



2016 LEGISLATIVE POLICY REPORT

SUCCESSES IN  
**Domestic Violence**

SETBACKS IN  
**LGBTQ+ Rights**

OPPORTUNITIES IN  
**Abortion Rights**





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# EXECUTIVE SUMMARY

SisterReach has been keeping a close watch over our Tennessee State Legislature's actions, both progressive and conservative. Read on for our analysis of the 2016 109th Session of the General Assembly. The bills presented here are not a complete list of all the legislation that we followed, but rather the most concerning or promising, with a focus on those bills that would have the greatest impact on women and girls of color, gender non-conforming people, poor women, rural women, and their families.



# THE 109TH TENNESSEE GENERAL ASSEMBLY

## SUCCESSSES

- Failure of an expansion of the egregious 2014 so-called fetal assault law
- Improvement of an existing law providing more protections for victims of domestic violence, sexual assault and offences

## SETBACKS

- Additional restrictions on abortion were passed increasing even more barriers for low income women, rape survivors and those whose lives are endangered due to a problematic pregnancy
- LGBTQ+ communities were targeted with an attempt to police their lives and access
- Conservative legislators halted the promise of healthcare for working Tennesseans.

# MATERNAL HEALTH

The Fetal Assault Law (SB1391/HB1295), which passed in 2014 and was designed to incarcerate women as a way to reduce opioid usage, resulted in the arrests of over 100 women across the state incarcerating mothers for drug use and addiction. Black women in Memphis were disproportionately impacted by the law, though their usage rates of the law's classified list of drugs were the lowest in the state. Rather than expanding Medicaid or investing in the expansion of behavioral health facilities across the state as proactive measures to address the public health crisis among vulnerable women, TN legislators moved forward with targeting pregnant women by proposing HB1660 which would have extended the law instead of the scheduled sunset of July 1, 2016.

SisterReach and our partners collectively defeated the bill. Strategies included SisterReach and our partners crafting strategic messaging to increase awareness around the racial and class implications of the bill and leading the messaging efforts as women of color working specifically on behalf of vulnerable communities. Our partners at Healthy & Free Tennessee organized a letter writing campaign with over 10,000 signatures from Tennessee residents in opposition to the bill. Nevertheless, the disparity in access for pregnant mothers needing rehabilitation facilities unique to their needs as mothers and pregnant women is still left unaddressed. SisterReach's current work includes a research project across the state interviewing women impacted or potentially impacted by the law. We hope to use the results from the research to educate local and state elected officials about the impact from their legislative actions and offer recommendations from interview participants and SisterReach on the most optimum next steps.

- *Failed SB1629 (Tate)/ HB1660 (Weaver) -As introduced, would have deleted the July 1, 2016, termination date for legislation permitting the prosecution of a woman for assault of a fetus based on her use of certain narcotic and prescription drugs while pregnant, mandating her to TN legislator's interpretation of an addiction recovery program. This would have allowed the criminalization of pregnant women effective indefinitely instead of terminating the law on July 1, 2016.*

This and similar laws destroy families and can lead to adverse childhood experiences for children in need of their mothers especially infants exposed to neonatal abstinence syndrome (NAS). Comprehensive rehabilitation services are imperative for the whole family's ultimate success. Therefore, we recommend that TN lawmakers invest in statewide expansion of rehabilitative housing and services for mothers and their children and discontinue pursuing punitive measures to remedy an obvious medical disparity.



## ABORTION ACCESS

Since the passage of Amendment One in 2014, a constitutional amendment that allowed the TN legislature to enact, amend or repeal state statutes regarding abortion attempting to further restrict women's access to safe and legal abortion. For example, TRAP Laws (Targeted Regulation of Abortion Providers) disproportionately impact poor and young women, by shutting down clinics and placing safe and legal abortions further out of reach – literally – for women who choose to have them. TRAP laws reduce the number of abortion providers across the state, and especially affects poor and young women because they often do not have the resources and

flexibility around employment or childcare for multi-day travel. Trap Laws and other anti-abortion legislation have zero health benefits for women, but are instead informed by personal religious ideologies of lawmakers who have taken it upon themselves to police the reproductive health choices of women. These medically unnecessary restrictions have caused vulnerable clinics to close, and have exacerbated barriers to care for women who already are navigating economic, geographic, and social barriers. Among the anti-abortion legislation introduced, these were the most alarming:

# ABORTION ACCESS, CONT.

- Enacted SB2568 (Norris)/ HB2577 (McCormick) - Establishes requirements regarding the disposition of aborted fetuses and fetal tissue, including reporting requirements and requirements for interim inspections of and certain reporting by facilities where surgical abortions are performed. This legislation is not only a waste of valuable lawmaking time, but costs tax payers' unnecessary resources pursuing. SB2240 (Hensley/ HB1654 (Terry), also enacted, compliments this wasteful legislation mandating unnecessary policies for procedures not being done in the state of TN.
- Failed SB2330 (Haile)/ HB2438 (Hill M) - As introduced, would have required the bureau of TennCare to report to the chair of the health and welfare committee of the senate and the chair of the health committee of the house by January 31 of each year on the number of abortions paid for by the medical assistance program, although TN does not pay for procedures with state funds.
- Failed SB1770 (Beavers)/ HB1758 (Weaver) - As introduced, would have prohibited abortions after 20 weeks of pregnancy except to preserve the life and health of the mother. If enacted, this bill would have reduced the amount of time a woman has, to access abortion care.
- Failed SB1769 (Beavers)/ HB1459 (Womick) - As introduced, requires that an ultrasound be performed prior to an abortion, with an exception for medical emergencies. The intent of the bill was to shame women who seek abortion services.



Abortion care is health care. And for poor women and girls, who are disproportionately people of color, abortion is often an act of survival in a state that refuses to allow people access to comprehensive reproductive and sexual health education, expand Medicaid, or raise the minimum wage. Often women choose abortion because they cannot afford to expand their families. Our overarching recommendation for the Tennessee legislature is to trust women to make the best decisions for ourselves, our families and our communities – that includes preserving our right to a safe and legal abortion.

# DOMESTIC & INTIMATE PARTNER VIOLENCE (DV/IPV)

The domestic violence bills this session have focused on strengthening protections for victims. A woman or child's right to live in a safe environment free from violence from individuals or the government is a reproductive justice issue and a human right. Specific to domestic violence, these three bills passed into law:

- Enacted SB2343 (Dickerson)/ HB2391 (Littleton) - Removes the exclusion of petitioners who are victims of sexual assault or stalking from the provisions whereby an order of protection may direct the respondent to vacate home shared with the petitioner or to provide suitable housing alternative for the petitioner. This is good because policies that improve economic conditions for women and their families help women escape violent relationships.
- Enacted SB1564 (Yager)/ HB1528 (Lamberth)- Specifies that a defendant charged with the offense of domestic assault, child abuse, or child neglect or endangerment is not eligible for suspended prosecution and pretrial diversion.
- Enacted SB1372 (Kyle)/ HB1270 (Hardaway) - Requires a law enforcement officer, when the officer responds to a report of certain offenses related to domestic violence, to inform the victim of the statewide automated victim information and notification service and to provide certain informational materials, if available. For communities, families, and individuals who lack access to resources dealing with domestic violence, the materials can be received directly from the police when they respond to a report.

The Tennessee Legislature has taken steps in the right direction by focusing on protecting victims of domestic and intimate partner violence. Addressing the racial and socioeconomic inequities that deny some women reproductive justice will also reduce instances of violence and help victims escape abusive relationships. Trans women are among those most impacted by this type of violence and, like women of color, are the least likely to have the resources to leave an abusive environment. SisterReach and our partners will continue to work with lawmakers to provide data on domestic violence occurrences in TN so that services may be expanded and made more comprehensive to serve all impacted by DV/IPV.

# SEXUAL ASSAULT AND OFFENSES

Sexual assault, including rape, incest, molestation and human trafficking, are often conflated within the framework of domestic or intimate partner violence. Though these offenses are often linked, we are intentional in examining each of these offenses as they can and do also happen independently of each other. In our work, sexual violence is often a constant in the myriad of experiences that the women, girls and LGBT+ we advocate for, have. We appreciate the TN legislature for increasing penalties for sexual assault offenders as they are a step in the right direction for protecting those most vulnerable.

- Enacted SB1459 (Bailey)/ HB1432 (Williams) - Adds aggravated rape of a child and rape of a child as offenses for which aggravated sexual battery is a lesser included offense.
- Enacted SB1663 (Tracy)/ HB1448 (Sparks)- Makes the sex offender registration discretionary instead of mandatory for persons convicted of misdemeanor unlawful photographing in violation of privacy; the judge may order registration after accounting for the facts and circumstances surrounding the offense. Though we support the need for a sex offender registry to identify legitimate sexual predators, we are concerned with the Tennessee Legislature's interpretation of what should be classified as a "sexual offence."
- Enacted SB1682 (Bowling)/ HB1694 (Coley) - Revises the offense of sexual contact with a minor by an authority figure to eliminate the requirement that a minor be between 13 and 18 years of age to qualify for this offense, so that a minor includes any person less than 18 years of age. This bill is beneficial because it clarifies what is considered a minor and now includes legal protection for minors, newborn to 12. It eliminates precedent for claiming conduct did not occur with a minor in court.
- Enacted SB2611 (Norris)/ HB2399 (Littleton) - Increases the classification of the offense of statutory rape by an authority figure from a class C felony to a class B felony; revises certain elements of the offense. A class B felony is punishable by eight to 30 years' imprisonment, as well as a fine of up to \$25,000. Previously, punishment was a prison term of three to 15 years, and fines of up to \$10,000.
- Enacted SB1841 (Gardenhire)/ HB2120 (McCormick) - Extends the statute of limitation for aggravated statutory rape committed on or after July 1, 2016, from four years to 15 years from the date the victim becomes 18 years of age.

# LGBTQ+ JUSTICE

The lives of queer and gender non-conforming people have been subject to a witch hunt led by the TN Legislature. Since gay marriage was legalized in 2015, the TN General Assembly has prioritized restricting LGBTQ rights with discriminatory legislation each year. Of the legislation proposed in the 2016 session, these bills were the most alarming.

- Failed SB2387 (Bell)/ HB2414 (Lynn) - As introduced, would have required students in public schools and public institutions of higher education to use restrooms and locker rooms that are assigned to persons of the same sex as that shown on the students' birth certificates. This bill was problematic because it targets transgender people and masculine presenting women while also putting the state in jeopardy of losing 1.2 billion in education funds for discrimination. Moreover, it would have legalized discrimination and restricted individuals from having a safe environment to use the restroom without fear of safety and confrontation.
- Failed SB1437 (Beavers)/ HB1412 (Pody) - As introduced, would have enacted the "Tennessee Natural Marriage Defense Act"; stated that the policy of Tennessee is to defend "natural" marriage between one man and one woman regardless of any court decision to the contrary. If passed, this bill would have denied LGBT+ couples their constitutional right to marry.

At SisterReach, we believe in protecting all people from human rights injustices. The choice of partner, marriage, gender identity, or parenthood is not a political choice, but a personal one that should not be legislated based on the religious ideology or respectability beliefs of any party, legislator or constituent.



## HEALTHCARE REFORM

By not passing Insure Tennessee (TN), conservative legislators left thousands of working Tennesseans in desperate need of healthcare coverage. Insure TN would have provided insurance coverage for people who do not qualify for Medicaid coverage, cannot afford coverage through the Healthcare.gov Marketplace, and do not make enough to qualify for tax credits to make coverage more affordable. Though Insure TN would not have covered non-working Tennesseans, SisterReach supported the plan as a step in the right direction in hopes that a more comprehensive healthcare model would be made available to all Tennesseans in the future.



# ECONOMIC JUSTICE

A few bills supporting economic justice made advances through the legislature, however we also saw many disappointing failures. Most significant is the repeated failure of the legislature to pass anti-discrimination legislation. Overall, the legislature failed to institute policies protecting job security, labor protections, and training programs.

- Failed SB1905 (Johnson)/HB1669(Durham)- As introduced, would have prohibited the availability of department of economic and community development grants, loans, and incentives to jurisdictions in which the local governmental entity has adopted ordinances or policies expressly prohibiting, or in which an official has materially interfered with, compliance with federal law pertaining to persons who reside in the state illegally, until compliance is proven; would have required private employers with less than six employees to comply with employment verification requirements. This bill attempted to target communities with individuals whom may be undocumented. This bill would have allowed the state to withhold community development funds from these communities, making it harder for them to prosper.

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# THANK YOU

SisterReach will continue to watch for legislation which impacts vulnerable Tennesseans. The incoming conservative administration will allow for harsher restrictions and we should prepare for the intentional dismantling of progressive policies fought and won by the Obama Administration. More than ever, it is imperative that our various vulnerable bases be energized and mobilized around strategic voting.

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