

LEGAL MOMENTUM'S

2023 ACTION AGENDA

Amidst the recent and ongoing deterioration of women's fundamental rights, along with continuing impacts of the pandemic and rising cost of living that are disproportionately undermining the physical and economic security of women and their families, we are at a critical moment when lawmakers must take bold, urgent, and meaningful action to enact safeguards against gender, racial, and other forms of discrimination and to address longstanding structural inequities. Legal Momentum's 2023 Action Agenda identifies six urgent priorities on which we will focus our legislative advocacy in the coming year.

ADVANCING PAY EQUITY THROUGH PAY TRANSPARENCY

Gender and racial pay gaps persist in the United States. Secretive pay information makes challenging unequal pay difficult. It is thus increasingly clear that we cannot achieve pay equity without pay transparency, starting by requiring all employers to disclose compensation ranges, benefits, and job descriptions upfront in job postings and to existing employees. Building on crucial victories we helped to secure in New York City and New York State, we must continue the momentum in states and localities throughout the country in addition to prioritizing this at the federal level.

INCREASING WOMEN'S ECONOMIC SECURITY BY INCREASING THE MINIMUM WAGE

Women, especially women of color, are overrepresented in the low-wage workforce, with many carrying out essential roles at minimum wage or an even lower tipped minimum wage. As cost of living rises while wages remain stagnant, women, especially single-mother led households, face higher levels of poverty and are vulnerable to a host of broader abuses, including wage theft, sexual harassment, retaliation, and gender-based violence. Eliminating the tipped wage and raising and indexing the minimum wage to adjust regularly to increases in cost of living are two of the most impactful measures policymakers can make towards reducing poverty and economic insecurity for women and addressing long-term structural inequities, including the gender wage gap.

ENSURING EQUALITY UNDER STATE AND FEDERAL CONSTITUTIONS

Gender equality should be a fundamental right, yet our federal and most state constitutions exclude explicit protections based on gender. Under the U.S. Constitution, the Equal Rights Amendment ("ERA") would expressly protect individuals against sex discrimination. At a time when women's fundamental right to bodily autonomy is under attack, it is essential that our constitution includes express protections against gender discrimination.

ENDING NONCONSENSUAL DRUG TESTING OF PREGNANT PATIENTS

Hospitals and healthcare providers around the country regularly perform drug tests on pregnant patients without their knowledge or consent during routine prenatal care. This practice robs patients of their bodily autonomy, violates their privacy rights, and can have devastating and long-lasting effects on pregnant patients and their families. Based on these tests, new parents are routinely denied the right to bond with their newborn children or make critical decisions like whether to breastfeed their babies despite medical recommendations not to deny such opportunities. Often, subsequent reporting of results to child protective services leads to policing and surveillance of pregnant patients and their families during and after pregnancy. It alienates women from seeking healthcare, disproportionately harming women of color who already face higher rates of maternal mortality. Legislation must be enacted to stop healthcare providers from drug testing pregnant patients without clear oral and written consent and to prevent reporting of pregnant patients to child protective services based on positive drug tests alone.

ENSURING ENFORCEMENT OF TITLE IX FOR ALL STUDENTS

Title IX's promise of an education free from sex discrimination will only be fully realized by regulations and laws that hold it to that promise. In addition to robust implementing regulations, state and federal law must strengthen schools' obligations to prevent and respond to gender-based harassment and violence, require effective notice requirements, ensure that survivors are not subjected to school discipline, and increase transparency about compliance. Moreover, the constant attack on LGBTQ+ students' ability to access their education, student athletics and extracurricular activities in a safe, equitable and dignified way must be interrupted. Instead, laws and regulations must make clear that Title IX's intent and purpose protects LGBTQ+ students' rights equally.

EXPANDING EMPLOYMENT PROTECTIONS FOR SURVIVORS

Among the myriad ways domestic violence, sexual assault, or stalking affect a survivor's life, economic instability can be one of the most debilitating. Often their employment is affected by the abuse, at a time when their job is critical to achieving and maintaining their safety and that of their children and families. Laws establishing workplace protections for survivors are essential to aiding survivors in maintaining financial security. State and federal protections must require employers to make reasonable accommodations for survivors, prohibit discrimination on the basis of someone's status as a survivor, provide paid leave to attend to needs in the aftermath of abuse, and ensure access to unemployment benefits when remaining in their employment is unsafe. Not enough states have these protections and existing protections often have gaps and weak enforcement.