

TRANSADVOCATE

Trans people added to Violence Against Women Act

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https://www.transadvocate.com/trans-people-added-to-violence-against-women-act_n_13521.htm

Abstract

The original Violence Against Women Act (VAWA) was passed in 1994 and signed into law by then President, Bill Clinton. As you can imagine, the original act was not explicitly trans-inclusive. However, when the VAWA came up for reauthorization in 2012, lawmakers worked to ensure that trans people were covered. Republicans in the House and [...]

Article

The original Violence Against Women Act (VAWA) was passed in 1994 and signed into law by then President, Bill Clinton. As you can imagine, the original act was not explicitly trans-inclusive. However, when the VAWA came up for reauthorization in 2012, lawmakers worked to ensure that trans people were covered.

Republicans in the House and Senate fought the reauthorization of VAWA because it was explicitly inclusive of LGBT people and had provisions for helping battered undocumented immigrants. Additionally, The U.S. Conference of Catholic Bishops came out against VAWA specifically because would not allow groups to discriminate against the abused and battered based on their “sexual orientation” and “gender identity.” In February 2013, the House (286 to 138) and Senate (78 to 22) voted to reauthorize VAWA and President Obama signed the reauthorization on March 11, 2013.

One Hundred Thirteenth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Thursday,
the third day of January, two thousand and thirteen*

An Act

To reauthorize the Violence Against Women Act of 1994.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Violence Against Women
Reauthorization Act of 2013”.

Figure 1. Violence Against Women Act, 2013

While the now trans-inclusive law had passed, federal guidance on it was only recently released on April 9, 2014. The guidance states that as a condition of funding, the VAWA prohibits discrimination based on gender identity:

No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.

Moreover, the federal guidance makes it clear that if you’re getting VAWA funding, you are prohibited from discriminating against LGBT people in employment. Currently, Title VII of the Civil Rights Act prohibits discriminating against trans people in employment if the employer has more than 15 employees. The employment nondiscrimination condition within the VAWA closes the 15 or more loophole some small grantees may have used in the past.



Figure 2. 27

The Guidance defines gender identity as:

The VAWA nondiscrimination grant condition borrows the definition of “gender identity” from the Matthew Shepard-James Byrd Jr. Hate Crimes Prevention Act at 18 U.S.C. § 249(c)(4). “Gender identity” means “actual or perceived gender-related characteristics.” Gender identity is a person’s internal view of the individual’s gender. Transgender can be used to describe a person whose gender identity is different from the individual’s assigned sex at birth. Male, female, and transgender are all examples of gender identities for purposes of the nondiscrimination grant condition.

It goes on to make clear that gender identity will be respected in sex-segregated programs saying, “Both ‘sex-segregated’ and ‘sex-specific’ programming places individuals in a position to ‘choose’ to identify with a particular sex.” The guidance goes detailed what the Feds expect out of “sex-segregated” programs:

A recipient that operates a sex-segregated or sex-specific program should assign a beneficiary to the group or service which corresponds to the gender with which the beneficiary identifies, with the following considerations. In deciding how to house a victim, a recipient that provides sex-segregated housing may consider on a case-by-case basis whether a particular housing assignment would ensure the victim’s health and safety. A victim’s own views with respect to personal safety deserve serious consideration. The recipient should ensure that its services do not isolate or segregate victims based upon actual or perceived gender identity. A recipient may not make a determination about services for one beneficiary based on the complaints of another beneficiary when those complaints are based on gender identity.

For the purpose of assigning a beneficiary to sex-segregated or sex-specific services, best practices dictate that the recipient should ask a transgender beneficiary which group or service the beneficiary

wishes to join. The recipient may not, however, ask questions about the beneficiary's anatomy or medical history or make burdensome demands for identity documents.

Some VAWA recipients are also subject to the Prison Rape Elimination Act National Standards (28 C.F.R. pt. 115) or other agency requirements regarding the provision of services to transgender individuals. Those recipients should consult the appropriate federal agency to determine the scope of any applicable requirements.

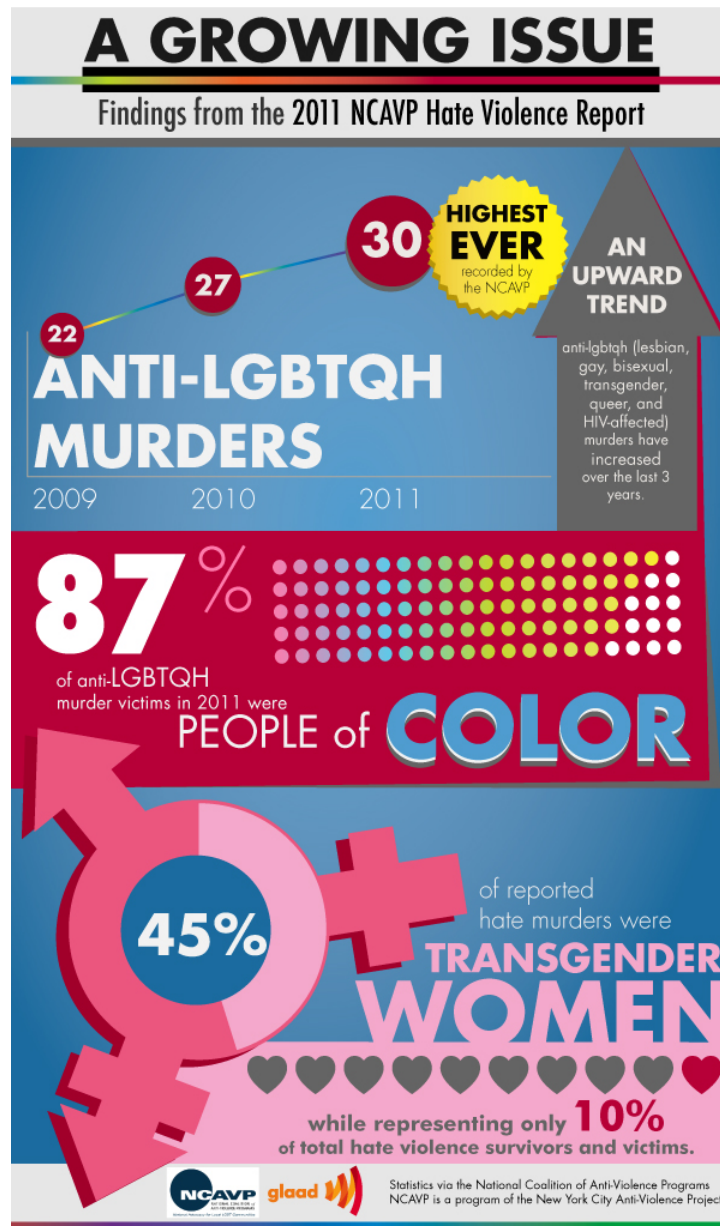


Figure 3. 5d86f7fa64d1c315cecbd0dc94074f6a[1]

NOTES:

Deconstructing that fallacy that trans women must be viewed as a rape risk:

Bigots Unite! Deploying the Klan Fallacy in 3... 2... 1

On Trans Homicide:

“Hate crimes against transgender people tend to be particularly violent. Our best estimates indicate that one out of every 1,000 homicides in the U.S. is an anti-transgender hate crime. This estimation is based on data collected by the national organizers of the Transgender Day of Remembrance and the Federal Bureau of Investigation. Organizers of the Transgender Day of Remembrance track the number of transgender people killed each year in hate-based attacks using media articles, community reports and other publicly available data. By this count, they estimate that at least 15 transgender people are killed each year in hate-based attacks, although we believe the number to be higher based on transgender people’s common fear of going to the police and widespread misreporting. The Federal Bureau of Investigation estimates approximately 14,000 homicides in the country each year. Based on these figures, we can estimate that approximately one out of every 1000 homicides in the U.S. is an anti-transgender hate-based crime.” - HRC

On the rate of rape within the trans community:

- 50%: Courvant, D., & Cook-Daniels, L., 1998. Transgender and intersex survivors of domestic violence: Defining terms, barriers and responsibilities
- 59%: Clements, K. SF Department of Public Health, Department of Public Health. (1999). The transgender community health project: Descriptive results. San Francisco: San Francisco.
- 54%: Kenagy, G. (2005). The health and social service needs of transgender people in Philadelphia. International Journal of Transgenderism, 8(2/3), 45-56. doi: 10.1300/J485v08n02_05
- 46%: Kenagy, G., & Bostwick, W. (2005). The health and social service needs of transgender people in Chicago. International Journal of Transgenderism, 8(2/3), 57-66. doi: 10.1300/J485v08n02_06

On the rate of anti-trans bashings within the trans community:

- 37%: Clements, K. SF Department of Public Health, Department of Public Health. (1999). The transgender community health project: Descriptive results. San Francisco: San Francisco.
- 43%: Kenagy, G. (2005). The health and social service needs of transgender people in Philadelphia. International Journal of Transgenderism, 8(2/3), 45-56. doi: 10.1300/J485v08n02_05
- 37%: Transgender Law and Policy Institute’s “Transgender Issues: Fact Sheet”

Suggested citation

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