

POLICY
PLAYBOOK

Published Dec. 2017

PREVENTING SEXUAL
ASSAULT & SUPPORTING
SURVIVORS

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POLICY PLAYBOOK

PREVENTING SEXUAL ASSAULT & SUPPORTING SURVIVORS

INTRODUCTION

Sexual assault is an intensely personal, devastating crime with far-reaching impacts in our communities. It is common, destructive, and nobody should be traumatized by navigating their next steps for safety and healing. One in five women will experience sexual assault while in college, and one in three women have experienced rape, physical violence, or stalking in their lifetime. One in six men experience abusive sexual experiences before age 18, and transgender individuals also experience shockingly high rates of sexual assault. The social media campaign #MeToo demonstrated the deeply personal impact sexual harassment and sexual assault have on millions of Americans. States can act to fund prevention efforts, ensure that systems (medical, criminal justice, schools, campuses, etc.) support survivors, and protect the safety of all survivors.

Leaders at the local, state, and federal levels have made considerable policy strides to ensure that survivors of sexual assault are treated with fairness, dignity, and respect. The crime victim rights movement began over 30 years ago, with the passage of federal legislation, including the Victim and Witness Protection Act in 1982 and the Victims of Crime Act (VOCA) in 1984. One decade later, the Violence Against Women Act (VAWA) passed with bipartisan support. With each reauthorization of VAWA, there have been continual advancements to ensure that survivors receive the care, compassion, and justice they deserve. For example, VAWA has been amended to better ensure coverage for evidence collection, rather than placing that burden on the survivor. VAWA also now requires coordination with health care providers to notify victims of the availability of this exam at no cost. In 2013, Congress amended VAWA to explicitly prohibit discrimination based on actual or perceived gender identify or sexual orientation – as well as race, color, religion, national origin, sex, or disability.

Tips on Approaching Sexual Assault Policy

When working on sexual assault policy, there are a few important things to keep in mind. Survivor voices are integral. All fifty states have coalitions working on sexual violence issues. These coalitions can help connect policy-makers with advocates and survivors who can provide personal and local testimony, as well as important insight, about these issues. Many survivors are looking for opportunities to engage publicly. However, be sure to work with coalition partners to ensure that survivors understand the privacy and confidentiality implications that may be involved.

Even though sexual assault is extremely common, the average person does not feel comfortable discussing the issue. Legislative hearings on these policy topics can be challenging for advocates and legislators who have been personally impacted by the crime. Committee chairs may need to be sensitive to these challenges and recognize that survivors may be emotional while giving testimony, may have challenges keeping their testimony time-limited, may need to take a break for water or need tissues while speaking, etc.

Many of the policies outlined in this playbook were designed for competent adults. Different interventions may be needed and/or required for minors, adults with intellectual disabilities, and at-risk elders.

Sexual assault policy is often addressed at the local level because each law enforcement department has its own policies and procedures for responding to this crime. Hospitals, campuses, tribes, and military installations typically have individualized response protocols as well. Because of this dynamic, the sexual assault field has routinely promoted the development and implementation of coordinated, multidisciplinary, victim-centered response through the creation and implementation of Sexual Assault Response Team (SART) community-based protocols.

While federal, state, local, and even departmental policies have led to important progress in addressing sexual assault, states can improve and standardize response to survivors by codifying laws that work to ensure that the complicated needs that survivors may face are met appropriately within varied systems – such as hospital-based care, criminal justice and civil law proceedings, and responses from schools and college campuses.

POLICY OPTIONS

Access to Community-Based Nonprofit Sexual Assault Advocacy and Counseling Services

Working with a community-based, nonprofit sexual assault advocate or counselor can offer enormous value to survivors. Advocates provide neutral information about resources and provide skills to help manage trauma symptoms. For example, an advocate can provide education and information about how to receive a medical forensic examination, report to law enforcement or campus authorities, create a safety plan, or obtain a civil protection order. It is the advocate's role to provide neutral information and resources, so a survivor can make informed choices. Advocates listen, believe, validate, and provide skills to help manage trauma symptoms. As social media campaigns like #MeToo increase public awareness, they can also trigger traumatic memories and [a significant increase](#) in the number of survivors seeking supportive services.

The distinction for community-based nonprofit services is an important one. Often, victim services funding is channeled directly to law enforcement or district attorney offices. While those systems certainly need resources for victim advocacy, many victims do not engage with the criminal justice system and seek community rape crisis centers for care and support. When victims do engage in the criminal justice system, they oftentimes still seek care and support from community-based programs that are solely focused on supporting the survivor, not a criminal justice outcome.

Unfortunately, rape crisis centers are woefully underfunded, and half of all rape crisis centers nationally [experienced funding cuts](#) in 2015. That year, one-third of rape crisis centers nationwide had to decrease hours of service for individual and/or group counseling. In 2016, over 100 advocate positions were either laid off or left unfilled due to funding, and over half of all rape crisis centers nationwide have a waiting list for counseling services. When rape crisis centers are not adequately funded, survivors are unable to receive services that are critical for both healing and justice.

State-based rape crisis advocates, and their legislator allies, have focused on ensuring that rape crisis

services are adequately funded. For example, successful advocacy efforts in Missouri in 2014 led to first-time state funding of \$500,000 for sexual assault services. In a dramatic end to the legislative session, Gov. Jay Nixon [vetoed the funding](#), which was followed by a bipartisan legislative override of the veto to restore the funding.

Some states ([Hawaii](#), [California](#), and [Kentucky](#), for example) have utilized a tax check-off option to increase funding for sexual assault services. Hawaii's tax check-off option is designated for a domestic violence and sexual assault special fund. In fiscal year 2014, the fund had almost \$300,000 in revenues.

Another way to fund services is through justice reinvestment, an approach to spending resources more effectively to reduce recidivism, decrease prison use, protect the public and hold offenders accountable. Community-based advocacy and victim service programs should be considered as set-asides for funding from these savings. For example, a 2013 law in Oregon established a grant program to assist with community-based victim services funding:

[2013 Oregon HB 3194/Chapter 649](#)

SECTION 54. Section 53 of this 2013 Act is amended to read: Sec. 53. (1)(a) In consultation with the Justice Reinvestment Grant Review Committee established under subsection (2) of this section, the Oregon Criminal Justice Commission shall administer the Justice Reinvestment Program described in this section. From funds appropriated to the commission for purposes of the program, the commission shall award grants to counties that establish a process to assess offenders and provide a continuum of community-based sanctions, services and programs that are designed to reduce recidivism and decrease the county's utilization of imprisonment in a Department of Corrections institution while protecting public safety and holding offenders accountable. (b) Notwithstanding paragraph (a) of this subsection, no less than 10 percent of grant funds awarded under this section must be distributed to community-based nonprofit organizations that provide services to victims of crime.

Improved Hospital and Medical Services for Survivors

States can act to ensure that survivors receive the care they need in a timely manner. Unfortunately, hospital staff are frequently untrained in providing medical forensic exam services and care, and hospitals are not always equipped with the necessary equipment to collect evidence. The lack of infrastructure can lead to survivors going to multiple hospitals to seek services, or traveling long distances for care. This issue is compounded for survivors who live in rural communities and do not have enough money to travel.

To complicate matters further, many hospitals interpret the federal Emergency Medical Treatment and Active Labor Act (EMTALA) as a mandate to provide emergency department screening and care, before referring a sexual assault patient to a better equipped hospital. This practice can result in victims being seen at two hospitals, and therefore incurring two bills, being turned away entirely, or never making it to a second hospital to receive the needed care.

To mitigate some of these resource and capacity issues that arise in hospitals nationwide, Senator Patty Murray (D-WA) and fellow Democrats introduced the [Survivors' Access to Supportive Care Act](#) in May 2016. As the passage of federal legislation is undetermined, state legislators can assist with addressing health care provision and service gaps for survivors of sexual assault, by advocating for broader access to Sexual Assault Nurse Examiners (SANE). One area to explore with in-state advocates may be coupling telemedicine options with educated SANE providers. However, there are still many areas of telemedicine that must be worked out (including, but not limited to): privacy issues for patients, medical record retention, and who is testifying in court.

2017 Vermont SB 95/Act 68

§ 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

(a) On or before September 1, 2017, the Vermont Association of Hospitals and Health Systems (VAHHS) and the Vermont SANE Program shall enter into a memorandum of understanding (MOU) to ensure improved access to sexual assault nurse examiners (SANE) for victims of sexual assault in underserved regions. Improved access may include all acute care hospitals to provide patients with care from a paid employee who is also a certified sexual assault nurse examiner or access to a shared regional staffing pool that includes certified sexual assault nurse examiners.

(b) The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.

(c) On or before January 1, 2018, the SANE Program shall report to the General Assembly on training participation rates pursuant to subsection (b) of this section.

410 ILCS 70 Sexual Assault Survivors Emergency Treatment Act

Sec. 2. Hospital requirements. Every hospital required to be licensed by the Department

What is a medical forensic exam? How is it different from a rape kit?

According to [information](#) provided by the International Association of Forensic Nurses: “The sexual assault medical forensic exam is an examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients. The examination includes gathering information from the patient for the medical forensic history; coordinating treatment of injuries; documentation of biological and physical findings; collection of evidence from the patient; information, treatment, and referrals for STIs, pregnancy, suicidal ideation, alcohol and substance abuse, and other non-acute medical concerns; and follow-up as needed to provide additional healing, treatment, or collection of evidence.”

While the term “rape kit” is commonly used in the media and in policy conversations, a rape kit solely refers to the collection of evidence and is not inclusive of the full scope of medical care required after a sexual assault. While collection of evidence is important to many survivors, policy measures should ensure full access to medical forensic exams, and not solely focus on rape kits.

While there are commendable policy advancements in ensuring the testing and tracking of rape kits, this policy guidance is focused on ensuring access to both medical care and evidence collection, including in rural and under-funded areas.

Source: [International Association of Forensic Nurses](#)

pursuant to the Hospital Licensing Act...which provides general medical and surgical hospital services shall provide either (i) transfer services or (ii) hospital emergency services and forensic services... to all sexual assault survivors who apply for either (i) transfer services or (ii) hospital emergency services and forensic services in relation to injuries or trauma resulting from sexual assault...

The Department shall periodically conduct on site reviews of such approved plans with hospital personnel to ensure that the established procedures are being followed.

Sec. 2.2 Emergency contraception.

(b) every hospital providing services to sexual assault survivors in accordance with a plan approved under Section 2 must develop a protocol that ensures that each survivor of sexual assault will receive medically and factually accurate and written and oral information about emergency contraception; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when victims may be provided emergency contraception upon the written orders of a physician licensed to practice medicine...

Sec. 5. Minimum requirements for hospitals providing hospital emergency services and forensic services to sexual assault survivors.

(a) Every hospital providing hospital emergency services and forensic services to sexual assault survivors under this Act shall, as minimum requirements for such services, provide, with the consent of the sexual assault survivor, and as ordered by the attending physician, and advanced practice nurse, or a physician assistant, the following:

- (1) Appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of a sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both; and records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the sexual assault survivor;*
- (2) Appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual assault;*
- (3) Appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault;*
- (4) An amount of medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, and advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors;*
- (5) An evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from the sexual assault;*
- (6) Written and oral instructions indicating the need for follow-up examinations and laboratory tests after the sexual assault to determine the presence or absence of sexually transmitted disease;*
- (7) Referral by hospital personnel for appropriate counseling; and*
- (8) When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up*



healthcare.

(b) Any person who is a sexual assault survivor who seeks emergency hospital services and forensic services or follow-up healthcare under this Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent.

No-Cost Medical Care

States can take steps to ensure that victims are not charged excessive amounts for seeking health care, including any component of sexual assault-related health care.

While states are federally prohibited from charging a victim for the costs of evidence collection (commonly referred to as rape kits), victims may still incur associated medical costs related to sexual assault care and treatment (such as x-rays, hospital stays, emergency room fees, prescription costs, etc.). The services covered as a part of an examination vary by state and even jurisdiction. States such as [Illinois](#) and [Colorado](#) have passed legislation to ensure there are payment mechanisms to assist victims with the costs of all components of sexual assault-related health care. While these types of policies are challenging in budget-constrained environments, legislators have been able to leverage bipartisan support and forge innovative solutions to ensure this need is met.

410 ILCS 70 Sexual Assault Survivors Emergency Treatment Act

Sec. 7.5. Prohibition on billing sexual assault survivors directly for certain services; written notice; billing protocols.

(a) A hospital, health care professional, ambulance provider, laboratory, or pharmacy furnishing hospital emergency services, forensic services, transportation, follow-up healthcare, or medication to a sexual assault survivor shall not:

- (1) Charge or submit a bill for any portion of the costs of the services, transportation, or medications to the sexual assault survivor, including any insurance deductible, co-pay, co-insurance, denial of claim by an insurer, spenddown, or any other out-of-pocket expense;*
- (2) Communicate with, harass, or intimidate the sexual assault survivor for payment of services, including, but not limited to, repeatedly calling or writing to the sexual assault survivor and threatening to refer the matter to a debt collection agency or to an attorney for collection, enforcement, or filing of other process;*
- (3) Refer a bill to a collection agency or attorney for collection action against the sexual assault survivor;*
- (4) Contact or distribute information to affect the sexual assault survivor's credit rating; or*
- (5) Take any other action adverse to the sexual assault survivor or his or her family on account of providing services to the sexual assault survivor.*

Ensuring Reporting Options for Survivors

Mandatory reporting requirements can create unintended consequences that prevent survivors from seeking needed care, while putting medical professionals in difficult positions. States can allow anonymous

reporting so that victims can seek medical care without fear of the unintended consequences that can happen when a survivor reports this crime.

Due to fear of retaliation, safety concerns, desire for privacy, or distrust of the criminal justice system, many survivors are hesitant to report or provide identifying information to law enforcement. These concerns are often exacerbated in communities of color and in immigrant communities. To complicate matters, many states still have a complex matrix of mandatory reporting laws, which often apply to adult survivors seeking medical care. These types of laws can deter survivors from seeking medical treatment due to fear of a forced interaction with law enforcement and can put medical professionals in the difficult position of determining what needs to be reported, or acting against the wishes of their patient.

When considering reporting options, states must consider whether there is a statutory obligation for medical professionals to make a report to law enforcement when they believe a crime may have occurred. State statutes can be constructed to ensure that adult survivors have autonomy over their identifying information and law enforcement involvement with the case. Passing a law to create an anonymous reporting option often needs to be coupled with a statewide training and communications plan, to ensure that survivors know about this option and law enforcement, medical institutions, and district attorney offices comply.

Anonymous reporting – also known as “blind reports” or “Jane/John Doe reports” – allows adult victims and others to share critical information about sexual assaults without sacrificing victim confidentiality and without requiring victims to make an immediate decision regarding law enforcement participation. An anonymous reporting option allows survivors to learn more about the criminal justice system and their options, while restoring some control over the process. It also enables investigators to gain information about crimes that would otherwise go unreported. Some law enforcement departments and jurisdictional policies mandate the use of a pseudonym such as Jane or John Doe; other states and jurisdictions collect evidence and enable reports using a tracking number instead of a name.

Due to the variation among existing statutes, each state and local jurisdiction will have to create their own unique solutions, but examples of states and jurisdictions that have implemented anonymous reporting policies or legislation can be found in [South Carolina \(2009 SC HB 3677, Section 5](#) removed requirement to first file an incident report); [North Carolina \(NC Statues § 143B-601](#) provides the Department of Public Safety with the duty to manage anonymous rape kits); Colorado ([2015 CO SB 128](#)); [Duluth, Minnesota](#); and [Lincoln, Nebraska](#).

[2015 Colorado SB 128](#)

Section 1. 12-36-135. Injuries to be reported – penalty for failure to report – immunity from liability.

(b) (1) When a licensee or nurse performs a medical forensic examination that includes the collection of evidence at the request of a victim of sexual assault, the licensee’s or nurse’s employing medical facility shall, with the consent of the victim of the sexual assault, make one of the following reports to



law enforcement:

(A) A law enforcement report if a victim wishes to obtain a medical forensic examination with evidence collection and at the time of the medical forensic examination chooses to participate in the criminal justice system;

(B) A medical report if a victim wishes to obtain a medical forensic examination with evidence collection but at the time of the medical forensic examination chooses not to participate in the criminal justice system. The licensee or nurse shall collect such evidence and victim identifying information, and the employing medical facility shall release the evidence and information to law enforcement for testing in accordance with section 24-33.5-113 (1) (b) (III), C.R.S., and storage in accordance with section 18-3-407.5 (3) (c), C.R.S.

(C) An anonymous report if a victim wishes to obtain a medical forensic examination with evidence collection but at the time of the medical forensic examination chooses not to have personal identifying information provided to law enforcement or to participate in the criminal justice system. The licensee or nurse shall collect such evidence, and the employing medical facility shall release it to law enforcement for storage in accordance with section 18-3-407.5 (3) (c), C.R.S. Law enforcement shall receive no identifying information for the victim. Law enforcement shall assign a unique identifying number to the evidence, and the licensee or nurse shall record the identifying number in the medical record and notify the victim that the identifying number is recorded. Additionally, the licensee or nurse shall provide the identifying number to the victim.

(II) Nothing in this section:

(A) Prohibits a victim from anonymously speaking to law enforcement about the victim's rights or options prior to determining whether to consent to a report described in this paragraph (b); or

(B) Requires a licensee, nurse, or medical facility to make a report to law enforcement concerning an alleged sexual assault if medical forensic evidence is not collected.

Protections for Specific Populations

Sexual Abuse Prevention in K-12 Education

The #MeToo social media campaign has dramatically increased awareness about the prevalence of sexual violence, but it has also shed light on the tragic reality that [children are routinely victimized](#). At the primary and secondary level, 26 states have passed legislation that requires public schools to implement a child sexual abuse prevention program. Legislation at the state level should focus on adult responsibility and accountability, while also integrating content on appropriate boundaries and healthy relationships as part of a comprehensive health curriculum. The National Alliance to End Sexual Violence authored a [policy statement](#) on the core components of comprehensive child sexual abuse prevention legislation. State legislators are also encouraged to review the [Safe Place to Learn](#) tools – commissioned by the White House Task Force to Protect Students from Sexual Assault – in order to ensure that states are working to comply with Title IX sex discrimination prohibitions and to create a positive school climate, free from sexual violence.

Texas Education Code Section 38.0041

Policies Addressing Sexual Abuse and Other Maltreatment of Children.

(a) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse and other maltreatment of children, to be included in the district improvement plan under Section 11.252 and any informational handbook provided to students and parents.

(b) A policy required by this section must address:

- (1) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by the agency under Section 38.004;*
- (2) actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and*
- (3) available counseling options for students affected by sexual abuse or other maltreatment.*

(c) The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children.

The training:

- (1) must be provided, as part of a new employee orientation, to all new school district and open-enrollment charter school employees and to existing district and open-enrollment charter school employees on a schedule adopted by the agency by rule until all district and open-enrollment charter school employees have taken the training; and*
- (2) must include training concerning:*
 - (A) factors indicating a child is at risk for sexual abuse or other maltreatment;*
 - (B) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;*
 - (C) internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;*
 - (D) techniques for reducing a child's risk of sexual abuse or other maltreatment; and*
 - (E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.*

2012 Delaware SB 206/Chapter 357

§14-41-4112E School Teen Dating Violence and Sexual Assault Act.

(b) Teen dating violence and sexual assault policies. — Each school district and charter school serving any grades 7 through 12 shall establish a policy for responding to teen dating violence and sexual assault, which at a minimum, shall include the following components:

- (1) Definitions of teen dating violence and sexual assault, the behaviors which constitute each and*

the consequences for committing offenses;

(2) Guidelines on mandatory reporting and confidentiality as required by statute, district policy, and charter school policy;

(3) A protocol for responding to incidents of teen dating violence and sexual assault which shall include, but is not limited to:

a. Procedures regarding initial response;

b. Procedures for reporting incidents of teen dating violence and sexual assault when a report is required;

c. Procedures for the documentation of incidents;

d. Procedures for working with victims; e.

Procedures for working with perpetrators.

(c) Each school district and charter school shall ensure that its administrator(s), school nurses(s) and school counselor(s) in schools serving any grade 7 through 12 receive teen dating violence and sexual assault policies and protocol training during their first year of assignment as an administrator, school nurse or school counselor in 1 of those schools and at least once in every 3-year period thereafter.

The training materials and trainings shall be developed and provided by the Delaware Domestic Violence Coordinating Council...

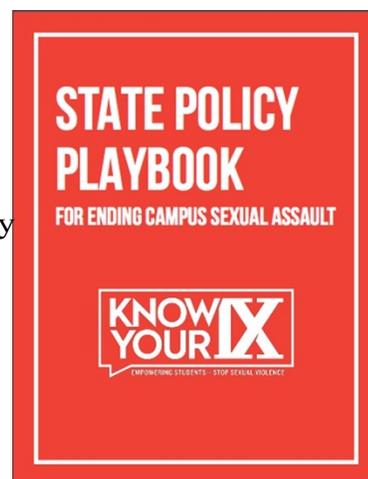
(d) Each school district and charter school shall ensure existing health standard programming related to comprehensive healthy relationships, based on the Health Standards adopted by the Delaware Department of Education as approved by the State Board of Education, is provided in health education programs or related classes. The Domestic Violence Coordinating Council shall have the authority to review and advise on the implementation of school district policies and charter school policies related to teen dating violence and sexual assault.

Higher Education

Unfortunately, much of the [federal progress](#) made during the Obama administration to prevent sexual assault and protect survivors' rights in higher education is being rolled back and scrutinized under the current administration. However, states have a critical role to play in protecting progress made and defending these rights.

[Know Your IX](#) has created a campus sexual assault [policy playbook](#). This in-depth resource provides specific legislative recommendations and models for addressing campus sexual assault and should be referenced for in-depth policy guidance on this topic.

The playbook policy recommendations on the following topics: campus transparency, prevention, safe and confidential reporting, resources and accommodations, fair disciplinary procedures, funding safe campuses, strong enforcement, and harmful policies to reject.



Survivors Who Are Incarcerated

All survivors of sexual violence—no matter where the abuse occurred or the circumstances—deserve support, compassion, and dignity in seeking care. People who are incarcerated are extremely vulnerable to sexual assault, and suffer from extremely high rates of perpetration. At the federal level, the [Prison Rape Elimination Act \(PREA\)](#) was signed into law in 2003, and [PREA national standards](#) to address prison rape were released by the U.S. Department of Justice in 2012. These comprehensive standards contain numerous components to address this issue—including (but not limited to) prevention, staff screening, inmate education, protective housing with limits on the placement of survivors in solitary confinement, access to “outside” confidential advocates and counselors, medical care, and evidence collection. However, state compliance with PREA standards vary. State legislators can support victims who are incarcerated by working to codify independent oversight, funding, survivor rights, and response protocols for this extremely vulnerable population. When the government removes someone’s liberty, it takes on an absolute responsibility to protect that person’s safety.

[Texas HB 07-1944/Chapter 1217](#)

SECTION 3. Chapter 501, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

Sec. 501.172. Appointment of Ombudsperson. The board shall appoint an ombudsperson to coordinate the department’s efforts to eliminate the occurrence of sexual assault in correctional facilities. The ombudsperson shall report to the board.

Sec. 501.173. Powers and Duties of Ombudsperson. (a) the ombudsperson shall:

- (1) monitor department policies for the prevention of sexual assault in correctional facilities;*
- (2) oversee the administrative investigation of inmate complaints of sexual assault;*
- (3) ensure the impartial resolution of inmate complaints of sexual assault; and*
- (4) collect statistics regarding all allegations of sexual assault from each correctional facility in accordance with the standards established by the National Prison Rape Elimination Commission.*

(c) The ombudsperson may collect evidence at correctional facilities and interview inmates or employees at correctional facilities in conducting an investigation of an inmate complaint of sexual assault under this section.

(d) The ombudsperson may not require an inmate who reports a sexual assault to assist in the investigation or prosecution of the offense.

Sec. 501.174. Department to Adopt Policy. The department shall adopt a policy providing for:

- (1) a designated administrator at each correctional facility to post information throughout the facility describing how an inmate may confidentially contact the ombudsperson regarding a sexual assault;*
- (2) an inmate to write a confidential letter to the ombudsperson regarding a sexual assault;*
- (3) employees at correctional facilities, on notification of the occurrence of a sexual assault, to immediately:*
 - (A) contact the ombudsperson and the office of the inspector general; and*

(B) ensure that the alleged victim is safe;

(4) the office of the inspector general, at the time the office is notified of the sexual assault, to arrange for a medical examination of the alleged victim...

It is important to note that this position reports to the Texas Board of Criminal Justice and works together with the Texas Department of Criminal Justice. Because independence is an important element for effective oversight, legislators may consider strategizing with advocates as to whether the ombudsperson can be structured or placed as an independent entity.

State legislators can also advance legislation to ensure that previous trauma is recognized and responded to in corrections systems. Researchers have studied trauma prior to incarceration. Studies in both California and North Carolina found that [80 percent](#) of their samples of incarcerated women had been physically and/or sexually abused prior to incarceration.

Illinois HB 17-3904/Public Act 100-527

730 ILCS 5/3-2-5.5. Women's Division.

(a) As used in this Section:

"Trauma-informed practices" means practices incorporating gender violence research and the impact of all forms of trauma in designing and implementing policies, practices, processes, programs, and services that involve understanding, recognizing, and responding to the effects of all types of trauma with emphasis on physical, psychological, and emotional safety. (b)

The Department shall create a permanent Women's Division under the direct supervision of the Director. The Women's Division shall have statewide authority and operational oversight for all of the Department's women's correctional centers and women's adult transition centers. (c) The Director

shall appoint by and with the advice and consent of the Senate a Chief Administrator for the Women's Division who has received nationally recognized specialized training in gender-responsive and trauma-informed practices. The Chief Administrator shall be responsible for:

(1) management and supervision of all employees assigned to the Women's Division correctional centers and adult transition centers; (2) development and implementation of evidenced-based, gender-responsive, and trauma-informed practices that govern Women's Division operations and programs; (3) development of the Women's Division training, orientation, and cycle curriculum, which shall be updated as needed to align with gender responsive and trauma-informed practices; (4) training all staff assigned to the Women's Division correctional centers and adult transition centers on gender-responsive and trauma-informed practices; (5) implementation of validated gender-responsive classification and placement instruments; (6) implementation of a gender-responsive risk, assets, and needs assessment tool and case management system for the Women's

"When the government incarcerates individuals, it takes responsibility for their health, safety, and well-being. This includes more than efforts to prevent sexual assault in the prison but also a trauma-informed and compassionate response to victims of sexual assault, regardless of their conviction status."

-IL Rep. Carol Ammons



Division; and (7) collaborating with the Chief Administrator of Parole to ensure staff responsible for supervision of females under mandatory supervised release are appropriately trained in evidence-based practices in community supervision, gender-responsive practices, and trauma-informed practices.

It is also important to consider that detained or incarcerated minors are at increased risk of sexual violence. To mitigate risk, youth should not be placed in adult facilities. State legislators can categorically ban placing youth in adult facilities, as Oregon enacted ([2017 OR HB 2251/Chapter 134](#)). However, for those states that still put youth in adult facilities, complying with PREA's Youthful Inmate standard is incredibly important. For example, youthful inmates should be separated from adult inmates, but the youth should not be held in solitary confinement to comply with the standard.

The Campaign for Youth Justice (CFYJ) is a national initiative focused entirely on ending the practice of prosecuting, sentencing, and incarcerating youth under the age of 18 in the adult criminal justice system. Their publication "[Zero Tolerance: How States Comply with PREA's Youthful Inmate Standard](#)" provides a state-by-state assessment on whether states have codified protections in the following areas:

- Permitting housing of youth in adult prisons
- Age restrictions on ability to detain in an adult prison
- Requiring protections for children detained in adult prisons
- Factors to be considered before detention in an adult prison

By working to codify these protections, state legislators can protect extremely vulnerable and marginalized youth.

Survivors Who Are Undocumented

Survivors who are undocumented are often unable to report the crime or seek care, due to concerns that their immigration status will be revealed, therefore making them vulnerable to deportation. While police are supposed to investigate crimes against all victims (regardless of immigration status), the increasing involvement of local police in federal immigration enforcement has contributed to immigrants' fear of law enforcement. As the political climate continues to grow increasingly hostile toward those who may be undocumented, both law enforcement and victim services providers have [tracked declining rates](#) in reports of sexual violence by immigrant

Prevention Training for Farmworkers

Sexual violence is often perpetrated within the workplace, and undocumented women are routinely targeted for this type of violence. Due to widespread sexual harassment reports, California's [Senate Bill 295](#) addresses part of this issue by [mandating training and transparency within the agricultural sector](#). This issue became a part of the national dialogue with the ground-breaking Frontline and Univision [Rape in the Fields documentary](#), which interviewed dozens of women who were sexually assaulted on the job, "from California's Central Valley to the packing plants of Iowa, from the apple orchards of Washington's Yakima Valley to the tomato fields of Florida."

As the #MeToo campaign has highlighted the staggering prevalence of sexual violence in the workplace, policy endeavors should be inclusive of protections for survivors who do not always have the ability to speak out or report, due to the enormous ramifications.

[California's SB 295](#) was supported by a broad coalition of labor, civil rights, and women's rights organizations.

communities. Laws such as Arizona’s SB 1070 or Alabama’s HB 11-56 further compounded this problem and contributed to a decrease in crime reportings in immigrant communities. Progressive legislators must boldly advocate for the rights of all immigrants without documentation, not just those who are unfortunately victimized. However, there are certain statutory protections and policy mechanisms available to assist this extremely vulnerable population.

U nonimmigrant status (commonly referred to as the “U visa”) is a humanitarian-based form of immigration relief for victims of crimes and certain qualifying family members. It was created in 2000, as a component of the bipartisan Victims of Trafficking and Violence Prevention Act (VTVPA), and it contains a path to obtain both employment authorization and lawful permanent residency. Only victims who have suffered qualifying criminal activity and have been helpful, are being helpful, or are willing to be helpful in the investigation or prosecution of that criminal activity are eligible for a U visa. The qualifying criminal activity and helpfulness must be certified by a law enforcement official in order to file a complete petition for a U visa with USCIS. It is also important to note that there is a federal cap of 10,000 U visas per year and there is currently a [waitlist](#) of over 100,000 U visa principal applicants all waiting their turn to be issued U nonimmigrant status.

In most states, local law enforcement participation in the U visa process is discretionary. California’s law, however, requires law enforcement officials to certify in writing when an immigrant crime victim has survived a qualifying crime, such as sexual assault or domestic violence, and meets the helpfulness requirement. It creates an opportunity for state reimbursement for law enforcement certifiers, as well as yearly reporting requirements regarding the numbers of U visa certifications each law enforcement agency signs and denies. These two requirements help to ensure equity across law enforcement agencies, given that obtaining the required certification from law enforcement should be equally available to all qualified victims regardless of where in California the crime occurred. This law also requires certifiers to respond to a U nonimmigrant certification request within 90 days (or 14 if the requester is in removal proceedings); creates a rebuttable presumption of helpfulness; makes it clear that the Supplement B can be signed even if no charges were ever filed, the investigation is over, or no conviction resulted. It provides clarity and consistency as to law enforcement’s role in ensuring safety and justice for survivors who are undocumented.

2016 California SB 674/Chapter 721

SECTION 1. Section 679.10 is added to the Penal Code, to read:

(e) Upon the request of the victim or victim’s family member, a certifying official from a certifying entity shall certify victim helpfulness on the Form I-918 Supplement B certification, when the victim was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection or investigation or prosecution of that qualifying criminal activity.

(f) For purposes of determining helpfulness pursuant to subdivision (e), there is a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection



or investigation or prosecution of that qualifying criminal activity, if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.

(g) The certifying official shall fully complete and sign the Form I-918 Supplement B certification and, regarding victim helpfulness, include specific details about the nature of the crime investigated or prosecuted and a detailed description of the victim's helpfulness or likely helpfulness to the detection or investigation or prosecution of the criminal activity...

(j) A certifying official may only withdraw the certification if the victim refuses to provide information and assistance when reasonably requested.

(k) A certifying entity is prohibited from disclosing the immigration status of a victim or person requesting the Form I-918 Supplement B certification, except to comply with federal law or legal process, or if authorized by the victim or person requesting the Form I-918 Supplement B certification.

(l) A certifying entity that receives a request for a Form I-918 Supplemental B certification shall report to the Legislature, on or before January 1, 2017, and annually thereafter, the number of victims that requested Form I-918 Form B certifications from the entity, the number of those certification forms that were signed, and the number that were denied. A report pursuant to this subdivision shall comply with Section 9795 of the Government Code.

In addition to California, diverse states have [passed statutory reform](#) to facilitate access to immigration relief for survivors of sexual and domestic violence. These states include Arkansas ([2015 AR SB 1012/ Act 1138](#)), Connecticut ([CGA Sec. 46b-38b](#)), Delaware ([2014 DE SB 197](#)), Montana ([2015 MT HB 89](#)), and North Dakota ([2015 ND SB 2107](#)). It is important to note that this statutory recommendation involves the interplay of federal, state, and local policies. To effectively move policy in this area, it is important to meet early with local law enforcement agencies. Be prepared to listen honestly and openly to their concerns. It is critical to approach and educate law enforcement about this issue in partnership with organizations and individuals they may already work with and trust, such as sexual violence agencies and victim advocacy groups. While facilitating access to U visas is an important state policy issue, local law enforcement policies can also be crafted to ensure increased safety for survivors who are undocumented. A collaborative partnership with local entities is [highly recommended](#). It is also important to note that U visas are just one component of a broader immigration reform effort to bring undocumented victims of crime out of the shadows. For example, before passing the groundbreaking 2016 California SB 674, the legislature had passed the California TRUST Act ([2013 California AB 4 / Chapter 570](#)) to prevent local law enforcement agencies from becoming de facto immigration enforcement agents.

Safe Housing

Sexual violence (as well as domestic violence and stalking) can destabilize a victim's living situation. When a sexual assault occurs in someone's home, the victim may no longer feel safe residing there following the crime. In some cases, the perpetrator is a neighbor or landlord. The victim may also no longer feel safe in the current residence because the perpetrator knows the location of the victim. Many victims express a

need to relocate following sexual assault, but are often unable to break a lease without financial penalty. If staying in the home, many victims request lock changes or new security measures, such as repaired windows or lighting. While VAWA 2013 includes housing protections for domestic violence, dating violence, sexual assault, and stalking victims who live in federally subsidized housing programs, states can provide additional protections that are not limited to public housing.

Per the National Housing Law Project's 2016 [State and Local Law Compendium](#):

- 24 states and localities have eviction defense laws for survivors, with laws stating that a tenant cannot be evicted simply for being a victim of domestic violence, sexual assault, or stalking
- 27 states have early lease termination laws for survivors
- 18 states have lock change laws for survivors
- 8 states allow lease bifurcations for survivors
- 14 states have laws protecting survivor-tenants' right to call police, law enforcement, or for emergency assistance
- 37 states permit courts to exclude the abuser from the housing and grant the possession of the property to the survivor
- 18 states can require abusers to pay for or provide housing for survivors
- 11 states impose liability on the abuser for damages to the unit, lock changes, moving expenses, and other housing costs related to the violence
- 5 states provide relocation assistance or a right to emergency shelter for survivors
- 43 states and localities have laws pertaining to confidentiality of housing records and documentation of survivors, or have an address confidentiality program.

[Wash. Rev. Code Ann. § 59.18.575 Victim protection—Notice to landlord—Termination of rental agreement—Procedures](#)

(1)(a) If a tenant notifies the landlord in writing that he or she or a household member was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and either (a)(i) or (ii) of this subsection applies, then subsection (2) of this section applies:

(i) The tenant or the household member has a valid order for protection; or

(ii) The tenant or the household member has reported the domestic violence, sexual assault, unlawful harassment, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member a written record of the report signed by the qualified third party.

(b) When a copy of a valid order for protection or a written record of a report signed by a qualified third party, as required under (a) of this subsection, is made available to the landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement. However, the request to terminate the rental agreement must occur within ninety days of the reported act, event, or circumstance that gave rise to the protective order or report to a qualified third party. A record of the report to a qualified third party that is provided to the tenant or household member shall consist of a document signed and dated by



the qualified third party stating: (i) That the tenant or the household member notified him or her that he or she was a victim of an act or acts that constitute a crime of domestic violence, sexual assault, unlawful harassment, or stalking; (ii) the time and date the act or acts occurred; (iii) the location where the act or acts occurred; (iv) a brief description of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking; and (v) that the tenant or household member informed him or her of the name of the alleged perpetrator of the act or acts. The record of the report provided to the tenant or household member shall not include the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The qualified third party shall keep a copy of the record of the report and shall note on the retained copy the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking.

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with [RCW 59.18.200\(1\)](#). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to [RCW 59.18.020](#) and [59.18.280](#).

(3) (b) A tenant who terminates his or her rental agreement under this subsection is discharged from the payment of rent for any period following the latter of: (i) The date the tenant vacates the unit; or (ii) the date the record of the report of the qualified third party and the written notice that the tenant has vacated are delivered to the landlord by mail, fax, or personal delivery by a third party. The tenant is entitled to a pro rata refund of any prepaid rent and must receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with [RCW 59.18.280](#).

[Wash. Rev. Code Ann. § 59.18.580 — Victim protection — Limitation on tenant screening service provider disclosures and landlord’s rental decisions](#)

(1) A tenant screening service provider may not (a) disclose a tenant’s, applicant’s, or household member’s status as a victim of domestic violence, sexual assault, or stalking, or (b) knowingly disclose that a tenant, applicant, or household member has previously terminated a rental agreement under [RCW 59.18.575](#).

(2) A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant’s or applicant’s or a household member’s status as a victim of domestic violence, sexual assault, or stalking, or based on the tenant or applicant having terminated a rental agreement under [RCW 59.18.575](#).

[Oregon Revised Statutes § 90.459 Change of locks at request of tenant who is victim of domestic violence, sexual assault or stalking](#)

(1) A tenant may give actual notice to the landlord that the tenant is a victim of domestic violence, sexual assault or stalking and may request that the locks to the dwelling unit be changed. A tenant is

not required to provide verification of the domestic violence, sexual assault or stalking to initiate the changing of the locks.

(2) A landlord who receives a request under subsection (1) of this section shall promptly change the locks to the tenant's dwelling unit at the tenant's expense or shall give the tenant permission to change the locks. If a landlord fails to promptly act, the tenant may change the locks without the landlord's permission. If the tenant changes the locks, the tenant shall give a key to the new locks to the landlord.

Sexual Violence and Parental Rights

Rape-related pregnancy occurs with [significant frequency](#). There are numerous concerns when a rapist is given parental or custody rights. Survivors are forced to have continued interaction with the rapist, which can have traumatic psychological effects and exacerbate considerable safety concerns. Without a clear statutory framework, a woman who has a child as a result of rape can then have to battle the rapist regarding child custody, as well as any decisions regarding adoption.

Many state legislators have boldly acted to ensure that survivors do not face this grave injustice. However, not all states have a comprehensive framework in place. Some states have created protections for sexual assault cases that result in the birth of a child, when the perpetrator was criminally convicted for the crime. This approach is insufficient for two reasons. First, the clear [majority](#) of sexual assault cases do not result in a criminal conviction. Second, the clear and convincing evidence standard is the most common standard for termination of parental rights among the 50 states, territories, and the District of Columbia, serving as the default burden of proof unless otherwise specified by a statute. This standard is also recognized at the federal level; the Supreme Court established in *Santosky v. Kramer* (1982) that the “clear and convincing evidence” standard for allegations to terminate or restrict parental rights satisfies due process. To require a conviction for rape would be unjustifiably holding rape survivors to a higher standard of proof than a parent looking to terminate based on any other factor (for example, child abuse, neglect, or failure to pay child support).

When a court finds by the clear and convincing evidence standard that a person has committed sexual assault (regardless of whether there is a criminal conviction), that person should not have access to the victim and the child, when such access is not found to be in the best interests of the child.

Comprehensive legislation can include the following components to create safety and justice, while protecting due process rights:

- Ensure a civil legal process to allow the victim to file a petition to terminate the parent-child legal relationship of the person reported to have committed sexual assault, which resulted in the birth of a child.
- In order to terminate parental rights, the court must: provide notice of the hearing, meet the established burden of proof necessary, confirm paternity, and determine that termination is in the best interest of the child. If the petition is denied, the juvenile court has continuing jurisdiction to address allocation

of parental responsibilities. The court also has the authority to enter into a relinquishment, if the respondent wishes to relinquish parental rights and both parties consent.

- If the court is determining allocation of parental responsibilities and meets the burden of proof for determining the child was conceived as a result of sexual assault, the court may impose parenting time restrictions. There is also a rebuttable presumption that it is not in the best interest of the child to allocate sole or split decision-making to the perpetrator.
- Additional protections are designed to ensure that the child is economically supported, and the privacy and safety of the victim and child are maintained.

The federal government has recognized the importance of ensuring these civil legal protections for survivors. In 2016, the U.S. Department of Justice Office on Violence Against Women (OVW) awarded funds under the Rape Survivor Child Custody Act (RSCCA), which incentivizes states to codify comprehensive policy protections in this area. To qualify, the state must have a law that allows the mother of a child conceived through rape to seek court-ordered termination of the parental rights of the rapist with regard to that child, which the court is authorized to grant upon clear and convincing evidence of rape. States that pass the required statute are eligible for additional funding for Violence Against Women Act (VAWA) formula grants, an additional amount equal to up to 10% of what the state is already receiving for VAWA formula grants.

The following states have qualifying statutes and received additional funding for violence against women efforts: Alaska ([Alaska Stat. § 25.23.180](#)), Colorado ([2014 CO HB 1162](#)), Florida ([Fla. Stat. § 39.806](#)), Georgia ([2016 GA SB 331/Act 361](#)), Hawaii ([2016 HI SB 2811](#)), Indiana ([2016 IN HB 1064](#)), Iowa ([2016 IA HF 2386](#)), Maine ([2016 ME SP 575](#)), Michigan ([2016 MI HB 4481](#) & [2016 MI SB 858](#)), Missouri ([Mo. Rev. Stat. § 211.447](#)), Texas ([2013 TX HB 1228](#)), Wisconsin ([Wis. Stat. Ann. § 48.415\(9\)](#)). Each of these state statutory frameworks should be explored as best practices in this policy arena.

COMMUNICATIONS & MESSAGING

Topline Message:

Everyone deserves a life free from sexual violence. We can all help, and to stop this violence from happening, we all must get involved.

Sexual assault is an extremely common and devastating crime. While a huge number of people (young and old, of all genders) are assaulted every year, many survivors face limited resources to heal and feel powerless to change our culture of sexual violence. #MeToo has further exposed the prevalence of sexual harassment and sexual violence, across all sectors. This issue impacts all Americans—our [agricultural fields](#), [hotel housekeeping](#), [state legislatures](#), [colleges](#), and [movie sets](#). Nobody should be traumatized by finding options for safety and healing. This is an issue that crosses party lines—together we can change the culture of sexual violence, provide meaningful support for survivors, and ensure our systems support them.

When working on your communications strategy, think about how to engage with social media movements.

As the movement continues to grow and change, be sure to tap into the sexual assault community and monitor social media feeds. Recent examples include #MeToo, #IWillSpeakUp, #VAW (violence against women), #NoMore, #[INSERT YOUR STATE] saysnomore, #StartByBelieving, #end-SA, and #NoMoreBystanding.

Talking Points:

Sexual Assault Is Common

- A large number of people have experienced some form of sexual violence, stalking, or intimate partner violence during their lifetimes.
- Sexual violence severely impacts young people, with these forms of violence frequently experienced at an early age.
- A majority of victims experienced their first assault before their 25th birthday, with a substantial number being assaulted in childhood or adolescence.

Sexual Assault Is Devastating

- Sexual assault can lead to serious short- and long-term consequences, including physical injury, poor mental health, chronic physical health problems, addiction, eating disorders, loss of income, and homelessness.

Nobody Should Be Traumatized by Navigating the Next Steps for Safety and Healing

- Even though we may not be able to go back in time and keep someone safe from sexual assault, we DO have the power to ensure that our systems (medical, criminal justice, schools, campuses, etc.) work for survivors and support them moving forward.
- Survivors should be able to access the counseling, advocacy, and medical support they need without unnecessary obstacles.

The Issue Can Garner Bipartisan Support

- Sexual assault affects everyone, and everyone has a role in stopping it.
- Sexual assault knows no party lines, and neither do the solutions.
- Members of both parties have been able to prioritize care and support for sexual violence survivors.

Policies Should Reinforce a Survivor-Centered Approach

- Sexual assault is an intensely personal crime that takes away an individual's power and control.
- It is critical for the healing process to ensure that survivors have control over their next steps.
- Deciding whether to report to law enforcement and to seek medical care or counseling is an individual decision and the government should not make that choice for them. Policies should support the ability for adult victims to make these decisions independently.
- The cost of care and accessibility of services should not keep a survivor from seeking help.

Key Facts and Data:

According to the Centers for Disease Control and Prevention's (CDC) National Intimate Partner and Sexual Violence Survey (NISVS), which assesses experiences of intimate partner violence (IPV), sexual violence (SV), and stalking among adult women and men in the United States:

- Sexual violence, stalking, and intimate partner violence remain significant public health issues, negatively impacting millions of women and men in the United States each year.
- An estimated 27.3 percent of women have experienced contact sexual violence (rape, being made to penetrate, sexual coercion, or unwanted sexual contact), physical violence, or stalking by an intimate partner during their lifetime.
- Men and women who experienced these forms of violence were more likely to report frequent headaches, chronic pain, difficulty with sleeping, activity limitations, poor physical health, and poor mental health than men and women who did not experience these forms of violence.
- Sexual violence is common in youth and is usually committed by someone the victim knows. Most female victims of rape (78.7 percent) experienced their first rape before the age of 25 and almost half (40.4 percent) experienced their first rape before age 18.

Opposition Messaging & Responses:

On Sexual Assault in General:

Argument: What about false reporting?

Response: The fear of false reports of sexual assault is vastly overestimated and contributes to the system in which women fear coming forward. In fact, the central issue is the larger number of sexual assaults that are never reported—two out of every three. Many survivors feel re-victimized by the criminal justice process. Victims know that the moment they come forward about an incident, everything from their clothing to their body shape to their sexual history will be scrutinized. Survivors state the

reasons they did not come forward include (but are not limited to): fear of reprisal, belief the police would or could not do anything to help, did not want others to know, fear of the justice system, and fear of lack of evidence. Law enforcement and service providers need a thorough understanding of sexual violence and consistency in their definitions, policies, and procedures to ensure that cases are handled well, and survivors feel safe coming forward. Methodologically rigorous [research shows](#) that the estimated range of false reports is between 2-8 percent. According to the Maryland Coalition Against Sexual Assault, [“Due partially to low reporting rates, only 9 percent of all rapists get prosecuted. Only 5 percent of cases lead to a felony conviction. Only 3 percent of rapists will spend a day in prison. The other 97 percent walk free.”](#)

Additional Resources:

- [False Reporting Overview by the National Sexual Violence Resource Center](#)
- [False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute NonStranger Sexual Assault](#)

Access to Community-Based Nonprofit Sexual Assault Advocacy and Counseling Services

Argument: It is not the state’s job to ensure that non-profits are funded. We need to be reducing budgets, not adding to them.

Response: Many victims seek community-based rape crisis centers for necessary care and support. Survivors of sexual violence suffer post-traumatic stress disorder at extremely high rates. When someone is victimized, the entire community suffers. Our schools, workplaces, homes, neighborhoods, campuses, and faith communities are all impacted. As a society, taking care of those who have been harmed reduces further costs related to medical and mental health services and lost work time and productivity. By supporting survivors, we empower those impacted to heal and advocate for justice. Without these non-profits, many survivors have nowhere else to turn.

Sample Social Media Content:

Sexual violence is a national crisis #supportsurvivors #fundservices

53% of rape crisis programs have a waiting list for counseling. We can do better! #EndSA

No-Cost Medical Care

Argument: We already pay for rape kits. It’s not the state’s responsibility to pay for other costs.

Response: A rape kit solely refers to the collection of evidence—to pursue a criminal justice outcome—and is not inclusive of the full scope of medical care required after a sexual assault. While collection of evidence is important to many survivors, they also need treatment for other costs they have incurred as a result of the violence. Especially following a trauma, victims may not be aware of the medical billing process and the costs usually fall squarely on the victim.

Most women in the U.S. who have been sexually assaulted bear costs for testing and medical treatment; on average this amount comes to \$950, or 14 percent, of the cost of medical services, and the insurance providers pay about \$5,789, researchers found. These costs include hospital visits, medical care, mental health care and prescriptions for pain medication, antibiotics, HIV prevention drugs, emergency contraceptives, or sleep or anxiety medication.

Additional Resources:

- [National Alliance to End Sexual Violence](#)

Ensuring Reporting Options for Survivors

Argument: Mandatory reporting will help law enforcement find predators and keep more people from being victimized.

Response: Mandatory reporting requirements can do the opposite—they can jeopardize victims' safety and create a chilling effect that prevents victims from coming forward at all, even for needed medical care. These requirements also violate the right to privacy and can put medical professionals in the difficult position of deciding what to report. Any requirements should respect victims' choices and ensure that victims feel comfortable seeking the help and support they need.

Allowing survivors to make their own choices following an assault is a [core value](#) of the sexual violence advocacy community. Restoring power, control, and choice can be a critical component of the healing process—as sexual violence takes away a victim's power, control, and choice. By ignoring adult victims' choices, mandatory reporting requirements can mean that perpetrators know victims have gone to the authorities before victims have had a chance to assess and plan for safety. Survivors have reported that the criminal justice system is a daunting risk since most often, perpetrators are a part of their community, creating a severe safety risk for the survivors. Many women have [said](#) that retaliation assault is more violent than the original assault. Most sexual assaults [are committed](#) by someone the survivor knows.

Sexual Abuse Prevention in K-12 Education

Argument: This topic has no place in our schools/we should not expose our young children to such topics. Teaching children about their bodies and sexual assault is the job of the parents, not the job of the school.

Response: Schools have a unique opportunity to prevent abuse and to identify children who are suffering. Through age-appropriate curriculum, students and teachers can learn about warning signs and how to talk to trusted adults about unwelcome behavior. Any effective school-based sexual violence prevention efforts geared toward minors must be age-appropriate, medically accurate, and culturally

relevant. There are many models that have been evaluated and approved. A core component of sexual violence prevention for minors must include resources for adults—school personnel, parents, and guardians who must be able to recognize the warning signs of child sexual abuse and be equipped with referral or resource information to support children and their families.

One in ten children will be sexually abused before their 18th birthday. Not talking about it doesn't make it go away. Parents certainly have enormous responsibility and a significant role in preventing sexual violence. However, the reality is that many parents do not have the skills and resources without support from entities like the PTA, PTO, or school guidance counselors. It is also important to recognize that not all parents and families are safe.

Social Media Hashtags:

#SafePlaceToLearn

#preventionispossible

Handling So-called “Bathroom Bills”

Argument: So-called “bathroom bills” are sexual violence prevention.

Sexual assault advocates have been vocal opponents of the so-called “bathroom bills” being considered by many state legislatures. These bills would require people who are transgender to use bathroom and locker room facilities based on their “biological sex” or birth gender. Proponents of these bills claim they are intended to protect women and girls from sexual assault, and they help prevent sexual violence by ensuring public bathrooms are safe. They argue that some men will abuse bathrooms and locker rooms open to gender identity rather than biology, to gain access to women and children to sexually assault. They assert that these facilities could become easy-access “breeding grounds” for sexual predators, therefore facilities need to be separated by biology, to protect women and children vulnerable to sexual assault.

Response: The North Carolina Coalition Against Sexual Assault offers clear guidance on responding to these types of arguments. According to NCCASA: “The majority of sexual violence is perpetrated by someone the victim knows in a familiar place, rather than by a stranger in a public place. Two hundred cities across the nation have ordinances to ban discrimination against people who are transgender (including in public accommodations), and none of them have reported an increase in sexual violence related to these protections.

“On the other hand, physical and verbal assaults on transgender people in public bathrooms are not rare, and over 50% of transgender people have experienced sexual violence. We cannot end sexual violence unless we are committed to ending sexual violence for all people. What will actually prevent and end sexual violence is to create a culture in which respect for the identities and bodily autonomy of others is a deeply held value.”

Source: [North Carolina Coalition Against Sexual Assault](#)

Social Media Hashtags:

#nobathroomban #ProtectTransWomen #ProtectTransKids

(watch out for #protectwomen, which has been used to support bathroom bills)

Higher Education

Argument: It's not higher education's responsibility to combat sexual violence/Leave it to law enforcement.

"Schools should be in the business of educating, not investigating sexual assaults."

- [Rep. Earl Ehrhart \(R-36\)](#), Sponsor of Georgia HB 51, 2/3/2017

Response: Asking campuses to respond to student misconduct is nothing new. Unfortunately, sexual assault is extremely prevalent on college campuses. One in five women and one in 16 men are sexually assaulted while in college. More than 90 percent of sexual assault victims on college campuses do not report the assault. Over 63 percent of men at one university who self-reported committing rape or attempted rape admitted to committing repeat rapes.

Additional Resource:

- [National Sexual Violence Resource Center](#)

Students who have been victimized may need accommodations that only their campus can provide, such as a new class schedule or dorm room, to continue their education in a safe environment. They may also need support from student health, counseling, and academic services to continue with their education. Universities should not be limited in their ability to consider disciplinary action against students who are reported to have committed sexual violence.

Defending Against Harmful Legislation Case Study: Georgia House Bill 51 (2017)

In the 2017 legislative session, Georgia's controversial HB51 stated that colleges and universities cannot move forward with an investigation or any final disciplinary action until a criminal investigation is completed. Sexual assault survivors and advocates vehemently opposed this bill, since it would prevent many college students from coming forward or seeking help. Regardless of a criminal justice outcome, students who have experienced sexual violence have a right to complete their education, free of future violence and intimidation. Often, victims are seeking a new class schedule, dorm change, or other accommodations that would help them heal, and these options should not be kept away from them pending court decisions.

"The biggest concern I have around this bill is forcing victims to enter into a lengthy and invasive criminal investigation in which only a small proportion of assaults end in convictions. Nowadays, many victims carefully assess what they will have to go through in order to get justice through the court system. They weigh being dragged in and out of court and constantly being made to recount the assault, to decide if they want to further traumatize themselves on a regular basis by going through all of that. Many victims decide that they would rather move on with their lives immediately and try to put the assault behind them but they may need special accommodations, like not sharing a class with accused, and the university is the only authority that can make those decisions, not the courts. The bottom line is policies should not force the decision for sexual assault victims as to whether or not to file criminal charges."

-GA Rep. Renitta Shannon

Forcing these cases to go through the criminal justice system would have a chilling effect as fewer victims would come forward for fear of being drawn into a lengthy and invasive criminal investigation. Campus victims should have the choice and ability to speak confidentially about what has occurred, and a range of options on their next steps for healing and justice.

The [National Women’s Law Center \(NWLC\) released findings by Public Policy Polling in May 2017:](#)

- 94% of voters believe schools at all education levels have a responsibility to address sexual assault.
- 94% of voters support using the preponderance of evidence standard in student disciplinary proceedings—which means they agree that schools should discipline students who more likely than not raped or sexually assaulted another student.
- Voters strongly believe in the notion of survivors’ choice about reporting sexual assault; 74% support letting survivors decide whether and how to report sexual assault and reject the notion of mandatory reporting to law enforcement agencies.
- More than one in four voters (26%) are survivors of sexual assault and more than half (51%) know a survivor.

Additional Resources:

- Department of Education’s 2011 [Dear Colleague Letter](#)
- [ItsOnUs.org](#)
- [KnowyourIX.org](#)

Sample Social Media Content:

#TitleIX #ItsOnUs to stop violence #knowyourIX

Help protect students’ right to an education free from violence. #nomore #knowyourIX

Safe Housing

Argument: People will lie about sexual violence to break their lease.

“It incentivizes people to make false claims to try to get out of their lease. The threshold for proof is very low, where someone can go to a doctor and make a self-serving statement ... and I can see a lot of people doing that.”

-[Deborah Wilson](#), a member of the Apartment Association of Metro Denver, 3/13/2017

Response: Survivors who have been attacked or harassed in their own homes should be able to protect themselves without facing financial ruin. Many survivors would not be able to afford to move to a new home without being allowed to break their lease, putting their safety at risk and threatening to re-victimize them. Further, ignoring safety requests puts landlords at increased risk due to liability.

The false reporting rate of sexual violence has been studied at length, and it is quite low. It is very difficult for victims to come forward and speak about this intimate crime. States that have protected a victim's ability to break a lease due to safety concerns all require certain documents to be provided. For example, victims often must provide a police report, a protection order, a statement from a medical professional, or a statement of application from the state's Address Confidentiality Program (ACP). Engaging in these systems is often a difficult, time-consuming, complicated process.

Sample Social Media Content:

Victims need safe housing to heal and stay safe from sexual assault. #safehousing

Too many victims become homeless as a result of sexual assault. #safehousing

Sexual Violence and Parental Rights

Argument: Termination of parental rights is a permanent, life-changing decision. Courts should utilize the utmost discretion in these cases. Without requiring a criminal conviction to terminate, due process protections are not upheld.

Response: A survivor should never be forced to co-parent with the rapist. This bill proposes a strong legal framework, based on the evidentiary standard set forth by the U.S. Supreme Court. The Supreme Court established in *Santosky v. Kramer* (1982) that the "clear and convincing evidence" standard for allegations to terminate or restrict parental rights satisfies due process. To require a conviction for rape would be unjustifiably holding rape survivors to a higher standard of proof than a parent looking to terminate based on any other factor (for example, child abuse, neglect, or failure to pay child support).

ADDITIONAL RESOURCES

Op-Eds, Blog Posts, Articles, Infographics, and Videos:

[Access to No-Cost Medical Care and Evidence Collection & Ensuring Reporting Options: Help for Survivors of Sexual Assault](#)

[Audrie & Daisy documentary film](#)

[Campus Response to Sexual Violence: Making Campuses Safe for Women](#)

[Fighting “bathroom bills”: Bathroom bill detracts from the real work needed on sexual assault](#)

[National Alliance to End Sexual Violence: Funding is Vital for Rape Crisis Centers](#)

[Protections for Survivors who are Incarcerated: Stories of survivors of sexual abuse while incarcerated](#)

[Safe Housing: Stalking, sexual assault victims may be able to break rental agreements under House bill](#)

[SB 674: Immigrant Victims of Crime Equity Act](#)

[School-Based Prevention: To Prevent Sexual Assault, Schools And Parents Start Lessons Early](#)

[Support for Survivors who are Undocumented: Undocumented Sexual Assault Victims Face Backlash and Backlog](#)

[Texas Association Against Sexual Assault \(TAASA\) Talking Points Regarding Bathroom Bills](#)

[The Hill: #MeToo stories won’t end until we focus on prevention](#)

[The Hunting Ground documentary film](#)

[Why Keeping Bad Guys Out of Girl’s Bathrooms, isn’t What’s Going on Here](#)

Partner Organizations:

[American Association of University Women \(AAUW\)](#): Resource on higher education policies

[Directory/contact information for each state Sexual Assault Coalition](#)

[End Violence Against Women \(EVAW\) International](#): Resource on anonymous reporting

[International Association of Forensic Nurses](#): Resource on medical care access policies

[Joyful Heart Foundation/End the Backlog](#): Resource on policies to address the rape kit backlog

[Just Detention International](#): Resource on addressing sexual violence for people who are incarcerated

[Know Your IX](#): Resource on campus sexual assault policy; [State policy playbook](#)

[Los Angeles Center for Law and Justice](#): Resource regarding policies to increase U visa access

[National Alliance to End Sexual Violence \(NAESV\)](#)

[National Center on Domestic and Sexual Violence](#)

[National Center for Victims of Crime \(NCVC\)](#)

[National Immigration Law Center \(NILC\)](#)

[National Network to End Domestic Violence \(NNEDV\)](#)

[National Sexual Violence Resource Center \(NSVRC\)](#)

[Rape Abuse Incest National Network \(RAINN\)](#)

Special thanks to Michelle Carey (Los Angeles Center for Law and Justice), Christopher Kaiser (Texas Association Against Sexual Assault), Jen Pierce-Weeks (International Association of Forensic Nurses), Terri Poore (National Alliance to End Sexual Violence), Sejal Singh (Know Your IX), Raana Simmons (Colorado Coalition Against Sexual Assault), Cynthia Totten (Just Detention International), and Ebony Tucker (National Alliance to End Sexual Violence), for their contributions, feedback, and guidance with this document.