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**Documenting Discrimination on the Basis of Sexual Orientation
and Gender Identity in State Employment**

Title

Findings of Widespread Discrimination Against LGBT People by State and Local Legislative Bodies, Commissions, and Elected Officials

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Chapter 8: Findings of Widespread Discrimination Against LGBT People by State and Local Legislative Bodies, Commissions, and Elected Officials

A number of state and local elected officials, legislative bodies, and special commissions have issued findings of widespread discrimination against LGBT people in their jurisdictions, including discrimination in public employment. For example, in May 2007 when the governor of Ohio issued an executive order prohibiting discrimination in state employment based on sexual orientation and/or gender identity,¹ the order included the finding that the “[i]nformation compiled by the Ohio Civil Rights Commission documents ongoing and past discrimination on the basis of sexual orientation and/or gender identity in employment-related decisions by personnel at Ohio agencies, boards and commissions.”² Similarly, when the governor of Alaska issued an administrative order in 2002 prohibiting sexual orientation discrimination in state employment,³ the order stated that it was “in recognition of the findings concerning perceived institutional intolerance in state agencies set out in the final report of the Governor’s Commission on Tolerance.”⁴ And when the governor of Oregon issued an executive order in 1998 prohibiting sexual orientation discrimination it was accompanied by a “Questions and Answers” sheet that stated, “Although existing law may require equality in state employment or services, some homosexual employees or applicants for state services are

¹ Exec. Order No. 2007-10S (2007), *available at* <http://www.wright.edu/admin/affirm/ExecutiveOrder2007-10S.html> (last visited Feb. 1, 2009).

² The referenced information compiled by the Ohio Civil Rights Commission could not be found publicly.

³ Admin. Order No. 195, dated March 5, 2002, a copy of which may be found at <http://gov.state.ak.us/admin-orders/195.html>.

⁴ Admin. Order No. 195, dated March 5, 2002 *available at* <http://gov.state.ak.us/admin-orders/195.html>.

afraid to assert their rights because they fear discrimination if they make their sexual orientation public. This order is intended to reduce that fear by making it clear that the Governor expects state officials and agencies not to discriminate.”⁵ Table 8-A summarizes twenty-nine examples of such findings from seventeen different states: Alaska, California, Colorado, Hawai’i, Iowa, Idaho, Kansas, Kentucky, Maine, Maryland, Michigan, New Jersey, New York, Ohio, Oregon, Utah, and Virginia.

⁵ *Id.*

Table 8-A: Findings of Widespread Discrimination Against LGBT People by State and Local Legislative Bodies, Commissions, and Officials

State	Government Body, Elected Official, or Commission	Year	Finding
Alaska	Administrative Order ⁶ by Governor	2002	By an administrative order dated March 5, 2002, Governor Tony Knowles declared that “it was the continued goal of the executive branch to . . . prohibit and prevent discriminatory behavior in the state workplace based on race, sex, color, religion, physical or mental disability, sexual orientation, or economic status.” ⁷ In the administrative order, the Governor stated that the order was “in recognition of the findings concerning <i>perceived institutional intolerance in state agencies</i> set out in the final report of the Governor’s Commission on Tolerance.” (emphasis added) ⁸

⁶ Based on a search of references to administrative orders in Alaska case law, it seems that an administrative order may not be a source for a cause of action. Administrative orders are issued under the authority of law (and not under the force of law). Examples of administrative orders include “an order issued under AS 26.20.040 to declare a state of emergency or to exercise powers necessary for the protection of the population in time of attack; to dispose of the property of a dissolved city under AS 29.10.546; to assign functions in the executive branch under AS 44.17.060; to create interim advisory boards under AS 44.19.060; etc.” Alaska Admin. Order No. 1, dated January 23, 1964, a copy of which may be found at <http://www.gov.state.ak.us/admin-orders/001.html>. If the statute from which the governor derives authority is found to be unconstitutional, then the administrative order is void. *State v. Fairbanks N. Star Borough*, 736 P.2d 1140, 1144 (AK. 1987). By contrast, an executive order has the force of law and is subject to “disapproval” by the legislature. Alaska Admin. Order No. 1, dated January 23, 1964. That is, an executive order can change existing law because it is “issued under the authority of Article III, Sec. 23, Constitution of the State of Alaska” and reviewed by the legislature. *Id.* See also 1979 Alas. AG LEXIS 403 (Alas. AG 1979). The “legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove [the] executive [order]. Unless disapproved by resolution concurred in by a majority of the members in joint session, [the order becomes] effective at a date thereafter to be designated by the governor.” AK. CONST. Article III §23.

⁷ Ak. Admin. Order No. 195, dated March 5, 2002, a copy of which may be found at <http://gov.state.ak.us/admin-orders/195.html>.

⁸ Ak. Admin. Order No. 195, dated March 5, 2002 available at <http://gov.state.ak.us/admin-orders/195.html>.

Alaska	Governor's Commission on Tolerance Final Report	2001	One of the findings laid out in the Commission on Tolerance's final report was that "Alaska's statutes fail to protect individuals on the basis of economic status or sexual orientation. The Commission heard testimony from people who have been discriminated against in the workplace based on their sexual orientation...yet have no recourse because our laws do not specifically protect them." ⁹
California	Statement by Speaker of the State Assembly	1992	In September 1992, Governor Wilson signed a bill that added sexual orientation to the Labor Code and protecting gay individuals against job discrimination. ¹⁰ The next day he vetoed the Civil Rights Restoration Act of 1992. ¹¹ The vetoed bill would have given a state agency jurisdiction to impose criminal penalties for violations, whereas the bill he signed permitted only civil enforcement of discriminatory complaints. Assembly Speaker Willie Brown said the veto "shows a callous disregard for the basic rights of many Californians who have felt the sting and humiliation of discrimination." ¹²
California	Legislative Findings in State Statute	2003	The California Legislature, in passing a domestic partnership statute in 2003, recognized the "longstanding social and economic discrimination, many lesbian, gay, and bisexual" people in the California have faced. ¹³
Colorado	Report by State Assembly	1992	Amendment 2 would have rendered unconstitutional municipal ordinances prohibiting sexual orientation discrimination already adopted in Aspen, Boulder and Denver, but was ultimately overturned by the United States Supreme Court. ¹⁴ In conjunction with Amendment 2, the state General Assembly prepared a report called "The Report on Ballot Proposals of the Legislative Council of Colorado General Assembly, An Analysis of 1992 Ballot Proposals" ¹⁵ , to provide a survey of the law on sexual orientation discrimination and policies existing as of 1992. According to the Report: "Discussions with public agencies which maintain records on such discrimination complaints reveal that these individuals have been found to experience discrimination in access to employment, housing, military service, commercial space, public accommodations, health care, and educational facilities on college campuses. For example, of the 50 complaints reported to the Denver Agency for Human Rights and Community Relations in

⁹ GOVERNOR'S COMMISSION ON TOLERANCE FINAL REPORT, December 6, 2001 at 28-29. The Commission also made findings of discrimination and harassment based on sexual orientation in Alaska's public schools. *Id.*

¹⁰ *California Gay Rights Timeline*, available at: <http://www.pinknews.co.uk/aroundtheworld/tag/vetoes/>

¹¹ New York Times, *California Governor Vetoes Civil Rights Bill*, September 28, 1992, available at <http://query.nytimes.com/gst/fullpage.html?res=9E0CE3DF1E3BF93BA1575AC0A964958260&n=Top/Reference/Times%20Topics/People/W/Wilson,%20Pete.>

¹² *Id.*

¹³ AB 205 as chaptered January 23, 2003.

http://www.assembly.ca.gov/LGBT_Caucus/laws/2003/ab0205/fulltextchapteredbill.htm, last visited on September 3, 2009.

¹⁴ In *Romer v. Evans*, 517 U.S. 620 (1996).

¹⁵ (Research Publ. No. 369, p. 9-12, 1992).

			1991, twenty-three were incidents of discrimination based on sexual orientation. Approximately 61 percent of these reports dealt with employment discrimination. Since 1988, the Boulder Office of Human Rights has investigated ten incidents of discrimination based on sexual orientation. Four of the “No Protected Status” complaints lacked sufficient evidence to be considered discrimination based on sexual orientation. It is generally recognized that discrimination complaints often go unreported because individuals fear the repercussions and further victimization associated with disclosure of their sexual orientation. The Report went on to note that local ordinances in Aspen, Boulder and Denver protected “individuals from job, housing, and public accommodations discrimination when that discrimination is based solely on sexual orientation.” The Report concluded that none of these ordinances afforded affirmative action or minority status, but rather that “these cities have determined that discrimination based on sexual orientation was a sufficient problem to warrant protections against discrimination in the areas of employment, housing, and public accommodations.”
Hawaii	House Judiciary Committee Findings	1991	When the Hawaii House Judiciary Committee recommended that the proposed inclusion of “sexual orientation” to the Fair Employment Practices Act, it found “that the AIDS epidemic has compounded discriminatory treatment of gays and lesbians. To treat someone differently simply on the basis of what the person is and not in relation to the person’s behavior is unfair.” ¹⁶
Iowa	Civil Rights Commission Report	2007	The Iowa Civil Rights Commission, in its statement of 2007 priorities, supported the proposed amendment [to add sexual orientation and gender identity to anti-discrimination statute] and stated: “We no longer wish to see our children, neighbors, co-workers, nieces, nephews, parishioners, or classmates leave Iowa so they can work, prosper, live or go out to eat. Our friends who are gay or lesbian know the fear and pain of hurtful remarks, harassment, attacks, and loss of jobs or housing simply because of their sexual orientation or gender identity.” ¹⁷
Idaho	Statement of Purpose in Bill Introduced in State Senate	2008	“Currently in Idaho a person can be fired from their job simply because they are gay or because someone thinks they are gay. . . . This legislation will end decades of discrimination against men and women in every part of Idaho and set a tone for the state making clear that it is wrong to fire someone from a job, refuse to promote or fairly compensate someone, for no other reason than that they gay”. ¹⁸

¹⁶ STATE OF HAWAII, JOURNAL OF THE HOUSE OF REPRESENTATIVES, H. 16-907, Reg. Sess., at 1163 (1991).

¹⁷ Iowa Civil Rights Commission, Policy Statements, available at: <http://www.iowa.gov/government/crc/publications/index.html>.

¹⁸ S.B. 1323 (Id. 2008).

Kansas	Findings in Bill to add “sexual orientation“ to state anti-discrimination law	2005	During the 2005 Kansas Legislative Session, Senate Bill 285 (“SB 285”) was introduced in the Committee on Federal and State Affairs to amend the Kansas Act Against Discrimination to include “sexual orientation.” ¹⁹ The bill stated: “The practice or policy of discrimination against individuals in employment relations...by reason of...sexual orientation... is a matter of public concern to the state since such discrimination threatens not only the rights and privileges of the inhabitants of the state of Kansas but menaces the institutions and foundations of a free democratic state. It is hereby declared to be the policy of the state of Kansas to eliminate and prevent discrimination in all employment relations, ... It is also declared to be the policy of this state to assure equal opportunities and encouragement to every citizen regardless ...sexual orientation, in securing and holding, without discrimination, employment in any field of work or labor for which a person is properly qualified.” ²⁰
Kansas	Legislative Testimony on Anti-Discrimination Bill	2009	At the February 12, 2009 hearing on SB 169, Maggie Childs, Chair, Kansas Equality Coalition, presented a policy brief, entitled “The Extent of Sexual Orientation Discrimination in Topeka, KS,” ²¹ to the Senate Federal and State Affairs Committee. ²² The brief reported the results of a survey conducted from October 2003 through January 2004. One hundred twenty one (121) gay, lesbian, and bisexual residents of Topeka participated in the survey. The results suggest a history of discrimination based on sexual orientation or gender identity in Topeka, including: 16% of respondents reporting that they were denied employment; 11% reporting that they were denied a promotion; 18% reporting that they were overlooked for additional responsibilities at work; 15% reporting that they were fired; and 35% reporting that they had received harassing letters, e-mails, or faxes at work all based on the respondent’s sexual orientation or gender identity. ²³ Furthermore, 47% of respondents reported that they had to conceal their sexual orientation or gender identity to protect their jobs. The report concluded, and 89% of respondents agreed, that a comprehensive nondiscrimination law that includes sexual orientation and gender identity could help to alleviate the pervasive discrimination in employment.

¹⁹ Telephone Interview of Kim Horp, Reference Librarian, State Library of Kan. (Jan. 23, 2009) (hereinafter “Telephone Interview”).

²⁰ Kan. S.B. 285 (Kan. 2005).

²¹ *The Extent of Sexual Orientation Discrimination in Topeka, KS*, Roddrick Colvin, National Gay and Lesbian Task Force Policy Institute.

²² Minutes of the Kansas Senate Federal and State Affairs Committee, February 12, 2009.

²³ *The Extent of Sexual Orientation Discrimination in Topeka, KS*, Roddrick Colvin, National Gay and Lesbian Task Force Policy Institute, at 2.

Kentucky	Statement of City Alderman	1999	One of the Louisville Aldermen to vote in favor of the Louisville civil rights ordinance to prohibit employment discrimination on the basis of sexual orientation and gender identity, Steve Magre, had previously voted against the proposal in three earlier versions. He reportedly changed his mind after hearing “personal testimonials . . . about employment discrimination faced by Louisvillians.” ²⁴
Maine	Finding in City Ordinance	1999	The Falmouth town council found that “The population of the Town of Falmouth is diverse and includes people of every sexual orientation (they are our family members, neighbors, friends, employees, taxpayers, landlords and tenants, lenders and borrowers), some of whom are at risk of being discriminated against in employment opportunities, housing, access to public accommodations, education, and the extension of financial credit. Many individuals are reluctant to report acts of harassment or violence because of their sexual orientation because of a lack of legal protection against discrimination in employment, housing, access to public accommodations, education, and the extension of financial credit. Therefore, to protect the public health, safety, and welfare, it is declared to be the policy of this town to prevent discriminatory practices that infringe on the basic human right to a life with dignity, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing, access to public accommodations, education, or the extension of credit on account of sexual orientation.” ²⁵
Maine	Finding in City Ordinance	1998	The City of Portland found that “The population of the City Portland is diverse and includes people of every sexual orientation, some of whom are at risk of being discriminated against in employment opportunities, housing, access to public accommodations and in the extension of financial credit.” ²⁶
Maine	Finding in City Ordinance	2000	The Portland City Council found that “(a) The population of the city consists of people of every sexual orientation, some of whom are discriminated against in employment opportunities, housing, access to public accommodations and in the extension of financial credit; ... (c) There has been a disturbing increase in the number of violent incidents within the city in which individuals have been attacked because of their sexual orientation; and (d) The lack of legal protection for individuals discourages them from publicizing acts of discrimination out of fear of reprisal.” ²⁷

²⁴ GenderNews, *Louisville, KY Gets Fairness Law with Some TG Protection*, January 26, 1999, available at <http://www.ifge.org/news/1999/feb/nws99feb25.htm#story2>.

²⁵ See <http://www.municode.com/resources/gateway.asp?pid=12125&sid=19> (visited July 29, 2009).

²⁶ See City of South Portland Ord. 97/98 (2008-2009), available at <http://www.memun.org/SchoolsProject/Resources/Ordinance/SexOrientationSP.htm>.

²⁷ See City of Portland, Code of Ordinances, Ch. 13.5, Art. II, § 13.5-21, available at: http://www.ci.portland.me.us/Chapter013_5.pdf

Maryland	Special Commission Created by the Governor	2000	In October 2000, Governor Glendening created a Special Commission to Study Sexual Orientation Discrimination in Maryland, motivated by the death of his brother, who served for many years in the armed forces and had lived “in the closet.” ²⁸ The Special Commission held hearings regarding sexual orientation discrimination. 60% of people in Maryland favored a ban on discrimination against gay men and lesbians. ²⁹ Of the 113 oral testimonies at the hearings 87 were in favor of passage and 26 were opposed. The testimony of proponents of the bills tended to focus on personal stories of discrimination as well as a desire to simply work on “a level playing field,” opponents’ testimony was largely based on the belief that homosexuality is immoral and invoked their religious beliefs to support this position. ³⁰ Maryland passed a non-discrimination bill the next year.
Maryland	Memorandum by County Attorneys passing gender identity discrimination ordinance	2007	Two staff attorneys working for Montgomery County presented a detailed memorandum to the County Council regarding Montgomery County Bill 23-07. ³¹ The County Memorandum included testimony from the Montgomery County Chapter of the American Civil Liberties Union in favor of the measure, which recounted the story of a woman who was offered a job with the Library of Congress Congressional Research Service only to have it withdrawn when she revealed that she would undergo gender reassignment surgery. ³² Similarly, a letter from Equality Maryland cited a survey indicating that 42 percent of transgender individuals are unemployed, 31 percent have annual incomes below \$10,000, and 19 percent do not have their own living space in the Washington, D.C. region. ³³ Finally, the Council Memorandum contained a letter from a resident detailing the professional challenges she faced after coming out as transgendered. ³⁴ This proposal was enacted in 2007 by a unanimous vote of the County Council.
Michigan	Statement of Purpose in Governor’s Executive Directive	2007	<u>Executive Directive 2007-24</u> : Issued November 21, 2007, ED 2007-24 protects employees in the State’s executive branch from discrimination and harassment based on “gender identity or expression.” The directive states, “[t]o build a more inclusive Michigan our state government must be a model of tolerance, accessibility, equal opportunity -- reaching out to people, knocking down barriers, and

²⁸ Geoffrey Greif & Daphne McClellan, *Being Heard on Sexual Orientation: An Analysis of Testimonies at Public Hearings on an Anti-Discrimination Bill*, 8 J. HUMAN BEH. IN SOC. ENVIRON. 2,3 (2003).

²⁹ T.W. Waldron, *Answers Put State Among Progressives*, BALT. SUN, Jan. 10, 2001, at A1, A14.

³⁰ *Id.*

³¹ Memorandum from Amanda Mihill & Michael Faden to [the Montgomery] County Council (Nov. 13, 2007) (“Council Memorandum”), available at http://www.montgomerycountymd.gov/content/council/pdf/agenda/col/2007/071113/20071113_11.pdf.

³² *Id.* at 24.

³³ *Id.* at 26.

³⁴ *Id.* at 28.

			dispelling prejudices which hold Michigan back;...when the State of Michigan acts inclusively, the state benefits from the contribution and full participation of all Michigianians;... the employment practices of the State of Michigan should promote public confidence in the fairness and integrity of government, and should reflect a firm commitment to strengthening and developing equal employment opportunities;... state employment policies and procedures that encourage non-discriminatory and equal employment practices provide desirable models for the private sector and local governments and build upon successful policies and procedures of private and public sector employers." The directive adds "gender identity or expression" to a list of other prohibited forms of discrimination and harassment, including religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability and genetic information.
New Jersey	Finding in State Statute	1991 and 2006	In support of the LAD, the New Jersey Legislature found as follows: "The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of ... gender identity or expression, [or] affectional or sexual orientation, ... are matters of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State.... The Legislature further declares its opposition to such practices of discrimination when directed against any person by reason of the ... gender identity or expression, [or] affectional or sexual orientation ... in order that the economic prosperity and general welfare of the inhabitants of the State may be protected and ensured. The Legislature further finds that because of discrimination, people suffer personal hardships, and the State suffers a grievous harm. The personal hardships include: economic loss; time loss; physical and emotional stress; and in some cases severe emotional trauma, illness, homelessness or other irreparable harm resulting from the strain of employment controversies; relocation, search and moving difficulties; anxiety caused by lack of information, uncertainty, and resultant planning difficulty; career, education, family and social disruption; and adjustment problems, which particularly impact on those protected by this act." ³⁵
New York	Executive Order by Governor	1983	When issuing the first executive order to forbid employment discrimination on the basis of sexual orientation in New York in 1983, Governor of New York Mario M. Cuomo stated: "As Secretary of State, I was required to issue special regulations to prohibit discrimination against individuals seeking licenses for certain occupations or corporate privileges. Up to that time such licenses were denied on the basis of sexual orientation

³⁵ N.J. STAT. ANN. § 10:5-3.

			or even presumed sexual orientation. There is no reason to believe that the discrimination apparent in that part of government was confined there. No one argued then against my change in the State's regulations. No one was heard to say that government had no place in fighting unfair discrimination. In fact, in recognition of this, a personnel directive against discrimination in hiring was issued during the prior administration." (emphasis added) ³⁶ In the Executive Order, Cuomo established the Office Employee Relations and vested it with the authority to "promulgate clear and consistent guidelines prohibiting discrimination based on sexual orientation to maintain an environment where only job-related criteria are used to assess employees of the State." ³⁷
New York	Sponsorship Memo from New York Assembly Member for Anti-Discrimination Statute	2001	"Discrimination based on sexual orientation is widespread and commonplace throughout the State of New York despite our best efforts to eliminate it. These efforts are hampered substantially because the State's laws do not prohibit discrimination based on sexual orientation. It exists -- both directly and indirectly -- in employment, in housing, in public accommodations and services. It affects people of all ages, races, genders, religions and sexual orientations. It hinders the economic development of the entire State." ³⁸
New York	Legislative Findings in Anti-Discrimination Statute	2002	"The legislature further finds that many residents of this state have encountered prejudice on account of their sexual orientation, and that this prejudice has severely limited or actually prevented access to employment, housing and other basic necessities of life, leading to deprivation and suffering. The legislature further recognizes that this prejudice has fostered a general climate of hostility and distrust, leading in some instances to physical violence against those perceived to be homosexual or bisexual." ³⁹
New York	Letter from the Mayor Of New York City to the Governor of New York	2001	"The need for such legal safeguards against sexual orientation discrimination is well established. In 1986, in response to a growing number of documented incidents of discrimination on the basis of real or perceived sexual orientation, the City enacted into local law protection against discrimination on the basis of sexual orientation. Since its enactment, the number of sexual orientation discrimination claims filed in the City have dramatically increased. In FY92, 13 such claims were filed; in FY93, 45 filed; FY94, 62 filed; FY95, 57 filed; FY96, 95 filed; and FY97, 101 filed." ⁴⁰

³⁶ Mario M. Cuomo, Nov. 18, 1983, Executive Order 28: Establishing a Task Force on Sexual Orientation Discrimination, N.Y. COMP. CODE R. & REGS. tit. 9, § 4.28 (1983).

³⁷ *Id.*

³⁸ N.Y. Assembly Mem. in Support, Bill Jacket, 2002 A.B. 1071, Ch. 2 (Jan. 17, 2001)

³⁹ 2002 N.Y. Laws ch. 2, § 1.

⁴⁰ Dec. 17, 2002 letter from the Office of the Mayor, The City of New York to Governor George H. Pataki recommending approval of SONDA.

New York	Legislative Findings in Anti-Discrimination Bill	2009	In connection with New York A.5710/S.2406 (2009), legislation that would in relevant part, prohibit discrimination based on gender identity or expression in employment, the legislature makes the following statement regarding legislative intent in §1 of the bill. “The legislature further finds that many residents of this state have encountered prejudice on account of their gender identity or expression, and that this prejudice has severely limited or actually prevented access to employment, housing and other basic necessities of life, leading to deprivation and suffering. The legislature further recognizes that this prejudice has fostered a general climate of hostility and distrust, leading in some instances to physical violence against those perceived to live in a gender identity or expression which is different from that traditionally associated with the sex assigned to that person at birth.” ⁴¹
New York	Sponsorship Memo from New York Assembly Member for Anti-Discrimination Statute	2009	The bill’s sponsor memo for A.5710 states as the justification for the legislation that: “The transgender community is still not protected from discrimination under the law. Transgender people whose gender identity, appearance, behavior, or expression differs from their genetic sex at birth face discrimination in housing, employment, public accommodations and many other areas of life, and they are particularly vulnerable to hate crimes.” ⁴²
Ohio	Executive Order by Governor	2007	In May 2007, Ohio Governor Strickland issued executive order 2007-10S prohibiting discrimination in public employment based on sexual orientation and/or gender identity. ⁴³ The Executive Order states that, “[i]nformation compiled by the Ohio Civil Rights Commission documents ongoing and past discrimination on the basis of sexual orientation and/or gender identity in employment-related decisions by personnel at Ohio agencies, boards and commissions.” ⁴⁴
Oregon	Executive Order by Governor	1988	The Executive Order prohibiting discrimination in public employment on the basis of sexual orientation includes the following: “Oregon was settled by those who cherished fairness and the opportunity to use their skills and talents as they saw fit. Oregon law embodies this belief in its use of objective standards for the provision of services, and in its declaration that personnel decisions be made ‘without regard to non-job related factors.’ (ORS 240.306(1)).” ⁴⁵ From the Executive Order Questions and Answers issued with the Executive Order: “Although existing law may require equality in state employment or services, some

⁴¹ 2009 N.Y. A.B. 5710; and see 2009 N.Y. S.B. 2406.

⁴² 2009 Legis. Bill Hist. N.Y. A.B. 5710, <http://assembly.state.ny.us/leg/?bn=A05710>.

⁴³ Exec. Order No. 2007-10S (2007), available at <http://www.wright.edu/admin/affirm/ExecutiveOrder2007-10S.html> (last visited Feb. 1, 2009).

⁴⁴ The referenced information compiled by the Ohio Civil Rights Commission could not be found publicly.

⁴⁵ Or. Exec. Order No. EO-87-20 (1988).

			homosexual employees or applicants for state services are afraid to assert their rights because they fear discrimination if they make their sexual orientation public. This order is intended to reduce that fear by making it clear that the Governor expects state officials and agencies not to discriminate,”(emphasis added) ⁴⁶ and “...[this Executive Order] says that lifestyle is irrelevant to a person’s ability to do a good job, or to their need for state services.” ⁴⁷
Oregon	Special Task Force of the Governor	2006	The Oregon Equality Act is a result of the Governor’s Task Force on Equality in Oregon, which was established in February 2006 by Executive Order No. 06-03. The Governor charged the Task Force with studying whether changes to Oregon law were necessary to guarantee that Oregonians are protected from discrimination in employment, housing, public accommodations and other opportunities, regardless of sexual orientation or gender identity. The Task Force held public meetings throughout Oregon and issued a report on December 15, 2006. The report notes, among other things that: (1) courts have determined that homosexuals are a “suspect class” under the Oregon Constitution; (2) discrimination based on sexual orientation exists in Oregon; and (3) laws and ordinances that prohibit discrimination based on sexual orientation have not had a negative impact on businesses. The Oregon law prohibiting discrimination on the basis of sexual orientation and gender identity was passed in 2007. ⁴⁸
Utah	Report by Utah Anti-Discrimination and Labor Division, Salt Lake City Human Rights Commission	2009	According to the 2009 Discrimination Report issued by this Salt Lake City Human Rights Commission, Utah Antidiscrimination and Labor Division (“UALD”) no longer keeps data on sexual orientation and gender identity discrimination complaints. ⁴⁹ When statistics were kept, between June 2007 and September 2008, the data suggested an average of three sexual orientation and gender identity employment discrimination complaints per month. ⁵⁰ The Report also found that the forms of discrimination currently experienced by Salt Lake City’s residents includes heterosexism. ⁵¹ Individuals present at the focus groups conducted by the Commission reported facing

⁴⁶ *Id.*

⁴⁷ Or. Exec. Order No. EO-87-20 (1988), *Questions and Answers*.

⁴⁸ Or. S.B. 2 (2007) (legislative history).

⁴⁹ 2009 DISCRIMINATION REPORT, Salt Lake City Human Rights Commission (2009), at p.1.

⁵⁰ *Id.*

⁵¹ *Id.*

			discrimination in both housing and employment, including eight people who believed they were terminated from their jobs when their sexual orientation was discovered. ⁵²
Virginia	Report of Virginia Department of Health and Virginia HIV Community Planning Committee	2007	In January 2007 the Virginia Department of Health, in conjunction with the Virginia HIV Community Planning Committee, published a report on the life experiences of transgender Virginians. ⁵³ The study, consisting of a final analysis sample of 350 respondents, ⁵⁴ found that 20% of transgender Virginians had been denied a job and 13% had been fired due to their transgender status or gender expression. ⁵⁵ Of the respondents, 9% were unemployed at the time of the survey and 39% reported incomes at or below the poverty level (\$17,000/year). ⁵⁶

⁵² *Id.* at p. 32.

⁵³ *The Health, Health-related Needs, and Lifecourse Experiences of Transgender Virginians*, Richmond: Division of Disease Prevention through the Centers for Disease Control and Prevention, Virginia Department of Health, Xavier, J.M, Hannold, J.A., Bradford, J., Simmons R., January, 2007.

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 21.

⁵⁶ *Id.* at 14.