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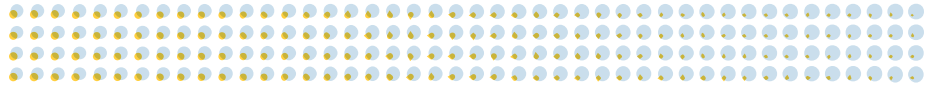
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LGBT PEOPLE IN THE US NOT PROTECTED BY STATE NONDISCRIMINATION STATUTES

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BRIEF / APRIL 2020

At the federal level and in most states, non-discrimination statutes do not expressly enumerate sexual orientation and gender identity as protected characteristics. Twenty-three states and Washington, D.C. expressly enumerate either or both of these characteristics in their non-discrimination statutes, although not necessarily in all settings. This research brief estimates the number of LGBT people who are protected by such statutes in the areas of employment, education, public accommodations, housing, and credit—and the number who are not.¹

KEY FINDINGS

- An estimated 8.1 million LGBT workers age 16 and older live in the United States. Nearly half of these workers—3.9 million people—live in states without statutory protections against sexual orientation and gender identity discrimination in employment.
- There are over 3.5 million LGBT students age 15 and older in the U.S. About 2 million live in states without statutory protections against sexual orientation and gender identity discrimination in education.
- There are an estimated 13 million LGBT people age 13 and older in the U.S. Approximately 6.5 million live in states that do not statutorily prohibit sexual orientation and gender identity discrimination in public accommodations.
- There are an estimated 11 million LGBT adults in the U.S. Over 5.4 million live in states without statutory protections against sexual orientation and gender identity discrimination in housing and 7.7 million lack such protections in credit.

¹ Our estimates do not take into account administrative and judicial decisions that have interpreted sex discrimination laws to cover sexual orientation or gender identity discrimination. Rather, we have limited our analysis to statutes that facially include the words “sexual orientation” or “gender identity.”

Our estimates are conservative in that state statutes also protect LGBT children and younger youth; however, due to limited knowledge about the size of these groups in the population, we could not include them in our calculations.

Table 1. LGBT people unprotected by state non-discrimination statutes that include sexual orientation and gender identity

	EMPLOYMENT		EDUCATION		PUBLIC ACCOMMODATIONS		HOUSING		CREDIT	
	Has Statutes	LGBT Workers (age 16+)	Has Statute	LGBT Students (age 15+)	Has Statute	LGBT People (age 13+)	Has Statute	LGBT Adults (age 18+)	Has Statute	LGBT Adults (age 18+)
Alabama	No	78,000	No	53,000	No	147,000	No	117,000	No	117,000
Alaska	No	15,000	No	7,000	No	25,000	No	21,000	No	21,000
Arizona	No	179,000	No	75,000	No	286,000	No	242,000	No	242,000
Arkansas	No	50,000	No	31,000	No	95,000	No	76,000	No	76,000
California	Yes	1,194,000	Yes	471,000	Yes	1,859,000	Yes	1,615,000	No	1,615,000
Colorado	Yes	156,000	Yes	59,000	Yes	234,000	Yes	200,000	Yes	200,000
Connecticut	Yes	82,000	Yes	43,000	Yes	133,000	Yes	111,000	Yes	111,000
Delaware	Yes	24,000	No	11,000	Yes	40,000	Yes	34,000	No	34,000
Washington DC	Yes	45,000	Yes	9,000	Yes	58,000	Yes	56,000	No	56,000
Florida	No	545,000	No	212,000	No	886,000	No	772,000	No	772,000
Georgia	No	271,000	No	116,000	No	425,000	No	356,000	No	356,000
Hawaii	Yes	34,000	Yes	13,000	Yes	59,000	Yes	52,000	No	52,000
Idaho	No	25,000	No	18,000	No	48,000	No	36,000	No	36,000
Illinois	Yes	326,000	Yes	140,000	Yes	506,000	Yes	426,000	Yes	426,000
Indiana	No	165,000	No	72,000	No	272,000	No	229,000	No	229,000
Iowa	Yes	59,000	Yes	35,000	Yes	106,000	Yes	87,000	Yes	87,000
Kansas	No	56,000	No	33,000	No	92,000	No	73,000	No	73,000
Kentucky	No	82,000	No	45,000	No	144,000	No	117,000	No	117,000
Louisiana	No	94,000	No	49,000	No	169,000	No	139,000	No	139,000
Maine	Yes	35,000	Yes	13,000	Yes	60,000	Yes	53,000	Yes	53,000
Maryland	Yes	151,000	No	67,000	Yes	234,000	Yes	198,000	Yes	198,000
Massachusetts	Yes	224,000	Yes	87,000	Yes	335,000	Yes	296,000	No	296,000
Michigan	No	229,000	No	112,000	No	373,000	No	311,000	No	311,000
Minnesota	Yes	135,000	Yes	60,000	Yes	210,000	Yes	175,000	Yes	175,000
Mississippi	No	48,000	No	34,000	No	99,000	No	79,000	No	79,000
Missouri	No	131,000	No	64,000	No	217,000	No	180,000	No	180,000
Montana	No	18,000	No	10,000	No	30,000	No	24,000	No	24,000
Nebraska	No	45,000	No	22,000	No	67,000	No	55,000	No	55,000
Nevada	Yes	92,000	Yes	27,000	Yes	145,000	Yes	127,000	No	127,000
New Hampshire	Yes	35,000	Yes	14,000	Yes	59,000	Yes	51,000	Yes	51,000
New Jersey	Yes	205,000	Yes	97,000	Yes	343,000	Yes	288,000	Yes	288,000
New Mexico	Yes	47,000	No	22,000	Yes	85,000	Yes	72,000	Yes	72,000
New York	Yes	588,000	Yes	221,000	Yes	913,000	Yes	800,000	Yes	800,000
North Carolina	No	238,000	No	111,000	No	382,000	No	319,000	No	319,000

	EMPLOYMENT		EDUCATION		PUBLIC ACCOMMODATIONS		HOUSING		CREDIT	
	Has Statutes	LGBT Workers (age 16+)	Has Statute	LGBT Students (age 15+)	Has Statute	LGBT People (age 13+)	Has Statute	LGBT Adults (age 18+)	Has Statute	LGBT Adults (age 18+)
North Dakota	No	12,000	No	8,000	No	20,000	No	16,000	No	16,000
Ohio	No	298,000	No	123,000	No	462,000	No	389,000	No	389,000
Oklahoma	No	74,000	No	42,000	No	138,000	No	113,000	No	113,000
Oregon	Yes	129,000	Yes	41,000	Yes	207,000	Yes	183,000	No	183,000
Pennsylvania	No	307,000	No	133,000	No	490,000	No	416,000	No	416,000
Rhode Island	Yes	29,000	No	14,000	Yes	44,000	Yes	38,000	Yes	38,000
South Carolina	No	99,000	No	50,000	No	167,000	No	137,000	No	137,000
South Dakota	No	15,000	No	9,000	No	25,000	No	20,000	No	20,000
Tennessee	No	133,000	No	67,000	No	223,000	No	182,000	No	182,000
Texas	No	647,000	No	316,000	No	1,053,000	No	858,000	No	858,000
Utah	Yes	67,000	No	40,000	No	104,000	Yes	80,000	No	80,000
Vermont	Yes	19,000	Yes	7,000	Yes	30,000	Yes	26,000	Yes	26,000
Virginia	Yes	197,000	Yes	96,000	Yes	308,000	Yes	257,000	Yes	257,000
Washington	Yes	226,000	No	72,000	Yes	342,000	Yes	300,000	Yes	300,000
West Virginia	No	40,000	No	17,000	No	68,000	No	58,000	No	58,000
Wisconsin**	LGB only	110,000	LGB only	57,000	LGB only	186,000	LGB only	152,000	No	171,000
Wyoming	No	10,000	No	6,000	No	18,000	No	15,000	No	15,000
Total unprotected		3,918,000**		2,091,000**		6,546,000**		5,369,000**		7,790,000
Total protected		4,209,000		1,466,000		6,496,000		5,677,000		3,256,000
Total		8,127,000		3,557,000		13,042,000		11,046,000		11,046,000

**Nondiscrimination statutes in Wisconsin prohibit discrimination based on sexual orientation but not gender identity. An estimated 14,000 transgender people in the state lack employment protections based on gender identity, 6,000 are unprotected in education, 21,000 lack protections in public accommodations and 19,000 lack protections in housing. These numbers were added to the total unprotected in each domain.

METHODOLOGICAL NOTES

LGBT Workers

To estimate the number of LGBT people in the labor force in each state, we relied upon the Gallup Daily Tracking Survey, a population-based survey, for information about the percentage of respondents in the labor force (defined as employed full-time or part-time, or were unemployed, but actively looking for work and able to work) who identified as LGBT. These estimates correspond to information reported in the Williams Institute's LGBT Demographic Data Interactive. We then applied (multiplied) this percentage to estimates provided by the U.S. Census Bureau of the number of people age 16 and older in the labor force in each state (and rounded to the nearest 1,000). The number of people ages 16 and older in the labor force was derived from the 2017 American Community Survey 1-Year Estimates (Table DP03 "Selected Economic Characteristics").

The estimated percentages of adults age 18 and older in the labor force who identify as LGBT is derived from the Gallup Daily Tracking Survey. The Gallup Daily Tracking survey is an annual list-assisted random digit dial (70% cell phone, 30% landline) survey, conducted in English and Spanish, of approximately 350,000 U.S. adults ages 18 and older who reside in the 50 states and the District of Columbia. LGBT identity is based on response to the question, "Do you, personally, identify as lesbian, gay, bisexual, or transgender?" Estimates derived from other measures of sexual orientation and gender identity will yield different results. Respondents who answered "yes" were classified as LGBT. State estimates use 2015-2017 data unless otherwise noted. Due to small overall population sizes, 2012-2017 data were aggregated for the following states: Alaska, Delaware, Hawaii, Idaho, Mississippi, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming.

To determine the number of LGBT people in the labor force protected and not protected under current state statutes, we used information from the Movement Advancement Project on whether a state did or did not have a statute that explicitly prohibits discrimination on the basis of sexual orientation and gender identity, or in the case of Wisconsin, only on the basis of sexual orientation. In total, 21 states, plus Washington DC, have a statute that extends protections to workers on the basis of both sexual orientation and gender identity. We then counted the rounded estimates of LGBT workers in states with and without protective statutes.

For Wisconsin, we counted cisgender LGB workers as protected and transgender workers as unprotected (on the basis of gender identity). To estimate the numbers of cisgender LGB and transgender workers in Wisconsin, we first calculated the percentages of LGBT adults in the state that are cisgender LGB and transgender (of any sexual orientation), 88.8% and 11.2%, respectively, using the data sources described above, and then applied those percentages to the estimated number of LGBT workers in the state.

LGBT Students

To estimate the number of LGBT students enrolled in U.S. schools, we relied upon population-based surveys for information about the percentage of the population that is LGBT and applied it to U.S. Census Bureau estimates of the number of students enrolled in school (public and private) in each state. Given that the Census Bureau's estimates of the number of students enrolled in school was only available by sex and for students in specific age groups, we identified percentage LGBT for corresponding sex and age groups to derive estimates of the number of LGBT students enrolled in each state.

To estimate the percentage of youth age 15-17 that identify as LGBT, separately for males and females:

- To estimate the percentage of males and females age 15-17 who identify as LGB, we averaged the national estimates from the 2015 and 2017 Youth Risk Behavior Surveillance Survey (YRBS), a nationally representative sample of school-enrolled high school students in grades 9-12.
 - Among males age 15-17, we estimated that approximately 4.8% identify as GB, based on an average of 4.4% of males in 2015 who identified as gay or bisexual (2% identified as gay; 2.4% identified as bisexual), and 5.1% of males in 2017 who identified as gay or bisexual (2.3% gay; 2.8% bisexual).
 - Among females age 15-17, we estimated that approximately 13.6% identify as LB, based on an average of 11.8% of females in 2015 who identified as LB (2.0% identified as lesbian; 9.8% identified as bisexual), and 15.4% of females in 2017 who identified as lesbian or bisexual (2.3% lesbian; 13.1% bisexual).
- To estimate the percentage of males and females age 15-17 who are transgender, we used the recent national estimate reported in Age of Individuals who Identify as Transgender in the United States of the percentage of 13 to 17 year old adolescents who are transgender (0.73%). To estimate the percentage of transgender adolescents who were heterosexual/not-LGB (and thus avoid double-counting sexual minority transgender adolescents in our estimate of the total count of LGB+T adolescents) we used data from the 2015-2017 Behavioral Risk Factor Surveillance System (BRFSS). Among BRFSS respondents age 18-24 (the youngest age group for which data were assessed) categorized as transgender by answering “yes, transgender, male-to-female”, “yes, transgender, female-to-male,” and “yes, transgender, gender-nonconforming” to the question “do you consider yourself to be transgender?”, 46.3% identified their sexual orientation as “straight” or other and were categorized as heterosexual/non-LGB. Applying this 46.3% to the 0.73% of youth who were transgender, we estimated that 0.3% of youth age 13-17 were transgender and not LGB-identified.
- We next added this percentage (0.3%) to the percentage GB (4.8%) among males and LB (13.6%) among females to arrive at an estimate of percentage LGBT for males (5.1%) and females (13.9%).

To estimate the percentage of adults (age 18-64) that identify as LGBT, separately for males and females:

- To estimate the percentage of males and females that identify as LGBT in specific age groupings that correspond to estimated numbers of enrolled students reported by the U.S. Census Bureau, we used data from the 2017 Gallup Daily Tracking Survey described above.
 - Age 18-19: 7.2% of males and 16.2% of females identified as LGBT
 - Age 20-24: 7.3% of males and 15.3% of females identified as LGBT
 - Age 25-34: 5.7% of males and 10.1% of females identified as LGBT
 - Age 35-64: 3.5% of males and 3.4% of females identified as LGBT

To estimate the number of LGBT youth (age 15-17) and adults (age 18-64) enrolled in school:

The numbers of students enrolled in U.S. schools by age, sex, and state were obtained from the 2017 American Community Survey 1-Year Estimates (Table B14003 “Sex by School Enrollment By Type of School By Age for the Population 3 Years and Over”).

- To estimate the number of LGBT students age 15-17 by state, we applied (multiplied) the sex-specific percentage LGBT from the YRBS to the ACS reported sex-specific estimates of public and private enrollment for youth aged 15-17 in each state, and summed counts across males and females.

- To estimate the number of LGBT students age 18-64 by state, we applied (multiplied) the age- and sex-specific percentage LGBT from Gallup to each state's ACS reported age- and sex-estimate of public and private school enrollment, and summed counts across sex and age groups.
- To estimate the number of LGBT students 15+ by state, we summed the total estimated number of youth and adult students by state and rounded to the nearest 1,000.

To determine the number of LGBT students protected and not protected under current state statutes, we used information from the Movement Advancement Project on whether a state did or did not have a statute that explicitly protected students "from discrimination in school, including being unfairly denied access to facilities, sports teams, or clubs" on the basis of sexual orientation and gender identity, or, in the case of Wisconsin, only on the basis of sexual orientation. In total, 14 states, plus Washington DC, had a statute that extended protections to students (at all levels of schooling, enrolled in public and private schools) on the basis of sexual orientation and gender identity. We then summed up the rounded estimates of LGBT students in states with and without protective statutes.

For Wisconsin, we counted cisgender LGB students as protected and transgender students as unprotected (on the basis of gender identity). To estimate the numbers of cisgender LGB and transgender students in the state, we first calculated the percentages of LGBT youth and adults in the state that are cisgender LGB and transgender (of any sexual orientation), 95.0% and 5.3%, respectively, among youth, and 88.8% and 11.2%, respectively, among adults, using the data sources described above. We then applied those percentages to the estimated numbers of LGBT youth and adult students in the state (and then summed and rounded the cisgender LGB and transgender estimates to the nearest 1,000).

LGBT People

To estimate the number of LGBT people in each state, we relied upon population-based surveys for information about the percentage of the population that is LGBT and applied it to U.S. Census Bureau estimates of the numbers of youth (ages 13-17) and adults (18+) in each state.

- To estimate the number of youth age 13-17 that identify as LGBT, we used information from the Youth Risk Behavior Surveillance Survey (YRBS) and recent estimates from The Williams Institute reported in [Age of Individuals who Identify as Transgender in the United States](#) that utilized Behavioral Risk Factor Surveillance Survey (BRFSS) data.
- To estimate the percentage of youth age 13-17 who identify as LGB (9.2%), we averaged the national estimates from the [2015](#) (8.0%) and [2017](#) (10.4%) Youth Risk Behavior Surveillance Survey (YRBS), described above.
- Then, to estimate the number of LGB youth, we applied (multiplied) this percentage to 2017 population estimates produced by the U.S. Census Bureau for youth ages 13 to 17 and rounded to the nearest 1,000. Census estimates were obtained via [American FactFinder Table PEPSYASEX](#), "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2017."
- Next, to estimate the number of transgender youth age 13-17, we used recent estimates from [Age of Individuals who Identify as Transgender in the United States](#) with a slight correction to avoid double-counting sexual minority transgender youth (adding a total of 46.3% of the estimated number of transgender youth per state to our estimate of the number of LGB youth to arrive at a total estimate of the number of LGBT youth per state).

- The estimated percentages of adults age 18 and older who identify as LGBT is derived from the [Gallup Daily Tracking Survey](#) described above. State estimates of the percentage of the population that is LGBT-identified use 2015-2017 data unless otherwise noted. Due to small overall population sizes, 2012-2017 data were aggregated for the following states: Alaska, Delaware, Hawaii, Idaho, Mississippi, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming. All percentages correspond to those reported in the Williams Institute's [LGBT Demographic Data Interactive](#).
- To estimate the number of LGBT adults age 18 and older by state, the weighted percentage of LGBT Gallup Daily Tracking respondents was applied to 2017 population estimates produced by the U.S. Census Bureau and rounded to the nearest 1,000. Census estimates were obtained via American FactFinder Table PEPSYASEX, "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2017." The estimated number (rounded to the nearest 50) of adults ages 18 and older who identify as transgender are reported in [Age of Individuals who Identify as Transgender in the United States](#).

To determine the number of LGBT people who are protected and not protected in public accommodations under current state statutes, we used information from the [Movement Advancement Project](#) on whether a state did or did not have a statute that explicitly prohibits discrimination on the basis of sexual orientation and gender identity, or, in the case of Wisconsin, only on the basis of sexual orientation. In total, 20 states, plus Washington DC, had a statute that extended protections in public accommodations on the basis of sexual orientation and gender identity. We then counted the numbers of LGBT people in states with and without protective statutes.

For Wisconsin, we counted cisgender LGB people as protected and transgender people as unprotected (on the basis of gender identity). To estimate the numbers of cisgender LGB and transgender people (of any sexual orientation) in Wisconsin, we used estimates of the numbers of transgender youth and adults in the state as reported in [Age of Individuals who Identify as Transgender in the United States](#) and subtracted them from our estimates of all LGBT youth and adults in the state. We then rounded all LGB and transgender estimates in to the nearest 1,000.

LGBT Adults (18+)

The methodological notes for our estimates of the number of LGBT adults per state are reported in Adult LGBT Population in the United States.

To determine the number of LGBT people that are protected and not protected in housing under current state statutes, we used information from the Movement Advancement Project on whether a state did or did not have a statute that explicitly prohibits discrimination on the basis of sexual orientation and gender identity, or in the case of Wisconsin, only on the basis of sexual orientation. In total, 21 states plus Washington DC, had a statute that extended protections in housing on the basis of sexual orientation and gender identity. We then counted the numbers of LGBT people in states with and without protective statutes.

For Wisconsin, we counted cisgender LGB people as protected and transgender people as unprotected (on the bases of gender identity). To estimate the numbers of cisgender LGB and transgender people (of any sexual orientation), we used an estimate of the number of transgender adults in the state as reported in [Age of Individuals who Identify as Transgender in the United States](#) and then subtracted them from our estimate of all LGBT adults in the state. We then rounded all LGB and transgender estimates in to the nearest 1,000.

To determine the number of LGBT people that are protected and not protected in credit under current state

statutes, we used information from the [Movement Advancement Project](#) on whether a state did or did not have a statute that explicitly prohibits discrimination on the bases of sexual orientation and gender identity. In total, 14 states had a statute that extended protections in credit on the bases of sexual orientation and gender identity. We then counted the numbers of LGBT people in states with and without protective statutes.

SUGGESTED CITATION

LGBT People in the United States Not Protected by State Nondiscrimination Statutes. (April 2020) The Williams Institute, UCLA, Los Angeles, CA.

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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