

Employment Discrimination Based on Sexual Orientation and Gender Identity in Indiana



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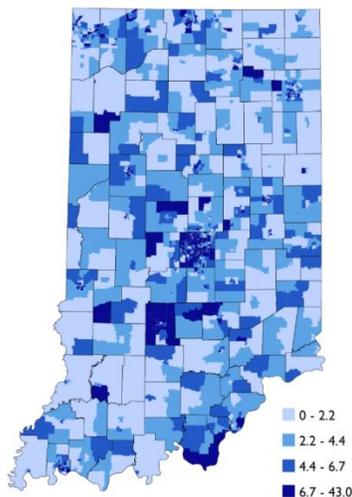
Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 133,000 of these workers live in Indiana. Indiana does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.

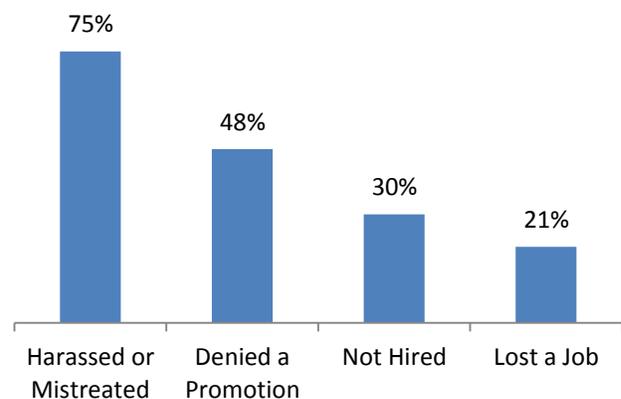
This report summarizes recent evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Indiana, and estimates the administrative impact of passing a law prohibiting employment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

133,000	34%	54%-73%	36%	61
Number of LGBT Workers	Income Disparity between Straight and Gay Male Workers	Public Support for LGBT Workplace Protections	Workforce Covered by Local Non-Discrimination Laws	Estimated New Complaints if LGBT Protections are Added to State Laws

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



Discrimination experienced by transgender workers in Indiana¹



Key findings of this report include:

LGBT People in Indiana Experience Discrimination and Harassment in the Workplace

- In total, there are approximately 192,105 LGBT people aged 16 and older in Indiana, including 133,000 who are part of Indiana's workforce.²
- Instances of employment discrimination based on sexual orientation and gender identity in Indiana have been documented in court cases and administrative complaints. Examples include instances of discrimination against public and private sector workers.
- Surveys indicate that discrimination against LGBT workers is persistent and prevalent. For example, a 2015 Human Rights Campaign survey found that 47% of LGBT people reported that they had experienced employment discrimination, and a 2013 Pew Research Center survey found that 21% of LGBT respondents reported having been treated unfairly by an employer in hiring, pay, or promotions.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. In response to the National Transgender Discrimination Survey, 75% of respondents from Indiana reported experiencing harassment or mistreatment at work, 30% reported losing a job, 21% reported being denied a promotion, and 48% reported not being hired because of their gender identity or expression at some point in their lives.
- Census data show that in Indiana, the median income of men in same-sex couples is 34% lower than men in different sex marriages.

Local Governments and Private Employers in Indiana Have Made Efforts to Protect LGBT People from Workplace Discrimination and Harassment

- A gubernatorial executive order in Indiana provides protection from sexual orientation and gender identity discrimination for state government employees. The executive order protects 108,000 state employees—3% of Indiana's workforce—from discrimination based on sexual orientation or gender identity.
- At least twenty-one localities in Indiana have adopted ordinances prohibiting public and private sector employment discrimination based on sexual orientation and gender identity. These local ordinances and policies protect approximately one-third (33%) of the state's workforce from discrimination based on sexual orientation and gender identity.
- Private companies may adopt internal non-discrimination policies to improve recruitment and retention of talented employees, to increase employee productivity and customer satisfaction, or to attract a larger customer base. Of the seven Fortune 500 companies headquartered in Indiana, six have employment non-discrimination policies that include sexual orientation and five also include gender identity in their policies. Additionally, several of Indiana's largest universities prohibit employment discrimination based on sexual orientation and gender identity including Indiana University, Purdue University, Indiana State University, and Ball State University.

Public Opinion in Indiana Supports the Passage of Non-Discrimination Protections for LGBT People

- Four polls of Indiana residents conducted in 2015 and 2016 found that 54% to 70% of respondents supported adding protections for LGBT people to the state's non-discrimination law.
- In response to a national poll conducted in 2011, 73% of those polled in Indiana said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.
- In addition, other polls have found that 79% of Indiana residents think that LGBT people experience discrimination in the state.

A Statewide Law Prohibiting Discrimination Based on Sexual Orientation and Gender Identity in Indiana Would Not Be Administratively Burdensome or Costly to Enforce

- Expanding the state's existing non-discrimination law to prohibit employment discrimination based on sexual orientation and gender identity would result in approximately 61 additional complaints, on average, being filed with the Indiana Civil Rights Commission each year.
- The anticipated new complaints based on sexual orientation and gender identity could likely be absorbed into the existing system with no need for additional staff and negligible costs.

Evidence of Discrimination

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

The existence of widespread and continuing discrimination against LGBT workers in the U.S. is well documented. In response to surveys, LGBT workers consistently report having experienced discrimination, and non-LGBT people often report having witnessed discrimination against their LGBT co-workers. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents reported having been treated unfairly by an employer in hiring, pay, or promotions.³ Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported that they had experienced workplace harassment in the last five years, and 12% said they had lost a job because of their sexual orientation.⁴ 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 reported being fired, denied a promotion, or not being hired for a job they applied for in the year prior to the survey because of their gender identity, and 15% reported being verbally, physically, or sexually harassed at work in the year prior to the survey because of their gender identity in the year prior to the survey.⁵

Similar statistics have been found in surveys of LGBT individuals in Indiana. In response to the National Transgender Discrimination Survey, a significant number of transgender respondents from Indiana

reported experiencing adverse treatment at work because of their gender identity or expression.⁶ Specifically, 75% reported experiencing harassment or mistreatment at work, 30% reported losing a job, 21% reported being denied a promotion, and 48% reported not being hired because of their gender identity or expression at some point in their lives.

Specific examples of discrimination against LGBT people in Indiana have been documented in court cases and administrative complaints. Recent examples include:

- In 2014, a woman alleged that her employer, a community college, denied her a full-time position because of her sexual orientation.⁷ The trial court granted the employer's motion to dismiss on the grounds that "sexual orientation is not recognized as a protected class under Title VII."⁸ In 2017, the Seventh Circuit reviewed this case and held that discrimination on the basis of sexual orientation is a form of sex discrimination under Title VII.⁹ The Seventh Circuit reasoned that although a policy that discriminates based on sexual orientation does not apply to every woman or every man, it is nonetheless based on assumptions on appropriate behavior for a given sex.¹⁰ Any decision based on the complainant dressing differently, speaking differently, or dating or being married to a same-sex partner is a reaction based on sex and thus falls within Title VII's ban on sex discrimination.¹¹
- In 2010, an auto body shop technician brought a sexual harassment claim under Title VII against his employer.¹² Although straight, he claimed that his coworkers made fun of him for being gay and used homophobic epithets against him, including "faggot" and "cocksucker."¹³ They also insinuated that he was a pedophile.¹⁴ The employee alleged that when he complained to his supervisor, the abuse became worse.¹⁵ The district court granted the employer's motion for summary judgment.¹⁶ Although concluding there was "ample evidence" of a "hostile work environment," the court stated that the employee failed to show "that he suffered this demeaning and cruel conduct because he was male."¹⁷ He therefore failed to establish a case of sexual harassment under Title VII.¹⁸
- In 2014, a custodian brought a claim against his former employer at a state university for sexual orientation discrimination under the federal and state constitutions and Title VII.¹⁹ He claimed that a coworker called him a "faggot" on several occasions.²⁰ Summary judgment was granted in favor of the employer.²¹
- The U.S. Equal Employment Opportunity Commission (EEOC) received 31 complaints alleging sexual orientation or gender identity discrimination in Indiana in 2013, of which 23 were based on sexual orientation, 5 based on gender identity, and 3 based on both characteristics. In 2014, the EEOC received 36 such complaints with 29 based on sexual orientation, 6 based on gender identity, and 3 based on both characteristics.²²

Wage Inequity

Census data show that men in same-sex couples in Indiana earn less than men married to different-sex partners. On average, men in same-sex couples in Indiana earn \$28,500 each year, which is less than the \$45,900 for men married to different-sex partners.²³ The median income of men in same-sex couples in Indiana is \$25,000, which is 34% less than that of married men (\$38,000).²⁴

Women in same-sex couples in Indiana earn less than men married to different-sex partners as well as men in same-sex couples.²⁵ Women in same-sex couples earn an average of \$29,600 per year (with a median of \$26,000), which is more than women married to different-sex partners, whose earnings average \$23,200 (with a median of \$29,000).²⁶ Higher wages among women in same-sex couples has been attributed to different decisions made by lesbians and heterosexual women in the paid labor force.²⁷ For example, research shows “that lesbians work more hours per week and more weeks per year than heterosexual women, and eventually that time would add up to more labor market experience for lesbians.”²⁸

Surveys of transgender people find that they have high rates of unemployment and very low earnings.²⁹

Although regression analyses were not done on the earnings data above, other studies that have analyzed earnings data using such methods have found that men in same-sex couples earn less than heterosexual men, even when they have the same productive characteristics. These studies have controlled for factors unrelated to sexual orientation that may contribute to higher earnings, such as education and work experience. The studies have consistently found 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

Current Protections from Discrimination

Indiana does not have a statewide statute that prohibits discrimination based on sexual orientation or gender identity in both public and private sector employment.³¹ However, several localities, universities, and private corporations in Indiana have adopted local ordinances and internal policies that prohibit such discrimination against employees.

Indiana Civil Rights Act

The Indiana Civil Rights Act prohibits employment discrimination based on race, religion, sex, disability, national origin, and ancestry.³² The law does explicitly prohibit discrimination based on sexual orientation or gender identity. The Act applies to private sector employers with six or more employees.³³ A complaint must be filed within 180 days of the alleged discriminatory act.³⁴

The state’s Civil Rights Commission enforces the Civil Rights Act.³⁵ Once the Commission receives a complaint, the Intake Unit reviews the complaint and determines if the complainant has alleged a claim of discrimination under the Act.³⁶ If so, the Intake Unit assists the complainant with drafting and

formalizing his or her complaint.³⁷ After a complaint is filed, both parties are asked if they would like to undergo mediation.³⁸ If both parties agree to mediation, the mediator helps the parties reach a voluntary settlement.³⁹ If mediation is not pursued, then the agency will investigate the complaint and determine if there is probable cause to suspect a violation of the Indiana Civil Rights Act.⁴⁰ If the agency determines there is probable cause, an administrative law judge will hold a hearing on the claim.⁴¹ The Commission either adopts, rejects, or amends the administrative law judge's findings as a final order.⁴² The Commission may award remedies including back pay and may require periodic compliance reviews of an employer found in violation of the law.⁴³ Alternatively, an employee may choose to file a civil action in court rather than proceeding through the administrative process.⁴⁴ A court may award the same remedies as the Commission.⁴⁵

The Act also permits localities to establish their own civil rights agencies with powers similar to the state's Civil Rights Commission, including the power to investigate and hear complaints related to discriminatory practices, issue cease and desist orders, and require payment of actual damages, though damages in employment cases "shall be limited to lost wages, salaries, commissions, or fringe benefits."⁴⁶ A complainant may not file a complaint with both a local civil rights agency and the state agency concerning the same matter.⁴⁷

Executive Order Prohibiting Discrimination against State Government Employees

In 2004, former governor Joe Kernan issued an executive order banning state employment discrimination based on sexual orientation and gender identity.⁴⁸ In 2005, former governor Mitch Daniels issued an executive order extending the state's equal employment opportunity policy to include sexual orientation and gender identity.⁴⁹ The order requires the Director of State Personnel to develop and maintain programs and records to ensure compliance throughout state government agencies.⁵⁰ However, the order does not provide mechanisms for enforcement or remedies.⁵¹ Though former governors Kernan and Daniels are no longer in office, the non-discrimination policies remain in effect.⁵² The executive order protects 108,000 state employees—3% of Indiana's workforce—from discrimination based on sexual orientation or gender identity.⁵³

Local-Level Protections from Discrimination

At least twenty-one localities in Indiana have passed ordinances that protect individuals from sexual orientation and gender identity discrimination in public and private sector employment, including Indianapolis and Marion County,⁵⁴ Monroe County,⁵⁵ Tippecanoe County,⁵⁶ Vanderburgh County,⁵⁷ Anderson,⁵⁸ Bloomington,⁵⁹ Carmel,⁶⁰ Columbus,⁶¹ Evansville,⁶² Hammond,⁶³ Kokomo,⁶⁴ Lafayette,⁶⁵ Michigan City,⁶⁶ Muncie,⁶⁷ Munster,⁶⁸ New Albany,⁶⁹ South Bend,⁷⁰ Terre Haute,⁷¹ Valparaiso,⁷² West Lafayette,⁷³ and Zionsville.⁷⁴

These local ordinances and policies protect one-third (33%) of Indiana’s workforce from discrimination based on sexual orientation and gender identity. However, many of these local ordinances do not offer the same scope of enforcement mechanisms and remedies as the state’s Civil Rights Act.

Ordinances in nine localities – Indianapolis and Marion County, Kokomo, Muncie, New Albany, South Bend, Valparaiso, Vanderburgh County, West Lafayette, and Zionsville – are enforced by local human rights commissions which have the power to investigate complaints and award damages to individuals who have experienced discrimination.⁷⁵

In other localities, the enforcement mechanisms are more limited. Local commissions in three localities, Lafayette, Terre Haute, and Tippecanoe County, may investigate complaints and attempt mediation between the parties, but are not authorized to award damages.⁷⁶ Additionally, some localities have strong human rights commissions but limit their powers with respect to enforcement of the sexual orientation and or gender identity non-discrimination requirements. Ordinances in Bloomington, Evansville, Fort Wayne, Michigan City, and Monroe County provide that human rights commissions may award damages for complaints of race, sex, or religious discrimination, but only authorize the commissions to investigate and mediate complaints of sexual orientation or gender identity discrimination.⁷⁷

In addition, some other localities have passed ordinances preventing discrimination based on sexual orientation, but not gender identity, such as Lake County⁷⁸ and Fort Wayne.⁷⁹ Other communities, including Whitestown and Martinsville, have passed ordinances or issued executive orders that prohibit discrimination on the basis of sexual orientation and/or gender identity in city government employment only.⁸⁰

Private Company and University Non-Discrimination Policies

Private companies adopt internal policies prohibiting discrimination based on sexual orientation and gender identity for a variety of reasons including improved recruitment and retention of talented employees, increasing employee productivity and customer satisfaction, and attracting a larger customer base.⁸¹ One study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top 50 Fortune 500 companies and the top 50 federal contractors in the U.S. with LGBT-supportive policies had adopted the policies for economic reasons.⁸²

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.⁸³ 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.⁸⁴ 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.⁸⁵

Additionally, LGBT-supportive workplace policies can expand opportunities to secure potentially lucrative government contracts for corporate employers. A federal executive order requires federal contractors to adopt policies prohibiting discrimination based on sexual orientation and gender identity.⁸⁶ Several state and local governments have adopted similar laws.⁸⁷ Companies are eligible to bid on contracting opportunities with the federal government or these state and local governments only if they agree to prohibit sexual orientation and gender identity discrimination in the workplace.

Several of Indiana's top companies have adopted non-discrimination policies that include sexual orientation and gender identity. Of the seven Fortune 500 companies headquartered in Indiana,⁸⁸ five have policies that prohibit discrimination on the basis of sexual orientation and gender identity.⁸⁹ One company has a policy prohibiting discrimination based on sexual orientation, but not gender identity.⁹⁰ Two of the state's largest employers,⁹¹ Indiana University and Purdue University, both prohibit discrimination on the basis of sexual orientation and gender identity.⁹² Of the state's other large public universities, Ball State University⁹³ and Indiana State University⁹⁴ also prohibit discrimination on the basis of sexual orientation and gender identity.⁹⁵

Public Opinion

Public opinion in Indiana supports the passage of non-discrimination protections for LGBT people. In a June 2015 poll of 1,000 of Indiana residents, 54% supported adding sexual orientation and gender identity to the state's non-discrimination law, and 45% of the voters said they would be more likely to favor a gubernatorial candidate who supports adding sexual orientation and gender identity to the non-discrimination law.⁹⁶

In a December 2015 poll of nearly 1,300 Indiana residents, 62% of respondents said they strongly or somewhat support making discrimination against LGBT citizens illegal.⁹⁷ Forty-seven percent of respondents to the same poll said they would be less likely to vote for a legislator if he or she voted against measures to protect LGBT people from discrimination.⁹⁸ In a separate December 2015 poll of 600 Indiana residents, about 70% of respondents supported specific protections for LGBT Indianans against discrimination in housing, employment, business services, and government services.⁹⁹

Additionally, in response to a 2016 poll, 58.5% of Indiana residents said they would support adding sexual orientation and gender identity to Indiana's Civil Rights Act, which prohibits discrimination in employment, housing, public accommodations, and other areas.¹⁰⁰

Similarly, in response to a national poll conducted in 2011, 73% of those polled in Indiana said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.¹⁰¹

In addition, public opinion data indicate that Indiana residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 79% of Indiana residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.¹⁰²

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.¹⁰³ 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.¹⁰⁴

We estimate that approximately 61 complaints of sexual orientation or gender identity discrimination would be filed with the Indiana Civil Rights Commission each year. To reach this estimate, we drew on Gallup polling data and Census data from Indiana 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 a number of other states.¹⁰⁵

Results from Gallup polls conducted between 2012 and 2014 show that 4.0% of people in Indiana's workforce identify as LGBT.¹⁰⁶ Applying this percentage to the number of people in Indiana's workforce (3,323,644¹⁰⁷) indicates that there are 132,946 LGBT workers in Indiana.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Indiana to determine how many complaints will be filed annually if these characteristics were added to the employment non-discrimination law. We used the national average complaint rate from a 2015 study that analyzed administrative complaint data from 14 states that prohibited sexual orientation and gender identity discrimination at that time.¹⁰⁸ The study found that across these states, the average rate of complaints filed on the basis of sexual orientation or gender identity was 4.6 per 10,000 LGBT workers.¹⁰⁹

Applying the national complaint rate (4.6 per 10,000 LGBT workers) to the number of LGBT workers in Indiana (132,946) suggests that, on average, 61 complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

Cost of Enforcement

Available data suggest that an additional 61 complaints filed with the Indiana Civil Rights Commission each year would not be costly or burdensome to enforce. According to the three most recent annual reports of the Civil Rights Commission (FY 2012-2014), the Commission handled an annual average of 1,065 discrimination complaints.¹¹⁰ The annual reports do not provide enough data to determine the cost of enforcement per complaint, so it is not possible to precisely estimate any added expense associated with the additional 61 complaints. However, the data suggest that the additional complaints would have a minimal impact on the Commission. The number of complaints filed with the Commission varied from 849 to 1,449 complaints over the three fiscal year periods from 2011 through 2014.¹¹¹ This information suggests that the 61 complaints could be absorbed into the existing system with minimal impact on the Commission.

Fiscal Year	Number of Complaints Handled
2014	1,449
2013	849
2012	896

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Indiana. There is currently no statewide law that prohibits discrimination based on sexual orientation or gender identity in employment in Indiana. Adding these characteristics to the state's employment non-discrimination law would provide new protections or strengthen existing protections for approximately 133,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that, on average, approximately 61 complaints of sexual orientation or gender identity employment discrimination would be filed in Indiana annually if the law were amended. It is likely that enforcement of the additional complaints would have a minimal impact on the budget of the Indiana Civil Rights Commission.

About the Williams Institute

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

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Endnotes

¹ FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, INDIANA RESULTS, NATIONAL CENTER FOR TRANSGENDER EQUALITY & GAY AND LESBIAN TASK FORCE,

http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_state/ntds_state_in.pdf.

² These estimates were reached by applying the percentage of people in Indiana that identify as LGBT (3.7 percent) to the population of Indiana age sixteen and over (5,192,037) and applying the percentage of people in Indiana's labor force that identify as LGBT (4.0 percent) to the number of people in the state's civilian labor force aged sixteen and older (3,323,644). 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?version=print>; American Community Survey, *2014 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates*, U.S. CENSUS BUREAU, AMERICAN FACT FINDER (2014); Gary J. Gates, Williams Institute Analysis based on data from the Gallup Daily Tracking Poll (2012-2014) (on file with author).

³ 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/>.

⁴ 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>.

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⁶ NATIONAL CENTER FOR TRANSGENDER EQUALITY & THE NATIONAL GAY AND LESBIAN TASK FORCE, FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, INDIANA RESULTS 1 (2011).

⁷ *Hively v. Ivy Tech Cmty. Coll.*, No. 3:14-CV-1791, 2015 WL 926015, at *1 (N.D. Ind. Mar. 3, 2015).

⁸ *Id.* at *3.

⁹ *Hively v. Ivy Tech Cmty. Coll. of Ind.*, 853 F.3d 339, 340-341 (7th Cir. 2017).

¹⁰ *Id.* at 346.

¹¹ *Id.* at 347.

¹² *Smith v. D. Young Chevrolet, LLC.*, No. 1:10-CV-1706-WTL-TAB, 2012 WL 1605640, at *1 (S.D. Ind. May 8, 2012).

¹³ *Id.*

¹⁴ *Id.* at *2.

¹⁵ *Id.*

¹⁶ *Id.* at *4.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Gaff v. Indiana-Purdue Univ. of Fort Wayne*, 51 N.E.3d 1163, 1163 (Ind. 2016).

²⁰ *Gaff v. Indiana-Purdue Univ. of Fort Wayne*, No. 02D02-1310-PL-378, 2015 WL 6408636, at *3 (Ind. Super. 2015) (order granting summary judgment).

²¹ *Id.* at *9.

²² *EEOC Charges Filed: FY2013 - FY2014, Charges filed alleging Gender Identity/Transgender or Sexual Orientation discrimination, Breakdown by State*, Excel spreadsheet attached to e-mail from Joseph Olivares, Public Affairs Specialist, Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, to S. Lynch (June 25, 2015) (on file with author).

²³ ADAM P. ROMERO, CLIFFORD J. ROSKY, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: INDIANA 2 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/IndianaCensus2000Snapshot.pdf>.

²⁴ *Id.*

²⁵ ROMERO, ROSKY, BADGETT & GATES, *supra* note 23 at 2.

²⁶ *Id.*

²⁷ M.V. LEE BADGETT & ALYSSA SCHNEEBaum, WILLIAMS INST., THE IMPACT OF WAGE EQUALITY ON SEXUAL ORIENTATION POVERTY GAPS 1-2 (2015), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-of-Wage-Equality-on-Sexual-Orientation-Poverty-Gaps-June-2015.pdf>.

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²⁹ *Id.*

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³² IND. CODE § 22-9-1-2 (2015).

³³ *Employment*, INDIANA CIVIL RIGHTS COMMISSION, <http://www.in.gov/icrc/2654.htm> (last accessed July 6, 2016).

³⁴ *Id.*

³⁵ IND. CODE §§ 22-9-1-6; 22-9-1-7.

³⁶ ANNUAL REPORT FISCAL YEAR 2014, INDIANA CIVIL RIGHTS COMMISSION 4 (2014), available at http://www.in.gov/icrc/files/FY_2014_Annual_Report.pdf.

³⁷ *Id.*

³⁸ 910 IND. ADMIN. CODE 1-3-3 (2015).

³⁹ *Id.*

⁴⁰ *Id.* 1-3-2.

⁴¹ *Id.*

⁴² See ANNUAL REPORT FISCAL YEAR 2014, *supra* note 36, at 5-6.

⁴³ IND. CODE § 22-9-1-6(j).

⁴⁴ *Id.* § 22-9-1-17.

⁴⁵ *Id.* §§ 22-9-1-17(b); 22-9-1-6(j).

⁴⁶ *Id.* § 22-9-1-12.1.

⁴⁷ *Id.*

⁴⁸ Chris Douglas, *Douglas: Indiana's Long March Toward Legal Equality*, INDYSTAR (Nov. 6, 2015, 9:04 AM), <http://www.indystar.com/story/opinion/2015/11/06/douglas-indianas-long-march-toward-legal-equality/75173946/>.

⁴⁹ Ind. Policy Statement (2008), available at http://www.in.gov/spd/files/gov_policy.pdf.

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⁵¹ *Id.*

⁵² Stephanie Wang, *A List of Local LGBT Anti-Discrimination Ordinances in Indiana*, INDY STAR (Mar. 15, 2016), <http://www.indystar.com/story/news/politics/2015/09/23/a-list-of-local-lgbt-anti-discrimination-ordinances-in-indiana/72627926/>.

⁵³ Calculated by authors using data from the American Community Survey, 2014 1-Year-Estimates, Sex by Class of Worker for the Civilian Population Aged 16 Years and Over (Indiana) available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_B24080&prodType=table (last visited Aug. 10, 2016).

⁵⁴ INDIANAPOLIS – MARION COUNTY, IND. CODE OF ORDINANCES §581 (2008), https://library.municode.com/in/indianapolis_-_marion_county/codes/code_of_ordinances?nodeId=TITIIPUHEWE_CH581HUREEQOP.

⁵⁵ MONROE COUNTY, IND. CODE §520-2 (2016), http://www.co.monroe.in.us/TSD/DesktopModules/Bring2mind/DMX/Download.aspx?TabID=266&Command=Core_Download&EntryId=26286&PortalId=0&TabId=266.

⁵⁶ TIPPECANOE COUNTY, IND. CODE OF ORDINANCES §§ 31.175-31.178 (2001), [http://library.amlegal.com/nxt/gateway.dll/Indiana/tippecan/tippecanoecountyindianacodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:tippecanoeco_in](http://library.amlegal.com/nxt/gateway.dll/Indiana/tippecan/tippecanoecountyindianacodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:tippecanoeco_in).

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¹⁰⁸ "National average" refers to the average of the complaint rates in 14 states across the country that prohibited sexual orientation and/or gender identity discrimination in 2015. MALLORY & SEARS, *supra* note 103.

¹⁰⁹ The data gathered for the 2015 study included all employment discrimination complaints filed on the basis of sexual orientation and gender identity; it was not limited to complaints filed by LGB employees. Heterosexual, non-transgender employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality, gender identity, or because they were perceived to be LGBT. However, we use the LGBT workforce as the underlying population for purposes of our analysis because LGBT employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 103.

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