

Employment Discrimination Based on Sexual Orientation and Gender Identity in Tennessee

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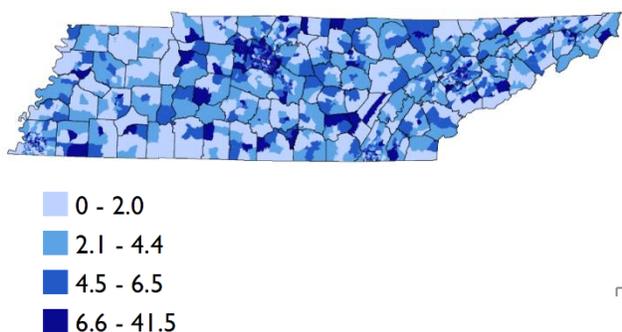
Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 94,700 of these workers live in Tennessee. Tennessee does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.

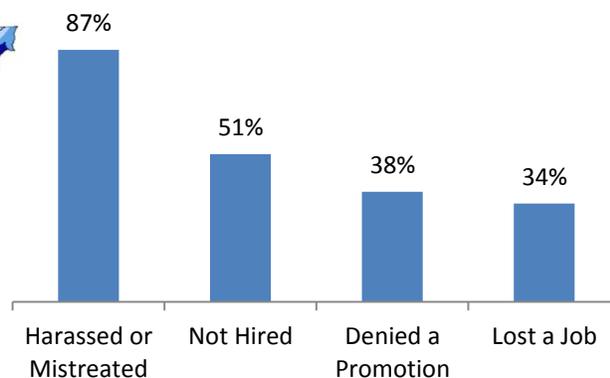
This report summarizes recent evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity discrimination in Tennessee, and estimates the administrative impact of passing a law prohibiting employment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

94,700	15%	72%	2%	44
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 Tennessee¹



Key findings of this report include:

- In total there are approximately 143,000 LGBT adults in Tennessee, and approximately 94,700 LGBT people in Tennessee's workforce.²
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against employees and job applicants in Tennessee.
- Surveys indicate that discrimination against LGBT workers is persistent and prevalent. For example, a 2013 Pew Research Center survey found that 21% of LGBT respondents had 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. For example, in response to the 2011 National Transgender Discrimination Survey, 87% of respondents from Tennessee reported having experienced harassment or mistreatment at work at some point in their lives because of their gender identity.
- Census data show that in Tennessee, the median income of men in same-sex couples is 15% lower than the median income of men in different-sex marriages.
- In 2011, Tennessee passed a law banning localities from adopting non-discrimination ordinances that apply to private sector employment if they are broader than the state's non-discrimination statute. As a result, localities cannot adopt ordinances that prohibit sexual orientation and gender identity discrimination in private employment because the characteristics are not included in the state's non-discrimination law.
- Four localities in Tennessee have ordinances that protect local government workers from discrimination based on sexual orientation and gender identity.
- Approximately 2% of Tennessee's workforce is covered by local ordinances that prohibit discrimination based on sexual orientation and gender identity in government employment.
- 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 24 large, private sector employers headquartered in Tennessee have internal non-discrimination policies that include sexual orientation, and 11 also include gender identity. Additionally, the Tennessee Board of Regents and the University of Tennessee have policies that prohibit discrimination based on sexual orientation and gender identity in university employment.
- Public opinion in Tennessee supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 72% of those polled in Tennessee 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 80% of Tennessee residents think that LGBT people experience discrimination in the state.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 44 additional complaints, on average, being filed with the Tennessee 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 Tennessee

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.³ Similarly, 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.⁴

Surveys of transgender people have found similar or higher levels of discrimination. In response to the 2015 U.S. Transgender Survey, 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.⁵ In response to the 2011 National Transgender Discrimination survey, 78% of respondents reported having experienced harassment or mistreatment at work at some point in their lives because of their gender identity, and 47% reported ever having been discriminated against in hiring, promotion, or job retention at some point in their lives because of their gender identity.⁶

Surveys of LGBT individuals in Tennessee have found similar levels of employment discrimination. For example, in response to the 2011 National Transgender Discrimination Survey, 87% of the respondents from Tennessee reported having experienced harassment or mistreatment at work, 34% reported losing a job, 38% reported being denied a promotion, and 51% reported not being hired at some point in their lives because of their gender identity or expression.⁷

Specific examples of employment discrimination against LGBT people in Tennessee have been documented in court cases and media reports, including:

- In a 2015 news article on the difficulties faced by LGBT people in rural Tennessee, a gay man living halfway between Nashville and Knoxville reported that he often gets a “need-not-apply” expression when he hands someone a job application.⁸
- In 2015, a gay man from Gallatin filed a lawsuit against his former employer for terminating him because of his sexual orientation. According to the employee’s complaint, he confronted a another employee who made negative comments about LGBT people in the workplace and then, along with staffing personnel, made the decision to fire the other employee. A few days later, the company’s vice president met with him and asked if he was gay. The employee responded that he was gay, and was fired the next day.⁹

- In a 2015 media report, a trans woman living in a small town between Memphis and Nashville described the harassment she experienced at the technical college attended, and the challenges she faced in finding a job and convincing others to understand “the concept of what being trans is.”¹⁰
- In 2012, the Metropolitan Government of Nashville and Davidson County paid \$50,000 to settle a lawsuit brought by an employee of Metro Water Services.¹¹ The employee alleged that for several years he was the target of anonymous graffiti, located in the work areas he would often visit as part of his job, containing homophobic statements and slurs.¹² The employee further alleged that his supervisors never attempted to discipline the co-workers who harassed him, and that a supervisor physically assaulted him at one point.¹³
- In 2009, a union member filed a lawsuit against his union for failing to provide him with work after he complained that fellow union members were harassing him because he was gay.¹⁴ The union member stated that the other union members threatened to stab him and “any other ‘faggot’ working with them,” and made derogatory comments regarding his sexuality. The district court dismissed the claim.¹⁵ In 2011, the Sixth Circuit Court of Appeals affirmed the district court’s decision, holding that neither federal or state law prohibited discrimination based on sexual orientation.¹⁶

Wage Inequity

Census data show that individuals in same-sex couples in Tennessee earn less than individuals married to different-sex partners. On average, men in same-sex couples in Tennessee earn \$32,766 each year, compared to \$44,122 for men married to different-sex partners.¹⁷ The median income of men in same-sex couples in Tennessee is \$28,000; which is 15% less than that of married men (\$33,000).¹⁸

Women in same-sex couples in Tennessee earn less than married men as well as men in same-sex couples. Women in same-sex couples in Tennessee earn an average of \$28,003 per year (with a median of \$25,000), which is more than women married to different-sex partners whose earnings average \$23,126 (with a median of \$19,800).¹⁹

Surveys of transgender people find that they have high rates of unemployment and very low earnings.²⁰

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.²¹

Current Protections from Discrimination

Tennessee does not have a statewide statute that explicitly prohibits discrimination based on sexual orientation or gender identity in employment.²² 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.

Tennessee Human Rights Act

The Tennessee Human Rights Act (THRA) prohibits discrimination by any employer who has 8 or more employees²³ on the basis of race, sex, age, religion, national origin, and disability.²⁴ THRA applies to both public and private sector employers.²⁵

The Tennessee Human Rights Commission is responsible for administrative enforcement of THRA.²⁶ The Commission has the power to investigate complaints, and to remedy any violations of the law through conciliation agreements and settlements.²⁷ If the Commission determines that an employer has discriminated in violation of the law, it can award remedies to the complainant including hiring; reinstatement; back pay; damages that resulted from the discrimination, including compensation for humiliation and embarrassment; and costs, including attorney's fees.²⁸

Alternatively, employees can choose to file a civil suit in court rather than proceeding through the administrative process with the Commission.²⁹ A court may order the same remedies as the Commission.³⁰

Efforts have been made to add protections from sexual orientation and gender identity discrimination to THRA. None of these efforts have succeeded. On February 9, 2015, a bill was introduced in the Tennessee General Assembly that would have added sexual orientation and gender identity to the list of characteristics protected from discrimination or harassment in employment and other areas.³¹ The bill failed in the Consumer and Human Resources Subcommittee by a vote of four to two.³²

Previously, on January 30, 2013, an identical bill was introduced that also died in subcommittee.³³ In addition, on February 16, 2011, a bill was introduced that would have provided protection based only on sexual orientation, and it too died in subcommittee.³⁴

Local-Level Protections from Discrimination

In 2011, the Tennessee General Assembly passed a bill that bans localities from adopting non-discrimination ordinances that apply to private sector employment if they are broader than the state's non-discrimination law.³⁵ As a result, localities in Tennessee cannot adopt ordinances that prohibit sexual orientation and gender identity discrimination in private employment because the characteristics are not included in the state's non-discrimination law. Additionally, the bill invalidated a non-discrimination ordinance adopted by Nashville, which prohibited city government contractors from

discriminating against their employees on the basis of sexual orientation and gender identity.³⁶ The law allows localities to adopt sexual orientation and gender identity non-discrimination ordinances that apply only to local government workers.³⁷

Four Tennessee localities prohibit public sector employment discrimination based on sexual orientation and gender identity: Knoxville,³⁸ Metropolitan Area of Nashville and Davidson County,³⁹ Memphis,⁴⁰ and Chattanooga.⁴¹ Approximately 2% of Tennessee's workforce is covered by the local non-discrimination ordinances in these four localities.⁴²

In Memphis, violations of the city's non-discrimination policies are enforced by the Labor Relations Office, which evaluates and investigates complaints filed by applicants and employees who believe they have experienced discrimination, harassment, or retaliation in city employment.⁴³ In Knoxville, the Community Relations Department is responsible for administering the city's equal employment program and reviewing all discrimination complaints.⁴⁴ The enforcement procedures for the non-discrimination ordinances in Nashville/Davidson County and Chattanooga are unclear from publicly accessible materials.

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.⁴⁵ 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.⁴⁶

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.⁴⁷ 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.⁴⁸ 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.⁴⁹

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.⁵⁰ Several state and local governments have adopted similar laws.⁵¹ 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.

According to the Human Rights Campaign, at least 24 large private sector employers headquartered in Tennessee have adopted internal policies prohibiting discrimination based on sexual orientation.⁵² At least eleven of these companies also include gender identity in their non-discrimination policies.⁵³ Additionally, the Tennessee Board of Regents⁵⁴ and the University of Tennessee⁵⁵ have policies that prohibit discrimination based on sexual orientation and gender identity in university employment.

Public Opinion

Public opinion in Tennessee supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 72% of those polled in Tennessee said that Congress should pass a federal law prohibiting employment discrimination based on sexual orientation and gender identity.⁵⁶ In addition, public opinion data indicate that Tennessee residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 80% of Tennessee residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.⁵⁷

Administrative Impact

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.⁵⁸ However, because the LGBT population is so small, the raw number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low.⁵⁹

We estimate that, on average, approximately 44 complaints of sexual orientation or gender identity discrimination would be filed in Tennessee each year. To reach this estimate, we drew on Gallup polling data and Census data from Tennessee 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.⁶⁰

Results from Gallup polls conducted from 2012 to 2014 show that 3.0% of people in Tennessee's workforce identify as LGBT.⁶¹ Applying this percentage to the number of people in Tennessee's workforce (3,156,636⁶²) indicates that there are 94,699 LGBT workers in Tennessee.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Tennessee 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 2015 study that analyzed administrative complaint data from 14 states that prohibited sexual orientation and gender identity discrimination at that time.⁶³ 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.⁶⁴

Applying the national complaint rate (4.6 per 10,000 LGBT workers) to the number of LGBT workers in Tennessee (94,699) suggests that 44 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

It is likely that some sexual orientation and gender identity discrimination complaints will be filed with the Tennessee Human Rights Commission and others will be filed directly in court. Available data suggest that the additional complaints could be absorbed into Tennessee’s existing judicial and administrative systems with minimal impact on staff and resources.

Any complaints filed directly in court would likely have a negligible impact on Tennessee’s judicial system. From 2009 through 2015, Tennessee Circuit Courts, statewide, handled an average of 61,279 filings per year.⁶⁵ The number of filings has varied by an annual average of 1,293 filings over the same time period. Even if all of the 44 complaints of sexual orientation and gender identity discrimination were filed in court, the impact would be negligible given the size of the existing caseload.

Similarly, data from the Tennessee Human Rights Commission suggest that the additional complaints would have a minimal impact on Commission staff and resources. According to the Commission’s five most recent annual reports (2011 through 2015), the Commission received an annual average of 473 complaints of employment discrimination.⁶⁶ 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 complaints.

However, the data suggest that the additional complaints would have a minimal impact on the Commission. Annual fluctuations in the number of complaints filed with the Commission have varied from 19 to 117 complaints over the five fiscal year periods from 2011 through 2015.⁶⁷ On average, annual filings from 2011 through 2015 varied by 53 complaints. This information suggests that even if all 44 additional complaints of sexual orientation or gender identity discrimination were filed with the Commission each year, this increase would be within the range of normal variation and could be absorbed by the Commission with minimal impact on staff and resources.

Fiscal Year ⁶⁸	Number of Complaints Handled	Change in Complaints from Prior Year
2015	361	40
2014	401	117
2013	518	34
2012	552	19
2011	533	NA

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Tennessee. There is currently no statewide law that prohibits discrimination based on sexual orientation or gender identity in public and private sector employment in Tennessee. Adding these characteristics to the state's employment non-discrimination law would provide protection from discrimination to approximately 94,700 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that, on average, approximately 44 complaints of sexual orientation or gender identity employment discrimination would be filed in Tennessee annually if the law were amended. It is likely that enforcement of the additional complaints would have a minimal impact on the Tennessee Human Rights Commission and the judicial system.

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, TENNESSEE RESULTS, NATIONAL CENTER FOR TRANSGENDER EQUALITY & GAY AND LESBIAN TASK FORCE, http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_state/ntds_state_tn.pdf.

² These estimates were reached by applying the percentage of people in Tennessee that identify as LGBT (2.8 percent) to the population of Tennessee aged eighteen and older (5,106,499) and applying the percentage of people in Tennessee's labor force that identify as LGBT (3.0 percent) to the number of people in the state's civilian labor force aged sixteen and older (3,156,636). 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>; 2015 ACS Table DP03: Selected Economic Characteristics (Tennessee), 1-Year Estimates, American Fact Finder (2016); 2015 ACS Table B01001: Sex by Age, 1-Year Estimates (Tennessee), American Fact Finder (2016); <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>.

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¹⁰ Tom Wilemon, *LGBT face challenges in rural Tennessee*, THE TENNESSEAN (March 14, 2015), <http://www.tennessean.com/story/news/local/2015/03/13/lgbt-face-challenges-rural-tennessee/70296862/>.

¹¹ Metropolitan Government of Nashville and Davidson County Res. RS2013-804 (August 6, 2013), https://www.nashville.gov/mc/resolutions/term_2011_2015/rs2013_804.htm.

¹² Jim Higgins, *Anti-Gay Graffiti leads to Likely a Large Settlement with Metro Nashville*, TENNESSEE EMPLOYMENT LAWYER BLOG (August 27, 2013), http://www.tennesseeemploymentlawyerblog.com/2013/08/antigay_graffiti_leads_to_like.html.

¹³ *Id.*

¹⁴ *Gilbert v. Country Music Ass'n, Inc.*, 432 F. App'x 516 (6th Cir. 2011).

¹⁵ *Id.* at 520.

¹⁶ *Id.*

¹⁷ ADAM P. ROMERO, CLIFFORD J. ROSKY, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: TENNESSEE 2 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/TennesseeCensus2000Snapshot.pdf>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ 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); Marieka Klawitter, *Meta-Analysis of the Effects of Sexual Orientation on Earnings*, 54 INDUST. RELATIONS 4 (2014).

²² 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.

²³ TENN. CODE ANN. §§ 4-21-102(5), 8-50-103 (2015).

²⁴ *Id.* §§ 4-21-401(a), 8-50-103(b).

²⁵ *Id.* §§ 4-21-102(5), 8-50-103(d).

²⁶ *Id.* §§ 4-21-201, 8-50-103(c).

²⁷ *Id.* §§ 4-21-202 *et seq.*, 8-50-103(c)(2).

²⁸ *Id.* §§ 4-21-306, 8-50-103(c)(2).

²⁹ *Id.* §§ 4-21-311(a), 8-50-103(c)(2).

³⁰ *Id.* §§ 4-21-311(b), 8-50-103(c)(2).

³¹ H.B. 296, 109th Gen. Assemb. (Tenn 2015).

³² *Id.*

³³ H.B. 490, 108th Gen. Assemb. (Tenn. 2013).

³⁴ H.B. 1317, 107th Gen. Assemb. (Tenn. 2011).

³⁵ H.B. 600, 107th Gen. Assemb. (Tenn. 2011) (relevant section codified at TENN. CODE ANN. § 7-51-1802).

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³⁷ TENN. CODE ANN. § 7-51-1802(d).

³⁸ KNOXVILLE, TENN., CODE § 15-57 (2015).

³⁹ NASHVILLE, TENN., CODE § 11.20.130 (2015).

⁴⁰ MEMPHIS, TENN., CODE § 3-8-6 (2016).

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⁴⁴ Community Relations, The City of Knoxville (2015), <http://www.cityofknoxville.org/commrelations>.

⁴⁵ 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>.

⁴⁶ *Id.*

⁴⁷ 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>.

⁴⁸ 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.

⁴⁹ Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).

⁵⁰ Exec. Order No. 13672, 79 Fed. Reg. 42,971 (2014).

⁵¹ See 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) (review of local governments with such policies as of 2011). Examples of states with such laws include California (CAL. GOV. CODE § 12990 (2013)), Delaware Delaware (DEL. CODE ANN. tit., 29 § 6962(d)(7) (2013)), and Maryland (MD. CODE ANN., STATE FIN. & PROC. § 19-101 (LexisNexis 2013)).

⁵² Companies headquartered in Tennessee that prohibit discrimination based on sexual orientation include: AutoZone; Baker, Donelson, Bearman, Caldwell & Berkowitz; Bass, Berry & Sims; Bridgestone Americas; Broadcasting Group; Community Health Systems; Cracker Barrel; Dollar General; Eastman Chemical; FedEx; First Horizon National; Gaylord Entertainment; Hospital Corporation of America; IASIS; Louisiana-Pacific; Nissan; Regal Entertainment; Scripps Networks Interactive; ServiceMaster; Team Health; Thomas & Betts; Union Planters; Unum; and Vanguard Health. Human Rights Campaign, Corporate Employer Database, <http://www.hrc.org/resources/entry/search-our-employer-database> (March 11, 2016) (search by state of headquarters or employer name).

⁵³ Baker, Donelson, Bearman, Caldwell & Berkowitz; Bridgestone Americas; Community Health Systems; Dollar General; Eastman Chemical; FedEx; First Horizon National; Hospital Corporation of America; Nissan; Regal Entertainment; and Unum. *Id.*

⁵⁴ Office of Gen. Counsel, Tenn. Board of Regents, Discrimination & Harassment – Complaint & Investigation Procedure: P-080 (Nov. 11, 2014), <https://policies.tbr.edu/guidelines/discrimination-harassment-complaint-investigation-procedure>.

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⁵⁶ 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).

⁵⁷ 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).

⁵⁸ CHRISTY MALLORY & BRAD SEARS, EVIDENCE OF EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY: AN ANALYSIS OF COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES, 2008-2014, WILLIAMS INST. (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Employment-Discrimination-Complaints-2008-2014.pdf>; 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).

⁵⁹ *Id.*

⁶⁰ See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

⁶¹ Gary J. Gates & Frank Newport, *supra* note 2.

⁶² American Community Survey, U.S. Census Bureau, American FactFinder, 2014 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03 (civilian workforce).

⁶³ “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 58.

⁶⁴ 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 58.

⁶⁵ Tenn. Judiciary, Annual Report of the Tenn. Judiciary: Fiscal Year 2014-2015 17 (2015), http://www.tncourts.gov/sites/default/files/docs/annual_report_fy2015-1.pdf.

⁶⁶ See data on complaint filings as reported in TENN. HUMAN RIGHTS COMM., ANNUAL REPORT: FY2014-2015 10 (2015), https://www.tn.gov/assets/entities/humanrights/attachments/2015_Annual_Report_revised.pdf; TENN. HUMAN RIGHTS COMM., ANNUAL REPORT: FY2013-2014 10 (2014), https://www.tn.gov/assets/entities/humanrights/attachments/Annual_Report_2014.pdf; TENN. HUMAN RIGHTS COMM., ANNUAL REPORT: FY2012-2013 10 (2013), https://www.tn.gov/assets/entities/humanrights/attachments/Annual_Report_2013.pdf; TENN. HUMAN RIGHTS COMM., ANNUAL REPORT: FY2011-2012 10 (2012), https://www.tn.gov/assets/entities/humanrights/attachments/2012_Annual_Report.pdf; TENN. HUMAN RIGHTS COMM., ANNUAL REPORT: FY2010-2011 11 (2011), https://www.tn.gov/assets/entities/humanrights/attachments/2011_Annual_Report.pdf.

⁶⁷ *Id.*

⁶⁸ Data in this table can be found in the annual reports from fiscal year 2009 through 2013, *supra* note 66.