

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



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Christy Mallory and Brad Sears

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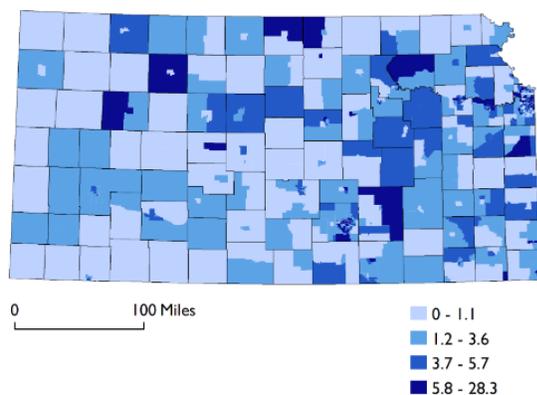
## Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 55,000 of these workers live in Kansas. Kansas does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.

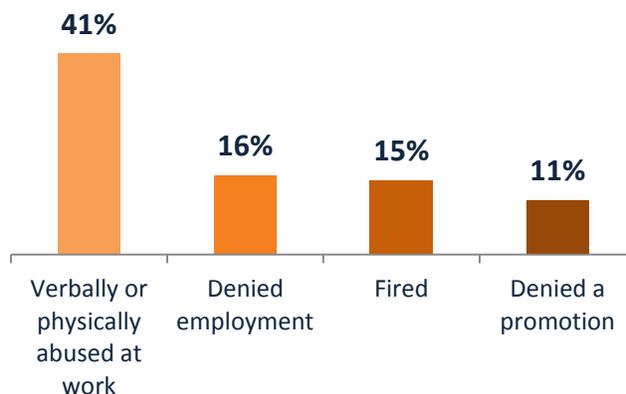
This report summarizes recent evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Kansas, and estimates the administrative impact of passing a law prohibiting employment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

<b>55,000</b>	<b>31%</b>	<b>73%</b>	<b>4%</b>	<b>26</b>
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 LGBT workers in Topeka, Kansas<sup>1</sup>



## Key findings of this report include:

- In total there are approximately 83,300 LGBT adults in Kansas, including approximately 55,000 who are part of Kansas's workforce.<sup>2</sup>
- Media reports and complaints to community-based organizations document incidents of sexual orientation and gender identity discrimination against employees in Kansas. These include reports from public and private sector workers.
- Survey data indicate that discrimination against LGBT workers is prevalent across the country, including in Kansas. In response to a 2004 survey of LGBT residents of Topeka, 16% of respondents reported that they were denied employment, 15% reported that they were fired, and 11% reported that they were denied a promotion because of their sexual orientation or gender identity. Further, 41% of respondents reported that they had been verbally or physically abused at work because of their sexual orientation or gender identity.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. In 2010, 78% of respondents to the largest national 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.
- Census data show that in Kansas, the median income of men in same-sex couples is 31% lower than the median income of men in different-sex marriages.
- Two localities in Kansas provide protection from sexual orientation and gender identity discrimination in local government and private sector employment by local ordinance. One additional locality protects only local government workers from discrimination based on sexual orientation.
- Approximately 96% of Kansas's workforce is not covered by a local ordinance that prohibits sexual orientation and gender identity discrimination.<sup>3</sup>
- 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. At least at least seven large private sector employers headquartered in Kansas have adopted internal policies prohibiting employment discrimination based on sexual orientation, and at least four of those companies also prohibit gender identity discrimination. Additionally, all seven public universities in Kansas have internal policies prohibiting employment discrimination based on sexual orientation, and three of them have policies prohibiting discrimination based on gender identity.

- Public opinion in Kansas supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 68% of those polled in Kansas 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 Kansas residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 26 additional complaints, on average, being filed with the Kansas Human 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 Kansas*

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 had been treated unfairly by an employer in hiring, pay, or promotions.<sup>4</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>5</sup> As recently as 2010, 78% of respondents to the largest national 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>6</sup>

Similar statistics have been found in a survey of LGBT people in Kansas. In response to a 2004 survey of LGBT residents of Topeka, 16% of respondents reported that they were denied employment, 15% reported that they were fired, and 11% reported that they were denied a promotion because of their sexual orientation or gender identity.<sup>7</sup> Additionally, 41% of respondents reported that they had experienced verbal or physical abuse at work, 35% received harassing communications at work, and 16% had their workspaces vandalized because of their sexual orientation or gender identity.<sup>8</sup> Many respondents also reported witnessing discrimination or harassment against other LGBT people at work.<sup>9</sup> One fifth to one third of respondents reported that they had observed other LGBT people being denied employment, denied a promotion, or overlooked for additional responsibilities because of their sexual

orientation or gender identity, and 24% reported that they had witnessed someone being fired for those reasons.<sup>10</sup> Finally, nearly half (47%) of respondents reported that they concealed their sexual orientation or gender identity at work out of fear of discrimination.<sup>11</sup>

Specific examples of employment discrimination against LGBT people in Kansas have also been documented by community-based organizations and the media, including:

- In 2014, a gay man reported that he was fired after his boss saw him on the news marrying his same-sex partner.<sup>12</sup>
- In response to the survey of LGBT residents of Topeka, Kansas, three respondents provided detailed information about their experiences of employment discrimination:
  - A lesbian employee reported that when her supervisors found out that a friend who would visit her at work was actually her girlfriend, she was told that the woman could no longer come in or she would be fired. After the employee's girlfriend came in again, the employee was fired.<sup>13</sup>
  - A gay man reported that his boss teased another employee at work because he was perceived to be gay. He also reported that the employee who was perceived to be gay was given unfavorable work assignments.<sup>14</sup>
  - In 2004, a Topeka resident and employee of a state agency reported that when a newly appointed supervisor arrived in the office, he harassed the employee until he took a job with another state agency. Prior to the new supervisor's arrival, the employee had received three "Outstanding" employee evaluations, but the new supervisor constantly criticized his work. The employee then found the state discrimination office to be unreceptive to his complaint.<sup>15</sup>
- In 2003, the day after the Supreme Court issued the *Lawrence v. Texas* decision, members of the Topeka and Shawnee County public library staff ordered an employee who had been a longtime member of Parents, Families, and Friends of Lesbians and Gays (PFLAG) to never again speak about the decision at work. In response to a letter from the ACLU, the library admitted that it cannot forbid one of its employees from talking about a Supreme Court decision while at work, and assured the ACLU that it would not restrict employees in that way.<sup>16</sup>
- Additionally, in 2015, an advocate for LGBT rights in Kansas told the Topeka Capital-Journal that he hears stories from LGBT people who have been fired because of their sexual orientation or gender identity at least once a month.<sup>17</sup>

## ***Wage Inequity***

Census data show that individuals in same-sex couples in Kansas earn less than individuals married to different-sex partners. On average, men in same-sex couples in Kansas earn \$27,637 each year, significantly less than the \$44,320 for men married to different-sex partners.<sup>18</sup> The median income of men in same-sex couples in Kansas is \$24,000, 31% less than that of married men (\$35,700).<sup>19</sup>

Women in same-sex couples in Kansas earn an average of \$32,348 per year (with a median of \$25,000); more than women married to different-sex partners whose earnings average \$23,107 (with a median of \$20,000).<sup>20</sup>

Surveys of transgender people find that they have high rates of unemployment and very low earnings.<sup>21</sup>

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 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.<sup>22</sup>

## **Current Protections from Discrimination**

Kansas does not have a statewide statute that prohibits discrimination based on sexual orientation or gender identity in both public and private sector employment.<sup>23</sup> Though there are no statewide protections from sexual orientation and gender identity workplace discrimination in the state, a number of localities, public universities, and private corporations in the state have adopted local ordinances and internal policies that prohibit such discrimination against employees.

### ***Kansas Act Against Discrimination***

The Kansas Act Against Discrimination prohibits employment discrimination by any employer who has four or more employees<sup>24</sup> on the basis of race, disability, religion, sex, national origin, ancestry and genetic information.<sup>25</sup> The Kansas Age Discrimination in Employment Act prohibits employment discrimination based on age.<sup>26</sup> Both non-discrimination laws apply to public and private sector employers.<sup>27</sup>

The Kansas Human Rights Commission is responsible for administrative enforcement of the Kansas Act Against Discrimination and the Kansas Age Discrimination in Employment Act.<sup>28</sup> The Commission has the power to investigate complaints, and to remedy any violations of the law through informal measures, including conferences and conciliations, or through formal administrative hearings.<sup>29</sup> An employee must file an administrative complaint with the Commission within six months of the alleged discriminatory practice.<sup>30</sup> If the Commission determines that an employer has discriminated in violation

of the law, it can award remedies to the complainant including hiring, reinstatement, backpay, and damages for pain and suffering related to the discrimination up to \$2,000.<sup>31</sup>

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

Two Kansas cities, Lawrence<sup>32</sup> and Roeland Park,<sup>33</sup> have local ordinances prohibiting employment discrimination based on sexual orientation and gender identity by public and private sector employers. Approximately 4% of Kansas's workforce is covered by the local non-discrimination ordinances in Lawrence and Roeland Park.<sup>34</sup>

The local non-discrimination ordinances in Lawrence and Roeland Park apply to employers with four or more employees, with a few limited exceptions.<sup>35</sup> Both cities' ordinances designate a person or entity to enforce the non-discrimination provisions with the power to investigate complaints and attempt to remedy discrimination through informal measures, such as meetings and conciliations.<sup>36</sup> Both cities' ordinances also provide for formal administrative hearings, if attempts to remedy discrimination through informal measures fail.<sup>37</sup> Lawrence's ordinance allows enforcement entities to award certain remedies to complainants if discrimination is found, including hiring, reinstatement, backpay, and benefits.<sup>38</sup> Roeland Park's ordinance allows the enforcement entity to award actual damages or a civil penalty if discrimination is found.

Additionally, one locality, Shawnee County, has an ordinance prohibiting discrimination based on sexual orientation against county government employees.<sup>39</sup> Less than 1% of workers in Kansas are protected from sexual orientation discrimination under Shawnee County's ordinance.<sup>40</sup>

### ***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.<sup>41</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>42</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>43</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>44</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>45</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>46</sup> A number of states have similar laws that apply to state government contracts.<sup>47</sup> Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

According to the Human Rights Campaign, at least seven large private sector employers headquartered in Kansas have adopted internal policies prohibiting discrimination based on sexual orientation.<sup>48</sup> At least four of these companies also include gender identity in their non-discrimination policies.<sup>49</sup> Additionally, all seven public universities in the state have internal policies prohibiting employment discrimination based on sexual orientation,<sup>50</sup> and three of them also prohibit discrimination based on gender identity.<sup>51</sup>

## **Public Opinion**

Public opinion in Kansas supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 68% of those polled in Kansas said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.<sup>52</sup>

In addition, public opinion data indicate that Kansas residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 79% of Kansas residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.<sup>53</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>54</sup> 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.<sup>55</sup>

We estimate that, on average, approximately 26 complaints of sexual orientation or gender identity discrimination would be filed with the Kansas Human Rights Commission each year. To reach this estimate, we drew on Gallup polling data and Census data from Kansas 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.<sup>56</sup>

Results from a 2012 Gallup poll show that 3.7% of people in Kansas identify as LGBT.<sup>57</sup> Applying this percentage to the number of people in Kansas's workforce (1,487,082<sup>58</sup>) indicates that there are 55,022 LGBT workers in Kansas.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Kansas to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.<sup>59</sup> 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.<sup>60</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>61</sup> 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 Kansas (55,022) suggests that 26 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 the additional 26 complaints could be absorbed into the Commission's exiting budget with minimal impact on staff and resources. According to the Commission's last ten annual reports (fiscal years 2005 through 2014), the Commission received an annual average of 954 complaints of discrimination in employment, housing, public accommodations, and bias profiling complaints.<sup>62</sup> 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 26 complaints.

However, the data suggest that the additional complaints would have a minimal impact on the Commission. Annual fluctuations in the number of discrimination complaints filed with the Commission have varied from 27 to 255 complaints over the seven fiscal year periods from 2008 through 2014.<sup>63</sup> From year to year, the number of complaints filed has varied by an average of 91 complaints. This information suggests that an additional 26 complaints per year would be within the range of normal variation.

Further, over this time period, the Commission's budget varied from \$1,566,040 to \$2,179,786.<sup>64</sup> Changes in the budget did not correspond to fluctuations in the number of complaints filed. For example, there was a decrease of 255 complaints handled by the Commission from fiscal year 2006 to fiscal year 2007,<sup>65</sup> yet the Commission's 2007 budget was \$46,537 more than its 2006 budget.<sup>66</sup> This information suggests that the additional complaints could be absorbed into the existing budget with minimal impact on the Commission.

<i>Fiscal Year<sup>67</sup></i>	<i>Number of Complaints</i>	<i>Change in Number of Complaints from Prior Year</i>	<i>Annual Budget</i>
2014	787	66	\$1,566,040
2013	853	85	\$1,588,338
2012	938	48	\$1,655,322
2011	986	58	\$1,717,591
2010	1,044	27	\$1,831,795
2009	1,071	153	\$2,065,820
2008	918	97	\$2,179,786
2007	821	255	\$2,029,549
2006	1,076	31	\$1,983,012
2005	1,045	NA	\$1,831,050

## Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Kansas. There is currently no statewide law that prohibits discrimination based on sexual orientation or gender identity in public and private sector employment in Kansas. Adding these characteristics to the state's employment non-discrimination law would provide protection from discrimination to approximately 55,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that, on average, approximately 26 complaints of sexual orientation or gender identity employment discrimination would be filed in Kansas 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 Kansas Human 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.

### For more information

The Williams Institute, UCLA School of Law

Box 951476

Los Angeles, CA 90095-1476

(310)267-4382

[williamsinstitute@law.ucla.edu](mailto:williamsinstitute@law.ucla.edu)

[www.law.ucla.edu/williamsinstitute](http://www.law.ucla.edu/williamsinstitute)

## Endnotes

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<sup>1</sup> RODDRICK COLVIN, THE EXTENT OF SEXUAL ORIENTATION DISCRIMINATION IN TOPEKA, KS 2-3, [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/TopekaDiscrimination.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/TopekaDiscrimination.pdf) (last visited June 30, 2015).

<sup>2</sup> This estimate was reached by applying the percentage of people in Kansas that are LGBT (3.7%) to the population of Kansas aged 16 years and older (2,251,143) and the number of people in the Kansas civilian labor force (1,487,082), 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, 2013 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_13\\_1YR\\_DP03&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_1YR_DP03&prodType=table).

<sup>3</sup> Calculated by authors using data from the American Community Survey, 2011-2013 3-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited June 30, 2015).

<sup>4</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>5</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>6</sup> JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, *supra* note **Error! Bookmark not defined.** at 51.

<sup>7</sup> COLVIN, *supra* note 1.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

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

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

<sup>12</sup> John Wright, *Kansas Lawmakers Aim to Revive ‘License to Discriminate’ Bill Because Marriage is ‘Gravely Evil’*, TOWELROAD.COM, Dec. 11, 2014, <http://www.towleroad.com/2014/12/kansas-lawmakers-aim-to-revive-license-to-discriminate-bill-because-gay-marriage-is-gravely-evil-vid/>.

<sup>13</sup> COLVIN, *supra* note 1.

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

<sup>15</sup> COLVIN, *supra* note 1.

<sup>16</sup> Press Release, ACLU, Kansas Public Library Concedes That it Can’t Censor Employee for Discussing Historic Sodomy Ruling (Aug. 5, 2003), available at <https://www.aclu.org/news/kansas-public-library-concedes-it-cant-censor-employee-discussing-historic-sodomy-ruling>.

<sup>17</sup> Megan Hart, *Advocate Estimates At Least Once LGBT Kansan Fired a Month*, TOPEKA CAPITAL JOURNAL, Feb. 28, 2015, <http://cjonline.com/news/business/2015-02-28/advocate-estimates-least-one-lgbt-kansan-fired-month>.

<sup>18</sup> ADAM P. ROMERO, CLIFFORD J. ROSKY, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: KANSAS 2 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/KansasCensus2000Snapshot.pdf>.

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</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>23</sup> See JEROME HUNT, CTR. AM. PROG. ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES 3 (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>24</sup> KAN. STAT. ANN. §§ 44-1002(b), 44-1009 (2014).

<sup>25</sup> *Id.* § 44-1009.

<sup>26</sup> *Id.* § 44-1111.

<sup>27</sup> *Id.* §§ 44-1002(b); 44-1112(d).

<sup>28</sup> *Id.* §§ 44-1004; 44-1115.

<sup>29</sup> *Id.* §§ 44-1005; 44-1115.

<sup>30</sup> *Id.* §§ 44-1005(i); 44-1115.

<sup>31</sup> *Id.* §§ 44-1005(k); 44-1115.

<sup>32</sup> LAWRENCE, KAN., CODE §10-109.

<sup>33</sup> ROELAND PARK, KAN., CODE §5-1202.

<sup>34</sup> Calculated by authors using data from the American Community Survey, 2011-2013 3-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited June 29, 2015).

<sup>35</sup> LAWRENCE, KAN., CODE § 10-102.12; ROELAND PARK, KAN., CODE §5-1201(a).

<sup>36</sup> LAWRENCE, KAN., CODE §§ 10-108.1 to 10-108.9; ROELAND PARK, KAN., CODE §5-1203.

<sup>37</sup> LAWRENCE, KAN., CODE § 10-108.14; ROELAND PARK, KAN., CODE §5-1203.

<sup>38</sup> LAWRENCE, KAN., CODE § 10-108.15; ROELAND PARK, KAN., CODE §5-1203.

<sup>39</sup> SHAWNEE CTY, KAN., CODE §10-207.

<sup>40</sup> Calculated by authors using data from the American Community Survey, 2011-2013 3-Year-Estimates, Sex By Class of Worker tables (local government employment numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited June 29, 2015).

<sup>41</sup> See BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

<sup>42</sup> *Id.*

<sup>43</sup> M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.

<sup>44</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).

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<sup>45</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>46</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>47</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.

<sup>48</sup> Companies headquartered in Kansas that prohibit discrimination based on sexual orientation include AMC Entertainment, Black & Veatch, Collective Brands, Hill's Pet Nutrition, Sprint, Waddell & Reed Financial & YRC Worldwide. Human Rights Campaign, Corporate Employer Database, <http://www.hrc.org/resources/entry/search-our-employer-database> (June 29, 2015) (search by state of headquarters or employer name).

<sup>49</sup> AMC Entertainment, Black & Veatch, Sprint, and Waddell & Reed Financial. *Id.*

<sup>50</sup> Emporia State Univ., Equal Employment Opportunity, Equal Educational Policy and Non-Discrimination Policy, <http://www.emporia.edu/humres/jobs/equal-opportunity-employer.html> (last visited June 29, 2015); Kansas State Univ., Notice of Nondiscrimination, <http://www.k-state.edu/nondiscrimination/> (last visited June 29, 2015); Univ. of Kansas, Nondiscrimination, Equal Opportunity, and Affirmative Action, <http://policy.ku.edu/IOA/nondiscrimination> (last visited June 29, 2015); Washburn Univ., Staff and Employment Opportunities, <http://www.washburn.edu/campus-life/recreation-wellness/staff-and-employment-opportunities/> (last visited June 29, 2015); Fort Hays Univ., Equal Employment Opportunity, <https://www.fhsu.edu/humanresourceoffice/Equal-Employment-Opportunity/> (last visited June 29, 2015); Pittsburg State Univ., Equal Opportunity and Affirmative Action Office, <http://www.pittstate.edu/office/eoaa/notice-of-nondiscrimination.dot> (last visited June 29, 2015); Wichita State Univ., Notice of Nondiscrimination, [http://webs.wichita.edu/?u=gradschool&p=/notice\\_of\\_nondiscrimination/](http://webs.wichita.edu/?u=gradschool&p=/notice_of_nondiscrimination/) (last visited June 29, 2015).

<sup>51</sup> Kansas State Univ., Notice of Nondiscrimination, <http://www.k-state.edu/nondiscrimination/> (last visited June 29, 2015); Univ. of Kansas, Nondiscrimination, Equal Opportunity, and Affirmative Action, <http://policy.ku.edu/IOA/nondiscrimination> (last visited June 29, 2015); Washburn Univ., Staff and Employment Opportunities, <http://www.washburn.edu/campus-life/recreation-wellness/staff-and-employment-opportunities/> (last visited June 29, 2015).

<sup>52</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

<sup>53</sup> Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

<sup>54</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-Empley-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>55</sup> *Id.*

<sup>56</sup> See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

<sup>57</sup> Gary J. Gates & Frank Newport, *supra* note 2.

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<sup>58</sup> American Community Survey, U.S. Census Bureau, American FactFinder, 2013 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_12\\_1YR\\_DP03](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03).

<sup>59</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 54.

<sup>60</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 54.

<sup>61</sup> BADGETT, RAMOS & SEARS, *supra* note 54, at 5.

<sup>62</sup> See data on complaint filings as reported in KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2006 13 (2006), <http://www.khrc.net/pdf/AR20062.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2007 13 (2007), <http://www.khrc.net/pdf/AR2007.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2008 13 (2008), <http://www.khrc.net/pdf/AR2008.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2009 13 (2009), <http://www.khrc.net/pdf/AR2009.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2010 13 (2010), <http://www.khrc.net/AR2010.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2011 13 (2011), <http://www.khrc.net/AR2011.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2012 11 (2012), <http://www.khrc.net/pdf/AR2012.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2013 11 (2013), <http://www.khrc.net/pdf/AR2013.pdf>; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2014 11 (2014), <http://www.khrc.net/pdf/AR2014.pdf>.

<sup>63</sup> *Id.*

<sup>64</sup> See annual budget of the Kansas Human Rights Commission as reported in Sam Brownback, Gov. Kan., The Governor’s Budget Report Fiscal Year 2015 244 (2014), [http://budget.ks.gov/publications/FY2015/FY2015\\_GBR\\_Vol1--UPDATED--01-28-2014.pdf](http://budget.ks.gov/publications/FY2015/FY2015_GBR_Vol1--UPDATED--01-28-2014.pdf); Sam Brownback, Gov. Kan., The Governor’s Budget Report Fiscal Year 2014 258 (2013), [http://budget.ks.gov/publications/FY2014/FY2014\\_GBR\\_Vol1--Corrected\\_1-28-2013.pdf](http://budget.ks.gov/publications/FY2014/FY2014_GBR_Vol1--Corrected_1-28-2013.pdf); Sam Brownback, Gov. Kan., The Governor’s Budget Report Fiscal Year 2013 268 (2012), [http://budget.ks.gov/publications/FY2013/FY2013\\_GBR\\_Vol1--3-8-2012.pdf](http://budget.ks.gov/publications/FY2013/FY2013_GBR_Vol1--3-8-2012.pdf); Sam Brownback, Gov. Kan., The Governor’s Budget Report Fiscal Year 2012 279 (2011), [http://budget.ks.gov/publications/FY2012/FY2012\\_GBR\\_Volume1.pdf](http://budget.ks.gov/publications/FY2012/FY2012_GBR_Volume1.pdf); Mark Parkinson, Gov. Kan., The Governor’s Budget Report Fiscal Year 2011 270 (2010), [http://budget.ks.gov/publications/FY2011/FY2011\\_GBR\\_Volume1--updated\\_2-10-2010.pdf](http://budget.ks.gov/publications/FY2011/FY2011_GBR_Volume1--updated_2-10-2010.pdf); Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2010 266 (2009), [http://budget.ks.gov/publications/FY2014/FY2014\\_GBR\\_Vol1--Corrected\\_1-28-2013.pdf](http://budget.ks.gov/publications/FY2014/FY2014_GBR_Vol1--Corrected_1-28-2013.pdf); Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2009 270 (2008), [http://budget.ks.gov/publications/FY2009/FY2009\\_GBR\\_Vol1.pdf](http://budget.ks.gov/publications/FY2009/FY2009_GBR_Vol1.pdf); Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2008 266 (2007), [http://budget.ks.gov/publications/FY2008/FY2008\\_Governors\\_Budget\\_Report\\_Volume1--updated\\_1-16-2007.pdf](http://budget.ks.gov/publications/FY2008/FY2008_Governors_Budget_Report_Volume1--updated_1-16-2007.pdf); Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2007 266 (2006), [http://budget.ks.gov/publications/FY2007/FY2007\\_Governors\\_Budget\\_Report\\_Volume1.pdf](http://budget.ks.gov/publications/FY2007/FY2007_Governors_Budget_Report_Volume1.pdf).

<sup>65</sup> KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2006, *supra* note 62 at 13; KAN. HUM. RIGHTS COMM., ANNUAL REPORT FISCAL YEAR 2007, *supra* note 62 at 13.

<sup>66</sup> Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2009, *supra* note 64 at 270; Kathleen Sebelius, Gov. Kan., The Governor’s Budget Report Fiscal Year 2008 *supra* note 64 at 266.

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<sup>67</sup> Information provided in this table is from the annual reports of the Kansas Human Rights Commission, *supra* note 62, and the governor's annual budget reports, *supra* note 64.