

Employment Discrimination Based on Sexual Orientation and Gender Identity in Florida



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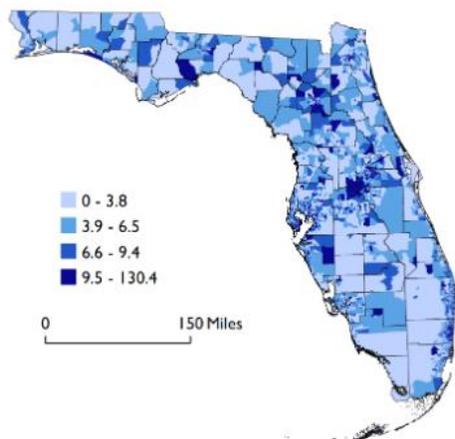
Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 328,000 of these workers live in Florida. Florida does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in 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 Florida, and estimates the administrative impact of passing a law prohibiting employment discrimination based on these characteristics in the state.

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|-------------------------------|---|---|--|--|---|
| 328,000 | 10% | 81% | 73% | 54% | 154 |
| 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 LGBT-Inclusive 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 Florida¹



Key findings of this report include:

- In total there are approximately 552,500 LGBT adults in Florida, including nearly 328,000 who are part of Florida's workforce.²
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against employees in Florida. These include reports from a city manager, school employees, a lab technician, a hospital employee, an airline employee, and several employees in the service and hospitality sector.
- A recent survey in Florida reflects discrimination and negative attitudes toward LGBT people in the workplace. A 2010 University of North Florida survey found that 63% of LGBT faculty and staff reported that they had experienced at least one incident of bias or harassment on campus because of their sexual orientation or gender identity.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, in response to a national 2010 survey, 81% of transgender people from Florida reported having experienced harassment or mistreatment at work, and 56% reported that they were fired, not hired, or denied a promotion because of their gender identity or expression.
- National surveys also confirm that discrimination against LGBT workers persists. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents reported that they had been treated unfairly by an employer in hiring, pay, or promotions.
- Disparities in wages are an additional way that discrimination has traditionally been measured. Census data show that in Florida, the median income of men in same-sex couples is 10% lower than men in different sex marriages.
- At least 31 Florida counties and municipalities provide protection from sexual orientation and gender identity discrimination in employment by local ordinance.
- Approximately 46% of Florida's workforce is not covered by a local ordinance that prohibits sexual orientation and gender identity discrimination in employment.³
- 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. Twenty-five Fortune 1000 companies headquartered in Florida prohibit discrimination in employment based on sexual orientation, and fourteen Fortune 1000 companies headquartered in Florida have gender identity non-discrimination policies.
- Public opinion in Florida supports the passage of legal protections from workplace discrimination for LGBT people. A 2013 survey conducted in Florida found that 73% of respondents supported passage of the Competitive Workforce Act, legislation that would have added protections from sexual orientation and gender identity discrimination to existing state law. In addition, other polls find that 80% of Florida 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 154 additional complaints being filed with the Florida Commission on Human Relations each year.
- Because annual fluctuations in the number of discrimination complaints filed with the Florida Commission on Human Relations have varied from 36 to 2,120 complaints over the past five years, with no corresponding variation in the Commission’s budget, 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 Florida

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 reported that they had been treated unfairly by an employer in hiring, pay, or promotions.⁴ Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported that they had experienced workplace harassment in the last five years, and 12% had lost a job because of their sexual orientation.⁵ 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.⁶

Similar statistics have been found in surveys of LGBT individuals in Florida. In response to a 2010 campus climate survey, 63% of LGBT faculty and staff at the University of North Florida reported that they had experienced at least one incident of bias or harassment on campus because of their actual or perceived sexual orientation and/or gender identity/expression.⁷ Further, nearly 70% of the LGBT faculty and staff believed that being LGBT would lessen an employee’s chances of promotion.⁸

Additionally, in response to the national survey of transgender people, a significant number of transgender respondents from Florida reported experiencing adverse treatment at work because of their gender identity or gender expression.⁹ More specifically, 81% of the respondents from Florida reported experiencing harassment or mistreatment at work, 36% reported losing a job, 29% reported being denied a promotion, and 46% reported not being hired.

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.¹⁰

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

- In April 2014, a customer in a restaurant in Orlando allegedly mocked a gay manager's accent, which the customer perceived as stereotypically "gay," called the manager a "faggot" and a "homosexual," and accused the manager of having AIDS. The manager stated that after he spoke back to the customer, the customer started throwing food at him. The manager called the police, and the customer falsely accused him of attacking her. The customer then sued the restaurant. The manager was subsequently fired. A straight manager at the same restaurant had previously gotten into a physical fight with a customer and was not fired or reprimanded.¹¹
- In February 2012, a gay man working for an airline in Tallahassee was fired by his manager the day after he made a complaint to Human Resources about the manager constantly referring to him as "the homo" and "Tinkerbell."¹²
- In the fall of 2012, a transgender hotel worker in Orlando, who had worked at the hotel for fourteen years, was told by her manager, after she transitioned from male to female, that the hotel might not have any work for her. She continued to perform her work even after the manager's comment. She reported that other employees and supervisors repeatedly used incorrect gender pronouns when referring to her, and her manager told her not to use the guest restroom and required her to get permission to use the employee restroom for extended periods of time.¹³
- In August 2011, an employee who worked at the same company as her same-sex partner changed her emergency contact information to indicate that they were living together. Shortly thereafter, the employee was demoted with no explanation and with no record of discipline or negative feedback about her work. Additionally, the employee stated that after her contract information change, a company executive called her "sir" in a deliberately disrespectful way during a conference call.¹⁴
- In June 2011, an openly lesbian employee at a public school reported being insulted and humiliated for being a lesbian and for looking "like a man." According to the employee, one co-worker told her he would treat her like a man since she looks like one.¹⁵
- In May 2011, a transgender woman who worked on a contract basis as a technician at a lab in Hernando County reported that she was passed over for a full-time position at the lab, and subsequently fired from her contract, when she applied for the full-time position using her preferred name and gender. The firing came after she had been praised as an ethical and

diligent worker, and after her supervisor had sent her information about permanent job openings at the lab and encouraged her to apply. She stated that her supervisor called her an “embarrassment” because of her gender identity.¹⁶

- In October 2010, a transgender restaurant manager in Jacksonville stated that HR had determined she was not allowed to use the women’s bathroom due to a complaint by another employee.¹⁷
- In October 2010, a gay hospital employee who was not generally “out” at work reported that he was confronted by a colleague and asked, “How long have you had that homosexual lisp?” According to the employee, another colleague told him he was “the most boring gay person [he knew].” Two days after complaining to his manager of the harassment, he got an email saying his work was being audited, and he worried the manager was building a case to discharge him.¹⁸
- In 2007, the City Manager of Key Largo, Florida, was fired after she announced that she planned to undergo gender transition.¹⁹ The city commissioner who introduced the resolution to fire the manager claimed that her decision led to a lack of trust, respect and confidence among residence in Largo.²⁰

Wage Inequity

Census data show that men in same-sex couples in Florida earn less than men married to different-sex partners. On average, men in same-sex couples in Florida earn \$38,095 each year, significantly less than the \$46,680 for men married to different-sex partners.²¹ The median income of men in same-sex couples in Florida is \$30,000, 10% less than that of married men (\$33,200).²² 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,²³ 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.²⁴

Women in same-sex couples earn less than married men as well as men in same-sex couples.²⁵ Women in same-sex couples in Florida earn an average of \$30,241 per year (with a median of \$25,000), which is more than married women, whose earnings average \$25,374 (with a median of \$20,100).²⁶

These findings are not unique to Florida. 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.²⁷ Surveys of transgender people find that they have high rates of unemployment and very low earnings.²⁸

Current Protections from Discrimination

Florida does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.²⁹ However, efforts have been made to pass such a law in Florida since 2007.³⁰ The most recent bills, S.B. 348 and H.B. 239, each died in committee in early May 2014.³¹ Those bills would have prohibited employment discrimination based on sexual orientation and gender identity by adding the characteristics to the existing employment non-discrimination statute, the Florida Civil Rights Act of 1992.³²

Several localities, universities, and private corporations in Florida have adopted local ordinances and internal policies that prohibit discrimination based on sexual orientation and gender identity in employment.

The Florida Civil Rights Act

Currently, the Florida Civil Rights Act of 1992 (“FCRA”) prohibits employment discrimination by most employers with fifteen or more employees³³ on the bases of race, religion, sex, national origin, age, disability, and marital status.³⁴ The FCRA applies to both public sector and private sector employers.³⁵ It exempts religious organizations from coverage insofar as such organizations may give employment preference to “individuals of a particular religion to perform work connected with the carrying on by the [religious organization] of its various activities.”³⁶

The Florida Commission on Human Relations enforces the FCRA. The Commission has the power to receive, initiate, investigate, conciliate, hold hearings on, and act upon complaints alleging discriminatory practice, as well as research discriminatory conduct in Florida more broadly.³⁷ An employee must file a case with the Commission within 365 days after the discriminatory practice occurred.³⁸

In fiscal year 2013, the Commission received 1,298 new cases of employment discrimination, resulting in 1,218 resolutions.³⁹ The Commission also does intake and mediations regarding claims of housing discrimination, public accommodation discrimination, and whistle-blower retaliation, although the vast majority of the claims the Commission handles pertain to employment discrimination.⁴⁰

Local-Level Protections from Discrimination

At least 31 counties and municipalities in Florida have adopted ordinances that prohibit employment discrimination based on sexual orientation and gender identity.⁴¹ Approximately 46% of Florida’s workforce is not covered by a local ordinance that prohibits sexual orientation and gender identity discrimination in employment.⁴²

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.⁴³ 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.⁴⁴

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.⁴⁵ 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.⁴⁶ 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.⁴⁷

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.⁴⁸ A number of states have similar laws that apply to state government contracts.⁴⁹ Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

Many of Florida'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 70 companies headquartered in Florida prohibit discrimination based on sexual orientation, including 25 Fortune 1000 companies.⁵⁰ Twenty-three companies headquartered in Florida have gender identity non-discrimination policies, including fourteen Fortune 1000 companies.⁵¹ Additionally, many public universities include sexual orientation and gender identity/expression in their non-discrimination policies, including the University of Florida, Florida State University, the University of Central Florida, and the University of South Florida.⁵²

In addition to internal policies, at least one business has taken into account area non-discrimination laws when choosing to relocate business operations. In a letter to The Florida Times-Union, attorney Marianna Smith noted how the CEO of a multi-million dollar company, for which Smith sits on the board, decided against relocating operations to Jacksonville, Florida, after the city council voted down a non-discrimination ordinance meant to protect citizens from sexual orientation discrimination. After the vote against the anti-discrimination ordinance, the CEO decided to look for cities more willing to adopt non-discrimination provisions to relocate the company's operations.⁵³

Public Opinion

Public opinion in Florida supports the passage of non-discrimination protections for LGBT people. An opinion survey conducted in 2013 found strong support for state-level legal protections from employment discrimination for LGBT people. In response to the poll, 73% of respondents said they supported passage of the Competitive Workforce Act, legislation that would have added protections from sexual orientation and gender identity discrimination to the existing state non-discrimination law.⁵⁴ Similarly, 78% of Florida respondents to a 2011 national poll said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.⁵⁵

In addition, public opinion data indicate that Florida residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 80% of Florida residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.⁵⁶

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.⁵⁷ 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.⁵⁸

We estimate that approximately 154 complaints of sexual orientation or gender identity discrimination would be filed with the Florida Commission on Human Relations each year. To reach this estimate, we drew on Gallup polling data and Census data from Florida 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.⁵⁹

Results from a 2012 Gallup poll show that 3.5% of people in Florida identify as LGBT.⁶⁰ Applying this percentage to the number of people in Florida's workforce (9,357,917⁶¹) indicates that there are 327,527 LGBT workers in Florida.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Florida 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.⁶² 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.⁶³ There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.⁶⁴ 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 Florida (327,527) suggests that 154 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 154 complaints could be absorbed into the Commission’s exiting budget with minimal impact on staff and resources. According to the Commission’s five most recent annual reports (2009 through 2013), the Commission received an annual average of 1,877 complaints of discrimination in employment, housing, public accommodations, and whistle-blower complaints.⁶⁵ The annual reports do not provide enough data to determine the cost of enforcement per complaint, so it is not possible to precisely estimate any added expense associated with the additional 154 complaints.

However, the data suggest that the additional complaints would have a minimal impact on the Commission. Annual fluctuations in the number of complaints filed with the Commission have varied from 36 to 2,120 complaints over the five fiscal year periods from 2009 through 2013.⁶⁶ Over this time period, the Commission’s budget varied from \$3,881,248 to \$5,013,681.⁶⁷ Changes in the budget did not correspond to fluctuations in the number of complaints filed. For example, there was an increase of 1,702 complaints handled by the Commission from fiscal year 2009 to fiscal year 2010,⁶⁸ yet the Commission’s 2010 budget was \$675,997 less than its 2009 budget.⁶⁹ This information suggests that the additional complaints could be absorbed into the existing budget with minimal impact on the Commission.

| Fiscal Year ⁷⁰ | Number of Complaints Handled | Budget |
|---------------------------|------------------------------|-------------|
| 2013 | 1,611 | \$4,003,498 |
| 2012 | 1,575 | \$3,881,248 |
| 2011 | 1,221 | \$4,355,259 |
| 2010 | 3,341 | \$4,337,704 |
| 2009 | 1,639 | \$5,013,681 |

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Florida. There is currently no statewide law that prohibits employment discrimination based on sexual orientation or gender identity in Florida. Adding these characteristics to the Florida Civil Rights Act would provide protection from discrimination to approximately 328,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 154 complaints of sexual orientation or gender identity employment discrimination would be filed in Florida annually if the law were amended. Given fluctuations in the annual budget and the number of complaints filed, it is likely that the additional 154 complaints would have no noticeable impact on the Commission'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

¹ FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, FLORIDA RESULTS, NATIONAL CENTER FOR TRANSGENDER GAY AND LESBIAN TASK FORCE, http://www.endtransdiscrimination.org/PDFs/ntds_state_fl.pdf.

² These estimates were reached by applying the percentage of people in Florida that are LGBT (3.5%) to the population of Florida aged 16 years and older (15,364,895) and the number of people in the Florida civilian labor force (9,357,917), 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, *available at* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5YR_DP03.

³ 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).

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⁷ UNIV. OF NORTH FLORIDA, CAMPUS CLIMATE SURVEY FOR SEXUAL ORIENTATION AND GENDER IDENTITY AND EXPRESSION, (2011), <http://www.unf.edu/uploadedFiles/sa/lgbt/CampusClimateJune2011.pdf>.

⁸ *Id.*

⁹ FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, FLORIDA RESULTS, NATIONAL CENTER FOR TRANSGENDER GAY AND LESBIAN TASK FORCE, http://www.endtransdiscrimination.org/PDFs/ntds_state_fl.pdf.

¹⁰ SEARS & MALLORY, *supra* note 5.

¹¹ Email from Ming Wong, Law Clerk, National Center for Lesbian Rights (June 19, 2014, 4:19 PM EST) (on file with author).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Florida city manager fired over sex-change plan*, Advocate.com, March 3, 2007, <http://www.advocate.com/news/2007/03/03/florida-city-manager-fired-over-sex-change-plan>.

²⁰ *Id.*

²¹ ADAM P. ROMERO, AMANDA K. BAUMLE, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: FLORIDA 2 (2007), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/FloridaCensus2000Snapshot.pdf>.

²² *Id.*

²³ *Id.*

²⁴ 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>.

²⁵ ROMERO, ROSKY, BADGETT & GATES, *supra* note 21 at 2.

²⁶ *Id.*

²⁷ 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).

²⁸ *Id.*

²⁹ See JEROME HUNT, CTR. AM. PROG. ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES 3 (June 2012), http://cdn.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/state_nondiscrimination.pdf.

³⁰ H.B. 639, 2007 Leg., 1st Reg. Sess. (F.L. 2007); S.B. 2628, 2007 Leg., 1st Reg. Sess. (F.L. 2007); H.B. 191, 2008 Leg., 1st Reg. Sess. (F.L. 2007); S.B. 2628 C.S., 2008 Leg., 1st Reg. Sess. (F.L. 2007); H.B. 397, 2009 Leg., 1st Reg. Sess. (F.L. 2009); S.B. 2012, 2009 Leg., 1st Reg. Sess. (F.L. 2009); H.B. 391, 2010 Leg., 1st Reg. Sess. (F.L. 2009); S.B. 798, 2010 Leg., 1st Reg. Sess. (F.L. 2009); H.B. 361, 2011 Leg., 1st Reg. Sess. (F.L. 2011); S.B. 346, 2011 Leg., 1st Reg. Sess. (F.L. 2011); H.B. 247, 2012 Leg., 1st Reg. Sess. (F.L. 2011); S.B. 340, 2012 Leg., 1st Reg. Sess. (F.L. 2011); H.B. 653, 2013 Leg., 1st Reg. Sess. (F.L. 2013); S.B. 710, 2013 Leg., 1st Reg. Sess. (F.L. 2013); H.B. 239, 2014 Leg., 1st Reg. Sess. (F.L. 2013); S.B. 348, 2014 Leg., 1st Reg. Sess. (F.L. 2013).

³¹ H.B. 239, 2014 Leg., Reg. Sess. (F.L. 2013); S.B. 348, 2014 Leg., Reg. Sess. (F.L. 2013); *see also* HB 239 – Prohibited Discrimination, Florida House of Representatives, <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51356&> (last visited Jun. 16, 2014) (includes most recent information on the Bill); SB 348 – Prohibited Discrimination, Florida House of Representatives, <http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51372&> (last visited Jun. 16, 2014) (includes most recent information on the Bill).

³² Fla. Stat. Ann. § 760.01 (2014).

³³ Fla. Stat. Ann. §§ 760.02(7), 760.10 (2014).

³⁴ Fla. Stat. Ann. § 760.10 (2014).

³⁵ Fla. Stat. Ann. §§ 760.02(6)-(7) (2014).

³⁶ Fla. Stat. Ann. § 760.10(9) (2014).

³⁷ Fla. Stat. Ann. § 760.06 (2014).

³⁸ Fla. Stat. Ann. § 760.11 (2014).

³⁹ F.L. COMMISSION ON HUM. RELATIONS, 2012-2013 ANNUAL REPORT 6 (June 17, 2014), http://fchr.state.fl.us/fchr/content/download/7727/45028/file/FCHR_AnnualReport_2013.pdf.

⁴⁰ *Id.*

⁴¹ ALACHUA COUNTY, FLA., CODE § 11.03 (2014); ATLANTIC BEACH, FLA., CODE § 9-3 (2014); BROWARD COUNTY, FLA., CODE § 16.5-33 (2014); GAINESVILLE, FLA., CODE § 8-46 (2013); GULFPORT, FLA., CODE § 26-22 (2011); HILLSBOROUGH COUNTY, FLA., CODE § 30-22 (2014); KEY WEST, FLA., CODE § 38-221 (2014); LAKE WORTH, FLA., CODE § 20-2 (2013); LEON COUNTY, FLA.,

CODE § 9-25 (2013); MIAMI, FLA., CHARTER PT. 1, § 52 (2014); MIAMI BEACH, FLA., CODE §§ 62-31, 62-86 (2014); MIAMI-DADE COUNTY, FLA., CODE § 11A-26 (2013); MONROE COUNTY, FLA., CODE § 14-41 (2013); ORANGE COUNTY, FLA., CODE § 22-26 (2014); ORLANDO, FLA., CODE § 57-14 (2014); OAKLAND PARK, FLA., CODE § 2-158 (2014); PALM BEACH COUNTY, FLA., CODE § 2-263 (2014); PINELLAS COUNTY, FLA., CODE § 70-53 (2014); SARASOTA, FLA., CODE § 18-38 (2014); ST. AUGUSTINE BEACH, FLA., ORD. NO. 2013-03 (2013); TAMPA, FLA., CODE § 12-26 (2014); VENICE, FLA., CODE § 2-354 (2014); VOLUSIA COUNTY, FLA., CODE § 36-27 (2014); WEST PALM BEACH, FLA., CODE § 42-31 (2014).

⁴² 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).

⁴³ 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>.

⁴⁴ *Id.*

⁴⁵ 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>.

⁴⁶ 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.

⁴⁷ Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).

⁴⁸ 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).

⁴⁹ 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.

⁵⁰ Human Rights Campaign, Corporate Employer Database, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (search for Headquarters State: Florida; Key Policies: Sexual Orientation in Non-discrimination Policy; and Includes Policy: Yes).

⁵¹ Human Rights Campaign, Corporate Employer Database, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (search for Headquarters State: Florida; Key Policies: Gender Identity in Non-Discrimination Policy; and Includes Policy: Yes).

⁵² *Colleges and Universities with Nondiscrimination Policies that Include Gender Identity/Expression*, Campus Pride, <http://www.campuspride.org/tpc-nondiscrimination/>.

⁵³ Marianna S. Smith, *Lead Letter: CEO decides not to move to Jacksonville after council vote against gay rights bill*, The Florida Times-Union, Oct. 3, 2012, <http://members.jacksonville.com/opinion/letters-readers/2012-10-03/story/lead-letter-ceo-decides-not-move-jacksonville-after-council>.

⁵⁴ *Floridians Support Ban on Sexual Orientation Discrimination, Report Finds*, Univ. of Fla. News, Apr. 18, 2013, <http://news.ufl.edu/archive/2013/04/floridians-support-ban-on-sexual-orientation-discrimination-uf-poll-finds.html>.

⁵⁵ 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).

⁵⁶ 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).

⁵⁷ 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-Emply-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).

⁵⁸ *Id.*

⁵⁹ See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

⁶⁰ Gary J. Gates & Frank Newport, *supra* note 2.

⁶¹ 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.

⁶² “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 57.

⁶³ 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 57.

⁶⁴ BADGETT, RAMOS & SEARS, *supra* note 57, at 5.

⁶⁵ See data on complaint filings as reported in F.L. COMMISSION ON HUM. RELATIONS, 2012-2013 ANNUAL REPORT 6, http://fchr.state.fl.us/fchr/content/download/7727/45028/file/FCHR_AnnualReport_2013.pdf (last visited Aug. 21, 2014); F.L. COMMISSION ON HUM. RELATIONS, 2012- A YEAR IN REVIEW 2, <http://fchr.state.fl.us/fchr/content/download/7897/46004/file/Annual%20Report%202011-12.pdf> (last visited Aug. 21, 2014); F.L. COMMISSION ON HUM. RELATIONS, ANNUAL REPORT 2010-2011 4, <http://fchr.state.fl.us/fchr/content/download/6755/38075/file/FCHR%20Annual%20Report%202010-2011.pdf> (last visited July 30, 2014); F.L. COMMISSION ON HUM. RELATIONS, 2009-2010 ANNUAL REPORT 5, <http://fchr.state.fl.us/fchr/content/download/6450/35571/file/2009-2010%20Annual%20Report-----FINAL.pdf> (last visited July 30, 2014); F.L. COMMISSION ON HUM. RELATIONS, ANNUAL REPORT 2008-2009 4, http://fchr.state.fl.us/fchr/content/download/6214/33506/file/Annual%20Report_Final%20-%203.6.10%20-%20LowRes.pdf (last visited July 30, 2014).

⁶⁶ *Id.*

⁶⁷ F.L. COMMISSION ON HUM. RELATIONS, 2012-2013 ANNUAL REPORT, *supra* note 65 at 5.

⁶⁸ F.L. COMMISSION ON HUM. RELATIONS, 2009-2010 ANNUAL REPORT, *supra* note 65 at 5; F.L. COMMISSION ON HUM. RELATIONS, ANNUAL REPORT 2008-2009, *supra* note 65 at 4.

⁶⁹ F.L. COMMISSION ON HUM. RELATIONS, 2012-2013 ANNUAL REPORT, *supra* note 65 at 5.

⁷⁰ Data in this table can be found in the annual reports from fiscal year 2009 through 2013, *supra* note 65.