

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



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## Executive Summary

Georgia's state non-discrimination law protects state workers, but does not protect workers in the private sector. The law also does not prohibit discrimination based on sexual orientation or gender identity. An estimated 3.5% of Georgia's workforce, 170,000 workers, identifies as lesbian, gay, bisexual, or transgender. Of those workers, approximately 7,500 work for the state government, 10,600 work for local governments, and 151,900 work in the private sector.

This report summarizes evidence of sexual orientation and gender identity employment discrimination in government employment, explains the limited current protections from sexual orientation and gender identity employment discrimination in Georgia, and estimates the administrative impact of adding sexual orientation and gender identity to Georgia's state government employment non-discrimination law.

Key findings of this report include:

- In total there are approximately 269,000 LGBT adults in Georgia, including 7,507 who work for the state government.<sup>1</sup>
- There are no statewide protections from discrimination based on sexual orientation or gender identity in Georgia.
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against state government employees in Georgia, including reports from a legislative editor for the Georgia General Assembly, a public university professor, and an employee of the Georgia Division of Family and Child Services.
- A recent survey in Georgia reflects discrimination and negative attitudes toward LGBT people in the workplace. A 2011 survey of more than 2,000 LGBT Georgians found that 25% of those surveyed reported having been discriminated against in employment because of their sexual orientation or gender identity, and 45% of the respondents reported experiencing homophobia, transphobia or harassment at work in the preceding year.
- 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. The 2008 General Social Survey found that among public sector LGB employees, one in five had experienced some form of discrimination.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, as recently as 2010, 78% of respondents to the largest survey of

transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity. Among respondents from Georgia, 80% reported experiencing harassment or mistreatment on the job, and 34% reported losing a job, on the basis of their gender identity.

- Disparities in wages are an additional way that discrimination has traditionally been measured. Studies have found that LGB government employees earn 8% to 29% less than their heterosexual counterparts.
- At least 35 Georgia localities provide protection from sexual orientation discrimination in public employment by local ordinance or personnel policy. Twelve of these localities also provide protection from discrimination on the basis of gender identity. One ordinance –Atlanta’s – also prohibits discrimination in private employment throughout the city. Additionally, an ordinance in College Park prohibits city government contractors from discriminating against their employees based on sexual orientation.
- Approximately 70% of Georgia’s local government workforce is not covered by a local ordinance or personnel policy that prohibits sexual orientation discrimination in public employment, and approximately 94% of Georgia’s local government workforce is not covered by a local ordinance that prohibits gender identity discrimination in public employment.<sup>2</sup>
- All public universities in the University System of Georgia have policies prohibiting employment discrimination based on sexual orientation.<sup>3</sup> Several public universities also prohibit employment discrimination based on gender identity, including the University of Georgia, Georgia Tech, Clayton State University, and Southern Polytechnic State University.
- Public opinion in Georgia supports prohibitions on workplace discrimination based on sexual orientation and gender identity. In response to a 2013 survey, 79% of voters surveyed in Georgia said that it should be, or probably should be, illegal for government employers in Georgia to discriminate against their employees based on sexual orientation or gender identity.
- Although there is no statewide legal protection against employment discrimination based on sexual orientation and gender identity, a 2013 opinion survey by Public Policy Polling found strong support for protections from workplace discrimination based on sexual orientation. In that opinion survey, 72 percent of respondents said that such discrimination should not be allowed, while 17 percent stated that it is acceptable.<sup>4</sup>
- Adding sexual orientation and gender identity to the state’s current law prohibiting discrimination in state government employment would result in approximately two additional complaints being filed with the Georgia Commission on Equal Opportunity each year.
- Because the number of discrimination complaints filed with the Georgia Commission on Equal Opportunity varies by several complaints from year to year, the anticipated new complaints based on sexual orientation and gender identity could most likely be absorbed into the existing system with no need for additional staff and negligible costs.

## Evidence of Discrimination

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

Research shows the existence of widespread and continuing discrimination against LGBT workers in the U.S. In response to surveys, LGBT workers consistently report having experienced discrimination, and non-LGBT people often report having witnessed discrimination against their LGBT co-workers. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.<sup>5</sup> Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians had experienced workplace harassment in the last five years, and 12% had lost a job because of their sexual orientation.<sup>6</sup> 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.<sup>7</sup>

Surveys of public sector LGBT employees show similar rates of discrimination. For example, one in five LGBT state, local, and federal employee respondents to the 2008 General Social reported experiencing some type of employment discrimination.<sup>8</sup> Additionally, a 2009 survey of 1,902 LGBT faculty and employees from state public colleges and universities across the country found that 19% responded that during the past year, they had “personally experienced exclusionary, intimidating, offensive, hostile, and/or harassing” behavior that “interfered with their ability to work on campus.”<sup>9</sup> Over 70% of these respondents said that this treatment was due to their sexual identity.<sup>10</sup> Similarly, in a 2009 survey of LGBT public safety officers, 22% reported experiencing discrimination in promotions, 13% in hiring, and 2% reported being fired because of their sexual orientation or gender identity.<sup>11</sup>

One recent survey of LGBT employees in Georgia also found similar rates of discrimination. In 2011, a survey was conducted of over 2,000 LGBT Georgians from 94 of 159 counties in the state.<sup>12</sup> Twenty-five percent of those surveyed reported having been discriminated against in employment because of their sexual orientation or gender identity.<sup>13</sup> Forty-five percent of respondents said they had experienced homophobia, transphobia or harassment at work in the preceding year.<sup>14</sup> Additionally, 44% of respondents stated they were not very open about their sexual orientation or gender identity with their supervisors. Additionally, a 2013 survey of 167 transgender Georgians found that 80 percent reported experiencing harassment or mistreatment on the job, and 34 percent reported losing a job, on the basis of their gender identity.<sup>15</sup>

Discrimination against LGBT public sector employees has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in employment.<sup>16</sup>

Several instances of employment discrimination against LGBT state government workers in Georgia have been documented in the media, court cases, and reports to legal organizations:

- A court case was brought by a Legislative Editor for the Georgia General Assembly's Office of Legislative Counsel who was fired after she began her gender transition. Since 2005, she had been responsible for editing proposed legislation and resolutions for the Georgia Assembly.<sup>17</sup> In 2007, when her supervisor found out about her gender transition, he terminated her stating that the "intended gender transition was inappropriate, that it would be disruptive, that some people would view it as a moral issue, and that it would make [the employee's] coworkers uncomfortable."<sup>18</sup> The employee filed suit alleging that the state violated her equal protection rights under the Fourteenth Amendment to the U.S. Constitution.<sup>19</sup> A district court in Georgia found in favor of the employee and the Eleventh Circuit affirmed.<sup>20</sup>
- In 2009, a number of media outlets reported that an openly gay professor at a public university was falsely accused of misconduct by Georgia state representatives. According to the reports, the representatives accused the professor of recruiting "young teenage gays" to accompany him on international trips, despite the fact that he was not involved with study abroad programs and taught graduate level classes. The professor was cleared of any misconduct after an investigation. The state representatives also said they would pressure other state universities to terminate any professors who teach "queer theory" courses. The professor's university employer defended its course offerings and the professors. The legislators also called three other professors into the State Senate to defend their research on sexuality and the outbreak of HIV and AIDS.<sup>21</sup>
- In 2006, a stage agency employee reported that she was subjected to a humiliating and invasive four-hour investigation after other employees complained about working with her because she was a lesbian. She said that she was asked questions about who looked after her children, who she lived with and who her friends were. She was then told not to tell anybody else about what happened during the interview. According to the employee, the agency suspended her for "alleged misconduct" two weeks later.<sup>22</sup>

### *Wage Inequity*

Census data show that men in same-sex couples in Georgia earn less than men married to different-sex partners. On average, men in same-sex couples in Georgia earn \$43,414 each year, significantly less than the \$50,340 for men married to different-sex partners.<sup>23</sup> The median income of men in same-sex couples in Georgia is \$34,000, 9% less than that of married men (\$37,000).<sup>24</sup> Men with same-sex partners earn lower wages, despite the fact that they are more likely to have a college degree than men married to different-sex partners,<sup>25</sup> a comparison that supports the possibility that people in same-sex couples are not treated equally by employers.

Women in same-sex couples earn less than married men as well as men in same-sex couples.<sup>26</sup> Women in same-sex couples in Georgia earn an average of \$33,274 per year (with a median of \$29,000), which is more than married women, whose earnings average \$26,433 (with a median of \$22,000).<sup>27</sup>

These findings are not unique to Georgia. More than a decade of research and twelve studies have examined the relationship between earnings and sexual orientation. This research has consistently found that men in same-sex couples and single gay and bisexual men earn 10%-32% less than similarly qualified men who are married to different-sex partners or men who identify as heterosexual.<sup>28</sup> Lesbians generally earn the same amount or more than heterosexual women, but less than either heterosexual or gay men.<sup>29</sup> Studies have found similar wage gaps when looking only at government employees. Together, the studies find that LGB government employees earn 8%-29% less than their heterosexual counterparts.<sup>30</sup>

Such findings support the possibility that LGBT people are not treated equally by employers. A 2009 study indicated that the wage gap for gay men is smaller in states that implement non-discrimination laws, suggesting that such laws reduce discrimination against LGBT people.<sup>31</sup>

## **Current Protections from Discrimination**

Georgia does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.<sup>32</sup> In 2011, a bill was introduced in the Georgia House of Representatives to prohibit such discrimination in state government employment by amending Georgia's Fair Employment Practices Act,<sup>33</sup> but the bill died in a judiciary subcommittee at the close of the session without a vote taken. In February 2013, the bill was reintroduced, but again it died in committee at the close of the session without a vote taken.<sup>34</sup>

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

### ***The Georgia Fair Employment Practices Act***

The Georgia Fair Employment Practices Act ("FEPA") prohibits discrimination on the basis of race, religion, national origin, sex, disability, and age<sup>35</sup> by state government employers with 15 or more employees.<sup>36</sup> FEPA does not apply to local government or private sector employers. FEPA exempts employers from coverage with respect to religion and disability where the employer is not able to accommodate reasonably the disability or religious observance without undue hardship on the employer's operation.<sup>37</sup>

The Commission on Equal Opportunity and its administrator enforce FEPA in Georgia.<sup>38</sup> The administrator has, among other powers, the power to receive, initiate, investigate, and make determinations regarding complaints alleging violations of FEPA.<sup>39</sup> An employee must file a complaint

with the administrator within 180 days of the discrimination occurring.<sup>40</sup> The administrator must make a determination of whether there is reasonable cause to believe the employer has engaged in discrimination within 90 days of receiving the complaint.<sup>41</sup> If reasonable cause is found, the administrator must first try to eliminate the discrimination by conference, conciliation, and persuasion.<sup>42</sup> If those efforts are unsuccessful, the administrator must refer the complaint to a special master.<sup>43</sup> The special master holds hearings and may ultimately require remedial action such as reinstatement, monetary awards, or compliance reporting.<sup>44</sup>

During fiscal year 2012, the Commission on Equal Opportunity received 61 employment discrimination complaints against a state agency, up from 59 in 2011.<sup>45</sup> Ten percent of these complaints were closed within 90 days.<sup>46</sup> The Commission also investigates fair housing complaints, of which it received 72 in fiscal year 2012, down from 105 in 2011.<sup>47</sup> The Commission engaged in 16 education, training and outreach programs for both FEPA and the Georgia Fair Housing Act in fiscal year 2012, a significant increase from 5 trainings in each of fiscal years 2010 and 2011.<sup>48</sup>

### ***State University Protections from Discrimination***

All state universities in the University System of Georgia have policies prohibiting employment discrimination based on sexual orientation.<sup>49</sup> Several public universities also prohibit employment discrimination based on gender identity, including University of Georgia,<sup>50</sup> Georgia Tech,<sup>51</sup> Clayton State University,<sup>52</sup> Southern Polytechnic State University,<sup>53</sup> and others.

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

At least thirty-five localities in Georgia prohibit public sector employment discrimination based on sexual orientation through a local ordinance or personnel policy.<sup>54</sup> Twelve of these localities also prohibit public sector employment discrimination on account of gender identity.<sup>55</sup> Only Atlanta also prohibits discrimination on the basis of sexual orientation or gender identity in private sector employment throughout the city.<sup>56</sup> Additionally, an ordinance in College Park prohibits city government contractors from discriminating against their employees based on sexual orientation.<sup>57</sup> Approximately 70% of Georgia's local government workforce is not covered by a local ordinance or personnel policy that prohibits sexual orientation discrimination in public employment, and approximately 94% of Georgia's local government workforce is not covered by a local ordinance that prohibits gender identity discrimination in public employment.<sup>58</sup>

Atlanta's non-discrimination law was challenged in Fulton Superior Court in 1993 on the grounds that the city exceeded its authority in enacting the law. Ultimately, in 1995, the Georgia Supreme Court upheld the law as a proper exercise of a municipality's police power, as it only applies to city employees and private businesses within the city.<sup>59</sup>

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

Private companies adopt internal policies prohibiting discrimination based on sexual orientation and gender identity for a variety of reasons including improved recruitment and retention of talented employees, increasing employee productivity and customer satisfaction, and attracting a larger customer base.<sup>60</sup> One study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top companies in the U.S. with LGBT-supportive policies had adopted the policies for economic reasons.<sup>61</sup>

Academic research has found that LGBT-supportive corporate policies are linked to positive business-related outcomes, including greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.<sup>62</sup> For example, a 2006 national poll found that 89% of LGBT respondents and 72% of non-LGBT respondents reported that when deciding where to work, it was important that an employer have a written non-discrimination policy that includes race, ethnicity, sex, religion, age, sexual orientation and disability.<sup>63</sup> Research also suggests that employers limit their available talent pool by screening out applicants based on their sexual orientation. One study found that the rate of screening out gay male applicants was twice as high in regions without sexual orientation non-discrimination laws.<sup>64</sup>

Additionally, LGBT-supportive workplace policies can expand opportunities to secure potentially lucrative government contracts for corporate employers. A 2011 study found that 68 local governments had laws requiring contractors to have LGBT-inclusive non-discrimination policies.<sup>65</sup> A number of states have similar laws that apply to state government contracts.<sup>66</sup> Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

Many of Georgia's top companies have adopted internal corporate policies that prohibit sexual orientation and gender identity discrimination in employment. Fourteen of the 15 Fortune 500 companies headquartered in Georgia prohibit employment discrimination based on sexual orientation, and 10 also prohibit discrimination based on gender identity.<sup>67</sup> Nine of Georgia's largest ten private employers<sup>68</sup> have non-discrimination policies that include sexual orientation, and eight of those ten have policies that include both sexual orientation and gender identity.<sup>69</sup>

## **Public Opinion**

Public opinion in Georgia supports non-discrimination protections for LGBT people. A 2013 opinion survey by The Schapiro Group found strong support for protections from public sector workplace discrimination based on sexual orientation and gender identity. In response to the poll, 79 percent of respondents said that such discrimination should be, or probably should be, illegal.<sup>70</sup>

## Administrative Impact

### *Complaint Estimate*

Despite the persistence and pervasiveness of employment discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation discrimination are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.<sup>71</sup> Among state and local government workers, complaints of sexual orientation discrimination are filed at a slightly lower rate than in the private sector.<sup>72</sup> Despite similar filing rates, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low because the LGBT population is so small.<sup>73</sup>

We estimate that approximately two complaints of sexual orientation or gender identity discrimination would be filed with the Georgia Commission on Equal Opportunity each year. To reach this estimate, we drew on Gallup polling data and Census data from Georgia to estimate the size of the LGBT state government workforce in Georgia, and applied the rate of sexual orientation and gender identity complaints filed by state government workers nationally. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including South Carolina, Missouri, Ohio, Pennsylvania, South Dakota, Texas, Utah, and West Virginia.<sup>74</sup>

Results from a 2012 Gallup poll show that 3.5% of people in Georgia identify as LGBT.<sup>75</sup> Applying this percentage to the number of people who work for the state government (214,485<sup>76</sup>) indicates that there are 7,507 LGBT state government workers in Georgia.

Next, we applied the rate of complaints filed by state government workers on the basis of sexual orientation to the number of LGBT state government workers in Georgia to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2011 study that analyzed administrative complaint data from 12 states that prohibited sexual orientation discrimination at that time.<sup>77</sup> The study found that across these states, the average rate of complaints filed by state government workers on the basis of sexual orientation was 2.8 per 10,000 LGB workers.<sup>78</sup> There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.<sup>79</sup> Therefore, we assume that this rate is also 2.8 per 10,000 transgender workers.

Applying the national complaint rate (2.8 per 10,000 LGBT workers) to the number of LGBT state government workers in Georgia (7,507) suggests that two 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***

The Georgia Commission on Equal Opportunity handled 61 employment discrimination complaints in fiscal year 2012, the most recent year for which data are available.<sup>80</sup> In 2011, the Commission handled 59 complaints of employment discrimination. Data from other years are not currently available. The available data suggest that two additional complaints is within annual fluctuations in the number of complaints filed with the Commission, and therefore, the additional complaints filed on the basis of sexual orientation and gender identity could most likely be absorbed into the existing budget with minimal impact on the Commission.

### **Conclusion**

Documented evidence shows that public sector LGBT workers face employment discrimination across the country, including in Georgia. There is currently no law that prohibits employment discrimination based on sexual orientation or gender identity against Georgia state government employees. Adding these characteristics to the Georgia Fair Employment Practices Act would provide protection from discrimination to approximately 7,507 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately two complaints of sexual orientation or gender identity employment discrimination would be filed in Georgia annually if the law were amended. Given fluctuations in the annual number of complaints filed, it is likely that the additional two complaints would have no noticeable impact on the Commission's budget.

## **About the Williams Institute**

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

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## Endnotes

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<sup>1</sup> These estimates were reached by applying the percentage of people in Georgia that identify as LGBT (3.5%) to the population of Georgia aged 16 years and older (7,692,523) and the number of people who work for the state government in Georgia (214,485), respectively. Gary J. Gates & Frank Newport, LGBT Percentage Highest in D.C., Lowest in North Dakota, GALLUP, Feb. 15, 2013, <http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx> ; American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table B24080: Sex by Class of Worker for the Civilian Employed Population 16 Years and Over, 1-Year Estimates, available at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_B24080&prodTy=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B24080&prodTy=table).

<sup>2</sup> Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Sex by Class of Worker tables (local government employee numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited July 30, 2014).

<sup>3</sup> Univ. Sys. of Ga., Board of Regents Policy Manual § 8.2.1 (2013).

<sup>4</sup> *Georgia Miscellany*, PUBLIC POLICY POLLING (Aug. 8, 2013), <http://www.publicpolicypolling.com/main/2013/08/georgia-miscellany.html>.

<sup>5</sup> A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

<sup>6</sup> BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

<sup>7</sup> JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 51 (2011), [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf).

<sup>8</sup> BRAD SEARS, NAN D. HUNTER & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY IN STATE EMPLOYMENT 9-4 to 9-5 (2009), [http://williamsinstitute.law.ucla.edu/wp-content/uploads/9\\_Surveys.pdf](http://williamsinstitute.law.ucla.edu/wp-content/uploads/9_Surveys.pdf).

<sup>9</sup> SUSAN RANKIN ET AL., 2010 STATE OF HIGHER EDUCATION FOR LESBIAN, GAY, BISEXUAL & TRANSGENDER PEOPLE (2010), <http://www.campuspride.org/wp-content/uploads/campuspride2010lgbtreportsummary.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> Roddrick Colvin, *Shared Perceptions Among Lesbian and Gay Police Officers: Barriers and Opportunities in the Law Enforcement Work Environment*, 12 POLICE QUARTERLY 86 (2009).

<sup>12</sup> PHILLIP RUSH CENTER, GEORGIA STATEWIDE LGBT COMMUNITY SURVEY 1 (2013), <http://www.rushcenteratl.org/wp-content/uploads/2013/07/Rush-Center-Survey-Results-with-Cover.pdf>.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.*

<sup>15</sup> FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY – GEORGIA RESULTS, NATIONAL CENTER FOR TRANSGENDER EQUALITY & NATIONAL GAY AND LESBIAN TASK FORCE 1 (2013), [http://www.thetaskforce.org/downloads/reports/reports/ntds\\_state/ntds\\_state\\_ga.pdf](http://www.thetaskforce.org/downloads/reports/reports/ntds_state/ntds_state_ga.pdf).

<sup>16</sup> BRAD SEARS, NAN D. HUNTER & CHRISTY MALLORY, THE WILLIAMS INST., DOCUMENTING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY IN STATE EMPLOYMENT (2009),

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<http://williamsinstitute.law.ucla.edu/research/workplace/documenting-discrimination-on-the-basis-of-sexual-orientation-and-gender-identity-in-state-employment/>.

<sup>17</sup> Glenn v. Brumby, 663 F.3d 1312, 1313-14 (11th Cir. 2011).

<sup>18</sup> *Id.* at 1316-17.

<sup>19</sup> Glenn v. Brumby, 724 F.Supp.2d (N.D. Ga. 2010).

<sup>20</sup> *Id.*; Glenn v. Brumby, 663 F.3d at 1312.

<sup>21</sup> *Pulpit Power: Does the Religious Right Still Control Georgia?*, SOUTHERN VOICE, Mar. 13, 2009; *Georgia Lawmakers Clash Over Queer Theory, Academic Freedom*, SOUTHERN VOICE, Feb. 11, 2009; *Sex Research Puts University of Georgia Professors in Hot Seat*, DIGITAL J., Febr. 23, 2009; *Professor cleared of allegations*, RED & BLACK, Feb. 17, 2009.

<sup>22</sup> E-mail from Ming Wong, National Center for Lesbian Rights, to Christy Mallory, the Williams Institute (May 7, 2009, 11:15:00 PST) (on file with the Williams Institute).

<sup>23</sup> ADAM P. ROMERO, AMANDA K. BAUMLE, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: GEORGIA 2 (2007), <http://williamsinstitute.law.ucla.edu/demographics/georgia/georgia-census-snapshot-2000/>.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> ROMERO, ROSKY, BADGETT & GATES, *supra* note 23 at 2.

<sup>27</sup> *Id.*

<sup>28</sup> M.V. Lee Badgett, Holning Lau, Brad Sears & Deborah Ho, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination 1998-2008*, 84 CHI.-KENT L. REV. 559, 559-60 (2009).

<sup>29</sup> *Id.*

<sup>30</sup> Gregory B. Lewis, *Are Gay-Straight Pay Disparities Smaller in the Public Sector?* Presented at the Midwest Political Science Assoc. Meeting (Apr. 4, 2009).

<sup>31</sup> GARY J. GATES, CAL. CTR. FOR POP. RESEARCH, THE IMPACT OF SEXUAL ORIENTATION ANTI-DISCRIMINATION POLICIES ON THE WAGES OF LESBIANS AND GAY MEN (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

<sup>32</sup> *Employment FAQ*, GEORGIA COMMISSION ON EQUAL OPPORTUNITY, <http://gceo.state.ga.us/employment-faq>; *see also* JEROME HUNT, CTR. AM. PROG. ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES 4 (June 2012), [http://www.americanprogress.org/issues/2012/06/pdf/state\\_nondiscrimination.pdf](http://www.americanprogress.org/issues/2012/06/pdf/state_nondiscrimination.pdf).

<sup>33</sup> *See* H.B. 630, Georgia General Assembly, <http://www.legis.ga.gov/legislation/en-US/display/20112012/HB/630>; Walter C. Jones, *Ga. House Panel Kills Sexual Preference Jobs Bill*, AUGUSTA CHRONICLE (Feb. 22, 2012, 6:51 AM), <http://chronicle.augusta.com/news/government/2012-02-22/ga-house-panel-kills-sexual-preference-jobs-bill>.

<sup>34</sup> H.B. 427, 152nd Gen. Assembl. (Ga. 2013). *See also* H.B. 427, Georgia General Assembly, <http://www.legis.ga.gov/legislation/en-US/display/20132014/HB/427>; *Ga. General Assembly Adjourns Annual Session*, GA. VOICE (Mar. 29, 2013), <http://thegavoice.com/two-hearings-on-pro-gay-bills-cited-as-progress-for-conservative-gold-dome-2/>.

<sup>35</sup> Ga. Code Ann. §45-19-22 (4) (2012).

<sup>36</sup> Ga. Code Ann. § 45-19-22 (5) (2012).

<sup>37</sup> Ga. Code Ann. §§45-19-22 (4) to (5) (2012).

<sup>38</sup> Ga. Code Ann. § 45-19-24.

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- <sup>39</sup> Ga. Code Ann. §45-19-27 (8).
- <sup>40</sup> Ga. Code Ann. § 45-19-36 (b).
- <sup>41</sup> Ga. Code Ann. § 45-19-36 (c).
- <sup>42</sup> Ga. Code Ann. § 45-19-36 (e).
- <sup>43</sup> Ga. Code Ann. § 45-19-36 (f).
- <sup>44</sup> Ga. Code Ann. §§ 45-19-37 to -38.
- <sup>45</sup> GEORGIA GOVERNOR'S OFFICE OF PLANNING AND BUDGET, PERFORMANCE MEASURE REPORT FY 2015, 87 (2014), [http://opb.georgia.gov/sites/opb.georgia.gov/files/related\\_files/site\\_page/FY%202015%20Performance%20Measure%20Web%20Report%20FINAL.pdf](http://opb.georgia.gov/sites/opb.georgia.gov/files/related_files/site_page/FY%202015%20Performance%20Measure%20Web%20Report%20FINAL.pdf).
- <sup>46</sup> *Id.*
- <sup>47</sup> *Id.*
- <sup>48</sup> GEORGIA GOVERNOR'S OFFICE OF PLANNING AND BUDGET, PERFORMANCE MEASURE REPORT FY 2014, 53 (2013), [http://opb.georgia.gov/sites/opb.georgia.gov/files/related\\_files/site\\_page/OPB%20Web%20Report%202%2012%202013.pdf](http://opb.georgia.gov/sites/opb.georgia.gov/files/related_files/site_page/OPB%20Web%20Report%202%2012%202013.pdf).
- <sup>49</sup> Univ. Sys. of Ga., Board of Regents Policy Manual § 8.2.1 (2013).
- <sup>50</sup> Univ. of Ga., Policy Statement – Equal Opportunity, <http://eoo.uga.edu/policies/policy-statement-equal-opportunity> (last visited Sept. 17, 2014).
- <sup>51</sup> Ga., Tech, Policy of Nondiscrimination and Affirmative Action, <http://www.policylibrary.gatech.edu/policy-nondiscrimination-and-affirmative-action> (last visited Sept. 17, 2014).
- <sup>52</sup> Clayton State Univ., Equal Opportunity, <http://www.clayton.edu/Equal-Opportunity> (last visited Sept. 17, 2014).
- <sup>53</sup> Southern Polytechnic State Univ., Reaffirmation of Equal Employment Opportunity and Affirmative Action Policies, [https://www.spsu.edu/hr/p\\_and\\_p/EEOAAPoliciesStatement-2011.pdf](https://www.spsu.edu/hr/p_and_p/EEOAAPoliciesStatement-2011.pdf) (last visited Sept. 17, 2014).
- <sup>54</sup> These localities include: Atlanta, Carrollton, Chamblee, Chattahoochee Hills, Clarkston, Dallas, Decatur, Doraville, East Point, Hapeville, Hinesville, Loganville, Macon, Midway, Norcross, North High Shoals, Oakwood, Pine Lake, Port Wentworth, Riverdale, Sandy Springs, St. Marys, Tybee Island, Vidalia, Athens/Clarke County, Bibb County, Clayton County, Colquitt County, DeKalb County, Fulton County, Jackson County, Lincoln County, Putnam County, Rockdale County, Ware County. ATLANTA, GA., CODE Art. V § 94-112 & Subpart A., Bill of Rights, § 4; Carrollton, Ga., Equal Employment Opportunity Statement, [http://www.carrollton-ga.gov/city\\_departments/human\\_resources/index.php](http://www.carrollton-ga.gov/city_departments/human_resources/index.php) (last visited Sept. 17, 2014); Chamblee, Ga., Application for Employment, <http://www.chambleega.com/DocumentCenter/View/88> (last visited Sept. 17, 2014); Chattahoochee Hills, Ga., Application for Employment, [http://www.chatthillsga.us/Assets/Files/Employment\\_Opportunities/Employment\\_Application.PDF](http://www.chatthillsga.us/Assets/Files/Employment_Opportunities/Employment_Application.PDF) (last visited Sept. 17, 2014); CLARKSTON, GA., CODE § 14-4; Dallas, Ga., Employment, <http://cityofdallasga.com/government/employment.html> (last visited Sept. 17, 2014); City of Decatur Resolution R-10-10; *see also* Minutes of Decatur City Commission 3 (May 3, 2010), <http://www.decaturga.com/Modules/ShowDocument.aspx?documentid=167>; DORAVILLE, GA., CODE, Ch. 2, Art. IX, § 2-244; EAST POINT, GA., CODE, Div. 1, Bill of Rights, § 6; Hapeville, Ga., Employment, <http://www.hapeville.org/index.aspx?NID=120> (last visited Sept. 17, 2014); Hinesville, Ga., Application for Employment, <http://loganville-ga.gov/wordpress/wp-content/uploads/2013/10/Application-for-Employment-Loganville.pdf> (last visited Sept. 17, 2014); MACON, GA. CODE § 16-47; Midway, Ga., Employment Application, [http://www.historicmidway.com/Employment\\_Application05714.pdf](http://www.historicmidway.com/Employment_Application05714.pdf) (last visited Sept. 17, 2014); MILTON, GA., CODE § 38-91; Norcross, Ga., Application for Employment, <http://www.norcrossga.net/DocumentCenter/View/397> (last visited Sept. 17, 2014); NORTH HIGH SHOALS, GA., CODE § 12-7; City of Oakwood, Application for Employment,

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<http://www.cityofoakwood.net/Assets/Files/Application12.03.12.pdf> (last visited Sept. 17, 2014); City of Pine Lake Personnel Manual Revised & Adopted (1999); Wentworth, Ga., Employment Application, <http://www.cityofportwentworth.com/pdf%20files/Public%20Safety%20Application.pdf> (last visited Sept. 17, 2014); Riverdale, Ga., Equal Employment Opportunity Policy, <http://www.riverdalega.gov/index.aspx?NID=102> (last visited Sept. 17, 2014); Sandy Springs, Ga., Careers, <http://www.sandyspringsga.org/Careers> (last visited Sept. 17, 2014); St. Marys, Ga., Employment Application, [http://www.stmarysga.gov/stmarys/department/human\\_resources/uploads/St\\_Marys\\_Employment\\_Application\\_revised\\_072014.pdf](http://www.stmarysga.gov/stmarys/department/human_resources/uploads/St_Marys_Employment_Application_revised_072014.pdf) (Sept. 17, 2014); TYBEE, GA., CODE § 2-4-1; ATHENS-CLARKE CTY, GA., CODE § 1-17; Clayton Cty, Ga., Equal Employment Opportunity Plan, [http://www.claytoncountyga.gov/pdfs/human\\_resources/EEOP\\_2010\\_final.pdf](http://www.claytoncountyga.gov/pdfs/human_resources/EEOP_2010_final.pdf); Colquitt Cty, Ga., Application for Employment, [http://www.ccboc.com/Employment/EmploymentApplication\\_Fill\\_In.pdf](http://www.ccboc.com/Employment/EmploymentApplication_Fill_In.pdf) (last visited Sept. 17, 2014); DEKALB, GA., CODE Art. I § 20-16 and Art. IX § 20-194; FULTON CTY, GA., CODE Art. I § 38-1; Jackson Cty, Ga., Employment Application, available at <http://www.jacksoncountygov.com/Index.aspx?page=96> (last visited Sept. 17, 2014); Lincoln Cty., Ga., Application for Employment, <http://www.lcgagov.org/uploads/3/1/8/8/3188716/lcgjobapp.pdf> (last visited Sept. 17, 2014); Putnam Cty., Ga., Application for Employment, <http://www.putnamcountyga.us/cmsAdmin/uploads/Employment-Application-PDF-Fill-in.pdf> (last visited Sept. 17, 2014); Rockdale Cty, Ga., Equal Opportunity Statement, <http://www.rockdalecounty.org/main.cfm?id=4454> (last visited Sept. 17, 2014), Ware Cty, Ga., Mission, <http://www.warecounty.com/HumanResourcesMission.aspx> (last visited Sept. 17, 2014).

<sup>55</sup> These localities include: Atlanta, Clarkston, Decatur, Doraville, East Point, Hapeville, Macon, North High Shoals, Pine Lake, Wentworth, Athens/Clarke County, and Fulton County.

<sup>56</sup> ATLANTA, GA., CODE Art. V § 94-112 & Subpart A., Bill of Rights, § 4.

<sup>57</sup> COLLEGE PARK, GA. CODE § 2-5(b).

<sup>58</sup> Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Sex by Class of Worker tables (local government employee numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited July 30, 2014).

<sup>59</sup> City of Atlanta v. McKinney, 265 Ga. 161, 165-66 (1995).

<sup>60</sup> See BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST., ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

<sup>61</sup> *Id.*

<sup>62</sup> M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST., THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.

<sup>63</sup> Out & Equal, Harris Interactive & Witeck Combs Commc'n, *Majority of Americans: Companies Not Government Should Decide Benefits Offered to Same-Sex Employees*, OUTANDEQUAL.ORG (May 22, 2006), [http://outandequal.org/documents/2006\\_Workplace\\_Survey052306.pdf](http://outandequal.org/documents/2006_Workplace_Survey052306.pdf).

<sup>64</sup> Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).

<sup>65</sup> Christy Mallory & Brad Sears, *An Evaluation of Local Laws Requiring Government Contractors to Adopt LGBT-Related Workplace Policies*, 5 ALBANY GOV'T L. REV. 478, 481 (2011).

<sup>66</sup> For example, California (CAL. GOV. CODE § 12990 (2013)), Delaware (DEL. CODE ANN. tit., 29 § 6962(d)(7) (2013)), and Maryland (MD. CODE ANN., STATE FIN. & PROC. § 19-101 (LexisNexis 2013)), among others.

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<sup>67</sup> Employer Database, HUMAN RIGHTS CAMPAIGN, <http://asp.hrc.org/issues/workplace/list.asp> (search for Headquarters State: Georgia; Key Policies: Sexual Orientation in Non-discrimination Policy; and Includes Policy: Yes).

<sup>68</sup> State Profile: Largest Employers, CAREER INFO NET, <http://www.careerinfonet.org/oview6.asp?soccode=&stfips=13&from=State&goto=/acinet/state1.asp%3Fstfips%3D13>.

<sup>69</sup> Employer Database, HUMAN RIGHTS CAMPAIGN, <http://asp.hrc.org/issues/workplace/list.asp>.

<sup>70</sup> *Georgia Legislative Poll*, THE SCHAPIRO GROUP (2013).

<sup>71</sup> M.V. LEE BADGETT, CHRISTOPHER RAMOS & BRAD SEARS, WILLIAMS INST., EVIDENCE OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY: COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES 1999-2007 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Ramos-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).

<sup>72</sup> BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST., EVIDENCE OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION IN STATE AND LOCAL GOVERNMENT: COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES 2003-2007 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-DiscriminationComplaintsReport-July-2011.pdf>.

<sup>73</sup> BADGETT, RAMOS, & SEARS, *supra* note 71.

<sup>74</sup> *See Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

<sup>75</sup> Gary J. Gates & Frank Newport, *supra* note 1.

<sup>76</sup> American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table B24080: Sex by Class of Worker for the Civilian Employed Population 16 Years and Over, 1-Year Estimates, available at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_B24080&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B24080&prodType=table).

<sup>77</sup> “National average” refers to the average of the complaint rates in 17 states across the country that prohibited sexual orientation discrimination in 2008. BADGETT, RAMOS & SEARS, *supra* note 71.

<sup>78</sup> The data gathered for the 2008 study included all employment discrimination complaints filed on the basis of sexual orientation; it was not limited to complaints filed by LGB employees. Heterosexual employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality or because they were perceived to be LGB. However, we use the LGB workforce as the underlying population for purposes of our analysis because LGB employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 71.

<sup>79</sup> BADGETT, RAMOS & SEARS, *supra* note 71, at 5.

<sup>80</sup> *Id.*