

# Employment Discrimination Based on Sexual Orientation and Gender Identity in Arizona



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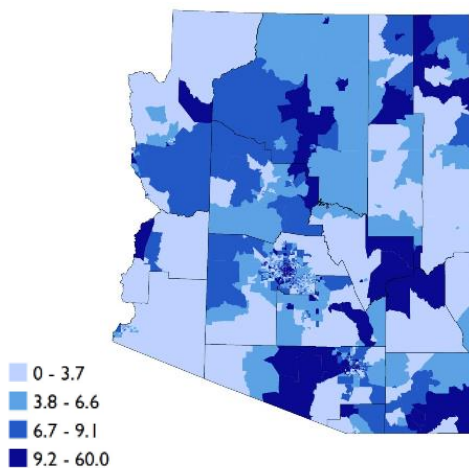
## Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 119,000 of these workers live in Arizona. Arizona does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in both public and private sector employment.

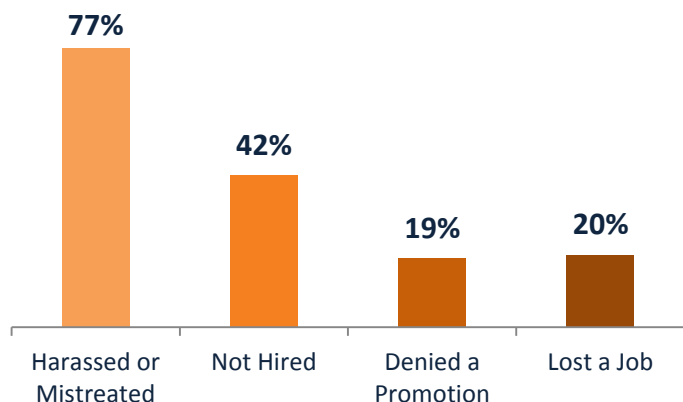
This report summarizes recent evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Arizona, and estimates the administrative impact of passing a law prohibiting employment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

119,000	26%	77%	78%	33%	56
Number of LGBT Workers	Income Disparity between Straight and Gay Male Workers	Transgender Workers Reporting Workplace Discrimination	Public Support for LGBT Workplace Protections	Workforce Covered by Local Non-Discrimination Laws	Estimated New Complaints if LGBT Protections are Added to State Laws

Same-sex couples per 1,000 households, by Census tract (adjusted)



Discrimination experienced by transgender workers in Arizona



Key findings of this report include:

- In total there are approximately 199,000 LGBT adults in Arizona, including over 119,000 who are part of Arizona's workforce.<sup>1</sup>
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against employees in Arizona.
- Survey data indicate that discrimination against LGBT workers is prevalent across the country. Most recently, a national survey conducted by the Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, 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. In response to the survey, 77% of the transgender respondents from Arizona reported experiencing discrimination or harassment at work.
- Disparities in wages are an additional way that discrimination has traditionally been measured. Census data show that in Arizona, the median income of men in same-sex couples is 26% lower than the median income of men in different sex marriages.
- A gubernatorial executive order in Arizona provides protection from sexual orientation discrimination for state government employees.
- Four localities in Arizona provide protection from sexual orientation and gender identity discrimination in public and private sector employment by local ordinance. One additional locality protects its own local government workers from discrimination based on sexual orientation and gender identity.
- Approximately 67% of Arizona's workforce is not covered by a local ordinance that prohibits sexual orientation and gender identity discrimination in public and private sector employment.<sup>2</sup>
- Private companies may adopt internal non-discrimination policies to improve recruitment and retention of talented employees, to increase employee productivity and customer satisfaction, or to attract a larger customer base. Arizona's ten largest private employers have policies prohibiting discrimination in employment based on sexual orientation, and at least nine of them also prohibit discrimination based on gender identity.
- Public opinion in Arizona supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 78% of those polled in Arizona said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity. In addition, other polls have found that 79% of Arizona residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 56 additional complaints being filed with the Arizona Civil Rights Division each year.

- The anticipated new complaints based on sexual orientation and gender identity could likely be absorbed into the existing system with no need for additional staff and negligible costs.

## **Evidence of Discrimination**

### ***Survey Data and Specific Examples of Sexual Orientation and Gender Identity Discrimination in Arizona***

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.<sup>3</sup> 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.<sup>4</sup> As recently as 2010, 78% of respondents to the largest national 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.<sup>5</sup>

Similar statistics have been found in surveys of LGBT individuals in Arizona. In response to the national survey of transgender people, a significant number of transgender respondents from Arizona reported experiencing adverse treatment at work because of their gender identity or gender expression.<sup>6</sup> More specifically, 77% of the respondents from Arizona reported experiencing harassment or mistreatment at work, 20% reported losing a job, 19% reported being denied a promotion, and 42% reported not being hired.

Employment discrimination against LGBT people in Arizona has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. For example, a teacher testified to the Phoenix City Council that she left her job because the principal demanded that she not be open about her sexual orientation,<sup>7</sup> and an employee of a state agency reported to a legal services organization that her co-workers used anti-LGBT epithets when speaking to her, spread false rumors about her, and told people that she was mentally ill because she was a lesbian.<sup>8</sup> Additionally, a number of federal, state, and local administrative agencies and legislative bodies across the U.S. have acknowledged that LGBT people have faced widespread discrimination in employment.<sup>9</sup>

## ***Wage Inequity***

Census data show that men in same-sex couples in Arizona earn less than men married to different-sex partners. On average, men in same-sex couples in Arizona earn \$34,653 each year, significantly less than the \$46,453 for men married to different-sex partners.<sup>10</sup> The median income of men in same-sex couples in Arizona is \$26,000, 26% less than that of married men (\$35,000).<sup>11</sup> 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,<sup>12</sup> 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.<sup>13</sup>

Women in same-sex couples earn less than married men as well as men in same-sex couples.<sup>14</sup> Women in same-sex couples in Arizona earn an average of \$31,336 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).<sup>15</sup>

These findings are not unique to Arizona. 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.<sup>16</sup> Surveys of transgender people find that they have high rates of unemployment and very low earnings.<sup>17</sup>

## **Current Protections from Discrimination**

Arizona does not have a statewide statute that prohibits discrimination based on sexual orientation or gender identity in both public and private sector employment.<sup>18</sup> Efforts have been made to pass a statute prohibiting employment discrimination on the basis of sexual orientation and gender identity/expression in the Arizona legislature in 2008, 2009, 2012, 2013, and 2014.<sup>19</sup> In each instance, the proposed legislation was held in committee and was never voted on by the House or the Senate.<sup>20</sup> The bills would have prohibited employment discrimination based on sexual orientation and/or gender identity by adding the characteristics to the existing employment discrimination statute, the Arizona Civil Rights Act.<sup>21</sup>

A gubernatorial executive order in Arizona provides protection from sexual orientation discrimination for state government employees. Additionally, several localities, universities, and private corporations in Arizona have adopted local ordinances and internal policies that prohibit discrimination based on sexual orientation and gender identity against their employees.

### ***The Arizona Civil Rights Act***

Currently, the Arizona Civil Rights Act prohibits employment discrimination by any employer who has 15 or more employees<sup>22</sup> on the basis of race, color, religion, sex, age, national origin and disability.<sup>23</sup> The Arizona Civil Rights Act applies to public and private sector employers.<sup>24</sup> The employment discrimination

provisions do not apply to religious organizations “with respect to the employment of individuals of a particular religion to perform work connected” with the organization’s activities.<sup>25</sup>

The Civil Rights Division of the Arizona Attorney General’s Office is responsible for administrative enforcement of the Arizona Civil Rights Act.<sup>26</sup> The Division has the power to investigate, and may file its own civil action on behalf of an employee.<sup>27</sup> An employee must file an administrative complaint with the Division within 180 days of the alleged discriminatory practice.<sup>28</sup>

### ***Executive Order Prohibiting Discrimination against State Government Employees***

In 2003, former Governor Janet Napolitano issued an executive order banning employment discrimination on the basis of sexual orientation against state government employees.<sup>29</sup> The order requires executive agency heads to ensure that the non-discrimination policy is reflected in all agency programs and materials, and to design procedures for handling complaints of sexual orientation discrimination within the agency.<sup>30</sup> However, the directives do not permit employees to file suit in court based on a violation of the non-discrimination requirements.<sup>31</sup> The executive order protects over 138,000 state employees from discrimination based on sexual orientation.<sup>32</sup>

### ***Local-Level Protections from Discrimination***

Four Arizona cities, Phoenix<sup>33</sup>, Tucson<sup>34</sup>, Tempe<sup>35</sup>, and Flagstaff,<sup>36</sup> prohibit public and private sector employment discrimination based on sexual orientation and gender identity. Additionally, Scottsdale protects its own local government employees from discrimination based on sexual orientation and gender identity.<sup>37</sup> Approximately 67% of Arizona’s workforce is not covered by a local ordinance that prohibits discrimination based on sexual orientation and gender identity in both public and private sector employment.<sup>38</sup>

Within the localities that provide protection from discrimination based on sexual orientation and gender identity, coverage varies from place to place. For example, Phoenix, Tucson, and Tempe define “employer” as a person who has 1 or more employees.<sup>39</sup> In Flagstaff, however, the non-discrimination law only applies to employers with 15 or more employees.<sup>40</sup> Further, each of the local ordinances includes a religious exemption that varies in breadth. The Flagstaff and Tucson ordinances have the narrowest exemptions, and do not exempt religious institutions when they hire for positions that solely involve activities to generate unrelated business income.<sup>41</sup> Tempe on the other hand has the broadest exemption that includes all religious organizations.<sup>42</sup> Finally, the penalties that may be imposed for violations of the ordinances vary. In Phoenix, a violation of the non-discrimination ordinance constitutes a Class 1 misdemeanor.<sup>43</sup> Tucson and Tempe set the penalty for violating their ordinances at a fine not more than \$2,500.<sup>44</sup> In Flagstaff, the fine for a first time violation cannot exceed \$500.<sup>45</sup>

## ***Private Company and University Non-Discrimination Policies***

Private companies adopt internal policies prohibiting discrimination based on sexual orientation and gender identity for a variety of reasons including improved recruitment and retention of talented employees, increasing employee productivity and customer satisfaction, and attracting a larger customer base.<sup>46</sup> One study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top companies in the U.S. with LGBT-supportive policies had adopted the policies for economic reasons.<sup>47</sup>

Academic research has found that LGBT-supportive corporate policies are linked to positive business-related outcomes, including greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.<sup>48</sup> For example, a 2006 national poll found that 89% of LGBT respondents and 72% of non-LGBT respondents reported that when deciding where to work, it was important that an employer have a written non-discrimination policy that includes race, ethnicity, sex, religion, age, sexual orientation and disability.<sup>49</sup> Research also suggests that employers limit their available talent pool by screening out applicants based on their sexual orientation. One study found that the rate of screening out gay male applicants was twice as high in regions without sexual orientation non-discrimination laws.<sup>50</sup>

Additionally, LGBT-supportive workplace policies can expand opportunities to secure potentially lucrative government contracts for corporate employers. A 2011 study found that 68 local governments had laws requiring contractors to have LGBT-inclusive non-discrimination policies.<sup>51</sup> A number of states have similar laws that apply to state government contracts.<sup>52</sup> Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

A number of Arizona's top companies and employers have adopted internal corporate policies that prohibit discrimination based on sexual orientation and gender identity. According to the Human Rights Campaign, of all ten of Arizona's largest employers prohibit discrimination based on sexual orientation, and at least nine of them also prohibit discrimination based on gender identity.<sup>53</sup> Approximately 5.5% of Arizona's civilian workforce is employed by the ten largest employers in the state.<sup>54</sup> Further, nine of the twelve Fortune 1000 companies headquartered in Arizona have non-discrimination policies that include sexual orientation. Of those nine, five also prohibit discrimination based on gender identity.<sup>55</sup> Additionally, Arizona State University and the University of Arizona have non-discrimination policies that include sexual orientation and gender identity, and Northern Arizona University's non-discrimination policy includes sexual orientation.<sup>56</sup>

## **Public Opinion**

Public opinion in Arizona supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 78% of those polled in Arizona said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>57</sup>

In addition, public opinion data indicate that Arizona residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 79% of Arizona residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.<sup>58</sup>

## **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.<sup>59</sup> 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.<sup>60</sup>

We estimate that approximately 56 complaints of sexual orientation or gender identity discrimination would be filed with the Civil Rights Division (the Division) each year. To reach this estimate, we drew on Gallup polling data and Census data from Arizona 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 South Carolina, Missouri, Ohio, Pennsylvania, South Dakota, Texas, Utah, and West Virginia.<sup>61</sup>

Results from a 2012 Gallup poll show that 3.9% of people in Arizona identify as LGBT.<sup>62</sup> Applying this percentage to the number of people in Arizona's workforce (3,058,183<sup>63</sup>) indicates that there are 119,269 LGBT workers in Arizona.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Arizona 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.<sup>64</sup> 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.<sup>65</sup> There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.<sup>66</sup> 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 Arizona (119,269) suggests that 56 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***

Available data suggests that the additional 56 complaints could be absorbed into the Division's existing budget. In 2013, the Division received 1,267 discrimination complaints.<sup>67</sup> The additional 56 complaints represent an increase of 4.4% in filings over year 2013. The relatively small increase in the number of complaints filed could likely be absorbed into the Division's existing budget with minimal impact on staff and resources.

### **Conclusion**

Documented evidence shows that LGBT people face employment discrimination across the country, including in Arizona. There is currently no statewide law that prohibits discrimination based on sexual orientation or gender identity in public and private sector employment in Arizona. Adding these characteristics to the Arizona Civil Rights Act would provide protection from discrimination to approximately 119,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 56 complaints of sexual orientation or gender identity employment discrimination would be filed in Arizona annually if the law were amended. It is likely that enforcement of the additional 56 complaints would have a minimal impact on the Civil Rights Division's budget.



## 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

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<sup>1</sup> This estimate was reached by applying the percentage of people in Arizona that are LGBT (3.9%) to the population of Arizona aged 16 years and older (5,110,763) and the number of people in the Arizona civilian labor force (3,058,183), respectively. 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>; American Community Survey, U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_DP03&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03&prodType=table).

<sup>2</sup> Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited July 30, 2014).

<sup>3</sup> A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

<sup>4</sup> BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

<sup>5</sup> JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 51 (2011), [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf).

<sup>6</sup> FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, ARIZONA RESULTS, NATIONAL CENTER FOR TRANSGENDER GAY AND LESBIAN TASK FORCE, [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_state/ntds\\_state\\_az.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_state/ntds_state_az.pdf).

<sup>7</sup> Dustin Gardiner & Amy B. Wang, *Phoenix City Council Votes to Amend Discrimination Law*, ARIZ. REPUBLIC, Feb. 28, 2013, [http://www.azcentral.com/community/phoenix/articles/20130226phoenix-discrimination-law-amend.html?nclick\\_check=1; Meeting Minutes](http://www.azcentral.com/community/phoenix/articles/20130226phoenix-discrimination-law-amend.html?nclick_check=1; Meeting Minutes), PHOENIX CITY COUNCIL 342, Feb. 26, 2013, <http://apps.phoenix.gov/ccwebimages/prm/min001/167518.pdf>.

<sup>8</sup> E-mail from Ming Wong, National Center for Lesbian Rights, to Christy Mallory, the Williams Institute (May 7, 2009, 11:15:00 PST) (on file with the Williams Institute).

<sup>9</sup> SEARS & MALLORY, *supra* note 4.

<sup>10</sup> ADAM P. ROMERO, AMANDA K. BAUMLE, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: ARIZONA 2 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/ArizonaCensus2000Snapshot1.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> GARY J. GATES, CAL. CTR. FOR POP. RESEARCH, THE IMPACT OF SEXUAL ORIENTATION ANTI-DISCRIMINATION POLICIES ON THE WAGES OF LESBIANS AND GAY MEN (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

<sup>14</sup> ROMERO, ROSKY, BADGETT & GATES, *supra* note 10 at 2.

<sup>15</sup> *Id.*

<sup>16</sup> M.V. Lee Badgett, Holning Lau, Brad Sears & Deborah Ho, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination 1998-2008*, 84 CHI.-KENT L. REV. 559, 559-60 (2009).

<sup>17</sup> *Id.*

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<sup>18</sup> See JEROME HUNT, CTR. AM. PROG. ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES 3 (June 2012), [http://www.americanprogress.org/issues/2012/06/pdf/state\\_nondiscrimination.pdf](http://www.americanprogress.org/issues/2012/06/pdf/state_nondiscrimination.pdf) .

<sup>19</sup> H.R. 2002, 48th Leg., 2d Reg. Sess. (Ariz. 2008); H.R. 2712, 48th Leg., 2d Reg. Sess. (Ariz. 2008); S. 1416, 48th Leg., 2d Reg. Sess. (Ariz. 2008); H.R. 2455, 49th Leg., 1st Reg. Sess. (Ariz. 2009); S.B. 1368, 49th Leg. 1st Reg. Sess. (Ariz. 2009); S. 1493, 50th Leg., 2d Reg. Sess. (Ariz. 2012); S. 1163, 51st Leg., 1st Reg. Sess. (Ariz. 2013); S. 1443, 51st Leg., 2d Reg. Sess. (Ariz. 2014).

<sup>20</sup> *Bill Status Overview*, H.R. 2002, 48th Leg., 2nd Reg. Sess. (Ariz. 2008); *Bill Status Overview*, H.R. 2712, 48th Leg., 2d Reg. Sess. (Ariz. 2008); *Bill Status Overview*, H.R. 2455, 49th Leg. 1st Reg. Sess. (Ariz. 2009); *Bill Status Overview*, S.B. 1368, 49th Leg. 1st Reg. Sess. (Ariz. 2009); *Bill Status Overview*, S. 1493, 50th Leg., 2d Reg. Sess. (Ariz. 2012); *Bill Status Overview*, S. 1163, 51st Leg., 1st Reg. Sess. (Ariz. 2013); *Bill Status Overview*, S. 1443, 51st Leg., 1st Reg. Sess. (Ariz. 2013).

<sup>21</sup> *Id.*

<sup>22</sup> ARIZ. REV. STAT. §14-1461(5).

<sup>23</sup> *Id.* §41-1463(B)(1).

<sup>24</sup> *Id.* §41-1463(D); §41-1461(6)

<sup>25</sup> *Id.* §41-1462.

<sup>26</sup> *Id.* §41-1402.

<sup>27</sup> Arizona Attorney General, Civil Rights Division, Discrimination, <https://www.azag.gov/discrimination>.

<sup>28</sup> Arizona Attorney General, Civil Rights Division, Employment Discrimination, <https://www.azag.gov/discrimination/employment>.

<sup>29</sup> Ariz., Exec. Order No. 2003-22 (2003), available at <http://azmemory.azlibrary.gov/cdm/ref/collection/execorders/id/430>.

<sup>30</sup> *Id.*

<sup>31</sup> JEROME HUNT, CENTER FOR AMERICAN PROGRESS ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES: STATE NONDISCRIMINATION POLICIES FILL THE VOID BUT FEDERAL PROTECTIONS ARE STILL NEEDED (June 11, 2012) [http://cdn.americanprogress.org/wpcontent/uploads/issues/2012/06/pdf/state\\_nondiscrimination.pdf](http://cdn.americanprogress.org/wpcontent/uploads/issues/2012/06/pdf/state_nondiscrimination.pdf), at 52.

<sup>32</sup> Calculated by authors using data from the American Community Survey, 2012 1-Year-Estimates, Arizona: Sex by Class of Worker for the Civilian Population Aged 16 Years and Over available at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_B24080&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B24080&prodType=table) (last visited Aug. 29, 2014).

<sup>33</sup> PHOENIX, ARIZ., CODE §18-10.01.

<sup>34</sup> TUCSON, ARIZ., CODE §17-2.

<sup>35</sup> TEMPE, ARIZ., CODE §2-603.

<sup>36</sup> FLAGSTAFF, ARIZ., CODE §14-02-001-0003.

<sup>37</sup> SCOTTSDALE, ARIZ., CODE §14.2.

<sup>38</sup> Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited July 30, 2014).

<sup>39</sup> PHOENIX, ARIZ., CODE §18-3; TEMPE, ARIZ., CODE §2-6.00; TUCSON, ARIZ., CODE §17-11(e).

<sup>40</sup> FLAGSTAFF, ARIZ., CODE §14-02-001-0002.

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- <sup>41</sup> TUCSON, ARIZ., CODE §17-13(e); FLAGSTAFF, ARIZ., CODE §14-02-001-0004(G).
- <sup>42</sup> TEMPE, ARIZ., CODE §2-604.
- <sup>43</sup> PHOENIX, ARIZ., CODE §18-7.
- <sup>44</sup> TUCSON, ARIZ., CODE §17-14; TEMPE, ARIZ., CODE §2-606.
- <sup>45</sup> FLAGSTAFF, ARIZ., CODE §14-02-001-0005.
- <sup>46</sup> See BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.
- <sup>47</sup> *Id.*
- <sup>48</sup> M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.
- <sup>49</sup> Out & Equal, Harris Interactive & Witeck Combs Commc'n, *Majority of Americans: Companies Not Government Should Decide Benefits Offered to Same-Sex Employees*, OUTANDEQUAL.ORG (May 22, 2006), [http://outandequal.org/documents/2006\\_Workplace\\_Survey052306.pdf](http://outandequal.org/documents/2006_Workplace_Survey052306.pdf).
- <sup>50</sup> Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).
- <sup>51</sup> Christy Mallory & Brad Sears, *An Evaluation of Local Laws Requiring Government Contractors to Adopt LGBT-Related Workplace Policies*, 5 ALBANY GOV'T L. REV. 478, 481 (2011).
- <sup>52</sup> For example, California (CAL. GOV. CODE § 12990 (2013)), Delaware (DEL. CODE ANN. tit., 29 § 6962(d)(7) (2013)), and Maryland (MD. CODE ANN., STATE FIN. & PROC. § 19-101 (LexisNexis 2013)), among others.
- <sup>53</sup> *The 2014 Arizona Republic 100*, ARIZ. REPUBLIC, <http://archive.azcentral.com/business/rep100/> (The top 10 employers are Wal-Mart Stores Inc., Banner Health, Kroger Co., Albertsons Inc., Wells Fargo, McDonald's Corp., Intel Corp., Bank of America Corp., JP Morgan Chase & Co., and Honeywell International Inc.); *Corporate Employer Database*, HUMAN RIGHTS CAMPAIGN, [http://asp.hrc.org/issues/workplace/search.asp?form=private\\_detailed\\_search.aspx](http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx) (search for Employer: [each of top 10 Arizona employer names]).
- <sup>54</sup> There are 3,058,183 people in Arizona's civilian labor force. Of those people, approximately 166,000 are employed by the ten largest employers in the state. American Community Survey, U.S. CENSUS BUREAU, AMERICAN FACTFINDER, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_DP03&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03&prodType=table); *The 2014 Arizona Republic 100*, ARIZ. REPUBLIC, <http://archive.azcentral.com/business/rep100/>.
- <sup>55</sup> *Corporate Employer Database*, HUMAN RIGHTS CAMPAIGN, [http://asp.hrc.org/issues/workplace/search.asp?form=private\\_detailed\\_search.aspx](http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx) (search for Headquarters State: Arizona; Key Policies: Sexual Orientation in Non-discrimination Policy; and Includes Policy: Yes).
- <sup>56</sup> *Id.*
- <sup>57</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).
- <sup>58</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

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<sup>59</sup> M.V. LEE BADGETT, CHRISTOPHER RAMOS & BRAD SEARS, WILLIAMS INST., 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-Emphy-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).

<sup>60</sup> *Id.*

<sup>61</sup> See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

<sup>62</sup> Gary J. Gates & Frank Newport, *supra* note 1.

<sup>63</sup> American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_DP03](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03).

<sup>64</sup> “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 59.

<sup>65</sup> 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 59.

<sup>66</sup> BADGETT, RAMOS & SEARS, *supra* note 59, at 5.

<sup>67</sup> *Id.*