

A VISION FOR BLACK LIVES

POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE

END THE WAR ON BLACK WOMEN

POLICY BRIEF 3 of 13



POLICY PLATFORM 1 OF 6

M4BL

THE MOVEMENT
FOR BLACK LIVES

END THE WAR ON BLACK WOMEN SUMMARY



THE ISSUE:

Black women have historically and continue to experience some of the highest rates of violence, including lethal, physical, and sexual violence; highest rates of maternal mortality and stress-related medical conditions; and some of the highest rates of poverty and unemployment, of any group in the United States. Black women also have the highest rates of stops, police violence, arrests, incarceration, and carceral control among women, and represent the fastest growing prison and jail populations in the country. Black women also bear the brunt of the financial impacts of mass incarceration. Black women have been subjected to a long history of reproductive control, and are increasingly being denied access to abortion and comprehensive reproductive and gender affirming health services, and are primary targets of child welfare policing and the foster system.

THE DEMAND:

- ❖ Interrupt and end criminalization and deportation of Black women. Develop and support non-criminalizing and non-coercive, voluntary, accessible, harm reduction-based and trauma-informed responses to unmet mental health needs, drug use, involvement in the sex trades, survival theft, and community and interpersonal violence. These responses must prioritize, promote, and protect the safety, agency, and self-determination of Black women, girls, trans, and gender nonconforming people.
- ❖ Ensure that Black women have access to resources that will enable them to escape and avoid interpersonal and community violence, including living wage employment; quality, accessible, and affordable housing; immigration status; universal, quality, and accessible health care; comprehensive, culturally appropriate community-based mental health care; universal, quality, and accessible childcare; and healthy environments.
- ❖ Ensure full access to comprehensive sexual and reproductive health care and eliminate discriminatory barriers to health care for all people.
- ❖ Eliminate the foster system's power to permanently and irreversibly destroy Black families through termination of parental rights.

KEY FEDERAL LEGISLATION:

- ❖ People's Justice Guarantee
- ❖ PUSHOUT! Act (Ending Punitive, Unfair, School-Based Harm that is Overt and Unresponsive to Trauma Act)
- ❖ Domestic Violence Survivors Justice Act
- ❖ End Racial and Religious Profiling Act of 2019
- ❖ Security and Financial Empowerment (SAFE) Act
- ❖ Stop Shackling and Detaining Pregnant Women Act
- ❖ Black Maternal Health Momnibus Act of 2020
- ❖ MORE Act
- ❖ SAFE SEX Workers Study Act
- ❖ NO BAN Act
- ❖ National Domestic Workers' Bill of Rights
- ❖ Paycheck Fairness Act
- ❖ Schedules that Work Act
- ❖ Universal Childcare and Early Learning Act
- ❖ Family and Medical Insurance Leave (FAMILY) Act
- ❖ Pregnant Workers Fairness Act
- ❖ Raise the Wage Act
- ❖ Healthy Families Act
- ❖ EACH Woman's Act
- ❖ Women's Health Protection Act
- ❖ Maternal Care Access and Reducing Emergencies (CARE) Act
- ❖ Maximizing Outcomes for Moms through Medicaid Improvement and Enhancement of Services (MOMMIES) Act
- ❖ Mothers Offspring Mortality and Morbidity Awareness (MOMMA's) Act
- ❖ Access to Birth Control Act
- ❖ Access to Infertility Treatment and Care Act
- ❖ Affordability is Access Act

END THE WAR ON BLACK WOMEN

In order to fully achieve the Vision for Black Lives, it is essential to center the experiences of Black women¹, girls, trans, intersex, and gender nonconforming people, and to understand the ways in which imposition and internalization of cisheteropatriarchy has fueled multiple forms of racialized gender-based violence against and within Black communities.

Some of the policy recommendations made in the Vision for Black Lives specifically focus on Black women, girls, trans, and gender nonconforming people, and all recommendations are intended to benefit all Black people, including marginalized groups within Black communities, such as Black women, girls, trans, and gender nonconforming people.

This policy brief offers specific recommendations for ending the war on Black women and girls, including trans and gender nonconforming Black women and girls. It overlaps with and complements the policy briefs on ending the war on Black trans and gender nonconforming people and ending the criminalization of Black youth, and should be read in conjunction with both.

We are committed to confronting and dismantling all systems of oppression that fuel and are served by violence against our sisters, siblings, and kinfolk through the demands articulated in this brief, and throughout the Vision for Black Lives. Black people cannot be liberated so long as cisheteropatriarchal values and harms continue to animate our policies, institutions, economies, cultures, movements, and communities.

¹ "Recognizing that the category of "woman" was constructed in the context of anti-Blackness in such a way as to exclude Black women, trans, and gender nonconforming people, the Movement for Black Lives uses the term "woman" in its most expansive definition, and explicitly intends for it to be understood as fully inclusive of trans women and femmes, and of all people who identify as women."

INTRODUCTION

Black women have historically and continue to experience some of the highest rates of violence, including lethal, physical, and sexual violence; some of the highest rates of maternal mortality and stress-related medical conditions; and some of the highest rates of poverty and unemployment, of any group in the United States. Black women also have the highest rates of police stops, police violence, arrests, incarceration, and carceral control among women, and represent the fastest growing prison and jail populations in the country.

The policy recommendations contained in this brief are informed by the reality that, throughout the history of the U.S., during slavery and beyond, African descended women and girls, including queer, trans, and gender nonconforming women and girls, intersex, and nonbinary people, have been *subject to systemic and structural torture, physical and sexual violence and abuse, forced childbearing, forced caregiving, denial of the right to parent, violent separation from their children, medical and gynecological experimentation, forced sterilization, criminalization, lynching, and structural economic exploitation by a system designed to profit from our bodies.*

History also teaches us that this war on Black women, girls, trans, intersex, and gender nonconforming people serves larger structures of power and domination, including colonialism, chattel slavery, racial capitalism, cisheterosexism, and ableism.

This history continues to reverberate in the present day-lived experiences and conditions under which Black women, girls, trans, intersex, and gender nonconforming people survive, even as it is hidden behind the pervasive myth that Black women and girls are doing “well” in comparison to Black heterosexual cisgender men, who have been framed as the primary targets of racial terror, state violence, and racial structural exclusion.

Black feminists have exposed how the war on Black women, girls, trans, and gender nonconforming people has been promoted and justified through persistent narratives framing Black women as inherently inhuman, sexually deviant and promiscuous, deranged, violent, predatory, deceitful, inviolable, and incapable of experiencing emotional or physical pain, and by establishing and maintaining the category of “woman” in opposition to—and to the exclusion of—Black women, trans, and gender nonconforming people, and as a category inherently subservient to men.

Ending the war on Black women, girls, trans, intersex, and gender nonconforming people requires us to not only challenge laws, policies, and practices, but to unpack and dismantle the narratives which underlie them.

Finally, “solutions” offered in response to the war on Black women, girls, trans, intersex, and gender nonconforming people often fail to protect us and, in fact, contribute to further harm. We reject responses to racialized gender-based violence that legitimize and place more power and resources into structures which devalue and harm Black lives, including the lives of Black women, girls, trans, intersex, and gender nonconforming people. Systems of policing, prosecution, prisons, punishment, and surveillance have consistently failed to protect Black women, girls, trans, intersex, and gender nonconforming people, and have been primary sites of racialized gender-based violence, violation, and criminalization. *Here and throughout the Vision for Black Lives, we advocate for divestment from these systems of violence and punishment, and investment in systems and structures that will keep all Black women, girls, trans, and gender nonconforming people safe.*

This includes investment within Black communities in acknowledging and transforming the ways in which internalization of cisheteropatriarchy and white supremacy continues to create avenues for us to harm one another. We are committed to developing, articulating, and being accountable to the demands we make of ourselves, each other, and our communities to effectively prevent, respond to, and ensure accountability, restoration, healing, and protection for Black survivors of gender-based violence outside the criminal punishment system.



WHAT ARE THE PROBLEMS?

GENDER-BASED VIOLENCE

The war on Black women, girls, trans, intersex, and gender nonconforming people takes many forms, including state, community, interpersonal, economic, and reproductive racial gender-based violence. Each fuels, facilitates, and reinforces the others.

INTERPERSONAL AND COMMUNITY VIOLENCE

Black women in the U.S. face some of the highest rates of interpersonal and community violence, including family, interpersonal, homophobic and transphobic, and sexual violence, childhood sexual abuse, “corrective” rape of lesbians and gender nonconforming people, street harassment, and stalking, in the United States. For instance, Black women experience some of the **highest rates of domestic violence**, including fatal violence, in the country:

- ❖ More than 40% of Black women experience physical violence by an intimate partner during their lifetimes, compared with 31.5% of all women.
- ❖ Black women are 3 times more likely to be killed as a result of domestic violence than white women. Ninety-three percent of Black women homicide victims are killed by men they know, 56% by a current or former intimate partner.
- ❖ A Black woman is 80% more likely to be convicted for killing her abuser.

Black women are also targets of gun violence:

- ❖ 59% of cases where the weapon used to kill a Black woman is identified involved guns.

Black women experience the second highest rates of sexual violence in the U.S. after Native women. Black trans women and nonbinary people and Black disabled people report the highest levels of sexual violence among Black people:

- ❖ Twenty-two percent of Black women and girls 12 and older experience rape and sexual assault. ***Thirty-four to 65% of Black rape survivors reported childhood sexual abuse.***
- ❖ Fifty-three percent of Black trans women, 65% of non-binary people assigned female at birth (AFAB), and 64% of Black trans people with disabilities report a sexual assault in their lifetime.
- ❖ Fifteen percent of Black transgender K-12 student respondents reported sexual assault, 7% by a teacher or staff member.
- ❖ Eleven percent of Black girls in a national high school sample reported being raped.
- ❖ *For every Black woman who reports her rape, at least fifteen do not. Many cite a fear that they will not be believed by authorities or subjected to further violence and criminalization.* Sixty-seven percent of Black trans respondents to the U.S. Trans Survey (USTS) said they would be somewhat or very uncomfortable asking for help from the police if they needed it.



Jay Dorsainvil



STATE VIOLENCE

Although frequently erased from conversations about racial profiling, police violence, criminalization, mass incarceration, and deportation, Black women, girls, trans, and gender nonconforming people are central targets of all forms of state violence, including physical, sexual, and fatal violence by law enforcement agents, criminalization, and incarceration.

- ❖ Black women are **more likely to be killed by police** when unarmed than any other group, including Black men.
- ❖ Black girls are 4 times more likely **to be arrested in school** than white girls. Black girls make up 16% of girls in schools, but 39% of girls arrested in schools and 33% of girls referred to law enforcement in schools.
- ❖ Black women, girls, trans, and gender nonconforming people are the **fastest growing prison and jail populations**. Black women are incarcerated at twice the rate of white women. For Black women and girls aged 18-19, the rate jumps to four times that of white women.
- ❖ *One in two Black trans women will experience incarceration in her lifetime.*
- ❖ 80% of people in women's jails are parents, and 1 in 9 Black children have an incarcerated parent.


Black women also make up a growing proportion of migrants to the U.S., particularly from the Caribbean, and are therefore increasingly targeted for state violence in the context of immigration enforcement.



ECONOMIC VIOLENCE

Black women experience poverty at higher rates than Black men and women from all other racial and ethnic groups, except Native American women.

- ❖ A quarter (24.6%) of Black women in the United States live in poverty, compared with 18.9% of Black men and 10.8% of white women.
 - ❖ Black women's median earnings are 61% of white men's median earnings. Median annual earnings of Black women who work full-time, year-round in the United States are just \$33,600, nearly 12% lower than the median annual earnings of women of all racial and ethnic groups combined.
 - ❖ One in seven (14.4%) Black women aged 21-64 in the United States is disabled. Black disabled women earn less than Black abled women (\$30,100 in median annual earnings for full-time year-round workers), and are more likely (34.7%) to live in poverty than their abled counterparts.
- ❖ Black women are especially vulnerable to unemployment. At the end of 2019, Black women's unemployment rate (5.4%) was the highest among women of all of the largest racial and ethnic groups, and higher than the rate for men from all major racial groups except for Black men (5.4% for Black women compared with 5.9% for Black men). During the last recession, between December 2007 and June 2011, Black women lost more jobs than Black men, and lost jobs disproportionately compared to all groups of women combined. During the recovery between June 2009 and June 2013, Black women experienced the greatest rise in unemployment of any racial and ethnic group of men or women.

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- ❖ Quality child care is unaffordable for many Black women. *In all but two states in the country, the average costs of child care exceed 20% of Black women's median annual earnings.*
 - ❖ More than one-third (37.2%) of employed Black women do not have access to paid sick days.

Additionally, Black women are denied access to income support programs through time limits, family caps, restrictions on migrants' access to benefits, and impossible conditions of compliance. *The "welfare queen" stereotype, in particular, has been widely deployed to limit the economic security and reproductive autonomy of Black women.*

COSTS OF CRIMINALIZATION

Black women bear the brunt of the financial burden of mass incarceration. In addition to being one of the fastest growing prison, jail, probation, and parole populations, almost 1 in 2 Black women are ***related to someone who is incarcerated***. As a result, they are often in the position of paying exorbitant bail, fees, and fines, stretching their already severely limited financial resources.

- ❖ A national community-based survey found that in ***63% of cases***, family members on the outside were primarily responsible for court-related costs associated with conviction. Of the family members primarily responsible for these costs, 83% were women.
- ❖ ***Thirty-five percent*** of women who have paid bail or court fees or missed economic opportunities due to incarceration (their own or that of a loved one) have faced homelessness, eviction, or the inability to pay rent or a mortgage as a result. Fifty percent of women who have owed money to a bail bond agency have faced housing insecurity as a result.
- ❖ ***Forty-three percent of women are forced to work more hours, get a different job, or turn down an educational opportunity due to a loved one's incarceration.***

- ❖ More women are incarcerated in jails than state prisons, and 60% of those in jails have not been convicted of a crime, but are held in ***pretrial detention*** due to an inability to pay money bail. Wage inequality, unemployment, and primary caregiving responsibilities leave women, especially Black women, unable to afford bail to secure release pretrial.



Michael Ibadapo



CARE ECONOMIES

Caregiving—raising children or caring for elders or people with disabilities—housework, and other forms of care work that women are expected to perform for free is often not considered “real” work. Employers, and society at large, are therefore excused from paying the total wages a family actually needs to survive.

Thirty percent of the **caregiving workforce** is made up of Black women. Although the care economy is the fastest growing sector of the economy, wages are not growing and protections for workers are minimal.

REPRODUCTIVE VIOLENCE: ABORTION ACCESS, REPRODUCTIVE & MATERNAL JUSTICE, CHILD WELFARE, AND FOSTER CARE

REPRODUCTIVE AND MATERNAL JUSTICE

Access to abortion, affordable birth control, and gender affirming, culturally competent reproductive and maternal health care is increasingly limited in Black communities.

The right to abortion is under assault through attacks on the 1973 U.S. Supreme Court decision *Roe v. Wade* and state legislation banning or restricting conditions under which abortions are available. Additionally, existing restrictions on use of federal funding for abortions severely limits access for people incarcerated in federal prisons, in the military, and who access health care through Indian Health Services (IHS). Attacks on the Affordable Care Act (ACA) and Medicaid also compromise the right to abortion and create barriers to reproductive health care.

Currently, at least half of all states have imposed at least one of five major abortion restrictions, including prohibitions on the use of state Medicaid funds to pay for medically necessary abortions. And 90% of all counties in the United States now lack a facility that provides abortions, leaving 30% of all people of childbearing age effectively without access to abortion services. Access to abortion is further limited for disabled and incarcerated people, including detained migrants. Additionally, disabled and incarcerated people are frequently subjected to forced or pressured abortions.



Lawrence Agyei



Injustice relating to women's access to reproductive healthcare isn't limited to access to abortion. The United States has the worst maternal death record among industrialized countries: women in the U.S. are now **more likely to die from pregnancy-related complications** than women in 45 other countries.

- ❖ Black women are four times more likely to die from pregnancy-related complications than white women, independent of age, parity, or education in our nation. This statistic hasn't changed for generations. Black women aren't significantly more likely to develop conditions like hemorrhage & preeclampsia, but they are more likely to die from them.
- ❖ In 2017, African American mothers were 2.3 times more likely than white mothers **to receive late or no prenatal care.**
- ❖ Black people experience 2.3 times the infant mortality rate of whites. Black infants are 3.8 times as likely to die from complications related to low birthweight, and have over twice the sudden infant death syndrome mortality rate.



Racial and socioeconomic inequalities are largely responsible for these devastating health outcomes, including:

- ❖ A long legacy of racial and gendered discrimination, which shapes how medical professionals treat Black women. For example, Black women are often devalued and disrespected by those who are charged with their care, leading to denial of Black women's experience of pain, leaving them undermedicated or unmedicated.
- ❖ Black women are more likely to lack access to quality healthcare—including before, after, and during pregnancy—and to be uninsured outside of pregnancy than white women. This forces many Black women to start prenatal care later and to lose coverage in the postpartum period—putting their health, and that of their baby, at increased risk.
- ❖ Lack of paid parental leave and affordable childcare options create additional hurdles and risks for Black women in the postpartum period. Often this includes inadequate or no time allotted from employers to recover from a C-section or to care for a sick newborn.
- ❖ Black women experience high rates of unnecessary Cesarean section surgeries, and are 25% more likely to receive a primary C-section for their first birth.
- ❖ Black girls and youth often experience a lack of comprehensive sex education, and Black youth are more likely to receive abstinence only sex education.

FOSTER CARE AND CHILD WELFARE

Black women have been subjected to a long history of family separation, dating back to slavery. In addition to the family separation inherent in theft from the continent and the Middle Passage, it is estimated that “more than half of all enslaved people in the Upper South were separated from a parent or child.” The myths of Black motherhood developed to justify the unconscionable practice of selling children away from their mothers and the high rates of infant and maternal mortality caused by the conditions of slavery persist to this day. These narratives framing Black mothers as incompetent, uncaring, and at fault for any harm that comes to their children inform present day treatment of Black mothers and caregivers in the context of policing, mass incarceration, migration, medical care, and child welfare.



The foster system is purportedly designed to protect vulnerable children from unsafe environments, and is supposed to remove children from their homes only in the most extreme cases of abuse and neglect. However, there are few limits on the foster system's power to intervene in the lives of low-income mothers and remove their children from their home. *In practice, the system makes determinations rooted in racism, classism, misogyny, heteronormativity, transphobia, ableism, and the logic of capitalism that devalues the work of parenthood and blames poor people for their poverty.* The child welfare, foster, and family court system (“the foster system”) is thus a major site of policing, control, and punishment of poor Black women, starting at conception.

Black people's pregnancies and parenthood are often heavily surveilled, regulated, and subject to punitive intervention resulting in destruction of their families. In some cases, child welfare surveillance begins when a person is pregnant and child protective service agents file for custody of the fetus, enabling them to take custody of the pregnant person with the ostensible purpose of “protecting” the fetus.

Once born, over 50% of Black children are subjected to a child abuse/neglect investigation. Parents do not have any meaningful rights during the incredibly intrusive and stressful investigative phase. Symptoms of poverty and racism like empty fridges, leaving children alone due to lack of childcare and the need to maintain employment, inadequate heat, and multiple family members sharing the same room are commonly cited reasons for subjecting Black mothers to surveillance by the foster system, and for separating them from their children instead of offering supports and resources. Parenting choices, such as whether to co-sleep with an infant or whether to leave an older child unattended at home, are routinely questioned and cited by the foster system as grounds for surveillance and removal against Black mothers.



Simply being a survivor of domestic or sexual violence can subject Black women to years of foster system intrusion and control. The foster system routinely blames mothers for violence experienced by their children, even when there is no evidence that the mother was aware of the violence. Similarly, Black women who use drugs or have substance use disorders, or who trade sex to meet survival needs for themselves and their families, are automatically deemed incapable of caring for their children, regardless of whether there is any harm to the child, while other parents' race or wealth insulates them from such judgments. The foster system not only judges and penalizes Black mothers more harshly than their white counterparts, it also provides Black mothers with less support for family reunification. Other factors found to be associated with loss of child custody among Black women include incarceration, being lesbian or bisexual, homelessness in the past year, experiences of childhood victimization, being an older parent, and number of minor children a parent has.

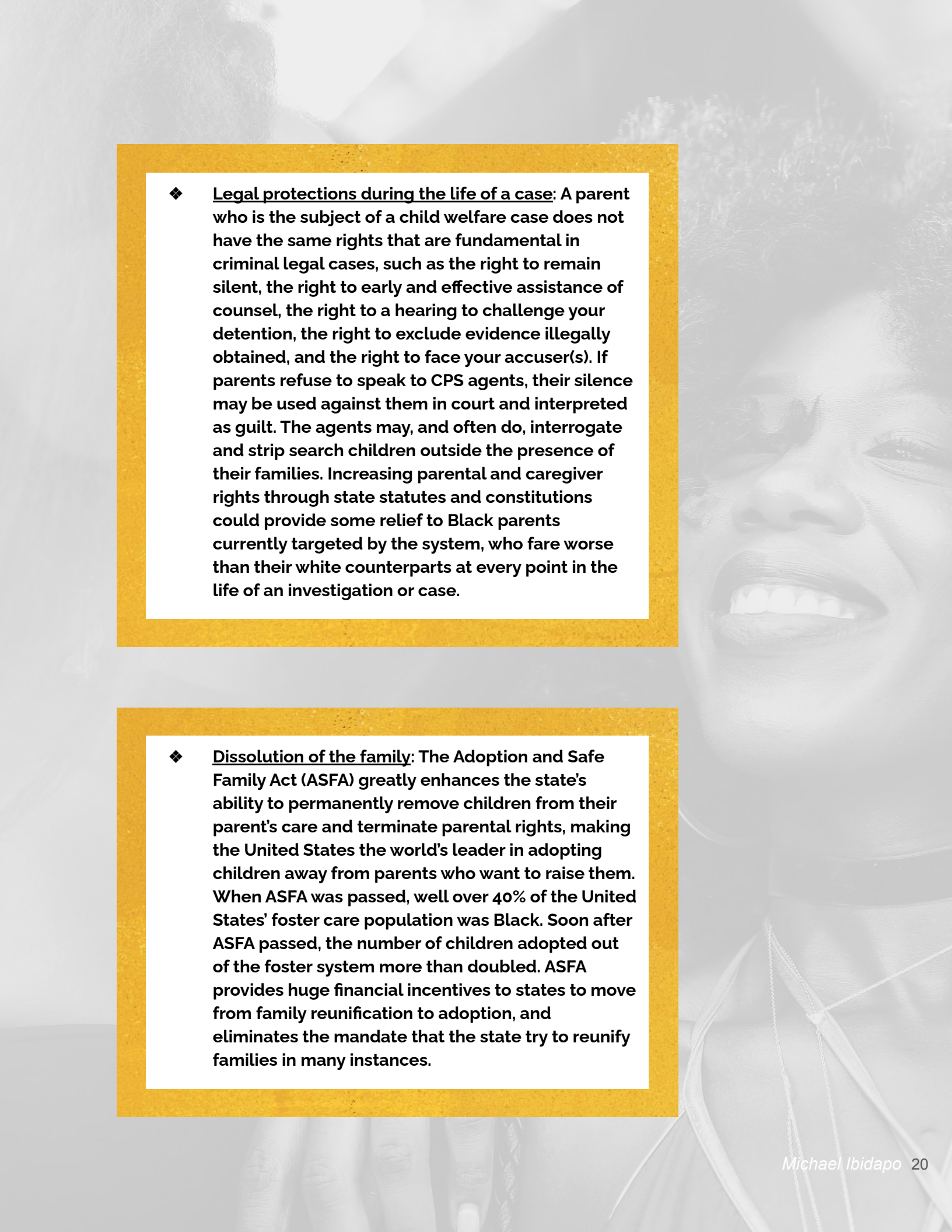
There are three points in the life of a child welfare case that have been especially detrimental to Black families. Countermeasures at all three points could serve as a powerful limiting force on the system's interference in families' lives.

- ◆ **Entry into the system:** The rapid expansion of state-mandated reporting laws in the 1960s and 1970s corresponded with a sharp growth in the number of children, particularly Black children, in the foster system. Mandated reporting has turned nearly anyone a low- or no-income Black person may turn to for support, such as domestic violence shelter staff or medical care providers, into the “family police.” As a result, any effort to access support comes with the threat of family intervention, child apprehension, and family dissolution.

One of the many places mandated reporting has proliferated is labor, delivery, and neonatal units, where medical providers routinely conduct medically unnecessary drug testing without consent and turn over the results to Child Protective Services (CPS).

While people accused of an offense in criminal court have a right to know and question their accuser, parents have no similar right in family court. Numerous baseless calls of abuse and neglect are made to hotlines because the caller knows they are protected by anonymity. *For instance, abusive partners can use this as a controlling tactic by calling or threatening to call CPS with baseless reports about their partner, remaining protected by anonymity.*

Currently, CPS agents can simply “indicate” a family as abusive or neglectful after an investigation, even though the case may not move forward in court. The parents are then put on a registry that is accessible to employers and disqualifies them from a number of jobs, including those often occupied by low-income Black women. Being listed on the registry also prevents a parent from becoming a foster parent for family members or friends. *In some states, a parent may stay on the registry for up to three decades, with no ability to seal the record.*

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- ❖ **Legal protections during the life of a case:** A parent who is the subject of a child welfare case does not have the same rights that are fundamental in criminal legal cases, such as the right to remain silent, the right to early and effective assistance of counsel, the right to a hearing to challenge your detention, the right to exclude evidence illegally obtained, and the right to face your accuser(s). If parents refuse to speak to CPS agents, their silence may be used against them in court and interpreted as guilt. The agents may, and often do, interrogate and strip search children outside the presence of their families. Increasing parental and caregiver rights through state statutes and constitutions could provide some relief to Black parents currently targeted by the system, who fare worse than their white counterparts at every point in the life of an investigation or case.

- ❖ **Dissolution of the family:** The Adoption and Safe Family Act (ASFA) greatly enhances the state's ability to permanently remove children from their parent's care and terminate parental rights, making the United States the world's leader in adopting children away from parents who want to raise them. When ASFA was passed, well over 40% of the United States' foster care population was Black. Soon after ASFA passed, the number of children adopted out of the foster system more than doubled. ASFA provides huge financial incentives to states to move from family reunification to adoption, and eliminates the mandate that the state try to reunify families in many instances.



THE DEMAND

We demand an end to the war on Black women, girls, trans, intersex, and gender nonconforming people, and reparations for all historic and present-day forms of racialized gender-based violence.

Challenging and ending the war on Black women, girls, trans, intersex, and gender nonconforming people requires action on many fronts articulated in demands outlined throughout the Vision for Black Lives. Some specific policy prescriptions are outlined below.

GENDER-BASED VIOLENCE

- ❖ Ensure that Black women have access to resources that will enable them to escape and avoid interpersonal and community violence, including living wage employment, quality, accessible, and affordable housing; immigration status, universal, quality, and accessible health care, comprehensive, culturally appropriate, community-based mental health care, universal, quality, and accessible childcare, and healthy environments.
- ❖ Eliminate public housing exclusions based on law enforcement calls and arrests.
- ❖ Provide employment protections to survivors of gender-based violence, including paid leave, job protection, and supportive services.
- ❖ Remove police and law enforcement from schools, hospitals, social services, and other sites where state violence against Black women, girls, trans, intersex, and gender nonconforming people is common.



THE DEMAND

- ❖ **Pass legislation mandating prevention, detection, and accountability for sexual violence by law enforcement officers and reparations and resources for survivors that do not depend on cooperation with law enforcement.**
- ❖ **Pass and enforce legislation prohibiting profiling based on gender, gender identity, sexual orientation, disability, socioeconomic, immigration, or housing status.**
- ❖ **Pass legislation decriminalizing offenses which disproportionately drive women, girls, trans, and gender nonconforming people into the criminal punishment system, detention, and deportation, including drug, prostitution, and poverty-related offenses, “public order” offenses, and offenses related to violations of conditions of probation and parole.**
- ❖ **Pass legislation mandating that police, prosecutors, and judges consider past history of domestic violence in decision-making around arrest, prosecution, and sentencing.**
- ❖ **Pass legislation barring federal, state, and local conspiracy charges in cases of domestic violence.**
- ❖ **Release all survivors of violence from jails, prisons, and detention centers.**
- ❖ **Affirm rights of survivors to self defense and eliminate mandatory and pro-arrest arrest policies, which contribute to the criminalization of Black women, girls, trans, and gender nonconforming survivors of violence.**
- ❖ **Pass or modify legislation enabling survivors to access victim services, compensation, and support without reporting crimes to police.**
- ❖ **Develop and support non-criminalizing and non-coercive, voluntary, accessible, harm reduction-based, and trauma-informed responses to unmet mental health needs, drug use, involvement in the sex trades, survival theft, and community and interpersonal violence. These responses must prioritize, promote, and protect the safety, agency, and self-determination of Black women, girls, trans, and gender nonconforming people.**



THE DEMAND

ECONOMIC VIOLENCE

- ❖ Transition to a just economy that centers the needs of people over profit.
- ❖ Eliminate exclusions from worker protections for domestic and agricultural workers, tipped workers, migrants, and participants in the “gig economy.”
- ❖ Pass legislation ensuring equal pay for Black women.
- ❖ Enact and implement universal quality, accessible, and culturally competent childcare.
- ❖ Pass legislation mandating a federal minimum wage of at least \$15 per hour.
- ❖ Pass legislation mandating paid sick leave and fair working conditions for hourly workers.
- ❖ Eliminate time, family size, and immigration status-based restrictions and work requirements for social benefits, including welfare, food stamps, access to medical care and social services, and other entitlements.
- ❖ Significantly increase benefit levels and raise the qualification maximum for entitlement to public assistance.
- ❖ End pre-trial detention and money bail, and eliminate fees and fines as part of criminal and civil penalties.
- ❖ End predatory lending practices and redlining derivatives that force and trap Black women, trans, intersex, and gender nonconforming people in poverty.



THE DEMAND

REPRODUCTIVE & MATERNAL JUSTICE

The **2019 Blueprint for Sexual, Reproductive and Health Rights and Justice**, endorsed by over 80 organizations, asserts the fundamental human rights of all individuals to:

- ❖ respect of their bodily integrity, privacy, and personal autonomy;
- ❖ freely define their own sexuality;
- ❖ decide whether and when to be sexually active;
- ❖ choose their sexual partners;
- ❖ have safe and pleasurable sexual experiences;
- ❖ decide whether, when, and whom to marry;
- ❖ decide whether, when, and by what means to have a child or children, and how many children to have; and
- ❖ have access over their lifetimes to the information, resources, services, and support necessary to achieve all the above, free from discrimination, coercion, exploitation, and violence.



THE DEMAND

In order to protect and promote these rights, policy makers must:

- ❖ Ensure full access to comprehensive sexual and reproductive health care, including gender affirming care for trans, intersex, and gender nonconforming people, and eliminate discriminatory barriers to health care for all people.
- ❖ Establish and affirm universal access to safe and affordable birth control and abortion, including Plan B, age-appropriate, culturally relevant sex education, fertility treatments, including insemination and in vitro fertilization support, and appropriate regulation of reproductive technologies.
- ❖ Ensure that both clinic-based and non-clinical abortion options are safe, affordable, and free from stigma or punishment for the people who need them.
- ❖ Ensure safety and protection for abortion clinics, workers, and patients without increasing policing and criminalization of individuals accessing clinics and surrounding communities.
- ❖ Abolish “crisis pregnancy centers” and redistribute resources to reproductive justice initiatives.
- ❖ Ensure universal access to midwives and doulas.
- ❖ Create maternal mortality review committees in every state.
- ❖ Establish comprehensive, consistent, and mandatory health care provider protocols for prenatal care, labor, delivery, and post-natal care, and accountability measures that protect Black women pre- and post-natal.
- ❖ End medically unnecessary (“cosmetic” and “gender normalizing”) surgeries on intersex infants and children.



THE DEMAND

- ❖ **Ensure research and innovation advance sexual and reproductive health, rights, and justice now, and in the future.**
- ❖ **Ensure access to PEP and PrEP and to culturally relevant and medically accurate sexual health and HIV prevention education that affirms people of all gender identities and sexual orientations.**
- ❖ **End the criminalization of pregnant people, abortion, and adverse pregnancy outcomes.**
- ❖ **End forced sterilization, including in prisons.**
- ❖ **Strengthen patient protections, including confidentiality and informed consent.**
- ❖ **End all shackling and solitary confinement of pregnant people at any stage of childbirth and delivery.**
- ❖ **Ensure adequate healthcare and nutrition to pregnant people in jails, prisons, and detention centers.**
- ❖ **Ensure workplace protections and reasonable accommodations for pregnant workers.**
- ❖ **Exempt menstrual products from state tax (taxed as a luxury tax or non-essential goods), and provide menstrual products in public institutions, including schools, jails, prisons, and state hospitals free of charge.**



THE DEMAND

FOSTER CARE & CHILD WELFARE

We value Black families. We value opportunities for Black families and communities to keep their children.

- ❖ Eliminate the foster system's power to permanently and irreversibly destroy Black families through termination of parental rights.
- ❖ Provide meaningful legal protections for individuals who are the subject of child neglect or abuse reports and child protective service investigations.
- ❖ End the mandatory reporting, especially for entities that work with survivors of violence seeking help.
- ❖ Provide the same level of stipend and support (health insurance, respite care, restorative case management focused on child needs) to parents before they lose their children as is provided to foster families after the fact. Strengthen kinship care benefits to be as resourceful and supportive as foster care stipends and support so that children can stay within their families.
- ❖ Create mechanisms for recognition of chosen families. Increase protections and rights for non-biological mothers and parents—including ensuring that non-biological parents are named on birth certificates and adoption does not terminate the rights of any parent, allowing more than two parents' names on birth certificates.

HOW DO THESE SOLUTIONS ADDRESS THE SPECIFIC NEEDS OF SOME OF THE MOST MARGINALIZED BLACK PEOPLE?

These solutions address the needs of survivors of racial and gender-based violence, working class and low- and no-income women, disabled women, trans, intersex, and gender nonconforming people, pregnant people, parents and caregivers, migrants, and criminalized women, including people in the sex and drug trades.



FEDERAL ACTION:

GENDER-BASED VIOLENCE

- ❖ Pass legislation consistent with the *People's Justice Guarantee*, a Congressional Resolution outlining a comprehensive set of measures that would contribute significantly to decriminalization, diversion, decarceration, and re-entry, and advance community-based safety strategies.
- ❖ Pass legislation decriminalizing offenses which disproportionately drive women, girls, trans, and gender nonconforming people into the criminal punishment system, detention, and deportation, including drug, prostitution, poverty-related, and "public order" offenses.
- ❖ Pass a federal Domestic Violence Survivors Justice Act, mandating consideration of history of domestic violence in prosecution and sentencing.
- ❖ Pass the *End Racial and Religious Profiling Act of 2019*.
- ❖ Pass the *MORE Act*, which would federally decriminalize marijuana and provide for expungement and investment in communities affected by the war on drugs.
- ❖ Repeal *FOSTA/SESTA*. Pass the *SAFE SEX Workers Study Act*, which would mandate a study of the legislation's impact on the health and safety of people in the sex trades.
- ❖ Pass the *Security and Financial Empowerment (SAFE) Act*, which would help break down economic barriers for survivors of domestic violence, sexual assault, and stalking by ensuring survivors who need medical attention, legal support, or other services can take leave from work, and allow survivors who have to leave their jobs to receive unemployment insurance. The legislation would also protect survivors from being fired because of an incident of violence, or because of requests to have protections put in place in the workplace for their safety.



FEDERAL ACTION:

- ❖ Enact federal legislation mandating federal, state, and local prevention, detection, and accountability for police sexual violence and providing resources to survivors.
- ❖ Pass the **Stop Shackling and Detaining Pregnant Women Act**, which would end the practice of shackling pregnant women and holding them in migrant detention facilities. The Department of Justice (DOJ) and Department of Health and Human Services (HHS) must ensure that people incarcerated and held in detention centers have access to comprehensive sexual and reproductive health care, including abortion services and screening and treatment for HIV, Hepatitis C, and other sexually transmitted infections. ICE should immediately reinstate, and CBP should adopt, a presumption of release for pregnant individuals and implement strong reporting requirements to aid with oversight.
- ❖ Pass the **PUSHOUT! (Ending Punitive, Unfair, School-Based Harm that is Overt and Unresponsive to Trauma) Act**, which would provide \$2.5 billion to the U.S. Department of Education to improve collection of civil rights data and increase civil rights enforcement, and create \$2.5 billion in new federal grants to schools that agree to rewrite their discipline policies through a collaborative process with students, families, and communities; train educators in restorative practices and trauma-informed approaches; end corporal punishment; and invest in counselors, social workers, and mental health professionals instead of police officers.
- ❖ Pass legislation that eliminates discrimination in schools based on compliance with dress codes, including discrimination against natural hair.



FEDERAL ACTION:

ECONOMIC VIOLENCE

- ❖ Enforce the *National Domestic Workers' Bill of Rights*.
- ❖ Pass the *Paycheck Fairness Act* to address the gender-based wage gap.
- ❖ Pass the *Schedules that Work Act*, which offers critical protections to hourly and shift workers.
- ❖ Pass the *Universal Childcare and Early Learning Act*.
- ❖ Pass the *Family and Medical Insurance Leave (FAMILY) Act*, which would create a national family and medical leave insurance program.
- ❖ Pass the *Pregnant Workers Fairness Act*, which would ensure that workers with limitations related to pregnancy, childbirth, or related medical conditions are not forced out of their jobs or denied reasonable workplace accommodations.
- ❖ Pass the *Raise the Wage Act*, which would increase the federal minimum wage to \$15 per hour.
- ❖ Pass the *Healthy Families Act*, which would set a national paid sick days standard. This legislation would also allow workers who are survivors of domestic violence, stalking, or sexual assault to use their paid sick days to seek assistance related to the abuse.
- ❖ Pass legislation eliminating time, family size, and immigration based restrictions and work requirements for social benefits, including welfare, food stamps, and other entitlements, significantly increasing benefits, and raising the qualification maximum for entitlement to public assistance.



FEDERAL ACTION:

REPRODUCTIVE & MATERNAL JUSTICE

- ❖ Repeal the Hyde amendment, which prohibits use of federal funds to provide abortion care to Medicaid and CHIP recipients, Indian Health Services recipients, women in the military and Peace Corps, women living in the District of Columbia and other federally controlled jurisdictions, and people incarcerated in federal facilities.
- ❖ Repeal the Helms Amendment, which prohibits use of U.S. foreign aid to fund abortion as a method of family planning and replace it with endorsement of using U.S. funding for safe abortion services worldwide.
- ❖ Pass the **Black Maternal Momnibus Act** of 2020.
- ❖ Pass the **Each Woman's Act**, which would repeal the Hyde Amendment, require federal health insurance programs, including Medicaid, Medicare, and CHIP, to provide coverage for abortion services; restore coverage for low-income women in the District of Columbia; ensure coverage of abortion care for federal employees; ensure that women who receive health care services via the Indian Health Service, the Federal Bureau of Prisons, or the Veterans Health Administration have access to abortion care; and prohibit state or local governments from restricting coverage of abortion by private health insurance plans.
- ❖ Pass the **Women's Health Protection Act**, a federal law that would protect abortion access and prevent state abortion bans and medically unnecessary restrictions by establishing a statutory right for a provider to provide abortion services, and a corresponding right for their patients to obtain abortion services, free from bans and restrictions that single out abortion and impede access to care.
- ❖ Restore and expand protections against discrimination for transgender people in the **Affordable Care Act**



FEDERAL ACTION:

- ❖ Pass the **Maternal Care Access and Reducing Emergencies (CARE) Act**, aimed at reducing racial disparities in maternal care and mortality.
- ❖ Pass the **Maximizing Outcomes for Moms through Medicaid Improvement and Enhancement of Services (MOMMIES) Act**, which would enhance Medicaid coverage for people postpartum.
- ❖ Pass the **Mothers Offspring Mortality and Morbidity Awareness (MOMMA's) Act**, which would establish best practices for the prevention of maternal mortality.
- ❖ Pass the **Access to Birth Control Act**, which would ensure that people are able to access birth control in a timely manner by prohibiting pharmacies from refusing to fill a customer's valid prescription for birth control.
- ❖ Pass the **Access to Infertility Treatment and Care Act**, which would require private health plans that cover obstetrical services to also cover infertility treatments, including in vitro fertilization.
- ❖ Pass the **Affordability is Access Act**, which would require health insurance plans to cover over-the-counter oral contraceptives without cost-sharing, if and when the Food and Drug Administration approves an over-the-counter application.
- ❖ The Department of Health and Human Services must develop a robust research and outreach initiative on U.S. maternal mortality in the form of an interagency task force.



FEDERAL ACTION:

FOSTER CARE & CHILD WELFARE

- ❖ Repeal the *Adoption and Safe Families Act* (ASFA).
- ❖ Repeal the *Child Abuse Prevention Treatment Act* (CAPTA) provision, which mandates that hospitals notify CPS agents of certain cases of children exposed to controlled substances in utero. Women with private health insurance are almost never drug tested and, therefore, never reported.
- ❖ Decrease and end the open-ended entitlement funding the foster system, and reinvest that money into community-based organizations that can provide services to families in need.
- ❖ Create meaningful legal protections for parents facing termination of parental rights, including the right to effective assistance of counsel, the right to a jury trial, and the right to require the state to prove beyond a reasonable doubt that it is in the best interests of a child to proceed with termination, a right to equivalent supports to those offered foster families and kinship care, and a right to remain on a child's birth certificate.
- ❖ Create a child welfare *Miranda* right to remain silent and a right to counsel.
- ❖ End the ability of CPS agents to create a public record of a family as abusive or neglectful where there has been no court filing or process.
- ❖ Eliminate the drug testing of pregnant people and their newborns unless hospitals obtain informed consent. Even where informed consent is obtained, eliminate reports of substance use to child protective services when the only concern is substance use.
- ❖ Clarify child protection laws to ensure that the power related to state regulation of parenting is over children, not fetuses and pregnant people.



STATE ACTION:

- ❖ Pass legislation prohibiting profiling based on race, gender, gender identity, sexual orientation, age, disability, housing status, or immigration status.
- ❖ Pass legislation decriminalizing offenses which disproportionately drive women, girls, trans, and gender nonconforming people into the criminal punishment, detention, and deportation systems, including drug, prostitution, poverty-related offenses, “public order” offenses, and offenses related to violations of conditions of probation and parole.
- ❖ Pass a **Domestic Violence Survivors Justice Act** mandating consideration of history of domestic violence in prosecution and sentencing.
- ❖ Pass legislation mandating that all law enforcement agencies explicitly prohibit sexual violence, extortion, and harassment by law enforcement officers against members of the public, providing for immediate termination of officers involved, reparations to survivors, and immediate action to address structural drivers and enablers of sexual violence by law enforcement officers.
- ❖ Support non-criminalizing and non-coercive, voluntary, accessible, harm reduction-based and trauma-informed responses to unmet mental health needs, drug use, involvement in the sex trades, survival theft, and community and interpersonal violence. These responses must prioritize, promote, and protect the safety, agency, and self-determination of Black women, girls, trans, and gender nonconforming people.
- ❖ Pass legislation establishing a presumption of release from custody for pregnant people and caregivers and ending the practice of shackling pregnant people in custody at any stage of pregnancy, labor, or delivery.
- ❖ Enact a state Domestic Workers Bill of Rights.



STATE ACTION:

- ❖ Pass legislation increasing the state minimum wage to \$15 per hour, mandating provision of paid sick and family and medical leave, and extending all existing labor protections to domestic workers, agricultural workers, tipped workers, pregnant workers, and hourly and shift workers.
- ❖ Create a state universal childcare program.
- ❖ Repeal laws criminalizing self-managed abortion. Amend laws used to criminalize pregnant people to prohibit their use against pregnant people, people who experience adverse pregnancy outcomes, and people assisting or facilitating self-managed abortions, including laws punishing feticide, unlawful practice of medicine, child abuse, concealing a birth, concealing or unlawful disposal of human remains, and delivery of drugs to a minor.
- ❖ Establish maternal mortality review committees and task forces to investigate structural drivers of maternal mortality.
- ❖ Expand access to doula care and extend the period of medical coverage following childbirth or an involuntary miscarriage.
- ❖ Repeal state laws implementing the federal Adoption and Safe Families Act (mini-AFSAs).
- ❖ Create meaningful legal protections for parents facing termination of parental rights proceedings, including the right to effective assistance of counsel, the right to a jury trial, and the right to require the state to prove beyond a reasonable doubt that it is in the best interests of a child to proceed with termination.
- ❖ Create a state child welfare Miranda right to remain silent and right to counsel.





STATE ACTION:

- ❖ **Abolish termination of parental rights and legalized estrangement of living families. Create alternatives to termination of parental rights, including guardianship arrangements, and procedures for reinstatement of parental rights.**
- ❖ **End anonymous reporting to child abuse and neglect hotlines.**
- ❖ **End the ability of CPS agents to create a public record of a family as abusive or neglectful where there has been no court filing or process.**
- ❖ **Create 24-hour courts staffed with family defense attorneys to hear emergency removal requests, or requests to remove children from their homes before any neglect or abuse allegations have been proven. Currently, CPS agents have the power to remove children from their homes without any court oversight and no immediate recourse for parents. CPS notoriously makes egregious use of these removals. In New York City, emergency removals dramatically declined after public defender offices started systematically challenging them.**
- ❖ **Eliminate drug testing of pregnant people and their newborns unless hospitals obtain informed consent. Even where informed consent is obtained, eliminate reports of substance use to child protective services when the only concern is substance use, not parenting.**
- ❖ **Clarify child protection laws to ensure that the power related to state regulation of parenting is over children, not fetuses and pregnant people.**
- ❖ **Eliminate state laws which bar formerly incarcerated people from serving as guardians to their own children or others in their community.**
- ❖ **Eliminate the reliance on court-appointed special advocates (CASAs) to determine the fates of Black children in child welfare proceedings.**



LOCAL ACTION:

- ❖ **Pass legislation prohibiting racial profiling based on race, gender, gender identity, sexual orientation, age, disability, housing status, or immigration status.**
- ❖ **Pass legislation decriminalizing offenses which disproportionately drive women, girls, trans, and gender nonconforming people into the criminal punishment, detention, and deportation systems, including drug, prostitution, poverty-related, and “public order” offenses.**
- ❖ **Support non-criminalizing and non-coercive, voluntary, accessible, harm reduction-based, and trauma-informed responses to unmet mental health needs, drug use, involvement in the sex trades, survival theft, and community and interpersonal violence. These must prioritize, promote, and protect the safety, agency, and self-determination of Black women, girls, trans, and gender nonconforming people.**
- ❖ **Pass legislation mandating that all law enforcement agencies explicitly prohibit sexual violence, extortion, and harassment by law enforcement officers against members of the public, providing for immediate termination of officers involved, reparations to survivors, and immediate action to address structural drivers and enablers of sexual violence by law enforcement officers.**
- ❖ **Enact a local Domestic Workers Bill of Rights.**



LOCAL ACTION:

- ❖ Pass legislation increasing the local minimum wage to \$15 per hour, mandating provision of paid sick and family and medical leave, and extending all existing labor protections to domestic workers, agricultural workers, tipped workers, pregnant workers, and hourly/shift workers.
- ❖ Establish maternal mortality review committees and task forces to investigate structural drivers of maternal mortality.
- ❖ Create meaningful legal protections for parents facing termination of parental rights proceedings, including the right to effective assistance of counsel, the right to a jury trial, and the right to require the state to prove beyond a reasonable doubt that it is in the best interests of a child to proceed with termination.
- ❖ End anonymous reporting to child abuse and neglect hotlines.
- ❖ Create 24-hour courts staffed with family defense attorneys to hear emergency removal requests, or requests to remove children from their homes before any neglect or abuse allegations have been proven.
- ❖ Eliminate agency policies which bar formerly incarcerated people from serving as guardians to their own children or others in their community.

MODEL LEGISLATION

- ❖ **Domestic Violence Survivors Justice Act (DVSA)**
- ❖ **Black Maternal Health Momnibus of 2020**

RESOURCES

- ❖ *Transform Harm*, a resource hub for ending violence
- ❖ *'me too.' movement*" a resource for ending sexual violence
- ❖ Love with Accountability, *a resource of ending child sexual violence*
- ❖ Critical Resistance - INCITE! *Statement on Gender Violence and the Prison Industrial Complex*
- ❖ Black Mamas Matter, *a resource on Black maternal justice*
- ❖ Black Women's Round Table, *The State of Black Women in the U.S. and Key States, 2019.*
- ❖ Essie Justice Group, *Because She's Powerful: Political Isolation and Resistance of Women With Incarcerated Loved Ones*
- ❖ Ella Baker Center for Human Rights & Forward Together, *Who Pays? The True Cost of Incarceration on Families*
- ❖ Interrupting Criminalization: Research in Action, *What is Driving Mass Incarceration of Women, Trans and Gender Non-Conforming People?*
- ❖ In Our Voices, Our Bodies, Our Lives, Our Voices: *The State of Black Women and Reproductive Justice*
- ❖ *Blueprint for Sexual and Reproductive Rights, Health and Justice (2019)*
- ❖ National Domestic Workers' Alliance and Institute for Women's Policy Research, *The Status of Black Women in the United States (2017)*
- ❖ *National Domestic Workers Alliance, A Summary of the National Domestic Workers' Bill of Rights*
- ❖ *National Black Women's Justice Initiative, Expanding Our Frame: Deepening Our Demands for Safety and Healing for Black Survivors of Sexual Violence*
- ❖ Beth Richie, *Arrested Justice: Black Women, Violence and the Prison Nation*
- ❖ Andrea J. Ritchie, *Invisible No More: Police Violence Against Black Women and Women of Color*
- ❖ Andrea J. Ritchie, *Tackling Police Sexual Violence*
- ❖ Erin Cloud, Rebecca Oyama & Lauren Teichner, *Family Defense in the Age of Black Lives Matter*
- ❖ Regina Mahone, *"State Legislators Are Finally Doing Something About the Black Maternal Health Crisis,"* Rewire, April 12, 2019
- ❖ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare*

ORGANIZATIONS CURRENTLY WORKING ON POLICY

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**BLACK MAMAS
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**CHILD WELFARE
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PROJECT**

**ESSIE JUSTICE
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IN OUR OWN VOICES

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‘ME TOO.’ MOVEMENT

MOMS RISING

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**NATIONAL COUNCIL
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AND FORMERLY
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**PRISON DOULA
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WOMEN ON THE RISE

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VISION**

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