The Impact of Stigma and Discrimination against LGBT People in Arizona

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March 2018
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ACKNOWLEDGEMENTS
In addition, the following scholars made substantial contributions to the paper:

Jody L. Herman, PhD, Scholar of Public Policy at the Williams Institute co-authored the section on the impact of gender identity discrimination in Arizona on Medicaid expenditures.

This report was informed by an approach to understand the economic consequences of stigma and discrimination articulated in: M.V. Lee Badgett, Sheila Nezhad, Kees Waaldijk & Yana Van der Meulen Rodgers, USAID & Williams Inst., The Relationship Between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies 2 (2014)

We thank Kerith J. Conron, Blachford-Cooper Distinguished Scholar and Research Director at the Williams Institute, for her review and contributions to the research presented in this report.
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EXECUTIVE SUMMARY

Arizona is home to over 203,000 LGBT adults and 45,550 LGBT youth. LGBT people in Arizona lack important legal protections and face a less supportive social climate than LGBT people in many other states. For example, statewide laws in Arizona offer no protections from discrimination based on sexual orientation or gender identity in areas such as employment, housing, and public accommodations. State laws in Arizona also fail to adequately protect LGBT students from bullying. In terms of social climate, Arizona ranks 29th in the nation on public support for LGBT rights and acceptance of LGBT people. However, a number of businesses and some localities in Arizona have adopted LGBT-inclusive non-discrimination policies, and social attitudes toward LGBT people are becoming more positive over time.

The legal landscape and social climate for LGBT people in Arizona likely contributes to an environment in which LGBT people experience stigma and discrimination. Stigma and discrimination can take many forms, including discrimination and harassment in employment and other settings, bullying and family rejection of LGBT youth, overrepresentation in the criminal justice system, and violence. Research has linked stigma and discrimination against LGBT people to negative effects on individuals, businesses, and the economy.

In this study, we provide data and research documenting the prevalence of several forms of stigma and discrimination against LGBT adults and youth in Arizona, including discrimination and harassment in employment, housing, and public accommodations; bullying and harassment in schools; and family rejection of LGBT youth. We discuss the implications of such stigma and discrimination on LGBT individuals, in terms of health and economic security; on employers, in terms of employee productivity, recruitment, and retention; and on the economy, in terms of health care costs and reduced productivity.

To the extent that Arizona is able to move toward creating a more supportive environment for LGBT people, it would likely reduce economic instability and health disparities experienced by LGBT individuals, which, in turn, would benefit the state, employers, and the economy.
KEY FINDINGS INCLUDE:

Prevalence of Stigma and Discrimination against LGBT People in Arizona

LGBT People in Arizona Experience Discrimination in Employment, Housing, and Public Accommodations

- The 2015 U.S. Transgender Survey report documented evidence of discrimination against transgender people in a range of areas, including employment, housing, and public accommodations. For example, in terms of employment discrimination, the survey found that of transgender respondents from Arizona who had or applied for a job in the prior year, 27% reported “being fired, being denied a promotion, or not being hired for a job” because of their gender identity or expression. Ten percent of respondents who had a job in the prior year reported being verbally harassed and 1% reported being sexually assaulted at work in the prior year because of their gender identity. Additionally, “15% of respondents who had ever been employed reported losing a job at some point in their lives because of their gender identity or expression.” Similar percentages of transgender people in Arizona had experienced discrimination in housing or public accommodations in the prior year.¹

- A 2014 survey of faculty and staff at the University of Arizona found that LGBTQ+ faculty and staff have experienced harassment and discrimination on campus. Nearly 75% of LGBQ+ and 18% of trans faculty and staff said that they had heard anti-LGBTQ+ slurs and comments on campus. Six percent of LGBQ+ and 9% of trans faculty and staff said they heard these comments once per day. Over four percent of LGBTQ+ faculty and staff said they felt intimidated or threatened and 3% said they feared for their physical safety on campus because of their sexual orientation or gender identity.²

- A public opinion poll of Arizona voters conducted in 2017 found that 64% of respondents said that there continue to be many ways that LGBTQ people are treated unequally, despite now being able to legally marry.³

- A public opinion poll conducted in 2016 found that 59% of Arizona residents thought that gay and lesbian people experience a lot of discrimination in the U.S. and 64% of residents thought that transgender people experience a lot of discrimination in the U.S.⁴

Analysis of aggregated public opinion data collected from 2011 through 2013 indicated that 79% of Arizona residents thought that LGBT people experience discrimination in the state.\(^5\)

Instances of employment, housing, and public accommodations discrimination against LGBT people in Arizona have also been documented in a number of court cases and administrative proceedings, and in the media.

**LGBT Youth and Young Adults in Arizona Experience Bullying and Harassment at School**

- In response to a 2014 survey, many LGBQ+ and trans students at the University of Arizona reported that they had experienced verbal harassment and discrimination related to their sexual orientation and gender identity on campus. Twenty-two percent of LGBTQ+ students reported experiencing discrimination based on their sexual orientation or gender identity on campus, and most (70%) did not report the incident to an authority figure, such as the Dean or Students or the University of Arizona Police Department. Additionally, over 97% of trans students and 64% of LGBQ+ student reported hearing anti-LGBTQ slurs and comments on campus at least sometimes. Approximately 5% of LGBQ+ students said they felt “not very safe” and 51.2% said they felt only “somewhat safe” on campus.\(^6\)
- The 2015 GLSEN National School Climate survey of LGBTQ middle- and high-school students found that 71% of respondents from Arizona said they had experienced verbal harassment based on their sexual orientation at school, and 55% said they had experienced verbal harassment based on their gender expression at school in the year prior to the survey. Many students also reported experiencing physical harassment based on their sexual orientation (29%) or gender identity (20%) at school in the year prior to the survey. In addition, 11% of respondents reported that they had experienced physical assault at school because of their sexual orientation and 10% of respondents said they had experienced physical assault because of their gender identity at school in the year prior to the survey.\(^7\)
- The 2015 National Transgender Survey report found that 48% of survey respondents from Arizona who were out or perceived as transgender while in grades K-12 experienced verbal harassment, 24% experienced physical assault, and 8% experienced sexual violence while in school.\(^8\)

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\(^6\) PRING ET AL., supra note 2 at 16-18, 42.


\(^8\) The survey used a non-probability sampling method. THE NATIONAL CENTER FOR TRANSGENDER EQUALITY & ONE COMMUNITY, supra note 1 at 1.
Impact of Stigma and Discrimination on LGBT Individuals

**LGBT People in Arizona Experience Economic Instability**
- Stigma and discrimination against LGBT workers can lead to economic instability, including lower wages and higher rates of poverty.
- Gallup polling data from 2012-2014 found that 39% percent of LGBT adults in Arizona reported having an annual household income below $24,000, compared to 24% of non-LGBT adults.
- LGBT adults in Arizona were also nearly twice as likely to report that they did not have enough money for food as non-LGBT adults (35% v. 18%).
- In addition, LGBT adults were more likely to be unemployed: 12% of LGBT adults in Arizona reported that they were unemployed compared to 8% of non-LGBT adults.
- The 2015 U.S. Transgender Survey found that 16% of respondents in Arizona were unemployed and 28% were living in poverty. In addition, 14% of respondents in Arizona reported experiencing homelessness within the prior year because of being transgender.

**LGBT Adults and Youth in Arizona Experience Health Disparities**
- Research indicates that stigma and discrimination contribute to adverse health outcomes for LGBT people such as major depressive disorder, binge drinking, substance use, and suicidality. Similarly, bullying and family rejection, as well as social stigma more broadly, have been linked to increased likelihood of school dropout, suicide, and substance use among LGBT youth.
- LGBT adults in Arizona who completed the 2012 Behavioral Risk Factor Surveillance System survey were significantly more likely to have been diagnosed with a depressive disorder by a health care professional than non-LGB adults who completed the survey (35.2% v. 18.9%). In addition, LGB adults were significantly more likely to report current smoking (27.6% v. 16.4%) than non-LGBT adults.
- The 2015 Arizona Youth Risk Behavior Survey found that LGB students were much more likely than non-LGB students to have seriously considered

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9 The National Center for Transgender Equality & One Community, supra note 1 at 1.
10 Id.
suicide (47.2% v. 14.9%), to have planned for suicide (42.3% v. 13.4%), and to have required medical care as a result of a suicide attempt (9.9% v. 1.9%) in the year prior to the survey. LGB students in Arizona were also more likely than non-LGB students to report smoking cigarettes (20.7% v. 9.1%), drinking (44.6% v. 33.8%), and using marijuana (37.4% v. 22.0%) in the month prior to the survey.

- Similarly, a 2014 survey of college students at the University of Arizona found that 43.4% of LGBTQ+ students said they had been diagnosed with depression, 40.8% said they had been diagnosed with anxiety, and 32.2% said they had been diagnosed with both. Among non-LGBTQ+ students, 14.0% said they had been diagnosed with depression, 19.4% said they had been diagnosed with anxiety, and 14.0% said they had been diagnosed with both. Additionally, 25.2% of LGBTQ+ students said they had seriously considered attempting suicide at least once in the prior school year and 4% had actually attempted suicide at least once in the prior school year. By comparison, 4.0% of non-LGBTQ+ students said they had seriously considered attempting suicide at least once in the prior school year and 1.1% had actually attempted suicide at least once in the prior school year.11

Economic Impacts of Stigma and Discrimination

*Discrimination against LGBT People in Employment and Other Settings Has Economic Consequences for Employers and the State Government*

- **Productivity.** Unsupportive work environments can mean that LGBT employees are less likely to be open about their sexual orientation or gender identity at work, and more likely to be distracted, disengaged, or absent, and to be less productive. These outcomes could lead to economic losses for state and local governments, as employers, and private businesses in the state. Given that an estimated 112,000 workers in Arizona identify as LGBT, the loss in productivity from a discriminatory environment could be significant.

- **Retention.** LGBT employees in less supportive work environments feel less loyal to their employers and are more likely to plan to leave their jobs. Given the average replacement costs of an employee, public and private employers risk losing $9,260, on average, for each employee who leaves the state or changes jobs because of an unsupportive policy or social environment in Arizona.

- **Recruitment.** Many LGBT and non-LGBT workers, in particular those who are younger and more highly educated, prefer to work for companies with more LGBT-supportive policies, and in states with more supportive laws. To the extent that workers from other states perceive Arizona to be unsupportive of LGBT people, it may be difficult for public and private employers in the state to recruit talented employees from other places.

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11 PRING ET AL., supra note 2 at 37
- **Public Benefits Expenditures.** Discrimination can lead to hardships for individuals including lower earnings, underemployment or unemployment, and loss of housing, which in turn can lead to increased reliance on public benefits. As an illustration of how the state is impacted by the economic instability of LGBT residents, we estimate that discrimination in the workplace against transgender people annually costs Arizona approximately $562,000 in state Medicaid expenditures.

**Bullying and Family Rejection of LGBT Youth Negatively Impact the Economy**
- Bullying and family rejection of LGBT youth can cause them to miss or drop out of school, become homeless, or be unemployed or underemployed.
- In response to the 2015 U.S. Transgender Survey, 17% of respondents who experienced harassment while K-12 students said the harassment was so severe that they had to leave school.12
- School drop-out and homelessness that arise due to bullying and family rejection are harmful not only to individual LGBT youth, but also have societal consequences in that they reduce the capacity of these youth to contribute to the economy as adults.
- In addition, school-based harassment and family rejection can increase costs to the state via Medicaid expenditures, incarceration, and lost wages. The Jim Casey Foundation has estimated that homelessness, juvenile justice involvement, and poor educational and employment outcomes cost nearly $8 billion per cohort that ages out of foster care each year in the U.S. The best available data suggest that LGBT youth make up one-fifth, if not more, of each annual aging out cohort.

**Health Disparities for LGBT People Negatively Impact the Economy**
- A more supportive legal landscape and social climate for LGBT people in Arizona would likely reduce health disparities between LGBT and non-LGBT people, which would increase worker productivity and reduce health care costs.
- We estimate that reducing the disparity in major depressive disorder between LGBT and non-LGBT people in Arizona by 25% to 33.3% could benefit the state’s economy by $78.0 million to $104.5 million annually; reducing the disparity in current smoking by the same proportion could benefit the state’s economy by $35.6 million to $47.4 million in increased productivity and reduced health care costs each year.

<table>
<thead>
<tr>
<th>Health Characteristic</th>
<th>Reduction in disparity between LGBT and Non-LGBT Arizonans</th>
<th>LGBT individuals impacted</th>
<th>Annual reduction in costs (millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Depressive Disorder</td>
<td>25%-33.3%</td>
<td>5,000-6,700</td>
<td>$78.0 - $104.5</td>
</tr>
<tr>
<td>Smoking</td>
<td>25%-33.3%</td>
<td>5,700-7,600</td>
<td>$35.6 - $47.4</td>
</tr>
</tbody>
</table>

12 The National Center for Transgender Equality & One Community, supra note 1 at 1.
SECTION I. LGBT POPULATION, LEGAL LANDSCAPE, AND SOCIAL CLIMATE IN ARIZONA

Arizona is home to an estimated 203,000 LGBT adults and approximately 45,550 LGBT youth who reflect the diversity of the state’s overall population. There are few legal protections for LGBT people in Arizona. Additionally, the state is ranked 29th in the nation in terms of LGBT social climate (as measured by public support for LGBT rights and acceptance of LGBT people). However, despite this standing, public opinion polls also show that a majority of Arizonans support extending discrimination protections to LGBT people.

A. LGBT People in Arizona

1. LGBT Adults in Arizona

Arizona is home to approximately 203,000 LGBT adults (3.9% of adults in the state self-identify as LGBT), including 30,550 transgender adults (0.62% of the state’s adult population). LGBT adults in Arizona are diverse across many socio-demographic characteristics, including age, sex, race-ethnicity, and the presence of children in the household.

- Representative data from the combined 2012-2014 Gallup Daily Tracking Surveys indicate that LGBT adults in Arizona, like LGBT adults elsewhere in the United States, are younger than non-LGBT adults. As shown in Table 1 below, nearly half of LGBT adults in Arizona are under the age of 40.

- Approximately half of both LGBT and non-LGBT adults are female.

- A little more than one-third of LGBT adults in Arizona are people of color, including 22% Latino/a, 4% African American/Black, 18% Latino/a, 3% American Indian or

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13 See Section I.B., infra for a discussion of the legal landscape for LGBT people in Arizona.
15 See Section I.C., infra.
18 LGBT Data & Demographics: Arizona, supra note 16.
Alaska Native, 1% Asian or Pacific Islander, and 6% who identify as another race other than White.

Table I.a. Weighted Characteristics of Arizona Adult Participants in the 2012-2014 Gallup Daily Tracking Surveys by LGBT and non-LGBT Status (N = 9,008)\(^{19}\)

<table>
<thead>
<tr>
<th></th>
<th>LGBT (n = 303)</th>
<th>Non-LGBT (n = 8,705)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18-24</td>
<td>24</td>
<td>12</td>
</tr>
<tr>
<td>25-39</td>
<td>24</td>
<td>23</td>
</tr>
<tr>
<td>40-64</td>
<td>40</td>
<td>43</td>
</tr>
<tr>
<td>65+</td>
<td>12</td>
<td>22</td>
</tr>
<tr>
<td>Sex</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>52</td>
<td>51</td>
</tr>
<tr>
<td>Male</td>
<td>48</td>
<td>49</td>
</tr>
<tr>
<td>Race-ethnicity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>63</td>
<td>69</td>
</tr>
<tr>
<td>African-American/Black</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Latino/a or Hispanic</td>
<td>22</td>
<td>18</td>
</tr>
<tr>
<td>Asian-Pacific Islander</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>American Indian or Alaska Native</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Children under 18 in Household</td>
<td>27</td>
<td>38</td>
</tr>
</tbody>
</table>

- Many LGBT adults in Arizona are raising children, in the context of same- and opposite-sex relationships, married and unmarried, and as single parents. Approximately 27% of LGBT adults in Arizona (54,900 individuals)\(^{20}\) and about one in six cohabiting same-sex couples are raising children.\(^{21}\) As of 2015, there were approximately 43,200 same-sex couples (married or unmarried but cohabiting) living in Arizona.\(^{22}\) While different-sex married couples are more likely to be raising children than same-sex couples, among cohabiting couples with children, same-sex couples are about twice as likely to be raising adopted children as different-sex couples in the state (6% v. 3%).\(^{23}\)

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\(^{19}\) Id.

\(^{20}\) Id.

\(^{21}\) Unpublished analyses conducted by The Williams Institute of data from the combined 2015 American Community Survey 1-Year estimates restricted to cohabiting couples in Arizona indicate that 41.2% of different-sex couples and 16.2% of same-sex couples have a child under the age of 18 in the household.

\(^{22}\) Unpublished analyses conducted by The Williams Institute. This figure is calculated by multiplying the number of LGBT adults in Arizona in 2015 (203,000) by the percent of LGBT adults who are married to a spouse of the same sex (9.6%) and the percent of LGBT adults who are in a cohabiting, unmarried same-sex couple (11.7%) as of November, 2015. The sum of these two estimates equals the number of cohabiting same-sex couples in Arizona in 2015. See Jeffrey M. Jones & Gary J. Gates, *Same-sex Marriages up After Supreme Court Ruling*, GALLUP (Nov. 5, 2015), [http://news.gallup.com/poll/186518/sex-marriages-supreme-court-ruling.aspx](http://news.gallup.com/poll/186518/sex-marriages-supreme-court-ruling.aspx) (Detailing estimates of the proportion of LGBT adults who are in married or unmarried couples).

2. LGBT Youth in Arizona

The Youth Risk Behavior Surveillance System survey (YRBS) is a state-administered, school-based survey of health and health determinants that is managed by the Centers for Disease Control and Prevention (CDC). The YRBS is one of the few sources of data about LGB youth in grades 9 through 12. In 2016, the CDC released a report about the health and well-being of these youth from states and large urban school districts that included measures of sexual orientation in their 2015 YRBS survey. Questions that would make transgender youth participants identifiable on the YRBS were not in the 2015 survey.

Weighted estimates from the Arizona YRBS indicate that 9.7% of youth in grades 9-12 identify as gay or lesbian (2.7%) or bisexual (7.0%) (see Figure I.a.). In Arizona, as in the national YRBS sample, youth are more likely to identify as bisexual than gay or lesbian.

Figure I.a. Percentage of Students Who Identify as Gay or Lesbian or Bisexual in Arizona and in the U.S.
Source: Laura Kann et al., Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9–12, United States and Selected Sites, 2016

We estimate that there are approximately 45,550 LGBT youth in the state of Arizona, including almost 43,600 LGB youth, 1,700 of whom are also transgender, (9.7%, of 449,388 youth ages 13 to 17 in Arizona) plus an approximate 1,950 transgender youth who are straight/heterosexual (i.e., are not LGB). In total, an estimated 3,650 youth ages 13 to 17 in

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25 Id. at 85.
26 Id. at 83.
27 Using the national estimate, we assume the same distribution of sexual orientation across all youth in the state, including those who declined to answer this question on the YRBS and those who are not enrolled in school.
28 Population data (aged 13-17) derive from the 2011-2013 American Community Survey 3-Year estimates.
Arizona are transgender.\textsuperscript{29} We estimate that 54\% of these transgender youth identify as straight/heterosexual.\textsuperscript{30}

**Figure 1.b. Estimates of the LGBT Youth Population of Arizona ages 13-17**
Sources: Arizona YRBS, 2015; American Community Survey, 2015

<table>
<thead>
<tr>
<th>Category</th>
<th>Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transgender youth</td>
<td>1,700</td>
</tr>
<tr>
<td>Transgender, non-LGB youth</td>
<td>1,950</td>
</tr>
<tr>
<td>Transgender, LGB youth</td>
<td></td>
</tr>
<tr>
<td>LGBT Youth</td>
<td>41,900</td>
</tr>
<tr>
<td>LGB, cisgender youth</td>
<td></td>
</tr>
</tbody>
</table>

Nationally, LGB youth are more likely to be female than male. Among national YRBS participants, male and female students were equally as likely to identify as gay or lesbian (2.0\%). However, a larger percentage of female students identified as bisexual than male students (9.8\% versus 2.4\%, respectively).

**B. Legal Landscape for LGBT People in Arizona**

Arizona’s legal landscape reflects a history of state laws and policies that limit protections for LGBT people or discriminate against them. Although same-sex couples have been able to legally marry in the state since October 2014,\textsuperscript{31} the state and most localities continue to lack protections from sexual orientation and gender identity discrimination in the workplace, housing, public accommodations, and other areas.

\textsuperscript{29} FLORES ET AL., supra note 17 at 4.
\textsuperscript{30} Unpublished analyses conducted by The Williams Institute of data from the combined 2014-2015 Behavioral Risk Factor Surveillance System (BRFSS) restricted to transgender-identified participants ages 18-24 indicate that 54\% identify as straight.
1. Historical Legal Landscape

Although Arizona’s sodomy law was repealed in 2001, and marriage rights were extended to same-sex couples in 2014, these historical anti-LGBT laws likely have lingering negative effects on the social climate for LGBT people in the state.

**Sodomy Law.** Enforcement of Arizona’s sodomy law indicates a centuries-long history of discrimination against LGB people in the state. In 1864, the Arizona Legislature enacted a criminal sodomy law that carried a penalty of five years to life in prison. The law was expanded to include additional forms of sexual activity in 1913 and again in 1917, but the penalty was reduced to one to five years imprisonment. Arizona laws enacted later required individuals convicted under the state’s sodomy laws, including those who engage in consensual sexual activity with other adults, to register as sex offenders. In 2001, the state repealed its sodomy law.

The state’s sodomy laws, as written, applied to sexual activity between both same-sex and different-sex partners. However, available case law suggests that the sodomy laws were disproportionately enforced against male same-sex partners.

**Marriage Equality.** Decades before any state extended marriage to same-sex couples, the Arizona Legislature passed several statutes restricting relationship recognition for same-sex couples. Arizona first enacted legislation defining marriage as a union between a man and a woman in 1975. In 1996, the Arizona Legislature passed a statute explicitly stating that “[m]arriage between persons of the same-sex is void and prohibited.” In 2006, Arizona voters rejected a proposed constitutional amendment prohibiting marriage and other forms of legal relationship recognition for same-sex couples. However, voters approved a narrower constitutional amendment in 2008. The amendment banned same-sex couples from marrying, but did not expressly prohibit recognition of other relationship statuses, such as civil unions or domestic partnerships, though the state did not offer any form of relationship recognition for same-sex couples at the time.

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34 Id.
35 Id.
36 Id.
37 Id.
38 Id.
40 ARIZ. REV. STAT. § 25-101(C).
43 Id.
In October 2014, the U.S. Ninth Circuit Court of Appeals held that laws banning marriage for same-sex couples in Idaho and Nevada violated the Equal Protection Clause of the U.S. Constitution.\(^{44}\) Shortly thereafter, the federal district court in Arizona struck down the state’s marriage ban, stating that it was bound to do so by Ninth Circuit precedent.\(^{45}\) The court refused to issue a stay and the ruling went into effect immediately, allowing same-sex couples to begin legally marrying in the state on October 17, 2014.\(^{46}\)

2. Current Legal Landscape

**Discrimination Protections.** Arizona does not have a statewide statute that explicitly prohibits discrimination based on sexual orientation or gender identity.\(^{47}\) The Arizona Civil Rights Act does prohibit discrimination based on other personal characteristics, including race, sex, religion, age, national origin, disability, and/or familial status in employment, housing, and public accommodations.\(^{48}\) Legislative efforts to add sexual orientation and gender identity to the Arizona Civil Rights Act have repeatedly failed.\(^{49}\)

Some localities in Arizona have enacted local ordinances that prohibit discrimination based on sexual orientation and gender identity, and a gubernatorial executive order protects state government workers from discrimination based on sexual orientation, creating a patchwork of legal protections for LGBT people in the state.

Five cities in Arizona—Flagstaff, Phoenix, Sedona, Tempe, and Tucson—have enacted local ordinances that prohibit discrimination based on sexual orientation and gender identity (among other personal characteristics). Four of these cities have broad local ordinances that prohibit discrimination based on both sexual orientation and gender identity in employment, housing, and public accommodations: Phoenix,\(^{50}\) Sedona,\(^{51}\) Tempe\(^{52}\) and Tucson.\(^{53}\) Flagstaff’s ordinance is more limited in scope. Flagstaff’s ordinance prohibits discrimination based on sexual orientation

\(^{44}\) *Latta v. Otter*, 771 F.3d 456 (9th Cir. 2014).

\(^{45}\) *Connolly*, supra note 31 at 1096.

\(^{46}\) Id.

\(^{47}\) Some federal laws that prohibit discrimination based on sex, including Title VII, have been interpreted by some courts and federal agencies to also prohibit discrimination based on gender identity and sexual orientation. These laws would apply to workers and residents of Arizona, though they are not discussed here because they are outside the scope of this memo. See Examples of Court Decisions Supporting Coverage of LGBT-Related Discrimination Under Title VII, U.S. EEOC, [https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt_examples_decisions.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt_examples_decisions.cfm) (last visited Jan. 3, 2017).

\(^{48}\) ARIZ. REV. STAT. § 41-1401 et seq. (2017).


\(^{50}\) PHOENIX, ARIZ., CODE §18-1 et seq. (2017).


\(^{52}\) TEMPE, ARIZ., CODE §§ 2-660 et seq.; 22-91 et seq. (2017).

\(^{53}\) TUCSON, ARIZ., CODE § 17-0 et seq. (2017).
and gender identity in employment and public accommodations, but not in housing (the city does not have a local housing non-discrimination ordinance).\textsuperscript{54}

The ordinances in all five cities allow individuals who believe they have experienced discrimination to file an administrative complaint with the city.\textsuperscript{55} The cities are then required to attempt to reach a voluntary agreement to settle the matter before further enforcement action is taken.\textsuperscript{56} If the complaint cannot be settled voluntarily, the complaints can be enforced by the city attorney in court.\textsuperscript{57} Violations are punishable by civil fines or criminal sanctions.\textsuperscript{58}

Unlike the Arizona Civil Rights Act, most of the ordinances do not provide for a private right of action in court.\textsuperscript{59} The one exception is Phoenix’s ordinance, which provides more robust enforcement mechanisms in cases of housing discrimination. In Phoenix, complaints of housing discrimination can be enforced administratively or complainants can opt to file a private civil action in court instead.\textsuperscript{60} If a court determines that housing discrimination has occurred, it may award actual and punitive damages, reasonable attorney’s fees, court costs, and issue a temporary or permanent injunction.\textsuperscript{61}

In addition, a gubernatorial executive order issued by former governor Janet Napolitano in 2003 protects state government employees from discrimination based on sexual orientation.\textsuperscript{62} The Order requires executive agency heads to ensure that the non-discriminatory policy is reflected in all agency programs and materials and to design procedures for handling complaints of sexual orientation discrimination within the agency.\textsuperscript{63} The Order does not explicitly permit employees to file suit in court based on a violation of its non-discrimination requirements.\textsuperscript{64}

Local non-discrimination ordinances protect approximately one-third of Arizona’s adult population from discrimination based on sexual orientation and gender identity in housing (32%)

\textsuperscript{54}FLAGSTAFF, ARIZ., CODE § 14-02-001-0001 \textit{et seq.} (2017).
\textsuperscript{58}FLAGSTAFF, ARIZ., CODE § 14-02-001-0005; PHOENIX, ARIZ., CODE § 18-6; SEDONA, ARIZ., CODE § 9.30.090; TEMPE, ARIZ., CODE § 2-606; TUCSON, ARIZ., CODE § 17-14.
\textsuperscript{59}FLAGSTAFF, ARIZ., CODE § 14-02-001-0007; PHOENIX, ARIZ., CODE § 18-5; SEDONA, ARIZ., CODE § 9.30.100; TEMPE, ARIZ., CODE § 2-607; TUCSON, ARIZ., CODE §§ 17-15, 17-54.
\textsuperscript{60}PHOENIX, ARIZ., CODE §§ 18-11.10 to 18-11.14, 18-11.33.
\textsuperscript{61}PHOENIX, ARIZ., CODE § 18-11.35.
\textsuperscript{63}Id.
and public accommodations (33%). The local ordinances also protect approximately one-third (33%) of Arizona’s workforce, aged 16 and older, from sexual orientation and gender identity discrimination in employment, and the state’s executive order protects an additional 5% of the state’s workforce from discrimination based on sexual orientation. An estimated 112,000 of workers in Arizona, aged 16 and older, identify as LGBT (3.7% of the state’s workforce).

**Parenting Rights.** Until recently, Arizona law presented unique barriers to family formation for same-sex couples. First, Arizona’s adoption statute states that only a “husband and wife” are permitted to jointly adopt children, though any adult is eligible to adopt as an individual. As a result of this statute, same-sex couples were historically barred from jointly adopting children. Additionally, Arizona statutes that address parental rights presented challenges for same-sex couples because they use gendered terms that assume that the child’s parents are members of a different-sex couple or they apply only if the couple is married, which was not an option for same-sex couples in Arizona until 2014. For example, Arizona’s presumptive parentage statute provides only for situations in which “a man is presumed to be the father of the child,” such as when a “birth certificate is signed by the mother and father of a child born out of wedlock.” And, Arizona’s artificial insemination law states that a “child who is born as a result of artificial insemination is entitled to support from the mother... and the mother’s spouse if the spouse is either the biological father of the child or agreed in writing to the insemination before or after the insemination occurred.”

In 2017, the Arizona Supreme Court held in *McLaughlin v. Jones* that the “state must afford parenting rights to members of same-sex couples on an equal basis with opposite-sex couples.” The court determined that this result was required by the U.S. Supreme Court’s decision in *McLaughlin v. Jones*, 401 P.3d 492, 500 (Ariz. 2017).

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67 Id.

68 This estimate was reached by applying the percentage of Arizona’s workforce that identifies as LGBT (3.7%) to the number of people in Arizona’s civilian labor force in 2016, the most recent year of data available (3,031,781). Workforce data available at Calculated by authors using data from the U.S. Census Bureau 2016 American Community Survey, 2016 1-Year-Estimates, Arizona. U.S. Census Bureau, Sex by Class of Worker for the Civilian Population Aged 16 Years and Over, FACTFINDER.COM, https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B24080&prodType=table (last visited Dec. 14, 2017).

69 ARIZ. REV. STAT. § 8-103.

70 ARIZ. REV. STAT. § 25-814.

71 ARIZ. REV. STAT. § 25-501(B).

Obergefell v. Hodges, which it interpreted to guarantee same-sex couples not only the right to marry, but to enjoy “the same benefits of marriage afforded opposite-sex couples.”\textsuperscript{73} In McLaughlin, the court specifically extended the marital paternity presumption to a female same-sex couple, but the broad holding clearly indicates that all state laws pertaining to marriage or married couples must apply equally to same-sex and different-sex couples. The court noted that equal application of the laws need not “occur through case-by-case litigation” and called on the legislative and executive branches to “forestall unnecessary litigation and help ensure that Arizona law guarantees same-sex spouses the dignity and equality the Constitution requires—namely, the same benefits afforded couples in opposite-sex marriages.”\textsuperscript{74} As a result, same-sex couples in Arizona should no longer face legal barriers to becoming parents through adoption or ART.

**Safe Schools and Youth.** Arizona’s anti-bullying law requires that school districts adopt and enforce policies against bullying, harassment, and intimidation of students.\textsuperscript{75} Unlike many state anti-bullying laws, Arizona’s statute does not include an enumerated list of personal characteristics based on which students are likely to be bullied, such as race, sex, sexual orientation, or gender identity.\textsuperscript{76} Arizona’s law regulating HIV/AIDS education in public schools forbids school districts from including any instruction which “1. Promotes a homosexual life-style; 2. Portrays homosexuality as a positive alternative life-style; [or] 3. Suggests that some methods of sex are safe methods of homosexual sex.”\textsuperscript{77} LGBT students in states with laws like this one are more likely to report hostile school climates and are less likely to report access to LGBT-inclusive school supports.\textsuperscript{78}

**Gender Marker and Name Changes.** Arizona allows individuals to change their gender marker and name on identification documents. In Arizona, a legal name change can be obtained by petitioning the court.\textsuperscript{79} All applicants must provide the reason they are requesting a name change.\textsuperscript{80} In deciding whether to grant a name change, the court must consider several criteria, including whether the applicant is requesting a name change “solely for [the person’s] best interest.”\textsuperscript{81}

\textsuperscript{73} Id. at 497.  
\textsuperscript{74} Id. at 501.  
\textsuperscript{75} ARIZ. REV. STAT. § 15-341.37.  
\textsuperscript{76} 18 states and the District of Columbia have enumerated anti-bullying laws that include sexual orientation and gender identity along with other personal characteristics. State Maps, GLSEN.ORG, http://www.glsen.org/article/state-maps (last visited July 5, 2017).  
\textsuperscript{77} ARIZ. REV. STAT. § 15-716(C).  
\textsuperscript{79} Id. § 12-601.  
\textsuperscript{80} Id. § 12-601(A).  
\textsuperscript{81} Id. § 12-601(C).
Individuals in Arizona may update their name and gender on a driver’s license or state ID card by providing to the Arizona Department of Transportation a certified copy of the court order granting the name change (within 10 days of the order) and a signed statement from a licensed physician attesting that the applicant is irrevocably committed to the gender-change process. The individual must also have changed their name with the Social Security Administration before requesting a name change on their driver’s license.

Individuals in Arizona may change the name on their birth certificate by providing the court order granting the name change along with a letter or application requesting the name change to the Arizona Department of Health Services. Arizona will change the gender marker on a birth certificate “for a person who has undergone a sex change operation or has a chromosomal count that establishes the sex of the person as different than in the registered birth certificate.” In order to change the gender marker on a birth certificate, individuals must provide a written request and written verification of surgery or chromosome count from a doctor to the Arizona Department of Health Services.

Other protections. Arizona includes sexual orientation in its hate crimes law, providing for enhanced penalties for crimes committed because of the victim’s sexual orientation. In addition, Arizona law requires the Arizona Department of Public Safety to collect data on hate crimes committed in the state, including crimes motivated by the victims’ sexual orientation, and requires that law enforcement officers are trained in responding to these types of crimes. The laws do not include gender identity.

Arizona lacks several other legal protections for LGBT people that have been enacted in other states, including a law that prohibits health insurance providers from discriminating based on sexual orientation or gender identity, a law that requires such providers to offer coverage for transition-specific medical care, and a statewide ban on professional therapists engaging in efforts to change people’s sexual orientation or gender identity.

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83 Id.
86 Id.
88 Id. §§ 41-1750(A)(3); 41-1822(A)(4).
89 At least 16 states and the District of Columbia have such laws (research on file with the authors).
90 At least 15 states and the District of Columbia have such laws (research on file with the authors).
91 Nine states in the U.S. and the District of Columbia have such bans, which generally prohibit therapists and other medical professionals from trying to change a youth’s sexual orientation or gender identity (research on file with the authors). One county in Arizona, Pima County, has enacted a local level ban on the use of conversion therapy on minors. Pima Cty., Ariz., Ord. 2017-22 (2017).
C. Public Opinion

In 2014, Williams Institute scholars created the LGB Social and Political Climate Index to characterize the social environment in which LGB people reside. The Index summarizes four items about acceptance of LGB people and attitudes toward LGB rights: 1) approval of marriage for same-sex couples; 2) approval of adoption rights for same-sex couples; 3) approval of laws that protect lesbians and gay men from employment discrimination; and 4) belief that homosexuality is a sin. The Index provides climate scores for each state and the District of Columbia, denoting relative levels of social and political support for LGBT people across the U.S., with higher index scores indicating greater levels of social acceptance of LGB people and lower scores indicating lower acceptance. Out of all states, Arizona ranks 29th in its level of support for LGBT people and issues. Acceptance in Arizona is slightly below the national average.

Figure I.c. State Rankings on LGB Social & Political Climate Index (2014)

Although Arizona was below 27 states and D.C. in terms of support for LGBT people in 2014, polling data indicate that attitudes toward LGBT people in the state are improving over time. For example, in 2004, approximately 35% of Arizona residents supported marriage equality.

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92 Hasenbush et al., supra note 14 at 5.
93 Id. at 6.
By 2014, support increased to 57%\(^{95}\) and in 2016, 62% of Arizonans polled said they supported marriage equality.\(^{96}\)

In addition, recent public opinion surveys indicate that a majority of Arizonans support expanding non-discrimination protections to include LGBT people. The 2015 American Values Survey, a representative survey of over 40,000 Americans across the United States, found that public attitudes in Arizona are in favor of policies that would protect LGBT people from discrimination with 72% supporting such policies and 21% opposing them.\(^{97}\) A majority (58%) of Arizonans in the same survey also reported that they were opposed to policies that would allow small businesses to refuse service to lesbian and gay people for religious reasons.\(^{98}\)

**Figure I.e. Support among Arizonans for LGBT Inclusive Non-Discrimination Policies**
Source: American Values Survey, 2015

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\(^{95}\) *Id.* Longitudinal changes in support for marriage equality are rooted in two causes: generational change and attitude change. *Id.* Less than half of the changes over time are due to younger and more accepting generations replacing older ones. Gregory B. Lewis and Charles W. Gossett, *Changing Public Opinion on Same-Sex Marriage: The Case of California*, 36 Politics & Policy 4 (2008).


\(^{98}\) *Id.*
Similarly, a 2017 poll of Arizona voters conducted by Hart Research Associates found the majority of voters (59%) said they were in favor of the state passing a full range of LGBT-supportive laws including laws prohibiting discrimination based on employment, housing, and public accommodations; banning the use of conversion therapy; and prohibiting discrimination against LGBTQ parents and children in foster care and adoption. Only 20% of voters said they were opposed to this group of protections.

In addition, 63% of respondents to the same poll said they were in favor of Congress passing the Equality Act, a federal bill which would prohibit discrimination against LGBT people in employment, housing, public accommodations, and other areas. Estimates based on a 2011 survey of the American public found that 77% of Arizonans are supportive of Congress passing a federal law to protect LGBT people from employment discrimination.

Despite majority support for LGBT-inclusive non-discrimination laws, only 39% of Arizona voters said that individuals should be allowed to use restrooms consistent with their gender identity in response to a 2016 poll. Just over half of those surveyed (51%) said individuals “should be required to use the restroom that matches their gender at birth.” However, over

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100 Id.
101 Id.
half of younger voters (aged 18-25) said that individuals should be allowed to access restrooms consistent with their gender identity.\textsuperscript{104}

In summary, Arizona is slightly below the national average in terms of support for LGBT people but, in general, residents of Arizona have become more supportive of LGBT people and issues overtime.

\textsuperscript{104} Id.
SECTION II. STIGMA AND DISCRIMINATION AGAINST LGBT ADULTS AND YOUTH IN ARIZONA

LGBT adults in Arizona experience discrimination in employment, housing, and public accommodations. The existence and prevalence of such discrimination has been documented in a variety of sources, including surveys, court cases, and anecdotal reports to the media. Additionally, bullying and harassment of LGBT youth in Arizona has been documented in surveys and anecdotal reports to the media. Research also suggests that many LGBT youth across the country face rejection by their families.

A. Discrimination and Harassment in Employment, Housing, and Public Accommodations

Discrimination against LGBT people in the U.S., as well as in Arizona, has been widely documented. For example, a 2017 survey by the Center of American Progress found that 25% of LGBT people had experienced some type of discrimination within the past year.\(^{105}\) Similarly, a 2013 national survey conducted by Pew Research Center found that 21% of LGBT respondents in the U.S. reported having been treated unfairly by an employer in hiring, pay, or promotions.\(^ {106}\) Additionally, the 2015 U.S. Transgender Survey report, based on the largest survey of transgender and gender non-conforming people in the U.S. to date, found that 27% of respondents in the U.S. reported “being fired, denied a promotion, or not being hired for a job they applied for because of their gender identity or expression” within the prior year, and 15% reported being “verbally harassed, physically attacked, and/or sexually assaulted” at work in the year prior to the survey because of their gender identity.\(^ {107}\) In addition, 23% of transgender respondents in the U.S. reported experiencing some form of housing discrimination in the past year and 31% reported experiencing “at least one type of mistreatment in the past year in a place of public accommodation.”\(^ {108}\)

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106 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/. Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported experiencing workplace harassment in the last five years, and 12% reported losing a job because of their sexual orientation.


108 Id. at 13, 16.
Surveys of LGBT individuals in Arizona find similar levels of reported discrimination and harassment:

- The 2015 U.S. Transgender Survey report documented evidence of discrimination against transgender people in a range of areas, including employment, housing, and public accommodations. The survey found that of transgender respondents from Arizona who held or applied for a job in the prior year, 27% reported “being fired, being denied a promotion, or not being hired for a job” because of their gender identity or expression. Ten percent of respondents who had a job in the prior year reported being verbally harassed and 1% reported being sexually assaulted at work in the prior year because of their gender identity. Additionally, “15% of respondents who had ever been employed reported losing a job at some point in their lives because of their gender identity or expression.”

In terms of housing discrimination, 27% of respondents from Arizona reported experiencing “some form of housing discrimination in the past year, such as being evicted from their home or denied a home or apartment because of being transgender” and 32% reported that they “experienced homelessness in the past year because of being transgender.” Of those who had experienced homelessness, 32% said they “avoided staying in a shelter because they feared being mistreated as a transgender person.”

In addition, “of respondents who visited a place of public accommodation where staff or employees knew or thought they were transgender, 35% experienced at least one type of mistreatment in the past year” because of being transgender. Forms of mistreatment experienced by respondents included being “denied equal treatment or service” (20%), verbal harassment (28%), and physical assault (2%).

- A 2014 survey of faculty and staff at the University of Arizona found that LGBTQ+ faculty and staff had experienced harassment and discrimination on campus. Nearly 75% of LGBQ+ and 18% of trans faculty and staff said that they had heard anti-LGBTQ+ slurs and comments on campus. Six percent of LGBQ+ and 9% of trans faculty and staff said they heard these comments once per day. Over four percent of LGBTQ+
faculty and staff said they felt intimidated or threatened and 3% said they feared for their physical safety on campus because of their sexual orientation or gender identity.\textsuperscript{115}

Nearly one-quarter (24%) of LGBTQ+ faculty and staff were not out to any of their supervisors about their sexual orientation and 29% were not out to any of their supervisors about their gender identity, though most said that supervisors were accepting of their sexual orientation or gender identity.\textsuperscript{116} Among LGBQ+ respondents, 13% said they were not comfortable being out in the work place and 18% of trans respondent said the same.\textsuperscript{117}

- A public opinion poll of Arizona voters conducted in 2017 found that 64% of respondents said that there continue to be many ways that LGBTQ people are treated unequally, despite now being able to legally marry.\textsuperscript{118}

- A public opinion poll conducted in 2016 found that 59% of Arizona residents thought that gay and lesbian people experience a lot of discrimination in the U.S. and 64% of Arizona residents thought that transgender people experience a lot of discrimination in the U.S.\textsuperscript{119}

- Analysis of aggregated public opinion data collected from 2011 through 2013 indicated that 79% of Arizona residents thought that LGBT people experience discrimination in the state.\textsuperscript{120}

Instances of discrimination against LGBT people in Arizona have also been documented in a number of court cases, administrative proceedings, the media, and other sources.

Recent examples of discrimination from court cases and administrative proceedings include:

- In January 2017, the Equal Employment Opportunity Commission (“EEOC”) filed a complaint against a Scottsdale café on behalf of two employees whom the EEOC found had been subjected to long-term harassment: one for being gay, and the other for being

\begin{itemize}
  \item Id.
  \item Id. at 40.
  \item Id. at 41.
  \item HART RESEARCH ASSOCIATES, supra note 99 at 1.
  \item PRRI, American Values Atlas: Arizona, \url{http://ava.prri.org/#discrimination/2016/States/trnsdis/m/US-AZ} (under dropdown menu for “Select Question” select “Discrimination against gay and lesbian people” or “Discrimination against transgender people;” under dropdown menu for “Select Response” select “Yes;” under dropdown menu for “Year” select “2016”).
\end{itemize}
perceived as gay. According to the EEOC, the staff regularly subjected the two employees “to sex-based derogatory comments, including but not limited to comments about their gender and/or their perceived nonconformance with sex- or gender-based . . . stereotypes of men.” Co-workers frequently used terms like “sissy,” “strawberry shortcake,” “faggot,” and “ginger snap” to refer to the men. Despite receiving multiple reports of harassment, the general manager “refused to document” any complaints. Finally, the EEOC alleged that the café retaliated against one of the employees by firing him after discovering his plans to file a formal external complaint about the harassment. The restaurant closed in April 2017 without explanation, and stopped defending its case; a motion for a default judgment is currently pending.

- In September 2016, the EEOC filed a complaint against a restaurant group after an investigation found reasonable cause to believe that four gay employees at its Phoenix restaurant were subjected to “open and notorious” harassment based on their sexual orientation. Employees constantly used the term “faggot,” falsely reported that one of the gay male employees had AIDS when he called in sick, and used stereotypes such as a highly exaggerated feminine walk and limp wrist to mock gay men. One of the gay employees was threatened with a knife by another employee who said, “I don’t like homosexuals . . . I don’t like the way you talk, I told you to stop talking.” Despite repeated complaints of harassment, the restaurant failed to take corrective action, and, on one occasion “responded by daring them to sue.” The EEOC also alleged that the restaurant retaliated against the gay men and a female co-worker, who objected to the discrimination, by firing them. The case was resolved with a settlement, with the defendant paying a $62,500 fine to the EEOC and an injunction prohibiting retaliation and requiring an internal EEO policy review, training, and posting of posters.

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122 Scottsdale Wine Café, LLC, Compl. ¶ 30.

123 Id. ¶¶ 21, 22.

124 Id. ¶ 24.

125 Id. at 2.


129 Id. ¶ 29.

130 Id.

131 Id. ¶ 33.

132 Id. ¶ 16.

133 Joint Motion for Entry of Consent Decree & Proposed Consent Decree, EEOC v. Royal Dining Group, No. 2:16-cv-03313 (D. Ariz. Apr. 19, 2017), ECF No. 36. The claim was settled with the Better 4 You Meals entity; claims
• In May 2016, the owners of a studio in Phoenix that creates invitations and other handmade artwork for weddings and other events filed a lawsuit challenging the part of Phoenix’s non-discrimination ordinance that prohibits discrimination based on sexual orientation. The studio challenged the law, in part, because the owners wanted to announce their religiously motivated intent to deny services to same-sex couples on their business’s website. The Superior Court of Arizona rejected their challenge, and found that the couple had ignored online inquiries from same-sex couples to avoid being prosecuted if they refused to sell their products or services based on the sexual orientation of the customers. The case is currently on appeal and has drawn public attention, with multiple amicus briefs filed in support of the City of Phoenix by organizations such as the ACLU and a consortium of Arizona businesses.

• In November 2015, a transgender corrections officer filed suit against the Arizona Department of Corrections alleging that his supervisors “told him that other officers in the Department are offended by his gender, that [he] is not safe in the Department, and that they would not respond to emergency calls from him.” Additionally, the officer alleged that “other correctional officers had made transphobic comments about him, that his co-workers had informed prison inmates of his [transgender] status, and that supervisors had failed to undertake any investigation or corrective action.” The case was dismissed by mutual stipulation in January 2017.

• In June 2015, a transgender woman filed a complaint of gender identity discrimination with the Tempe Diversity Office after being denied service by a local bar. The woman against the related RDG corporate entities were voluntarily dismissed. Notice of Voluntary Dismissal, EEOC v. Royal Dining Group, No. 2:16-cv-03313 (D. Ariz. May 16, 2017), ECF No. 40.


135 Brush & Nib, slip op. at 2-3.

136 Id. at 3-4, 6 (citing Phoenix City Code § 18-3 to define public accommodation as including “all establishments offering their services, facilities or goods to or soliciting patronage from the members of the general public”).


138 Doe v. Arizona, No. CV-15-02399, 2016 U.S. Dist. LEXIS 36229, at *3, 6 (D. Ariz. Mar. 21, 2016) (denying in part the ADOC’s motion to dismiss because Title VII of the Civil Rights Act of 1964 has been interpreted by courts to prohibit discrimination based on gender identity and plaintiff had exhausted administrative remedies).


reported that the bar’s employees did not have a problem with her until she spoke and her voice made it clear that she is transgender. According to the woman, before she could even order a drink, the bartender said, “We don’t serve your kind here,” and when she asked the bouncer whether she had to leave because she was transgender, the bouncer responded, “No comment.”

The woman said that when she attempted to report the alleged violation of Tempe’s local non-discrimination ordinance, Tempe police did not know gender identity discrimination was illegal, and she stated she read the ordinance to the police to explain her grievance. The bar’s manager publicly apologized. In August 2015, the Tempe Diversity Office stated that the woman was not discriminated against because of her sexual orientation or gender identity. Instead, Tempe investigators found that the woman was discriminated against based on the fact that she patronized the adult bookstore located near the bar, and the employees of the bar assumed she was a prostitute. In response to the ruling, the woman remarked that the investigation was “terribly flawed,” and that the investigative report’s depiction of her character was “offensive.”

Recent examples of discrimination documented in the media and other sources include:

- In November 2016, a Tucson resident attended a town hall meeting where he recounted the harassment and intimidation he and his partner experienced after neighbors at their former adult community in Marana saw the two men touch during a physical therapy session in the pool. The resident’s partner was undergoing physical therapy after having a serious stroke. As the man was supporting his partner in the water, neighbors surrounded the couple and began yelling and the commotion caused his partner to become disoriented such that he almost fell while trying to exit the pool. In recounting his story, the man noted that while he and his partner were able to leave Marana to move to Tucson where there are non-discrimination laws to protect them, other LGBT seniors who are “out of the closet [run] the risk of bringing hell on themselves they can’t get out” by moving.

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142 Id.
143 Id.
146 Id.
In July 2016, a Tempe landlord allegedly told her gay tenant that he should remove his rainbow flag and that if the man wanted to support an LGBT cause, he should “leave that at a parade.”\footnote{Kaila White, \textit{Tempe Man: Landlord Wants Pride Flag Removed from Yard}, AZ CENTRAL.COM (July 9, 2016), https://www.azcentral.com/story/news/local/tempe/2016/07/09/man-asu-student-apartment-yard-rainbow-gay-flag/86880590/} The tenant had put up the flag “to show solidarity and be comforted” after a mass shooter killed 49, mostly LGBT, people at a nightclub in Orlando, Florida.\footnote{Danielle Miller, \textit{Landlord-Tenant Dispute Over LGBT Pride Flag}, FOX 10 (July 7, 2016), http://www.fox10phoenix.com/news/arizona-news/landlord-tenant-dispute-over-lgbt-pride-flag.} The landlord apparently claimed that the rainbow flag might lead to harm to her property, and persisted in her demand that the man remove it despite her own acknowledgment that the tenant’s lease did not forbid displaying flags.\footnote{Id. note 149.} The tenant said, “to imply that a gay flag is going to bring harm and damage to your property, that’s a little out of hand . . . and I feel personally targeted.”\footnote{Id. note 150} No further follow-up from this case has been reported.

In June 2015, the city of Scottsdale sent a letter to utility customers encouraging them to sign the Unity Pledge, which is part of an initiative started by ONE Community with the goal of organizing Arizona businesses and individuals to advance equality for LGBT individuals with respect to housing, employment, and public accommodations.\footnote{City of Scottsdale, \textit{Unity Pledge}, http://www.scottsdaleaz.gov/diversity/unity-pledge (last visited Feb. 1, 2018).} A member of the Scottsdale city council noted that “close to 50 hateful letters were sent back to the city,” which convinced some local officials of the need for non-discrimination protections.\footnote{Id. note 151.} Scottsdale currently continues to have the Unity Pledge on its city website.\footnote{Id. note 152.}

In February 2012, a lesbian couple celebrating their anniversary reported that they were asked to leave a hotel owned by the city of Phoenix after other customers saw the couple kiss.\footnote{Chloe Brooks, \textit{Lesbian Couple Seeks legal Counsel After Being Asked to Leave Restaurant for Kissing}, DOWNTOWN DEVIL (Mar. 5, 2012), https://downtowndevil.com/2012/03/05/23376/lesbian-couple-legal-counsel-asked-leave-district-kitchen-kissing/; see also Emily Gersema, \textit{Shielding Gays Urged by Stanton}, THE ARIZ. REPUBLIC (Apr. 4, 2012), at B1 (noting that at the time “attorneys told [the couple] that they had no grounds for a lawsuit due to the city’s lack of anti-discrimination laws for lesbians and gays.”).} According to the couple, a manager approached their table in the hotel restaurant and said, “You need to get a room,” and told them that their “behavior was extremely inappropriate and that [the couple] needed to leave.”\footnote{Id. note 153.} The manager allegedly said that “there was a group of older gentlemen who were not comfortable with [the couple’s] presence, so he had to do his job,” which was to “make them comfortable.”\footnote{Id. note 154.}
after the incident, the hotel’s general manager stated he had met with the couple, apologized, and resolved the issue.  

**B. Bullying and Family Rejection of LGBT Youth and Young Adults**

1. Bullying and Harassment of LGBT Youth Documented in Surveys

   a. Middle School and High School

Data indicate that LGBT youth face harassment, bullying, and exclusion in high school. The Centers for Disease Control and Prevention (CDC) recently published an analysis of 2015 Youth Risk Behavior Survey (YRBS) data on LGB youth from the national YRBS and from 25 state and 19 local surveys that included a measure of sexual orientation. This analysis compared LGB to non-LGB high school students (9th through 12th grade) on a variety of indicators of health and wellbeing. The analysis found that LGB students in the U.S. were more likely to report being bullied at school (34.2% v. 18.8%) and electronically bullied (28.0% v. 14.2%) in the 12 months prior to the survey than non-LGB students.

**Figure II.a. 12-month Experiences of Bullying among High School Students in the U.S., by Sexual Orientation**

Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9 – 12, United States and Selected Sites, 2015, 2016*

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160 Kann et al., *supra* note 24 at 83.

161 The study also compared students who said they were “not sure” of their sexual orientation to LGB and non-LGB students. We have not included the “not sure” students in our analysis and focus only on students who identified as LGB or non-LGB.

162 Id. at 103.

163 Id. at 104.
The Arizona YRBS does include a measure of sexual orientation, but state-level data on bullying at school were not reported for Arizona in the CDC analysis.164

Findings from the 2015 national YRBS are consistent with previous analyses of YRBS data. A 2011 CDC meta-analysis of YRBS data collected from 2001 through 2009 also found that, nationally, LGB students were more likely to experience bullying and violence at school than non-LGB students.165 Further, these results are consistent with results of a 2016 meta-analysis of 18 studies that found that LGB students were moderately more likely to experience victimization and bullying at school compared to non-LGB students.166

Bullying and harassment of LGBT youth in Arizona have also been documented in other sources. For instance, the 2015 GLSEN National School Climate survey of LGBTQ middle- and high-school students found that 71% of respondents from Arizona said that they had experienced verbal harassment based on their sexual orientation at school, and 55% said that they had experienced verbal harassment based on their gender expression at school in the year prior to the survey.167 Many students also reported experiencing physical harassment based on their sexual orientation (29%) or gender identity (20%) at school in the year prior to the survey.168 In addition, 11% of respondents reported that they had experienced physical assault at school because of their sexual orientation and 10% of respondents said that they had experienced physical assault because of their gender identity at school in the year prior to the survey.169

Further, 58% of transgender respondents from Arizona reported that they were unable to use the bathroom or locker room at school that aligns with their gender identity and the same percentage were prevented from using their preferred name or pronouns in school.170 Less than half (40%) of the students reported having access to a Gay-Straight Alliance or similar club in school.171

Of LGBT students who were bullied or harassed at school, only 44% of students reported the incident to school staff.172 Less than one third (31%) of those who reported bullying or harassment to staff said that it resulted in effective intervention.173

Additionally, in response to the 2015 U.S. Transgender Survey, 48% of survey respondents from Arizona who were out or perceived as transgender while in grades K-12 experienced verbal

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164 Kann et al., supra note 24.
165 Id. at 11.
168 Id.
169 Id.
170 Id.
171 Id. at 2.
172 Id. at 1.
173 Id.
harassment, 24% experienced physical assault, and 8% experienced sexual violence while in school. Further, 17% of respondents said the harassment was so severe that they had to leave school.

Recent instances of discrimination against LGBT students in Arizona have also been documented in academic scholarship and the media:

- In June 2016, a large charter school network in Arizona enacted a policy requiring its employees to prohibit students from using bathrooms and locker rooms that correspond with their gender identity, and requiring students to follow the “uniform code and grooming standards” of the sex listed on their birth certificate. Additionally, the charter school network does not require employees to use a student’s preferred pronouns. One transgender student at the network’s Scottsdale school was required to use a separate bathroom in the back of the school. His mother said, “My kid was discriminated against,” and “I have to let you know the trans policy, it was damaging to him . . . He’s not a freak. He doesn’t need to be separated.” According to Dr. Vinny Chulani of the Phoenix Children’s Hospital’s transgender management program, “[b]asic things like using the bathroom for the gender they identify with or being called by their preferred pronoun are major issues.”

Dr. Chulani said “I work with a lot of children and teenagers who tell me they purposely choose not to go to the restroom because of this. You’re talking about a basic human function.” The policy has led to continued protests by parents, as well as pressure from the Scottsdale City Council in connection

174 The survey used a non-probability sampling method. THE NATIONAL CENTER FOR TRANSGENDER EQUALITY & ONE COMMUNITY, supra note 109.

175 Id.


177 Longman, supra note 176; KJZZ 91.5 FM Broadcast, supra note 176; see, e.g., ARCHWAY CLASSICAL ACADEMY FAMILY HANDBOOK, supra note 176, at 7, 18-19.

178 Longman, supra note 176.


180 Id.
with a land deal for a new facility; although there were indications the policy might be changed, it currently remains in place.  

- In January 2015, the Journal of Adolescent Research published an article that contained excerpts of interviews with Arizona LGBT youth who reported bullying by students and staff in Arizona schools. In one example, an Arizona middle school student who chose to begin dressing in stereotypically male attire said administrators suspected her and a friend of selling drugs in school, “cause like, the way we were dressing . . . we were the only girls at that middle school that dressed like boys. So it was like ‘now we’re bad.’” Another Arizona student who identified as gender-queer reported telling school administrators that mistreatment by other students caused her to feel uncomfortable in certain classes, and she was asked by administrators, “Why don’t you just choose to wear different things?” Another Arizona student reported being suspended after getting into a fight with a popular male student who had been calling the LGBT student names; the popular male student was not punished. In other instances, persistent bullying reportedly led to truancy. One lesbian student stated she left school for days as a result of bullying; though she reported the bullying students to the administration, and the bullies had received a three-day suspension, the bullying continued afterwards. Another student who was subjected to persistent discrimination at school said, “I felt like I just wanted to leave, like I didn’t— I couldn’t even imagine finishing high school. So, I transferred.” Other Arizona youth reported that they concealed their LGBT status in order to avoid discrimination or harassment on campus. For instance, “[o]ne Arizona youth said, ‘Just seeing the type of attention that people put on anybody who didn’t seem like they were the same as anybody else . . . that made me want to avoid expressing myself in any way, because I didn’t want the same attention they were receiving.’”

b. Higher Education

In response to a 2014 survey of 589 students, faculty, and staff at the University of Arizona, many LGBTQ+ and trans students reported that they had experienced verbal harassment and discrimination related to their sexual orientation and gender identity on campus. Over 97% of trans students and 90.7% of LGBQ+ student reported hearing anti-LGBTQ slurs and comments


\[183\] Id. at 67-68.

\[184\] Id. at 71.

\[185\] Id. at 72.

\[186\] Id.

\[187\] Id. at 69.

\[188\] PRING ET AL., supra note 112.
on campus at least sometimes.\textsuperscript{189} Nearly 12\% of trans students and 9.9\% of LGBQ+ students said they heard such slurs and comments several times a day.\textsuperscript{190} Approximately 15\% of LGBQ+ students and that they had been the target of derogatory remarks or comments based on their sexual orientation (data for trans respondents were not available).\textsuperscript{191}

Twenty-two percent of LGBTQ+ students reported experiencing discrimination based on their sexual orientation or gender identity on campus, and most (70.2\%) did not report the incident to an authority figure, such as the Dean or Students or the University of Arizona Police Department.\textsuperscript{192} Over 9\% of LGBTQ+ students reported that discrimination related to their sexual orientation was the most significant stressor in their lives during the prior school year and a similar percentage said the same related to their gender identity or expression.\textsuperscript{193}

Some LGBTQ+ students reported that they avoided going to class because of discrimination and harassment: 3.7\% said they avoided going to class because of harassment, discrimination, or discomfort based on their sexual orientation in the six month period prior to the survey and 11.8\% said they had done the same because of harassment, discrimination, or comfort based on their gender identity.\textsuperscript{194}

Additionally, some LGBTQ+ students reported that they didn’t feel very safe on campus or that they had been intimidated or threatened because of their sexual orientation or gender identity. Approximately 5\% of LGBQ+ students said they felt “not very safe” and 51.2\% said they felt only “somewhat safe” on campus. Trans students were more likely to report feeling unsafe on campus: 23.9\% said they felt “not very safe” and 47.8\% said they felt only “somewhat safe.”\textsuperscript{195} Trans students were almost four times more likely to report feeling unsafe in bathrooms and twice as likely to report feeling unsafe in the recreation center compared to LGBQ+ students.\textsuperscript{196} Nearly 12\% of LGBQ+ students said that they felt intimidated or threatened because of their sexual orientation, though no LGBQ+ students reported that they had been the target of physical violence because of their sexual orientation. These data were not available for trans students.\textsuperscript{197}

In addition, more LGBTQ+ students reported experiencing sexual violence than non-LGBTQ+ students: 41.1\% of LGBTQ+ students said that they had experienced touching without consent compared to 4.3\% of non-LGBTQ+ students.\textsuperscript{198} Nearly 5\% of LGBTQ+ students said they had

\begin{footnotes}
\item[189] Id. at 16.
\item[190] Id.
\item[191] Id. at 17.
\item[192] Id. at 17-18.
\item[193] Id. at 36.
\item[194] Id. at 17.
\item[195] Id. at 42.
\item[196] Id.
\item[197] Id. at 16.
\item[198] Id. at 19.
\end{footnotes}
been forced to have sex without consent compared to 1.1% of non-LGBTQ+ students, but the disparity was not statistically significant.\textsuperscript{199}

2. Family Rejection

For many youth, the challenges that they face at school are compounded by unaccepting families. This can further impair their ability to learn and graduate. Research shows that many LGBT youth have strained relationships with their families, or face abuse by their parents, because of their sexual orientation and gender identity.\textsuperscript{200} For example, in one study about the challenges that youth face, LGBT youth ranked non-accepting families as the most important problem in their lives (26%), followed by school and bullying problems (21%), and fear of being open about being LGBT (18%).\textsuperscript{201} In contrast, non-LGBT youth ranked classes/exams/grades (25%), college/career (14%), and financial pressures related to college or job (11%) as the most important problems in their lives.\textsuperscript{202}

\textsuperscript{199} Id. at 19.
\textsuperscript{202} Id.
SECTION III. IMPACT OF STIGMA AND DISCRIMINATION ON LGBT INDIVIDUALS

Stigma and discrimination can result in negative outcomes for LGBT individuals including economic instability and poor health. Research has found that gay men and transgender people experience wage gaps, and has found an association between lower earnings and lack of state-level protections from discrimination for LGBT people. Research also indicates that LGBT people, in general, are disproportionately poor, and that social climate and policy are linked determinants of poverty among LGBT communities.

In addition, research has linked experiences of stigma and discrimination, as well as living in a state with unsupportive laws and social climate, to health disparities for LGBT people, including higher rates of mood and anxiety disorders, depression, attempted suicide, self-harm, and substance use. Data from Arizona’s BRFSS and YRBS indicate that LGBT adults and youth in the state are more likely to experience several of such health outcomes than their non-LGBT counterparts.

A. Economic Instability

1. Wage Gaps for LGBT People

Wage gap analysis has been a traditional method used by economists to measure employment discrimination against women, people of color, and LGBT people. In a meta-analysis of 31 studies on sexual orientation wage gaps, Professor Marieka Klawitter concluded that almost all studies found an earnings penalty for gay men, with an average of -11%. For lesbians, only a few studies found an earnings penalty as compared to heterosexual women and most found a significant earnings premium, even after controlling for many relevant factors. On average, the earnings premium for lesbians was +9%. Klawitter concluded that her analysis “shows evidence consistent with possible discrimination—an earnings penalty—for gay men, but not for lesbians.” However, it is important to keep in mind that most lesbians still earn less than most gay and heterosexual men because of the gender wage gap.

A simple comparison of median incomes in Arizona also suggests that men in same-sex couples also may face a wage gap. An analysis of Census 2000 data found that the median

\begin{footnotesize}
\begin{itemize}
\item[203] Marieka Klawitter, Meta-Analysis of the Effects of Sexual Orientation on Earnings, 54 INDUST. REL. 4, 13 (2014) (finding an average wage gap of -11% and a range of -30% to 0% for gay men).
\item[204] Id. (finding an average wage gap of +9% for lesbians with a range of -25% to +43%).
\item[205] Id. at 21.
\item[207] Comparison does not control for factors other than sexual orientation that may impact wages, such as education and age.
\end{itemize}
\end{footnotesize}
income of men in same-sex couples in the state was 26% lower than the median income of men in different-sex marriages.\footnote{208}

Klawitter posited several reasons to explain why gay men may face more discrimination in the workplace, including that straight men in the U.S. have less positive attitudes towards gay men than lesbians, and that straight men are more likely to be in wage-determining senior positions than women.\footnote{209} Klawitter also pointed to several studies suggesting that when gay men and lesbians are more visible in the workplace, they have lower earnings.\footnote{210} She also noted that other research reviews have found that lesbians who do not fit the norms for femininity have a harder time securing employment.\footnote{211}

In addition, a forthcoming study, based on representative data from 27 states, finds “clear evidence that self-identified transgender individuals have significantly lower employment rates and household incomes and significantly higher poverty rates than non-transgender individuals.”\footnote{212} The study concludes that transgender adults experience a “household income penalty” equivalent to 12% of annual household income.\footnote{213}

A growing body of research supports that, for many LGBT people who face discrimination along multiple axes of inequality, the resulting impact is greater than the sum of the parts. For example, a 2015 study found that the overall wage gap for men of color in same-sex couples was greater than what the sum of the race and sexual orientation wage gaps separately would have predicted. The gap was even more pronounced “in the bottom three quartiles of earnings, indicating that the magnifying negative interaction effects of minority race and sexual orientation status is most pronounced for lower-income workers.”\footnote{214}

Research also indicates that non-discrimination policies help to close sexual orientation wage gaps. A 2009 study found that in states with a sexual orientation non-discrimination law, men and women in same-sex couples had a wage premium (3% and 2% respectively) over states without such a law and they earned approximately 0.3% more for each year the policy was in

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\footnote{208}{The median income of women in same-sex couples in Arizona was higher than that of women in different-sex marriages, but lower than the median income of men with either same-sex or different-sex partners. \textsc{Adam P. Romero, Clifford J. Rosky, M.V. Lee Badgett \& Gary J. Gates}, \textit{Williams Inst., Census Snapshot: Arizona 2} (2008), \url{https://williams institute.law.ucla.edu/wp-content/uploads/ArizonaCensus2000Snapshot1.pdf}.}

\footnote{209}{\textit{Klawitter}, \textit{supra} note 203 at 21-22. Klawitter also notes that, consistent with the hypothesis of discrimination for gay men, jobs in the private sector show larger earnings penalties for gay men than in more highly regulated government sector jobs, but this pattern is not observed for lesbians—who have significant earnings premiums in the private and non-profit sectors, but none in government employment.}

\footnote{210}{\textit{Id.} at 22.}


\footnote{212}{Carperter et al., \textit{Transgender Status, Employment, and Income} (forthcoming) (on file with authors).}

\footnote{213}{\textit{Id.}}

Similarly, two 2011 studies reported a significant impact of state non-discrimination laws on annual earnings and found that state non-discrimination laws were associated with a greater number of weeks worked for gay men -- especially in private-sector jobs. Furthermore, a 2015 study found that the enactment of state level non-discrimination laws increased wages by 4.2% and employment by 2% for gay men.

2. Poverty in the LGBT Community

While national averages indicate that LGBT people may be more likely to have higher household incomes than non-LGBT people, those averages can mask that LGBT people are also disproportionately poor and that poverty is concentrated in certain groups within the LGBT community such as female same-sex couples, people of color, transgender people, young people, and the elderly. For example, key findings from a 2013 study on poverty in the LGBT community include:

- 7.6% of lesbian couples live in poverty, compared to 5.7% of married different-sex couples;
- Over 1 in 5 children of same-sex couples live in poverty, compared to 12.1% of children of married different-sex couples;
- African American same-sex couples have poverty rates more than twice that of married different-sex African American couples; and
- Female same-sex couples who live in rural areas are much more likely to be poor (14.1%), compared to lesbian couples in large cities (4.5%).

Similarly, research on the issue of food insecurity in the LGBT community found that, in the year prior to the survey, more than one in four LGBT adults (27%) experienced a time when they

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218 Ian Burn, Legal Differences in Non-Discrimination Laws and the Effect of Employment Protections for Gay Men (Feb. 2015) (unpublished manuscript available at the Princeton University repository). The study also found that state non-discrimination laws with stronger damages, statutes of limitations, and attorney's fees increase the positive impact on gay men’s wages. Id.
220 Id. at 1-3.
did not have enough money to feed themselves or their family, and nearly half of LGB adults aged 18-44 who are raising children (46%) received food stamps.221

The 2015 U.S. Transgender Survey found that, nationally, nearly one-third of respondents were living at or near the federal poverty line, which is twice the rate of poverty in the U.S. general population (29% v. 14%).222 Transgender people of color were more likely to be living in poverty, with 43% of Latino/a, 43% of American Indian, 40% of multiracial, 38% of Black, 34% of Middle Eastern, and 32% of Asian respondents reporting that they were living in poverty, compared to 24% of White transgender respondents.223

In a 2013 study on poverty, Badgett et al. suggested that social climate and policy are linked determinants of LGB poverty: “LGB people who live in non-coastal regions of the U.S. or rural communities are more likely than those in urban and coastal regions to be in poverty. These geographic areas are more likely to have social climates that are less accepting of LGB identities, increasing the stress and discrimination that LGB people face. These locales may also be less likely to offer legal protections that would guard against major life events, such as job loss or health issues that often contribute to poverty.”224

Building from that thesis, a 2014 report by the Williams Institute linked greater socio-economic disparities for LGBT people to region, a lack of legal protections, and a poor social climate.225 The report found that LGBT Americans face greater social and economic disparities in states without statewide laws prohibiting sexual orientation discrimination, and in regions with a poorer social climate and fewer legal protections.226 For example, while same-sex couples with children face an income disadvantage when compared to their different-sex married counterparts in all states, that income gap widens from $4,300 in the states with protective laws states to $11,000 in states like Arizona that lack such laws.227

222 JAMES ET AL., supra note 107 at 144.
223 Id.
224 BADGETT, DURSO & SCHNEEBAUM, supra note 219 at 25.
225 HASENBUSH ET AL., supra note 14.
226 Press Release, Williams Inst., LGBT Americans Face Greater Social and Economic Disparities in the South, Midwest, and Mountain States (Dec. 18, 2014) (available at http://williamsinstitute.law.ucla.edu/press/press-releases/lgbt-divide/). In the words of report author Gary Gates: “It’s not just that LGBT people in the Midwest and South are poorer because people in those regions tend to be poorer overall. In some cases the economic disadvantages that LGBT people have relative to non-LGBT people markedly increase in those regions. In others, the advantages that you see for LGBT people in other parts of the country either disappear or reverse.”
227 HASENBUSH ET AL., supra note 14.
Data collected by Gallup and analyzed by the Williams Institute show similar disadvantages for LGBT people in Arizona, including:

- 39% percent of LGBT adults in Arizona reported having an annual household income below $24,000 compared to 24% of non-LGBT adults.\(^{228}\)
- LGBT adults in Arizona were nearly twice as likely to report that they do not have enough money for food as non-LGBT adults (35% v. 18%).\(^{229}\)
- 26% of LGBT adults in Arizona reported that they do not have enough money to meet their health care needs compared to 18% of non-LGBT adults.\(^{230}\)
- 20% of LGBT adults in Arizona reported that they do not have health insurance compared to 15% of non-LGBT adults.\(^{231}\)
- 12% of LGBT adults in Arizona reported being unemployed compared to 8% of non-LGBT adults.\(^{232}\)

The 2015 U.S. Transgender Survey found that 16% of respondents in Arizona were unemployed, and 28% were living in poverty.\(^{233}\) In addition, 14% of respondents in Arizona reported experiencing homelessness within the prior year because of being transgender.\(^{234}\)

**B. Health Disparities for LGBT People**

**1. Health Disparities for LGBT Adults**

Experiences of discrimination and harassment, as well as living in a state with unsupportive laws and social climates, have been shown to contribute to health disparities for LGBT people. Substantial research has documented that LGBT people experience disparities on a range of health outcomes, and health-related risk factors, compared to their non-LGBT counterparts. Research shows that mood\(^ {235}\) and anxiety disorders,\(^ {236}\) attempted suicide,\(^ {237}\) and self-harm\(^ {238}\) are

\(^{228}\) LGBT Data & Demographics: Arizona, supra note 16.
\(^{229}\) HASENBUSH ET AL., supra note 14 at 40.
\(^{230}\) Id. at 41.
\(^{231}\) LGBT Data & Demographics: Arizona, supra note 16.
\(^{232}\) Id.
\(^{233}\) THE NATIONAL CENTER FOR TRANSGENDER EQUALITY & ONE COMMUNITY, supra note 109 at 1.
\(^{234}\) Id.
\(^{238}\) Balsam et al., *supra* note 235. For comprehensive reviews of research on LGBT health, see INSTITUTE OF MEDICINE, THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING (2011); THE HEALTH OF SEXUAL MINORITIES: PUBLIC HEALTH PERSPECTIVES ON LESBIAN, GAY, BISEXUAL AND TRANSGENDER POPULATIONS (Ilan H. Meyer & Mary E. Northridge eds., 2007).
more common among sexual minorities (LGBs) than non-LGB people. Studies also indicate that rates of depression, anxiety disorders, and attempted suicide are also elevated among transgender people.\textsuperscript{239} In addition, LGB people are more likely to report tobacco use, drug use, and alcohol disorders than their non-LGB counterparts.\textsuperscript{240} As described more fully below, empirical research has linked such disparities to anti-LGBT policies and unsupportive social climates. Health survey data collected in Arizona indicate that LGB\textsuperscript{241} adults in the state experience the same types of disparities that have been documented in other states and on national surveys.

### a. Health Disparities for LGB Adults in Arizona

One source for assessing health disparities between LGB and non-LGB people in Arizona is the Arizona Behavioral Risk Factor Surveillance System (BRFSS).\textsuperscript{242} From 2009 to 2012, Arizona included a state-added sexual orientation measure on its BRFSS.\textsuperscript{243} Arizona has never included a measure of gender identity on its BRFSS. We present our analysis of data from the most recent of these datasets, the 2012 Arizona BRFSS below, noting where our results are similar or dissimilar to patterns observed in the general population.

We assessed the health of LGB and non-LGB adults in Arizona on three health outcomes that are widely viewed as stress-coping responses\textsuperscript{244} and which have been specifically linked to LGB stigma and discrimination in prior research: depression, smoking, and binge drinking; as well as two other population health indicators (the number of days respondents experienced poor mental health during the month prior to the survey and respondents’ experiences of feeling limited in their usual activities because of poor health). In our analyses we include individuals who

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\textsuperscript{239} See INSTITUTE OF MEDICINE, supra note 238 at 193-97.


\textsuperscript{241} We are deliberate when using LGBT and LGB in this section. If we are using just LGB, it is because the underlying survey only had a measure of sexual orientation, and did not ask about gender identity.


\textsuperscript{243} Sexual orientation identity was assessed with the following item: “Do you consider yourself to be (1) Heterosexual, that is, straight, (2) Homosexual, that is, gay or lesbian, (3) Bisexual or (4) Other.” ARIZONA DEPARTMENT OF HEALTH, 2012 BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM QUESTIONNAIRE (2012) (on file with authors), available at http://azdhs.gov/preparedness/public-health-statistics/behavioral-risk-factor-surveillance/index.php#questionnaires.

identified as lesbian, gay, or bisexual (LGB) and those who identified as heterosexual/straight (non-LGB).²⁴⁵

The proportion of LGB (n=154) and non-LGB (n=5,632) people in Arizona that reported each health outcome are discussed below. The proportions are weighted to reflect the population of Arizona, as is recommended by the Centers for Disease Control and Prevention when analyzing these data.²⁴⁶

**Mental Health.** LGB adults in the 2012 Arizona BRFSS were significantly more likely to have ever been diagnosed with a depressive disorder (including depression, major depression, dysthymia, or minor depression) by a health care professional when compared to non-LGB adults in the state (35.2% v. 18.9%).²⁴⁷ LGB respondents also reported more days of being in poor mental health in the month prior to the survey than non-LGB respondents (8.1 days v. 3.8 days).²⁴⁸ In addition, more LGB than non-LGB respondents reported being limited in their activities because of mental, physical, or emotional problems (30.5% v. 21.9%).²⁴⁹ LGB respondents, on average, however, reported that poor physical or mental health kept them from doing their usual activities at a similar rate as non-LGB respondents (5.0 days v. 5.1 days).²⁵⁰

**Figure III.a. Health Characteristics of Adults in Arizona, by Sexual Orientation**

Source: Arizona BRFSS, 2012

<table>
<thead>
<tr>
<th>Health Outcome</th>
<th>LGB (%)</th>
<th>Non-LGB (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ever diagnosed with depressive disorder by health care professional</td>
<td>35.2</td>
<td>18.9</td>
</tr>
<tr>
<td>Currently limited in activities because of physical, mental or emotional problems</td>
<td>30.5</td>
<td>21.9</td>
</tr>
<tr>
<td>Average number of days during past 30 days mental health not good</td>
<td>8.1</td>
<td>3.8</td>
</tr>
</tbody>
</table>

²⁴⁵ Individuals who identified as “Other” sexual orientation are not included in these analyses.
²⁴⁷ AOR (95% CI) = 2.34 (1.41, 3.90).
²⁴⁸ Adjusted b = 3.79, p < 0.01.
²⁴⁹ AOR (95% CI) = 2.15 (1.31, 3.53).
²⁵⁰ Adjusted b = 0.51, p=0.66.
**Smoking.** LGB adults in Arizona were significantly more likely to currently smoke than non-LGB adults. Over one in four LGB adults in Arizona (27.6%) were current smokers, compared to 16.4% of non-LGB adults.251

**Drinking.** After adjusting for differences in the age composition of LGB and non-LGB adults, rates of binge-drinking (25.6% v. 14.1%, respectively)252 and heavy drinking (3.1% v. 5.1%, respectively),253 were not statistically different. Binge drinking is defined as five or more drinks on at least one occasion in the past month for men and four or more drinks for women.254 Heavy drinking is defined as having more than 14 drinks per week for men and more than seven drinks per week for women.255

Our findings are consistent with analyses of BRFSS data collected in other states and with analyses of National Health Interview Survey data. For example, an analysis of BRFSS data collected in 10 states256 in 2010 found that LGB individuals were more likely to be current smokers than their non-LGB counterparts.257 An analysis of data from the 2013 National Health Interview Survey found that LGB adults aged 18-64 in the U.S. were more likely to be current smokers (27.2% lesbian or gay v. 29.5% bisexual v. 19.6% non-LGB).258 Two studies analyzing BRFSS data from Massachusetts259 and Washington State260 found disparities across a range of health outcomes and behaviors for LGB respondents, including poor physical and mental health, activity limitation, tension or worry, smoking, excessive drinking, and drug use.

**b. Impact of Anti-LGBT Policies and Unsupportive Social Climates on LGBT Health**

Empirical research has linked LGBT health disparities, including disparities in health-related risk factors, to anti-LGBT policies and unsupportive social climates. This connection has been recognized by the U.S. Department of Health and Human Services in *Healthy People 2010* and

251 AOR (95% CI) = 1.77 (1.02, 3.06).
252 AOR (95% CI) = 1.55 (0.80, 3.01).
253 AOR (95% CI) = 0.57 (0.19, 1.70).
255 Id.
256 In 2010, 12 states had added a question about sexual orientation to their BRFSS surveys (Alaska, Arizona, California, Colorado, Maine, Massachusetts, Montana, New Mexico, North Dakota, Oregon, Washington, and Wisconsin), but data from two states (Colorado and Oregon) were unavailable to the authors at the time of analysis, so the study was based on data collected in the remaining 10 states. John R. Blosnich et al., *Health Inequalities among Sexual Minority Adults: Evidence from Ten U.S. States, 2010*, 46 AM. J. PREV. MED. 337, 338 (2014).
257 Id. at 340.
Healthy People 2020 and the Institute of Medicine of the National Academies. Research also suggests that stigmatizing campaigns around the passage of anti-LGBT policies, or negative media messaging that draws attention to unsupportive social climates, may exacerbate these disparities.

The minority stress model suggests that unsupportive social climates, created by anti-LGBT prejudice, stigma, and discrimination, expose LGBT individuals to excess stress, which, in turn, causes adverse health outcomes, resulting in health disparities for sexual minorities and transgender individuals compared with heterosexuals. Research that has focused on mental and physical health outcomes of LGBT people supports the minority stress model. This research has demonstrated that both interpersonal experiences of stigma and discrimination, such as being fired from a job for being LGBT, and structural stigma, such as living in a state without LGBT-supportive laws, contribute to minority stress.

A number of studies have found evidence of links between minority stressors and negative mental health outcomes in LGB people, including a higher prevalence of psychiatric disorders, including depression and psychological distress, as well as loneliness, suicidal intention, etc.}

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261 Healthy People 2020, DEP’T OF HEALTH AND HUMAN SERV., https://www.healthypeople.gov/sites/default/files/HP2020_brochure_with_LHL_508_FNL.pdf (last visited Jan. 3, 2016). Healthy People 2010 identified the gay and lesbian population among groups targeted to reduce health disparities in the United States. In explaining the reason for the inclusion of the gay and lesbian population as one of the groups requiring special public health attention, the Department of Health and Human Services noted, “The issues surrounding personal, family, and social acceptance of sexual orientation can place a significant burden on mental health and personal safety.” DEP’T OF HEALTH AND HUMAN SERVICES, OFFICE OF DISEASE PREVENTION AND HEALTH PROMOTION, HEALTHY PEOPLE 2010: UNDERSTANDING AND IMPROVING HEALTH 16 (2d ed. 2000).

262 INSTITUTE OF MEDICINE, supra note 238 at 14 (“LGBT people . . . face a profound and poorly understood set of . . . health risks due largely to social stigma”).

263 Ilan H. Meyer, Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence, 129 PSYCHOL. BULL. 674 (2009); INSTITUTE OF MEDICINE, supra note 238.

264 Id.; AM. PSYCH. ASSOC., STRESS IN AMERICA: THE IMPACT OF DISCRIMINATION 8, 22 (2016).


deliberate self-harm, and low self-esteem. Studies have also linked minority stress in LGB people to an increased prevalence of high-risk health-related behaviors, such as tobacco use, drug use, and alcohol disorders.

For example, a 2016 study by the American Psychological Association based on a nationally representative sample linked experiences of discrimination to increased stress and poorer health for LGBT people. The study found that LGBT adults reported higher average levels of perceived stress (6.0 vs. 5.0 on a 10-point scale) and were more likely to report extreme levels of stress (39% v. 23%) in the prior 30 days than adults who were non-LGBT. Job stability was a current source of stress for 57% of LGBT adults compared to 36% of non-LGBT adults. The study also found that many LGBT respondents had experienced discrimination. Nearly one-fourth (23%) of the LGBT adults reported that they had ever been unfairly stopped, searched, questioned, physically threatened or abused by the police; nearly one-fourth (24%) reported being unfairly discouraged by a teacher or advisor to continue their education; and one-third (33%) reported being unfairly not hired for a job.

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270 James Warner et al., Rates and Predictors of Mental Illness in Gay Men, Lesbians and Bisexual Men and Women: Results from a Survey Based in England and Wales, 185 BRITISH J. OF PSYCHIATRY 479 (2004).
273 AM. PSYCH. ASSOC., supra note 264.
274 Id. at 22. LGBT adults were also more likely than non-LGBT adults to report experiencing increased stress over the past year (49% v. 34%). More than one-third of adults who are LGBT believed they were not doing enough to manage their stress, compared to one-fifth of non-LGBT adults saying the same (35% v. 20%).
275 Id.
276 The percentage of respondents who were reported as having experienced discrimination said that they had either experienced “at least one of the five day-to-day stressors ‘less than once a year’ or more often; or ever experienced one of nine major forms of discrimination.” The five day-to-day stressors included: 1. You are treated with less courtesy or respect than other people; 2. You receive poorer service than other people at restaurants or stores; 3. People act as if they think you are not smart; 4. People act as if they are afraid of you; 5. You are threatened or harassed.” The nine major forms of discrimination included: 1. Have you ever been unfairly fired from a job? 2. Have you ever been unfairly denied a promotion? 3. For unfair reasons, have you ever been not hired for a job? 4. Have you ever been unfairly stopped, searched, questioned, physically threatened or abused by the police? 5. Have you ever been unfairly discouraged by a teacher or advisor from continuing your education? 6. Have you ever been unfairly prevented from moving into a neighborhood because the landlord or a realtor refused to sell or rent you a house or apartment? 7. Have you ever moved into a neighborhood where neighbors made life difficult for you or your family? 8. Have you ever been treated unfairly when receiving health care? 9. Have you ever been treated unfairly while using transportation (e.g., buses, taxis, trains, at an airport, etc.)? Press Release, Am. Psych. Assoc., 2015 Stress in America: Methodology, http://www.apa.org/news/press/releases/stress/2015/methodology.aspx (last visited Dec. 5, 2016) (see Measurement with Experience with Discrimination).
277 AM. PSYCH. ASSOC., supra note 264 at 6-7.
Studies have also linked a lack of legal protections and a poor state social climate to health disparities for LGBT people. For example, a 2009 study by Mark Hatzenbuehler et al. found that an unsupportive state-level legal landscape for LGB people was associated with “higher rates of psychiatric disorders across the diagnostic spectrum, including any mood, anxiety, and substance use disorder” in the LGB population than found in LGB populations in states with more supportive laws.\(^{278}\) A 2010 study by the same authors found that rates of anxiety, mood disorders, and alcohol use disorder increased significantly for LGB respondents after their state passed a constitutional ban on marriage for same-sex couples, and rates were unchanged in states that did not pass bans. The authors concluded that their “findings provide the strongest empirical evidence to date that living in states with discriminatory laws may serve as a risk factor for psychiatric morbidity in LGB populations.”\(^{279}\) Drawing on these findings and prior research, Hatzenbuehler concluded that “the recent laws that have been passed [anti-LGBT laws in North Carolina and Mississippi], as well the prejudicial attitudes that underlie them, are likely to have negative consequences for the mental and physical health of LGBT populations.”\(^{280}\)

Similarly, researchers who used 2011 North Carolina BRFSS data to study health disparities between LGB and non-LGB people in the state noted that the poor legal and social environment for LGB people in the South may exacerbate the disparities:

> Of additional concern is that many Southeastern states have failed to incorporate sexual minorities into existing laws (e.g., employment nondiscrimination) or have adopted new anti-LGB policies (e.g., prohibiting legal recognition of same-sex relationships), both of which may create and exacerbate unhealthful social environments for LGB populations, even as evidence of the health impact of local and state policies on LGB health grows. This context may yield health profiles different from New England and the Pacific Northwest, areas that currently have a greater number of policies in place that support LGB and transgender rights.\(^{281}\)

Additionally, research indicates that laws or policies restricting bathroom access for transgender people can negatively impact their health, and can put them in danger of verbal and physical harassment. For example, a 2008 survey of transgender and gender non-conforming people in Washington, D.C. found that 54% of respondents had experienced a physical health problem

\(^{278}\) Mark L. Hatzenbuehler, Katherine M. Keyes & Deborah S. Hasin, *State-Level Policies and Psychiatric Morbidity in Lesbian, Gay, and Bisexual Populations*, 99 AM. J. PUBLIC HEALTH 2275, 2277 (2009). The study looked at two types of laws: employment non-discrimination laws and hate crimes laws. *Id.* at 2275. If a state did not include sexual orientation as a protected characteristic in either type of law, it was considered an unsupportive state. *Id.* at 2277.


from trying to avoid public bathrooms, including dehydration, urinary tract infections, kidney infections, and other kidney related problems.\(^\text{282}\) Further, 58% of the respondents reported that they “avoided going out in public due to a lack of safe restroom facilities,” 68% reported that they had been verbally harassed in a restroom, and 9% reported that they had been physically assaulted in a restroom.\(^\text{283}\)

While research provides strong support for direct links between anti-LGBT policies or unsupportive environments and negative health outcomes, there may be other related factors that could contribute to the magnitude of observed disparities. For example, researchers have noted that healthier and better-resourced LGBT people may be able to move to more supportive climates than LGBT peers in worse health which would heighten observed disparities in less accepting places.\(^\text{284}\) Nonetheless, the research indicates that minority stress factors, including a lack of legal protections, discrimination, and a poor social climate, likely contribute to LGBT health disparities in Arizona.

2. Health Disparities for LGBT Youth

Patterns of poor health and health risk observed among LGBT adults have been widely documented among LGBT adolescents as well. For example, the CDC analysis of 2015 YRBS data from 25 states and 19 large urban school districts reported disproportionately high rates of poor mental health and health risk behavior, commonly considered stress coping behavior,\(^\text{285}\) that disfavor LGB youth.\(^\text{286}\) Analyses of YRBS data from 2001-2009 also indicated sexual orientation disparities in mental health and health risk behaviors, suggesting that intervention efforts to date have been insufficient.\(^\text{287}\) Finally, a 2011 meta-analysis of 18 studies found that compared to non-LGB youth, LGB youth were more likely to report depression and more than twice as likely to think about suicide, over three times as likely to report that they had attempted suicide, and more than four times as likely to have attempted suicide such that they needed medical attention.\(^\text{288}\)

Other studies have linked health disparities and risk behaviors among LGB youth to discrimination and unsupportive environments. For example, a 2017 study found that marriage equality at the state level was associated with a statistically significant decline (14%) in the


\(^{283}\) Id. at 71, 76.

\(^{284}\) Hatzenbuehler, McLaughlin, Keyes & Hasin, supra note 272 at 452.

\(^{285}\) See, e.g., Liu & Alloy, supra note 244; Kassel et al., supra note 244; Brady & Sonne, supra note 244.

\(^{286}\) Id.

\(^{287}\) See, e.g., Laura Kann et al., supra note 160.

The proportion of LGB youth reporting that they attempted suicide in the past year.\textsuperscript{289} Similarly, a 2011 study of youth in Oregon found that, in general, LGB youth were more likely to have attempted suicide than heterosexual youth, and that LGB youth in unsupportive school environments were at a 20% greater risk of attempting suicide than were LGB youth in supportive school environments.\textsuperscript{290} High levels of school-based victimization have been associated with higher levels of illicit drug use and risky sexual behavior.\textsuperscript{291} Research has also linked unsupportive family environments to depression and suicidality,\textsuperscript{292} high levels of stress,\textsuperscript{293} tobacco use,\textsuperscript{294} and illicit drug use\textsuperscript{295} in LGB youth and young adults.

Studies of transgender youth have also found evidence of associations between discrimination, abuse, and poorer health. For example, a 2010 study found that transgender respondents who had experienced gender-related abuse in their youth reported significantly higher rates of major depression and suicidality during that period of their lives than those who had not had such experiences.\textsuperscript{296}

\section*{a. Health Disparities for LGBT Youth in Arizona}

\subsection*{Depression and Suicidality}

Data from the 2015 Arizona YRBS suggest that sexual orientation disparities in mental health and substance use observed elsewhere in the U.S. also persist in Arizona.

As shown in Figure III.b., larger proportions of LGB high school students in Arizona reported feeling isolated, depressed, and suicidal than non-LGB students. During the 12 months prior to

\textsuperscript{290} Mark L. Hatzenbuehler, \textit{The Social Environment and Suicide Attempts in Lesbian, Gay, and Bisexual Youth}, 127 PEDIATRICS 896 (2011).
\textsuperscript{291} Daniel E. Bontempo & Anthony D’Augelli, \textit{Effects of At-School Victimization and Sexual Orientation on Lesbian, Gay, or Bisexual Youths’ Health Risk Behavior}, 30 J. ADOL. HEALTH 362 (2002); Kann et al., \textit{supra} note 160 at 11.
\textsuperscript{292} Another study found that LGBT youth who were rejected by their families in adolescence were 5.9 times more likely to report high levels of depression and 8.4 times more likely to have attempted suicide than LGBT youth who had not been rejected. Caitlin Ryan, David Huebner, Rafael M. Diaz & Jorge Sanchez, \textit{Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults}, 123 PEDIATRICS 346 (2009).
\textsuperscript{293} Mark L. Hatzenbuehler \& Katie A. McLaughlin, \textit{Structural Stigma and Hypothalamic-Pituitary-Adrenocortical Axis Reactivity in Lesbian, Gay, and Bisexual Young Adults}, 47 ANN. BEHAV. MED. 39 (2014).
\textsuperscript{294} Mark L. Hatzenbuehler, Hee-Jin Jun, Heather L. Corliss \& S. Bryn Austin, \textit{Structural Stigma and Cigarette Smoking in a Prospective Cohort Study of Sexual Minority and Heterosexual Youth}, 47 ANN. BEHAV. MED. 48 (2014).
the survey, over two-thirds of LGB students in Arizona reported feeling so sad or hopeless every day for over two weeks that they stopped doing some of their usual activities (68.0%).297 This was more than double the rate of non-LGB students who reported the same (29.6%). An affirmative answer to this question is part of the diagnostic definition of major depressive disorder.298

**Figure III.b. 12-month Depression and Suicidality among High School Students in Arizona, by Sexual Orientation**
Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9–12, United States and Selected Sites, 2015*

<table>
<thead>
<tr>
<th></th>
<th>LGB (%)</th>
<th>Non-LGB (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felt sad or hopeless</td>
<td>68.0</td>
<td>29.6</td>
</tr>
<tr>
<td>for 2 weeks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seriously considered</td>
<td>47.2</td>
<td>14.9</td>
</tr>
<tr>
<td>suicide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Planned for suicide</td>
<td>42.3</td>
<td>13.4</td>
</tr>
<tr>
<td>Injury from suicide</td>
<td>9.9</td>
<td>1.9</td>
</tr>
<tr>
<td>attempt requiring</td>
<td></td>
<td></td>
</tr>
<tr>
<td>medical care</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

LGB high school students in Arizona were over three times as likely to have seriously considered suicide in the year prior to the survey compared to non-LGB students (47.2% v. 14.9%).299 In addition, 42.3% of LGB students300 reported making a plan for how to attempt suicide and 9.9% reported being injured from a suicide attempt in a way that had to be treated by a doctor or a nurse in the 12 months prior to the survey.301 By comparison, 13.4% of non-LGB students in Arizona reported making a plan for how to attempt suicide302 and 1.9% reported being injured from a suicide attempt that had to be treated by a doctor or a nurse.303

**ii. Substance Use**

LGB high school students in Arizona were also more likely to report drinking, smoking, and other substance abuse than non-LGB students.

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297 Laura Kann et al., *supra* note 160 at 108.
299 Kann et al., *supra* note 24 at 109.
300 *Id.* at 109.
301 *Id.* at 112.
302 *Id.* at 110.
303 *Id.* at 112.
LGB students in Arizona were twice as likely to report having smoked cigarettes on one or more days in the month prior to the survey (20.7% v. 9.1%)\(^{304}\) and were also more likely to report that they had smoked cigarettes on 20 or more days in the month prior to the survey (3.4% v. 2.1%) than non-LGB students.\(^{305}\) LGB students were also more likely to have had at least one drink in the month prior to the survey than non-LGB students (44.6% v. 33.8%).\(^{306}\)

**Figure III.c. 30-Day Substance Use among High School Students Arizona, by Sexual Orientation**

Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9–12, United States and Selected Sites, 2015*

<table>
<thead>
<tr>
<th>Activity</th>
<th>LGB (%)</th>
<th>Non-LGB (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smoked cigarettes on at least 1 day</td>
<td>20.7%</td>
<td>9.1%</td>
</tr>
<tr>
<td>Smoked cigarettes on 20 or more days</td>
<td>3.4%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Had at least 1 alcoholic drink</td>
<td>44.6%</td>
<td></td>
</tr>
<tr>
<td>Used marijuana</td>
<td>37.4%</td>
<td>22.0%</td>
</tr>
<tr>
<td>Used cocaine (lifetime)</td>
<td>10.6%</td>
<td>4.2%</td>
</tr>
</tbody>
</table>

LGB high school students in Arizona were also more likely to report illicit drug use than non-LGB students. LGB students were more likely to report having used marijuana (37.4% v. 22.0%)\(^{307}\) in the month prior to the survey and were more than twice as likely as non-LGB students to report ever having used cocaine (10.6% v. 4.2%).\(^{308}\)

These findings are consistent with the 2015 YRBS data collected in 24 other states and 18 large urban school districts. In terms of mental health, like LGB youth in Arizona, LGB youth in the national YRBS sample were more likely to report that they felt so sad or hopeless that they stopped doing their usual activities for a period of time,\(^{309}\) that they had seriously considered suicide,\(^{310}\) that they had made a suicide plan,\(^{311}\) and that they had made a suicide attempt that resulted in an injury that had to be treated by a doctor or nurse.\(^{312}\) In terms of substance use,
LGB youth in the national sample, similarly to LGB youth in Arizona, reported higher rates of smoking cigarettes, drinking alcohol, binge drinking, marijuana use, and cocaine use.

The YRBS findings for high school students in Arizona and the U.S. are also consistent with findings from a 2014 survey of college students at the University of Arizona. In response to the survey, 43.4% of LGBTQ+ students said they had been diagnosed with depression, 40.8% said they had been diagnosed with anxiety, and 32.2% said they had been diagnosed with both. Among non-LGBTQ+ students, 14.0% said they had been diagnosed with depression, 19.4% said they had been diagnosed with anxiety, and 14.0% said they had been diagnosed with both. Additionally, 25.2% of LGBTQ+ students said they had seriously considered attempting suicide at least once in the prior school year and 4% had actually attempted suicide at least once in the prior school year. By comparison, 4.0% of non-LGBTQ+ students said they had seriously considered attempting suicide at least once in the prior school year and 1.1% had actually attempted suicide at least once in the prior school year. LGBTQ+ students at the University of Arizona were also more likely than non-LGBTQ+ students to have used tobacco (9.9% v. 6.7%), alcohol (65.6% v. 56.5%), and marijuana (19.2% v. 7.9%) within the month prior to the survey.

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313 Id. at 115-16.
314 Id. at 131-32.
315 Id. at 133.
316 Id. at 137.
317 Id. at 141.
318 Pring et al., supra note 112 at 37.
319 Id.
320 Id.
321 Id. at 38.
SECTION IV. ECONOMIC IMPACT OF STIGMA AND DISCRIMINATION AGAINST LGBT PEOPLE

In 2014, USAID and the Williams Institute produced a study addressing the economic impacts of stigma and discrimination against LGBT people. In this section, we draw from that study and look to three forms of stigma and discrimination to assess the impact of an unsupportive legal landscape and social climate on Arizona’s economy: 1) discrimination and harassment in the workplace and other settings; 2) health disparities experienced by LGBT people; and 3) bullying and harassment of youth.\(^2\) In our analysis, we draw on data specific to Arizona, and illustrate the magnitude of some of the costs resulting from different types of stigma and discrimination. Due to limited available data on LGBT people in the state, we are able to estimate only a few of the costs related to LGBT stigma and discrimination in Arizona.

A. Approach to Analyzing Economic Implications of Stigma and Discrimination against LGBT People

In a 2014 USAID and Williams Institute study, titled *The Relationship Between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies*, the authors explored both micro- and macro-level analyses to assess possible links between discrimination against LGBT people, as well as exclusionary treatment of LGBT people, and economic harms to the state.\(^3\) In the micro-level analysis, the authors considered five types of discrimination against LGBT people and explained how they might be linked to harmful economic outcomes:

1) Police abuse and over-incarceration;
2) Higher rates of violence;
3) Workplace harassment and discrimination;
4) Discrimination and bullying of LGBT students in schools; and
5) Health disparities.\(^4\)

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\(^2\) The USAID and Williams Institute study also assessed the economic impacts of two other forms of stigma and discrimination against LGBT people: 1) police abuse and over-incarceration and 2) higher rates of violence. We do not consider these forms in this report due to a lack of state-level data on effects of such stigma and discrimination against LGBT people in Arizona.


\(^4\) *Id.*
After considering these, the authors concluded that “human rights violations experienced by LGBT people diminish economic output and capacity at the micro-level. When LGBT people are targets of violence, denied equal access to education, stigmatized in communities, and discouraged from pursuing the jobs that maximize their skills, their contributions to the whole economy are diminished, holding back economic advancement for the national economy.”

Turning to the macro-level, the authors found an association between greater protections of legal rights for sexual and gender identity minorities and economic development in emerging economies, measured by per capita GDP. Notably, they found that non-discrimination laws in particular “have an especially strong correlation with GDP per capita. The importance of nondiscrimination laws could be related to their stronger connection to the treatment of LGBT people in the workplace and other settings that have direct economic relevance.”

While the USAID and Williams Institute study focused on national economies, similar types of discrimination and stigma confront LGBT people in Arizona and are likely to have similar economic effects.

Before we turn to the analysis, five important points:

First, we map out several economic impacts due to stigma and discrimination against LGBT people in Arizona in general. We do not consider how the effects specifically relate to any particular law or policy in the state.

Second, we illustrate just a few of the economic impacts created by a challenging legal landscape and social climate for LGBT people in Arizona. This report is not intended to quantify the total amount of harmful economic impacts related to stigma and discrimination against LGBT people in the state.

Third, while the forms of discrimination and stigma that we address in this study provide a useful way to understand some of the significant challenges that LGBT people face throughout their lives, different types of discrimination and stigma interact with each other and all may contribute to one or more negative outcomes for LGBT people. For example, LGBT people are more likely to be poor because of school bullying and workplace discrimination, to have poor health, and to have higher rates of incarceration and violent crime victimization. Because these factors overlap and interact, the economic impacts that we have estimated should not be summed together.

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325 Id. at 6.
326 Id. at 10.
327 Id. at 3.
Fourth, focusing on LGBT stigma and discrimination alone will not address all negative outcomes experienced by LGBT people. LGBT people have a minority sexual orientation and/or gender identity, but also have other identities including race, ethnicity, age, disability, and gender. While a singular focus on LGBT stigma will not entirely eliminate the disparities we discuss, an approach that embraces eliminating disparities for diverse LGBT people, no matter what their cause, will improve the lives of many non-LGBT people as well. For example, eliminating gender and racial-ethnic wage gaps in the U.S. would both eliminate the poverty gap between same-sex and different sex-couples, as well as lift many non-LGBT people out of poverty.328

Finally, as the authors of the USAID and Williams Institute study emphasize, to move this analysis beyond this framework and the illustrations of economic impact below, we need more complete and better data on LGBT populations.329 In particular, the routine inclusion of sexual orientation and gender identity measures on large population-based surveys would provide a rich source of information about LGBT people and disparities they face related to their sexual orientation and gender identity. The value of such data collection is illustrated by our use of two data sets specific to LGB people in Arizona that were unavailable just a few years ago—data from the Youth Risk Behavior Survey (YRBS) and the Behavioral Risk Factor Surveillance System (BRFSS). We also need more research about the lived experiences of LGBT people and the effectiveness of legal protections to further assess the impact of LGBT supportive laws and climates on LGBT people.330

**B. Economic Impact of Harassment and Discrimination against LGBT People in the Workplace and Other Settings**

A growing body of research finds that supportive workplace policies and practices, such as non-discrimination policies, have a positive impact on employer outcomes—which has been termed “the business case for diversity.” While this research has primarily focused on the inclusive policies and environments of individual firms, it also suggests that state economies benefit from more inclusive legal and social environments.

To the extent that Arizona’s legal landscape and social climate is unsupportive of LGBT workers, businesses within the state and the state as an employer are likely to experience negative economic outcomes. Research shows that LGBT workers in unsupportive environments are less likely to be open about their sexual orientation or gender identity at work,

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330 Badgett, Nezhad, Waaldijk & Rodgers, supra note 323 at 49.
more likely to be distracted on the job, and less likely to be committed to staying at their current employer, compared to LGBT employees at supportive workplaces. Moreover, LGBT and non-LGBT workers from outside of a state that they perceive as unsupportive may be less likely to accept job offers from employers in the state.

In addition, discrimination in employment, housing, and other areas of life can result in LGBT people experiencing economic instability, including poverty and homelessness. When LGBT people experience economic instability, they are more likely to rely on government benefits and services, which increases the costs of these programs to the state.

1. The Business Case for Diversity

Over the past two decades, many employers have adopted non-discrimination polices to protect LGBT employees and created more inclusive workplace environments, even when not legally required to do so. In doing so, both employers and LGBT advocates have articulated the business case for diversity, drawing on research initially related to racial and gender diversity, but now frequently evaluating LGBT-supportive policies and practices.

Corporations have increasingly enacted LGBT-supportive policies, in part, because the companies perceive that the policies will have a positive impact on the bottom line. As of 2015, 93% of Fortune 500 companies had policies prohibiting sexual orientation discrimination and 75% included gender identity. Further, 64% offered domestic partner benefits and 40% had transgender-inclusive benefits policies.

A number of Arizona’s top employers have adopted internal policies that prohibit employment discrimination against LGBT people. At least eighteen of Arizona’s twenty largest employers

333 Deena Fidas & Liz Cooper, supra note 332.
prohibit discrimination based on sexual orientation, including Banner Health, Wal-Mart, and Kroger. In addition, at least twelve of these employers also prohibit discrimination based on gender identity, including Kroger, Wells Fargo, and Intel.


335 BANNER ETHICS POLICY, supra note 334.
336 WAL-MART ETHICS POLICY, supra note 334.
337 Kroger ETHICS POLICY, supra note 334.
338 See Kroger ETHICS POLICY, supra note 334; Wells Fargo ETHICS POLICY, supra note 334; INTEL ETHICS POLICY, supra note 334; Raytheon ETHICS POLICY, supra note 334; Am. Airlines ETHICS POLICY, supra note 334; Bank of Am. ETHICS POLICY, supra note 334; Home Depot ETHICS POLICY, supra note 334; Dignity ETHICS POLICY, supra note 334; CVS ETHICS POLICY, supra note 334; Target ETHICS POLICY, supra note 334; Freeport ETHICS POLICY, supra note 334; AMEX ETHICS POLICY, supra note 334.
339 Kroger ETHICS POLICY, supra note 334.
341 INTEL ETHICS POLICY, supra note 334.
As stated in a 2015 amici brief filed by 379 large corporations in the historic marriage equality case Obergefell v. Hodges, the business case for diversity is clear:

Today, diversity and inclusion are a given. They are among the core principles of amici in the conduct of their businesses. The value of diversity and inclusion in the workplace has been well-documented following rigorous analyses. Amici and others recognize that diversity is crucial to innovation and marketplace success. Members of the lesbian, gay, bisexual, and transgender (“LGBT”) community are one source of that diversity.

In fact, a 2011 study found that when enacting non-discrimination policies, 92% of the leading companies in the U.S. did so based on a general argument that diversity is good for business, and 53% made that link specifically to LGBT-supportive policies and practices. Similarly, a 2013 Williams Institute study found that over 60% of corporate respondents that offered transition-related health care coverage to their employees did so because of the business benefits. Some of the specific business-related outcomes that have motivated employers to adopt LGBT-supportive policies include: recruiting and retaining talented employees, sparking new ideas and innovations, attracting and serving a diverse customer base, and enhancing employee productivity.

Academic research conducted over the past two decades supports the business case for LGBT inclusion. In 2013, the Williams Institute reviewed 36 academic studies examining the effects of LGBT-supportive policies, and concluded that the research supports the existence of many positive links between LGBT-supportive policies or workplace climates and outcomes that will benefit employers.

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346 Id.; SEARS & MALLORY, supra note 344.
A 2014 literature review of academic studies similarly concluded that LGBT-supportive policies have positive effects on LGBT employees in terms of mental health, workplace relationships, and job satisfaction. Many of the underlying studies included in the 2013 and 2014 literature reviews focused on three specific areas of the case for business diversity: employee recruitment, productivity/engagement, and retention. Studies focused on these outcomes have shown that:

**Recruitment**

- LGBT-supportive polices and workplace environments are important to LGBT employees when they are deciding where to work.
- LGBT employees prefer to work in states with more supportive laws and social environments.

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• Employers are more likely to cite problems with recruitment of LGBT employees when LGBT-supportive policies are not in place.  
• Many non-LGBT jobseekers also value LGBT-supportive policies and practices, particularly younger and more highly educated workers.

Productivity/Engagement

• LGBT-supportive policies and supportive workplace environments are associated with less discrimination and a greater likelihood that LGBT people will be out at work. Both outcomes have been linked to greater workplace engagement, improved psychological health, increased productivity, and job satisfaction.
• When LGBT employees are open about their sexual orientation or gender identity at work, teams that include both LGBT and non-LGBT workers may be more productive and more competent.

Retention

• LGBT employees in supportive environments are more likely to say they are proud to work for their employer.
• LGBT employees in unsupportive environments feel less committed to their jobs.


356 HEWLETT & YOSHINO, supra note 355 at 20.

• When a worker leaves a job, costs include a loss in productivity due to the unfilled position, the costs of hiring and training a new employee, and lower initial rates of productivity of the new employee.\textsuperscript{358} A 2012 review of academic articles concluded that businesses spend about one-fifth of an employee’s annual salary to replace a worker.\textsuperscript{359} This rate was very consistent for most types of workers, except for executives and highly skilled positions, which have much greater turnover costs – up to 213\% of annual salary.\textsuperscript{360} Based on the average annual mean wage in Arizona,\textsuperscript{361} public and private employers are at risk of losing approximately $9,260, on average, for each employee who leaves the state or changes jobs because of the negative environment facing LGBT people.\textsuperscript{362}

In addition, several studies have linked LGBT-supportive policies and workplace environments to bottom line gains, including improved productivity, profitability, and stock prices when compared to firms without such policies.\textsuperscript{363} This body of research suggests if Arizona were to move toward a more supportive legal landscape and social climate for LGBT people, public and private employers in the state would likely be able to more easily recruit employees from other places and retain current employees, and would likely see improvements in employee productivity.


\textsuperscript{358} HEATHER BOUSHEY & SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, THERE ARE SIGNIFICANT BUSINESS COST TO REPLACING EMPLOYEES (2012), https://www.americanprogress.org/issues/labor/report/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/.

\textsuperscript{359} Id.

\textsuperscript{360} Id.


\textsuperscript{362} Calculated by applying the average replacement cost of 20\% annual salary to the average annual salary in Arizona. \textit{Id.}; BOUSHEY & GLYNN, supra note 358.

\textsuperscript{363} CREDIT SUISSE ESG RESEARCH, LGBT: THE VALUE OF DIVERSITY (2016), http://www.slideshare.net/creditsuisse/lgbt-the-value-of-diversity (finding that a basket of 270 companies supporting LGBT employees outperformed the market in terms of stock price, return on equity (ROE), cash flow returns, and economic profit generation, and that stocks of companies who have LGBT people in senior roles outperform those who do not); Feng Li and Venky Nagar, \textit{Diversity and Performance}, 59 MGMT. SCI. 529 (2013) (finding improved operating returns on assets (ROA) after companies adopt domestic partner benefits for same-sex couples); Blazovich, Cook, Huston & Strawser, supra note 357 at 35-36 (Apr. 2013) (unpublished manuscript, available online) (finding that “firms with gay-friendly policies benefit on key factors of financial performance, which … increase the investor perception of the firm as proxied by stock price movements.”). See also BADGETT ET AL., supra note 347 at 23 (“A … study found that the more robust a company’s LGBT friendly policies, the better its stock performed over the course of four years (2002-2006), compared to other companies in the same industry over the same period of time.”); Garrett D. Voge, Investor Valuation: LGBTQ Inclusion and the Effect on a Firm’s Financials (unpublished manuscript, available at the University of Arizona Campus Repository) (2013), http://arizona.openrepository.com/arizona/handle/10150/297778 (finding that institutional investors value LGBT-supportive corporate policies as evaluated by stock price increases after release of the LGBT Corporate Equality Index report by the Human Rights Campaign).}
2. Illustration of Costs to Arizona Associated with Discrimination against Transgender Residents

As discussed above, discrimination in employment, housing, and other areas of life can result in LGBT people being unemployed, underemployed, underpaid, less productive, and more reliant on government benefits and social services. We used available data\textsuperscript{364} to estimate the fiscal impact of discrimination in one of many possible areas by estimating the costs associated with Medicaid participation that results from employment discrimination against transgender people in Arizona.

**Figure IV.b. Discrimination in Employment on the Basis of Gender Identity among USTS Respondents in Arizona (n=537)**


<table>
<thead>
<tr>
<th>Event</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denied Promotion (prior year)</td>
<td>4%</td>
</tr>
<tr>
<td>Lost Job (prior year)</td>
<td>4%</td>
</tr>
<tr>
<td>Not Hired (prior year)</td>
<td>24%</td>
</tr>
<tr>
<td>Lost Job (lifetime)</td>
<td>15%</td>
</tr>
</tbody>
</table>

Job loss, including due to anti-transgender bias, can result in economic insecurity and loss of a variety of benefits, such as health care coverage. People who experience job loss may become eligible for and enroll in Medicaid. Estimates from the Centers for Medicare and Medicaid Services find that as of November 2017, more than 1.7 million people were enrolled in Medicaid or the Children’s Health Insurance Program (CHIP) in Arizona.\textsuperscript{365}

\textsuperscript{364} We use prevalence findings from the U.S. Transgender Survey (USTS), coupled with estimates of the size of the transgender population in Arizona (reported in Section I.A.), to estimate the number of transgender adults in Arizona who have experienced anti-transgender bias in employment. SANDY JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY 12 (2016), http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF. These findings are based on data generated from the 2015 U.S. Transgender Survey, which was conducted by the National Center for Transgender Equality. To find out more about the U.S. Transgender Survey, visit http://www.ustranssurvey.org. The USTS was based on a national convenience sample of 27,715 transgender and gender non-conforming people. Additional calculations for this report were completed by the authors at The Williams Institute. We use data from the Henry J. Kaiser Foundation to estimate state spending per Medicaid enrollee in Arizona. Henry J. Kaiser Family Foundation, Arizona: Medicaid Spending per Enrollee (Full or Partial Benefit), FY2014 https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22%2C%22sort%22:%22%22asc%22%7D.

Based on findings from the U.S. Transgender Survey, we estimate that 17.0% of transgender adults in Arizona who have ever lost a job due to anti-transgender bias have enrolled only in Medicaid. An estimated 9.0% of transgender adults in Arizona who have never experienced such discrimination have enrolled only in Medicaid. We attribute the difference in Medicaid enrollment between these two groups (8.0%) to the elevated need for Medicaid coverage resulting from employment discrimination based on gender identity. Applying this figure (8.0%) to the population of transgender adults in Arizona who have ever held a job and then lost a job because of transgender bias, we estimate that 295 transgender Arizonaans have enrolled in Medicaid because of employment discrimination based on gender identity. In 2014, average state spending per Medicaid enrollee in Arizona was approximately $1,799. Next, we adjusted the state spending per Medicaid enrollee in Arizona in 2014 for inflation. In inflation-adjusted dollars, the state spending per Medicaid enrollee in Arizona in 2018 was $1,906. Therefore, we estimate that employment discrimination experienced by transgender adults on the basis of gender identity costs Arizona approximately $562,000 annually in state Medicaid expenditures.

C. Economic Impact of LGBT Health Disparities

Poor health “can affect people’s ability to be productive at work, reduce labor force participation when people cannot work, and burden public health care funds when individuals rely on emergency care rather than regular or preventative care.” For these reasons, poor health, in general, imposes costs on employers and governments. When LGBT people experience poorer health outcomes than their non-LGBT counterparts, there are economic costs beyond those which would exist in the absence of the disparity. Thus, to the extent that factors contributing to LGBT health disparities can be reduced or eliminated, the economy will benefit.

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366 According to the USTS, 15.3 percent of transgender adults in Arizona who have ever worked at a job or business have experienced job loss due to anti-transgender bias. By applying this estimate to the number of transgender adults in Arizona who have ever worked at a job or business (an estimated 78.9 percent of the population of transgender adults in Arizona, or 24,104), it is possible to estimate the number who have lost a job because of anti-transgender bias (3,688). Multiplying this figure by 8.0 percent yields 295 transgender adults who have enrolled in Medicaid due to job loss resulting from anti-transgender bias in Arizona.

367 Medicaid per enrollee figure available at Henry J. Kaiser Family Foundation, Arizona: Medicaid Spending per Enrollee (Full or Partial Benefit), FY2014 [https://www.kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22.asc%22%7D](last accessed February 12, 2018). Further calculations to determine the state proportion of expenditures, based off the 2014 Federal Medical Assistance Percentage or FMAP (67.23%), were conducted by the authors. It is unclear how changes since 2014 have impacted the per-enrollee state expenditure for Medicaid. Arizona adopted Medicaid expansion under the Patient Protection and Affordable Care Act (ACA) in 2013 prior to data collection in the USTS.


369 We assume that the costs associated with Medicaid enrollment would be the same in 2018 as they were in 2014 (adjusted for inflation). It is unclear how changes since 2014 have impacted the per-enrollee state expenditure for Medicaid.

370 M.V. BADEGG, SHEILA NEZHD, KEES WAALDUK & YANA VAN DER MEULEN RODGERS, supra note 323.

371 Id.

372 Id.
To illustrate the cost savings that would result from eliminating health disparities facing LGBT people in Arizona, we follow a model used by Canadian research organization Community – University Institute for Social Research (CUISR). CUISR estimated the costs associated with LGBT health disparities in Canada through a four-step method:

- Determining prevalence for health outcomes for LGB and non-LGB populations.
- Subtracting the prevalence for non-LGB populations from that for LGB populations.
- Multiplying the difference in prevalence by the total LGB population to determine the number of LGB people who would have not had those health outcomes if the rates were the same.
- Multiplying the excess number of LGB people with each health outcome by the annual cost per affected person associated with the outcome as drawn from existing research.

In this report, we used CUISR’s method to estimate the costs associated with higher prevalence of two health outcomes on which LGB and non-LGB show statistically significant differences—major depressive disorder and smoking. To the extent possible, we used data on these health outcomes and related costs specific to Arizona. Where we could not find reliable cost data for these health outcomes at the state-level, we used national data as a proxy. Given the limited data we have about health outcomes for transgender people nationally or in Arizona, we assume for purposes of our analysis that transgender people have the same rates of the health conditions described below as LGB people. The available research on health outcomes for transgender people indicates that this is a conservative assumption.373

Since there are a variety of factors leading to each disparity, we assume that improving the laws and social climate of Arizona for LGBT people would reduce observed disparities by a fraction. This is consistent with the 2009 Hatzenbuehler et al. study described above, in which health disparities for LGB people related to mood and alcohol use disorder were lower in states with more supportive laws, but were still present.374

Specifically, we assume that a range of a 25% to 33.3% reduction in the disparity between LGB and non-LGB people on each outcome could be achieved if the state were to move towards extending legal protections and improving the social climate for LGBT people. This range is a conservative assumption based on our review of the best available research on LGB-health disparities in LGBT-supportive and unsupportive environments including the 2009 and 2010 Hatzenbuehler et al. studies.

Further, we note that there may be significant overlap in the costs that we estimate because some people may, for example, have been both diagnosed with depression and currently smoke, and

373 E.g., George R. Brown & Kenneth T. Jones, Mental Health and Medical Health Disparities in 5135 Transgender Veterans Receiving Healthcare in the Veterans Health Administration: A Case-Control Study, 3 LGBT HEALTH 122 (2016).
374 Hatzenbuehler, Keyes & Hasin, supra note 278 at 2277.
the costs associated with each condition may overlap. For this reason, our estimates are not intended to be cumulative, but rather to illustrate that significant cost savings could result if the disparity observed for any one of these health outcomes were reduced.

1. Excess Costs Associated with LGBT Major Depressive Disorder

In order to best estimate the annual costs associated with Major Depressive Disorder (MDD), we rely on data from the National Epidemiologic Survey on Alcohol and Related Conditions (NESARC), a general population study with a large, nationally representative sample of adults. An analysis of 2004-2005 NESARC data found that, nationally, 18.0% of LGB respondents had major depressive disorder in the 12 months prior to the survey, compared to 8.1% of non-LGB respondents. Given the limited data about MDD among transgender people, we assume for purposes of our analysis that transgender people have the same rate of MDD as LGB people. The available research on health outcomes for transgender people indicates that this is a conservative assumption.

Applying the percentage of excess prevalence of MDD among LGB people (18.0% - 8.1% = 9.9%) to Arizona’s adult LGBT population (an estimated 203,000 adults) indicates that there are approximately 20,100 more LGBT adults who have MDD in Arizona than would be expected in the general population. As shown in Table IV.a., we further estimate that if 25% to 33.3% of the sexual orientation and gender identity disparity were reduced by improving the social climate for LGBT people, there would be between 5,000 and 6,700 fewer LGBT people living with MDD in the state.

To estimate the annual cost per person suffering from MDD, we drew from a 2015 study, The Economic Burden of Adults with Major Depressive Disorder in the United States (2005 and 2010). The study found that the annual total cost of MDD, nationwide, in 2010 was $210.5 billion. The costs included loss of productivity in the workplace, absenteeism from work, costs for medical and pharmaceutical services, and suicide-related costs. In order to determine the cost

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377 See Section I.A.1, supra.
378 Paul E. Greenberg et al., The Economic Burden of Adults with Major Depressive Disorder in the United States (2005 and 2010), 76 J. CLIN. PSYCHIATRY 155 (2015). Greenberg et al. used data from the National Survey on Drug Use and Health to identify people who met the diagnostic criteria for a major depressive episode within the past year. The cost estimates are largely based on medical claims filed by those who had been diagnosed with major depressive disorder (and compared to a control group). Similarly, the prevalence of MDD we use for our estimates was determined by identifying individuals who met the diagnostic criteria for MDD in data collected by the NESARC. All cost data used in our estimates are drawn directly from the calculations made by Greenberg et al.
per person with MDD, we divided the total cost by the number of adults with the condition in 2010. Inflation-adjusted dollars, the 2018 cost per person with MDD was $15,591.91.

For the reasons described above, we estimate that Arizona may be able to reduce the disparity in MDD between LGBT and non-LGBT people by 25% to 33.3% by taking measures to improve legal protections for LGBT people. Applying this range would mean an eventual annual reduction in costs associated with MDD in Arizona of approximately $78.0 to $104.5 million.

Table IV.a. Reduction in Costs Associated with MDD in Arizona if LGBT Disparity Were Reduced

<table>
<thead>
<tr>
<th>Reduction in disparity between LGBT and Non-LGBT Floridians</th>
<th>LGBT individuals impacted</th>
<th>Annual reduction in costs (millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>5,000</td>
<td>$78.0</td>
</tr>
<tr>
<td>33.3%</td>
<td>6,700</td>
<td>$104.5</td>
</tr>
</tbody>
</table>

2. Excess Costs Associated with LGBT Smoking

Our analysis of Arizona’s 2012 BRFSS data found that 27.6% of LGB respondents were current smokers, compared to 16.4% of non-LGB respondents. Applying the percentage (11.2%) of excess prevalence of smoking among LGB people in Arizona to the state’s LGBT population (203,000 adults) indicates that there are approximately 22,700 more people who currently smoke in Arizona than would be expected in the general population.

A 2010 study estimated the annual costs per current smoker in Arizona to be $5,456.83. The total included costs from workplace productivity losses ($1,019.84), medical care costs ($2,195.09), and premature death ($2,241.90). We adjusted for inflation to estimate that the 2018 cost per current smoker in Arizona is $6,242.04.

For the reasons described above, we estimate that Arizona may be able to reduce the disparity in current smoking between LGBT and non-LGBT people by 25% to 33.3% by taking measures to reduce costs.

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379 The study found that, in 2010, 15,446,771 adults in the U.S. suffered from major depressive disorder. Id. Dividing the total cost ($210,548,000,000) by the number of sufferers (15,446,771) indicates that the cost per sufferer was $13,630.55 in 2010.


381 We assume that the costs associated with depression would be the same in 2018 as they were in 2010 (adjusted for inflation).

382 See Section I.A. supra.


384 Id. at 168-69.

improve legal protections for LGBT people. Applying this range would mean an eventual annual reduction in costs associated with smoking in Arizona of approximately $35.6 to $47.4 million.

**Table IV.b. Reduction in Costs Associated with Smoking in Arizona if LGBT Disparity Were Reduced or Eliminated**

<table>
<thead>
<tr>
<th>Reduction in disparity between LGBT and Non-LGBT Arizonans</th>
<th>LGBT individuals impacted</th>
<th>Annual reduction in costs (millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>5,700</td>
<td>$35.6</td>
</tr>
<tr>
<td>33.3%</td>
<td>7,600</td>
<td>$47.4</td>
</tr>
</tbody>
</table>

If Arizona were to extend legal protections to LGBT people and if social acceptance of LGBT increased, the state would likely see improvements in the health of LGBT people. Furthermore, consideration of just two health disparities for LGBT people in the state – MDD and smoking – suggests that Arizona would see millions of dollars in returns on both savings associated with reduced health care and social service costs and in greater productivity.

**D. Economic Impact of Bullying and Family Rejection of LGBT Youth**

School-based bullying of LGBT youth is pervasive and associated with an increased likelihood of school dropout, poverty, and suicide. Educational attainment, especially high school completion, is a significant determinant of economic status and health across the life course. As a result, early experiences of harassment may not only shape the economic lives of LGBT people, but also have a negative effect on a state’s economy. As the authors of the USAID and Williams Institute study explained, “education discrimination excludes LGBT students from


opportunities to increase their human capital (that is, their knowledge and skills) and to be employed in higher-skilled jobs that contribute to overall economic productivity.\footnote{M.V. Lee Badgett, Sheila Nezhad, Kees Waaldijk & Yana van der Meulen Rodgers, supra note 323 at 26.}

Laws in Arizona do not adequately protect LGBT youth from bullying in schools.\footnote{See Section I.B., supra.} To the extent the state’s legal landscape and social climate foster an environment that is not inclusive of LGBT youth, the state is likely to experience losses in human capital, as well as costs associated with an overrepresentation of LGBT youth in foster care, the juvenile justice system, and among the homeless. This section reviews research that links negative outcomes for LGBT youth to future reductions in economic output.

1. School Outcomes

Research shows that bullying can lead to skipping school and low academic performance among LGBT youth. Several studies, relying on representative samples of youth, found that LGB students were more likely than non-LGB students to skip school as a result of feeling unsafe. According to 2015 YRBS data, LGB students in Arizona were more than twice as likely as non-LGB students to report skipping school because they felt unsafe (13% v. 5%).\footnote{Kann et al., supra note 24 at 12.} Similarly, a 2014 analysis of pooled YRBS data from 13 sites found that LGB\footnote{Id.} high school students reported significantly higher rates of skipping school because they felt unsafe.\footnote{Id.} And, a 2011 analysis of national YRBS data collected from 2001 through 2009 found that, on average, LGBQ students were almost three times as likely to report not going to school because of safety concerns as their non-LGBQ counterparts.\footnote{Id.}

Studies based on convenience samples also indicate that many LGBT youth skip school due to bullying and harassment. A 2009 report by the National Education Association found that, nationwide, approximately half of LGBT students who said that they experienced frequent or severe verbal harassment because of their sexual orientation or gender identity missed school at least once a month, and around 70% who said they experienced frequent or severe physical harassment missed school more than once a month.\footnote{Robert Kim, National Educ. Assn., Report on the Status of Gay, Lesbian, Bisexual and Transgender People in Education: Stepping Out of the Closet, into the Light 30 (2009), http://www.nea.org/assets/docs/HE/glbtsstatus09.pdf.} The report also found that LGBT youth were almost twice as likely to consider dropping out of school as their non-LGBT peers.\footnote{Id.}
response to the 2015 U.S. Transgender Survey, of those respondents from Arizona who were out as transgender or perceived to be transgender in school, 17% said they faced such severe mistreatment that they had to leave school as a result.\textsuperscript{399} Other studies have found that bullying of LGBT youth is related to poorer academic performance and higher rates of absenteeism.\textsuperscript{400}

2. Overrepresentation in Foster Care, Juvenile Justice System, and Among the Homeless Population

Challenging environments at home and at school contribute to an overrepresentation of LGBT youth in the child welfare system, the youth homeless population, and the juvenile justice system.

In addition to the human toll, there are direct costs to the government and social service systems created by the overrepresentation of LGBT youth in these systems.\textsuperscript{401} LGBT youth are overrepresented in the foster care system; 19% of youth in foster care in Los Angeles County are LGBT, 2-3 times their proportion of the general youth and young adult population.\textsuperscript{402} Research suggests that LGBT youth are more likely to experience housing instability while in foster care than non-LGBT youth.\textsuperscript{403} And, while some of those who age out of foster care transition successfully into adulthood, many do not.

Of those who age out of foster care: more than 1 in 5 will become homeless after age 18; 1 in 4 will be involved in the justice system within two years of leaving the foster care system; only 58% will graduate high school by age 19 (compared to 87% of all 19 year olds); fewer than 3%

\textsuperscript{399} The National Center for Transgender Equality & One Community, supra note 109.


\textsuperscript{401} For an example of costs to the foster care system due to the overrepresentation of LGBT youth in foster care, and their increased likelihood of having multiple placements and being in congregate care, see Bianca D.M. Wilson, Khush Cooper, Angeliki Kastanis & Sheila Nezhad, Williams Inst., Sexual & Gender Minority Youth in Los Angeles Foster Care: Assessing Disproportionality and Disparities in Los Angeles 41 (2014).

\textsuperscript{402} Id. at 6.

\textsuperscript{403} Id. (finding that LGBTQ youth in foster care have a higher total number of placements, are more likely to be in congregate care, and are more likely to have experienced homelessness).
will earn a college degree by age 25 (compared to 28% all 25 year olds); and at the age of 24, only half will be employed.\textsuperscript{404}

In response to surveys conducted in 2012 and 2015, homeless youth service providers across the U.S. estimated that between 20% and 40% of their clients were LGBT.\textsuperscript{405} A 2011 study of youth in Massachusetts found that approximately 25% of lesbian and gay youth, and 15% of bisexual youth in public high school, were homeless, compared to 3% of heterosexual youth.\textsuperscript{406} Similarly, a 2015 survey of homeless youth in Atlanta, Georgia, found that 28.2% of the respondents identified as LGBT.\textsuperscript{407}

Data from the National Survey of Youth in Custody indicates that 12.2% of youth in custody identify as LGBT.\textsuperscript{408} Another study found that LGBT youth made up 15% of detained youth.\textsuperscript{409} Studies have shown that LGBTQ youth are more likely to be detained for offenses such as running away, truancy, curfew violations, and “ungovernability”—charges that can indicate problems with bullying in school and family rejection.\textsuperscript{410} Research also shows that in some instances, LGBT youth have been punished for defending themselves against their harassers,\textsuperscript{411} and there is evidence of selective enforcement against LGBT youth.\textsuperscript{412}

\textsuperscript{407} AYCNA 2016 Key Findings, Atlanta Youth Count, http://atlantayouthcount.weebly.com/2016-key-findings.html (last visited Nov. 29, 2016).
\textsuperscript{411} MAJD ET AL., supra note 410 at 77.
Collectively, school-based harassment and family rejection contribute to significant “welfare and Medicaid costs, the cost of incarceration, lost wages and other significant costs to individuals and to society.” For example, nationally, the Jim Casey Foundation estimates that homelessness, juvenile justice involvement, and poor educational and employment outcomes cost nearly $8 billion per cohort of youth aging out of foster care each year. The best available data suggest that LGBT youth make up one-fifth, if not more, of each annual cohort.

**CONCLUSION**

Arizona’s legal landscape and social climate contribute to an environment in which LGBT adults experience stigma and discrimination in employment and other areas, and LGBT youth experience bullying in schools and family rejection. Such experiences have a negative impact on LGBT individuals in terms of health and economic stability, which in turn have economic consequences for the state. If Arizona were to take steps toward a more supportive legal landscape and social climate, the state’s economy would likely benefit.

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413 *Id.*