TRANSforming the Carolinas is a research project of the University of North Carolina created to learn more about the challenges that transgender people of color in North Carolina and South Carolina regularly face when accessing quality healthcare. The objective of the research is to understand what gets in the way of HIV prevention and care for transgender people of color, to provide information to healthcare providers to better care for transgender people of color by addressing their healthcare needs, and ultimately to change policies and systems. This project is part of “Ending the HIV Epidemic: A Plan for America,” a ten-year initiative to reduce new HIV infections by 90 percent by 2030.[1]

The first phase of TRANSforming the Carolinas consists of an assessment of policy that may create barriers to ending the HIV epidemic for transgender people of color in North Carolina and South Carolina. This executive summary provides a high-level assessment of policy at the state and municipal[2] levels in both states, taking a broad, systems-level approach. This phase of the research does not attempt to capture the lived experience of transgender people in North Carolina and South Carolina, which will be the focus of later phases of the research project.

● Generally

  ○ About 13,872 transgender people of color live in North Carolina.[3] About 6,930 transgender people of color live in South Carolina.[4]

  ○ Both North Carolina and South Carolina have legal and policy barriers to ending the HIV epidemic for transgender people.

  ○ NC has better state law in some areas but SC has better municipal law in some areas.

● No statewide protections

  ○ Neither state has prohibited discrimination on the basis of sexual orientation, gender identity, HIV status or disability, or gender dysphoria disability, although there are certain pockets of protections.[5]

  ○ SC cities have enacted more protections than NC cities.
● Criminalized identities

○ Both states have criminal law based on HIV status. North Carolina’s law is relatively more modernized because it accounts for scientific consensus that undetectable viral loads make HIV non-transmissible, and that effective pre-exposure prophylaxis can prevent transmission of HIV.\[^6\]

○ North Carolina’s law is also a misdemeanor and does not include engaging in sex work while living with HIV, whereas South Carolina’s law is a felony and does include sex work.\[^7\]

○ Both states include shared needle use\[^8\], but North Carolina has a legalized syringe exchange program that may make access to syringes easier.\[^9\]

○ Any criminalized identity makes someone more vulnerable to intimate partner violence because it creates an opportunity for an aggressor to exert power and control by threatening to report the survivor to authorities.\[^10\] Transgender people living with HIV may have multiple criminalized identities because they may share syringes for hormones or silicone if they don’t have access to medical sources, and because some transgender people exchange sex for money, goods, or services.

○ The advent of molecular surveillance as a public health tool may create additional criminalization as needle-sharing mutual aid webs and sex worker client networks may be revealed without the knowledge or consent of the people living with HIV.\[^11\]

○ It is difficult to know how many transgender people might be arrested or convicted because of their HIV status in either state. Neither state consistently reports HIV data disaggregated by gender identity. Also, some people living with HIV who face other criminal charges may also face HIV penalty enhancements for those violations at the discretion of the prosecutor.

○ While both states maintain corrections policies that provide routes for transgender people to obtain transgender-affirming services while in custody\[^12\], it is beyond the scope of this research to establish the extent to which the policies are being followed.

● Barriers to effective healthcare

○ Neither NC nor SC has expanded Medicaid. Since transgender people are disproportionately likely to be low-income\[^13\], failing to expand Medicaid means some transgender people don’t have access to healthcare at all outside of Ryan White clinics.

○ The positive news is that neither state prohibits insurance coverage of transition-related healthcare. However, neither state prohibits blanket exclusions of transition-related healthcare either. Neither state affirmatively requires coverage of transition-related healthcare. Even if transgender people have insurance, they may not be able to get medically necessary care to begin or maintain gender-affirming treatment.
• Social determinants of health

  o **Employment**: There is no protection against discrimination by private employers. However, if a transgender person works for the state in NC[^14] or for the cities of Charlotte[^15], Charleston[^16], or Columbia[^17], they cannot be fired because of gender identity. Since employment is the primary way people in the U.S. gain health insurance, and since transgender people commonly encounter employment discrimination[^18], these policies may keep transgender people from being able to access healthcare.

  o **Housing**: There is no protection against discrimination based on gender identity in housing except in South Carolina cities[^19]. Without stable housing, it is difficult for transgender people to maintain employment and to safely store medications.

  o **Public accommodations**: There is no protection against discrimination on the basis of gender identity in accessing public spaces except in South Carolina cities.[^20] In fact, all cities in North Carolina are prohibited from enacting such protections until after December 2020.[^21] Even after December 2020, NC cities are permanently prohibited from protecting transgender people’s access to facilities.[^22] Since transgender people disproportionately face harassment and discrimination in public spaces,[^23] including hospitals and healthcare centers,[^24] it is more difficult for them to participate in public life and have a say about matters that affect their healthcare.

  o **Hate crimes**: The only locations that have laws against hate violence based on gender identity are South Carolina cities[^25]. The epidemic of lethal hate violence against transgender women threatens the health and well-being of all transgender people in North Carolina and South Carolina.[^26]

Participants are needed for the second phase of the study through early summer 2020!
Endnotes

1  https://transformingthecarolinas.web.unc.edu/.

2 For purposes of this project, the cities whose policies were analyzed include Charlotte, North Carolina, and Charleston and Columbia, South Carolina.

3 Approximately 0.6% of North Carolina’s population identifies as transgender, approximately 44,750 people (see Flores AR, Herman JL, Gates GJ, Brown TNT. How Many Adults Identify as Transgender in the United States? Los Angeles, CA (2016): The Williams Institute, available at: https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/). Approximately 68.87% of North Carolina’s population is white (see https://worldpopulationreview.com/states/north-carolina-population/), leaving about 31% of North Carolina’s population as non-white.

4 Approximately 0.58% of South Carolina’s population identifies as transgender, approximately 21,000 people (see note 3, above). Approximately 67.25% of South Carolina’s population is white (see https://worldpopulationreview.com/states/south-carolina-population/), leaving about 33% of South Carolina’s population as non-white.

5 For example, NC prohibits discrimination based on HIV status in some aspects of employment (N.C. Gen. Stat. Section 130A-148(i)), but does not consider HIV or gender dysphoria to be disabling conditions under the Persons with Disabilities Act (N.C. Gen. Stat. § 168A-3).


8 See supra notes 6 and 7.


12 NC Department of Public Safety Prisons Division Policy E.2700, Evaluation and Management, Transgender Offenders (effective August 22, 2019), and South Carolina Department of Corrections Policy GA-06.09, Care and Custody of Transgender Inmates and Inmates Diagnosed with Gender Dysphoria (effective September 12, 2017).


14 Governor Cooper, Executive Order 24, Policies Prohibiting Discrimination, Harassment, and Retaliation in State Employment, Services, and Contracts Under the Jurisdiction of the Office of the Governor.


See supra note 13, with 15% of transgender North Carolina respondents and 10% of transgender South Carolina respondents reporting unemployment, when the U.S. unemployment rate at the time was 5%.

Charleston Code of Ordinances Sec. 16-17 et seq., and Columbia Code of Ordinances Sec. 11-392 et seq.

Charleston Code of Ordinances Sec. 16-29 et seq., and Columbia Code of Ordinances Sec. 11-502 et seq.

Session Law 2017-4, also known as H.B. 142.


See supra note 13, with 16% of transgender North Carolinians reporting verbal harassment in public accommodations, and 24% of transgender South Carolinians reporting verbal harassment in public accommodations and 1% reporting physical attack.

See supra note 13, with 29% of transgender North Carolinians and 37% of transgender South Carolinians reporting mistreatment at a healthcare provider.


Over the past five years, we remember the North Carolina deaths of Elisha Walker (August 13, 2015), Sherrell Faulkner (May 16, 2017), Derricka Banner (September 12, 2017), Chanel Scurlock (June 6, 2019), Bubba Walker (July 2019), and Monika Diamond (March 18, 2020).

We remember the South Carolina deaths of Sasha Wall (April 1, 2018), Regina Denise Brown (October 7, 2018), Denali Berries Stuckey (July 20, 2019), and Pebbles LaDime Doe (August 4, 2019).


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