

Employment Discrimination Based on Sexual Orientation and Gender Identity in Utah



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Executive Summary

More than 4% of the U.S. workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 37,000 of these workers live in Utah. Utah does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.¹

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

Key findings of this report include:

- In total, there are approximately 55,000 LGBT adults in Utah, including just over 37,000 who are part of the state's workforce.
- In response to a 2010 survey of LGBT people in Utah, 43% of LGB respondents and 67% of transgender respondents reported being fired, denied a job, denied a promotion, or having experienced other forms of discrimination at some point in their lives. Even higher percentages of employees reported experiencing verbal harassment at work on at least a weekly basis.
- These figures are consistent with national-level data on sexual orientation and gender identity discrimination. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions because of their sexual orientation or gender identity.
- 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.
- Several Utah workers have recently filed lawsuits or have spoken to the media about the discrimination they have faced because of their sexual orientation or gender identity. These include reports from a deputy sheriff, a home inspection worker and a bus driver.
- Disparities in wages are also a traditional way that discrimination has been measured. Census data show that in Utah, the median income of men in same-sex couples is 20% lower than men in different sex marriages.
- At least 17 localities in Utah provide protection from sexual orientation and gender identity employment discrimination by local ordinance.

- Approximately 53% of Utah’s workforce is not covered by a local ordinance prohibiting employment discrimination based on sexual orientation or gender identity.
- In response to a 2010 survey of approximately 250 Utah employers, 35% of respondents indicated that they had adopted internal corporate policies prohibiting discrimination based on sexual orientation or gender identity.
- Adding sexual orientation and gender identity to the state’s current non-discrimination law would result in approximately 17 additional complaints being filed with the Utah Antidiscrimination and Labor Division each year.
- Enforcing complaints of sexual orientation or gender identity discrimination would likely have no impact or a negligible impact on the state budget. Estimates that include the highest possible figures indicate that the additional complaints could cost the state up to \$14,500 annually; 0.9% of the annual budget of the Utah Antidiscrimination and Labor Division.

Evidence of Discrimination

Survey Data on Sexual Orientation and Gender Identity Discrimination in Utah

A 2011 Williams Institute study found that many LGBT people in Utah have experienced discrimination and harassment at work, and many fear discrimination by their current employers. In response to a survey of 939 LGBT people in Utah, 43% of LGB respondents and 67% of transgender respondents reported being fired, denied a job, denied a promotion, or having experienced other forms of discrimination at some point in their lives.² Additionally, around 60% of LGBT workers reported having been subjected to verbal harassment in the workplace in the previous year— 29% of LGB respondents and 45% of transgender respondents reported that the harassment had occurred on at least a weekly basis. Twenty-six percent of LGB respondents and 37% of transgender respondents reported that they continued to fear discrimination by their current employers.

Survey responses also indicated that the discrimination was rarely reported to employers, attorneys, or state agencies. Around 70% of LGBT employees said that they had not reported the discrimination to anyone. Only 20% of LGB employees and 12% of transgender employees who thought they had experienced discrimination reported it to their employers.

The findings of the 2011 study are consistent with national-level data on sexual orientation and gender identity employment discrimination. In response to national surveys, LGBT workers have consistently reported experiencing 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 because of their sexual orientation or gender identity.³ As recently as 2009, 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.⁴

Other Evidence of Sexual Orientation and Gender Identity Discrimination in Utah

Many respondents to the 2011 Utah survey provided more detailed accounts of the incidents of discrimination they had experienced.⁵ Among these responses, verbal harassment and derogatory name-calling in the workplace were often reported. Other employees gave detailed accounts of being subjected to harassment or discrimination, even though they did not discuss their sexual orientation or gender identity while at work, because a supervisor or co-workers discovered their LGBT identity second-hand. Many respondents explained that they are not “out” in the workplace because they have fear discrimination and harassment. Some respondents reported being fired after trying to sign up a partner for domestic partner benefits. Respondents also described a broad range of disparate treatment based on sexual orientation and gender identity, such as being paid less for the same work, being asked to work longer hours, or being assigned less desirable shifts. A few respondents even indicated that they had experienced sexual harassment, sexual assault, and inappropriate physical touching by co-workers after disclosing that they were LGB or transgender.

A number of respondents heard co-workers refer to them and others by using homophobic language such as “faggot,” “dyke,” and other gay slurs. One respondent reported, “I have been called a faggot at a job and told I might as well quit because he was going to make my life hell.” Another respondent explained, “I had a co worker that would yell at me, swear at me, bully me”; shortly after he reported these incidents to a supervisor, he was laid off from work. Another respondent explained that because he frequently hears homophobic comments at work, “I have to keep who I am to myself or face being ostracized,” and “sit there and endure it or fake laughing it off.” Another reported that the homophobia at her current place of employment is “so rampant” that she has decided not to disclose her bisexuality to her supervisors or co-workers.

Some respondents indicated that although they had not intended to discuss sexual orientation or gender identity at work, they had been “outed” by a supervisor or co-worker, which often led to discrimination and harassment in the workplace. One respondent reported that in 2009, he was outed by a supervisor, who made rude comments. Another explained that he was let go from his previous job after being outed by a co-worker. He reported, “It was made clear to me that homosexuality was not welcome in that field,” and, “I was not the first person this happened to.” Another respondent reported that he was outed and harassed by co-workers. After he was denied a promotion, he quit the job rather than continue to be subjected to the daily harassment.

Many respondents described specific incidents in which they had been fired, laid off, and denied promotions because they were LGBT. In most of these instances, respondents learned of the reason for the employer’s action from supervisors or co-workers. For example, one respondent reported being laid off from a production company in Orem in 2009. When he was terminated, he was told that the official reason for his departure was “a slow economy.” After his departure, however, the company held a meeting in which his co-workers were informed that he was let go because he was gay.

In other instances, respondents were never directly told of the reason for the employer's action, but they were able to surmise it from surrounding circumstances. For example, one respondent was fired three days after receiving a raise to six figures pre-bonus. He later discovered that two days before he was terminated, his sexual orientation had been inadvertently disclosed to his supervisor by a neighbor. When he asked why he was being terminated, his supervisor answered, "You know why, and I don't want to get into it."

Many respondents explained that they were still afraid of discrimination at a current employer, either because they have personally experienced discrimination and harassment, or because they have heard co-workers making negative comments. One respondent reported that he lost a job for disclosing his sexual orientation in 1999. After this experience, he explained, "I've kept quiet at work ever since." Another respondent reported that she had lost her previous job when a co-worker learned that she was dating a woman. In light of this experience, she decided:

"I didn't have anything I could do about it so I found a new job and now refuse to talk about my personal life to ANY of my current co-workers. I need an income. I need this job. Until I can be guaranteed I'll be safe this time I am not going to feel comfortable talking with people about my personal life."

Another respondent explained:

"At work, I am not out at all. It is clear in some management circles that non-heterosexuality is something awkward and suspicious. I do not share my orientation out of fear of losing respect from peers and subordinates. Additionally, I feel that my upward mobility would be greatly compromised if I was out."

The detailed responses also highlighted other forms of discrimination that were not specifically addressed in the survey questions. For example, several respondents indicated that they had experienced discrimination after inquiring about non-discrimination policies or benefits for unmarried partners. One respondent claimed that although his company offered domestic partner benefits, he was let go for no cause after trying to obtain such benefits for over a year. Respondents described a broad range of disparate treatment based on sexual orientation and gender identity, such as being paid less for the same work, being asked to work longer hours, or being assigned less desirable shifts. One respondent reported that he had been "paid less than straight men in the same position and [with] less experience many times," and has been asked to put in extra work to compensate for straight co-worker's family duties, based on an expectation that a single person should fill in for them.

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

- A bus driver for the Utah Transit Authority was terminated because of her gender identity. Despite her spotless employment record, the bus driver was fired after she began living as a woman and using women's restrooms while on the job. The Transit Authority claimed that they terminated her because they were concerned that her

continued employment could expose them to liability from other employees based on her restroom usage; however, no complaints had been made regarding her restroom usage. The transit authority told her that she would be eligible for rehire only after undergoing sex reassignment surgery. The bus driver filed suit in federal court, but the court rejected her argument that Title VII sex discrimination claims could apply to transsexuals, construing the term “sex” to equate to biological sex at birth “and nothing more.”⁶

- In August 2009, a home inspection worker reported that she was fired because of her gender identity. The employee reported that she was let go shortly after she began transitioning on the job.⁷
- Earlier in 2009, a gay man testified to the Utah House of Representatives that he had lost his job at a credit union in the state after asking if benefits were offered to employees’ same-sex partners.⁸
- In 2007, a gay deputy sheriff reported that he had been subjected to a hostile work environment based on his sexual orientation.⁹

Similarly, at the national level, evidence of employment discrimination against LGBT people has been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in employment.¹⁰

Wage Inequity

Census data show that men in same-sex couples in Utah earn less than men married to different-sex partners. On average, men in same-sex couples in Utah earn \$42,938 each year, significantly less than \$56,569 for men married to different-sex partners.¹¹ The median income of men in same-sex couples in Utah is \$36,000, or 20% less than that of men married to different-sex partners (\$45,000).¹² Men with same-sex partners earn lower wages despite the fact that they are more likely to have a college degree than men married to different-sex partners,¹³ a comparison that supports the possibility that people in same-sex couples are not treated equally by employers. A 2009 study suggested that the wage gap for gay men is smaller in states that implement nondiscrimination laws, suggesting that such laws reduce discrimination against LGBT people.¹⁴

Women in same-sex couples in Utah earn less than married men and men in same-sex couples.¹⁵ Women in same-sex couples earn \$36,821 per year on average, which is more than married women, whose earnings average \$26,225.¹⁶

These findings are not unique to Utah. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.¹⁷ Surveys of transgender people find that they have high rates of unemployment and very low earnings.¹⁸

Current Protections from Discrimination

Utah does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment. Legislation that would prohibit discrimination based on both characteristics has been introduced in the six most recent legislative sessions, but has not passed.¹⁹

At least 17 localities in Utah prohibit private employment discrimination based on sexual orientation and gender identity: Salt Lake City,²⁰ Salt Lake County,²¹ Park City,²² Summit County,²³ Taylorsville,²⁴ West Valley City,²⁵ Murray,²⁶ Midvale,²⁷ Moab,²⁸ Grand County,²⁹ Ogden,³⁰ Logan,³¹ Alta,³² Harrisville,³³ Springdale,³⁴ Washington Terrace³⁵ and Marriott-Slaterville.³⁶ Approximately 53% of Utah's workforce is not covered by a local ordinance that prohibits employment discrimination based on sexual orientation or gender identity.³⁷

Many Utah employers have adopted internal corporate policies that prohibit sexual orientation and gender identity discrimination. In 2011, Equality Utah gathered a list of over 200 businesses operating in the state that have policies prohibiting sexual orientation or gender identity discrimination.³⁸ In response to a 2010 survey of nearly 250 employers in the state, 35% reported that they already had the policies in place.³⁹

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.⁴⁰ 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.⁴¹

We estimate that approximately 17 complaints of sexual orientation or gender identity discrimination would be filed with the Utah Antidiscrimination and Labor Division each year. To reach this estimate, we drew on Gallup polling data and Census data from Utah to estimate the size of the LGBT workforce in the state, and applied a national sexual orientation complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including Missouri, Ohio, Pennsylvania, South Carolina, South Dakota, Texas, and West Virginia.⁴²

Results from a 2012 Gallup poll show that 2.7% of people in Utah identify as LGBT.⁴³ Applying this percentage to the number of people in Utah's workforce (3,045,510) indicates that there are 37,100 LGBT workers in Utah.

Next, we apply the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Utah to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We use the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.⁴⁴ 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.⁴⁵ There is not sufficient data to make a similar calculation of the average rate of complaints filed on the basis of gender identity.⁴⁶ 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 Utah suggests that 17 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.

Estimated Cost of Enforcement

In March 2013, the Utah Office of the Legislative Fiscal Analysis concluded that enactment of a statewide law prohibiting sexual orientation and gender identity discrimination "likely will not materially impact the state budget."⁴⁷ The Office further concluded that the bill "likely will not result in direct, measurable costs for local governments and likely will not result in direct, measurable expenditures by Utah residents or businesses."⁴⁸

Using information from the 2012 Utah Antidiscrimination and Labor Division Annual Report, we can estimate the cost associated with handling the additional 17 complaints that would be filed if sexual orientation and gender identity were added to Utah's employment non-discrimination law.

In fiscal year 2012, the Utah Antidiscrimination and Labor Division closed 489 employment discrimination claims, 50 housing discrimination claims, and 1,444 wage claims (the report only provided the number of closed claims, rather than the number of complaints filed).⁴⁹ The Division operated on a budget of \$1,695,200.⁵⁰ Dividing the Division's budget by the number of complaints closed suggests that enforcement costs an average of approximately \$855.00 per complaint. Based on this assumption, if 17 complaints of sexual orientation or gender identity discrimination were filed each year, it would cost the state approximately \$14,500 to enforce them; 0.9% of the Division's annual budget.

This estimate is likely to be conservatively high. Annual fluctuations in the number of complaints closed with the Antidiscrimination and Labor Division have been greater than 17. From fiscal year 2008-2009 to fiscal year 2011-2012, the number of housing and employment discrimination complaints closed from year to year varied by 128, on average. There was no corresponding impact on the Division's budget. This information suggests that the additional complaints could be absorbed into the existing budget with no noticeable impact on the budget.

Fiscal Year	Number of Housing and Discrimination Claims Closed	Budget
2008-2009	726 ⁵¹	\$1,636,800 ⁵²
2009-2010	666 ⁵³	\$1,597,100 ⁵⁴
2010-2011	764 ⁵⁵	\$1,603,200 ⁵⁶
2011-2012	539 ⁵⁷	\$1,695,200 ⁵⁸

Conclusion

Documented evidence shows that LGBT people face a widespread and persistent pattern of employment discrimination across the country, including in Utah. There is currently no law that prohibits employment discrimination based on sexual orientation or gender identity in Utah. Adding these characteristics to the state's employment non-discrimination law would provide protection from discrimination to approximately 37,100 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 17 complaints of sexual orientation or gender identity employment discrimination would be filed in Utah annually if the law were amended. A conservatively high estimate based on data from the Utah Antidiscrimination and Labor Division suggests that it would cost the state approximately \$14,500 to enforce these complaints each year; 0.9% of the Division's current annual budget. This amount represents a small percentage of the Division's 2011-2012 budget; and given fluctuations in the annual budget and the number of complaints filed, it is likely that 17 additional complaints would have no noticeable impact on the Division's budget.

About the Williams Institute

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

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Endnotes

- ¹ The Utah Antidiscrimination Act prohibits employment discrimination based on race; color; sex; pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; and disability. UTAH CODE ANN. §§ 34A-5-106 (2013).
- ² CLIFFORD ROSKY, CHRISTY MALLORY, JENNI SMITH, M.V. LEE BADGETT, WILLIAMS INST., EMPLOYMENT DISCRIMINATION AGAINST LGBT UTAHNS 8-11 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Rosky-Mallory-Smith-Badgett-Utah-Emp-Discrim-Jan-11.pdf>.
- 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 JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 51 (2011), http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.
- ⁵ ROSKY ET AL., *supra* note 2 at 11-12.
- ⁶ *Etsitty v. Utah Trans. Auth.*, 502 F.3d 1215 (10th Cir. 2007).
- ⁷ Rosemary Winters, *After Losing her Job, Transgender Utahns Fights Workplace Discrimination*, SALT LAKE TRIBUNE, Aug. 19, 2009, http://www.sltrib.com/utah/ci_13162500.
- ⁸ *Id.*
- ⁹ Email from Ken Choe, Senior Staff Attorney, American Civil Liberties Union, to Brad Sears, Executive Director, the Williams Institute (Sept. 11, 2009, 14:10:00 PST) (on file with the Williams Institute).
- ¹⁰ *See generally* BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.
- ¹¹ JODY L. HERMAN, CHRISTY MALLORY, M.V. LEE BADGETT & GARY J. GATES, WILLIAMS INST., CENSUS SNAPSHOT: UTAH 2 (2010), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Mallory-Badgett-Gates-UT-CensusSnapshot-Sept-2010.pdf>.
- ¹² *Id.*
- ¹³ *Id.*
- ¹⁴ GARY J. GATES, CAL. CTR. FOR POP. RESEARCH, THE IMPACT OF SEXUAL ORIENTATION ANTI-DISCRIMINATION POLICIES ON THE WAGES OF LESBIANS AND GAY MEN (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.
- ¹⁵ HERMAN, MALLORY, BADGETT & GATES, *supra* note 11 at 2.
- ¹⁶ *Id.*
- ¹⁷ 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).
- ¹⁸ *Id.*; GRANT ET AL., *supra* note 4.
- ¹⁹ S. 262, 60th Leg., Gen. Sess. (Utah 2013); S. 51, 59th Leg., Gen. Sess. (Utah 2012); S. 148, 59th Leg., Gen. Sess. (Utah 2011); H.R. 305, 58th Leg., Gen. Sess. (Utah 2010); H.R. 267, 58th Leg., Gen. Sess. (Utah 2009); H.R. 89, 57th Leg., Gen. Sess. (Utah 2008).
- ²⁰ SALT LAKE CITY, UTAH, CODE §§ 2.53.035; 10.04.010 to 10.04.130 (2013).
- ²¹ SALT LAKE COUNTY, UTAH, CODE § 10.13.070 (2013).
- ²² PARK CITY, UTAH, CODE § 4-16-7 (2013).

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- ²³ SUMMIT COUNTY, UTAH, CODE § 1-15B-7 (2013).
- ²⁴ TAYLORSVILLE, UTAH, CODE § 19.02.010 (2013).
- ²⁵ WEST VALLEY CITY, UTAH, CODE § 26-2-101 (2013).
- ²⁶ MURRAY, UTAH, CODE § 5.44.070 (2013).
- ²⁷ MIDVALE, UTAH, CODE § 26.08.010 (2013).
- ²⁸ MOAB, UTAH, CODE § 9.40.070 (2012).
- ²⁹ Grand County, Utah, Ord. No. 494 § 070 (Dec. 21, 2010).
- ³⁰ OGDEN, UTAH, CODE § 12-19-7 (2012).
- ³¹ LOGAN, UTAH, CODE § 2.62.070 (2013).
- ³² ALTA, UTAH, CODE § 1-13-7 (2012).
- ³³ HARRISVILLE, UTAH, CODE § 4.60.060 (2013).
- ³⁴ SPRINGDALE, UTAH, CODE § 1-11-7 (2013).
- ³⁵ WASHINGTON TERRACE, UTAH, CODE § 5.10.020 (2013).
- ³⁶ QSalt Lake Staff, *Marriott-Slaterville Is 16th Utah Municipality to Pass Anti-Bias Measure*, QSALT LAKE, Nov. 16, 2012, <http://gaysaltlake.com/news/2012/11/16/marriott-slaterville-becomes-16th-utah-municipality-to-pass-anti-bias-measure/>. South Salt Lake also has a nondiscrimination ordinance that includes sexual orientation and gender identity, but it only covers housing discrimination and not employment. SO. SALT LAKE, UTAH, CODE § 4.32 (2013).
- ³⁷ Calculated by authors using data from the American Community Survey, 2011 1-Year-Estimates tables, available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited May 21, 2013).
- ³⁸ EQUALITY UTAH, EXPERIENCES OF GAY & TRANSGENDER UTAHNS: HOUSING & WORKPLACE INEQUITIES IN UTAH D (2011), <http://www.equalityutah.org/images/stories/Experiences%20of%20Gay%20and%20Transgender%20Utahns.pdf>.
- ³⁹ *Id.*
- ⁴⁰ 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).
- ⁴¹ BADGETT, RAMOS, & SEARS, *supra* note 38.
- ⁴² CHRISTY MALLORY, SARAH LIEBOWITZ & AMIRA HASENBUSH, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN MISSOURI (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/MissouriNDReport-Nov-2013.pdf>; AMIRA HASENBUSH & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN OHIO (forthcoming 2014); AMIRA HASENBUSH & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN PENNSYLVANIA (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/PennsylvaniaNDReport-Nov-2013.pdf>; CHRISTY MALLORY & GREGORY K. DAVIS, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN SOUTH CAROLINA (forthcoming 2014); NAOMI G. GOLDBERG, M.V. LEE BADGETT, & CHRISTOPHER RAMOS, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE IMPACT OF EMPLOYMENT NON-DISCRIMINATION LEGISLATION IN SOUTH DAKOTA (2010),

Ramos-SouthDakota-ENDA-Jan-2010.pdf; CHRISTY MALLORY & M.V. LEE BADGETT, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ADMINISTRATIVE IMPACT OF ADDING SEXUAL ORIENTATION AND GENDER IDENTITY TO TEXAS'S EMPLOYMENT NON-DISCRIMINATION LAW (2012), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory_Badgett_TX_Workplace_Dec-2012.pdf; CHRISTY MALLORY, SARAH LIEBOWITZ & AMIRA HASENBUSH, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY IN WEST VIRGINIA (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/WestVirginiaNDReport-Dec-2013.pdf>.

⁴³ 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>.

⁴⁴ "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 38.

⁴⁵ 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 38.

⁴⁶ BADGETT, RAMOS & SEARS, *supra* note 38 at 5.

⁴⁷ Utah Office of the Legislative Fiscal Analyst, S. 262 (2013) Fiscal Note (Mar. 4, 2013).

⁴⁸ *Id.*

⁴⁹ UTAH LABOR COMMISSION, ANNUAL REPORT 10 (2012), <http://laborcommission.utah.gov/media/pdfs/laborcommission/pubs/2012AnnualReportArtx.pdf>.

⁵⁰ *Id.* at 6.

⁵¹ UTAH LABOR COMM'N, 2009 ANNUAL REPORT, 11 (2009), *available at* <http://laborcommission.utah.gov/media/pdfs/laborcommission/pubs/2009AnnualReport.pdf>.

⁵² *Id.* at 5.

⁵³ UTAH LABOR COMM'N, 2010 ANNUAL REPORT, 14 (2010), *available at* <http://laborcommission.utah.gov/media/pdfs/laborcommission/pubs/2010AnnualReportArtx.pdf>.

⁵⁴ *Id.* at 9.

⁵⁵ UTAH LABOR COMM'N, 2011 ANNUAL REPORT, 12 (2011), *available at* <http://laborcommission.utah.gov/media/pdfs/laborcommission/pubs/2011AnnualReportArtx.pdf>.

⁵⁶ *Id.* at 8.

⁵⁷ UTAH LABOR COMM'N, 2012 ANNUAL REPORT, 10-11 (2012), *available at* <http://laborcommission.utah.gov/media/pdfs/laborcommission/pubs/2012AnnualReportArtx.pdf>.

⁵⁸ *Id.* at 6.