORTION RIGHTS

The United States Supreme Court's decision in *Dobbs v. Jackson* has overturned *Roe v. Wade*, eliminating important precedent prohibiting states from infringing on the constitutional right to choose whether and when a person bears a child.

There are actual and substantial consequences as a result of anti-abortion laws in states across the U.S., and the reality is that “many LGBTQ+ people—specifically queer cisgender women, non-binary people, and transgender men, have had abortions—and lesbian, bisexual, and queer cisgender women are statistically more likely to have had them than cisgender heterosexual women.”<sup>1</sup>

Members of the LGBTQ+ community also depend on reproductive healthcare for medical needs such as assisted reproduction, fertility treatments, STI and HIV treatment and prevention medication, and other non-abortion care from the very clinics which are being forced to close as states implement anti-abortion legislation. Additionally, LGBTQ+ people may need contraception for reasons beyond preventing pregnancy such as treatment for cancer, debilitating painful menstrual cycles, ovarian cysts, migraines, and more.

Some municipalities have responded to the *Dobbs* decision by working to implement legislation that will provide protections for abortion access and reproductive healthcare. As many cities and municipalities have implemented legislation such as nondiscrimination ordinances and conversion therapy bans in response to a lack of protection on the national and state levels, municipalities can do the same to protect abortion and reproductive healthcare rights.

## KEY COMMUNITIES AFFECTED: UNDERSERVED AND MARGINALIZED COMMUNITIES

Underserved and marginalized communities have consistently been most impacted by restrictions placed on access to healthcare due to their reliance on the government for their healthcare needs. That includes LGBTQ+ people: a recent study found that LGBTQ+ persons experience higher rates of poverty compared to cisgender heterosexuals (21.6% vs. 15.7%), with significant variations depending on sexual orientation, gender identity, and other axes of identity such as race, age, and disability. Transgender men—who can be capable of becoming pregnant—have the highest rates of poverty (33.7%). Transgender persons are also more likely to have multiple intersectional identities, further increasing their risk of poverty. For example, 35.5% of transgender persons experience a disability, compared

to 24.3% of cisgender straight women and 19.5% of cisgender straight men. Additionally, LGBTQ+ persons are overrepresented among those who experience homelessness. Data suggest there has been an astonishing 88% increase in the number of transgender persons experiencing homelessness since 2016.<sup>2</sup>

The Hyde Amendment—which prohibits the ability to get abortion under Medicaid and other federal programs—has been attached to congressional appropriations bills for decades, which poses additional problems for LGBTQ+ people given the reality that many LGBTQ+ people live in impoverished communities and/or rely on government-funded healthcare.



<sup>1</sup>HRC, *Fact Sheet: LGBTQ+ People & Roe v. Wade* (2022)

<sup>2</sup>M. V. Lee Badgett, et al., *LGBT Poverty in the United States: A study of differences between sexual orientation and gender identity groups*, The Williams Institute (Oct. 2019)

Earlier this year, the Human Rights Campaign Foundation conducted an [analysis](#) that found that among women who have ever been pregnant, sexual minority women are more likely to have ever had a mistimed pregnancy or unwanted pregnancy. **Less than half (47.6%) of exclusively heterosexual women who have ever been pregnant have had a mistimed pregnancy**, compared with:



OF BISEXUAL WOMEN



OF HETEROSEXUAL WOMEN WITH A HISTORY OF SAME-SEX PARTNERING



OF LESBIANS

The study further found that 36% of transgender people who had been pregnant had considered attempting to end their pregnancy by themselves “without clinical supervision” due to lack of access to clinics.<sup>3</sup>

## INTIMATE PARTNER AND SEXUAL VIOLENCE

Many people assume that sexual violence (i.e., rape, sexual assault) only happens at random and by strangers; however sexual violence is a common form of intimate partner violence and results in unwanted pregnancies. LGBTQ+ people are victims of intimate partner and sexual violence at equal or even higher rates than heterosexual people are. HRC’s [fact sheet on LGBTQ+ people & \*Roe v. Wade\*](#) shared the following data from a study from *Jones, Jerman & Charlton, 2018*<sup>4</sup>:

**14.8%** OF LESBIAN AND 3.2% OF BISEXUAL WOMEN WHO HAD AN ABORTION, COMPARED TO 1.2% OF HETEROSEXUAL WOMEN WHO HAD AN ABORTION, REPORTED THE PREGNANCY WAS THE RESULT OF A FORCED SEXUAL ENCOUNTER

**33.3%** OF LESBIAN WOMEN SEEKING ABORTION HAD EXPERIENCED PHYSICAL ABUSE OR SEXUAL ABUSE (34.6%) FROM THE INDIVIDUAL WHO GOT THEM PREGNANT

**7.1%** OF BISEXUAL WOMEN HAD EXPERIENCED SEXUAL ABUSE FROM THE PERSON WHO GOT THEM PREGNANT, AND ALMOST 9% HAD EXPERIENCED PHYSICAL ABUSE

## OTHER KEY ASPECTS + CLOSING

Access to abortion clinics fulfill a lot of important functions beyond abortion treatment, including functions that are important to LGBTQ+ people like fertility, family planning aid and resources for LGBTQ+ youth who need help with coming out, understanding their sexual orientation or gender identity, and finding safe spaces to chat with peers.

Until the reproductive rights of women and the LGBTQ+ community are fully recognized on a national level, cities can take the affirmative step of implementing legislation to provide protection on the local level. Pro-abortion legislation should explicitly, clearly, and concisely include the LGBTQ+ community in definitions of who is protected under the law so room for LGBTQ+ exclusions and carve-outs cannot be made. When policymakers advocate or even draft legislative language about abortion and reproductive rights, they

should use inclusive language that highlights that abortion rights affect those who are capable of becoming pregnant which is not exclusive to those who identify as women. Abortion rights and LGBTQ+ rights are not separate issues because the right to protect one’s bodily autonomy is the same fundamental issue on both sides.

Unfortunately, the impact of the *Dobbs* decision may go beyond abortion. In a concurring opinion, Supreme Court Justice Clarence Thomas suggested that other landmark high court rulings such as *Obergefell v. Hodges* (which legalized same-sex marriage nationwide) and *Lawrence v. Texas* (which decriminalized same-sex sexual intimacy) should also be overturned. LGBTQ+ people and women are facing an unprecedented revocation of constitutional rights, and cities can fight back.

<sup>3</sup>HRC, [Fact Sheet: LGBTQ+ People & \*Roe v. Wade\*](#) (2022)

<sup>4</sup>Rachel K. Jones, et al., [Sexual Orientation and Exposure to Violence Among U.S. Patients Undergoing Abortion](#), *Obstet Gynecol.* (Sept. 2018)