

SB

20

<TARGET><BILL>SB 20</BILL><SUBJECT>SB
20</SUBJECT><COMM>SHSS29</COMM></TARGET>

Christie Jamieson

From: Thomas Presley
Sent: Wednesday, February 04, 2015 12:05 PM
To: Christie Jamieson
Subject: Hearing Request for SB20
Attachments: SB20 Hearing Request.PDF; SB0020A.PDF; SB 20 Sponsor Statement.pdf; SB 20 Sectional Analysis.pdf; SB20 Witness List.pdf; SB20 Alaska State Human Rights Commission Duties and Powers.pdf; SB20 Anchorage LGBT Community Survey.pdf; SB20 Business Coalition for Workplace Fairness.pdf; SB20 Study-CostofDiscriminationTransMA.pdf; SB20 Study-Utah Discrimination.pdf; SB20 Study-Ohio Discrimination.pdf; SB20 ADN Commerce of Diversity.pdf; SB20 Media-Chamber Mag.pdf; SB20 Washington Times-Senate passes ENDA gay-rights anti-discrimination bill.pdf; SB20 Infographic State with non discrimination statutes in place.pdf

← = Did not print 44 pgs.

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Christie,

I would like to submit a request on behalf of Senator Gardner for Senate Bill 20, an act adding sexual orientation and gender identity to the protected classes under the duties of the Alaska State Human Rights Commission. Statutes like those proposed in SB20 are currently in 18 states and the District of Columbia, with three more states prohibiting discrimination based on sexual orientation only. Senator Gardner believes this bill is necessary to ensure that LGBTQ individuals experience fairness in areas of housing, finance, and employment. I'd be happy to answer any questions you have.

Attached to this email, you'll find the following documents attached:

- SB20 Hearing Request
- SB20 ver A
- SB20 Sponsor Statement
- SB20 Sectional Analysis
- SB20 Witness List
- Research
 - SB20 Alaska State Commission on Human Rights Duties and Powers
 - SB20 Anchorage LGBT Discrimination Survey
 - SB20 Businesses with Non-discrimination Policies (Business Coalition for Workplace Fairness)
 - SB20 The Cost of Employment Discrimination against Transgender Residents of Massachusetts
 - SB20 Employment Discrimination Against LGBT Utahns
 - SB20 Employment Discrimination Based on Sexual Orientation and Gender Identity in Ohio
- Media
 - SB20 Anchorage Daily News re: Anchorage Chamber's Commerce of Diversity Presentation
 - SB20 Anchorage Chamber Mag "The Commerce of Diversity"
 - SB20 Washington Times: Senate Passes ENDA
 - SB20 Infographic: State with Non-discrimination statutes in place

Please don't hesitate to contact me with any questions or concerns.

Best,

TJ Presley
Office of Senator Berta Gardner
Session: 907.465.6853
Interim: 907.269.0174

ALASKA STATE LEGISLATURE

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Senator Berta Gardner *Senate District 1*

To: Senator Bert Stedman
Chair, Senate State Affairs

From: Senator Berta Gardner *BG*

Date: 2 February 2015

Re: Hearing Request for SB 20

I am respectfully requesting a hearing in the Senate Health and Social Services Committee for Senate Bill 20. The bill expands current anti-discrimination statutes to cover sexual orientation and gender identity. Similar provisions already prohibit discrimination based upon race, religion, color, national origin, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy or parenthood

Included in this packet:

- SB 20 version A
- Sponsor Statement
- Sectional Analysis
- Research:
 - a) Anchorage LGBT Discrimination Survey
 - b) Businesses with non-discrimination policies
 - c) The Cost of Employment Discrimination against Transgender Residents of Massachusetts
 - d) Employment Discrimination against LGBT Utahns
 - e) Employment Discrimination Based on Sexual Orientation and Gender Identity in Ohio
- Media:
 - a) Anchorage Daily News re: Anchorage Chamber's "Commerce of Diversity" presentation
 - b) Anchorage Chamber Mag "The Commerce of Diversity"
 - c) Washington Times: Senate passes Employment Non-Discrimination Act
 - d) Infographic: states with non-discrimination statutes in place
- Letters of Support

If necessary, other backup will be forthcoming. Please contact my staffer, TJ Presley at 465.6853, with any questions or concerns.

ALASKA STATE LEGISLATURE

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SENATOR BERTA GARDNER

SENATE DISTRICT I

Sponsor Statement

SB 20 - "An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

Senate Bill 20 expands current anti-discrimination statutes to include protections against discrimination based on sexual orientation and gender identity. Similar provisions already prohibit discrimination based upon race, religion, color, national origin, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy or parenthood.

Senate Bill 20 would protect citizens from discrimination in employment, housing, public accommodations, financing or credit based upon sexual orientation and gender identity.

The State of Alaska has already taken steps to prevent discrimination with a 2002 administrative order that provides protection against sexual orientation discrimination for employees of the state. In 2010, the University of Alaska amended its anti-discrimination policy to include protections against discrimination on the basis of sexual orientation.

According to the Human Rights Campaign, the overwhelming majority of America's most successful businesses have already adopted anti-discrimination policies that include protections against discrimination on the basis of sexual orientation. Twenty-one states and the District of Columbia have enacted legislation similar to Senate Bill 20. Despite the progress that has been made nationwide, 73% of LG8T respondents to a survey in Anchorage reported hiding their sexual orientation in order to avoid job discrimination after experiencing abuse or harassment in the workplace.

Historically, Alaska has been at the forefront of civil rights legislation. The Territorial legislature awarded women the right to vote in 1913, well before it was passed at the national level. In 1945, the Alaska legislature passed landmark anti-discriminatory legislation protecting Alaska Natives. Senate Bill 20 stands as an opportunity for Alaska to continue its strong tradition of recognition of human rights.

I look forward to your support of Senate Bill 20.

ALASKA STATE LEGISLATURE

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SENATOR BERTA GARDNER
SENATE DISTRICT I

Sectional Analysis

SB 20 - "An Act adding to the powers and duties of the State Commission for Human Rights; and relating to and prohibiting discrimination based on sexual orientation or gender identity or expression."

Section 1:

Amends AS 18.80.060 the powers and duties of the Human Rights Commission. The section adds "sexual orientation, gender identity or expression" to the list of categories that include race, religion, color, national ancestry, physical or mental disability, age, sex, marital status, changes in marital status, pregnancy, or parenthood.

Section 2:

Amends AS 18.80.200 to add "sexual orientation, gender identity or expression" to the list of basis for discriminations which are cause for public concern and the need to prevent discrimination in employment, credit and financing practices, public accommodations and sale, lease or rental of real property.

Section 3:

Amends AS 18.80.210 to add "sexual orientation, gender identity or expression" to the categories of protected civil rights.

Section 4:

Amends AS 18.80.220 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful employment practices.

Section 5:

Amends AS 18.80.230 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful practices in public accommodations.

Section 6:

Amends AS 18.80.240 to add "sexual orientation, gender identity or expression" to the prohibitions against unlawful practices in the sale or rental of real property.

Section 7:

Amends AS 18.80.250 to add "sexual orientation, gender identity, or expression" to the prohibitions against unlawful practices in extending credit.

Section 8:

Amends AS 18.80.255 to add "sexual orientation, gender identity, or expression" to the prohibitions against unlawful practices by the state or its political subdivisions.

Section 9:

Amends AS 18.80.300 to add "sexual orientation, gender identity, or expression" to the prohibitions against unlawful practices in blockbusting, or practices by a real estate agents to close a transaction.

Section 10:

Amends AS 18.80.300 to add definitions of "gender identity or expression," and "sexual orientation" to Alaska statute.

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SENATOR BERTA GARDNER
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Witness List

We have invited the following individuals to speak on Senate Bill 20 but anticipate more members of the public will call in to voice their opinion.

Josh Hemsath – Executive Director, Pride Foundation – Alaska
Joshua Decker – Executive Director, ACLU – Alaska
Drew Phoenix – Executive Director, Identity, Inc. – Alaska
Vicki Green – Public, Alaska
Justin Nelson – President, National Gay and Lesbian Chamber of Commerce



Alaska State Commission for Human Rights

Enforcing Alaska's Human Rights Laws

What is the Human Rights Commission?

The Alaska State Commission for Human Rights is the state agency that enforces the Alaska Human Rights Law, AS 18.80. The Commission consists of seven commissioners appointed by the Governor and confirmed by the Legislature. The Commission employs a staff and maintains an office in Anchorage. The Commission has statewide powers, and accepts and investigates complaints from individuals across all regions of the state.

For information on the complaint process, including how to file a complaint, [click here](#).

Mission Statement

"Discrimination not only threatens the rights and privileges of the inhabitants of the state, but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants. Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment."

-- Alaska Human Rights Law, AS 18.80.200.

In Alaska it is illegal to discriminate in:

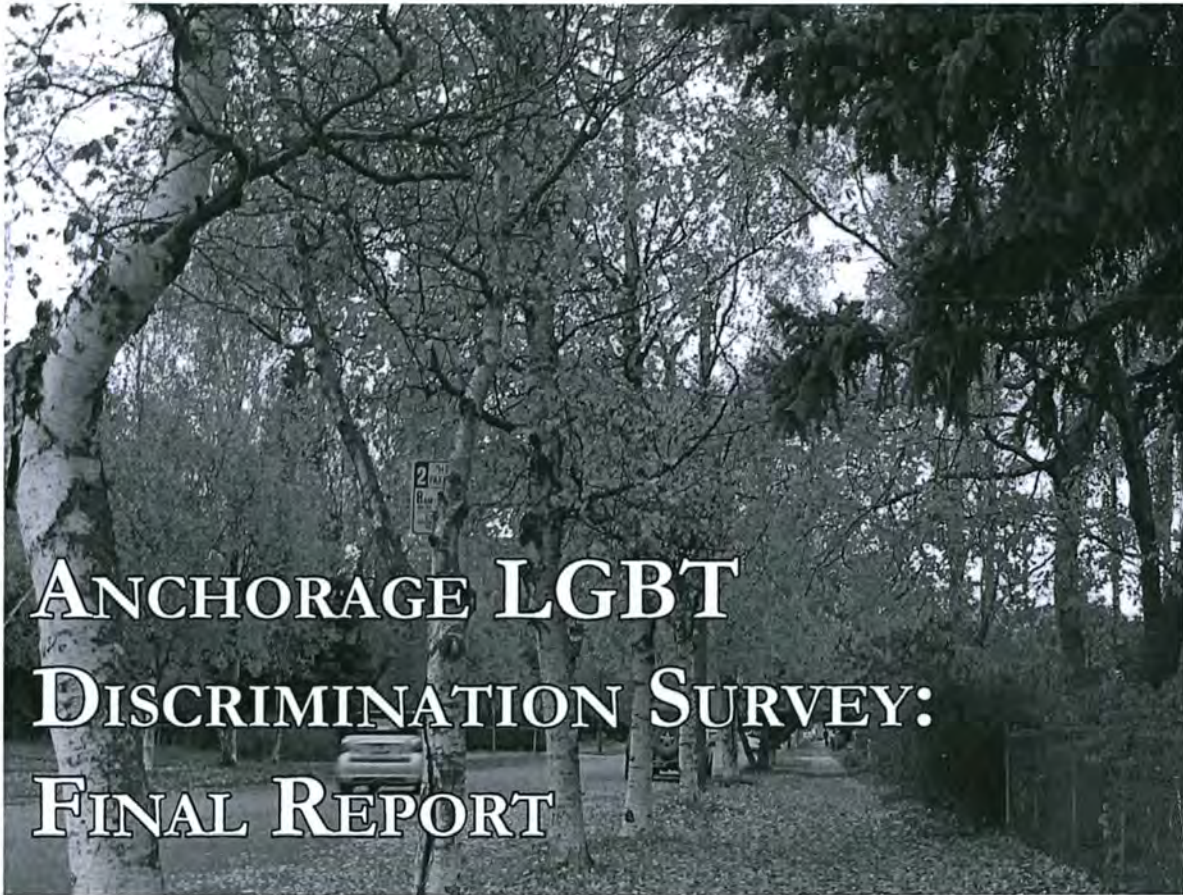
- Employment
- Places of Public Accommodation
- Sale or Rental of Real Property
- Financing and Credit
- Practices by the State or its Political Subdivisions

Because of:

- Race
- Color
- Religion
- Sex
- National Origin
- Physical or Mental Disability

And in some instances because of:

- Age
- Marital Status
- Changes in Marital Status
- Pregnancy
- Parenthood



ANCHORAGE LGBT
DISCRIMINATION SURVEY:
FINAL REPORT

Melissa S. Green

MARCH 2012

identity

EXECUTIVE SUMMARY

The Anchorage LGBT Discrimination Survey came about as a result of a perceived need for quantifiable data on the incidence of discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals in the Municipality of Anchorage. It represents the first effort since the late 1980s to compile rigorous data about the incidence of sexual orientation bias and discrimination in Anchorage — and the first effort ever to document Anchorage or Alaska-specific data about discrimination and bias on the basis of gender identity and expression.

The Anchorage LGBT Discrimination Survey was conducted in January through March, 2011. Its key findings on the violence, intimidation, and discrimination experienced in the Municipality of Anchorage by its 268 lesbian, gay, bisexual, and transgender respondents were previously reported in the preliminary report (Green, 2011).

In addition to those key findings, also reproduced below as part of this executive summary, this final report includes:

- Detailed tables upon which the charts included in the preliminary report were based.
- A complete methodology including detailed discussion of sampling selection. Probability (random) sampling of LGBT populations is difficult and prohibitively expensive due to several challenges, which are explained. This survey used nonprobability sampling, which is the most common type used for LGBT populations.
- Complete demographic data for the survey population with, in some cases, comparison with 2010 U.S. Census Bureau data from the American Community Survey for total population of the Municipality of Anchorage.
- Expanded discussion of major findings from the prior Alaska studies *One in Ten* and *Identity Reports*; comparisons with those national LGBT studies of anti-LGBT discrimination which are based on probability sampling; and comparison with an extensive national nonprobability transgender discrimination study (over 6000 respondents) covering all 50 states, Washington, DC, and several U.S. territories. Though the present survey is based on nonprobability sampling, its results are similar in many respects to national data, and also demonstrates that sexual orientation and gender identity discrimination are as common Alaska and Anchorage as in the rest of the United States.
- Comparisons with recent data on experience of racism in Anchorage from the Anchorage Community Survey 2009 (Chamard, forthcoming). Experiences of racism are common in Anchorage, especially among blacks, Alaska Natives/American Indians, and Pacific Islanders. Sexual orientation/gender identity bias and discrimination is experienced by LGBT people at comparable levels.
- Examination of case processing data for actual discrimination complaints filed with Anchorage Equal Rights Commission (2002–2009) and Alaska State Commission for Human Rights (2006–2010).
- Findings from national studies conducted by The Williams Institute at UCLA School of Law on the rates of employment discrimination complaints based on sexual orientation/gender identity as compared with complaints for sex discrimination and race/color discrimination in states where sexual orientation and/or gender identity discrimination are prohibited. Typically for those states, complaints to state human rights agencies of employment discrimination on

the basis of sexual orientation or gender identity are made at only a slightly lower rate per 10,000 LGBT employees as are complaints of sex discrimination per 10,000 female workers; complaints of discrimination on the basis of race/color tend to be higher than either sexual orientation/gender identity or sex discrimination.

- (8) Respondent comments (edited for respondent confidentiality).

Key findings of the Anchorage LGBT Discrimination Survey

Recent discrimination

- The 50 respondents who have lived in Anchorage less than five years reported experiencing discrimination/bias in Anchorage at only slightly lower rates than the survey sample as a whole, in spite of a much shorter span of time in Anchorage within which to accumulate experiences of discrimination. There were only a few types of discrimination/bias that this population did not report having experienced while in Anchorage, such as discrimination in child custody proceedings.

Violence, intimidation, harassment, and bullying

- Verbal abuse/namecalling was by far the most frequently experienced form of anti-gay/anti-trans bias reported by respondents. 76.5% of the total study sample of 268 respondents and 68.0% of the subsample of 50 respondents who have lived in Anchorage for less than five years have experienced verbal abuse/namecalling at least once while in Anchorage.
 - Experiences of various forms of harassment, intimidation, and bullying were fairly common. Of the total sample of 268 respondents, 42.5% had been threatened with physical violence, 32.8% had been followed or chased, and 29.9% had experienced property damage attributed to anti-LGBT bias. 18.3% had experienced actual physical violence in Anchorage because of their sexual orientation, gender identity, or gender presentation, and 6% had been sexually assaulted.
 - Harassment and bullying were also common on the job and in rented housing. Of the total sample of 268 respondents, 44% had been harassed by their employer or other employees — 16% to the point of actually feeling forced to leave their jobs. 18.7% had been harassed by their landlord or other tenants.
 - 41% of the total sample had been bullied or harassed by other students in Anchorage schools and educational institutions. 14.2% had been bullied or harassed by teachers, and 6.3% had been harassed to the point they were forced to leave school. These figures are especially remarkable given that many respondents had never attended school or college in Anchorage, indicating that rates at which LGBT students experience bullying and harassment in educational settings is probably higher.
 - 13.4% of the total sample reported being harassed or verbally abused by medical providers. 8.6% of the total sample reported being harassed or verbally abused at least once by Anchorage police, and 7.5% said they had been stopped at least once by Anchorage police because of their sexual orientation or gender identity, without other justification for the stop.
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- In general, non-transgender gay and bisexual men tended to report experiencing violence, intimidation, harassment, and bullying at higher rates than non-transgender lesbian and bisexual women.
- Transgender respondents reported higher rates of being followed or chased (44% for trans; 31.7% for non-trans) and of experiencing actual physical violence (24% for trans; 17.7% for non-trans).

Employment

- The second most common issue reported by respondents (after verbal abuse/harassment) was hiding their sexual orientation, gender identity, or gender transition in order to avoid job discrimination. 73.1% of the total sample and 62% of the respondents who had lived in Anchorage less than five years reported hiding in this way at least once to avoid job discrimination in Anchorage.
- As previously noted, 44% of the total sample had been harassed by their employer or other employees — 16% to the point of actually feeling forced to leave their jobs.
- 20.9% of the total sample said they had been turned down for a job when otherwise qualified because of sexual orientation or gender identity/presentation, and 17.5% reported being denied a promotion at least one time.
- 14.6% reported being actually fired from a job at least once in Anchorage because of sexual orientation or gender identity/presentation.
- 4.5% of all respondents reported being unable to use gender-appropriate restrooms at work, and 4.1% said they delayed gender transition to avoid discrimination. These figures included about one third of all respondents who identified themselves as transgender.
- Non-transgender lesbian and bisexual women reported higher rates than non-transgender gay and bisexual men of having hidden their sexual orientation or gender identity/presentation at least once to avoid employment discrimination (75.7% for women; 70.6% for men); of being harassed on-the-job (44.9% for women; 41.2% for men); and of being actually forced to leave a position because of harassment (18.7% for women; 11.0% for men).
- Transgender respondents reported higher rates than non-transgender respondents of almost all types of employment discrimination evaluated in the survey. In particular, a higher percentage of transgender respondents experienced reported harassment by employers and coworkers (56.0% for trans; 42.8% for non-trans). Nearly a third of transgender respondents (32.0%) were unable to use gender-appropriate bathrooms at work, and over a third (36.0%) said they had delayed gender transition to avoid job discrimination.

Housing/shelter

- As previously noted, 18.7% of the 268 respondents in the study reported having been harassed by Anchorage landlords or other tenants because of their sexual orientation or gender identity/presentation.
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- Transgender respondents reported harassment from landlords and other tenants at a rate over twice that reported by non-transgender respondents (36.0% for trans; 16.9% for non-trans).
- 10.1% of the total sample said they had been denied a lease at least once when otherwise qualified.
- 8.2% of the total sample reported being evicted or forced to move at least once because of sexual orientation or gender identity/presentation.
- 1.5% of the total sample reported being denied access to shelter at least once.

School/education

- As previously noted, 41% of the total sample had been bullied or harassed by other students in an Anchorage educational setting. 14.2% had been bullied or harassed by teachers, and 6.3% had been harassed to the point they were forced to leave school.
- 10.1% of the total sample said they had been denied participation in extracurricular activities because of sexual orientation or gender identity/presentation.
- 1.9% reported being denied admission at least once to an Anchorage school or an academic program when otherwise qualified.
- 1.1% were denied financial aid at least once. 0.7% reported being denied campus housing because of sexual orientation or gender identity/presentation.
- Non-transgender gay and bisexual men reported higher rates of almost all types of school/education discrimination than non-transgender lesbians and bisexual women. In particular, non-transgender males had a higher rate of reporting bullying and harassment from other students (47.0% of men; 32.7% of women) and of actually having to leave school because of harassment (9.6% for men; 0.9% for women).
- Transgender and non-transgender respondents showed similar rates of being bullied or harassed by other students (40.0% of trans; 41.2% of non-trans); however, transgender respondents reported discrimination at higher rates than non-transgender respondents in all other categories of education discrimination evaluated in the survey. Nearly one-quarter (24.0%) of transgender respondents reported having been bullied or harassed at least once by Anchorage teachers, compared with 13.2 percent of non-transgender respondents; and this group reported over twice as high a rate of being denied participation in extracurricular activities (20.0% of trans; 9.1% of non-trans).

Child custody/relationships

- 4.5% of the total sample of 268 respondents reported that their sexual orientation or gender identity/presentation was used against them at least once in a child custody proceeding.
 - 3.0% of all respondents had contact with their minor children restricted by a former spouse because of sexual orientation or gender identity/presentation.
 - 0.7% of all respondents reported that custody of their children was restricted by a court because of sexual orientation or gender identity/presentation.
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- Within the total sample of 268 respondents, a higher proportion of non-transgender lesbians and bisexual women than non-transgender gay or bisexual men reported that their sexual orientation or gender identity/presentation being used against them in a child custody proceeding (7.5% of women; 2.9% of men). Only one transgender respondent in the study (4.0%) reported an incident of discrimination in child custody/relationships while in Anchorage (contact with children restricted by a former spouse).
- These findings are based on the total study population of 268 respondents; but non-parents cannot, of course, experience issues related to child custody. A more accurate picture of child custody issues can be gained by noting that only 63 (23.7%) of the total study population reported having children, including 18 non-transgender male respondents, 26 non-transgender female respondents, and 9 transgender respondents. Thus, the rates at which LGBT respondents who are actually parents reported discrimination in child custody proceedings are higher. This issue will be discussed in greater depth in the final report.
- None of the 50 respondents who had lived less than five years in Anchorage reported having experienced issues with child custody proceedings while in Anchorage.

Public services

- As previously mentioned, 13.4% of the total sample reported being harassed or verbally abused by medical providers. This was the most frequently experienced form of public services discrimination reported. Respondents also reported three other forms of discrimination from Anchorage medical providers: 4.9% were denied non-emergency medical care; 4.1% were denied transition-related care; and 0.7% were denied emergency medical care at least once.
 - The second most frequently reported form of public services discrimination was being denied service in a restaurant or bar: 13.1% of the total sample reported experiencing this at least once in Anchorage because of their sexual orientation or gender identity/presentation. 3.4% were denied a room in an Anchorage hotel or motel at least once; 6.0% were denied use of a public restroom; 10 (3.7%) were denied a loan or line of credit when otherwise qualified.
 - As previously noted, 8.6% of the total sample reported having been harassed or verbally abused by Anchorage police — the third most frequently reported form of public services discrimination. 7.5% reported being stopped by Anchorage police at least once because of their sexual orientation or gender identity, with no other justification for the stop — the fifth most frequently reported form of public services discrimination. In other government services, 1.9% of all respondents were denied gender-appropriate driver's licenses from the Alaska Division of Motor Vehicles; 4.1% were denied services by a local government agency; and 1 respondent (0.4%) was denied a ride or forcibly removed from a People Mover bus.
 - The fourth most frequently reported form of public services discrimination was being denied membership or access to a gym or fitness club, with 8.2% of the total sample reporting having experienced this form of discrimination. 3.7% were denied use of a changing room at a gym or fitness club.
 - For every type of public services discrimination included in the survey, without exception, a higher proportion of transgender respondents than non-transgender respondents reported
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experiencing discrimination. In particular, 44% of transgender respondents reported having at least once been denied use of a public restroom while in Anchorage, compared with just 2.1% of non-transgender respondents. Over one-third of transgender respondents — 36.0% — had been harassed or verbally abused by medical providers, more than three times the percentage reported by non-transgender respondents (11.1%). Over a quarter of transgender respondents — 28.0% — reported being denied use of a changing room at a gym or fitness club, compared with only 1.2 percent of non-transgender respondents.

- Two categories of public services discrimination are fairly specific to transgender persons: transition-related care and gender-appropriate driver's licenses. 40% of transgender respondents reported being denied transition-related care by an Anchorage medical provider, and 16% had been denied the appropriate gender marker on their driver's license.

Relationship status

- More than three-quarters of respondents (77.2%) stated that their legal status under Alaska law was single, never married; only 4.5% were legally married under Alaska law. In contrast, 58.2% said that they were in committed relationships with intimate partners — relationships which are unrecognized in law except in limited contexts, such as with domestic partner benefits for same-sex partners of State of Alaska employees or “financially interdependent partner” benefits in the University of Alaska system.
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Business Coalition for Workplace Fairness

The majority of United States businesses have already started addressing workplace fairness for lesbian, gay, bisexual and transgender employees. But we need a federal standard that treats all employees the same way.

The Business Coalition for Workplace Fairness is a group of leading U.S. employers that support the Employment Non-Discrimination Act, a federal bill that would provide the same basic protections that are already afforded to workers across the country.

Lesbian, gay, bisexual and transgender employees are not protected under federal law from being fired, refused work or otherwise discriminated against. ENDA would do just that. The following leading employers support workplace fairness and the passage of the federal Employment Non-Discrimination Act.

Accenture Ltd.	New York, NY	The Hershey Co.	Hershey, PA
AIG	New York, NY	Hewlett-Packard Co.	Palo Alto, CA
Alcoa Inc.	New York, NY	Hillshire Brands Co.	Downers Grove, IL
American Eagle Outfitters Inc.	Pittsburgh, PA	Hilton Worldwide	McLean, VA
American Institute of Architects	Washington, DC	Hospira Inc.	Lake Forest, IL
Ameriprise Financial Inc.	Minneapolis, MN	HSBC - North America	Prospect Heights, IL
Amgen Inc.	Thousand Oaks, CA	Hyatt Hotels Corp.	Chicago, IL
AMR Corp. (American Airlines)	Fort Worth, TX	Integrity Staffing Solutions Inc.	Wilmington, DE
Apple	Cupertino, CA	Intel Corp.	Santa Clara, CA
AT&T Inc.	Dallas, TX	InterContinental Hotels Group Americas	Atlanta, GA
Bank of America Corp.	Charlotte, NC	International Business Machines Corp.	Armonk, NY
The Bank of New York Mellon Corp. (BNY Mellon)		Jenner & Block LLP	Chicago, IL
Barclays	New York, NY	Johnson & Johnson	New Brunswick, NJ
BASF Corp.	New York, NY	JPMorgan Chase & Co.	New York, NY
Bausch & Lomb Inc.	Florham Park, NJ	Kaiser Permanente	Oakland, CA
Best Buy Co. Inc.	Rochester, NY	KeyCorp	Cleveland, OH
Bingham McCutchen LLP	Richfield, MN	Kimpton Hotel & Restaurant Group	San Francisco, CA
Biogen Idec Inc.	Boston, MA	KPMG LLP	New York, NY
BMC Software Inc.	Weston, MA	Levi Strauss & Co.	San Francisco, CA
BNP Paribas	Houston, TX	Marriott International Inc.	Bethesda, MD
Boehringer Ingelheim Pharmaceuticals Inc.	New York, NY	Marsh & McLennan Companies Inc.	New York, NY
BP America Inc.	Ridgefield, CT	Medtronic Inc.	Minneapolis, MN
Bristol-Myers Squibb Co.	Warrenville, IL	Merck & Co. Inc.	Whitehouse Station, NJ
Broadridge Financial Solutions Inc.	New York, NY	Microsoft Corp.	Redmond, WA
Brown-Forman Corp.	Lake Success, NY	MillerCoors Brewing Co.	Chicago, IL
CA Technologies Inc.	Louisville, KY	Mitchell Gold + Bob Williams	Taylorsville, NC
Caesars Entertainment Corp.	Islandia, NY	Moody's Corp.	New York, NY
Capgemini U.S. LLC	Las Vegas, NV	Morgan Stanley	New York, NY
Capital One Financial Corp.	New York, NY	Motorola Inc.	Schaumburg, IL
Cardinal Health Inc.	McLean, VA	Nationwide	Columbus, OH
CareFusion Corp.	Dublin, OH	The Nielsen Co.	Schaumburg, IL
CC Media Holdings Inc. (Clear Channel)	San Diego, CA	Nike Inc.	Beaverton, OR
Charles Schwab & Co.	San Antonio, TX	Oracle Corp.	Redwood City, CA
Chevron Corp.	San Francisco, CA	Orbitz Worldwide Inc.	Chicago, IL
Choice Hotels International Inc.	San Ramon, CA	Pfizer Inc.	New York, NY
Chubb Corp.	Silver Spring, MD	PricewaterhouseCoopers LLP	New York, NY
Cisco Systems Inc.	Warren, NJ	Procter & Gamble Co.	Cincinnati, OH
Citigroup	San Jose, CA	QUALCOMM Inc.	San Diego, CA
Clorox Co.	New York, NY	RBC Wealth Management	Minneapolis, MN
The Coca-Cola Co.	Oakland, CA	Replacements Ltd.	McLeansville, NC
Coming Inc.	Atlanta, GA	Robins, Kaplan, Miller & Ciresi LLP	Minneapolis, MN
Darden Restaurants Inc.	Coming, NY	Self-Help Credit Union	Durham, NC
Delhaize America Inc.	Orlando, FL	SUPERVALU Inc.	Eden Prairie, MN
Dell Inc.	Salisbury, NC	Target Corp.	Minneapolis, MN
Deloitte LLP	Round Rock, TX	Teachers Insurance and Annuity Association - College Retirement Equities Fund	New York, NY
The Depository Trust & Clearing Corp.	New York, NY	Tech Data Corp.	Clearwater, FL
Deutsche Bank	New York, NY	Texas Instruments Inc.	Dallas, TX
Diageo North America	Norwalk, CT	Thomson Reuters	New York, NY
Dow Chemical Co.	Midland, MI	Time Warner Inc.	New York, NY
E. I. du Pont de Nemours and Co. (DuPont)	Wilmington, DE	Travelers Companies Inc.	New York, NY
Eastman Kodak Co.	Rochester, NY	UBS AG	Stamford, CT
Electronic Arts Inc.	Redwood City, CA	US Airways Group Inc.	Tempe, AZ
Eli Lilly & Co.	Indianapolis, IN	Verizon Communications Inc.	New York, NY
EMC Corp.	Hopkinton, MA	WellPoint Inc.	Indianapolis, IN
Ernst & Young LLP	New York, NY	Wells Fargo & Co.	San Francisco, CA
Expedia Inc.	Bellevue, WA	Whirlpool Corp.	Benton Harbor, MI
Gap Inc.	San Francisco, CA	Wynn Resorts Ltd.	Las Vegas, NV
General Electric Co.	Fairfield, CT	Xerox Corp.	Stamford, CT
General Mills Inc.	Minneapolis, MN	Yahoo! Inc.	Sunnyvale, CA
General Motors Corp.	Detroit, MI		
GlaxoSmithKline	Philadelphia, PA		
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The Cost of Employment Discrimination against Transgender Residents of Massachusetts



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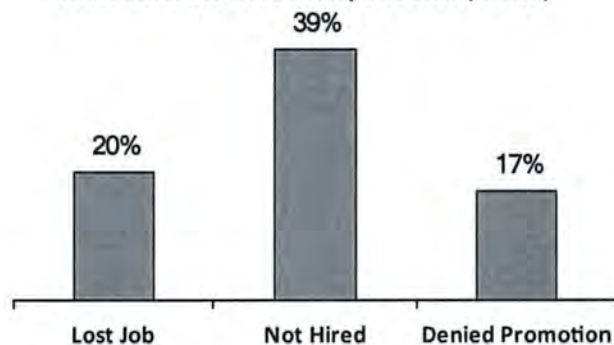
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April 2011

Introduction

Transgender residents of Massachusetts have reported experiencing discrimination in employment. The *National Transgender Discrimination Survey* (NTDS) found that 76 percent of respondents from Massachusetts experienced harassment, mistreatment, or discrimination in employment.¹ NTDS respondents reported that due to anti-transgender bias, 20 percent had lost a job, 39 percent were not hired for positions they applied for, and 17 percent were denied promotions.²

Employment Discrimination Among Massachusetts NTDS Respondents (n=283)



Loss of employment due to anti-transgender bias often means lost wages, lost health insurance coverage, and housing instability. Therefore, employment discrimination might affect the budget of the Commonwealth of Massachusetts in several ways: reduced income tax revenues, higher public assistance expenditures, and other costs. For instance, if a worker is fired for being transgender and loses wages as a result, the Commonwealth loses the income tax revenue it would have gained from those lost wages. Furthermore, that worker may need to participate in a public health insurance program to replace lost employer-provided coverage. Those health insurance costs are then transferred from that worker's former employer to the Commonwealth. This study estimates that the impact of discrimination is likely to cost the Commonwealth millions of dollars each year. The added cost to the Commonwealth for public health insurance coverage alone is \$3 million annually due to employment discrimination.

Estimating the Transgender Population of Massachusetts

According to the U.S. Census Bureau's 2009 American Community Survey, the population of Massachusetts is 6.6 million.³ A recent Massachusetts population-based survey suggests that 0.5 percent of the population of Massachusetts considers themselves to be transgender.⁴ Therefore, about 33,000 Massachusetts residents are estimated to identify as transgender.⁵ If rates of employment discrimination found in the Massachusetts sample of the NTDS hold true for the transgender population of Massachusetts as a whole, then: 6,600 have lost a job, 12,900 were not hired for a job, and 5,600 were denied a promotion due to anti-transgender bias.

Estimating the Cost of Employment Discrimination

Employment discrimination might negatively affect the Commonwealth's budget for several reasons. This section describes costs in terms of lower income tax revenues, higher public assistance expenditures, and other costs of unemployment and underemployment.

Reduced Income Tax Revenues

When workers are fired for being transgender or are unable to get jobs due to discrimination, their wages are likely to fall, leading to lower income tax revenue for the Commonwealth. According to the NTDS, 15 percent of surveyed transgender Massachusetts residents made \$10,000 or less in annual household income, while only 3 percent of the Massachusetts general population made this amount.⁶ Yet, the educational attainment of transgender NTDS participants is high, with respondents reporting much higher rates of attaining college degrees and graduate degrees than the U.S. general population.⁷ Therefore, it is likely that this income disparity is due, at least in part, to employment discrimination. If transgender residents of Massachusetts had incomes similar to the general population, the Commonwealth would garner millions of dollars in additional income tax revenues.

A simple example reveals the potential for added state revenue. If 15 percent of all transgender people in Massachusetts make under \$10,000, then nearly 5,000 residents are making this amount annually. If transgender residents were making this amount at the same rate as the Massachusetts general population (3%), about 4,000 additional people would be making more than \$10,000 every year. The difference in income tax revenue for a person making \$10,000 annually versus \$20,000 annually would be \$627.⁸ If all 4,000 people shifted from \$10,000 to just \$20,000 in annual income, the Commonwealth would garner over \$2 million in additional income tax revenue per year.

Public Assistance Expenditures

When workers lose jobs, they are likely to lose income and health insurance coverage for themselves and their families. These workers and their families may need to utilize public assistance programs to replace lost income and insurance coverage. Major programs for cash assistance and medical coverage include MassHealth (Medicaid), Commonwealth Care, Transitional Aid to Families with Dependent Children (TAFDC), Supplemental Security Income (SSI), and the Children's Medical Security Plan (CMSP). To the extent that workers who have lost jobs due to discrimination and their families participate in these programs, costs accrue to the Commonwealth.

While it is difficult to estimate the impact on expenditures for all cash and health assistance programs, available data make an estimate possible for Medicaid, known as MassHealth in Massachusetts, and Commonwealth Care, a state-funded program that provides subsidized premiums for low-income Massachusetts residents to purchase private health insurance coverage.⁹ These two programs provide health insurance coverage for over 1.5 million Massachusetts residents, transgender and non-transgender alike, each year.¹⁰ This study estimates that the cost to the Commonwealth for both programs is nearly \$3 million annually for transgender workers who have lost jobs due to bias.

According to the NTDS, over 4 percent of transgender residents of Massachusetts who have lost a job due to bias receive their health insurance coverage through MassHealth (Medicaid).¹¹ Of those respondents in Massachusetts who have *not* lost a job due to bias, *none* receive their health insurance coverage through MassHealth.¹² Applying those rates of MassHealth coverage to the Massachusetts transgender population as a whole, 293 transgender residents who have lost a job due to bias receive their health insurance coverage through MassHealth. The average annual Commonwealth expenditure for each adult enrollee in MassHealth is \$1,841.¹³ Thus 293 people getting MassHealth coverage as a

result of discrimination times \$1,841 is nearly \$539,000. In other words, if these 293 residents were to be covered by employer-provided insurance, the Commonwealth would save more than \$500,000 annually in MassHealth expenditures.

Also according to the NTDS, some transgender residents of Massachusetts receive their health insurance coverage through public insurance programs *other* than MassHealth, such as state-funded or locally-funded programs.¹⁴ These respondents could be participating in one of two public health insurance programs in Massachusetts: the Medical Security Program (MSP) or Commonwealth Care.¹⁵ The MSP is an employer-funded health insurance program for those who are receiving Unemployment Insurance benefits. In order to provide cost estimates only for likely Commonwealth Care participants, a state-funded program, those who reported receiving health coverage through other public insurance programs and are currently unemployed are assumed to be covered through the MSP. Those likely MSP participants have been removed from these calculations. The remainder, those who reported that they are receiving health coverage through other public insurance programs and are currently employed, are assumed to be covered through Commonwealth Care.

If the rate of likely Commonwealth Care participation found in the NTDS holds true for the Massachusetts transgender population as a whole, then just over 13% (879 people) of transgender residents who have lost a job due to bias likely receive their health insurance coverage through Commonwealth Care.¹⁶ However, this study assumes that had this group of transgender residents not lost jobs due to bias, they would participate in Commonwealth Care at the same rate as those who reported they had not lost jobs due to bias (just over 5%, or 337 people).¹⁷ In this case, discrimination may have led to a transgender respondent being employed by an employer that does not provide health insurance benefits. Thus, an estimated 542 transgender residents of Massachusetts likely participate in Commonwealth Care as a result of employment discrimination. The average annual Commonwealth expenditure for each member of Commonwealth Care is \$4,474.¹⁸ Thus 542 people getting Commonwealth Care coverage as a result of discrimination times \$4,474 is over \$2 million annually. In other words, if these 542 residents were in better jobs that included coverage by employer-provided insurance, the Commonwealth would save more than \$2 million annually in Commonwealth Care expenditures.

Other Costs of Unemployment and Underemployment

Work-related programs: The Commonwealth of Massachusetts administers various employment programs using federal, state, and employer-contributed funds. In the event that transgender workers lose jobs due to bias, they may qualify for unemployment insurance payments and utilize programs that provide job placement and job training, increasing the costs of those programs. State-only funding supports several programs that unemployed workers could utilize, including programs for those workers who need to complete elementary and secondary education and workers with disabilities or who are blind.

The table below outlines the per-participant Commonwealth expenditures for selected workforce development and services programs for the 2010 fiscal year.¹⁹ For each transgender worker who loses a job due to bias and participates in any one of the listed programs, the cost to the Commonwealth for that worker equals the Commonwealth per-participant expenditure listed for that program.

Housing programs: When a worker loses a job due to discrimination, housing instability may result.²⁰ In the NTDS study, 26 percent of Massachusetts residents who had lost a job due to bias had also been evicted from their homes compared to 5 percent of those who had *not* lost a job due to bias. Housing

and rental assistance programs in Massachusetts include Section 8 housing programs, rental assistance programs, homelessness prevention programs, and shelters. While these programs are funded in large part with federal funds, Commonwealth funds support many of these programs. The Commonwealth proposed spending \$255 million for the 2010 fiscal year on housing and rental assistance programs administered through the Massachusetts Executive Office of Housing and Economic Development (EOHED).²¹ Therefore, if transgender workers who have lost their jobs later access these programs for housing or rental assistance, costs accrue to the Commonwealth.

Conclusion

Any transgender person who loses a job due to discrimination in Massachusetts may experience reduced income, loss of health insurance, and housing instability. Not only does the Commonwealth suffer lost income tax revenue because of discrimination, but each transgender person who loses a job may become eligible for programs that will cost the state hundreds or thousands of dollars. This study estimates that the Commonwealth spends nearly \$3 million annually in Medicaid and Commonwealth Care expenditures alone for workers who have lost a job due to anti-transgender bias. Employment discrimination against transgender residents likely costs the Commonwealth of Massachusetts millions of dollars annually in public assistance program expenditures, lost income tax revenues, and other costs.²²

Commonwealth per-participant expenditures for selected programs for FY2010²³

Office/Department	Program	Total Participants*	Common-Wealth funding	Commonwealth per-participant expenditure
Workforce Development, Division of Career Services	One-Stop Career Centers, Employment Services/Labor Exchange	211,761	\$4,994,467	\$24
Workforce Development, Division of Career Services	Workforce Training Fund Programs, General Program	5,031	\$3,571,400	\$710
Workforce Development, Division of Career Services	Workforce Training Fund Programs, Hiring Incentive Training Grant Program	58	\$95,999	\$1,655
Executive Office of Health and Human Services, Department of Transitional Assistance	Employment Services Program	80,220	\$20,979,163	\$262
Executive Office of Health and Human Services, Massachusetts Rehabilitation Commission	Vocational Rehabilitation Services	20,678	\$10,207,592	\$494
Executive Office of Health and Human Services, Massachusetts Commission for the Blind	Vocational Rehabilitation for the Blind	1,639	\$3,044,221	\$1,857
Elementary & Secondary Education, Adult & Community Learning Services	Adult Basic Education/ESOL	20,372	\$23,710,206	\$1,164

*Number served or number of employee participants.

¹ *Findings of the National Transgender Discrimination Survey by the National Center for Transgender Equality and the National Gay and Lesbian Task Force: Massachusetts Results*, Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, available at <http://www.masstpc.org/publications/3party/MA-NTDS-final.pdf>. The NTDS study was based on a national convenience sample of 6,456 transgender and gender non-conforming people. This sample provides the best available data on experiences of employment discrimination among transgender and gender non-conforming people in the U.S. The Massachusetts NTDS data set was used by permission of The National Gay and Lesbian Task Force. Additional calculations as needed for the Commonwealth of Massachusetts were completed by the author at The Williams Institute.

² *Id.*

³ U.S. Census Bureau, American Community Survey, 1-year Public Use Microdata Sample (PUMS), 2009.

⁴ Conron, K.J., Scott, G., Stowell, G.S., Landers, S., Transgender Health in Massachusetts: Results from a Household Probability Sample of Adults, *American Journal of Public Health*, forthcoming.

⁵ This figure may not include all residents of the Commonwealth of Massachusetts whose gender identity or expression differs from conventional expectations of masculinity or femininity because individuals may not use the term "transgender" to identify themselves.

⁶ *Findings of the National Transgender Discrimination Survey*, 2011, op.cit. Massachusetts general population figure from the U.S. Census Bureau, Current Population Survey, Annual Social & Economic Supplement, 2009.

⁷ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, available at http://www.thetaskforce.org/reports_and_research/ntds.

⁸ A set of conservative assumptions underlie the calculations in this example. The income level of those making less than \$10,000 annually is set at \$10,000, which is the highest possible income in that income range. An income of \$20,000 represents the highest possible income in the next income range (\$10,000-\$20,000). Transgender and gender non-conforming people are over-represented in the lower income categories (60% made \$50,000 or less annually, NTDS sample) compared to the Massachusetts general population (32% made less than \$50,000 annually, 2009 CPS Annual Social & Economic Supplement). This example provides a simulation based on a shift for only the lowest income category.

The 2010 Massachusetts tax forms, available at <http://www.mass.gov>, were utilized in calculating income taxes. In the case of an income of \$10,000, tax owed was calculated for a person filing as single with the standard deduction and the limited income credit. Total tax owed for this person is \$200. In the case of an income of \$20,000, tax owed was calculated for a person filing as single with the standard deduction (not eligible for the limited income credit). Total tax owed for this person is \$827.

⁹ For more information on MassHealth, visit the official website of the Massachusetts Office of Health and Human Services at <http://www.mass.gov/?pageID=eohhs2homepage&L=1&LO=Home&sid=Eeohhs2>. For more information on Commonwealth Care, visit the Health Connector website at <https://www.mahealthconnector.org/portal/site/connector/>.

¹⁰ Medicaid total enrollment for FY2007 in Massachusetts was 1,402,500. See The Henry J. Kaiser Family Foundation, Massachusetts: Total Medicaid Enrollment, FY2007, <http://www.statehealthfacts.org/profileind.jsp?rgn=23&cat=4&ind=198>. Commonwealth Care total year end membership for FY2008 was 175,617. See The Massachusetts Health Insurance Connector Authority, *Report to the Massachusetts Legislature Implementation of the Health Care Reform Law, Chapter 58, 2006-2008*, available at <https://www.mahealthconnector.org>. Expenditure estimates calculated in this report reflect health care insurance coverage that is available to all Massachusetts residents that meet the requirements for participation in these programs. All of the identified public health insurance expenditures exclude transition-related care.

¹¹ Grant, Jaime M., et al, 2011, op.cit. Additional calculations completed by the author at the Williams Institute.

¹² *Id.*

¹³ Medicaid state-only expenditures were calculated by using the FY2007 average total per-adult-enrollee payment of \$3,506. See The Henry J. Kaiser Family Foundation, Massachusetts: Medicaid Payments, <http://www.statehealthfacts.org/profileind.jsp?rgn=23&cat=4&ind=183>. The state share of the total per-adult-enrollee

payment for FY2007 was calculated by multiplying the payment of \$3,506 by the overall percentage the Commonwealth contributed to the payment (50%), which yields a total per-participant state share of \$1,753 (unadjusted). This per-adult-participant expenditure calculated for this report was adjusted to 2010 dollars to yield \$1,841.

¹⁴ Grant, Jaime M., et al, 2011, op.cit. Additional calculations completed by the author at the Williams Institute.

¹⁵ For more information on the Massachusetts Medical Security Program, visit the official website of the Massachusetts Office of Labor and Workforce Development at <http://www.mass.gov/?pageID=elwdhomepage&L=1&LO=Home&sid=Elwd>.

¹⁶ Grant, Jaime M., et al, 2011, op.cit. Additional calculations completed by the author at the Williams Institute. Those who reported they are currently unemployed are not included in the 13 percent figure reported here. Those who responded that they are covered by "other public insurance" and are currently unemployed are assumed to participate in the Massachusetts Medical Security Program (MSP).

¹⁷ *Id.* Those who reported they are currently unemployed are not included in the 5 percent figure reported here. Those who responded that they are covered by "other public insurance" and are currently unemployed are assumed to participate in the Massachusetts Medical Security Program (MSP).

¹⁸ Commonwealth Care per-member expenditures were calculated by dividing the FY2010 total spending including risk sharing (\$717,245,870) by the FY2010 year end membership (160,318) to yield a per-member Commonwealth expenditure of \$4,474. See Health Connector, *Report to the Massachusetts Legislature: Implementation of Health Care Reform, Fiscal Year 2010*, November 2010, available at <https://www.mahealthconnector.org/portal/site/connector/menuitem.662b0c7793f3a4b2dbef6f47d7468a0c/?fiShown=default>.

¹⁹ Commonwealth Corporation, *Annual Performance Report of Massachusetts Workforce Development Services and Programs*, November 30, 2010, available at <http://www.commcorp.org/resources/detail.cfm?ID=770>.

²⁰ Not only is housing instability created by job loss, the NTDS found that due to anti-transgender bias, respondents from Massachusetts experienced eviction (6%), denial of a home or apartment (17%), and became homeless (10%). See *Findings of the National Transgender Discrimination Survey by the National Center for Transgender Equality and the National Gay and Lesbian Task Force: Massachusetts Results*, Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

²¹ Massachusetts Department of Housing and Community Development, *2010-2014 Consolidated Plan for CDBG, HOME, HOPWA, and ESG*, May 2010, available at <http://www.mass.gov>.

²² This finding is conservative in that it does not include estimates of the cost to the Commonwealth and to businesses in Massachusetts of curbed spending due to loss of income and other "downstream" impacts of employment discrimination.

²³ Commonwealth Corporation, op.cit.

About the Author

Jody L. Herman is the Peter J. Cooper Public Policy Fellow at the Williams Institute, UCLA School of Law. She holds a Ph.D. in Public Policy and Public Administration from The George Washington University.

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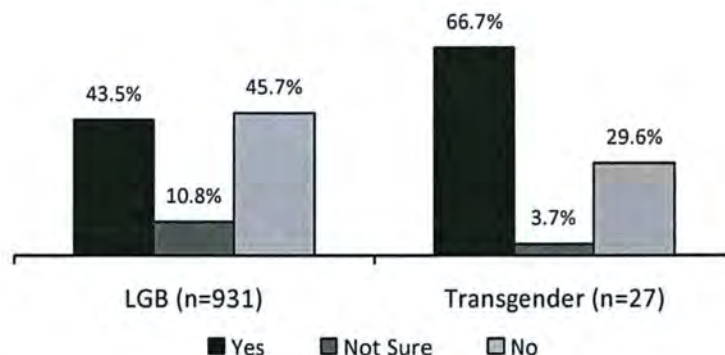
Employment Discrimination against LGBT Utahns

Executive Summary

Utah does not have a statewide law that prohibits discrimination based on sexual orientation and gender identity in employment. This report gathers together all existing data on the prevalence of discrimination in Utah to examine how frequently lesbian, gay, bisexual, and transgender Utahns experience employment discrimination based on sexual orientation and gender identity and assess the likely impact of passing a statewide nondiscrimination law.

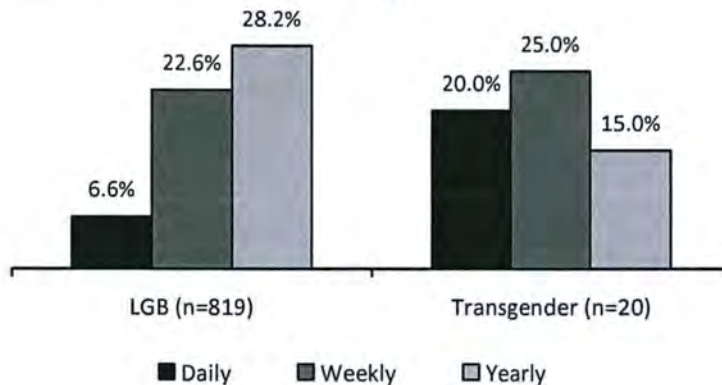
The report begins by analyzing the data collected through a 2010 survey conducted by Equality Utah, which is the state's first survey on discrimination based on sexual orientation and gender identity in employment. The data show that employment discrimination on the basis of sexual orientation and gender identity is a pervasive and persistent problem in Utah, as it is in other states. Forty-three percent of the LGB respondents and 67% of the transgender respondents reported that they have experienced discrimination in employment.

Percent Ever Fired, Denied a Job, or Not Promoted Because of Sexual Orientation or Gender Identity



The data show that employment discrimination based on sexual orientation and gender identity is presently occurring in Utah. Close to 30% of LGB respondents and 45% of transgender respondents reported that they experienced some form of workplace harassment on a weekly basis during the previous year. Over 26% of LGB respondents and 37% of transgender respondents reported that they fear discrimination by their current employer. The data further show that Utah's LGBT employees are being discriminated against and harassed no matter how open they are about their sexual orientation or gender identity in the workplace.

Frequency of Homophobia, Transphobia, or Harassment Experienced at Work in the Last Year



The 2010 survey allowed respondents to supplement their responses with more detailed written accounts of their experiences. These responses support the quantitative data and paint a more complete picture of the problem of employment discrimination in Utah. Survey respondents frequently reported verbal harassment and derogatory name-calling in the workplace. Some respondents gave detailed accounts of being subjected to harassment or discrimination, even though they did not discuss their sexual orientation or gender identity while at work, because a supervisor or co-workers discovered their LGBT identity second-hand. Many respondents explained that they are not out in the workplace because they have personally experienced discrimination and harassment. Some respondents reported being fired because they sought employer-sponsored domestic partner benefits for a same-sex partner. Respondents also described a broad range of disparate treatment based on sexual orientation and gender identity, such as being paid less for the same work, being asked to work longer hours, or being assigned less desirable shifts. A few respondents even indicated that they had experienced sexual harassment, sexual assault, and inappropriate physical touching by co-workers after disclosing that they were LGB or transgender.

The results of the 2010 survey are consistent with data gathered from other sources, such as national surveys and reports from state agencies. National surveys indicate that substantial percentages of LGB people report discrimination and harassment in the workplace, and discrimination against transgender employees is even more prevalent. Two recent studies demonstrate that when the underlying population of workers in a protected class is taken into account, the rate of complaints filed with state administrative agencies alleging sexual orientation discrimination in employment is comparable to the rate of complaints filed on the basis of race or sex.

By reviewing the available data on the passage of statewide nondiscrimination laws in other jurisdictions, this report shows that passing such a law would have a beneficial impact on Utah employees and employers, without imposing any significant burdens or costs on the state's enforcement agencies.

Introduction

Utah does not have a statewide law that prohibits discrimination based on sexual orientation and gender identity in employment. For the past three years, state legislators have debated a bill that would add sexual orientation and gender identity to the list of classifications protected by the Utah Antidiscrimination Act. Recent polling has indicated that a significant majority of Utahns support these protections, and in the past year, several cities and counties in Utah have adopted ordinances incorporating them into municipal codes.

As in many debates about nondiscrimination laws, the discussion of these measures has involved two arguments about the incidence of employment discrimination based on sexual orientation and gender identity. The first argument is that the law is not necessary because cases of such discrimination are extremely rare. The second argument is that if the law were passed, employers and state agencies would be inundated with frivolous claims.

To inform these discussions, this report gathers together all existing data on the prevalence of discrimination based on sexual orientation and gender identity in Utah. The report focuses on two questions: First, how frequently do lesbian, gay, bisexual, and transgender Utahns experience discrimination based on sexual orientation and gender identity in employment? Second, what would be the impact of passing a statewide nondiscrimination law that prohibits discrimination based on sexual orientation and gender identity in employment?

To answer these questions, the report begins by analyzing the data collected through a 2010 survey conducted by Equality Utah, which is the state's first survey on discrimination based on sexual orientation and gender identity in employment. Second, the report compares the 2010 survey findings to the relevant findings from national surveys, U.S. Census data, and reports from state agencies. Third, the report analyzes available data to estimate the likely impact of a statewide law on LGBT employees, employers, and state agencies.

By analyzing the data collected in the 2010 survey, Part I of this report presents findings that employment discrimination is a pervasive problem in Utah, as in other states. Nearly half of the LGBT respondents in the survey reported that they have experienced discrimination in employment. Moreover, the survey shows, the problem of employment discrimination is persistent. Many respondents reported that they continue to fear discrimination from current employers, and more than half reported that they have been subjected to verbal harassment in the workplace in the previous year. In the absence of a statewide law, the vast majority of discrimination and verbal harassment against LGBT employees has not been reported to employers, attorneys, or state agencies. Also, LGBT employees in Utah have experienced discrimination across a broad range of personal and socio-economic characteristics, regardless of how open (or "out") they are at work.

Part II shows that the results of the 2010 survey are consistent with data gathered from national surveys, U.S. Census data, and reports from state agencies. National surveys indicate that large percentages of LGBT people report discrimination and harassment in the workplace. U.S. Census data show that in Utah, as in many other states, men in same-sex couples earn nearly one-fifth less than men in different-sex marriages, even though men in same-sex couples are more likely to have a college degree. Reports from state agencies indicate that discrimination against LGBT employees occurs as often as discrimination against female employees, and discrimination against transgender employees is even more prevalent.

By reviewing the available data on the passage of statewide nondiscrimination laws in other jurisdictions, Part III shows that passing such a law would have a beneficial impact on Utah employees and employers, without imposing any significant burdens or costs on the state's enforcement agencies.

I. A Survey on Employment Discrimination in Utah

A. Methods

1. Survey Distribution and Data Collection

In February, 2010, Equality Utah sent an email message to an internal distribution list of 7,521 people asking them to complete an online survey using Survey Monkey. The organization had compiled this distribution list over a period of several years by asking people to sign up through the organization's website, at local events, and by making donations.

In addition, Equality Utah distributed the survey through social networking web sites by posting a link to the survey on the organization's Facebook and Simply Social pages. In February 2010, Equality Utah had established connections with approximately 4,700 individuals on Facebook and 1,000 individuals on Simply Social.

At Equality Utah's request, the survey was distributed through similar means by the Utah Pride Center, an organization that serves the LGBT community in the state. The Utah Pride Center estimates that in February 2010, the survey was made available to approximately 6,200 individuals via email and 10,000 individuals via Facebook.

Neither Equality Utah nor the Utah Pride Center has any way of identifying overlaps among these distributions channels. As a result, it is not possible to calculate the total number of individuals who had access to the survey, or to calculate the overall response rate.

The survey collected responses from 1,199 individuals, 939 of whom are LGBT and living in Utah. Based on data produced by the U.S. Census Bureau, the Williams Institute has estimated that in 2008, there were between 47,000 and 63,000 lesbian, gay, and bisexual people living in Utah.

Because Equality Utah's outreach strategies are not designed to attract a random sample of LGBT individuals, this sample is not likely to be representative of all LGBT people in the state. However, it is the largest sample of LGBT Utahns surveyed to date, and it includes individuals who exhibit a broad range of personal and socio-economic characteristics. As a result, the survey seems to provide a reasonably broad sample of LGBT people and experiences in the state.

2. Data Analysis

The survey contained 24 questions. Many questions allowed for multiple responses, and many of the questions allowed for open-ended responses, i.e. the choice of "Other, Please Specify." In general, questions that allowed for multiple responses were placed into particular categories if respondents chose any of the included answers. When possible, open-ended responses were recoded and placed into the category that most accurately reflected by the response. The majority of the information we used for our study was drawn from sexual orientation and gender identity questions, discrimination

questions, and basic demographic questions (age, race, location, education level, income, and work status).

The sexual orientation question offered several different responses. When we discuss sexual orientation in this report, we are referring to respondents who chose at least one (or more) of the following responses: "Lesbian," "Gay," "Bisexual," or "Queer." We grouped these respondents into a distinct group that we called "LGB," which included 931 people. The respondents who indicated that they were "straight" were dropped from the study unless they were transgender.

Likewise, the gender question offered several different responses. When we discuss gender identity in this report, we are referring to respondents who chose at least one (or more) of the following responses: "MTF" or "FTM." We grouped these respondents into a distinct group that we called "transgender," which included 27 people. Some of the respondents who answered only "Female" or "Male" to this question might also identify as transgender, but we were not able to distinguish those individuals from respondents who identified as non-transgender.

In this survey, "sexual orientation" and "gender identity" were presented as two distinct characteristics in two different questions, so we have treated them separately in our analysis. As a result, there is some overlap between LGB respondents and transgender respondents: Twenty-one individuals identified as both LGB and transgender.

The survey asked the following specific questions about discrimination in employment:

- "Do you believe you have ever been discriminated against in employment (e.g. fired, denied a job, not promoted) due to your sexual orientation or gender identity?"
- "Do you fear being discriminated against with your current employer?"

Respondents had three possible answers to choose from for each of those questions: "Yes," "No," and "Not Sure." In addition, the survey asked respondents who had experienced some form of employment discrimination, "To whom, if anyone, did you report being discriminated against in employment?"

Apart from these specific questions, the survey asked more general questions that included responses that were specifically related to discrimination in employment. For example, the survey asked, "In the last 12 months, please indicate how often, if at all, you have experienced homophobia, transphobia, and/or harassment." Respondents were provided with several different answers, but for the purposes of this report, we have reported only the respondents who indicated that they had experienced such harassment "at work." Likewise, the survey asked, "How open ("out") are you regarding your sexual orientation/gender identity with the following people? (1 being not open, 5 being very open)." Respondents were provided with many different answers, including parents, children, coworkers, and supervisor(s), but for the purposes of this report, we have reported only the respondents who indicated how open they were with "supervisor(s)." Finally, the survey invited respondents to describe incidents of discrimination in "housing" or "employment" in additional detail, and for the purposes of this report, we have reported only the respondents who described discrimination in employment.¹

The "Zip Code" and "County" questions were used together to get a more accurate picture of where our respondents were located. The county question was open ended so all like answers were combined into the correct county. Respondents who listed cities were placed into their corresponding county. For responses that did not fall into either of these groups, the "zip code" question was consulted. Respondents who listed something other than a valid city or county for this question were placed into the county that corresponded to their listed zip code. Because relatively few respondents lived outside

of Salt Lake County, we made the decision to further reduce the groupings to “Salt Lake County” and “Other County.”

Because this study focused on Utah, we dropped from the study the twelve respondents who were found to have listed neither a county, city, nor zip code that existed in Utah.

The race question offered respondents several choices along with the open-ended “Other, please specify” mentioned above. These open-ended responses were placed into their most relevant grouping.² Due to the extremely low number of respondents in the more detailed race/ethnic categories, we made the decision to further reduce the groupings to “White/Caucasian” and “Person of Color/Multi-Racial/Other.”

B. Profile of Respondents

In an effort to document discrimination based on sexual orientation and gender identity in Utah, this report focuses only on respondents who identified themselves as lesbian, gay, bisexual, or transgender and reported that they are currently residing in Utah zip codes. We identified a total of 939 respondents who met these criteria. Below we present two charts that report the personal and socio-economic characteristics of these respondents.

In each of these charts, we have included columns that provide cross-tabs for two different subgroups of respondents: the 931 respondents who identified as lesbian, gay, bisexual or queer, and the 27 respondents who identified as transgender.³

The first column of Chart 1 shows that 57% of LGB respondents identified as male, and 39% identified as female. In addition, 1.2% of LGB respondents identified as MTF, 1.1% identified as FTM, 0.3% identified as intersex, and 1.1% declined to identify as a member of any of these categories. Nearly one-third of LGB respondents were between the ages of 25 and 34, and almost all were between the ages of 18 and 64, the most relevant age range for defining the workforce. Twelve percent of LGB respondents identified themselves as people of color, and 28% reported living outside of Salt Lake County.

The second column of Chart 1 shows that 59% of transgender respondents identified as MTF and 41% identified as FTM. More than one-third of transgender respondents were between the ages of 25 and 34, and all were between the ages of 18 and 64. Thirty percent of transgender respondents identified themselves as people of color, and 33% reported living outside of Salt Lake County.

Chart 1: Personal Characteristics of LGB and Transgender Respondents		
	Lesbian, Gay, Bisexual (n=931)	Transgender (n=27)
Gender		
Female	39.2%	0.0%
Male	57.1%	0.0%
FTM	1.1%	40.7%
MTF	1.2%	59.3%

	Intersex	0.3%	0.0%
	Other	1.1%	0.0%
Age			
	18-24	19.8%	29.6%
	25-34	31.8%	37.0%
	35-44	23.3%	11.1%
	45-54	18.3%	18.5%
	55-64	5.7%	3.7%
	65 and older	1.2%)	0.0%
Race/Ethnicity			
	White/Caucasian	88.0%	70.4%
	Person of Color/Multiracial	12.0%	29.6%
Location			
	Salt Lake County	71.9%	66.7%
	Other Counties	28.1%	33.3%

The first column of Chart 2 shows that 55% of LGB respondents had earned college or post-graduate degrees, and 70% had full-time employment or were self-employed. Forty percent of LGB respondents earned more than \$40,000 per year.

The second column of Chart 2 shows that 26% of transgender respondents had earned college or post-graduate degrees, and 52% had full-time employment or were self-employed. Twenty-two percent of transgender respondents earned more than \$40,000 per year.

Chart 2: Socio-Economic Characteristics of LGB and Transgender Respondents

	Lesbian, Gay, Bisexual (n=931)	Transgender (n=27)
Education Level		
High School Graduate	8.4%)	29.6%
Trade/Vocational School	36.5%	44.4%
College Graduate	34.1%	22.2%
Post-Graduate or Above	21.1%)	3.7%
Employment Status		
Retired/On Disability	9.6%	14.8%
Unemployed	5.2%	18.5%
Part-Time	14.9%	14.8%
Full-Time	61.4%	44.4%

Self-Employed	8.9%	7.4%
Income		
Less than \$20,000	28.5%	51.9%
\$20,000-\$40,000	31.2%	25.9%
\$40,000-\$75,000	26.4%	14.8%
More than \$75,000	14.0%	7.4%

C. Findings of Employment Discrimination in Utah

The 2010 survey shows that employment discrimination based on sexual orientation and gender identity is a pervasive and persistent problem in Utah that affects many LGBT employees. Below we present both quantitative data from the survey and more qualitative answers to open-ended questions about experiences of employment discrimination.

1. Quantitative Data

Chart 3 shows that 43% of all LGBT respondents reported being fired, denied a job, denied a promotion, or experiencing other forms of discrimination in employment at some point in their lives.⁴ Chart 4 indicates that even today, 26% of LGBT employees continue to fear employment discrimination from current employers. Chart 5 shows that 57% of these workers have been subjected to verbal harassment in the workplace in the previous year, and 29% have experienced harassment on at least a weekly basis.

Each of these charts suggests that transgender workers may be particularly vulnerable to discrimination in employment. Sixty-six percent of transgender workers experienced being fired, denied a job, denied a promotion, or some other form of discrimination in employment, and 37% continue to fear discrimination from current employers. Sixty percent of transgender respondents were subjected to verbal harassment at work in the previous year, and 45% experienced verbal harassment on at least a weekly basis.

Chart 3

Percent Ever Fired, Denied a Job, or Not Promoted Because of Sexual Orientation or Gender Identity

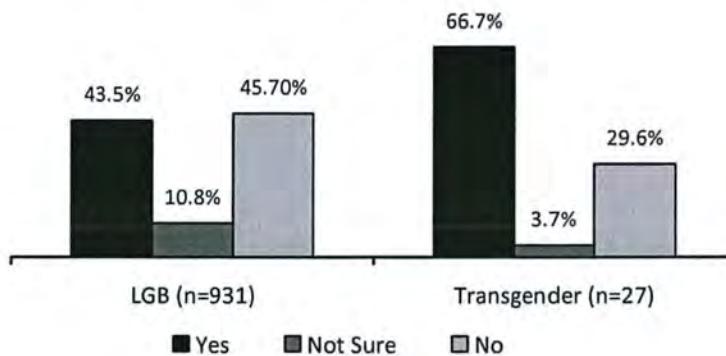


Chart 4

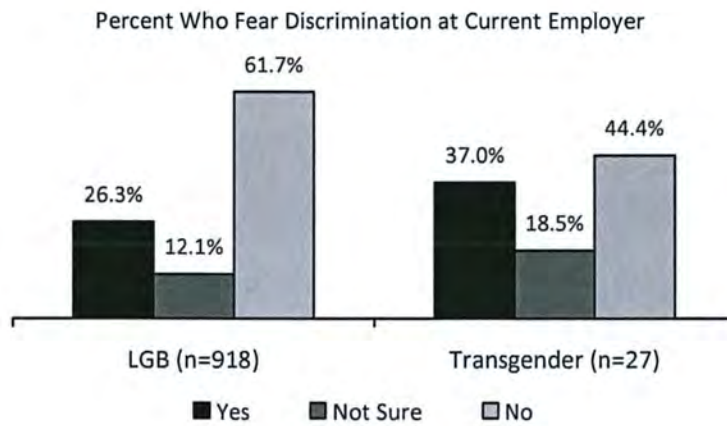


Chart 5

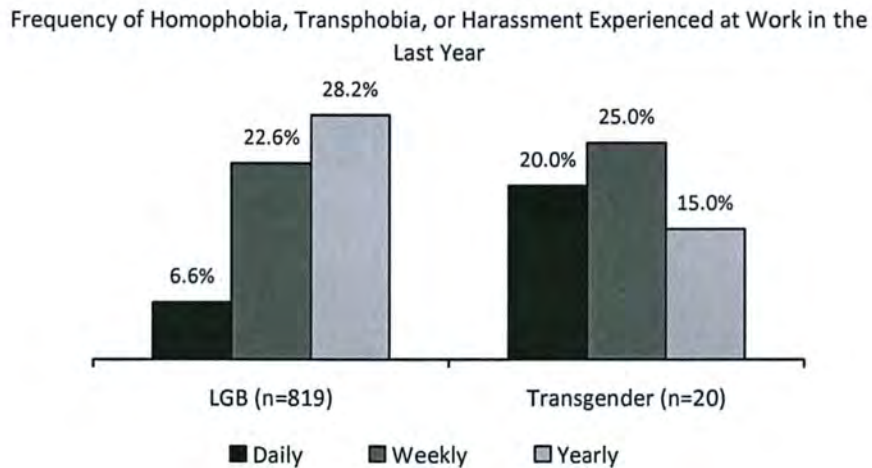


Chart 6 shows the percentages of LGBT employees (of those who previously indicated that they had experienced discrimination) that reported employment discrimination to their employers, to attorneys, to enforcement agencies, or to no one. The data indicates that employment discrimination is rarely reported to employers, attorneys, or state agencies. Nearly 70% of LGB employees and 68% of transgender employees have not reported the discrimination to anyone. Only 20% of LGB employees and 12% of transgender employees who think they have experienced discrimination have reported that experience to their employer. The low rates of reporting to public agencies or attorneys are not surprising given the absence of laws giving workers legal recourse.

Chart 6

Percent Reporting Employment Discrimination to Another, by Report Recipient

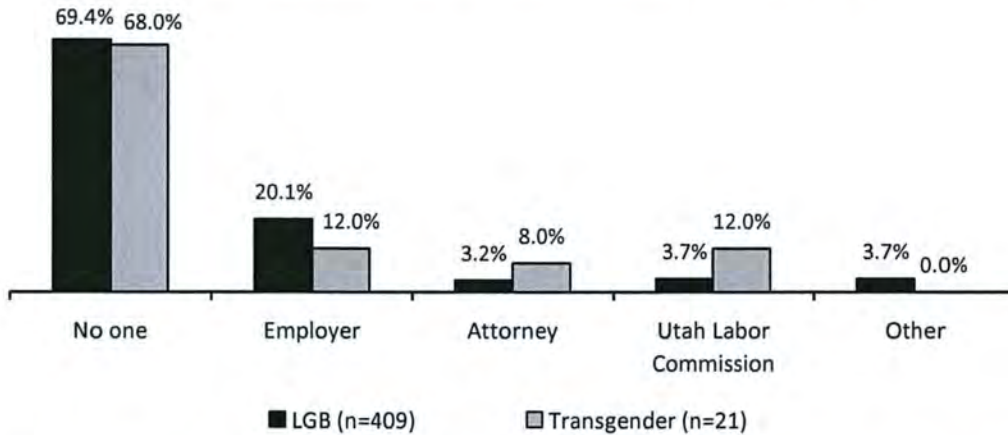
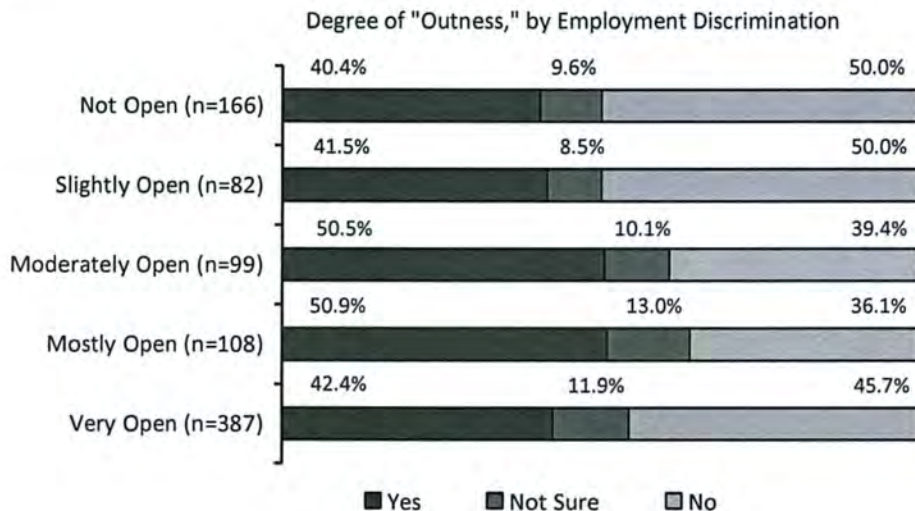


Chart 7 shows that LGB respondents have experienced consistent percentages of discrimination in the workplace, regardless of how open (or “out”) they are to supervisors. The chart connects employees’ responses to the question “Do you believe you have ever been discriminated against in employment (e.g. fired, denied a job, not promoted) due to your sexual orientation or gender identity?” with their responses to the question “How open (“out”) are you regarding your sexual orientation/gender identity with your supervisor(s)?” For example, the first line shows that of the 166 people who answered that they were not open to their supervisor, 40.4% reported that they had experienced employment discrimination, 9.6% were not sure if they had, and 50% had not. The data show that between 40% and 51% of employees reported having experienced discrimination in the workplace, suggesting that these experiences do not vary greatly based on how open the employees are about their sexual orientation or gender identity. This finding belies the popular belief that employment discrimination only happens when employees “flaunt” homosexuality at work.

Chart 7



In an Appendix to this report, we provide tables that include cross-tabulations comparing the level of employment discrimination across various personal and socio-economic characteristics. These tables demonstrate that a high percentage of LGB employees have experienced discrimination across a broad range of personal and socio-economic characteristics. The percentage of LGB workers experiencing discrimination was substantially higher among those who were unemployed (60%) and those who were high school graduates, with no other training or degree (51%), by comparison to other respondents. In addition, reports of discrimination were slightly more common among those between the ages of 35 and 64 (ranging from 43% to 54%), compared to those between the ages of 18 and 34 (ranging from 38% to 39%). Aside from these predictable differences, however, the percentage of LGB workers experiencing discrimination was similar across other variables such as sex (Male/Female), race/ethnicity (White/Persons of Color), location (Salt Lake County/Other Counties), and income levels.

2. Qualitative Data

In addition to the responses collected from each of the survey's specific questions about discrimination in employment, the survey invited respondents to provide more detailed accounts of the incidents of employment discrimination that they had experienced. Such qualitative responses cannot be summarized in tables or graphs, but they provide concrete support for the quantitative data and paint a more complete picture of the problem of employment discrimination in Utah. Among these responses, verbal harassment and derogatory name-calling in the workplace was often reported. Other employees gave detailed accounts of being subjected to harassment or discrimination, even though they did not discuss their sexual orientation or gender identity while at work, because a supervisor or co-workers discovered their LGBT identity second-hand. Many respondents explained that they are not out in the workplace because they have personally experienced discrimination and harassment. Some respondents reported being fired after trying to sign up a partner for domestic partner benefits. Respondents also described a broad range of disparate treatment based on sexual orientation and gender identity, such as being paid less for the same work, being asked to work longer hours, or being assigned less desirable shifts. A few respondents even indicated that they had experienced sexual harassment, sexual assault, and inappropriate physical touching by co-workers after disclosing that they were LGB or transgender.

A number of respondents have heard coworkers refer to them and others by using homophobic language such as "faggot," "dyke," and other gay slurs. One respondent reported, "I have been called a faggot at a job and told I might as well quit because he was going to make my life hell." Another respondent explained, "I had a co worker that would yell at me, swear at me, bully me"; shortly after he reported these incidents to a supervisor, he was laid off from work. Another respondent explained that because he frequently hears homophobic comments at work, "I have to keep who I am to myself or face being ostracized," and "to sit there and endure it or fake laughing it off." Another reported that the homophobia at her current employer is "so rampant" that she has decided not to disclose her bisexuality to her supervisors or coworkers.

Some respondents indicated that although they had not intended to discuss sexual orientation or gender identity at work, they had been exposed or "outed" by a supervisor or coworker, which often led to discrimination and harassment in the workplace. One respondent reported that in 2009, he was exposed by a supervisor, who made rude comments. Another explained that he was let go from his previous job after being outed by a coworker. He reported, "It was made clear to me that

homosexuality was not welcome in that field,” and, “I was not the first person this happened to.” Another respondent reported that he was outed and harassed by coworkers. After he was denied a promotion, he quit the job rather than continue to be subjected to the daily harassment.

Many respondents described specific incidents in which they had been fired, laid off, and denied promotions because they were lesbian, gay, bisexual, or transgender. In most of these instances, respondents learned of the reason for the employer’s action from supervisors or coworkers. For example, one respondent reported being laid off from a production company in Orem in 2009. When he was terminated, he was told that the official reason for his departure was “a slow economy.” After his departure, however, the company held a meeting in which his coworkers were informed that he was let go because he was gay. Because he remained close to his coworkers, they told him the real reason that he was terminated.

In other instances, respondents were never directly told of the reason for the employer’s action, but they were able to surmise it from surrounding circumstances. For example, one respondent was fired three days after receiving a raise to six figures pre-bonus. He later discovered that two days before he was terminated, his sexual orientation has been inadvertently disclosed to his supervisor by a neighbor. When he asked why he was being terminated, his supervisor answered, “You know why, and I don’t want to get into it.”

Many respondents explained that they are still afraid of discrimination at a current employer, either because they have personally experienced discrimination and harassment, or because they have heard coworkers making negative comments. One respondent reported that in 1999, he lost his job for disclosing his sexual orientation. After this experience, he explained, “I’ve kept quiet at work ever since.” Another respondent reported that she had lost her previous job when a coworker learned that she was dating a woman. In light of this experience, she decided:

“I didn’t have anything I could do about it so I found a new job and now refuse to talk about my personal life to ANY of my current coworkers. I need an income. I need this job. Until I can be guaranteed I’ll be safe this time I am not going to feel comfortable talking with people about my personal life.”

Another respondent explained:

“At work, I am not out at all. It is clear in some management circles that non-hetero sexuality is something awkward and suspicious. I do not share my orientation out of fear of losing respect from peers and subordinates. Additionally, I feel that my upward mobility would be greatly compromised if I was out.”

In addition, the qualitative responses highlighted other forms of discrimination that were not specifically addressed in the survey questions. For example, several respondents indicated that they had experienced discrimination after inquiring about antidiscrimination policies or benefits for unmarried partners. One respondent claimed that although his company offered domestic partner benefits, he was let go for no cause after trying to get them for over a year. Respondents described a broad range of disparate treatment based on sexual orientation and gender identity, such as being paid less for the same work, being asked to work longer hours, or being assigned less desirable shifts. One respondent reported that he had been “paid less than straight men in the same position and [with] less experience many times,” and has been asked to put in extra work to compensate for straight co-worker’s family duties, based on an expectation that a single person should fill in for them. A few respondents even indicated that they had experienced sexual harassment, sexual assault, and inappropriate physical touching by co-workers after disclosing that they were LGB or transgender.

II. Existing Data on Employment Discrimination Against LGBT People

The findings of the 2010 survey are consistent with evidence available from other sources, which have consistently documented high levels of discrimination against LGBT employees across the United States.

Evidence of employment discrimination faced by LGBT people may be found in several sources. First, on national surveys, LGBT employees and their non-LGBT coworkers report experiences of discrimination in employment. Second, LGBT employees have lower earnings than non-LGBT employees, despite having similar qualifications and experience. Data collected by government agencies show that substantial numbers of LGBT people report employment discrimination. Collected together, current research and surveys of employees from around the country indicate that many LGBT people experience various forms of discrimination in employment, in Utah as well as in other states.

A. National Survey Data

On a national level, a large body of research finds that many LGBT people report experiences of discrimination in the workplace. Fifteen studies conducted since the mid-1990s have found that 15-43% of LGBT respondents experienced discrimination in the workplace.⁵ For example, a 2007 survey found that 16% of lesbians and gay men and 5% of bisexual people reported being fired or denied a job because of their sexual orientation.⁶ Numerous local community surveys of LGBT people find that sexual orientation discrimination is also commonly reported in those areas.⁷

The 2008 General Social Survey, which is a recent national survey, included questions about discrimination on the basis of sexual orientation. This survey found that 37% of gay and lesbian people reported workplace harassment in the last five years, and 12% reported losing a job because of their sexual orientation.⁸

When transgender people are surveyed separately, they report similar or higher levels of employment discrimination. In 2009, the largest national survey of transgender people to date included people from every state in the U.S. The survey found that 97% of the 6,450 people surveyed had experienced harassment or mistreatment at work, and 47% had been discriminated against in hiring, promotion, or job retention because of their gender identity.⁹ Eleven local surveys of transgender people conducted between 1996 and 2006 found that at least 20% and as many as 57% reported having experienced some form of employment discrimination.¹⁰ A 2009 survey of transgender people living in California found that 67% reported experiences with workplace harassment or discrimination directly related to their gender identity.¹¹

B. Wage Inequity

Before the 2010 survey was conducted, very little research on the impact of discrimination against LGBT people in Utah existed. However, data from the U.S. Census allows us to examine the employment and earnings for Utahns living in same-sex couples. While it is not possible to identify single LGBT people on the Census, a large body of research has relied upon Census data to provide a demographic picture of individuals living in same-sex couples.

Census data show that men in same-sex couples in Utah earn less than men married to different-sex partners. On average, men in same-sex couples in Utah earn \$42,938 each year, significantly less than \$56,569 for men married to different-sex partners.¹² The median income of men in same-sex couples in

Utah is \$36,000, or 20% less than that of men married to different-sex partners (\$45,000).¹³ Men with same-sex partners earn lower wages despite the fact that they are more likely to have a college degree than men married to different-sex partners,¹⁴ a comparison that supports the possibility that people in same-sex couples are not treated equally by employers. Women in same-sex couples in Utah earn less than married men and men in same-sex couples. Women in same-sex couples earn more than married women with average yearly earnings of \$36,821 and \$26,225, respectively, at least in part because women in same-sex couples work more hours.¹⁵ However, women in same-sex couples earn less than men in either kind of couple.



These findings are not unique to Utah. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.¹⁶ Surveys of transgender people find that they have high rates of unemployment and very low earnings.¹⁷ A recent study suggests that the wage gap for gay men is smaller in states that implement nondiscrimination laws, suggesting that such laws curb discrimination against LGBT people.¹⁸

C. Reports to Utah State Agencies

Evidence of employment discrimination against LGBT employees is also observed through data on the filing of discrimination complaints with state agencies. Currently, 21 states and the District of Columbia prohibit employment discrimination on the basis of sexual orientation, and 12 states and the District of Columbia also prohibit discrimination based on gender identity. A 2008 study examined complaints filed by employees in these states and found that LGB workers filed complaints at similar rates as women filing sex discrimination complaints.¹⁹ In both groups, LGB people and women filed complaints at a rate of 5 complaints per 10,000 employees. Race complaints were filed at a slightly higher rate of 7 complaints per 10,000 employees who are people of color.



Although the Utah Antidiscrimination Law currently does not prohibit employment discrimination on the basis of sexual orientation or gender identity, the Utah Antidiscrimination & Labor Division began tracking complaints filed on the basis of sexual orientation or gender identity in 2007.²⁰ Between June 2007 and September 2008, the UALD reported an average of three sexual orientation and gender identity employment discrimination complaints filed per month.²¹ The UALD no longer tracks this data.²²

III. Assessing the Impact of Nondiscrimination Laws

In debates about nondiscrimination laws, some claim that employees and employers would not gain significant benefits and that state enforcement agencies would be inundated with frivolous claims. Previous experience in other jurisdictions suggests otherwise. Recent estimates suggest that there are tens of thousands of LGBT people working in Utah. Numerous studies show that when LGBT workers are protected by nondiscrimination laws, they experience greater comfort in the workplace and higher productivity levels. From the perspective of employers, nondiscrimination policies increase the ability to recruit and retain qualified employees. Based on the size of the state's LGBT workforce and the rate at which discrimination complaints are typically filed, it is not likely that the passage of a nondiscrimination law would impose significant burdens or costs on state enforcement agencies.

A. Impact on LGBT Employees

Data from the 2008 American Community Survey suggest that there are between 32,000 and 43,000 lesbian, gay, and bisexual people working in Utah.²³ Because these instruments do not ask people if they identify as transgender, it is not possible to approximate the size of the transgender workforce from Census and National Survey of Family Growth data. However, some studies suggest that 0.25% of the population might identify as transgender.²⁴ Applying this figure to Utah's adult population of 1,886,191,²⁵ there may be over 4,700 transgender individuals living in Utah. Data suggest that the LGBT people in Utah are racially and ethnically diverse, live throughout the state, and actively participate in Utah's economy.²⁶

Several studies from various academic disciplines suggest that LGBT workers will enjoy greater job satisfaction and be more productive workers if they have legal protection from discrimination.²⁷ Without legal protection, employees are not confident enough to be themselves in the workplace.²⁸ Researchers have found that the negative effects of this discomfort include stress, anxiety, lowered performance, and an increased desire to leave the job.²⁹

B. Impact on Utah Employers

Currently, Salt Lake City, Salt Lake County, West Valley City, Park City, Summit County, Taylorsville, Logan, Murray, Moab, and Grand County already prohibit employment discrimination on the basis of sexual orientation and gender identity by local ordinance.³⁰ Utah State University, University of Utah, and Weber State University have policies against employment discrimination based on sexual orientation.³¹ Several other cities and counties are currently considering measures to prohibit sexual orientation and gender identity employment discrimination.³² Additionally, several Utah-based private corporate employers have adopted policies prohibiting discrimination based on sexual orientation and/or gender identity, among them Ameritech Library Services, Corel/Word Perfect Corp., Franklin

Covey, Gastronomy Inc., and Parr Brown Gee & Loveless, and Zions Bank.³³ Finally, many national and international corporations with large local offices, such as Goldman Sachs, American Express, Adobe and E-Bay, have adopted policies that prohibit discrimination on these grounds.

These Utah employers are adopting nondiscrimination policies that place them in the mainstream of corporate practice in the United States. More than two-thirds of Fortune 1000 companies prohibit discrimination on the basis of sexual orientation and one-quarter prohibit discrimination on the basis of gender identity.

The widespread adoption of these policies suggests that nondiscrimination policies make good business sense. Nondiscrimination policies increase the ability to recruit and retain qualified employees and can improve the productivity and satisfaction of employees.³⁴ Businesses are most successful when they can recruit, hire, and retain employees on the basis of talent, not personal characteristics that have no impact on an employee's ability to perform a job well.

C. Impact on State Agencies

Some question whether a sexual orientation and gender identity anti-discrimination law would create an increased burden on government agencies. However, a 2008 national study of data from 1999-2007 estimated that for every 10,000 LGB workers, there are approximately 5 complaints filed on the basis of sexual orientation per year.³⁵ Using our estimate of the number of LGB people working in Utah (32,000-43,000), we predict that in a given year, approximately 16 to 22 LGB workers would file a complaint alleging sexual orientation discrimination. This estimate is consistent with the Utah Antidiscrimination & Labor Division's data on actual complaints of sexual orientation and gender identity discrimination filed in the absence of a state law—approximately 3 per month.³⁶ Given these numbers, there is no evidence that expanding employment protections to LGBT people would encumber the services of existing agencies. Even if LGBT people filed complaints at the same rates that women file sex discrimination complaints or minorities file racial/ethnic discrimination complaints, government agencies would not be overwhelmed.

Currently, there are not enough data to do a similar analysis of gender identity discrimination complaints. However, complaints of discrimination based on gender identity were collected from two states and the District of Columbia. The data obtained support the position that passing protections for gender identity in employment will not result in a flood of complaints to enforcement agencies—6 complaints were filed with the District of Columbia in 2006, 4 complaints were filed with Oregon from 2003 through 2006, and 2 complaints were filed with Rhode Island from 2006 through 2007.³⁷

Conclusion

The 2010 survey shows that employment discrimination is a pervasive and persistent problem for Utah's LGBT workforce. Nearly half of LGBT employees reported that they have experienced discrimination in employment, and nearly one-third continue to fear discrimination from current employers. These results confirm what had previously been established by national surveys, U.S. Census data, and reporting from state agencies. Passing an antidiscrimination law in Utah would have a beneficial impact on Utah employees and employers, without imposing any significant burdens or costs on the state's enforcement agencies.

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Appendix: Employment Discrimination Reported by LGBT Respondents -- Personal and Socio-Economic Characteristics

(n=939)	Percentage "Yes"	Number reporting "Yes"
Gender		
Female	40.0%	146
Male	45.1%	240
FTM	72.7%	8
MTF	62.5%	10
Intersex	33.3%	1
Other	41.7%	5
Age		
18-24	38.4%	71
25-34	39.5%	118
35-44	46.3%	101
45-54	54.1%	93
55-64	42.6%	23
65 and older	36.4%	4
Race/Ethnicity		
White/Caucasian	44.4%	367

Person of Color/Multiracial	38.1%	43
Location		
Salt Lake County	44.2%	297
Other Counties	42.3%	113

Table 10: Employment Discrimination -- Socio-Economic Characteristics

(n=939)	Percentage "Yes"	Number reporting "Yes"
Education Level		
High School Graduate	50.6%	41
Trade/Vocational School	42.7%	146
College Graduate	42.5%	136
Post-Graduate or Above	44.4%	87
Employment Status		
Retired/On Disability	48.3%	43
Unemployed	59.6%	31
Part-Time	33.8%	47
Full-Time	42.5%	245
Self-Employed	53.0%	44
Income		
Less than \$20,000	42.5%	114
\$20,000-\$40,000	43.3%	127
\$40,000-\$75,000	44.1%	109
More than \$75,000	45.8%	60

¹ In addition, the survey asked the following questions about housing discrimination and verbal abuse: "Do you believe you have ever been evicted or denied housing due to your sexual orientation or gender identity?"; "To whom, if anyone, did you report being evicted or denied housing?"; "Do you fear being evicted from your current residence?"; "Do you believe you have ever been a victim of verbal abuse as a result of your sexual orientation or gender identity?"; and "To whom, if anyone, did you report the verbal abuse?" Because this report is focused on the issue of employment discrimination, it does not address information collected in response to these questions.

² There were 15 respondents in the category, "Race: Other, Please Specify." The answers were as follows: "1/8 Native American," "all other," "Irish and American Indian/Mexican/Italian"; "BIRACIAL"; "European - greek"; "Homo Sapien"; "Human"; "Iranian-American"; "Japanese?/ Spanish"; "Middle Eastern"; "Romani"; "asian and native american"; "biracial"; "mixed"; "race is a social construct."

³ Because "sexual orientation" and "gender identity" were presented as two distinct characteristics, there is some overlap between LGB respondents and transgender respondents. In Tables 1 and 2, both columns include twenty-one individuals who identified as both LGB and transgender.

⁴ Tables 3 through 5 report the percentage answering "Yes," "Not Sure," and "No" as a percentage of all individuals who answered the question, rather than all individuals who responded any of the survey questions.

⁵ M.V. Lee Badgett, Holning Lau, Brad Sears & Deborah Ho, the Williams Institute, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination Executive Summary* (June 2007), available at <http://www.law.ucla.edu/williamsinstitute/publications/Bias%20in%20the%20Workplace.pdf>.

⁶ Gregory M. Herek, *Hate Crimes and Stigma-Related Experiences Among Sexual Minority Adults in the United States: Prevalence Estimates from a National Probability Sample*, 24 *J. INTERPERSONAL VIOLENCE* 54, 54-74 (2009).

⁷ See Badgett et al., *supra* note 5.

⁸ Analysis conducted by The Williams Institute, unpublished (2009).

⁹ National Center for Transgender Equality & the National Gay and Lesbian Task Force, *National Transgender Discrimination Survey: Preliminary Findings 1* (Nov. 2009), available at http://transequality.org/Resources/NCTE_prelim_survey_econ.pdf.

¹⁰ Badgett et al., *supra* note 5.

¹¹ Transgender Law Center, *The State of Transgender California* (Mar. 2009), available at <http://www.transgenderlawcenter.org/pdf/StateofTransCAFINAL.pdf>.

¹² Jody L. Herman, Christy Mallory, M.V. Lee Badgett & Gary J. Gates, the Williams Institute, *Census Snapshot: Utah 2* (September 2010).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Badgett et al., *supra* note 5.

¹⁷ *Id.*; *The State of Transgender California*, *supra* note 11.

¹⁸ Gary J. Gates, *The Impact of Sexual Orientation Anti-discrimination Policies on the Wages of Lesbians and Gay Men* (April 2009), available at <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

¹⁹ Christopher Ramos, M.V. Lee Badgett & Brad Sears, *Evidence of Employment Discrimination on the Basis of Sexual Orientation and Gender Identity: Complaints Filed with State Enforcement Agencies, 1999-2007* (Nov. 2008), available at <http://www.law.ucla.edu/williamsinstitute/pdf/PACR.pdf>

²⁰ Salt Lake City Human Rights Commission, *Discrimination Report 22* (July 2009), available at <http://www.slcgov.com/mayor/divHR/extra/discrimination2009.pdf>.

²¹ *Id.*

²² *Id.*

²³ We computed this range by first estimating the number of LGB people in the U.S. workforce (4,720,323-6,293,831, which is 3%-4% of the U.S. workforce). Next we assume that the same percentage of LGB workers live in Utah as the percentage of same-sex couples living in Utah (0.68%). In other words, we multiply the U.S. workforce by 3% and 4% and then multiply that figure by 0.0068. Multiplying the percentage of the country's same-sex couples that live in Utah (.68%) by the estimated number of LGB people in the U.S. workforce. The U.S. workforce total for 2008 is 157,345,776 (2008 ACS Table S2301: Employment Status). Percentage of same sex couples calculated from U.S. Census Bureau, 2008 American Community Survey, *Unmarried Partner Households by Sex of Partners*, B11009. The 3%-4% range is based on findings from the 2002 National Survey of Family Growth and the 2008 General Social Survey (See Gary J. Gates, the Williams Institute, *Same-sex Couples and the Gay, Lesbian, Bisexual Population: New Estimates from the American Community Survey*, p. 11, apx. 1 (Oct. 2006), available at <http://www.law.ucla.edu/williamsinstitute/publications/SameSexCouplesandGLBpopACS.pdf>; Gary J. Gates, the Williams Institute, *Sexual Minorities in the 2008 General Social Survey: Coming Out and Demographic Characteristics*, p. i (Sept. 2010).)

²⁴ The Human Rights Campaign, *Transgender Population and the Number of Transgender Employees*, available at <http://www.hrc.org/issues/9598.htm>.

²⁵ U.S. Census Bureau, 2008 American Community Survey, *Universe: Population 18 Years and Over: Total, Utah*, B15001

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Employment Discrimination Based on Sexual Orientation and Gender Identity in Ohio



the
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INSTITUTE

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Executive Summary

More than four percent of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 212,000 of these workers live in Ohio. Ohio does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.¹

This report summarizes evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Ohio, and estimates the administrative impact of passing a law prohibiting employment discrimination based on these characteristics in Ohio.

Key findings of this report include:

- In total there are approximately 328,000 LGBT adults in Ohio,² including over 212,000 who are part of the Ohio workforce.
- Recent surveys from Ohio reflect discrimination and negative attitudes toward LGBT people in the workplace. For example, a 2008 survey at Miami University Ohio found that nonheterosexually-identified faculty reported discrimination at twice the rate of their heterosexually-identified counterparts. Disparities were also reported among feelings of safety and acceptance between gay and straight students and staff.
- Despite the state's lack of legal protections based on sexual orientation and gender identity, a 2013 opinion survey found that 68% of Ohioans supported such laws and 84% believed that they were already in place.
- National surveys also confirm that discrimination against LGBT workers persists. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.
- As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.
- Lawsuits document that a number of Ohio employees have faced discrimination because of their sexual orientation or gender identity; these include reports from a teacher, a bus driver and a county child services employee.
- Disparities in wages are also a traditional way that discrimination has been measured. Census data show that in Ohio, the median income of men in same-sex couples is 24% lower than men in different sex marriages.

- Currently, 13 localities in Ohio provide protection from sexual orientation and gender identity employment discrimination by local ordinance. An additional 14 localities provide protections for government workers alone.
- Approximately 81% of Ohio's workforce is not covered by a local ordinance that prohibits private employment discrimination based on sexual orientation or gender identity.
- Even Ohioans who live in localities with such local ordinances are not always as protected as they would be by state law. Some localities offer more extensive protection or stronger remedies than others. Moreover, unlike many local ordinances, Ohio state law provides for a private right of action.
- Many of the state's top employers have internal corporate policies prohibiting sexual orientation discrimination, including 37 Fortune 1000 companies.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 100 additional complaints being filed with the Ohio Civil Rights Commission each year.
- Estimates indicate that the additional complaints could cost up to \$214,500 annually; which represents 2.8% of the Ohio Civil Rights Commission's budget in fiscal year 2012.

Evidence of Discrimination

Survey Data and Specific Examples of Sexual Orientation and Gender Identity Discrimination in Ohio

Research shows the existence of widespread and continuing discrimination against LGBT workers in the U.S. In response to surveys, LGBT workers consistently report having experienced discrimination, and non-LGBT people often report having witnessed discrimination against their LGBT co-workers. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.³ Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians had experienced workplace harassment in the last five years, and 12% had lost a job because of their sexual orientation.⁴ As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.⁵

Campus climate surveys from universities also reflect negative attitudes that can result in discrimination against LGBT people. A 2008 survey from Miami University Ohio surveyed undergraduates, graduate students, faculty and staff about a variety of experiences and perceptions related to diversity on campus.⁶ The survey found that 22.1% of heterosexually-identified faculty reported being discriminated against by administrators sometimes or frequently and 18.9% reported such discrimination at the hands of other faculty members.⁷ On the other hand, nonheterosexually-identified faculty reported discrimination at double those rates: 45.0% reported discrimination sometimes or frequently by administrators, and 47.5% reported such discrimination by fellow faculty.⁸ There were similar disparities

in perceptions of acceptance of lesbian and gay students on campus: 62.9% of heterosexual undergraduates⁹ and 57.3% of heterosexual graduate students¹⁰ somewhat or strongly agreed that lesbian and gay students were accepted and respected on campus, while only 41.3% of nonheterosexual undergraduates¹¹ and 10.9% of nonheterosexual graduate students¹² answered the same way. Similarly, 72.1% of heterosexual staff agreed that gay and lesbian staff members were accepted and respected on campus, while only 35.3% of their nonheterosexual counterparts agreed.¹³ Finally, over 80% of straight undergraduates (86.3%),¹⁴ graduate students (81.5%)¹⁵ and faculty (83.5%)¹⁶ somewhat or strongly agreed with the statement "I feel safe to be who I am at Miami University," while less than 55% of their gay undergraduate (54.3%),¹⁷ graduate (34.8%)¹⁸ and faculty (47.5%)¹⁹ counterparts felt similarly.

Despite the state's lack of legal protections based on sexual orientation and gender identity, a 2013 opinion survey by the Public Religion Research Institute, a nonprofit, nonpartisan organization dedicated to research at the intersection of religion, values, and public life,²⁰ found that Ohioans both supported such laws and believed that they were already in place. Sixty eight percent of those surveyed favored laws protecting gay and lesbian people from employment discrimination, with only 25% opposing.²¹ Majorities were found across political parties, with 61% of Republicans, 67% of independent voters and 75% of Democrats favoring nondiscrimination laws.²² Ironically, 84% of Ohioans incorrectly believed that such laws already existed at the state level, and 80% incorrectly believed there were also such federal protections in place.²³

Employment discrimination against LGBT people has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in employment.²⁴

Several recent instances of employment discrimination against LGBT people in Ohio have been documented in the media, court cases and reports to legal organizations:

- In 2013, an Ohio appellate court denied relief to a gay bus driver who claimed that he was harassed by his co-workers because of his sexual orientation.²⁵ The court held that sexual orientation is not a protected class under the state's nondiscrimination law, and therefore, he had no remedy for any alleged harassment.²⁶
- In 2013, a private school teacher was fired when the school became aware of her same-sex partner through her mother's obituary.²⁷ The teacher had been with the school for 19 years.²⁸ The teacher and the school came to a confidential settlement in August.²⁹
- In 2013, a worker at an auto parts warehouse in Ohio reported to the New York Times that he avoided socializing with co-workers and ate lunch in his car to prevent accidentally revealing any information that would indicate his sexual orientation.³⁰ Because he knew that he was not protected by state or federal law, and his co-workers used gay slurs on a regular basis, he chose to avoid any potentially volatile situations that could lead to the management firing him.

- In 2012, Ohio Bell Telephone Company settled a discrimination lawsuit alleging discrimination based on nonconformity with sex stereotypes.³¹ An openly gay sales consultant for the company was fired after taking time off for his father's death. The consultant's supervisor had allegedly previously refused to call him by his married name, stating that she would not recognize his same-sex marriage.³² When the consultant's father passed, despite his union representative's assurance that he was allowed to take the time off, his supervisor counted most of his absences as unexcused, which resulted in his subsequent firing.³³
- In 2011, Cuyahoga County settled a lawsuit with a lesbian employee of the County Child Support Enforcement Agency for \$100,000.³⁴ The child support worker stated that she was passed over for at least 12 promotions only to learn that the positions were given to less qualified heterosexual applicants.³⁵
- In 2009, a global industrial adhesives manufacturing company settled a sexual harassment lawsuit brought by one of their quality assurance managers.³⁶ The manager worked for the company for over 20 years and had received the Circle of Excellence honor six times when he transferred to a facility in a different city.³⁷ At the new facility, he faced severe and pervasive harassment from coworkers including being groped and humped, witnessing coworkers repeatedly watching the male-on-male rape seen from the movie *Deliverance* and having his car vandalized with spray paint on several occasions.³⁸ After the manager reported safety violations to OSHA, a newspaper clipping about gay marriage was left in his office with the words "DIE OSHA FAG," written across it in red letters.³⁹ After repeated failed attempts to resolve the harassment internally, the manager filed suit and was subsequently fired.⁴⁰ Despite his claims that the harassment was based on his nonconformance with gender stereotypes, the court dismissed the sexual harassment part of the lawsuit in 2008, claiming that the harassment was based on sexual orientation which is not protected under federal or state law.⁴¹ The court allowed the manager's retaliation claims for his firing after filing suit to continue.⁴²

Wage Inequity

Census data show that men in same-sex couples in Ohio earn less than men married to different-sex partners. On average, men in same-sex couples in Ohio earn \$33,644 each year, significantly less than the \$48,226 for men married to different-sex partners.⁴³ The median income of men in same-sex couples in Ohio is \$30,000, or 24% less than that of married men (\$39,600).⁴⁴ Men with same-sex partners earn lower wages, despite the fact that they are more likely to have a college degree than men married to different-sex partners,⁴⁵ a comparison that supports the possibility that people in same-sex couples are not treated equally by employers. A 2009 study indicated that the wage gap for gay men is smaller in states that implement non-discrimination laws, suggesting that such laws reduce discrimination against LGBT people.⁴⁶

Women in same-sex couples earn less than married men as well as men in same-sex couples.⁴⁷ Women in same-sex couples in Ohio earn an average of \$30,160 per year (with a median of \$24,600), which is more than married women, whose earnings average \$24,275 (with a median of \$20,000).⁴⁸

These findings are not unique to Ohio. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.⁴⁹ Surveys of transgender people find that they have high rates of unemployment and very low earnings.⁵⁰

Current Protections from Discrimination

Ohio does not have a statewide law that prohibits discrimination based on sexual orientation and/or gender identity in private employment.⁵¹ Efforts were made to pass such a law in the Ohio General Assembly in 2003, 2005, 2007, 2009 and 2011.⁵² In September, 2009, the Ohio House of Representatives passed the Equal Housing and Employment Act for the first time.⁵³ However, the bill was never voted on in the Senate.⁵⁴ Similar legislation in 2011 died without a vote in either chamber.⁵⁵ Currently, there are new bills in both houses.⁵⁶ The senate bill is currently in the Civil Justice Committee,⁵⁷ and the house bill is currently in the Commerce, Labor and Technology Committee.⁵⁸ Through these bills, the Ohio General Assembly sought to prohibit employment discrimination based on sexual orientation and gender identity and expression by adding the characteristics to its existing employment discrimination statute, the Ohio Fair Employment Practices Law.⁵⁹

The Ohio Fair Employment Practices Law

Currently, the Ohio Fair Employment Practices Law prohibits employment discrimination by any employer with four or more employees⁶⁰ on the basis of race, color, religion, sex, military status, national origin, disability, age, or ancestry.⁶¹ The Fair Employment Practices Law applies to both public sector and private sector employers.⁶² The Fair Employment Practices Law exempts religious corporations, associations, educational institutions and associations from coverage “with respect to the employment of an individual of a particular religion to perform work connected with” the organization’s activities.⁶³

The Ohio Civil Rights Commission (OCRC) enforces the Fair Employment Practices Law. The OCRC has the power to intake, investigate, and prosecute specific instances of employment discrimination, and to study and report on discrimination statewide.⁶⁴ An employee must file a complaint with the Commission within 6 months after the discriminatory practice occurred.⁶⁵ People have one year to file complaints with the Commission related to discriminatory housing practices.⁶⁶ All complainants also have the right to file a civil action in a court of competent jurisdiction.⁶⁷

During the fiscal year 2012, the OCRC received 3,513 new complaints of discrimination.⁶⁸ The OCRC also does intake and investigations regarding claims of discrimination in housing, public accommodations, disability in higher education and credit, although this represents a small proportion of the OCRC’s complaints each year (23% of the cases closed in fiscal year 2012).⁶⁹

Local-Level and Private Protections from Discrimination

Thirteen localities in Ohio explicitly prohibit employment discrimination based on sexual orientation and gender identity by local ordinance. They are: Athens,⁷⁰ Bowling Green,⁷¹ Canton,⁷² Cincinnati,⁷³ Cleveland,⁷⁴ Columbus,⁷⁵ Coshocton,⁷⁶ Dayton,⁷⁷ East Cleveland,⁷⁸ Newark,⁷⁹ Oxford,⁸⁰ Toledo⁸¹ and the village of Yellow Springs.⁸² Approximately 81% of Ohio's workforce is not covered by one of these local ordinances that prohibits public and private employment discrimination based on sexual orientation and gender identity.⁸³ An additional 14 localities prohibit public employment discrimination based on sexual orientation and/or gender identity. They are: Akron,⁸⁴ Cleveland Heights,⁸⁵ Cuyahoga County,⁸⁶ Franklin County,⁸⁷ Gahanna,⁸⁸ Hamilton,⁸⁹ Hamilton County,⁹⁰ Lima,⁹¹ Lucas County,⁹² Montgomery County,⁹⁴ Oberlin,⁹⁵ Summit County⁹⁶ and Wood County.⁹⁷ Because they only prohibit discrimination against local government workers, and not the entire workforce, they were not included in the calculation of the number of workers protected by local ordinances.⁹⁸

Even within the localities that provide discrimination protections based on sexual orientation and gender identity, the exact coverage varies from place to place, leaving a patchwork of protections. For example, while Columbus⁹⁹ and Cleveland¹⁰⁰ include in their employment protections all employers of four or more people (like the Ohio Fair Employment Practices Law¹⁰¹), Cincinnati's law only applies to employers with 10 or more employees,¹⁰² and Yellow Springs requires at least 12 employees for its employment nondiscrimination provisions.¹⁰³ Also, while Cincinnati has a very broad exemption for "any religious corporation, organization, or association,"¹⁰⁴ Columbus's more narrow religious exemption only applies to their housing nondiscrimination ordinance; they have no religious exemption for employment.¹⁰⁵ Finally, many local ordinances do not provide as much protection as the state Fair Employment Practices Law. For example, the state law gives the state Civil Rights Commission the right to file for an immediate temporary or permanent injunction against a violator when appropriate, and in housing discrimination, allows for punitive damages up to \$50,000.¹⁰⁶ Additionally, the state law has a right of civil action, which is not provided for in many local ordinances.¹⁰⁷ In addition to the concerns about the patchwork of laws that exists, local ordinances may potentially be subject to legal challenges.¹⁰⁸

Some of Ohio's top companies and employers have adopted internal corporate policies that prohibit sexual orientation and gender identity discrimination. According to the Human Rights Campaign, at least 108 companies headquartered in Ohio prohibit discrimination based on sexual orientation, including 37 Fortune 1000 companies,¹⁰⁹ and at least 36 companies headquartered in Ohio prohibit discrimination based on gender identity, including 21 Fortune 1000 companies.¹¹⁰ Additionally, all Cabinet agencies and State of Ohio Boards and Commissions are prohibited by governor's executive order from discriminating in hiring or employment based on sexual orientation.¹¹¹

Administrative Impact

Complaint Estimate

Despite the persistence and pervasiveness of employment discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation discrimination are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.¹¹² However, because the LGBT population is so small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low.¹¹³

We estimate that approximately 100 complaints of sexual orientation or gender identity discrimination would be filed with the Ohio Civil Rights Commission each year. To reach this estimate, we drew on Gallup polling data and Census data from Ohio to estimate the size of the LGBT workforce in the state, and applied a national sexual orientation and gender identity complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including Missouri, Pennsylvania, South Carolina, South Dakota, Texas, Utah, and West Virginia.¹¹⁴

Results from a 2012 Gallup poll show that 3.6% of people in Ohio identify as LGBT.¹¹⁵ Applying this percentage to the number of people in Ohio's workforce (5,883,960¹¹⁶) indicates that there are 211,823 LGBT workers in Ohio.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Ohio to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.¹¹⁷ The study found that across these states, the average rate of complaints filed on the basis of sexual orientation was 4.7 per 10,000 LGB workers.¹¹⁸ There is not sufficient data to make a similar calculation of the average rate of complaints filed on the basis of gender identity.¹¹⁹ Therefore, we assume that this rate is also 4.7 per 10,000 transgender workers.

Applying the national complaint rate (4.7 per 10,000 LGBT workers) to the number of LGBT workers in Ohio (211,823) suggests that 100 complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

Cost of Enforcement

Using Information from the most recent Ohio Civil Rights Commission Annual Report (fiscal year 2012),¹²⁰ we can estimate the cost associated with handling the additional 100 complaints that would be filed if sexual orientation and gender identity were added to the Fair Employment Practices Law.

In fiscal year 2012, the Ohio Civil Rights Commission received 3,513 new complaints of illegal discrimination and closed 3,637 cases.¹²¹ That year, the Commission had a total budget of \$7,533,983 (which was a combined total of \$4,725,784 appropriated from the state general assembly and \$2,808,199 in federal money from cases that have dual jurisdiction with the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development).¹²² Dividing the OCRC's budget by the number of complaints received suggests that enforcement costs an average of \$2,144 per complaint filed. Based on this assumption, if 100 complaints of sexual orientation or gender identity discrimination were filed each year, it would cost the state approximately \$214,460, or 2.8% of the Ohio Civil Rights Commission's current budget, to enforce them.

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Ohio. There is currently no law that prohibits employment discrimination based on sexual orientation or gender identity in Ohio. Adding these characteristics to the Ohio Fair Employment Practices Law would provide protection from discrimination to approximately 212,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 100 complaints of sexual orientation or gender identity employment discrimination would be filed in Ohio annually if the law were amended. Data from the Ohio Civil Rights Commission suggest that it would cost the state approximately \$214,500 to enforce these complaints each year; which represents 2.8% of the Ohio Civil Rights Commission's budget in fiscal year 2012.

About the Williams Institute

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. These studies can be accessed at the Williams Institute website.

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Endnotes

¹ The Ohio Fair Employment Practices Law prohibits employment discrimination based on race, color, religion, sex, military status, national origin, disability, age and ancestry. OHIO REV. CODE ANN. § 4112.02 (West 2013).

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⁵² S.B. 77, 125th Gen. Assemb., (Ohio. 2003); H.B. 147, 125th Gen. Assemb., (Ohio. 2003); S.B. 331, 126th Gen. Assemb., (Ohio. 2005); H.B. 28, 126th Gen. Assemb., (Ohio. 2005); S.B. 305, 127th Gen. Assemb., (Ohio. 2007); H.B. 502, 127th Gen. Assemb., (Ohio. 2007); H.B. 176, 128th Gen. Assemb., (Ohio. 2009); H.B. 335, 129th Gen. Assemb., (Ohio. 2011); S.B. 231, 129th Gen. Assemb., (Ohio 2011).

⁵³ *Status Report of Legislation*, 128TH GENERAL ASSEMBLY, <http://lsc.state.oh.us/coderev/hou128.nsf/House+Bill+Number/0176?OpenDocument> (last visited Dec. 11, 2013).

⁵⁴ *Housing, Employment and Public Accommodations*, EQUALITY OHIO, <http://www.equalityohio.org/index.php/the-issues/housingemployment> (last visited Dec. 11, 2013).

⁵⁵ *ProgressOhio says Ohio lacks a law prohibiting employment and housing discrimination on the basis of sexual orientation*, POLITIFACTOHIO, <http://www.politifact.com/ohio/statements/2013/apr/02/progressohio/progressohio-says-ohio-lacks-law-prohibiting-emplo/> (Mar. 26, 2013).

⁵⁶ S.B. 125, 130th Gen. Assemb., (Ohio 2013); H.B. 163, 130th Gen. Assemb., (Ohio. 2013).

⁵⁷ *Status Report of Legislation*, 130TH GENERAL ASSEMBLY, <http://lsc.state.oh.us/coderev/sen130.nsf/Senate+Bill+Number/0125?OpenDocument> (last visited Dec. 11, 2013).

⁵⁸ *Status Report of Legislation*, 130TH GENERAL ASSEMBLY, <http://lsc.state.oh.us/coderev/hou130.nsf/House+Bill+Number/0163?OpenDocument> (last visited Dec. 11, 2013).

⁵⁹ OHIO REV. CODE ANN. § 4112 (West 2013).

⁶⁰ OHIO REV. CODE ANN. § 4112.01(A)(2) (West 2013).

⁶¹ OHIO REV. CODE ANN. § 4112.02 (West 2013).

⁶² OHIO REV. CODE ANN. § 4112.01(A)(2) (West 2013).

⁶³ OHIO REV. CODE ANN. § 4112.02(R) (West 2013).

⁶⁴ OHIO REV. CODE ANN. § 4112.04 (West 2013).

⁶⁵ OHIO REV. CODE ANN. § 4112.05(B) (West 2013).

⁶⁶ *Id.*

⁶⁷ OHIO REV. CODE ANN. § 4112.99 (West 2013).

⁶⁸ OHIO CIVIL RIGHTS COMM'N, 2012 ANNUAL REPORT, (2012).

⁶⁹ *Id.* at 12.

⁷⁰ ATHENS, OHIO, CODE § 3.07.62 (employment, public accommodations and housing) (2013).

⁷¹ BOWLING GREEN, OHIO, CODE §§ 39 (employment, education, public accommodations); 153 (housing) (2009).

⁷² CANTON, OHIO, CODE §§ 507 (public contracts); 515 (housing); 547 (private employment) (2012).

⁷³ CINCINNATI, OHIO, CODE §§ 325 (2013) (non-construction public contracts worth more than \$5,000); 914 (2006) (employment, housing, public accommodations).

⁷⁴ CLEVELAND, OHIO, CODE §§ 663 (employment); 665 (housing); 667 (public accommodations) (2009).

⁷⁵ COLUMBUS, OHIO, CODE §§ 2331.02 (housing); 2331.03 (employment); 2331.04 (public accommodations) (2008).

⁷⁶ COSHOCTON, OHIO, CODE § 159 (2007) (employment, housing and public accommodations).

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- ⁷⁷ DAYTON, OHIO, CODE § 32.03 (2007) (employment, housing and public accommodations).
- ⁷⁸ *Ohio Municipalities Chart*, EQUALITY OHIO, http://www.equalityohio.org/images/PDFs/ohio_municipalities_chart.pdf (last visited Dec. 12, 2013).
- ⁷⁹ NEWARK, OHIO, CODE §§ 632.01, 632.03 (2007) (employment, housing and public accommodations).
- ⁸⁰ OXFORD, OHIO, CODE §§ 143.02 (housing); 143.03 (employment); 143.04 (public accommodations) (2008).
- ⁸¹ TOLEDO, OHIO, CODE §§ 554.02 (employment); 554.03 (real estate); 554.05 (public accommodations) (2012).
- ⁸² YELLOW SPRINGS, OHIO, CODE §§ 626 (housing); 632.01, 632.02 (employment) (2009).
- ⁸³ Calculated by authors using data from the *American Community Survey, 2011 1-Year-Estimates & 5-Year-Estimates Tables*, U.S. CENSUS BUREAU, AMERICAN FACTFINDER, available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited December 12, 2013).
- ⁸⁴ AKRON, OHIO, CODE §§ 34.03 (public contracts); 139.12 (housing) (2009); Akron, Ohio, Ordinance 514-2009 (Nov. 30, 2009) (public employment generally).
- ⁸⁵ CLEVELAND HEIGHTS, OHIO, CODE §§ 144.02 (public employment); 749 (housing) (2009).
- ⁸⁶ CUYAHOGA CNTY., OHIO, CHARTER § 12.07 (2010).
- ⁸⁷ *Non-discrimination Policy*, FRANKLIN COUNTY HUMAN RESOURCES DEP'T, <https://www.franklincountyohio.gov/commissioners/hr/policies/non-discrimination-policy.cfm> (last visited Dec. 12, 2013).
- ⁸⁸ GAHANNA, OHIO, CODE § 23.07 (2006).
- ⁸⁹ HAMILTON, OHIO, CODE §§ 315.06 (nondiscrimination in police force hiring); 717.07 (granting permits or vending locations).
- ⁹⁰ HAMILTON CNTY. BOARD OF CNTY. COMMISSIONERS, PERSONNEL POLICY MANUAL, § 6.1 (2013), available at <http://www.hamiltoncountyohio.gov/hr/PDF/BOCCPPM.pdf>.
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- ⁹⁵ OBERLIN, OHIO, CODE § 157.10 (2012).
- ⁹⁶ SUMMIT CNTY., OHIO, CODE § 169.04 (2011).
- ⁹⁷ WOOD CNTY., EMPLOYEE HANDBOOK, 5 (2011), available at <http://www.co.wood.oh.us/employee/handbook/2011%20Employee%20Handbook%2011-679.pdf>.
- ⁹⁸ There are also an additional three localities that provide nondiscrimination laws that include housing, but not employment. They are: Lakewood (LAKEWOOD, OHIO, CODE § 516 (2010)), North Olmsted (NORTH OLMSTED, OHIO, CODE § 1901 (2000)) and Shaker Heights (SHAKER HEIGHTS, OHIO, CODE § 515 (2006)).
- ⁹⁹ COLUMBUS, OHIO, CODE § 2331.01 (2008).

¹⁰⁰ CLEVELAND, OHIO, CODE § 663.04 (2009).

¹⁰¹ OHIO REV. CODE ANN. § 4112.01(A)(2) (West 2013).

¹⁰² CINCINNATI, OHIO, CODE § 914-1-E1 (2013).

¹⁰³ YELLOW SPRINGS, OHIO, CODE § 632.02(e) (2009).

¹⁰⁴ CINCINNATI, OHIO, CODE § 914-15 (2013).

¹⁰⁵ COLUMBUS, OHIO, CODE § 2331.02(B) (2008).

¹⁰⁶ OHIO REV. CODE ANN. § 4112.05 (West 2013).

¹⁰⁷ *Id.* § 4112.99.

¹⁰⁸ A local ordinance's vulnerability may depend upon the state's interpretation of the power of localities to legislate. Many states follow Dillon's Rule, which holds that a locality's powers are limited to those expressly granted by the state, implied by those powers granted or indispensable to the locality's purposes. In those states, unless there has been a clear grant of authority through the state constitution or by the state legislature, local nondiscrimination ordinances may be found to have extended beyond the locality's legislative power. On the other hand, other states follow Home Rule, which grants localities legislative authority "as broad as the police power of the state, except as that power may be restricted by terms of the grant or by the state constitution." *D.C. v. John R. Thompson Co.*, 346 U.S. 100, 109 (1953). In states that follow Home Rule, unless there is an explicit restriction against localities establishing local nondiscrimination ordinances, each locality will have the authority to establish broad nondiscrimination ordinances as they see fit. Many states follow a combination of Dillon's Rule and Home Rule. In those states, the default rule is Dillon's Rule, limiting the power of localities; however, the state may also authorize localities to write their own Home Rule charters, which will then allow those localities to have the same broad police powers that the state does, limited only by the restraints that the locality places upon itself in their charter.

Ohio is a home rule state. Ohio Const. art. XVIII, § 3. The state constitution grants municipalities "authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws." The state supreme court has held that ordinances that "affect[] only the municipality itself, with no extra-territorial effects," are not in conflict with general laws. *Vill. of Beachwood v. Bd. of Elections of Cuyahoga Cnty.*, 148 N.E.2d 921, 923 (1958). Using this reasoning, the Ohio Court of Appeals has upheld a local domestic partnership registry, holding that it was "a matter of local self-government." *Cleveland Hts. ex rel. Hicks v. Cleveland Hts.*, 832 N.E.2d 1275, 1278 (Ohio Ct. App. 2005).

¹⁰⁹ *Corporate Employer Database*, HUMAN RIGHTS CAMPAIGN, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (last visited Dec. 13, 2013) (search for Headquarters State: Ohio; Key Policies: Sexual Orientation in Non-discrimination Policy; and Includes Policy: Yes).

¹¹⁰ *Corporate Employer Database*, HUMAN RIGHTS CAMPAIGN, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (last visited Dec. 13, 2013) (search for Headquarters State: Ohio; Key Policies: Gender Identity in Non-discrimination Policy; and Includes Policy: Yes).

¹¹¹ Exec. Order No. 2011-05K (2011), *available at* <http://www.governor.ohio.gov/Portals/0/pdf/executiveOrders/EO2011-05.pdf>. The previous governor of Ohio had prohibited discrimination in Cabinet agencies and State of Ohio Boards and Commissions based on both sexual orientation and gender identity for the first time in Ohio history. Exec. Order No. 2007-10S (2007), *available at* <http://epa.ohio.gov/Portals/36/documents/Executive%20Order%202007-10S.pdf>.

¹¹² M.V. LEE BADGETT, CHRISTOPHER RAMOS & BRAD SEARS, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EVIDENCE OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY: COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES 1999-2007 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Ramos-Employ-Discrim-1999-2007-Nov-08.pdf>; William B. Rubenstein, *Do Gay Rights Laws Matter?: An Empirical Assessment*, 75 S. CAL. L. REV. 66, 79-81 (2001).

¹¹³ BADGETT, RAMOS, & SEARS, *supra* note 112.

¹¹⁴ CHRISTY MALLORY, SARAH LIEBOWITZ & AMIRA HASENBUSH, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN MISSOURI (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/MissouriNDReport-Nov-2013.pdf>; AMIRA HASENBUSH & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN PENNSYLVANIA (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/PennsylvaniaNDReport-Nov-2013.pdf>; CHRISTY MALLORY & GREGORY K. DAVIS, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN SOUTH CAROLINA (forthcoming 2014); NAOMI G. GOLDBERG, M.V. LEE BADGETT, & CHRISTOPHER RAMOS, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE IMPACT OF EMPLOYMENT NON-DISCRIMINATION LEGISLATION IN SOUTH DAKOTA (2010), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Goldberg-Badgett-Ramos-SouthDakota-ENDA-Jan-2010.pdf>; CHRISTY MALLORY & M.V. LEE BADGETT, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ADMINISTRATIVE IMPACT OF ADDING SEXUAL ORIENTATION AND GENDER IDENTITY TO TEXAS'S EMPLOYMENT NON-DISCRIMINATION LAW (2012), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory_Badgett_TX_Workplace_Dec-2012.pdf; CHRISTY MALLORY & SARAH LIEBOWITZ, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN UTAH (forthcoming 2014); CHRISTY MALLORY, SARAH LIEBOWITZ & AMIRA HASENBUSH, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN WEST VIRGINIA (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/WestVirginiaNDReport-Dec-2013.pdf>.

¹¹⁵ Gary J. Gates & Frank Newport, *LGBT Percentage Highest in D.C., Lowest in North Dakota*, GALLUP, Feb. 15, 2013, <http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx>.

¹¹⁶ *American Community Survey, 2011 ACS Table DP03: Selected Economic Characteristics, 5-Year Estimates*, U.S. CENSUS BUREAU AMERICAN FACT FINDER, *available at* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_5YR_DP03.

¹¹⁷ "National average" refers to the average of the complaint rates in 17 states across the country that prohibited sexual orientation discrimination in 2008. BADGETT, RAMOS & SEARS, *supra* note 112.

¹¹⁸ The data gathered for the 2008 study included all employment discrimination complaints filed on the basis of sexual orientation; it was not limited to complaints filed by LGB employees. Heterosexual employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality or because they were perceived to be LGB. However, we use the LGB workforce as the underlying population for purposes of our analysis because LGB employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 112.

¹¹⁹ BADGETT, RAMOS & SEARS, *supra* note 112, at 5.

¹²⁰ OHIO CIVIL RIGHTS COMM'N, 2012 ANNUAL REPORT, (2012).

¹²¹ *Id.* at 10, 12.

¹²² *Id.* at 25.

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Anchorage Chamber wants business to support the city's gay and lesbian community

By LISA DEMER

ldemer@adn.com October 12, 2013

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• Make It Monday forum

The Anchorage Chamber of Commerce "Make It Monday" forum this week is focused on the diversity of commerce in the gay and lesbian community. It starts at noon at the Dena'ina Center downtown. Doors open at 11:30 a.m. Lunch is \$25 for members and students and \$31 for non-members; seats are usually available for those who just want to listen. Justin Nelson, president of the National Gay and Lesbian Chamber of Commerce, will speak.

A year and a half after Anchorage rejected a gay rights ballot measure that deeply divided the city, the gay and lesbian community is being not only embraced but promoted from an unexpected quarter: the Anchorage Chamber of Commerce.

"I certainly know some will try to make this into a social commentary. The social debates are happening outside of what we're doing," said Andrew Halcro, the chamber president. "This is really focusing on the economy and the economic benefits of inclusivity."

The chamber didn't start the "commerce of diversity" initiative, but when Halcro, a former Republican state representative and gubernatorial candidate, was approached early this year, he saw the potential and things took off.

"They have credibility with the business community that, frankly, I don't have and my community doesn't," said Mary Elizabeth Rider, who organizes a virtual women's community that among other things publicizes events. Rider is part of the chamber-led diversity project. "It's enormous, it's powerful, and it cannot be underestimated. I'm thrilled."

The initiative, now called One Anchorage, One Economy, is about "non-discrimination at work, in rent, in home purchases, in all aspects of civic life," said lawyer Glenn Cravez, who helped start it. Business leaders are trying to build public acceptance of what the ballot measure aimed to require by law.

On Monday, Justin Nelson, the president of the National Gay and Lesbian Chamber of Commerce, will be the featured speaker at the Anchorage chamber's "Make It Monday" forum. He plans to discuss how a growing number of businesses, including those in Anchorage, benefit financially from corporate policies of inclusion.

The talk will mark the first time Nelson has been invited to a mainstream chamber but Halcro said he's gotten no pushback, though the program was a surprise to the chamber's board of directors.

Some board members said they should have been informed earlier and Halcro said that will happen next time. Board chairman Bob Heinrich, a ConocoPhillips Alaska vice president, referred questions about the program to Halcro.

The Monday forum will launch the chamber's participation in a broader initiative -- called **Live.Work.Play** --

to make Anchorage the No. 1 city in America by 2025. The chamber's particular focus is improved schools and diversity.

Halcro and Nelson spoke Saturday at the Pride Conference at the University of Alaska Anchorage. Wells Fargo was the lead sponsor. Some conference sessions were focused around entrepreneurship and economic opportunity.

Wells Fargo, through its foundation, is investing \$1 million over four years in the National Gay and Lesbian Chamber and supports its work through scholarships and business grants. The bank is one of the organization's founding members and has been involved in the lesbian, gay, bisexual and transgender community for 25 years.

"We believe building relationships and providing specialized services to LGBT customers is not only the right thing to do -- it's smart business, especially when you take into account the evolving demographics and buying power of the LGBT community," David Kennedy, Wells Fargo's Alaska spokesman, said in an email.

The bank will be recognized for its efforts at Monday's forum.

'TOTALLY BACKWARDS'

The business-led effort is rooted in the April 2012 municipal vote over whether to require legal protections for gay, lesbian and transgender people. It failed badly, 57 percent to 43 percent.

"We are this welcoming place. We are this really cool city. How could this have failed? How could this not have passed?" said Vickie Green, who administers online health records for the Department of Veterans Affairs, and also manages a VA program to provide education about and celebrate the gay and lesbian community. She and her partner, Terri Huebler, are the couple who changed Sen. Lisa Murkowski's mind on gay marriage. Green is part of One Anchorage, One Economy.

Cravez, an Anchorage lawyer who now works mostly in conflict mediation, said he was disappointed, even angry, at the election result.

He knew people who were for equal rights yet voted against it. Somehow the measure's opponents convinced them it would be bad for business, said Cravez, who has two sons, one gay and one straight.

"I thought that was totally backwards," he said. Anchorage likes to see itself as a good place to do business: entrepreneurial, energetic, growing. "It struck me as totally counter-intuitive that you could have that and not have a city where everybody, including the GLBT community, was ... equal partners."

He began talking to leaders of Anchorage's gay community and to business leaders. Some were reluctant to step up -- until Halcro took it on, Cravez said.

Many businesses already have internal policies of non-discrimination. Some already provide benefits to same-sex partners. But they do so quietly. The business group wants to shift the conversation from us vs. them to one where openness and inclusion are celebrated.

The Anchorage Economic Development Corp. wants to make the city a lure for smart, young, creative professionals through its Live.Work.Play initiative. At its annual economic forecast luncheon in January, economist Richard Florida from the University of Toronto told the crowd that to make that happen, the city needs a talented and educated population, good technology and a tolerant and diverse culture.

While Anchorage Assembly Chairman Ernie Hall is involved in the chamber diversity effort, Mayor Dan Sullivan -- who opposed the 2012 ballot measure and vetoed an earlier equal rights ordinance -- was unaware of it. Asked about it Friday, Sullivan said, "That's the first I've heard of it."

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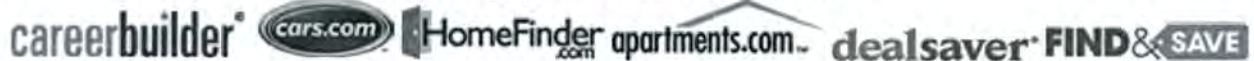
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Senate passes gay-rights bill to prevent workplace discrimination

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By Jacqueline Klimas - The Washington Times

Thursday, November 7, 2013

The Senate passed a bill Thursday that aims to prevent discrimination against gay and transgender employees, though that only sends the measure to the House where Republican leaders have said the bill is not going anywhere.

Ten Republicans joined with Democrats to pass the proposal 64-32, which marked the first major piece of legislation involving gay rights since Congress repealed the policy barring open gays from serving in the military.

President Obama celebrated the bill's passage, saying it will stop Americans from being denied a job or fired just because they are lesbian, gay, bisexual or transgender — though his excitement was tempered by the fact the bill is not coming to his desk for his signature any time soon.

"One party in one house of Congress should not stand in the way of millions of Americans who want to go to work each day and simply be judged by the job they do," Mr. Obama said. "Now is the time to end this kind of discrimination in the workplace, not enable it."

House Speaker John A. Boehner, Ohio Republican, and House Majority Leader Eric Cantor, Virginia Republican, have signaled the bill is dead on arrival in the House and warned that the proposal would lead to "frivolous lawsuits" and kill jobs. Socially conservative groups have also painted the proposal as anti-family.

Cantor spokesman Rory Cooper said Thursday that "The bill is currently not scheduled in the House."

Pro-gay group GetEQUAL, which criticized the Senate bill as too generous with religious-freedom protections, called on Mr. Obama to get around opposition from the House GOP by ordering that no company can do business with the U.S. government if it doesn't "voluntarily" adopt the bill's provisions.

"As we wait for Speaker Boehner to move this bill forward, it is imperative for President Obama to lead by example, and to sign his name to an Executive Order that would protect nearly 25 percent of this country's workforce from workplace discrimination," the group said.

The White House has not ruled out the possibility of Mr. Obama using his executive power and Senate Majority Leader Harry Reid, Nevada Democrat, suggested that is one way to get around Congress.

"I don't know what authority and power he has, but I'm sure he's exercised his administrative authority on previous occasions when we had legislative logjams," Mr. Reid said. "That's what the Senate Republicans and certainly the Republicans in the House better come to realize. There's more than one way of skinning a cat."

The vote Thursday on the Employment Non-Discrimination Act came after the Senate rejected a stronger religious freedom amendment by Sen. Patrick J. Toomey, Pennsylvania Republican, that would have expanded the types of organizations exempted under the law.

However, the final bill included an amendment from Sen. Rob Portman, Ohio Republican, that passed by voice vote Wednesday. It says the government cannot retaliate against religious organizations exempted under the bill by withholding grants, contracts or tax exemptions.

Tony Perkins, president of the Family Research Council, knocked the Senate for passing the bill, warning that ENDA would "lead to a form of reverse discrimination."

"Anyone who expresses or promotes a view of family or morality that can be interpreted to be a disapproval of homosexual or transgender conduct will be subject to retaliation and discrimination," he said.

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EQUALITY MAPS EMPLOYMENT NON-DISCRIMINATION LAWS



- Employment non-discrimination law covers sexual orientation and gender identity (18 states + D.C.)
- Employment non-discrimination law covers only sexual orientation, but federal law prohibits discrimination against transgender and gender non-conforming people (see note) (3 states)
- No employment non-discrimination law covering sexual orientation or gender identity, but federal law prohibits discrimination against transgender and gender non-conforming people (see note) (29 states)

NOTE: A 2012 ruling by the federal Equal Employment Opportunity Commission extends Title VII's prohibition on sex discrimination to prohibit discrimination against transgender and gender non-conforming people. For additional information, contact the [Human Rights Campaign](#), the [National Gay & Lesbian Task Force](#), the [National Center for Transgender Equality](#), or the [Equality Federation](#). This map reflects states that have statewide statutes banning discrimination in private employment. Many states have executive orders or laws that protect all public employees, and many large cities and other localities have ordinances, executive orders, or personnel policies that protect local employees and some employees of local businesses. These laws, regulations and executive orders are not reflected on this map. Some states may interpret "gender" to include gender identity/expression. Such states are not reflected on this map.

Choose an Issue

- Snapshot: LGBT Equality by State
- Marriage & Relationship Recognition
- State Non-Discrimination Laws
- Local Non-Discrimination Ordinances
- Foster and Adoption Laws
- Other Parental Recognition Laws
- Safe Schools Laws
- Hate Crime Laws
- Birth Certificate Laws
- Medical Decision-Making Policies
- Family Leave Laws
- Conversion Therapy Laws
- HIV Criminalization Laws
- "Out" LGBT Public Officials

Demographics

- LGBT Populations
- Same-Sex Couples Raising Children

Percent of LGBT Population Covered by Laws

- 39% of LGBT population lives in states prohibiting employment discrimination based on sexual orientation and gender identity
- 48% of LGBT population lives in states prohibiting employment discrimination based on sexual orientation
- 52% of LGBT population lives in states that do not prohibit employment discrimination based on sexual orientation or gender identity