Legislative Affairs
125 Broad Street, 19th Floor
New York, NY 10004
212-607-3300
www.nyclu.org

Testimony of the New York Civil Liberties Union
Before the Joint Legislative Budget Hearing on Health

February 11, 2025

The New York Civil Liberties Union (NYCLU) is grateful for the opportunity to submit the following testimony for the Joint Legislative Budget Hearing on Health. The NYCLU advances civil rights and civil liberties so that all New Yorkers can live with dignity, liberty, justice, and equality. Founded in 1951 as the state affiliate of the national ACLU, we deploy an expert mix of litigation, policy advocacy, field organizing, and strategic communications. Informed by the insights of our communities and coalitions and powered by 90,000 member-donors, we work across complex issues to create more justice and liberty for more people. As the legal arm of New York's reproductive rights movement, the NYCLU strives to ensure that New York remains a beacon for equality and bodily autonomy and the full range of reproductive rights, from access to abortion care to birth justice. The NYCLU also fights for LGBTQ New Yorkers by advancing access to health care, as well as protections in the workplace, education, housing, and more. We fight the criminalization of trans lives and abuse in prisons and jails. We advocate for state recognition of LQBTQ identities and help New Yorkers know their rights.

I. Introduction

In order to meet this moment in history, New York State must prioritize health dollars and policies to support women and transgender, gender nonconforming, nonbinary, and intersex people.

The Trump presidency is an existential threat to reproductive freedom and LGBTQ rights. Trump and his allies have made clear that overturning *Roe v. Wade* was just the beginning – their ultimate aim is to eliminate access to abortion across the country and erase transgender people from public life. In the first two weeks of his presidency, the Trump administration has already started taking steps to exclude transgender, gender nonconforming, nonbinary, and intersex people from all walks of public and civic life, to unwind privacy protections in order to put members of our community at risk, and to reinstate the global gag rule to prevent people from accessing care across the world. And the Trump administration has multiple avenues to continue to effectuate their agenda. The Trump administration plans to weaponize the Comstock Act, a defunct Victorian-era anti-obscenity law, to effectively ban abortion

nationwide.[1] They also intend to restrict, and possibly eliminate, access to mifepristone, a medication used in half the abortions in this country.[2] Additionally, Trump and his allies promise to drastically cut, if not fully eliminate, federal funding for reproductive health care and gender-affirming care,[3] including by eviscerating Title X family planning funding[4] and eliminating or seriously undermining Medicaid funding for reproductive health and gender-affirming care, further jeopardizing access for low-income New Yorkers.[5]

Therefore, the NYCLU calls upon the Governor and legislature to adequately fund reproductive health care and gender-affirming care in the FY2026 state budget, as well as to include provisions in the Article VII legislation that support access to health care. Specifically, the legislature should maintain and improve the Governor's HMH Part DD to clarify that decisionally-capable homeless and runaway youth can consent to their own mental health care, and it should maintain the Governor's PPGG Part H to improve access to post-HIV exposure prophylaxis for people who survive sexual assault. While it should omit the Governor's HMH Part P and instead advance legislation to codify access to emergency care, including emergency abortion care, outside of budget, it should add the following provisions to one house budgets and ensure that they remain in the final enacted budget: the hospital transparency legislation (S.3486/A.3862) that the Governor vetoed, citing cost, at the end of last year; legislation to modernize pregnancy loss reporting and better protect patient privacy (S.3173/A.4023); and the update to Temporary Disability Insurance that the legislature negotiated at the end of the last legislative session (S.172/A.84).

II. Spending Bills

A. New York Must Adequately Fund Access to Reproductive Health Care.

In the wake of the *Dobbs* decision, more than half of states have severely restricted access to abortion[6] – and thirteen states have completely banned abortion.[7] Nationwide, at least 66 clinics have stopped providing abortion care since the *Dobbs* decision, and 26 have shut down

---

[1] *See generally Trump on Abortion*, ACLU, https://www.aclu.org/trump-on-abortion (last visited Nov. 19, 2024).
[2] *Id*.
[3] *See e.g.* Exc. Order No. 14187, 90 Fed. Reg. 8771 – 73 (Feb. 3, 2025).
[4] Millions of people rely on Title X funding each year to access free sexual and reproductive health care. The last Trump administration imposed a gag rule barring Title X providers from talking about abortion. Its reinstatement will likely force New York to withdraw from the Title X program, as it did during the first Trump administration.
[5] Threats to Medicaid funding include efforts to administratively terminate abortion providers and gender-affirming care providers from participating in Medicaid; weaponization of the Weldon Amendment to withhold Medicaid funds from states like New York that require private insurance plans to cover abortion; and prohibiting Medicaid dollars from being used to pay for gender-affirming care. (Under the Hyde Amendment, they already cannot be used for abortion care.)
[6] *Interactive Map: US Abortion Policies and Access After Roe*, GUTTMACHER INSTITUTE, Jan. 29, 2025, https://www.guttmacher.org/state-legislation-tracker.
[7] *After Roe Fell: Abortion Laws by State*, CENTER FOR REPRODUCTIVE RIGHTS, https://reproductiverights.org/maps/abortion-laws-by-state/ (last visited Feb. 4, 2025).

completely.[8] The impacts of being denied abortion care are profound[9] and most deeply impact those who are already burdened by systemic racism and economic injustice.[10]

To meet this moment, New York must codify and fund an access agenda.

In 2019, the Reproductive Health Act created important statutory protections for abortion care in New York, and in the 2024 general election, we enshrined those protections in our state constitution. In addition, since the *Dobbs* decision eliminated the federal constitutional right to abortion, New York has taken steps to make abortion access a reality for more people who need it through new grant funding to abortion providers[11] and, importantly, by enacting the Reproductive Freedom and Equity Program in the FY2025 state budget.[12] But, abortion remains out of reach for many New Yorkers because they cannot afford the cost of travel, lodging, childcare, and other expenses associated with accessing care.

We are grateful that the Governor maintained from last year $25 million for the **Reproductive Freedom and Equity Fund** in her Executive Budget. We encourage the legislature to increase that figure by $10 million to **$35 million** and to **make logistical support for abortion care an eligible expense by including S.135/A.2137** in one house budgets and ensuring that it remains in the enacted budget.

Logistical support covers critical patient needs that enable them to access care, such as bus tickets, childcare, and lodging. It also covers services like UberHealth to ensure that patients who do not have an escort are able to safely travel home after a procedure that required sedation.

The need is great. For example, the New York Abortion Access Fund (NYAAF) pledged more than $1.8 million in direct abortion funding to 1,869 people in 2023 – a 46% increase from 2022

---

[8] Marielle Kirstein, Joerg Dreweke, Rachel K. Jones, & Jesse Philbin, *100 Days Post-Roe: At Least 66 Clinics Across 15 States Have Stopped Offering Abortion Care*, GUTTMACHER INSTITUTE, Oct. 6, 2022, https://www.guttmacher.org/2022/10/100-days-post-roe-least-66-clinics-across-15-us-states-have-stopped-offering-abortion-care.

[9] *The Turnaway Study*, ANSIRH, https://www.ansirh.org/research/ongoing/turnaway-study (last visited Feb. 27, 2023).

[10] Liza Fuentes, *Inequity in US Abortion Rights and Access: The End of Roe is Deepening Existing Divides*, GUTTMACHER INSTITUTE, Jan. 17, 2023, https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-roe-deepening-existing-divides.

[11] *See* Press Release, Governor Kathy Hochul, Governor Hochul Announces Nation-leading $35 Million Investment to Support Abortion Providers in New York (May 10, 2022) (https://www.governor.ny.gov/news/governor-hochul-announces-nation-leading-35-million-investment-support-abortion-providers-new); Press Release, Governor Kathy Hochul, Governor Hochul Announces $13.4 Million Awarded in the Second Round of Abortion Provider Support Fund (Oct. 12, 2022) (https://www.governor.ny.gov/news/governor-hochul-announces-134-million-awarded-second-round-abortion-provider-support-fund).

[12] N.Y. Public Health Law 2599-bb-1.

and a 228% increase from 2021.[13] The Brigid Alliance, a New York-based logistical support fund, reports that their revenue decreased by 152% between May 2022 and May 2023.[14]

What is more, in 2024, the NYCLU worked with students in Columbia Law School's Sexuality and Gender Law Practicum to interview abortion providers about the efficacy of existing state funding streams for abortion. While providers emphasized how critical state funding is to enable them to continue to provide – and in some cases expand access to – care, they articulated logistical support for patients as a top unmet need.

The vast majority of logistical support resources will be spent in New York and on New Yorkers. Many New Yorkers, particularly those in rural areas or upstate New York, must travel significant distances to access abortion care. Nearly 40% of New York's counties do not have an abortion clinic,[15] and even in counties with an abortion provider, that provider may not offer certain types of specialized care, forcing some people to travel based on the circumstances of their pregnancy. In addition, while there has been an increase in abortions provided in New York since the Supreme Court overruled *Roe*, travel from out of state accounted for only 5% of the increase between 2020 and 2023.[16] The rest of the increase reflects an increase in New Yorkers accessing care within the state.

By expanding the Reproductive Freedom and Equity Program to cover logistical support, New York will join fellow access states like California, Oregon, Illinois, Connecticut, and Vermont as well as municipalities like New York City and Ithaca, to address persistent barriers to abortion care by investing public dollars not only in abortion providers and abortion funds, but also in logistical support funds.[17]

The legislature must also maintain the **$20 million in new grant funding** included in the Executive Budget **to support the provision of medication abortion and care later in**

---

[13] Email from Chelsea Williams-Diggs, Interim Executive Director, New York Abortion Access Fund, to Niharika Rao, Political and Legislative Affairs Associate, National Institute for Reproductive Health (December 13, 2023).

[14] Alison Durkee & Darreonna Davis, *Roe v. Wade Overturned One Year On: Here's Where the Money's Going*, FORBES, June 24, 2023, https://www.forbes.com/sites/alisondurkee/2023/06/23/roe-v-wade-overturned-one-year-on-heres-where-the-moneys-flowing-abortion/?sh=34e21e507028.

[15] Rachel Jones et. al, *Abortion incidence and service availability in the United States, 2020*, GUTTMACHER INSTITUTE (December 2022), https://onlinelibrary.wiley.com/doi/epdf/10.1363/psrh.12215.

[16] Kimya Forouzan, Amy Friedrich-Karnik, and Isaac Madow-Zimet, *The High Toll of US Abortion Bans: Nearly One in Five Patients Now Traveling Out of State for Abortion Care*, GUTTMACHER INSTITUTE (December 7, 2023), https://www.guttmacher.org/2023/12/high-toll-us-abortion-bans-nearly-one-five-patients-now-traveling-out-state-abortion-care; *see also Monthly Abortion Provision Study*, GUTTMACHER INSTITUTE, https://www.guttmacher.org/monthly-abortion-provision-study (estimating that from January – June 2023, only 5% of abortions provided within the formal health care system in New York were to patients traveling from out of state).

[17] *Building Support for Abortion Coverage Through Municipal Resolutions: Policy Win*, NATIONAL INSTITUTE FOR REPRODUCTIVE HEALTH (2022), https://nirhealth.org/our-impact/building-support-for-abortion-coverage-through-municipal-resolutions/.

pregnancy. Medication abortion accounts for more than half of all abortions in New York, as well as nationwide,[18] and while care later in pregnancy is less frequent, the procedures are more complex and therefore more expensive to provide.[19] Because Medicaid reimbursement rates in New York have been stagnant for a decade and are significantly below the cost of providing care, providers lose money every time they provide abortion care.[20] While other access states, like California, Oregon, and Illinois,[21] have increased their reimbursement rates, we are urging New York to make providers whole for the care they deliver through grant funding to ensure that the funding stream continues even if the Trump administration succeeds in excluding abortion providers from the totality of the Medicaid program. As New York providers strive to meet the current moment, it is simply untenable to ask them to operate continually at a loss.

In addition, we are grateful that the Executive budget includes **$25 million in security funding and permits $15 million of it to be used for capital projects**. In addition to funding for logistical support, the need for funding for capital expenditures to improve and expand facilities was the other top unmet needs abortion providers cited during interviews conducted by the NYCLU about provider experiences with the current state abortion funding streams. We encourage the legislature to maintain this grant funding and to expand permissible uses to include debt retirement, recognizing that the process to get state dollars to providers can be lengthy, and, as a result, sometimes providers will go into debt to improve their facilities while awaiting state reimbursement.

Finally, the legislature should continue the **$1 million legislative add for the family planning grant**, because a holistic investment in family planning services and family planning is essential to ensure that New York's sexual and reproductive health care providers can continue to provide comprehensive care to meet this moment. Moreover, the legislature should **be poised to replace federal Title X family planning dollars with state funding** if the Trump administration once again imposes a gag rule on talking about or referring for abortion that would preclude New York's participation in the program.[22]

B. New York Must Adequately Fund Gender-Affirming Care.

One of the Trump administration's first actions was to launch callous attacks on transgender, gender nonconforming, non-binary, and intersex (TGNCNBI) people. Trump couched this attack in the name of protecting women while re-entrenching the very gender stereotypes that have

---

[18] *Id*.
[19] Tess Catlett, *How Much Does a Medication or Procedural Abortion Cost*, HEALTHLINE, Sept. 6, 2023, https://www.healthline.com/health/how-much-does-an-abortion-cost.
[20] *SEE* TESTIMONY OF PLANNED PARENTHOOD EMPIRE STATE ACTS, TESTIMONY BEFORE THE JOINT LEGISLATIVE BUDGET HEARING ON HEALTH AND MEDICAID (2023).
[21] *Id*.
[22] *See generally*, Ruth Dawson, *Trump Administration's Domestic Gag Rule Has Slashed the Title X Network's Capacity by Half*, GUTTMACHER, Feb. 2020, https://www.guttmacher.org/article/2020/02/trump-administrations-domestic-gag-rule-has-slashed-title-x-networks-capacity-half.

underpinned centuries of women's oppression. He first issued an executive order (EO) purporting to redefine "sex" for federal purposes based ideas that sex is only male or female, cannot be changed, and is based solely on reproductive cells at conception.[23] He then issued a second EO explicitly targeting health care for transgender young people, and, among other provisions, instructing the federal Department of Health and Human Services to change Medicare and Medicaid conditions of participation or conditions for coverage with the aim of making it impossible for participating providers to deliver gender-affirming care.[24] To be clear, these orders are, for the most part, not enforceable on their face, and there must be federal agency action, and in some cases, congressional action, before states need to consider compliance. Their intent is to sow chaos and confusion in order to chill the provision of care and promote advanced compliance, when in fact their requirements are inconsistent, unclear, unworkable, and, in some cases, illegal.[25] Unfortunately, the EOs have had a significant impact in TGNCNBI and LGBTQ communities, causing panic, grief, and fear, and in many instances, denials of care. We have seen a tremendous uptick in the number of intakes we have received from TGNCNBI New Yorkers, and disturbingly, we are also hearing anecdotally about an increase in suicides among transgender people in the U.S.[26]

New York lawmakers must respond unequivocally in support of the TGNCNBI and LGBTQ communities in this moment by continuing to support the **Lorena Borjas Trans Wellness and Equity Fund, as well as funding for the LGBT Health and Human Services Network,** and by preparing for **contingency funding to support gender-affirming care** if the federal government is successful in revoking Medicaid coverage for this care.

III. NYCLU Priorities in Article VII Legislation.

A. HMH Part DD: New York Must Clarify Homeless and Runaway Youth Access to Mental Health Care.

In 2022, New York amended the public health law to importantly clarify that decisionally-capable[27] homeless youth, as well as decisionally-capable runaway youth who receive services at an approved runaway and homeless youth crisis service program or a transitional independent living support program, can consent to their own health care.[28] Until this law passed, most homeless and runaway youth were unable to access any health care at all unless or until their condition became critical, because they definitionally do not have a parent or guardian available

[23] Exc. Order No. 14168, 90 Fed. Reg. 8615 – 18 (Jan. 30, 2025).
[24] Exc. Order No. 14187, 90 Fed. Reg. 8771 – 73 (Feb. 3, 2025).
[25] *See e.g.* Letter from Letitia James, N.Y. Attorney General, to Colleague (Feb. 3, 2025) (https://ag.ny.gov/sites/default/files/letters/ag-james-to-hc-providers-re-tro-letter-2025.pdf).
[26] *E.g.* Greta Stuckey and Mark Weiner, *VA patient died by suicide at top of hospital's garage in Syracuse*, SYRACUSE.COM, Jan. 31, 2025, https://www.syracuse.com/news/2025/01/va-patient-died-by-suicide-at-top-of-hospitals-garage-in-syracuse.html.
[27] Decisionally-capable describes young people who are mature enough to understand the need for, the nature of, and the reasonably foreseeable risks and benefits involved in a contemplated health care, as well as any alternatives to that care. N.Y. Pub. Health Law § 2805-d(1) (McKinney).
[28] N.Y. Public Health Law 2504.

to consent to care for them. When New York enacted this law, the expectation was that it applied to all forms of health care, including mental health care and substance abuse treatment.

However, since the law went into effect, we have learned that homeless and runaway youth are still facing legal barriers to accessing mental health care.

NYCLU strongly supports Part DD of the Governor's FY2026 Health and Mental Hygiene budget proposal, which would eliminate these barriers. The proposal clarifies that decisionally-capable homeless youth, as well as decisionally-capable runaway youth who receive services at an approved runaway and homeless youth crisis service program or a transitional independent living support program, can consent to their own mental health care and substance abuse treatment. Because it is imperative that all young people have access to health care when they need it, and because homeless and runaway youth are particularly vulnerable to the current youth mental health crisis as a result of their circumstances, we urge the legislature to maintain the Governor's HMH Part DD one house budgets and ensure that it becomes law in the final enacted budget.

The legislature should refine the proposed language by amending the Governor's addition to Public Health Law 2504 in Sec. 3(1) to read "including behavioral health, including mental health care and substance use treatment."

Timely treatment and preventative care are critical for young people's health and wellbeing and enable them to excel in school and beyond, and including this statutory fix in the budget is the most efficient way to ensure that homeless and runaway youth have access to mental health care when they need it.

B. PPGG Part H: New York Must Improve Access to Post-HIV Exposure Prophylaxis for Survivors of Sexual Assault.

In 2019, New York enacted legislation requiring hospitals to provide the full 28-day course of post-HIV exposure prophylaxis (PEP) to survivors of sexual assault and ensuring that the Office of Victim Services (OVS) will automatically pay for the 28-day supply of PEP.[29] Unfortunately, Governor Cuomo chapter amended the bill to require that hospitals only provide the full course of PEP to young people who experience sexual assault, while permitting them to continue to offer only a seven-day starter pack to adult survivors, requiring those survivors to seek the rest of the course of treatment at a pharmacy and petition OVS for reimbursement.[30] The New York State Coalition Against Sexual Assault has reported "countless stories of survivors of sexual assault who applied for OVS compensation/Emergency Awards to pay for the remaining 21 days

[29] A.1204/S.2279, 2019-2020 Reg. Sess. (N.Y. 2019).
[30] N.Y. Public Health Law 2805-i.

of HIV PEP and . . . were denied this assistance."[31] **We are thrilled to see the Governor's proposal to ensure that all survivors of sexual assault who are at risk of contracting HIV are able to receive timely access to PEP, free of charge, at the treating hospital.** This provision will save lives, and we encourage the legislature to maintain it in their one houses and in the final enacted budget.

C. HMH Part P: New York Must More Holistically Clarify Hospitals' Obligation to Provide Emergency Care, Including Emergency Abortion Care, and Should Do So Outside of Budget.

Part P of the Governor's FY2026 Health and Mental Hygiene Article VII legislation requires general hospitals to provide abortion care in medical emergencies. This proposal is timely, although too narrow in scope. The Trump administration is almost certain to take the position that the federal Emergency Medical Treatment and Labor Act (EMTALA), which requires any hospital with an emergency department to provide emergency care to those who need it, does not apply to pregnant people seeking the emergency care they need to protect their health and lives. For this reason, it is critically important to clarify that general hospitals must deliver abortion care when necessary in a medical emergency. However, in light of the federal administration's broader attacks on access to health care,[32] it is necessary to codify a broader EMTALA into New York state law. Because this proposal has no budgetary impact for the state and to allow time to develop appropriate language, **we recommend that the legislature remove it from one house budgets and advance legislation through regular order**.

IV. Recommended Additions to the FY2026 Budget.

A. New York Must Enact Hospital Transparency (S.3486/A.3862) in the FY2026 Budget.

As described above, the Trump administration has already begun to coerce hospitals into denying gender-affirming care[33] and has promised to give cover to those who would withhold reproductive health care. In this moment, it is more important than ever that patients have the tools to find out whether the hospital in their area provides the care they need and to lay the foundation to address health care deserts in our state. Indeed, as hospitals in New York have begun to deny gender-affirming care in reaction to Trump's executive orders,[34] distraught

---

[31] Email from Selena Bennett-Chambers, Director of Public Policy, NYSCASA, to Allie Bohm and Katharine Bodde, NYCLU (Dec. 19, 2019) (on file with author).
[32] *See e.g.* Phil Galewitz, *Trump's Funding 'Pause' Throws States, Health Industry Into Chaos*, KFF HEALTH NEWS, Jan. 29, 2025, https://kffhealthnews.org/news/article/trump-omb-funding-pause-grants-loans-medicaid-court-ruling-states/.
[33] Exc. Order No. 14187, 90 Fed. Reg. 8771 – 73 (Feb. 3, 2025).
[34] Caroline Lewis, *AG James tells NY hospitals refusing gender-affirming care could violate state Human Rights Law*, GOTHAMIST, Feb. 3, 2025, https://gothamist.com/news/ag-james-tells-ny-hospitals-refusing-gender-affirming-care-could-violate-state-human-rights-law.

families and advocates have been desperate for a central repository of which hospitals are denying care in order to determine whether and where it is still being offered.

Unfortunately, at the end of the year, the Governor vetoed hospital transparency, a bill that passed the legislature the previous January and would have offered prospective patients the tools they need to determine whether the hospital in their area provides the care they seek prior to admission and advanced access to time-sensitive health care here in New York. The Governor cited cost in her veto message,[35] and therefore **we strongly urge the legislature to include hospital transparency (S.3486/A.3862) in their one house budgets and to ensure that the bill becomes law as part of this year's budget.**

B. New York Must Modernize Pregnancy Loss Reporting to Better Protect Patient Privacy in the FY2026 Budget.

The Governor's 2024 State of the State briefing book included a proposal to "modernize technology for the electronic reporting of induced termination of pregnancy instances in order to . . . provide safeguards for sensitive abortion-related information."[36] Unfortunately, the Governor's Article VII legislation did not include language operationalizing this intention in 2024, and such language was also excluded this year.

Addressing New York's archaic abortion data collection system is absolutely necessary and time-sensitive in order to protect patient information from federal overreach and potential criminalization.

New York statutory law currently requires "fetal death certificates" to be filed within 72 hours of a miscarriage, stillbirth, or abortion. In practice, this requires providers to obtain hard copy forms from the local registrar – often a county clerk – and submit the completed forms, again, in hard copy, to the Department of health and the local registrar.[37] This requirement is administratively burdensome for providers, who have seen a 25% increase in the need for abortion since 2020,[38] and diverts staff time that could be used to support the provision of care. Moreover, the requirement poses privacy risks for abortion patients, particularly in the face of a federal administration whose backers have threatened to weaponize pregnancy loss reporting against patients who receive abortion care, particularly in "liberal states."[39]

We understand that the Department of Health is in the process of acquiring a new electronic vital records system. New York must take this opportunity to follow the lead of California, Maryland, and New Hampshire and eliminate the requirement to report patient identifying

---

[35] Veto #126 on Senate Bill Number 1003-A (Dec. 21, 2024).
[36] GOVERNOR KATHY HOCHUL, STATE OF THE STATE 2024: OUR NEW YORK, OUR FUTURE 136 (2024).
[37] *See* N.Y. Pub. Health Law. §§ 4160, 4163 (McKinney).
[38] *See Monthly Abortion Provision Study*, GUTTMACHER INSTITUTE, https://www.guttmacher.org/monthly-abortion-provision-study (last visited Jan. 22, 2024).
[39] *See* 2025 MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE 455 (Paul Dans & Steven Groves eds., 2023).

abortion data to the state and local governments. Critically, organizations like Guttmacher Institute[40] and Society of Family Planning: #WeCount[41] produce more accurate abortion data that the state can rely on. Moreover, no other health care procedure is subject to this sort of mandatory reporting. In addition, lawmakers should remove related unnecessary regulatory requirements that create barriers to patient-centered abortion care. **S.3173/A.4023 would accomplish these goals, and the legislature should include it in their one house budgets and ensure that it becomes law in the FY2026 enacted budget**.

C. New York Must Update Temporary Disability Insurance to Support All Workers Who Need It in the FY2026 Budget.

Most New Yorkers do not have the ability to take time off from work to address their own serious health needs – whether to undergo cancer treatments, recover from major injuries or illnesses, or to prevent or recover from a pregnancy loss or neonatal loss – without risking their economic security and taking the chance that they will not have a job to return to. That is because New York's Temporary Disability Insurance (TDI) program that provides medical leave benefits to New Yorkers who need time off from work to tend to their own health needs has been capped since 1989 at $170/week – far below cost of living in 2025 – and it does not include job protection.

Updating TDI was on the table in last year's budget negotiations but fell out at the last minute. Still, the Assembly and Senate came to a compromise that the Senate passed at the end of the 2024 state legislative session. Unfortunately, the Assembly ran out of time. The compromise will remove the $170/week cap on medical leave benefits and align the first twelve weeks of medical leave benefits with the more generous benefits the state offers New Yorkers who need paid family leave. It will also build a pathway for the Workers' Compensation Board to align medical leave benefits for the remaining fourteen weeks of TDI with paid family leave's more generous benefits. It will phase-in the medical leave increase in a progressive way that will enable low-income workers to access the program sooner. And for those who need to access New York's TDI program, it will ensure job protection and continuity of health insurance – necessary benefits already provided to those who take paid family leave.

Importantly, the compromise also includes intermittent leave for anyone who needs it to address their own serious health needs. This option is already available to those who need paid family leave. Intermittent leave is particularly critical for people going through cancer or mental health treatments, who may need a day off to undergo treatment and then be able to work normally for a period of weeks before needing another day for treatment. It is equally important for those struggling with ME-CFS, Long COVID, or another fatiguing condition, who may need to phase-in a return to work, and for those experiencing a complicated pregnancy,

---

[40] *See Abortion in the United States*, Guttmacher, June 2024, https://www.guttmacher.org/fact-sheet/induced-abortion-united-states.

[41] *See #WeCount*, Society of Family Planning, https://societyfp.org/research/wecount/ (last visited Feb. 4, 2025).

who may need bedrest for a week at a time a few different times during a pregnancy, among many others.

Updating New York's medical leave program is a gender and racial justice imperative. The United States faces a maternal health crisis that disproportionately impacts Black women.[42] New York has seen a quadrupling of the maternal mortality rate for Black women in the last seven years.[43] The compromise will ensure that pregnant New Yorkers can afford to take time off to keep themselves and their pregnancies healthy, without risking economic insecurity. And, if a person experiences pregnancy loss, it will ensure that they can take job-protected leave to recover without sacrificing their income. Perversely, under current law, when a person experiences a pregnancy complication or loss, they are not able to take leave without losing their income and risking their job. But a family member can take job-protected leave with a sustainable wage to care for them.

The legislature must show its support for all New Yorkers, including pregnant workers, workers with disabilities, workers who struggle with substance use, and workers living with Long COVID, by including the TDI compromise, **S.172/A.84, in its one house budget proposals and ensuring that it becomes law in the FY2026 enacted budget**.

*****

The NYCLU thanks the legislature for the opportunity to provide testimony and for your work on the budget.

[42] Donna L. Hoyert, Ph.D., *Maternal Mortality Rates in the United States, 2020*, DIVISION OF VITAL STATISTICS, CENTERS FOR DISEASE CONTROL AND PREVENTION, https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2020/maternal-mortality-rates-2020.htm.
[43] *New York State Report on Pregnancy Associated Deaths in 2018*, N.Y. DEPT. OF HEALTH, p.1, https://www.health.ny.gov/community/adults/women/docs/maternal_mortality_review_2018.pdf (2022) citing New York State Vital Statistics Tables (https://www.health.ny.gov/statistics/vital_statistics/vs_reports_tables_list.htm).