

**Human Rights Committee (HRC)**  
**Submission for Reporting of the United States of America on Women and Gender Diverse  
People with Disabilities\***

The U.S. Gender and Disability Justice Alliance,<sup>1</sup> Women Enabled International (WEI),<sup>2</sup> Autistic Women & Nonbinary Network,<sup>3</sup> and the Autistic People of Color Fund,<sup>4</sup> appreciate the opportunity to contribute to the Human Rights Committee’s consideration of the U.S.’s periodic report to the Committee.

Women and girls with disabilities account for approximately 16% of all women in the U.S.,<sup>5</sup> and although gender identity is not yet included in the U.S. Census, an analysis of the CDC’s 2020 Behavioral Risk Factor Surveillance System determined that 36 percent of LGBTQIA+ adults—including 52 percent of transgender adults—self-identify as having a disability.<sup>6</sup>

Women and gender diverse people with disabilities in the U.S. encounter many barriers to fully exercising their civil and political rights, due to discrimination based on gender identity and disability, as well as other factors such as race and systems of power and oppression. These rights violations persist, despite international and domestic law designed to ensure the rights of women and gender diverse people with disabilities in the U.S.

This submission will provide an overview of some of the human rights violations under the International Covenant of Civil and Political Rights (ICCPR) as they relate to women and gender diverse people with disabilities in the domains of sexual and reproductive health and rights, gender affirming care health care, freedom of expression, and political participation. To help remedy these violations we recommend that U.S. do the following:

- Ratify the CRPD and CEDAW Conventions to provide an intersectional human rights framework through which to address human rights issues occurring at the intersection of gender and disability.
- Draft and enact robust federal legislation specifically intended to reduce the harms of the *Dobbs* decision, especially as it relates to multi-marginalized people with disabilities. This legislation should be created with the meaningful input of people with disabilities from a variety of backgrounds and identities.
- Draft and implement robust federal legislation for trans youth and adults with disabilities that provides protection against discrimination based on gender identity. Protection against discrimination should be broad and prohibit discrimination based on gender identity in places of public accommodation, state and local government programs and services, as well as within federally funded programs and services. Federal legislation must protect the right to access gender affirming health care. It is also essential

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\* Throughout this submission, we use the term “gender diverse people” to refer to people who identify as a gender other than cis-gender women and men. This includes but is not limited to transgender women, transgender men, nonbinary people, and agender people.

legislation decriminalize provision of gender affirming health care, remove excessive barriers to this care, such as prohibitive screenings for mental health diagnoses and/or Autism. Federal legislation should secure the rights of public-school students to choose their pronouns without alerting parents. Trans adults and youth with disabilities should be meaningfully consulted and included in the drafting process of these pieces of legislation. Trans adults and youth with disabilities should be meaningfully consulted and included in the drafting process of these pieces of legislation.

- Adopt federal legislation that protect and promote freedom of expression of diversity and pride in terms of gender identity, sexual orientation, race and ethnicity, and ability and reduces the harms of state legislation.
- Ensure that state and local government offices provide accessible opportunities for voter registration and that staff members are trained to assist citizens with disabilities, including citizens with disabilities of marginalized genders with registering to vote. Recognize that state restrictions on voting have a disproportionate impact on people with disabilities, including, people of color, women, and gender diverse people. Adopt federal legislation to counter these restrictions and promote the accessibility and inclusivity of voting.

A complete list with additional recommendations is at the end of this submission. We hope that the Committee will consider including some of these recommendations in their concluding observations to the State.

## I. Overall Legal Framework

While the U.S. has a federal system of government, and many laws, policies, and practices on the issues described in this submission vary from state to state, the Human Rights Committee has repeatedly found that this federal system of government does not limit the U.S.'s obligation to ensure the respect, protection, and fulfillment of human rights throughout its states and territories.<sup>7</sup> And though state governments themselves are not parties to the ICCPR, under the Supremacy Clause (Article VI) of the U.S. Constitution, state constitutions should be interpreted, to the extent they are reconcilable, in light of international law.<sup>8</sup> Even if there is irreconcilable conflict, domestic law—at the state or federal level—does not alter international obligations or excuse a failure to uphold them. Thus, this submission discusses national laws and policies that impact the civil and political rights of people of marginalized genders with disabilities, but, where available and particularly relevant, it also provides information on state constitutions and state law, and the extent to which they deny rights guaranteed under the International Covenant on Civil and Political Rights (ICCPR).

The U.S. has adopted federal laws and policies which protect the rights of women and gender diverse people with disabilities. These laws and policies include, *inter alia*:

- **The Rehabilitation Act (Section 504) (1973), the Americans with Disabilities Act (ADA) (1990), and the ADA Amendments Act (2008):** Section 504 of the Rehabilitation Act came first, providing that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to

discrimination under any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.”<sup>9</sup> The Americans with Disabilities Act of 1990 (“ADA”) further codified the nation’s commitment to prohibiting discrimination based on disability.<sup>10</sup> The ADA prohibits discrimination against people with disabilities in “employment, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and State and local government services”<sup>11</sup> and has been broadly applied to ensure accessibility and support for people with disabilities in several settings. Although the ADA’s implementation has lagged and has often been inconsistent, the ADA Amendments Act was passed in 2008 as an attempt to strengthen it.<sup>12</sup> In 2022, the 4<sup>th</sup> Circuit Court of Appeals held (and the Supreme Court declined review) that people with gender dysphoria can qualify for accommodations and protections from discrimination under the ADA.<sup>13</sup>

- **Title IX:** Title IX prohibits discrimination on the basis of sex (which has been interpreted to include discrimination based on sexual orientation and gender identity)<sup>14</sup> in “any education program or activity receiving Federal financial assistance.”<sup>15</sup>
- **Affordable Care Act and Medicaid Act:** The Patient Protection and Affordable Care Act (hereinafter, ACA) Section 1557 prohibits discrimination based on various protected identities, including sex<sup>16</sup> and disability in “any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency....”<sup>17</sup> The Medicaid Act, which outlines the general requirements by which state Medicaid programs must comply, has been interpreted to support Medicaid coverage of gender-affirming care.<sup>18</sup>
- **Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution:** The Fourteenth Amendment’s Equal Protection Clause protects individuals from arbitrarily discriminatory treatment by state and federal governments.<sup>19</sup>
- **The Voting Rights Act (VRA) of 1965:** The Voting Rights Act of 1965 prohibits, *inter alia*, “...state and local officials from adopting or maintaining voting laws or procedures that purposefully discriminate on the basis of race, color, or membership in a language minority group.”<sup>20</sup> The efficacy of the VRA has been significantly limited in the last decade, due to decisions issued by the U.S. Supreme Court.<sup>21</sup>
- **Help America Vote Act:** Enacted in 2002, the Help America Vote Act provides funding for programs across the country that are “designed to establish and improve participation in the election process for individuals with the full range of disabilities”<sup>22</sup> through a variety of initiatives, including voter registration and education efforts and technical assistance to governments, election officials, and poll workers.<sup>23</sup> However, the U.S. has also adopted federal law that limits the government’s obligations to protect the rights of women and gender diverse people with disabilities. These include:

The U.S. also has laws and policies that directly impact the issues discussed below and are outlined therein. The U.S. has binding legal obligations under the ICCPR. This submission will discuss the extent to which laws, policies, and practices in the U.S. have honored these obligations as they relate to women and gender diverse people with disabilities.

## **II. *Sexual and Reproductive Health and Rights: Women and gender diverse people with disabilities face significant barriers to accessing needed sexual and reproductive health information, goods, and services and continue to experience forced reproductive health interventions in violation of Articles 3, 7, 17, 23, and 26 of the ICCPR.***

Women and gender diverse people with disabilities face many challenges to accessing sexual and reproductive health information, goods, and services. These challenges are largely created by physical and communication barriers, as well as by discrimination and stereotypes based on their gender, gender identity, and disability.<sup>24</sup> These include stereotypes that they are asexual, hypersexual, unable to make decisions for themselves, or unable to be good parents.<sup>25</sup> Stereotypes such as these often lead to oppressive legislation.

As of 2022, 31 states, including the district of Columbia, have laws which allow forced sterilization.<sup>26</sup> The prevalence of these stereotypes may be attributed to the fact that providers are often not trained to work with people with disabilities. In a 2017 survey of 1000 OB/GYN's in the United States, only 17.2 percent of physicians reported they had received information or training about how to provide health care services to women with disabilities, and only 19.3% of respondents said they were "definitely" equipped to manage the pregnancies of disabled people.<sup>27</sup> Lack of training helps reinforce the effects of stereotypes these providers hold about disability. For instance, the prevalence of stereotypes and lack of provider training make health care providers significantly less likely to ask women with disabilities about their use of or need for contraceptives.<sup>28</sup> This means that people with disabilities with the capacity to become pregnant may be more susceptible to unplanned pregnancies that can have a significant impact on health and well-being, especially in the post-*Dobbs* era (discussed below).

In addition to facing attitudinal and informational barriers to sexual and reproductive health care, women and gender diverse people with disabilities often encounter physical barriers. In an effort to help remove some of these physical barriers, the U.S. Access Board, pursuant to Section 1557 (the non-discrimination provision of the Affordable Care Act),<sup>29</sup> recommended improved accessibility standards for medical and diagnostic equipment (e.g., exam tables, chairs, mammography equipment, and weight scales), inclusive of sexual and reproductive health care.<sup>30</sup> Although standards on this issue were finalized in 2017, the U.S. Department of Justice has not made them mandatory for health care providers and equipment manufacturers.<sup>31</sup> This leaves many people with disabilities without equal access to vital screenings and medical procedures such as mammograms and pap smears, despite recent research that shows women with mobility disabilities are at greater risk of breast and cervical cancers.<sup>32</sup>

### **A. Access to Abortion and the Impact of *Dobbs vs. Jackson Women's Health Organization* on Women and Gender Diverse People with Disabilities**

Abortion is essential health care to which people with disabilities who can become pregnant need safe and legal access. This right is essential to exercise control over our bodies and lives, live with dignity, and achieve full recognition of our personhood.

In June 2022, the U.S. Supreme Court decision in *Dobbs vs. Jackson Women's Health Organization* (hereinafter *Dobbs* decision) withdrew its recognition of a nationally-protected right to abortion.<sup>33</sup> The decision effectively grants each state the right to make their own decision about the legalization of abortion. This creates even more significant barriers to sexual and reproductive health care for people with disabilities who can become pregnant. As of July 2023,

14 states have near total abortion bans and 16 states restrict abortion access.<sup>34</sup> multi-marginalized people including people with disabilities are the most impacted by these restrictions. Indeed, the states with the highest prevalence of chronic illness and disability are also the states with the most restrictive abortion legislation.<sup>35</sup> Additionally, most states that have banned abortion or have restrictive abortion legislation are located in the south or mid-western portion of the country. These are localities with high proportions of Black, Hispanic, and Indigenous women as well as higher rates of poverty.<sup>36</sup>

Although national data disaggregated by race, gender, and disability is still limited, the data that are available suggests that race, gender, and disability overlap significantly: studies estimate that approximately three in ten (33%) indigenous people and one in four (25%) Black people identify as a person with a disability, compared to one in five white people (20%).<sup>37</sup>

When disability, gender and race converge, the structural oppression people living at this intersection experience is further heightened and qualitatively different from that experienced by people who only experience one form (or fewer forms) of marginalization.<sup>38</sup>

There are a number of ways the *Dobbs* decision will disproportionately affect multi-marginalized people with disabilities who can become pregnant. In particular, the Supreme Court's decision will require a significant portion of the population to travel out of state to exercise the right to abortion. Pregnant people with disabilities, including those who experience racism, face significant financial and logistical barriers to traveling to another jurisdiction to obtain an abortion. Travel may be too expensive, the means of travel may be inaccessible, and they may require a support person or interpreter to undertake such travel.<sup>39</sup> Air travel is especially difficult for many people with physical disabilities, as travel puts their mobility devices at great risk of being damaged.<sup>40</sup>

Furthermore, the *Dobbs* decision violates the right to keep medical information and decisions private. This is especially true for people with disabilities seeking abortion care. People with disabilities who require assistance from family members, intimate partners, friends, or community members to obtain an abortion are forced to surrender their right to privacy and may be put at risk if they are victims of intimate partner violence.<sup>41</sup>

The *Dobbs* decision also jeopardizes the health and well-being of people with disabilities carrying desired pregnancies. In states where abortion is illegal, physicians are often fearful to perform medically necessary abortions or procedures that may result in the loss of the pregnancy.

<sup>42</sup> For example, in a 2023 collection and analysis of 50 narratives from physicians, they described instances where post-*Dobbs* legislation or the physicians' interpretation of it led to deviations in the usual standard of care.<sup>43</sup> In many cases these deviations put patients' lives unnecessarily at risk. In one narrative, a doctor described a patient who was referred to her hospital with a complex medical history. The patient's membranes had ruptured during her second trimester of pregnancy, and her treating physician referred her to an out-of-state hospital four hours away, since the abortion care she desired was illegal in the patient's home state.<sup>44</sup> Moreover, the Kaiser Family Foundation recently surveyed 569 OB/GYNs about how the *Dobbs* decision has impacted patient care.<sup>45</sup> One in four physicians practicing in states where abortions are illegal reported that they have faced constraints related to miscarriage management and medical emergencies because of post-*Dobbs* restrictions.

These restrictive laws and the legal uncertainty that surrounds them put people with disabilities at higher risk. This is because people with disabilities, especially people with disabilities who are

Black or Indigenous, are at significantly greater risk of maternal mortality and morbidity.<sup>46</sup> For instance women with disabilities are more than twice as likely to develop severe preeclampsia, four times as likely to experience cardiac events, six times more likely to develop blood clots, and 11 times more likely to die during pregnancy than women without disabilities.<sup>47</sup> Thus, women with disabilities are more likely to require or choose to have an abortion to protect their own health.

In the post-*Dobbs* era, many people are turning to the Internet for information on how the decision affects them, and in some cases obtaining abortion care online. However, obtaining information and care online can be particularly challenging for people with disabilities. People with disabilities, particularly people of color, are less likely to have access to high-speed internet, impeding their access to education and information.<sup>48</sup> Where internet access is not an issue, lack of access to a compatible piece of technology such as a laptop or tablet is cost prohibitive for many people with disabilities.<sup>49</sup> Even if a computer or online access is available people, who are blind or have low vision often encounter inaccessible websites that lack alternative text options for visuals or are otherwise inaccessible to screen readers.<sup>50</sup> This lack of accessibility hampers ability to obtain necessary care. For example, a blind person in a state restricting abortion access may need to rely on an online provided medication abortion due to restrictive practices in their state, and have difficulty completing that purchase due inaccessible information and payment options.

The U.S. Department of Justice has issued new proposed standards to increase website access for people with disabilities.<sup>51</sup> These standards include requiring that websites run by state and local government entities add text descriptions of images and navigational links that facilitate using a screen reader. This proposal would also require captions on all videos and audio files on websites. This will give people who are deaf or hard of hearing the ability to access real-time presentations and other content.<sup>52</sup> However, Language access continues to make equal access to necessary information including obtaining information about abortion, difficult for people with disabilities who use languages or alternative forms of communication such as sign language, Spanish, augmentative communication devices, or need information in easy-read format.<sup>53</sup>

Even in states where abortions are legal, people with disabilities do not have equal access to them compared to their non-disabled peers. Due to poverty, women and transgender people with disabilities are also enrolled in federally funded health insurance, including Medicaid and Medicare at a rate that is higher than other groups.<sup>54</sup> By law, these programs do not use federal funding to cover abortion except in limited circumstances.<sup>55</sup> The right to have choice and control over our own bodies and lives has been of paramount importance for people with disabilities throughout history and a focal point of the disability rights and justice movements. The long-standing and newly enacted abortion restrictions are another means of stripping bodily autonomy away from people with disabilities, especially those who are multi-marginalized. Implementation of the *Dobbs* decision perpetuates ableism, sexism, racism, classism, and strips multi-marginalized people of the right to have choice and control over their own bodies and lives.

## **B. Guardianship Systems and Their Impact on the Sexual and Reproductive Health and Rights of People with Disabilities**

Legal capacity<sup>56</sup> is frequently denied to women and gender diverse people with disabilities living in the U.S. through both informal practices and formal systems of substituted decision-making, such as guardianship.<sup>57</sup> Although federal guardianship legislation was recently introduced,<sup>58</sup> guardianship remains a matter of state law. Each state has its own laws on guardianship over people with disabilities, and although some states have adopted legislative reform measures that attempt to limit the use of guardianship, not all states have,<sup>59</sup> and to date, no state or territory in the US has completely abolished guardianship.<sup>60</sup> It is important to note that systems of guardianship are themselves discriminatory against persons with disabilities, in violation of international human rights standards, and should not be used to deprive people with disabilities of sexual and reproductive autonomy or their right to gender affirming health care. In particular, the Committee on the Rights of Persons with Disabilities (CRPD Committee) classifies guardianship—wherein persons with disabilities are legally stripped of their decision-making autonomy, and their decision-making autonomy is granted to a third party—as a violation of the right of people with disabilities to equal recognition before the law, because guardianship discriminates on the basis of disability in denying people with disabilities their exercise of civil, political, economic, and social rights.<sup>61</sup> The CRPD Committee has interpreted this provision to mean that States are required to abolish their systems of guardianship and instead provide support to persons with disabilities when needed and requested to make important decisions,<sup>62</sup> including related to sexual and reproductive health care.<sup>63</sup> While the U.S. has not ratified the Convention on the Rights of Persons with Disabilities (CRPD), Article 26 of the ICCPR also protects this right, recognizing that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law.”<sup>64</sup> We encourage the Human Rights Committee to interpret Article 26 of the ICCPR with an understanding of disability discrimination, as outlined within the CRPD and by the CRPD Committee.

As applied to sexual and reproductive healthcare in particular, in 2011, International Federation of Obstetricians and Gynecologists (FIGO) adopted guidelines specifically regarding female contraceptive sterilization, stating that only women themselves can give ethically valid consent to their own sterilization.<sup>65</sup> As such, a forced procedure occurs when a person is subjected without her knowledge or consent to the procedure, or is not given a chance to consent, including when the person is placed under guardianship.<sup>66</sup> These ethical standards could equally be applied to guardians denying access to medical care including gender affirming health care (discussed below). Human rights experts have also consistently found that only people with disabilities themselves—and not third parties such as parents, guardians, courts, or doctors—can make their own sexual and reproductive health decisions, and that legal and policy frameworks that deny them bodily autonomy may violate a range of rights, including the rights to privacy, non-discrimination, and freedom from torture or ill-treatment.<sup>67</sup>

## **C. Barriers to Accessing Gender Affirming Health Care for People with Disabilities**

Gender-affirming health care (hereinafter GAHC or GAC) is widely acknowledged as a safe and essential component of a person’s sexual and reproductive health care.<sup>68</sup> GAHC often includes

hormone therapy, puberty blockers, and surgical procedures.<sup>69</sup> Many types of GAHC, such as puberty blockers, are considered fully reversible.<sup>70</sup>

The U.S. medical community—including the Academy of Pediatrics Association—overwhelmingly agrees that GAHC is evidence-based and medically necessary care for people experiencing gender dysphoria.<sup>71</sup> Access to this care is not only life changing, it is lifesaving—people who are denied it consider and die by suicide at alarming rates,<sup>72</sup> and transgender people with disabilities are substantially more likely to experience suicidal thoughts and behaviors<sup>73</sup> than transgender people without disabilities. Although to our knowledge no data exists that disaggregate suicide rates based on disability, race, and gender, Black transgender and nonbinary people with disabilities are likely at particularly great risk of suicide. Recent research by the Trevor Project, which surveyed nearly 34,000 LGBTQ+ youth across the US reported that one and four Black transgender and nonbinary people reported attempted suicide.<sup>74</sup> This is a rate significantly higher than their black cis gender peers. Furthermore, the study found that compared with White transgender and nonbinary youth suicide rates among Black transgender and nonbinary youth were significantly higher: 16% and 25%, respectively.

Ensuring that GAHC is readily accessible and available will likely result in a significant decrease in these suicide rates. People who receive GAHC report it having a transformative impact on their will to live and quality of life.<sup>75</sup> Furthermore a recent meta-analysis of 27 studies that included a total of 7928 transgender patients who underwent a variety of gender affirming surgeries, found that only 1% of these patients regretted having a gender affirming surgery.<sup>76</sup> Research also demonstrates that people who have undergone gender affirming surgery, overwhelmingly report a high degree of satisfaction with their decision.<sup>77</sup> In contrast transgender people who do not have access to the care they need regularly describe the dehumanizing experiences they are perpetually subjected to and the devastating consequences their health.<sup>78</sup> There have been significant increases in suicidal thoughts, and decreases in quality of life reported by transgender people since 2022 and introduction of anti-trans legislation.<sup>79</sup>

GAHC is essential for all who need it, but its denial is disproportionately felt by trans and gender-diverse children and adults with disabilities living in the United States. Transgender people with disabilities are more likely than transgender people without disabilities to have a variety of negative experiences with health care providers, including being refused GAHC,<sup>80</sup> and according to a 2016 paper from the Disability Rights Education and Defense Fund “Transgender people with disabilities are more likely to experience [prohibitive] cost-of-care barriers”<sup>81</sup> than are trans people without disabilities. Many barriers to GAHC for people with disabilities also stem from providers faulty perceptions of people with disabilities as less credible narrators of their own experience.<sup>82</sup> Systemic racism in the U.S. health care and other systems further exacerbates this disparity for trans people of marginalized races, who have coverage for GAHC denied by their health insurance companies at higher rates than do trans people overall.<sup>83</sup> While medically necessary sexual and reproductive health care decisions for cis male children and adults without disabilities are overwhelmingly considered to be private decisions between the person involved and their doctor and family, the decisions of trans people with disabilities seeking medically necessary GAHC—as discussed *infra*—are publicly debated, restricted, and criminalized through laws and policies across the U.S.<sup>84</sup> This reality has been made all the more tenuous by *Dobbs*, which severely restricted implied privacy rights guaranteed under the U.S. Constitution to only those which are “deeply rooted in this Nation's history and tradition.”<sup>85</sup> The Supreme Court

decision in *Dobbs*, is already being used to justify denials of access to GAHC through court rulings such as the recent decision in *Eknes-Tucker v. Governor of the State of Alabama*.<sup>86</sup> Denials of GAHC discriminate against trans people with disabilities by depriving them access to medically necessary health care. This often results in arbitrary loss of life, by forcing them to lead lives that they find to be humiliating and demeaning, and by unjustifiably interfering with their ability to make private decisions about their bodies and families.

## **1. Current Legal Landscape of GAHC Affecting People with Disabilities**

Recently, there has been a proliferation of state laws and regulations across the U.S. that explicitly aim to deny trans children and adults access to GAHC.<sup>87</sup> At the time of this writing, 50 such laws are advancing through their respective state legislatures, and 23 have gone into effect in 18 states.<sup>88</sup>

Several of these laws and regulations disproportionately harm trans people with disabilities by specifically banning Medicaid—the “nation’s primary health insurance program for people with disabilities”<sup>89</sup>—from covering GAHC for its recipients.<sup>90</sup> University of California at Los Angeles (UCLA) Williams Institute report, “the Florida Agency for Health Care Administration issued a regulation expressly barring coverage for gender-affirming care under the state’s Medicaid program”<sup>91</sup> in 2022. Other state bills recently signed into law such as SB1 in Tennessee and SC/SB 254 in Florida block trans children including those with disabilities from accessing the GAHC they need by banning health care providers from providing it, and strip parents of custody of their child if they support their child’s decision to access GAHC.<sup>92</sup> In many cases these laws do have temporary injunctions against enforcement as they make their way through appeals courts.<sup>93</sup> There are also a number of bills at the federal level that threaten to deny access to GAHC for young people.<sup>94</sup> For instance, US HB 3328 if it is passed, will prohibit health care professionals from providing or prescribing treatments to patients under 18 for any transition-related care and prohibits referring minor patients to other providers for this care.<sup>95</sup> Some laws and regulations against GAHC specifically target people with disabilities. For example, according to a 2023 paper by the National Women’s Law Center, Missouri’s Attorney General has proposed an “emergency regulation” that could require that young people be screened for autism before receiving gender-affirming care.<sup>96</sup> This requirement is unjust and discriminatory. Autistic trans children know as much about their own gender as non-autistic trans children. They must be equally trusted to know what is best for themselves. Proponents of laws and regulations that ban GAHC for young people namely argue that parents have the right to make all health care decisions for their underage children and that these laws exist to protect vulnerable children. This argument is both legally misguided<sup>97</sup> and scientifically unsupported.<sup>98</sup>

## **2. Legal Capacity and GAHC Denial for People with Disabilities**

LGBTQIA+ people under guardianship are particularly vulnerable to the consequences of anti-LGBTQIA+ sentiment and discrimination. For example, denial of legal capacity through guardianship can restrict people’s access to essential GAHC, even in states that consider themselves safe places for trans people. Illinois and Massachusetts have both passed “trans refuge” laws which contain both protection and support for GAHC in the state.<sup>99</sup> These laws do not, however, impact guardians’ powers to make health care decisions for trans and gender-diverse people with disabilities who are under guardianship in those states.<sup>100</sup> Gender identity is a

private and subjective experience not a decision to be made. People under guardianship status know their own bodies and gender identity just as well as people not under guardianship. The right to seek out and consent to GAHC should be a fundamental right afforded to everyone regardless of guardianship status.

A research team in Massachusetts recently highlighted the problematic impact of guardianship for people with intellectual and developmental disabilities specifically, confirming that they have "...worked with LGBTQIA+ adults with intellectual and/or developmental disabilities whose court-appointed guardians did not know they were LGBTQIA+ or who were unsupportive or antagonistic toward their LGBTQIA+ identity."<sup>101</sup> They emphasize that "it is especially important that we understand the struggles and support needs of LGBTQIA+ adults whose decision-making is controlled by guardians who are unaware or unaccepting of their gender or sexual identity."<sup>102</sup> Trans people with disabilities have also spoken out about how informal deprivations of legal capacity likewise deny access to GAHC in states across the U.S., including those without explicit anti-trans legislation.<sup>103</sup>

### **III. The U.S. is Substantially Limiting Freedom of Expression, Especially in the Domains of Gender Identity and Educational Materials in Violation of Article 19 of ICCPR**

In the U.S., freedom of expression is established by the First Amendment to the Constitution. This amendment protects individual rights to speak freely and establishes that congress cannot prioritize one religious practice or preference over another.<sup>104</sup> This right is further reinforced in Article 19 of the ICCPR, which establishes that the "right shall include freedom to seek, receive, and impart information and ideas of all kinds."

Freedom of expression and information is being limited in the U.S. at both the state and federal levels and across multiple fronts. This erosion of civil rights is often directly related to governmental preferences for far-right Christian nationalism and white supremacy, further eroding the protections the First Amendment is meant to establish.<sup>105</sup>

For instance, freedom to receive and impart information is being limited through the public school and university curriculum, with direct impacts to LGBTQIA+ students with disabilities. Currently, the non-profit PEN American, has tracked 310 bills to regulate or otherwise monitor information in the forms of books, textbooks, and curriculum in schools since 2021, with 76 currently live bills at the time of this writing.<sup>106</sup> These have included attempts to ban diversity initiatives and education, remove sex and gender education and media, and sanitize historical information on these and other topics such as slavery and the civil rights movements.<sup>107</sup> For example, the 2023 social studies curriculum in Florida includes lessons on how "slaves developed skills" that could be used for personal benefit" This curriculum engages in unconscionable historical erasure and censorship of the egregious abuses and human rights violations perpetuated during slavery.<sup>108</sup> Additionally, a Texas education Bill, HB 1804, would require educational textbooks avoid including "selections or works that condone civil disorder, social strife, or disregard for the law" as well as any selections determined to be encouraging lifestyles that deviate from generally accepted standards of society.<sup>109</sup> Civil disobedience has played an integral role in the establishment of civil rights for groups such as people with disabilities, African Americans, and LGBTQIA+ people, many who may also be considered to deviate from generally accepted standards of society.

In addition to legislation that permits egregious historical erasure and greatly inhibits the education of youth across the country, some states are also passing anti-trans legislation meant to segregate facilities such as restrooms, prisons and shelters based on biological sex. Some legislation, such as Florida's Facility Requirements Based on Sex<sup>110</sup> criminalize the use of a bathroom that is not in accordance with a person's "biological sex." Anti-trans legislation often make faulty attempts to categorize biological sex as a dichotomy based on a persons assigned birth sex as male or female.<sup>111</sup> This categorization is scientifically and factually inaccurate.<sup>112</sup> There are at least three categories of assigned sex at birth, male, female, and intersex (a person who is born with a combination of male and female biological traits).<sup>113</sup> This categorization still simplifies true variation in hormone levels, genetics, and anatomy.<sup>114</sup> Furthermore, it has long been recognized by the scientific community that biological sex and gender identity (the personal sense of one's own gender) are not the same.<sup>115</sup> Legislation that attempts to dichotomize biological sex disregard these facts and discriminates against intersex people, and people whose biological sex does not match their gender identity. In addition to blatantly violating the rights of intersex and gender diverse people this type of legislation has unique implications for people with disabilities at large. These restrictions could be used to deny access to bathrooms for people with disabilities who may receive bathroom-related support from people of a different gender.<sup>116</sup>

Article 19 of the ICCPR notes that freedom of expression includes responsibilities to the "rights and reputations of others." In the U.S., these responsibilities are not sufficiently recognized. Instances of hate speech in the U.S. have increased by 10 percent for adults in the last year and 15 percent for teens 13-17 since 2022.<sup>117</sup> Simultaneously, demands to treat transgender people or affirming parents as dangerous or mentally unstable are being presented to an uneducated public. This anti-trans sentiment has resulted in 2021 having the highest number of hate-related trans deaths on record.<sup>118</sup> According to the Human Rights Campaign people of color represent 85% of the at least 300 transgender and gender-nonconforming victims of fatal violence since 2013, and Black transgender women represent 63% of these victims.<sup>119</sup> For transgender people with disabilities, the combined impact of ableism, lack of community, and misinformation about the safety and mental stability of LGBTQIA+ people create a hostile situation for integration and safety within the community at-large.<sup>120</sup>

#### **IV. Women and Gender Diverse People with Disabilities Face Barriers to and Restrictions on Political Participation, especially in the Domains of Registering to Vote and Voting, in Violation of Article 25 of the ICCPR.**

Article 25 of the ICCPR guarantees all citizens the right to vote and participate in public affairs more broadly.<sup>121</sup> Yet in the U.S., people living at the intersection of disability, gender, and racial marginalization are denied equal access to civic participation because of systems, both de facto and de jure, disenfranchise women, gender diverse people, and people of color with disabilities. This disenfranchisement occurs in at least two ways: (1) barriers to registering and voting, and (2) restrictions on registering and voting. As a result of these barriers, in 2020, the voter turnout rate among voters with disabilities was 5.7 percentage points lower than that among nondisabled voters—with an even larger gap, 6.5 percentage points, between women voters with disabilities and women voters without disabilities.<sup>122</sup>

## **A. Barriers to registering and voting**

People with disabilities face disproportionate barriers when attempting to exercise their Constitutional right to civic participation. While these barriers impact many marginalized communities, this section will review the unique ways in which they impact people with disabilities, including those of marginalized genders

### **1. Inaccessible Registration Methods**

Barriers for citizens with disabilities of marginalized genders begin with the registration process, an essential precursor to voting. Some state and local government offices that are required to offer opportunities for voter registration do not, in practice, offer these opportunities or provide citizens with assistance accessing them.<sup>123</sup>

Registering to vote by mail may not be accessible or possible for people with disabilities to do independently, whether due to difficulties completing the paper form or difficulties returning it.<sup>124</sup> Similarly, many states do not offer online registration options that meet digital accessibility standards, with common problems including forms and navigation structures that were inaccessible to screen readers, inaccessible images, and website design.<sup>125</sup> In 2016, only one state had an online voter registration system that was completely accessible. In 2020, 15 percent of nondisabled voters registered to vote online, whereas only 8.8 percent of voters with disabilities did so, resulting in a statistically significant gap of 6.2 percentage points.<sup>126</sup> Additionally, an audit conducted in advance of the 2020 general election found that 43 states' online systems for requesting mail-in ballots were not fully accessible.<sup>127</sup> These inaccessible systems impact the nearly 85% of women with disabilities who report using the internet.<sup>128</sup>

### **2. Inaccessible Polling Places and Voting Materials**

If people with disabilities are able to successfully register to vote, they still may face many accessibility-related barriers when attempting to exercise their right to do so. Every part of the voting process—across all methods of voting (i.e., not only the process for those who vote in-person on Election Day)—must be accessible in order to ensure that women and gender diverse people with disabilities can participate. Unfortunately, many aspects of these processes fail to incorporate one or more types of accessibility into their design or implementation. In 2020, 11 percent of voters with disabilities reported voting difficulties.<sup>129</sup> This number includes the 18 percent of voters with disabilities who encountered difficulties voting in person and the 5 percent who encountered difficulties voting by mail. While these numbers are not disaggregated, because of the statistics on voter turnout and disability prevalence discussed previously, it is likely that they include a disproportionate number of people of marginalized genders.

A 2017 report from the Government Accountability Office (GAO) outlined results from an audit of 178 polling places during the 2016 general election and found that 60 percent had one or more physical barriers inside or outside the polling place.<sup>130</sup> Once inside the polling place, voters with disabilities have the right to cast their vote independently and privately, and they may need an alternate voting apparatus in order to do so. The GAO's report found that 65 percent of accessible voting machines were configured in a way that did not allow all voters to cast their vote privately and independently.<sup>131</sup> Additionally, a survey conducted by the National Federation of the Blind found that, among blind and low-vision voters who used an accessible voting

machine in the 2020 general election, 27 percent reported that the machine was not set up when they arrived at their polling places; additionally, 25 percent reported that poll workers had difficulty setting up the accessible voting machine.<sup>132</sup>

Further challenges that voters with disabilities may face when attempting to vote in-person include:<sup>133</sup>

- Difficulty reading or seeing ballots;
- Difficulty waiting in long lines to vote;
- Difficulty communicating with poll workers when checking in or casting a vote;
- Lack of information about accessible voting options; and
- Misconceptions and stigma that poll workers hold about voters with disabilities and their rights.

Mail-in ballots do not necessarily provide greater accessibility. Challenges voters with disabilities report experiencing when completing a mail ballot include difficulties reading the ballot, understanding it, filling it out, or returning it.<sup>134</sup> A survey conducted by the National Federation of the Blind found that just 26 states provided a way for blind and low-vision voters to mark a mail ballot independently in the 2020 general election.<sup>135</sup>

### **3. ADA used as an excuse to close polling places**

While the inaccessibility of polling places violates the rights of voters with disabilities and must be remedied systemically, certain states are instead using this inaccessibility as an excuse to disenfranchise voters with and without disabilities—particularly voters of color and low-income voters<sup>136</sup>—by reducing the number of polling places in an election district. If a polling place does not meet ADA standards, election officials do not need to resort to closure; they can provide reasonable accommodations, even if those accommodations are nontraditional (such as bringing a ballot to the car of a voter who cannot climb the steps of a polling place without a ramp), and keep the polling place open. However, in a study of polling place closures, The Leadership Conference Education Fund noticed an “alarming trend” of citing the Americans with Disabilities Act (ADA) as justification for closing polling places, often in counties with higher proportions of Black and brown voters.<sup>137</sup> Reductions in the number of polling places are associated with increased wait time at an open polling place and increased travel time to get to those places<sup>138</sup>—both of which have a disproportionate impact on voters with disabilities.

### **4. Lack of Access to Transportation due to Gender and/or Disability**

When voters live greater distances from their polling place, access to transportation (whether their own car, public transportation, or rideshare) can impact whether they are willing or able to cast their ballot in-person. In a study conducted after the 2016 election, 29.4 percent of nonvoters cited transportation as a major or minor factor in their decision not to vote.<sup>139</sup>

Transportation access has a disproportionate impact on people with disabilities, including those of marginalized genders. For instance, 70 percent of people with disabilities report having both access to and the ability to drive a car, compared to 90 percent of nondisabled people.<sup>140</sup> According to 2020 census data, female-headed households were less likely to have access to a

car than male-headed households; this disparity was seen across every racial and ethnic group, though it was greater among households headed by people of color.<sup>141</sup>

When it comes to public transportation, the transportation needs of people with disabilities are disproportionately met by someone else's vehicle, taxi or rideshare, or para-transit.<sup>142</sup> People with disabilities are more likely than nondisabled people to report "always" having transportation problems;<sup>143</sup> public transit systems are not uniformly accessible,<sup>144</sup> and paratransit services are notoriously unreliable.<sup>145</sup> Paratransit vehicles often run very late and many people who qualify for paratransit are falsely determined to be ineligible because the transit agencies often do not adequately assess how a person's disability affects their ability to use the general public transit system.<sup>146</sup> Additionally, in 2017, the American Public Transit Association reported that women make up the majority (55 percent) of public transit riders.<sup>147</sup>

The Department of Motor Vehicles (DMV) is a common voter registration site in the United States. However, there is relatively lower use of DMVs among people with disabilities (because of actual or perceived restrictions on driving). This makes DMV offices not viable for voter registration among many disability communities.<sup>148</sup> In 2020, 35.2 percent of nondisabled voters registered at a DMV, in comparison to only 28.4 percent of voters with disabilities, a statistically significant gap of nearly 7 percentage points.<sup>149</sup>

## **5. Caregiving Responsibilities**

Voters need to balance other responsibilities in order to cast their ballots, and caregiving responsibilities are an example of a competing demand on voters' time and energy that creates inequitable barriers to voting for women and gender diverse people with disabilities. In a 2019 study led by Maria Shriver and Ai-jen Poo, 20 percent of caregivers reported that caregiving responsibilities prevented them from voting.<sup>150</sup> In 2015, estimates suggest that two-thirds of caregivers are women, and female caregivers spend 50 percent more time on caregiving responsibilities than male caregivers.<sup>151</sup>

## **6. Housing Insecurity**

Without an address, identification, reliable access to transportation, or access to voting information,<sup>152</sup> unhoused people face numerous barriers to political participation. Approximately 30 percent of unhoused people who are eligible to vote are registered to vote, and approximately 10 percent of the eligible unhoused population votes in each election.<sup>153</sup>

In 2022, an estimated 582,462 people were unhoused.<sup>154</sup> An estimated 39 percent of unhoused people are female, transgender, nonbinary, or questioning their gender.<sup>155</sup> Native Hawaiian/Pacific Islander, Black, Indigenous, Latinx, and multiracial populations all experience higher rates of houselessness than the White population.<sup>156</sup> Research suggests that one quarter of the unhoused population has a disability.<sup>157</sup> Factors such as the subminimum wage, Social Security income restrictions, shelter inaccessibility, persistent unemployment and underemployment, and discrimination in housing and employment all contribute to the higher rates of houselessness among people with disabilities.<sup>158</sup> As a result, citizens who experience houselessness, disability, and gender marginalization, particularly if they are also people of color, are disproportionately less likely to vote.

Additionally, these figures do not take into account individuals experiencing housing insecurity, who may face similar barriers. In 2021, an estimated 7 million people with disabilities paid more than 30 percent of their income on rent—putting them at increased risk of eviction, with Black women disproportionately impacted.<sup>159</sup>

## **7. Internet access and voting**

A 2022 report by scholars from Rutgers University noted that voters with access to the internet had a turnout rate 25 points higher than voters without access to the internet.<sup>160</sup> The internet is relevant for voter turnout because, as one of the report’s authors commented, “The internet provides access to election information and social networks that mobilize voting.”<sup>161</sup> However, voters with disabilities do not have equitable access to the benefits of internet access as they relate to voting: there is a nearly 9% gap in internet use between women with and without disabilities.<sup>162</sup>

### **C. Restrictions on Registering and Voting**

Across numerous states, many different types of laws directly and indirectly limit citizens with disabilities from registering and/or voting. Four of the 34 laws that restrict voting access in some way that were passed in 2021 (i.e., impacting the 2022 general election) increased barriers for voters with disabilities.<sup>163</sup> Some of these laws have a disproportionate impact on citizens with disabilities, while others explicitly name citizens with disabilities as the intended disenfranchised population. In practice, because of the statistics on voter turnout and disability identification discussed previously, these laws and policies likely have a disproportionate impact on women and gender diverse people with disabilities.

#### **1. Voting methods and election reforms**

A comparison of states’ voting access policies in 2016 and 2020 found that the participation of voters with disabilities increased in states that expanded access to mail-in ballots, provided ballot drop-boxes, extended early voting, and extended registration deadlines.<sup>164</sup> However, in recent years, many states have taken steps to reduce these options for registering and voting, with results disproportionately impacting people with disabilities, including those of marginalized genders.

Early voting, including vote-by-mail and early in-person voting, can also increase the accessibility of voting for people with caregiving responsibilities and people working multiple jobs or who cannot take time off of work to vote.<sup>165</sup> (Early voting has also been shown to reduce the length of lines at polling places on Election Day,<sup>166</sup> which also makes Election Day in-person voting more accessible to people with disabilities who cannot stand in long lines.) In 2020, nearly 24 percent of voters with disabilities voted early in-person, and over 51 percent of voters with disabilities voted by mail.<sup>167</sup> In 2021, however, three states passed laws limiting early voting, and ten states passed laws limiting vote-by-mail availability or eligibility.<sup>168</sup>

In particular, voting by mail offers great potential for voters with disabilities but, in many states, is limited by restrictions that make it an inaccessible option. In 2021, eight laws across seven states placed restrictions on providing a voter with assistance in returning their mail ballot<sup>169</sup>; a total of ten states allow only family members to return a mail ballot on behalf of a voter who cannot return it themselves, while two states require the voter to return their mail ballot.<sup>170</sup>

Additionally, as of 2021, 27 states use voters' signatures to verify—and thus count—ballots returned by mail.<sup>171</sup> This process disproportionately impacts voters with certain disabilities, such as voters with vision disabilities and/or dexterity disabilities.<sup>172</sup>

Another election reform, same-day registration, can increase the accessibility of voting for people experiencing housing insecurity, people who work multiple jobs, people with health conditions, and other groups of people whose existing voter registrations are more likely to lapse or be purged.<sup>173</sup> People with disabilities are disproportionately represented in each of these groups, and because of the many direct and indirect barriers to and restrictions on voting that impact this community, they may be at greater risk of being deregistered or being unable to register to begin with. However, as of 2021, same-day registration is only available in 21 states and Washington, D.C.<sup>174</sup>

## **2. Voter ID laws**

As of 2022, 35 states have voter identification (ID) laws, or laws that require or request voters to show a form of identification before they are permitted to cast their vote.<sup>175</sup> According to a 2006 survey by NYU's Brennan Center for Justice, 11 percent of U.S. citizens (21 million people) did not possess a photo ID, and 7 percent of U.S. citizens (13 million people) did not have access to citizenship documents.<sup>176</sup> Lack of access to these forms of identification were higher among people of color and low-income people.<sup>177</sup>

Additionally, a 2022 study by the Williams Institute at UCLA estimated that 203,700 transgender people living in the 31 states with voter ID laws do not have identification that accurately shows their name or gender.<sup>178</sup> Transgender people of color, low-income transgender people, unhoused transgender people, and transgender people with disabilities make up disproportionately high numbers of this population.<sup>179</sup>

Further, many people who do have some form of citizenship documentation do not have *accurate* documentation—for example, their documentation does not reflect their current legal name. This distinction impacts gender minorities in particular for several reasons. Because women in heterosexual marriages more commonly change their last name, and women and nonbinary people married to other women or nonbinary people may also change their last name, as many as 32 million women may not have updated proof of citizenship documents,<sup>180</sup> impacting their ability to vote if they live in a state with a voter ID law.

## **3. Voting restrictions resulting from guardianship**

In many states, adults placed under guardianship/conservatorship are denied their right to vote. As of 2020, 13 states do not allow citizens to vote if they are under guardianship.<sup>181</sup> An additional 22 states and Washington, DC allow courts to determine whether a citizen has the capacity to vote.<sup>182</sup> Additional laws differ across states, but only 10 states do *not* have any laws that restrict the right to vote based on disability.<sup>183</sup> Little information is available about the demographics of individuals who are under guardianship, but in 2011, it was estimated that the U.S. had 1.5 million active pending adult guardianship cases.<sup>184</sup> In 2016, it was estimated that women are the majority of long-term care residents and are disproportionately at risk of being

placed under guardianship.<sup>185</sup>

## V. Recommendations

To ensure that the U.S. guarantees the rights of women and gender diverse people with disabilities we suggest the recommendations below. We hope that the HRC will consider including these recommendations in its Concluding Observations to the State:

- Ratify the CRPD and CEDAW Conventions to provide an intersectional human rights framework through which to address human rights issues occurring at the intersection of gender and disability.
- Adopt policies to improve data collection concerning health care for people with disabilities across the lifespan, disaggregated by sex, gender, age, race, Indigenous identity, language, religion, and type of disability (at a minimum). Further, increase the research available on Black, Latina and Indigenous women with disabilities from an intersectional perspective, analyzing data and its impact accordingly.
- Ensure all laws developed that guarantee access to health care are inclusive of the needs and priorities of women and gender diverse people with disabilities. This means ensuring that multi-marginalized people with all types of disabilities, as well as their representative organizations, are included in the development and implementation of all laws and policies that directly or indirectly affect their lives. It also means adopting laws and policies at the state and federal levels that prohibit reproductive health interventions including forced sterilization performed without the free, prior, and informed consent of the person and ensuring that all people with disabilities can make decisions themselves about their health, without the need for a guardian's consent. Finally, it means guaranteeing that health care, including sexual and reproductive health information, goods, and services, is fully accessible to persons with disabilities and is provided with dignity and respect.
- Draft and enact robust federal legislation specifically intended to reduce the harms of the *Dobbs* decision, especially as it relates to multi-marginalized people with disabilities. This legislation should be created with the meaningful input of people with disabilities from a variety of backgrounds and identities.
- Make the Accessibility Standards for Medical and Diagnostic Equipment mandatory for all health care providers and manufacturers.
- Develop policies that incentivize medical schools and other healthcare education institutions to require medical students and other students pursuing careers in health care to take classes designed to increase competency regarding providing accessible health care to people with disabilities including women and gender diverse people with disabilities. This curriculum should also include information about disability, LGBTQIA+ and BIPOC culture and pride, history of these rights and justice

movements, the intersectional nature of disability and identity and different models of disability, including the social model of disability. Training curricula should be created and delivered by people with disabilities who represent the groups being discussed in the training. It is essential health care providers know how to provide accessible and culturally responsive care to a diverse patient population.

- Increase the enforcement of federal and state legislation that mandates the accessibility of communications, especially in regards to sexual and reproductive health and rights of people with disabilities, including routine wellness and preventive care, prenatal care, abortion care, and gender affirming health care. Additionally, take steps to increase the accessibility of information on state and federal government websites related to these topics. Information should be made available in a variety of formats and languages including Indigenous local languages, sign languages, and Easy Read formats.
- Draft and implement robust federal legislation for trans youth and adults with disabilities that provides protection against discrimination based on gender identity. Protection against discrimination should be broad and prohibit discrimination based on gender identity in places of public accommodation, state and local government programs and services, as well as within federally funded programs and services. Federal legislation must protect the right to access gender affirming health care. It is essential legislation decriminalize provision of gender affirming health care, remove excessive barriers to this care, such as prohibitive screenings for mental health diagnoses and/or Autism. Federal legislation should also secure the rights of public-school students to choose their pronouns without alerting parents. Trans adults and youth with disabilities should be meaningfully consulted and included in the drafting process of these pieces of legislation.
- Draft and enact federal legislation that makes it easier for people to legally change their name by reducing or eliminating the court costs associated with the name change requests and eliminating state requirements that people publicly announce their name change. This will help ensure that gender diverse people, people who are recently divorced and other people who may wish to change their name can do so quickly and privately.
- Draft and implement federal legislation intended to protect LGBTQIA+ people including people with disabilities who experience compounding effects of state legislation that is attacking freedom of expression of ‘otherness’ in lifestyle, body type, and functioning.
- Adopt federal legislation that protect and promote freedom of expression of diversity and pride in terms of gender identity, sexual orientation, race and ethnicity, and ability and reduces the harms of state legislation.
- Draft and enact federal legislation that reduces the states’ ability to engage in historical erasure and censorship of educational materials, especially as it relates to the expression of gender identity and sexual orientation, as well as factual history of

racism and civil rights victories gained through civil disobedience.

- Ensure that state and local government offices provide accessible opportunities for voter registration and that staff members are trained to assist citizens with disabilities, including citizens with disabilities of marginalized genders with registering to vote. Recognize that state restrictions on voting have a disproportionate impact on people with disabilities, including, people of color, women, and gender diverse people. Adopt federal legislation to counter these restrictions and promote the accessibility and inclusivity of voting.
- Ensure that online opportunities to register to vote and to request mail-in ballots meet the federal and state standards related to website accessibility.
- Increase the number of ADA-compliant polling places and accessible voting machines, seek to remedy ADA violations rather than closing polling places outright, and train poll workers on how to serve voters with disabilities, including women and gender diverse people with disabilities, effectively and respectfully.
- Explore election reforms that would facilitate voting for caregivers, individuals with limited access to transportation, and unhoused citizens.
- Increase the availability of, and decrease restrictions on, voting by mail, voting early in-person, and same-day registration.
- Repeal voter ID laws, especially in states with the strictest requirements.
- Repeal laws that disenfranchise voters under guardianship, and ensure that these voters have accessible opportunities to register and vote.

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<sup>1</sup> [The US Gender and Disability Justice Alliance](#) is a new disability justice oriented collective convening women, nonbinary persons, and other gender minorities with disabilities from across the United States together to take action on issues important to our community. This includes addressing ableism along with other relevant intersections of discrimination and prejudice.

<sup>2</sup> As feminists with disabilities and allies, [Women Enabled International](#) (WEI) advances human rights and justice at the intersection of gender and disability to challenge exclusionary, unjust systems and support the leadership and center the voices of women, girls, and gender-diverse people with disabilities globally.

<sup>3</sup> [The Autistic Women & Nonbinary Network](#) (AWN) provides community support and resources for Autistic women, girls, transfeminine and transmasculine nonbinary and genderqueer people, trans people of all genders, Two Spirit people, and all others of gender minorities.

<sup>4</sup> [The Autistic People of Color Fund](#) provides direct support, mutual aid, and reparations by and for Autistic people of color.

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<sup>5</sup>This calculation is based on an estimate from the Centers for Disease Control that there are 27 million women with disabilities in the U.S., as well as the total population of women in the U.S. provided by the U.S. census bureau (approximately 165 million). See *Quickfacts*, UNITED STATES CENSUS BUREAU (July 1, 2021)

<https://www.census.gov/quickfacts/fact/table/US/LFE046217>; *Women with Disabilities*, CTRS. FOR DISEASE CONTROL AND PREVENTION (Sept. 16, 2020), <https://www.cdc.gov/ncbddd/disabilityandhealth/women.html>.

<sup>6</sup>HRC Foundation, *Understanding Disability in The LGBTQ+ Community*, Human Rights Campaign, 2022 <https://www.hrc.org/resources/understanding-disabled-lgbtq-people> Last visited (Aug 10, 2022)

<sup>7</sup> See, e.g., Human Rights Committee, Concluding Observations: United States of America, ¶ 4, U.N. Doc. CCPR/C/USA/CO/4 (2014).

<sup>8</sup> U.S. CONST. art. VI. See *Murray v. The Schooner Charming Betsy*, 6 U.S. 64 (1804) and *Sterling v. Cupp*, 290 Ore. 611 (Or. 1981).

<sup>9</sup> *Guide to Disability Rights Laws*, U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION, <https://www.ada.gov/resources/disability-rights-guide/#rehabilitation-act> (last updated Feb. 28, 2020), quoting Section 504 of the *Rehabilitation Act of 1973*, as amended, 29 U.S.C. 794.

<sup>10</sup> Americans with Disabilities Act of 1990, 43 U.S.C. § 12101 (1990) (hereinafter ADA).

<sup>11</sup> ADA, 42 U.S.C. § 12101(a)(3)

<sup>12</sup> ADA, 42 U.S.C. § 12181 et seq. (2008).

<sup>13</sup> *Williams v. Kincaid*, 34 F.4th 759 (4th Cir. 2022), cert. denied, 2023 U.S. LEXIS 2825 (2023).

<sup>14</sup> Citing *Bostock v. Clayton County*, 140 S. Ct. 1731, 1741 207 L.Ed. 2d 218 (2020) (finding that discrimination on the basis of gender identity violates Title VII), numerous federal courts have held that Title IX likewise protects people from discrimination on the basis of sexual orientation and gender identity, given *Bostock's* reasoning that “it is impossible “it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex.” See, e.g., *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020), cert. denied, 2021 U.S. LEXIS 3441 (2021).

<sup>15</sup> Education Amendments Act of 1972, 20, U.S.C.S. § 1681(a).

<sup>16</sup> Following the decision in *Bostock*, discussed *supra*, the Department of Health and Human Services (HHS) released guidance stating Section 1557’s prohibition on discrimination includes discrimination based on gender identity. *HHS Notice and Guidance on Gender Affirming Care, Civil Rights, and Patient Privacy*, U.S. DEP’T OF HEALTH & HUMAN SERVS. (Mar. 2, 2022), <https://www.hhs.gov/sites/default/files/hhs-ocr-notice-and-guidance-gender-affirming-care.pdf>. In August 2022, the HHS issued a Notice of Proposed Rulemaking (NPRM) on ACA Section 1557 for a rule that “codifies protections against discrimination on the basis of sex as including discrimination on the basis of sexual orientation and gender identity.” *Fact Sheet: Nondiscrimination in Health Programs and Activities Proposed Rule Section 1557 of the Affordable Care Act*, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, <https://www.hhs.gov/civil-rights/for-providers/laws-regulations-guidance/regulatory-initiatives/1557-fact-sheet/index.html> (last visited July 31, 2023).

<sup>17</sup> Patient Protection and Affordable Care Act, 124 Stat. 119 § 1557(a) (2010).

<sup>18</sup> Christy Mallory & Will Tentindo, *Medicaid Coverage for Gender-Affirming Care*, UCLA SCHOOL OF LAW WILLIAMS INSTITUTE, at 11 (Dec. 2022), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Medicaid-Gender-Care-Dec-2022.pdf>.

<sup>19</sup> U.S. CONST. amend. XIV, § 1.

<sup>20</sup> *Section 2 of The Voting Rights Act*, U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

[https://www.justice.gov/crt/section-2-voting-rights-act#:~:text=Section%20of%20the%20Voting%20Rights%20Act%20of%201965%20prohibits,\(2\)%20of%20the%20Act](https://www.justice.gov/crt/section-2-voting-rights-act#:~:text=Section%20of%20the%20Voting%20Rights%20Act%20of%201965%20prohibits,(2)%20of%20the%20Act) (last updated Apr. 5, 2023).

<sup>21</sup>The VRA has been most notably limited through the Supreme Court decisions in *Shelby County v. Holder* (2013) and *Brnovich v. Democratic National Committee* (2021) —though this term’s surprising decision in *Allen v. Milligan* (2023) reaffirmed one of the remaining key sections of the VRA. *Shelby County v. Holder*, 570 U.S. 529 (2013) (striking down the “coverage formula” by which VRA had previously operated to determine which jurisdictions needed federal approval before changing any laws or practices related to voting, in effect gutting that powerful enforcement regime under the VRA). *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321 (2021) (adding additional factors for courts to weigh when analyzing lawsuits brought under VRA Section 2, making successfully challenging violations of the Act even more difficult). *Allen v. Milligan*, 143 S. Ct. 1487 (2023).

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- <sup>22</sup> *Help America Vote Act Programs*, ADMINISTRATION FOR COMMUNITY LIVING, <https://acl.gov/programs/community-inclusion-integration-and-access/help-america-vote-act-programs> (last modified on Apr. 25, 2023).
- <sup>23</sup> *Id.*
- <sup>24</sup> Jennifer P Wisdom et al., *Health disparities between women with and without disabilities: A review of the research Social work in public health* (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3546827> (last visited Jul 26, 2023).
- <sup>25</sup> Center for Research on Women with Disabilities, *Medical Professionals Knowledge*, <https://www.bcm.edu/research/centers/research-on-women-with-disabilities/topics/health-care/medical-professionals-knowledge>.
- <sup>26</sup> 17 of the 31 states that allow forcible sterilization allow for permanent forced sterilization and some of these laws were passed as late as 2019. See National Women's Health Law Center, *Forced sterilization of disabled people in the United States National Women's Law Center* (2022), <https://nwlc.org/resource/forced-sterilization-of-disabled-people-in-the-united-states/> (last visited Jul 31, 2023).
- <sup>27</sup> Laura H. Taouk, Michael F. Fialkow & Jay A. Schulkin, *Provision of reproductive healthcare to women with disabilities: A survey of obstetrician–gynecologists' training, practices, and perceived barriers*, 2 *Health Equity* 207–215 (2018).
- <sup>28</sup> Jennifer P. Wisdom et al., *Health disparities between women with and without disabilities: A review of the research Social work in public health* (2010), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3546827> (last visited Jul 26, 2023).
- <sup>29</sup> U.S. Department of Health and Human Services, *Section 1557 of the Patient Protection and Affordable Care Act*, (2022), <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html> (Last visited September 11, 2023).
- <sup>30</sup> See U.S. Access Board, *Advancing Equal Access to Diagnostic Services: Recommendations on Standards for the Design of Medical Diagnostic Equipment for Adults with Disabilities* (Dec. 6, 2013), <http://www.access-board.gov/guidelines-and-standards/health-care/about-this-rulemaking/advisory-committee-final-report/5-recommendations>.
- <sup>31</sup> Architectural and Transportation Barriers Compliance Board, *Standards for Accessible Medical Diagnostic Equipment Regulations.gov* (2017), <https://www.regulations.gov/document/ATBCB-2012-0003-0077> (last visited Jul 26, 2023).
- <sup>32</sup> Lisa I. Iezzoni et al., *Associations Between Disability and Breast Or Cervical Cancers, Accounting For Screening disparities*, 59 *Medical Care* 139–147 (2020).
- <sup>33</sup> Jackson Women's Health Orgn, et al v. Thomas Dobbs, et al, (5th Cir. 2020), <https://www.govinfo.gov/app/details/USCOURTS-ca5-19-60455>.
- <sup>34</sup> States with abortion bands, or restrictions include Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, West Virginia and Wisconsin. For more information and real time updates about abortion bands, and restrictions across the US see Center for Reproductive Rights, *Abortion laws by state, see Center for Reproductive Rights* (2023), <https://reproductiverights.org/maps/abortion-laws-by-state/> (last visited Jul 20, 2023).
- <sup>35</sup> See Asha Hassan et al., *Dobbs and disability: Implications of abortion restrictions for people with chronic health conditions*, 58 *Health Services Research* 197–201 (2022).
- <sup>36</sup> National Partnership for Women & Families, *State abortion bans harm more than 15 million women of color National Partnership for Women & Families* (2023), <https://nationalpartnership.org/report/state-abortion-bans-harm-woc/> (last visited Jul 20, 2023).
- <sup>37</sup> Elizabeth Court-Long et al., *Socioeconomic Factors at the Intersection of Race and Ethnicity Influencing Health Risks for People with Disabilities*, J. RACIAL AND ETHNIC HEALTH DISPARITIES, 2017, at 213-22.
- <sup>38</sup> Moya Bailey & Izetta Autumn Mobley, *Work in the Intersections: A Black Feminist Disability Framework*, 33 *GENDER & SOCIETY* 19 (Oct. 12, 2018).
- <sup>39</sup> *WEI responds to Dobbs v. Jackson Women's Health Organization Decision*, WOMEN ENABLED INT'L, (June 24, 2022), <https://womenenabled.org/news/wei-responds-to-dobbs/> (Last visited September 11, 2023).
- <sup>40</sup> One in every 65 mobility aids loaded onto airplane cargo holds are mishandled — either lost, damaged, or delayed — during transport. See Office of Aviation Consumer Protection, *Air Travel Consumer Report*, Department of Transportation (2023), <https://www.transportation.gov/sites/dot.gov/files/2023-05/May%202023%20ATCR.pdf> (last visited Jul 24, 2023).

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<sup>41</sup> See Allison Whelan & Michele Goodwin, *Abortion rights and disability equality: A new constitutional battleground* Washington and Lee University School of Law Scholarly Commons (2022), <https://scholarlycommons.law.wlu.edu/wlulr/vol79/iss3/4> (last visited Jul 20, 2023).

<sup>42</sup> Daniel Grossman et al., *Care Post-Roe: Documenting cases of poor-quality care since the Dobbs decision Advancing New Standards in Reproductive Health (ANSIRH)* (2023), <https://www.ansirh.org/sites/default/files/2023-05/Care%20Post-Roe%20Preliminary%20Findings.pdf> (last visited Jul 21, 2023).

<sup>43</sup>Id.

<sup>44</sup> Id.

<sup>45</sup> Brittni Frederiksen et al., *A National Survey of OBGYNs' Experiences After Dobbs*, Kaiser Family Foundation (2023), <https://www.kff.org/womens-health-policy/report/a-national-survey-of-obgyns-experiences-after-dobbs/> (last visited Jul 21, 2023).

<sup>46</sup> Asha Hassan et al., *Dobbs and disability: Implications of abortion restrictions for people with chronic health conditions*, 58 *Health Services Research* 197–201 (2022). Also see Donna Hoyert, *Maternal mortality rates in the United States, 2021* Centers for Disease Control and Prevention(2023), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm> (last visited July 21, 2023).

<sup>47</sup> Jessica L. Gleason et al., *Risk of adverse maternal outcomes in pregnant women with disabilities*, 4 *JAMA Network Open* (2021).

<sup>48</sup>U.S. Department of Labor, *Disability and the Digital Divide*, U.S. Department of Labor (2022), <https://www.dol.gov/sites/dolgov/files/ODEP/pdf/disability-digital-divide-brief.pdf> (last visited Aug 30, 2023).

<sup>49</sup>Andrew Perrin & Sara Atske, *Americans with Disabilities Less Likely Than Those Without to Own Some Digital Devices*, Pew Research Center (2021), <https://www.pewresearch.org/short-reads/2021/09/10/americans-with-disabilities-less-likely-than-those-without-to-own-some-digital-devices/#:~:text=Some%2062%25%20of%20adults%20with,25%2DFeb.> (last visited Aug 30, 2023).

<sup>50</sup> S.e. Smith, *Why is So Much of The Internet Still Inaccessible to Disabled People?* *The Week* (2015), <https://theweek.com/articles/567908/why-much-internet-still-inaccessible-disabled-people> (last visited Aug 30, 2023).

<sup>51</sup> U.S. Department of Justice, *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities*, *Federal Register* (2023), [https://www.federalregister.gov/documents/2023/08/04/2023-15823/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state?utm\\_source=federalregister.gov&utm\\_medium=email&utm\\_campaign=subscription%2Bmailing%2Blist](https://www.federalregister.gov/documents/2023/08/04/2023-15823/nondiscrimination-on-the-basis-of-disability-accessibility-of-web-information-and-services-of-state?utm_source=federalregister.gov&utm_medium=email&utm_campaign=subscription%2Bmailing%2Blist) (last visited Sep 1, 2023).

<sup>52</sup> Id.

<sup>53</sup> See e.g. Ayanna Alexander, *Abortion Havens Short on Spanish Speakers Scramble to Prepare*, *Bloomberg Law* (2022), <https://news.bloomberglaw.com/social-justice/abortion-havens-short-on-spanish-speakers-scramble-to-prepare> (last visited Sep 1, 2023).

<sup>54</sup> National Council on Disability, *The Current State of Health Care for People with Disabilities* (Sept. 2009), <https://www.ncd.gov/publications/2009/Sept302009#>. Also see Kellan Baker, Ashe McGovern & Sharita Gruberg, *The Medicaid program and LGBT communities: Overview and policy recommendations* Center for American Progress (2016), <https://www.americanprogress.org/article/the-medicaid-program-and-lgbt-communities-overview-and-policy-recommendations/> (last visited Jul 24, 2023).

<sup>55</sup> For more information about these restrictions, see American Civil Liberties Union, *Access Denied: Origins of the Hyde Amendment and other Restrictions on Public Funding for Abortion*, <https://www.aclu.org/other/access-denied-origins-hyde-amendment-and-other-restrictions-public-funding-abortion>.

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<sup>56</sup> Although the U.S. has still not joined the 186 states parties to the Convention on the Rights of Persons with Disabilities (CRPD), its mandate for and definition of legal capacity found in Article 12 and the corresponding General Comment 1 are commonly referenced by US advocates and provide helpful grounding. Article 12—equal recognition before the law—maintains that “persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.” CRPD, Art. 12(2). General Comment 1 clarifies the scope of this right, explaining that “Legal capacity is an inherent right accorded to all people, including persons with disabilities...it consists of two strands. The first is legal standing to hold rights and to be recognized as a legal person before the law...The second is legal agency to act on those rights and to have those actions recognized by the law.” CRPD General Comment 1, ¶ 14.

<sup>57</sup> Different states use different language to describe these systems. While most states use “guardian” and “guardianship,” some (like California) use “conservator” and “conservatorship.” In many states, “conservator” is a type of limited guardian that is empowered to make decisions only over financial matters for the person under the conservatorship. See *Turning Rights Into Reality: How Guardianship and its Alternatives Impact the Rights of People with Intellectual and Developmental Disabilities*, NAT’L COUNCIL ON DISABILITY, at 10 (June 10, 2019), [https://ncd.gov/sites/default/files/NCD\\_Turning-Rights-into-Reality\\_508\\_0.pdf](https://ncd.gov/sites/default/files/NCD_Turning-Rights-into-Reality_508_0.pdf).

<sup>58</sup> See *ASAN Statement on the Guardianship Bill of Rights Act*, AUTISTIC SELF ADVOCACY NETWORK (April 11, 2023), <https://autisticadvocacy.org/2023/04/asan-statement-on-the-guardianship-bill-of-rights-act/>.

<sup>59</sup> For example, Illinois has passed a law recognizing supported decision-making, whereas Michigan has not. Ill. Supported Decision-Making Agreement Act., 2021 Bill Text IL H.B. 3849. See *In Your State*, NATIONAL RESOURCE CENTER ON SUPPORTED DECISION-MAKING, <https://supporteddecisionmaking.org/in-your-state/>.

<sup>60</sup> See, e.g., *In Your State*, NATIONAL RESOURCE CENTER ON SUPPORTED DECISION-MAKING, <https://supporteddecisionmaking.org/in-your-state/>; *Ending Guardianship: How State Governments Take Away Our Right to Make Choices and How We Can Stop It*, AUTISTIC SELF-ADVOCACY NETWORK, <https://autisticadvocacy.org/actioncenter/issues/choices/guardianship/>.

<sup>61</sup> See, e.g., CRPD Committee, *General Comment No. 1: Article 12: Equal recognition before the law*, U.N. Doc. CRPD/C/GC/1 (2014).

<sup>62</sup> CRPD Committee, *General Comment No. 1 (2014): Article 12: Equal recognition before the law*, ¶ 28, U.N. Doc. CRPD/C/GC/1 (2014) (“States parties’ obligation to replace substitute decision-making regimes by supported decision-making requires both the abolition of substitute decision-making regimes and the development of supported decision-making alternatives. The development of supported decision-making systems in parallel with the maintenance of substitute decision-making regimes is not sufficient to comply with article 12 of the Convention.”).

<sup>63</sup> *Id.*, ¶ 35,

<sup>64</sup> ICCPR, art. 26.

<sup>65</sup> Committee for the Ethical Aspects of Human Reproduction and Women's Health (FIGO), *Female Contraceptive Sterilization*, 115 INT’L J. OF GYNECOLOGY AND OBSTETRICS 88 at 88-89, ¶ 8 (2011), <http://www.cehat.org/uploads/files/Female%20Contraceptive%20Sterilization%20Statement%281%29.pdf>

<sup>66</sup> *Id.*

<sup>67</sup> For a comprehensive summary of rights in this regard, see Women Enabled International, accountABILITY Toolkit: U.N. Standards on Sexual and Reproductive Health and Rights of Women and Girls with Disabilities (2018), <https://womenenabled.org/reports/wei-atk-un-standards-srhr-women-and-girls-with-disabilities/>.

<sup>68</sup> See, e.g., *Medical Organization Statements*, TRANSGENDER LEGAL DEFENSE & EDUCATION FUND, <https://transhealthproject.org/resources/medical-organization-statements/> (last visited July 31, 2023).

<sup>69</sup> *Get the Facts on Gender-Affirming Care*, HUMAN RIGHTS WATCH, <https://www.hrc.org/resources/get-the-facts-on-gender-affirming-care> (last updated July 25, 2023).

<sup>70</sup> *Puberty Blockers for Transgender and Gender-Diverse Youth*, MAYO CLINIC (June 14, 2023), <https://www.mayoclinic.org/diseases-conditions/gender-dysphoria/in-depth/pubertal-blockers/art-20459075>.

<sup>71</sup> See, e.g., *Medical Organization Statements*, TRANSGENDER LEGAL DEFENSE & EDUCATION FUND, <https://transhealthproject.org/resources/medical-organization-statements/> (last visited July 31, 2023).

<sup>72</sup> See, e.g., *Gender-Affirming Care Saves Lives*, COLUM. DEPT. OF PSYCHIATRY (Mar. 30, 2022), <https://www.columbiapsychiatry.org/news/gender-affirming-care-saves-lives>; *2022 U.S. National Survey on LGBTQ Youth Mental Health by State*, THE TREVOR PROJECT (Dec. 15, 2022), <https://www.thetrevorproject.org/research-briefs/2022-u-s-national-survey-on-lgbtq-youth-mental-health-by-state-dec-2022/>.

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<sup>73</sup> “Twelve percent (12%) of disabled respondents reported attempting suicide in the past year, as compared with 7% of all transgender respondents and 4% of the U.S. population. Additionally, 54% of disabled respondents reported attempting suicide in their lifetime, as compared with 40% of all transgender respondents and 4.6% of the U.S. population.” *Health Disparities at the Intersection of Disability and Gender Identity: A Framework and Literature Review*, DISABILITY RIGHTS EDUCATION & DEFENSE FUND, at 4 (July 2018), <https://dredf.org/wp-content/uploads/2018/07/Health-Disparities-at-the-Intersection-of-Disability-and-Gender-Identity.pdf>, citing S.E. James, et al., *The Report of the 2015 U.S. Transgender Survey*, NAT’L CTR. FOR TRANSGENDER EQUALITY 103–07 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (documenting health disparities of transgender people).

<sup>74</sup> The Trevor Project, *Mental Health of Black Transgender and Nonbinary Young People*, The Trevor Project (2023), <https://www.thetrevorproject.org/research-briefs/mental-health-of-black-transgender-and-nonbinary-young-people-feb-2023/> (last visited Sep 6, 2023).

<sup>75</sup> See, e.g., Travis Campbell, Samuel Mann, Duc Hien Nguyen, & Yana van der Meulen Rodgers, *Hormone Therapy, Suicidal Risk, and Transgender Youth in the United States*, 113 AEA PAPERS AND PROCEEDINGS (May 2023); Diana Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, JAMA NETWORK OPEN (Feb. 2022); and *Gender-Affirming Care Saved My Life. Everyone Should have Access to It*, ACLU INDIANA (Mar. 28, 2023); <https://www.aclu-in.org/en/news/gender-affirming-care-saved-my-life-everyone-should-have-access-it#:~:text=I%20finally%20could%20envision%20myself,care%20literally%20saved%20my%20life>.

<sup>76</sup> Susan Bewley, *Regret After Gender-Affirmation Surgery: A systematic review and meta-Analysis of Prevalence*, 10 PLASTIC AND RECONSTRUCTIVE SURGERY - GLOBAL OPEN (2022).

<sup>77</sup> See Lauren Bruce et al., *Long-term regret and satisfaction with decision following gender-affirming mastectomy*, JAMA SURGERY (2023).

<sup>78</sup> See, e.g., Travis Campbell, Samuel Mann, Duc Hien Nguyen, & Yana van der Meulen Rodgers, *Hormone Therapy, Suicidal Risk, and Transgender Youth in the United States*, 113 AEA PAPERS AND PROCEEDINGS (May 2023); Diana Tordoff et al., *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*, JAMA NETWORK OPEN (Feb. 2022); and *Gender-Affirming Care Saved My Life. Everyone Should have Access to It*, ACLU INDIANA (Mar. 28, 2023); <https://www.aclu-in.org/en/news/gender-affirming-care-saved-my-life-everyone-should-have-access-it#:~:text=I%20finally%20could%20envision%20myself,care%20literally%20saved%20my%20life>.

<sup>79</sup> The Trevor Project, *2023 U.S. National Survey on the mental health of LGBTQ Young People*, The Trevor Project(2023), <https://www.thetrevorproject.org/survey-2023/#intro> (last visited Sep 7, 2023).

<sup>80</sup> *Health Disparities at the Intersection of Disability and Gender Identity: A Framework and Literature Review*, DISABILITY RIGHTS EDUCATION & DEFENSE FUND, at 4 (July 2018), <https://dredf.org/wp-content/uploads/2018/07/Health-Disparities-at-the-Intersection-of-Disability-and-Gender-Identity.pdf>, citing S.E. James, et al., *The Report of the 2015 U.S. Transgender Survey*, NAT’L CTR. FOR TRANSGENDER EQUALITY 103–07 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (documenting health disparities of transgender people).

<sup>81</sup> *Id.* at 6.

<sup>82</sup> Center for Research on Women with Disabilities, *Medical Professionals Knowledge*, <https://www.bcm.edu/research/centers/research-on-women-with-disabilities/topics/health-care/medical-professionals-knowledge>.

<sup>83</sup> *Protecting and Advancing Health Care for Transgender Adult Communities*, CTR. FOR AMERICAN PROGRESS (Aug. 18, 2021), <https://www.americanprogress.org/article/protecting-advancing-health-care-transgender-adult-communities/>.

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<sup>84</sup> *2023 Anti-Trans Bills Tracker*, TRANS LEGISLATION Tracker, <https://translegislation.com/> (last visited July 31, 2023).

<sup>85</sup> *Dobbs* at 5, quoting *Washington v. Glucksberg*, 521 U. S. 702, 721 (1997).

<sup>86</sup> *Eknes-Tucker v. Governor of the State of Alabama*, (11th Cir. Aug. 21, 2023), <https://media.ca11.uscourts.gov/opinions/pub/files/202211707.pdf>

<sup>87</sup> See *Mapping Attacks on LGBTQ Rights in U.S. State Legislatures*, ACLU, <https://www.aclu.org/legislative-attacks-on-lgbtq-rights?impact=health> (last updated July 28, 2023).

<sup>88</sup> *Id.*

<sup>89</sup> *Policy & Advocacy: Medicaid*, THE ARC, <https://thearc.org/policy-advocacy/medicaid/> (last visited July 31, 2023).

<sup>90</sup> See *Medicaid Coverage of Transgender-Related Health Care*, MOVEMENT ADVANCEMENT PROJECT, <https://www.lgbtmap.org/equality-maps/medicaid> (last updated July 31, 2023). 7(a) of the regulation expressly provides that, “Florida Medicaid does not cover the following services for the treatment of gender dysphoria: 1. Puberty blockers; 2. Hormones and hormone antagonists; 3. Sex reassignment surgeries; and 4. Any other procedures that alter primary or secondary sexual characteristics.” ¶ 7(b) specifies, in direct contradiction to the best available medical evidence, that “the services listed in subparagraph 7(a) do not meet the definition of medical necessity....” Florida Rule 59G-1.050, § 7 (2022).

<sup>91</sup> See *supra* note 19, at 23. For the relevant text of the Florida regulation, see *Id.*

<sup>92</sup>For example, in Tennessee, S.B. 1 “as enacted, prohibits a healthcare provider from performing on a minor or administering to a minor a medical procedure if the performance or administration...is for the purpose of enabling a minor to identify with, or live as, a purported identity inconsistent with the minor’s sex. SB 0001, TENNESSEE GENERAL ASSEMBLY, [HTTPS://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0001&GA=113](https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB0001&GA=113) (last visited July 31, 2023). TN S.B. 1 is being currently being challenged by the Department of Justice. *Press Release, Department of Justice, Justice Department Challenges Tennessee Law that Bans Critical, Medically Necessary Care for Transgender Youth* (Apr. 26, 2023), <https://www.justice.gov/opa/pr/justice-department-challenges-tennessee-law-bans-critical-medically-necessary-care>. Similarly, SB/ SC 254, recently passed in Florida, prohibits the provision of GAHC to minors and allows the state to retain custody of minors whose parents support their decision to obtain GAHC. A federal court in Florida recently issued a temporary injunction against enforcement of certain portions of this legislation. See Martin Bishop et al. *Florida’s Gender Affirming Care Restrictions Enjoined by Federal Court*, JD Supra (2023), <https://www.jdsupra.com/legalnews/florida-s-gender-affirming-care-1831713/> (last visited Sep 8, 2023).

<sup>93</sup> See *American Civil Liberties Union, Mapping Attacks on LGBTQ Rights in U.S. state legislatures*, American Civil Liberties Union (2023), <https://www.aclu.org/legislative-attacks-on-lgbtq-rights?impact=other> (last visited Sep 8, 2023).

<sup>94</sup> Trans Formations Project, *National Bills - Trans Formations Project: Protect Trans Kids Trans Formations Project | Protect Trans Kids* (2023), <https://www.transformationsproject.org/national-bills> (last visited Sep 8, 2023).

<sup>95</sup> *Protecting Children from Experimentation Act H.R. 3328 118th Cong.* (2023).

<sup>96</sup> Ma’ayan Anafi, *It’s Time to Embrace Disabled Trans People*, NATIONAL WOMEN’S LAW CTR. (Mar. 31, 2023), <https://nwlrc.org/its-time-to-embrace-disabled-trans-people/> citing Press Release, Office of the Attorney General Andrew Bailey, Missouri Attorney General Andrew Bailey Announces Emergency Regulation on Gender Transition Interventions for Minors (Mar. 20, 2023), <https://ago.mo.gov/home/news/2023/03/20/missouri-attorney-general-andrew-bailey-announces-emergency-regulation-on-gender-transition-interventions-for-minors>.

<sup>97</sup> Although parents and guardians of children under 18 have the final say in most healthcare decisions for their children, their freedom to make decisions is not unlimited. Parents and guardians who willfully deprive their children of medically necessary healthcare can be sued civilly—and, in some cases, prosecuted criminally—for child abuse and neglect. Though laws vary by state, “[f]ederal legislation provides guidance to States by identifying

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a minimum set of acts or behaviors that define child abuse and neglect. The Federal Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C.A. § 5106g), as amended by the CAPTA Reauthorization Act of 2010, defines child abuse and neglect as, at minimum: ‘Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation’; or ‘An act or failure to act which presents an imminent risk of serious harm.’” *Definitions of Child Abuse & Neglect*, CHILD WELFARE AND INFORMATION GATEWAY, <https://www.childwelfare.gov/topics/can/defining/> (last accessed July 31, 2023).

<sup>98</sup> International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR].

<sup>99</sup> Lives on the Line: The Escalating Attacks on Trans, Non-Binary, Two-Spirit, and Intersex People’s Health, LAWYER’S FOR GOOD GOVERNMENT, <https://www.lawyersforgoodgovernment.org/trans-health-report>.

For example, Illinois law allows for both limited and plenary guardianship, and even limited guardians can (and often do) have the power to make all healthcare decisions for the person with a disability under guardianship.

*Serving as a Guardian for an Adult with Disabilities*, ILLINOIS STATE BAR ASSOCIATION, <https://www.isba.org/public/guide/guardianadulthoodisability>. So too in Massachusetts, where “a guardian of an incapacitated person *shall* make decisions regarding the incapacitated person's support, care, education, health and welfare....” (emphasis added). In making these health decisions, guardians in Massachusetts are only required to “...*consider* the expressed desires and personal values of the incapacitated person when making decisions...” “*to the extent known...*” and are otherwise empowered to “...act in the incapacitated person's *best interest* and exercise reasonable care, diligence, and prudence”<sup>100</sup> (emphasis added). MASS. GEN. LAWS Ch. 190B, § 5-309(a).

<sup>101</sup> Oscar E. Hughes & Alan Santinele Martino, *Community-Based Participatory Gender and Sexualities Research With LGBTQ+ People with Intellectual and/or Developmental Disabilities*, INTERNATIONAL JOURNAL OF QUALITATIVE METHODS (May 4, 2023).

<sup>102</sup> *Id.*

<sup>103</sup> As the autistic lawyer and activist Ma’ayan Anafi shared, “...when I was first seeking gender-affirming care, a doctor told me he wasn’t comfortable treating me because he didn’t think my autism was “under control.” Another provider, a therapist, refused to write me a letter supporting my treatment because of my disability. They weren’t the only medical professionals who doubted my gender identity or hesitated to provide me with gender-affirming care, and I soon learned that I had to hide or downplay my autistic traits to get the care I needed—something that many autistic people don’t have the privilege to do. See” Ma’ayan Anafi, *It’s Time to Embrace Disabled Trans People*, NATIONAL WOMEN’S LAW CTR. (Mar. 31, 2023), <https://nwl.org/its-time-to-embrace-disabled-trans-people/> citing Press Release, Office of the Attorney General Andrew Bailey, Missouri Attorney General Andrew Bailey Announces Emergency Regulation on Gender Transition Interventions for Minors (Mar. 20, 2023).

<sup>104</sup> Cornell Law School, *First Amendment*, Legal Information Institute (2023),

[https://www.law.cornell.edu/constitution/first\\_amendment](https://www.law.cornell.edu/constitution/first_amendment)

<sup>105</sup> *Id.*

<sup>106</sup> Pen America, *Pen America index of Educational Gag Orders*, Google Sheets (2023),

[https://docs.google.com/spreadsheets/d/1Tj5WQVBmB6SQg-zP\\_M8uZsQQGH09TxmBY73v23zpyr0/edit#gid=107383712](https://docs.google.com/spreadsheets/d/1Tj5WQVBmB6SQg-zP_M8uZsQQGH09TxmBY73v23zpyr0/edit#gid=107383712) (Last visited September 11, 2023)

<sup>107</sup> *Id.*

<sup>108</sup>see Kerry Breen, *Florida’s New Black History Curriculum says “Slaves Developed skills” that Could Be Used for “Personal Benefit”* CBS News (2023), <https://www.cbsnews.com/news/floridas-new-education-standards-says-slavery-had-personal-benefits/> (last visited Sep 10, 2023).

<sup>109</sup> Leo Wilson, *88(R) HB 1804 - introduced version - Bill Text* Texas Legislator Online (2023),

<https://capitol.texas.gov/tlodocs/88R/billtext/html/HB01804I.HTM> (last visited Sep 5, 2023).

<sup>110</sup> *Facility Requirements Based on Sex* CS/SB 1674, Florida senate, (2023).

<sup>111</sup> Lawmakers in Montana, Tennessee and Kansas have voted to narrowly define who is "female" and who is "male" in state law using such terms as "gametes," "ova," "sex chromosomes," "genitalia" and "immutable biological sex. See Shaylee Ragar, Blaise Gainey, & Rose Conlon, *These States are Narrowly Defining Who Is*

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“Female” and “Male” In Law, NPR (2023), <https://www.npr.org/2023/05/03/1172821119/kansas-montana-tennessee-narrowly-define-sex-female-male-transgender-intersex> (last visited Sep 10, 2023).

<sup>112</sup> See Amy B. McEuen, *Anti-Trans Bills Disregard the Science on Sex and Gender*, Progressive.org (2023), <https://progressive.org/op-eds/anti-trans-bills-disregard-science-sex-gender-mceuen-230621/> (last visited Sep 10, 2023).

<sup>113</sup> Id.

<sup>114</sup> Id.

<sup>115</sup> Id.

<sup>116</sup> For instance, a mother from Wichita, Kansas believes SB180, a recently passed state Bill that includes language defining male and female and allowing these definitions to determine areas like bathroom access, caused her and her adult son with disabilities to be removed from the women’s bathroom, which he uses so that his mother can assist him. See Leo Wilson, *88(R) HB 1804 - introduced version - Bill Text* Texas Legislator Online (2023), <https://capitol.texas.gov/tlodocs/88R/billtext/html/HB01804L.HTM> (last visited Sep 5, 2023).

<sup>117</sup> Center for Technology and Society, *Online Hate and Harassment: The American Experience 2023*, ADL (2023), <https://www.adl.org/resources/report/online-hate-and-harassment-american-experience-2023> (last visited Sep 5, 2023).

<sup>118</sup> Human Rights Campaign Foundation, *An Epidemic of Violence 2022*, HRC Digital Reports (2022), <https://reports.hrc.org/an-epidemic-of-violence-2022> (last visited Sep 10, 2023).

<sup>119</sup> Id.

<sup>120</sup> Movement Advancement Project, *LGBT People with Disabilities*, Movement Advancement Project (2019), <https://www.lgbtmap.org/file/LGBT-People-With-Disabilities.pdf> (last visited Aug 19, 2023).

<sup>121</sup> UN General Assembly, *International Covenant on Civil and Political Rights Art 25*, (December 16, 1996) 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#article-25> (Last visited September 11 2023).

<sup>122</sup> Lisa Schur & Douglas Kruse, *Fact Sheet on Disability and Voter Turnout in 2020*, Rutgers School of Management and Public Relations (2021), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/FactSheet\\_Disability\\_Voter\\_Turnout\\_2020.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf) (last visited Aug 10, 2023).

<sup>123</sup> Danielle Root & Mia Ives-Rublee, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>

<sup>124</sup> Danielle Root & Mia Ives-Rublee, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>

<sup>125</sup> Susan Mizner & Eric Smith, *Access Denied: Barriers to Online Voter Registration for Citizens with Disabilities*, American Civil Liberties Union (2015), [https://www.aclu.org/sites/default/files/field\\_document/021915-aclu-voterregonline.pdf](https://www.aclu.org/sites/default/files/field_document/021915-aclu-voterregonline.pdf) (last visited Aug 12, 2023).

<sup>126</sup> Susan Mizner & Eric Smith, *Access Denied: Barriers to Online Voter Registration for Citizens with Disabilities*, American Civil Liberties Union (2015), [https://www.aclu.org/sites/default/files/field\\_document/021915-aclu-voterregonline.pdf](https://www.aclu.org/sites/default/files/field_document/021915-aclu-voterregonline.pdf) (last visited Aug 12, 2023).

<sup>127</sup> Duque Systems, *Inaccessible vote-by-mail application forms* (2020), <https://www.deque.com/blog/vote-by-mail-accessibility/> (last visited Sep 5, 2023).

<sup>128</sup> Lisa Schur, Douglas Kruse & Mason Ameri, *Disability, The Voting Process, and the Digital Divide*, Rutgers University (2022), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/Disability\\_the\\_Voting\\_Process\\_and\\_the\\_Digital\\_Divide\\_EAC.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_the_Voting_Process_and_the_Digital_Divide_EAC.pdf) (last visited Aug 12, 2023).

---

<sup>129</sup> Id.

<sup>130</sup> U.S. Government Accountability Office, *Voters with Disabilities: Observations on Polling Place Accessibility and Related Federal Guidance [Reissued on December 4,] 2017*, Government Accountability Office (2020), <https://www.gao.gov/products/gao-18-4> (last visited Sep 5, 2023).

<sup>131</sup> Id.

<sup>132</sup> National Federation of The Blind, *Fact sheet: Americans with disabilities voting rights act Fact Sheet: Americans with Disabilities Voting Rights Act*, National Federation of the Blind (2023), <https://nfb.org/programs-services/advocacy/washington-seminar/washington-seminar-priorities/fact-sheet-voting-act> (last visited Sep 5, 2023).

<sup>133</sup> Danielle Root & Mia Ives-Ruble, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>

<sup>134</sup> Lisa Schur & Douglas Kruse, *Disability and voting accessibility in the 2020 elections, final report*, Election Assistance Commission (2021), [https://www.eac.gov/sites/default/files/voters/Disability\\_and\\_voting\\_accessibility\\_in\\_the\\_2020\\_elections\\_final\\_report\\_on\\_survey\\_results.pdf](https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf) (last visited Aug 10, 2023).

<sup>135</sup> National Federation of the Blind. (n.d.). Fact sheet: Americans with Disabilities Voting Rights Act. <https://nfb.org/programs-services/advocacy/washington-seminar/washington-seminar-priorities/fact-sheet-voting-act>

<sup>136</sup> Chelsea N. Jones, *Analysis States are Closing Polling Places. That Hurts Democracy*. The Washington Post (2022), <https://www.washingtonpost.com/politics/2022/06/17/vra-black-voting-rights-georgia-texas-suppression/> (last visited Aug 10, 2023).

<sup>137</sup> The Leadership Conference Education Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote*, (2019) <https://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf> (September 11, 2023).

<sup>138</sup> Chelsea N. Jones, *Analysis States are Closing Polling Places. That Hurts Democracy*. The Washington Post (2022), <https://www.washingtonpost.com/politics/2022/06/17/vra-black-voting-rights-georgia-texas-suppression/> (last visited Aug 10, 2023).

<sup>139</sup> Steward Charles, *Survey of The Performance of American Elections Dataverse*, Harvard Dataverse (2017), <https://dataverse.harvard.edu/file.xhtml?persistentId=doi%3A10.7910%2FDVN%2FY38VIQ%2F2NJDL9> (last visited Aug 10, 2023).

<sup>140</sup> Lisa Schur & Douglas Kruse, *Disability and voting accessibility in the 2020 elections, final report*, Election Assistance Commission (2021), [https://www.eac.gov/sites/default/files/voters/Disability\\_and\\_voting\\_accessibility\\_in\\_the\\_2020\\_elections\\_final\\_report\\_on\\_survey\\_results.pdf](https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf) (last visited Aug 10, 2023).

<sup>141</sup> National Equity Atlas, Car access: *National Equity Atlas Car Access*, National Equity Atlas (2020), [https://nationalequityatlas.org/indicators/Car\\_access?breakdown=by-gender](https://nationalequityatlas.org/indicators/Car_access?breakdown=by-gender) (last visited Aug 11, 2023).

<sup>142</sup> Lisa Schur & Douglas Kruse, *Disability and voting accessibility in the 2020 elections, final report*, Election Assistance Commission (2021), [https://www.eac.gov/sites/default/files/voters/Disability\\_and\\_voting\\_accessibility\\_in\\_the\\_2020\\_elections\\_final\\_report\\_on\\_survey\\_results.pdf](https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf) (last visited Aug 10, 2023).

<sup>143</sup> Id.

<sup>144</sup> Schruth, S. (2018, Nov. 15). Despite progress, true public transit accessibility remains elusive. *Metro Magazine*. <https://www.metro-magazine.com/10007269/despite-progress-true-public-transit-accessibility-remains-elusive>

<sup>145</sup> Simaiakis, Y. (2020, June 23). Cities ready to modernize paratransit may have a new solution. *Via*. <https://ridewithvia.com/resources/articles/cities-ready-to-modernize-paratransit-may-have-a-new-solution/>

<sup>146</sup> Yannis Simaiakis, *Cities Ready to Modernize Paratransit May Have a New Solution*, Ridewithvia.com (2023), <https://ridewithvia.com/resources/articles/cities-ready-to-modernize-paratransit-may-have-a-new-solution/>. (last visited Sep 5, 2023). Also see Kevin Irvine, *ADA Paratransit Eligibility Disability Rights*, Education & Defense Fund (2012), <https://dredf.org/news/publications/ada-paratransit-eligibility/> (last visited Sep 5, 2023).

- 
- <sup>147</sup> Hugh M. Clark et al. *Who Rides Public Transportation*, American Public Transit Association. (2017) <https://www.apta.com/wp-content/uploads/Resources/resources/reportsandpublications/Documents/APTA-Who-Rides-Public-Transportation-2017.pdf> (Last visited September 11, 2023).
- <sup>148</sup> Danielle Root & Mia Ives-Rublee, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>
- <sup>149</sup> Lisa Schur & Douglas Kruse, *Fact sheet on disability and voter turnout in 2020*, Rutgers School of Management and Public Relations (2021), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/FactSheet\\_Disability\\_Voter\\_Turnout\\_2020.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf) (last visited Aug 10, 2023).
- <sup>150</sup> Halle Lawrence, *2020 Election: Are Caregivers a Voting Bloc?*, Next Avenue, (2019) <https://www.nextavenue.org/2020-election-caregivers-influence/> (Last visited September 11, 2023)
- <sup>151</sup> National Center on Caregiving at Family Caregiver Alliance, *Women and Caregiving: Facts and figures*. Family Caregiver Alliance, (2023) <https://www.caregiver.org/resource/women-and-caregiving-facts-and-figures/> (Last visited September 11, 2023).
- <sup>152</sup> National Conference of State Legislatures, *Voting for All Americans: People Experiencing Homelessness*, NCSL (2021), <https://www.ncsl.org/elections-and-campaigns/voting-for-all-americans-people-experiencing-homelessness> (Last visited, September 11, 2023).
- <sup>153</sup> Id.
- <sup>154</sup> National Alliance to End Homelessness, *State of Homelessness: 2023 Edition*, National Alliance to End Homelessness(2023), <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness/> (last visited Aug 12, 2023).
- <sup>155</sup> Id.
- <sup>156</sup> Id.
- <sup>157</sup> Erin V Thomas & Chloe Vercruysse , *Homelessness Among Individuals with Disabilities: Influential Factors and Scalable Solutions*, National Association of County and City Health Officials (2019), <https://www.naccho.org/blog/articles/homelessness-among-individuals-with-disabilities-influential-factors-and-scalable-solutions> (last visited Aug 12, 2023).
- <sup>158</sup> Id.
- <sup>159</sup> Jaboa Lake, Valerie Novak & Mia Ives-Rublee, *Recognizing and Addressing Housing Insecurity for Disabled Renters*, Center for American Progress (2022), <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/> (last visited Aug 12, 2023).
- <sup>160</sup> Lisa Schur, Douglas Kruse & Mason Ameri, Disability, *The Voting Process, and the Digital Divide*, Rutgers University (2022), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/Disability\\_the\\_Voting\\_Process\\_and\\_the\\_Digital\\_Divide\\_EAC.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_the_Voting_Process_and_the_Digital_Divide_EAC.pdf) (last visited Aug 12, 2023).
- <sup>161</sup> U.S. Election Assistance Commission, *U.S. EAC releases “Disability, The Voting Process, and the Digital Divide” Study*, (2022), <https://www.eac.gov/news/2022/07/26/us-eac-releases-disability-voting-process-and-digital-divide-study> (Last visited September 11, 2023).
- <sup>162</sup> Lisa Schur, Douglas Kruse & Mason Ameri, Disability, *The Voting Process, and the Digital Divide*, Rutgers University (2022), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/Disability\\_the\\_Voting\\_Process\\_and\\_the\\_Digital\\_Divide\\_EAC.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/Disability_the_Voting_Process_and_the_Digital_Divide_EAC.pdf) (last visited Aug 12, 2023).
- <sup>163</sup> Brennan Center for Justice, *Voting Laws Roundup: December 2021* (2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021> (last visited September 11, 2023).
- <sup>164</sup> Lisa Schur & Douglas Kruse, *Fact Sheet on Disability and Voter Turnout in 2020*, Rutgers School of Management and Public Relations (2021), [https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program\\_Disability\\_Research/FactSheet\\_Disability\\_Voter\\_Turnout\\_2020.pdf](https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf) (last visited Aug 10, 2023).
- <sup>165</sup> Mijin Cha & Liz Kennedy, *Millions to the Polls Practical Policies to Fulfill the Freedom to Vote for All Americans* Demos.com (2014), <https://www.demos.org/sites/default/files/publications/Millions%20to%20the%20Polls%20Permanent%20and%20Portable%20Voter%20Registration.pdf> (last visited Aug 12, 2023).

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<sup>166</sup> Id.

<sup>167</sup> Lisa Schur & Douglas Kruse, *Disability and voting accessibility in the 2020 elections, final report*, Election Assistance Commission (2021), [https://www.eac.gov/sites/default/files/voters/Disability\\_and\\_voting\\_accessibility\\_in\\_the\\_2020\\_elections\\_final\\_report\\_on\\_survey\\_results.pdf](https://www.eac.gov/sites/default/files/voters/Disability_and_voting_accessibility_in_the_2020_elections_final_report_on_survey_results.pdf) (last visited Aug 10, 2023).

<sup>168</sup> Brennan Center for Justice, *Voting Laws Roundup: December 2021* (2022), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-december-2021> (last visited September 11, 2023).

<sup>169</sup> Id.

<sup>170</sup> Danielle Root & Mia Ives-Rublee, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>

<sup>171</sup> National Conference of State Legislatures, *Summary table 14: How States Verify Voted Absentee/Mail Ballots National Conference of State Legislatures*, (2022) <https://www.ncsl.org/elections-and-campaigns/table-14-how-states-verify-voted-absentee-mail-ballots> (last visited Aug 10, 2023).

<sup>172</sup> Danielle Root & Mia Ives-Rublee, *Enhancing Accessibility in U.S. Elections*, Center for American Progress (2021), <https://www.americanprogress.org/article/enhancing-accessibility-u-s-elections/>.

<sup>173</sup> Chris Van Buskirk, *Equity Advocates Push for Same-Day Voter Registration in Final Reform Bill*. WBUR, (2022) <https://www.wbur.org/news/2022/02/14/equity-advocates-same-day-elections-registration-voter-reform-massachusetts> (Last visited September 11, 2023).

<sup>174</sup> Laura Williamson & Jesse Rhodes, *Same-Day Registration is Essential to Voting Rights Debate*, The Hill (2021), <https://thehill.com/opinion/civil-rights/561066-same-day-registration-is-essential-to-voting-rights-debate/> (last visited Aug 10, 2023).

<sup>175</sup> National Conference of State Legislatures, *Voter ID laws* (2022), <https://www.ncsl.org/elections-and-campaigns/voter-id> (Last visited Aug, 10 2022).

<sup>176</sup> Brennan Center for Justice, *Citizens Without Proof*, Brennan Center for Justice (2006), [https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file/\\_39242.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file/_39242.pdf) (last visited Aug 11, 2023).

<sup>177</sup> Id.

<sup>178</sup> Kathryn K. O'Neill et al., *The Potential Impact of Voter Identification Laws on Transgender Voters in the 2022 General Election*, Williams Institute (2023), <https://williamsinstitute.law.ucla.edu/publications/trans-voter-id-impact/> (last visited Aug 11, 2023).

<sup>179</sup> Kathryn K. O'Neill et al., *The Potential Impact of Voter Identification Laws on Transgender Voters in the 2022 General Election*, Williams Institute (2023), <https://williamsinstitute.law.ucla.edu/publications/trans-voter-id-impact/> (last visited Aug 11, 2023).

<sup>180</sup> Brennan Center for Justice, *Citizens Without Proof*, Brennan Center for Justice (2006), [https://www.brennancenter.org/sites/default/files/legacy/d/download\\_file/\\_39242.pdf](https://www.brennancenter.org/sites/default/files/legacy/d/download_file/_39242.pdf) (last visited Aug 11, 2023).

<sup>181</sup> Bazelon Center for Mental Health Law et al *Vote, it's Your Right: A Guide to the Voting Rights of People with Mental Disabilities*, Bazelon Center for Mental Health Law (2020), <https://www.bazelon.org/wp-content/uploads/2020/10/Bazelon-2020-Voter-Guide-Full.pdf> (last visited Aug 12, 2023).

<sup>182</sup> Id.

<sup>183</sup> Id.

<sup>184</sup> Center for Elders and the Courts, *Guardianship & Conservatorship Data*, Center for Elders and the Courts (2021), [https://www.eldersandcourts.org/guardianship\\_conservatorship\\_general-information/basics/data\\_](https://www.eldersandcourts.org/guardianship_conservatorship_general-information/basics/data_) (last visited Aug 12, 2023).

<sup>185</sup> Kohn, N.A. & Smith, C. (2023). Defending voting rights in long-term care institutions. Forthcoming, *Boston University Law Review*. <http://dx.doi.org/10.2139/ssrn.4261137>