

# Council Briefing: Grounding Reproductive Health Access in a Reproductive Justice Framework

## Inequities in Reproductive Health Access

In 2018, the Washington State Legislature passed the Reproductive Parity Act ([Chapter 119, Laws of 2018](#)). Among other provisions, the law directed the Health Disparities Council to conduct a literature review on disparities in access to reproductive healthcare and to provide recommendations for reducing or eliminating inequities. On January 1, 2019, the Council submitted its “[Literature Review on Inequities in Reproductive Health Access](#)” to the Governor and appropriate legislative committees. The report included discussion of 45 unique barriers identified through a review of literature. Barriers were further grouped into three categories: Economic, Structural, or Social. The Council approved 14 recommendations included in the report, which were informed by the review of literature, conversations with key informants, and reports authored by state agencies and community-based organizations. While not comprehensive, recommendations represent actions that would reduce disparities in accessing reproductive healthcare for multiple people and groups experiencing inequities in Washington State.

## Applying a Reproductive Justice Framework

Historically, the reproductive rights movement has focused on individual choice and the legal right to abortion.<sup>1,2</sup> In 1994, Black women coined the phrase “Reproductive Justice” from “the concepts of reproductive rights, social justice, and human rights as a way of centering the specific lived experience of Black women”.<sup>3</sup> A Reproductive Justice framework expands beyond choice,<sup>1,2,4</sup> focusing on access to services and emphasizing the human right “to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities”.<sup>5</sup>

## Impacts of the COVID-19 pandemic

Nationally, some reproductive healthcare services are not considered essential healthcare services during the COVID-19 pandemic.<sup>6,7,8</sup> Many services are being disrupted due to the pandemic, including:<sup>9</sup>

1. Preventive screenings (e.g., breast cancer screenings);
2. Abortion services;
3. Access to contraception (e.g., long-acting reversible contraception, intrauterine devices [IUDs], implants); and
4. Availability of medication and treatment (i.e., due to global supply chain disruptions).

People of color, “LGB+ respondents, transgender and other gender-diverse respondents, lower-income respondents, and those who experienced financial and employment difficulties in the past year [are] more likely than others to experience COVID-19-related barriers to [sexual and reproductive healthcare services]”.<sup>10</sup> Preliminary data from Washington State suggest that fewer people are accessing reproductive healthcare generally during the COVID-19 pandemic.<sup>11</sup> For example, incidence of sexually transmitted infections has increased in Washington and patients have been less likely to access testing and treatment.<sup>11</sup>

<sup>1</sup> Brown, K., M. Plummer, A. Bell, M. Combs, B. Gates-Burgess, A. Mitchell, M. Sparks, M. McLemore, and A. Jackson. (2022). Black Women’s Lived Experiences of Abortion. *Qualitative Health Research*, 0(0), 1-15.

<sup>2</sup> Price, K. (2020). What is Reproductive Justice? How Women of Color Activists are Redefining the Pro-Choice Paradigm. *Meridians*, 19(S2020).

<sup>3</sup> In Our Own Voice. (2021). Black Reproductive Justice Policy Agenda. Available at: <https://blackrj.org/wp-content/uploads/2021/06/BlackRJPolyAgenda.pdf>. Accessed 7/7/2022.

<sup>4</sup> George, M. (2020). Queering Reproductive Justice. *University of Richmond Law Review*, 54(3), 671-704.

<sup>5</sup> SisterSong. (2022). “What is Reproductive Justice?” Available at: <https://www.sistersong.net/reproductive-justice/>. Accessed 6/27/2022.

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Reproductive Justice focuses on broad issues and rights that impact reproductive decision-making, including but not limited to sexual health education, healthcare access, and living wages.<sup>4</sup> The framework connects to “other social justice issues such as economic justice, education, immigrant rights, environmental justice, sexual rights, and globalization”.<sup>2</sup>

Reproductive Justice acknowledges structural and systematic barriers; gendered, sexualized, and racialized power systems; and intersectionality that limits access to sexual and reproductive healthcare.<sup>4,5</sup> It highlights “interlocking systems of oppression (i.e., race, class, gender, etc.) [that] make up the lives of women of color. These interlocking systems create a complex, integrative form of sexual and reproductive oppression...”.<sup>3</sup> In 2021, more than 30 Black Reproductive Justice organizations and activists developed the Black Reproductive Justice Policy Agenda. The Agenda includes policy recommendations for the U.S. Congress, the federal administration, and state legislators in 25 issue areas.<sup>3</sup>

### Status Update on the Council’s 2019 Recommendations

Topic	Recommendation	Status
<b>Criminal Legal</b>	1. The Departments of Corrections and Children, Youth, and Families should cooperate with state prisons, county jail systems, and juvenile detention centers to create a continuum of care that spans incarceration and return to the community.	<b>Status to be determined (TBD)</b>
	2. The Washington State Legislature should convene a workgroup to develop recommendations to reduce/eliminate barriers to healthcare services experienced by victims and survivors of human trafficking.	<b>Aligned with Other Completed Work:</b> See update for Recommendation 6.
<b>Education</b>	3. The Washington State Legislature should require (rather than make voluntary) that all public schools in Washington State teach age-appropriate, culturally-appropriate, comprehensive, medically accurate, and LGBTQIA-inclusive sexual health education.	<b>In Progress:</b> The Legislature passed ESSB 5395, Concerning comprehensive sexual health education ( <a href="#">Chapter 188, Laws of 2020</a> ). School districts are working with the Office of Superintendent of Public Instruction (OSPI) to implement.

<sup>6</sup> Jones, R.K., L. Lindberg, and E. Witwer. (2020). COVID-19 Abortion Bans and their Implications for Public Health. *Perspectives on Sexual and Reproductive Health*, 52(2), 65-68.

<sup>7</sup> Kaller, S., M.G.I. Munoz, S. Sharma, S. Tayel, C. Ahlbach, C. Cook, and U.D. Upadhyay. (2021). Abortion service availability during the COVID-19 pandemic: Results from a national census of abortion facilities in the U.S. *Contraception*: X. 3.

<sup>8</sup> Mukherjee, T., A.G. Khan, A. Dasgupta, and G. Samari. (2021). Reproductive Justice in the time of COVID-19: A systematic review of the indirect impacts of COVID-19 on sexual and reproductive health. *Reproductive Health*, 18, 252.

<sup>9</sup> Balkus, J. (2020). *How the Pandemic Impacts Sexual and Reproductive Healthcare*. Northwest Bulletin. University of Washington School of Public Health. Available at: <https://depts.washington.edu/nwbfch/pandemic-disrupts-sexual-health>. Accessed 7/7/2022.

<sup>10</sup> Lindberg, L.D., J. Mueller, M. Kirstein, and A. VandeVusse. 2021. The continuing impacts of the COVID-19 pandemic in the United States: Findings from the 2021 Guttmacher Survey of Reproductive Health Experiences. Guttmacher Institute. Available at: <https://www.guttmacher.org/report/continuing-impacts-covid-19-pandemic-findings-2021-guttmacher-survey-reproductive-health>.

<sup>11</sup> Washington State Department of Health, personal communication, July-September 2022.

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	4. The Washington State Legislature should allocate state funds for Department of Health to provide pass-through funding to community-based organizations to conduct age appropriate, culturally-appropriate, comprehensive, medically accurate, and LGBTQIA inclusive sexual health education in community settings for adolescents and young adults, older adults, immigrants and refugees, individuals with behavioral health disorders, individuals with disabilities, individuals experiencing homelessness, individuals with limited English proficiency (LEP), and tribes and urban Indian communities to expand health literacy related to reproductive health and navigating the healthcare system to access services.	TBD
Provider	5. The Health Care Authority and Departments of Corrections, Labor and Industries, and Social and Health Services should fully implement the Dr. Robert Bree Collaborative’s “LGBTQ Health Care Report and Recommendations 2018” to improve healthcare and health equity for LGBTQIA persons.	TBD
	6. The Department of Health should propose that the Dr. Robert Bree Collaborative identify and endorse separate sets of guidelines to improve the reproductive healthcare of: 1) people of color, 2) immigrants and refugees, 3) victims and survivors of violence, and 4) people with disabilities.	<b>Completed:</b> In 2019, the Legislature passed SB 5602 which among other provisions required the BREE Collaborative convene the recommended workgroup. The <a href="#">workgroup</a> met from January to October 2020 and published “ <a href="#">Sexual and Reproductive Health Report and Recommendations</a> ”.
Insurance	7. The Office of the Insurance Commissioner should determine a common process and establish consistency of forms for health plans to redirect communications containing personal health information.	<b>Completed:</b> The Legislature passed SSB 5889, Concerning insurance communications confidentiality ( <a href="#">Chapter 56, Laws of 2019</a> ).
	8. The Washington State Legislature should work with the Office of the Insurance Commissioner to determine a common process for health plans to automatically suppress communications containing personal health information related to reproductive health services (e.g., contraception, pregnancy tests, Pap smears, sexually transmitted diseases [STD], HIV testing, PrEP, and HIV treatment), and grant the agency the authority necessary to implement and enforce the protocol.	TBD
	9. The Washington State Legislature should develop and implement a health insurance option for lawfully present immigrants that do not meet the 5-year-bar, other immigrants not qualified for federal benefits, and for individuals who are undocumented.	<b>In Progress:</b> In 2021, <a href="#">HB 1191</a> was introduced and a <a href="#">Health Impact Review</a> (HIR) was requested. HIR findings have been used to: support successful budget provisos (2022 Session); inform a <a href="#">Section 1332 State Innovation Waiver</a> to the federal government (pending); and draft budget proposals for the 2023 Legislative Session.

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	10. The Washington State Legislature should grant authority to the Office of the Insurance Commissioner, Health Care Authority, Department of Social and Health Services, and other relevant agencies to update health insurance and medical forms to include non-gendered language and to allow individuals to indicate both sex assigned at birth and gender identity.	<b>TBD</b>
<b>State Funding</b>	11. The Washington State Legislature should increase state Medicaid reimbursement rates for reproductive health services to improve service and provider availability.	<b>Completed:</b> In the 2021-2023 operating budget ( <a href="#">ESSB 5092</a> , Section 211, 36), the Legislature appropriated general fund-state (FY 2022 and 2023) and general fund-federal dollars to increase provider rates for agencies that contract with the Department of Health’s Sexual and Reproductive Health program for the purpose of maintaining and increasing access to family planning services.
	12. The Washington State Legislature should dedicate additional state funds to provide family planning services in Washington State and should replace federal Title X funding with state funding, in the event that Title X is cut at the federal level or future requirements do not meet Washington State law.	<b>Completed:</b> In 2019, the Federal Administration issued a rule preventing Title X funded clinics from counseling pregnant patients on all pregnancy options, including abortion, or referring patients to another facility for an abortion. In response, on July 15, 2019, WA stopped using federal funds to reimburse health clinics that benefited from Title X. The state later allocated funds to fill the gap. In 2021, a new rule went into effect reversing the previous Administration’s rule. In 2022, Washington received its first two rounds of Title X funding since 2019. <sup>12</sup>
	13. The Washington State Legislature should review the Community Health Worker Task Force final report regarding training and education recommendations (anticipated June 2019) and should identify opportunities and strategies for CHWs to address barriers in accessing reproductive healthcare.	<b>TBD</b>
	14. Key Informants shared opportunities for future research that the Washington State Legislature or state agencies and institutions of higher education should consider to improve access to reproductive health services in Washington State. See page 82 for a list of research proposals.	<b>TBD</b>

<sup>12</sup> Even with the return of federal Title X funding, there continues to be significant need for state fund investment due to ongoing challenges, impacts, and repercussions from the COVID-19 pandemic and the Dobbs vs. Jackson SCOTUS decision resulting in an increased demand for reproductive health services. Washington State Department of Health, personal communication, July-September 2022.