Employment, Housing, and Public Accommodations Discrimination Based on Sexual Orientation and Gender Identity in Missouri

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Executive Summary

More than four percent of the U.S. workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 160,000 LGBT people live in Missouri.[1] Missouri does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment, housing, or public accommodations.[2]

This report summarizes evidence of sexual orientation and gender identity discrimination in employment, housing, and public accommodations, explains the limited current protections from sexual orientation and gender identity discrimination in Missouri, and estimates the administrative impact of passing a law prohibiting discrimination based on sexual orientation or gender identity in Missouri.

Key findings of this report include:

- In total, there are approximately 160,000 LGBT adults in Missouri, including 100,000 who are part of the Missouri workforce.
- Media reports and lawsuits document that a number of Missourians have faced discrimination in the work place because of their sexual orientation or gender identity; these include reports from teachers, law enforcement personnel, an attorney, and a truck driver.
- Media reports and lawsuits document that a number of Missourians have faced discrimination in housing and public accommodations because of their sexual orientation or gender identity; these include discrimination by a hotel, a landlord and a retail store. A 2006 survey of LGBT people in Kansas City found that in the previous three years, 13.0% of respondents reported experiencing an LGBT-related hate crime, 14.1% reported experiencing workplace discrimination, and 2.0% reported experiencing housing discrimination.
- Disparities in wages are also a traditional way that discrimination has been measured. Census data show that in Missouri, the median income of men in same-sex couples is 23% lower than men in different sex marriages.
- In 2009, a University of Missouri Campus Climate survey found that 35% of LGBQ respondents and 57% of transgender respondents reported experiences of harassment on campus.
- National surveys also confirm that discrimination against LGBT workers persists. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions; and 23% had received poor service in a restaurant, hotel, or place of business because of their sexual orientation or gender identity.

- Similar surveys show that discrimination against LGBT people continues in areas of housing and public accommodations. In 2012, the number of incidents of sexual orientation or gender identity housing discrimination nationwide increased 43%.
- As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity. Additionally, 53% of respondents reported being verbally harassed or disrespected in a place of public accommodation, and 19% reported being denied an apartment because of their transgender status.
- Eighteen Missouri localities provide protection from sexual orientation discrimination by local ordinance and sixteen of those localities provide protection for gender identity discrimination.
- Approximately 73% of Missouri's workforce is not covered by a local ordinance that prohibits discrimination based on sexual orientation; 74% of the workforce is not covered by a local ordinance that prohibits discrimination on the basis of gender identity.
- Even Missourian's who live in localities with such local ordinances are not as protected as they would be by state law. In many cases, the local ordinances do not fully cover public and private employment, housing, public accommodations, and government services. Some do not cover gender identity discrimination. Moreover, Missouri state law provides stronger remedies than many local ordinances, and provides for a private right of action– a right not included in many local ordinances.
- Many of the state's top employers have internal corporate policies prohibiting sexual orientation discrimination, including 8 Fortune 500 companies.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 47 additional complaints of employment discrimination being filed with the Missouri Commission on Human Rights each year.
- Enforcing complaints of sexual orientation or gender identity employment discrimination would cost the state approximately $39,300 annually; 2.5% of the annual budget of the Missouri Commission on Human Rights.

Evidence of Discrimination

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

Research shows the existence of widespread and continuing discrimination against LGBT people in the U.S. In response to surveys, LGBT people consistently report having experienced discrimination in employment, housing and public accommodations. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions; and 23% had received poor service in a restaurant, hotel or place of business because of their sexual orientation or gender identity.[3] In June 2013, the U.S. Department of Housing and Urban Development released a data from a national study which showed that gay and

lesbian couples are significantly less likely to receive a response from a housing provider than similar heterosexual couples.[4]

A 2006 Kansas City LGBT Community Health Assessment found that in the previous three years, 13.0% of respondents reported experiencing an LGBT-related hate crime, 14.1% reported experiencing workplace discrimination, and 2.0% reported experiencing housing discrimination.[5]

Additionally, in 2009, a University of Missouri Campus Climate survey found that 34.8% of LGBQ respondents and 57.1% of transgender respondents reported experiences of harassment on campus.[6] These rates are more than double and triple the rate at which the overall survey sample reported harassment (15.7%).[7]

As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.[8] Additionally, 53% of respondents reported being verbally harassed or disrespected in a place of public accommodation[9], and 19% reported being denied an apartment because of their transgender status.[10]

Discrimination against LGBT people in employment, housing, and public accommodations has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in these areas.[11]

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

- In July 2013, a report surfaced of a transgender woman who worked in a job where employees had to shower. The woman was forced to shower in the men's locker room and called by the wrong pronouns on a regular basis. Despite her frustration, she has not come forward for fear of losing her job and facing discrimination in trying to find work elsewhere.[12]
- In July 2013, a woman was served with an eviction notice when her landlord learned that she is a lesbian. She is fighting to remain in her home not just for herself, but also for her child with special needs.[13]
- As of December 2012, residents had filed multiple reports of public accommodations discrimination occurring in Kansas City on the basis of gender identity, particularly in public restrooms and showers, according to the city's Civil Rights Division.[14]
- In February 2012, a transgender worker reported that she was fired from the Dollar Tree in Columbia after being verbally harassed by co-workers who would call her "it" and ask her if she was male or female.[15]

- In February 2012, lawyer and transgender advocate Kylar Broadus told Missouri NBC affiliate KMOU that it was difficult for him to find work in Missouri because of his gender identity.[16] Despite lack of employment opportunities, he tried to stay in the state in order to be close to his mother. In September 2013, Mr. Broadus accepted a position with the National Gay and Lesbian Task Force in Washington, D.C.
- In 2011, two women reported that the Four Seasons hotel in St. Louis of repeatedly accosted them and asked them to leave the pool area for openly displaying affection.[17]
- In 2009, the ACLU filed a complaint with the Missouri Human Rights Commission on behalf of a truck driver that was fired because of her gender identity.[18] The Commission held that the truck driver could proceed with her complaint on theories of sex and disability discrimination under the Missouri Human Rights Act. No further information about this case is available.
- In 2008, a public school physical education teacher reported that she did not have her contract renewed because of her sexual orientation. During the time that she was still employed by the school, she overheard one of the school board members say that, had he known she was a "dyke," he would never have hired her in the first place.[19]
- In 2008, a teacher reported that he was not hired by a public school because the administration perceived him to be gay.[20]
- In 2008, an applicant for a prosecutor position reported that he had his job offer revoked because he was gay.[21]
- In 2007, two sheriff's office kitchen workers reported that they were fired because they were lesbians.[22]
- In 2005, a hospital nursing instructor was fired and reported to the state board of nursing for "bringing homosexuality into the workplace." After the board cleared all complaints against him, he was still not rehired.[23]

Wage Inequities

Census data show that men in same-sex couples in Missouri earn less than men married to different-sex partners. On average, men in same-sex couples in Missouri earn $33,695 each year, significantly less than $44,610 for men married to different-sex partners.[24] The median income of men in same-sex couples in Missouri is $27,000, or 23% less than that of men married to different-sex partners ($35,000).[25] Men with same-sex partners earn lower wages despite the fact that they are more likely to have a college degree than men married to different-sex partners,[26] a comparison that supports the possibility that people in same-sex couples are not treated equally by employers. A 2009 study suggested that the wage gap for gay men is smaller in states that implement non-discrimination laws, suggesting that such laws reduce discrimination against LGBT people.[27]

Women in same-sex couples in Missouri earn less than married men and men in same-sex couples.[28] Women in same-sex couples earn $26,244 per year on average, which is more than married women, whose earnings average $23,334.[29]

These findings are not unique to Missouri. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.[30] Surveys of transgender people find that they have high rates of unemployment and very low earnings.[31]

Current Protections from Discrimination

Missouri does not have a statewide law that prohibits discrimination based on sexual orientation and/or gender identity in employment, housing, or public accommodations. Efforts have been made to pass such a comprehensive law in each legislative session since 2001.[32] Both the Missouri Senate and the House introduced bills that would prohibit sexual orientation and gender identity in the most recent legislative session.[33] An amendment to the Senate bill that included gender identity as well as sexual orientation passed, but the House of Representatives did not vote before the General Assembly session ended.[34]

In 2010, Governor Jay Nixon issued an executive order prohibiting state executive branch agencies from discriminating based on sexual orientation in employment.[35]

Eighteen localities in Missouri prohibit discrimination in employment, housing, and/or public accommodations based on sexual orientation and/or gender identity: City of St. Louis,[36] County of St. Louis,[37] Kansas City,[38] Jackson County,[39] Columbia,[40] Clayton,[41] Creve Coeur,[42] Ferguson,[43] Kirksville,[44] Kirkwood,[45] Maplewood,[46] Maryland Heights,[47] Olivette,[48] Raymore,[49] Raytown,[50] Richmond Heights,[51] University City,[52] and Webster Groves.[53] Approximately 73% of Missouri's workforce is not covered by a local ordinance that prohibits discrimination based on sexual orientation; approximately 74% of the workforce is not covered by a local ordinance that prohibits discrimination on the basis of gender identity.[54]

Even though some local ordinances provide protection based on sexual orientation or gender identity, they vary widely in terms of breadth and enforcement. Raytown, for example, only provides protection on the basis of sexual orientation, while other municipalities cover both gender identity and sexual orientation discrimination.[55] The local ordinances also differ in terms of the scope of protected activities. Some municipalities, such as Kansas City, forbid discrimination on the basis of sexual orientation and gender identity in the realm of private employment.[56] Others, such as Raymore, only protect local government employees.[57] Some local ordinances, such as the City of St. Louis ordinance, prohibit discrimination with respect to government services, while others, such as those in Kansas City and the County of St. Louis, fail to cover government services.[58]

In addition, local ordinances contain disparate remedies and rights of action. Some ordinances only allow fines for violations of anti-discrimination, such as Webster Groves, which allows a maximum fine of $500 for housing violations, and the County of St. Louis, which allows a maximum fine of $1,000 for violations of housing and public accommodations law.[59] By contrast, some municipalities, such as Kansas City, allow fines

and imprisonment, while others, such as Clayton, do not even specify punishment for violations.[60]

In many cases, the local ordinances are less protective than existing state antidiscrimination law, which covers employment, housing, public accommodations, and government services.[61] Missouri state law provides stronger remedies than many local ordinances, with possible fines of up to $10,000, depending on the number of prior discrimination violations.[62] Also, state law provides for a private right of action if the commission fails to act within a certain amount of time – a right not included in many local ordinances.[63] In addition to the concerns about the patchwork of laws that exists, local ordinances may potentially be subject to legal challenges.[64]

Many of Missouri's top companies have adopted internal corporate policies that prohibit sexual orientation and gender identity employment discrimination. According to the Human Rights Campaign, at least 52 companies headquartered in Missouri prohibit discrimination based on sexual orientation or gender identity, including 8 Fortune 500 companies: Ameren, Charter Communications, Emerson Electric, Express Scripts, Graybar Electric Company, Monsanto, Peabody Energy, and Reinsurance Group of America.[65]

Administrative Impact

Estimate of Employment Discrimination Complaints

Despite the persistence and pervasiveness of employment discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation discrimination in employment are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.[66] However, because the LGBT population is so small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low.[67]

We estimate that approximately 47 complaints of sexual orientation or gender identity employment discrimination would be filed with the Missouri Commission on Human Rights each year. To reach this estimate, we drew on Gallup polling data and Census data from Missouri to estimate the size of the LGBT workforce in the state, and applied a national sexual orientation and gender identity complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including Utah,[68] South Dakota, [69] and Texas.[70] We do not have enough data to similarly estimate the number of housing or public accommodations complaints that would be filed on the basis of sexual orientation or gender identity.

Results from a 2012 Gallup poll show that 3.3% of people in Missouri identify as LGBT.[71] Applying this percentage to the number of people in Missouri's workforce (3,026,952) indicates that there are 99,900 LGBT workers in Missouri.

Next, we apply the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Missouri to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We use the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.[72] The study found that across these states, the average rate of complaints filed on the basis of sexual orientation was 4.7 per 10,000 LGB workers.[73] There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.[74] Therefore, we assume that this rate is also 4.7 per 10,000 transgender workers.

Applying the national complaint rate (4.7 per 10,000 LGBT workers) to the number of LGBT workers in Missouri suggests that 47 complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

Cost of Enforcement

Using information from the 2012 Annual Report of the Missouri Department of Labor & Industrial Relations, we can estimate the cost associated with handling the additional 47 complaints that would be filed if sexual orientation and gender identity were added to Missouri's employment non-discrimination law. We emphasize that this is only a rough estimate, as we have only limited information about the costs of enforcing discrimination complaints in Missouri.

In fiscal year 2012, the Missouri Commission on Human Rights received 1,854 discrimination complaints.[75] The Commission operated on a budget of $1,551,713.[76] Dividing the Commission's budget by the number of complaints received suggests that enforcement costs an average of $837 per complaint filed. Based on this assumption, if 47 complaints of sexual orientation or gender identity discrimination were filed each year, it would cost the state approximately $39,300 to enforce them.

Comparison with the Estimate Prepared by the Missouri Committee on Legislative Research Oversight

In 2008, the Missouri Committee on Legislative Research Oversight (the Committee) estimated the impact of adding sexual orientation (the definition of which included gender identity) to the state's non-discrimination law.[77] The Committee estimated that 45 complaints of sexual orientation discrimination would be filed each year. The Committee reached this estimate by using data from four other states which prohibited sexual orientation discrimination at the time. The data showed that 2.4% of all discrimination complaints filed in the states alleged discrimination based on sexual orientation. The total number of complaints filed with the Missouri Commission on Human Rights (the Commission) was 1,866. Based on this data, the Committee estimated that 45 complaints of sexual orientation and gender identity discrimination would be filed each year (2.4% of 1,866).

The Missouri Commission on Human Rights estimated that enforcing the additional 45 complaints would require half the time of one Human Relations Officer I. The cost of half the salary and benefits of a full-time Human Relations Officer I was estimated to be approximately $31,300. The Committee on Legislative Research Oversight, on the other hand, assumed that the additional responsibility could be assumed by existing Commission staff, with no additional resources or employees, but stated that "if the number of cases increase[d] significantly, [the Commission] could request additional funding through the budgetary process." The Committee also estimated that the fiscal impact associated with changing state regulations to implement the sexual orientation non-discrimination law would be less than $2,500.

We used different methodologies than the Committee on Legislative Research Oversight and the Missouri Commission on Human Rights to estimate the number employment discrimination complaints that would be filed on the basis of sexual orientation or gender identity in Missouri each year, and the impact of these complaints on the state budget. Though the methodologies differ, our estimates for the number of complaints and the costs are very similar to estimates of the Missouri Commission on Human Rights and the Committee on Legislative Oversight.

The Committee's analysis figured that complaints of sexual orientation discrimination would constitute a percentage of all complaints filed similar to that in other states. Essentially, this assumes that LGBT workers constitute the same percentage of the workforce across states. Our methodology differs slightly. We have taken into account that the LGBT workforce does not constitute the same percentage of the total workforce in each state, so they will not likely file the same percentage of overall complaints in every state. Nonetheless, our methodologies yield nearly the same estimates. Applying the Committee's methodology to the underlying data we used (1,854) results in the same estimate they reached in 2008: 45 complaints of sexual orientation discrimination per year.

The Commission's analysis of costs associated with enforcing 45 additional complaints was based on salary data. We were unable to locate current salary data for Human Relations Officers, so we assumed that, on average, all complaints filed cost the same amount to enforce. Again, despite the difference in methodology used, the estimates are very similar. We note also that the Committee actually estimated no increase in costs, so our cost estimate is conservatively high in comparison to their estimate, but is very close to the estimate of the Commission.

Conclusion

Documented evidence shows that LGBT people face a widespread and persistent pattern of employment, housing, and public accommodations discrimination across the country, including in Missouri. There is currently no law that prohibits these types of discrimination based on sexual orientation or gender identity in Missouri. Adding these characteristics to the state's non-discrimination law would provide protection from discrimination to approximately 160,000 LGBT adults (100,000 LGBT workers) in the state. Based on data

from other state administrative enforcement agencies, we estimate that approximately 47 complaints of sexual orientation or gender identity employment discrimination would be filed in Missouri annually if the law were amended. Data from the Missouri Commission on Human Rights suggests that it would cost the state approximately $39,900 to enforce these complaints each year; 2.5% of the current annual budget of the Missouri Commission on Human Rights.

About the Williams Institute

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

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Endnotes

[1] This estimate was reached by applying the percentage of people in Missouri that are LGBT (3.3%) to the population of Missouri aged 16 years and older (4,700,400). Gary J. Gates & Frank Newport, *LGBT Percentage Highest in D.C., Lowest in North Dakota*, GALLUP, Feb. 15,2013, http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx; *American Community Survey, 2011 ACS Table DP03: Selected Economic Characteristics, 5-Year Estimates*, U.S. CENSUS BUREAU, AMERICAN FACTFINDER, *available at* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_5YR_DP03.

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[10] *Id.* at 113.

[11] *See generally* BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-20111.pdf; PEW RESEARCH CENTER, *supra* note 4; FRIEDMAN ET AL., *supra* note 5.

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[43] FERGUSON, MO., CODE §§ 21-3 (public accommodations); 21-4 (employment for public contractors); 21-5 (housing); 21-8 (public employment) (2013). *See also* PROMO, *Ferguson Becomes the 6th City in St. Louis County to Stand against Discrimination* (Aug. 28, 2012), http://promoonline.org/news/ferguson-becomes-the-6th-city-in-st-louis-county-to-stand-against-discrimination.html.

[44] KIRKSVILLE, MO., CODE §§ 10-37 (employment); 10-38 (housing); 10-39 (public accommodations) (2013). *See also* Taylor Muller, *Council Approves Human Rights Ordinance*, Extending Protections for Sexual Orientation, KIRKSVILLEDAILYEXPRESS.COM (Aug. 19, 2013), http://www.kirksvilledailyexpress.com/article/20130819/NEWS/130819015.

[45] KIRKWOOD, MO., CODE §§ 12-62 (housing); 12-70 (public accommodations) (Dec. 20, 2013). *See also* PROMO, *Kirkwood Includes Sexual Orientation and Gender Identity in Nondiscrimination Policy* (Dec. 20, 2012), http://promoonline.org/news/kirkwood-includes-sexual-orientation-and-gender-identity-in-nondiscrimination-policy.html.

[46] Maplewood, Mo., Ordinance 5679 (Sept. 25, 2012), *available at* http://www.cityofmaplewood.com/archives/38/9-25-12min.pdf . *See also* Doug Miner, *Maplewood Council Bans Sexual Orientation and Gender Identity Discrimination*, MAPLEWOOD-BRENTWOOD PATCH (Sept. 26, 2012, 2:56 AM), http://maplewood-brentwood.patch.com/groups/politics-and-elections/p/maplewood-council-bans-sexual-orientation-and-gender-1c18bc10e6.

[47] Maryland Heights, Mo., Code § 12-17 (2013) (housing). *See also*, PROMO, *Maryland Heights Amends Housing Bill to Include Sexual Orientation and Gender Identity Protections* (May 24, 2013), http://promoonline.org/news/maryland-heights-amends-housing-bill-to-include-sexual-orientation-and-gender-identity-protections.html.

[48] OLIVETTE, MO., CODE §§ 225.010 (housing); 225.040 (public accommodations); 225.050 (public employment) (2013).

[49] RAYMORE, MO., CODE § 14.2 (sexual orientation in public employment only) (2012).

[50] RAYTOWN, MO., CODE § 13-202 (2013).

[51] RICHMOND HEIGHTS, MO., CODE §§ 235.090 (housing); 235.120 (public accommodations); 235.130 (public employment) (2013).

[52] UNIVERSITY CITY, MO., CODE §§ 9.08.260 (housing); 9.08.270 (public accommodations); 9.08.280 (public and private employment) (2011).

[53] WEBSTER GROVES, MO., CODE §§ 30.520 (housing); 30.535 (public accommodations); 30.560 (public employment) (2013). *See also* PROMO, *Webster Groves Amends Fair Housing Code to Include Sexual Orientation and Gender Identity Protections* (Feb. 5, 2013), http://promoonline.org/news/webster-groves-amends-fair-housing-code-to-include-sexual-orientation-and-gender-identity-protections.html.

[54] Calculated by authors using data from the American Community Survey, 2011 1-Year-Estimates & 5-Year-Estimates tables, available at http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml (last visited May 21, 2013) and population estimates of the unincorporated areas of Jackson and St. Louis Counties, e-mails from Andrew Shaughnessy, Senior Field Organizer, PROMO, to Amira Hasenbush, Jim Kepner Law and Policy Fellow, The Williams Institute (Nov. 4, 2013, 8:06 AM and 2:09 PM PST) (on file with the Williams Institute). Note that the Jackson County and St. Louis County ordinances only prohibit discrimination in private employment in the unincorporated areas of the counties. Estimates of the size of the workforce in the unincorporated areas were made based on the proportions of the population sizes of the unincorporated areas to the entire county and the proportion of the size of the full county workforce compared to the entire county population.

[55] RAYTOWN, MO., CODE § 13-202 (2013).

[56] KANSAS CITY, MO., CODE §38-103(a)(1).

[57] RAYMORE, MO., CODE § 14.2 (2012).

[58] ST. LOUIS, MO., CODE § 3.44.080(B) – (D) (2012); KANSAS CITY, MO., CODE §§ 38-103(a)(1) (employment); 38-105(a)(1) (housing); 38-113(a) (public accommodations) (2013); ST. LOUIS CTY, MO., CODE §§ 202.270 (employment); 717.020-717.056 (housing); 718.020 (public accommodations) (2013).

[59] WEBSTER GROVES, MO., CODE §§ 30.520 (housing); 30.535 (public accommodations); 30.560 (public employment) (2013); ST. LOUIS CTY, MO., CODE §§ 717.100 (housing); 718.060 (public accommodations) (2013).

[60] KANSAS CITY, MO., CODE § 38-101; CLAYTON, MO., CODE §§ 225.030 (housing); 225.060 (public accommodations); 225.070 (public employment) (2013).

[61] The Missouri Human Rights Act prohibits employment, housing, and public accommodations discrimination based on race, color, religion, national origin, sex, ancestry, age, and disability. MO. REV. STAT. CODE § 213 (2012).

[62] MO. REV. STAT. CODE § 213.075 (2012).

[63] MO. REV. STAT. CODE § 213.111 (2012).

[64] A local ordinance's vulnerability may depend upon the state's interpretation of the power of localities to legislate. Many states follow Dillon's Rule, which holds that a locality's powers are limited to those expressly granted by the state, implied by those powers granted or indispensable to the locality's purposes. In those states, unless there has been a clear grant of authority through the state constitution or by the state legislature, local nondiscrimination ordinances may be found to have extended beyond the locality's legislative power. On the other hand, other states follow Home Rule, which grants localities legislative authority "as broad as the police power of the state, except as that power may be restricted by terms of the grant or by the state constitution." D.C. v. John R. Thompson Co., 346 U.S. 100, 109 (1953). In states that follow Home Rule, unless there is an explicit restriction against localities establishing local nondiscrimination ordinances, each locality will have the authority to establish broad nondiscrimination ordinances as they see fit. Many states follow a combination of Dillon's Rule and Home Rule. In those

states, the default rule is Dillon's Rule, limiting the power of localities; however, the state may also authorize localities to write their own Home Rule charters, which will then allow those localities to have the same broad police powers that the state does, limited only by the restraints that the locality places upon itself in their charter.

Missouri follows both Dillon's Rule (MO. ANN. STAT. § 65.270 (West 2013)) and Home Rule (MO. CONST. art. VI, § 19). At least sixteen of the eighteen localities that have nondiscrimination laws that cover sexual orientation and/or gender identity have their own Home Rule charters. Additionally, under legislatively granted authority, the Missouri Human Rights Act authorizes the formation of local commissions, so long as they are certified by the state, and allows those commissions to establish their own procedural rules, and to investigate and hear the same nondiscrimination claims that would come under the state law's jurisdiction "in a manner consistent with the provisions of" the Human Rights Act. MO. ANN. STAT. §§ 213.131; 213.135 (West 2013).

[65] Human Rights Campaign, Corporate Employer Database, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (last visited May 3, 2013) (search for Headquarters State: Missouri; Key Policies: Sexual Orientation in Non-discrimination Policy and Gender Identity in Non-discrimination; and Includes Policy: Yes).

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

[67] BADGETT, RAMOS, & SEARS, *supra* note 68.

[68] CLIFFORD ROSKY, CHRISTY MALLORY, JENNI SMITH, & M.V. LEE BADGETT, WILLIAMS INST., EMPLOYMENT DISCRIMINATION AGAINST LGBT UTAHNS (Jan. 2011), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Rosky-Mallory-Smith-Badgett-Utah-Emp-Discrim-Jan-11.pdf.

[69] NAOMI G. GOLDBERG, M.V. LEE BADGETT, & CHRISTOPHER RAMOS, WILLIAMS INST., THE IMPACT OF EMPLOYMENT NON-DISCRIMINATION LEGISLATION IN SOUTH DAKOTA (2010), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Goldberg-Badgett-Ramos-SouthDakota-ENDA-Jan-2010.pdf.

[70] CHRISTY MALLORY & M.V. LEE BADGETT, WILLIAMS INST., ADMINISTRATIVE IMPACT OF ADDING SEXUAL ORIENTATION AND GENDER IDENTITY TO TEXAS'S EMPLOYMENT NON-DISCRIMINATION LAW (2012), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory_Badgett_TX_Workplace_Dec-2012.pdf.

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

[72] "National average" refers to the average of the complaint rates in 17 states across the country that prohibited sexual orientation discrimination in 2008. BADGETT, RAMOS & SEARS, *supra* note 68.

[73] The data gathered for the 2008 study included all employment discrimination complaints filed on the basis of sexual orientation; it was not limited to complaints filed by LGB employees. Heterosexual employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality or because they were perceived to be LGB. However, we use the LGB workforce as the underlying population for purposes of our analysis because LGB employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 68.

[74] BADGETT, RAMOS & SEARS, *supra* note 68 at 5.

[75] MO. DEP'T OF LABOR & INDUS. REL., 2012 ANNUAL REPORT 49 (2012).

[76] *Id.* at 62.

[77] Mo. Joint Committee on Legislative Research Oversight, S. 1019 (2008) Fiscal Note (Mar. 12, 2008).