

LGBTQ+ Business Climate Score

Pennsylvania

69.2

out of a possible 100 points



Out Leadership's Business Climate Index for the 50 United States is an assessment of states' performance on LGBTQ+ inclusion. It measures the impact government policies and prevalent attitudes have on the LGBTQ+ people residing in each state, quantifying the economic imperatives for inclusion and the costs of discrimination. It equips business leaders and policy makers with a clear sense of the most impactful steps states can take to make themselves more hospitable to forward-thinking, innovative, inclusive businesses.

Color Coding

NO RISK	LOW RISK	MODERATE RISK	NOTABLE RISK	HIGH RISK
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For more context around these scores, and to learn more about the criteria we used to assess how state laws, actions and attitudes toward LGBTQ+ people create business and talent risks, please visit www.outleadership.com/staterisk

Pennsylvania



Legal & Nondiscrimination Protection

Pennsylvania lacks statewide discrimination laws protecting sexual orientation and gender identity, but two state agencies expanded nondiscrimination protections. These expansions lack binding authority but strengthen recourse. The state explicitly interprets existing prohibition against sex discrimination to include sexual orientation and gender identity. Gender marker changes on birth certificates [cut and driver's licenses both] require a letter from a doctor, or licensed provider. ID gender marker changes just require filling out a form, and neither require surgery.

18_{/20}



Youth & Family Support

Conversion therapy remains legal in Pennsylvania. State laws don't prohibit adoption by same-sex couples, but neither do they provide protections, particularly not for the non-biological parent in lesbian couples where one of the women carries the child. While there is no state nondiscrimination policy in school, state explicitly interprets existing prohibition against sex discrimination to include sexual orientation and gender identity.

14_{/20}



Political & Religious Attitudes

The governor and one U.S. senator, Bob Casey, have strong records of pro-LGBTQ+ voting and statements. The second senator, Pat Toomey, has evolved on LGBTQ+ issues but maintains a track record of championing "traditional" family units over LGBTQ+ rights. Pennsylvania has broad constitutional or statutory religious exemption laws.

17.2_{/20}



Health Access & Safety

Medicaid and private insurers in Pennsylvania are prohibited from discriminating against transgender people in their coverage. Pennsylvania's hate crimes law does not enumerate sexual orientation or gender identity as protected classes. Knowingly transmitting HIV is a felony.

10_{/20}



Work Environment & Employment

14% of transgender employees in Pennsylvania report being harassed in the past year due to their gender identity, and 18% report mistreatment such as being forced to use a restroom not matching gender. 26% of LGBTQ+ Pennsylvanians report food insecurity, twice that of non-LGBTQ+ Pennsylvanians. LGBTQ+ unemployment (11%) is more than double the general rate (5%).

10_{/20}

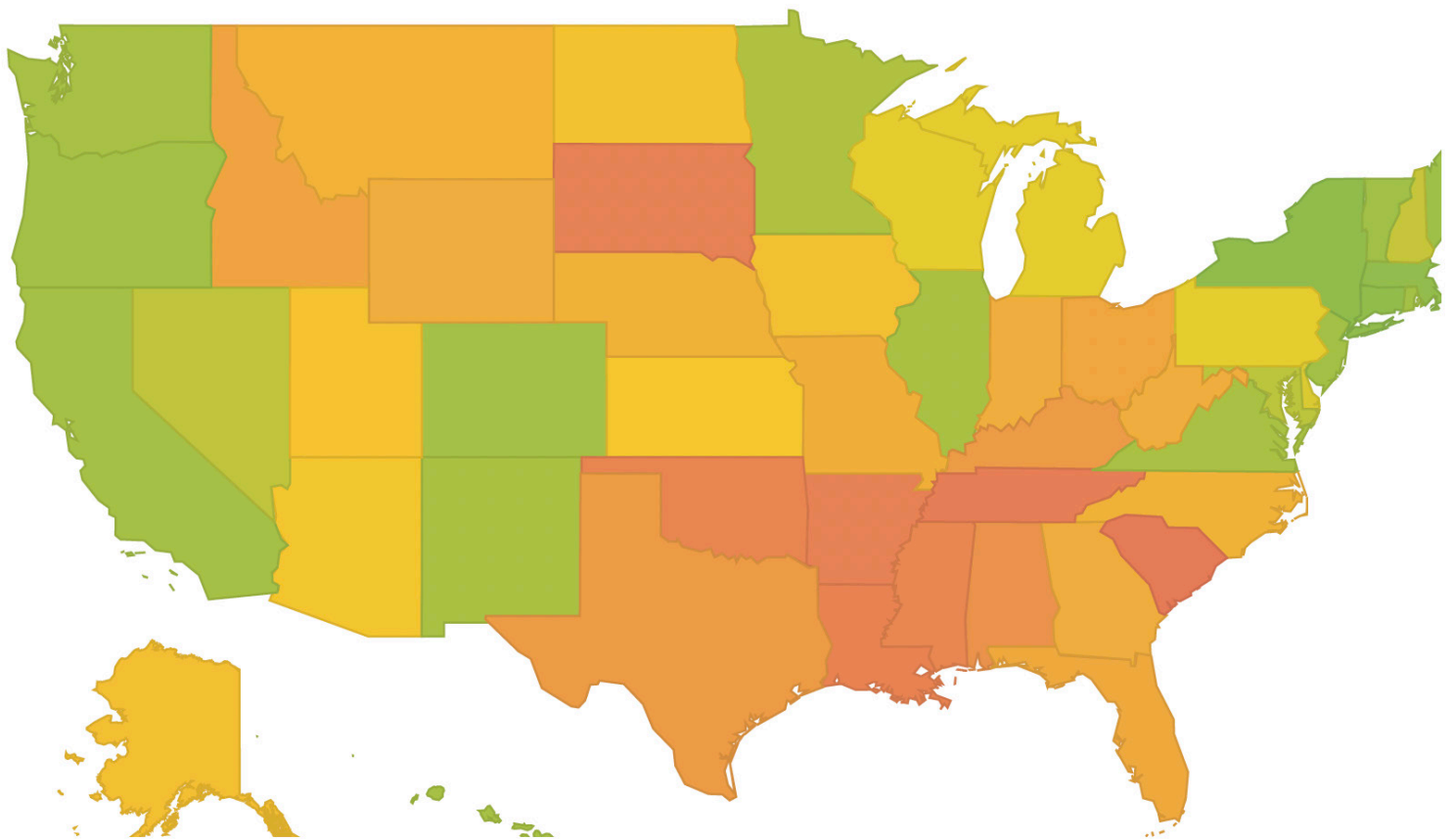
A Note on Methodology

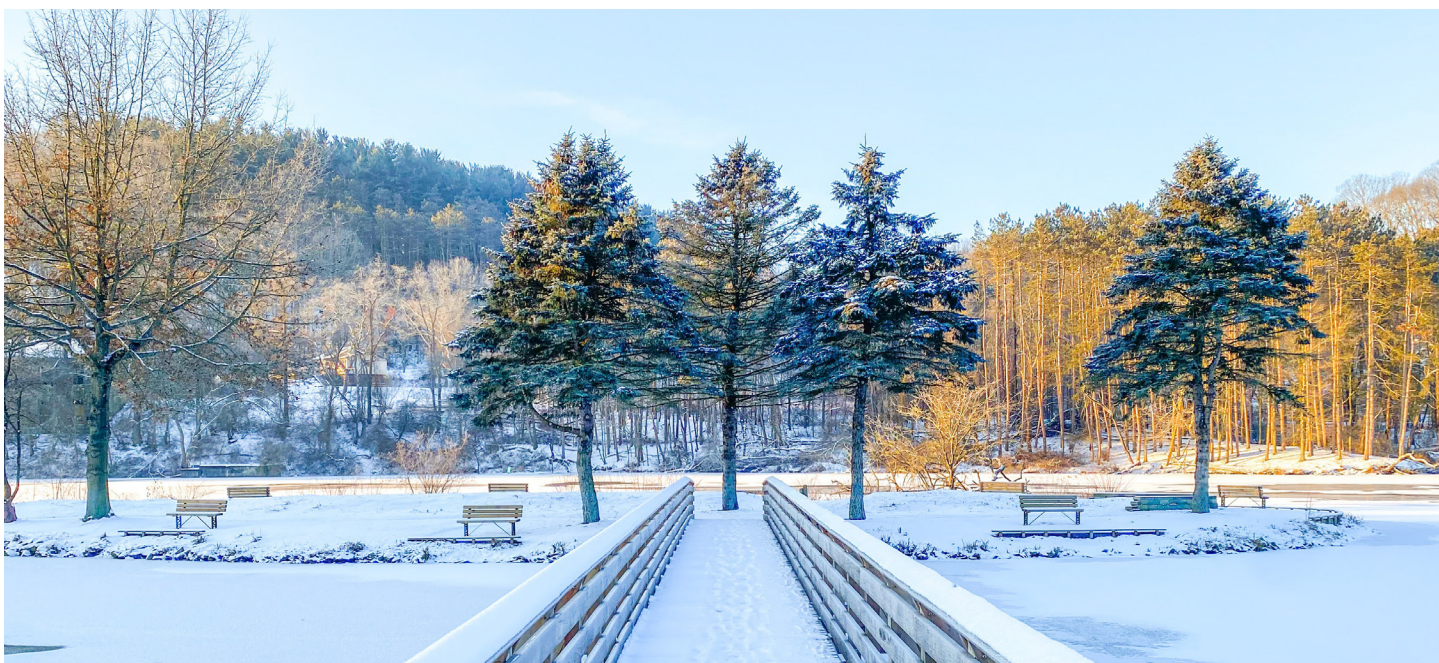
Download this report to learn how and why Out Leadership created the LGBTQ+ Business Climate Index for the 50 U.S. States, with important details about our methodology, including our data standards and practices. NOTE: *HIV criminalization laws are discriminatory and ineffective. These laws fail to account for advances made in treating and controlling HIV, may deter people from getting tested and seeking treatment, and can exacerbate the stigma targeting people living with HIV and LGBTQ+ people.



United States Heat Map

The legal and cultural situation for LGBTQ+ people varies widely across the country. This map, based on each state's total Business Climate Score, illustrates the states where LGBTQ+ people are empowered to participate more fully and openly in the economy, and the states that are lagging behind.





Pennsylvania Talking Points

4.1% of Pennsylvanians identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$29 billion – it's a market my business can't afford to ignore.

When LGBTQ+ employees don't feel welcome at work, they're less likely to stay, and employee turnover is a drag on the state economy and business competitiveness. It costs companies an average of

\$9,752 to replace an employee in Pennsylvania, and it can cost up to \$492,000 to replace senior executives. Pennsylvania and the businesses operating there have strong incentives to create inclusive workplaces in the interest of keeping these costs down.

Nondiscrimination policies allow LGBTQ+ people to participate more fully in the economy.

Millennial and Gen Z consumers prefer to do business with companies with LGBTQ+ friendly advertising and policies – 54% say they're more likely to choose an LGBTQ+ inclusive brand over a competitor – which is why it's important that Pennsylvania continue to foster a business environment where being inclusive is supported.

Pennsylvania has a regressive attitude towards trans people when it comes to hate crimes and antidiscrimination protections. Treating trans people as unequal makes us look complicit if we choose to do business in Pennsylvania – equality is good for everyone's bottom line.



Regional Context

The Northeast

Out Leadership and FCB partnered on original market research into the attitudes of American workers on LGBTQ+ inclusion, which fielded in 2019 and 2020. These briefs as a whole will be updated on an ongoing basis by Out Leadership because we recognize the ever-changing nature of policy on the local, state, and national level.

The Northeast has the lowest percentage of those who are out at work (49.6%). LGBTQ+ workers in urban environments, however, do feel slightly more comfortable talking about their personal lives vs urban LGBTQ+ workers in the rest of the country (17% more likely than nationwide). Workers in this region are more likely to hear or engage in negative conversations about LGBTQ+ people at work. Particularly for the non-LGBTQ+ group, which is 23% more likely to report observing or experiencing negative conversations about LGBTQ+ people vs the nation as a whole.

Despite being more likely to hear negative conversations at work, workers in this region are the least likely to say that they hear this negativity from state leadership. They are 61% less likely to report that leadership in their state talks about LGBTQ+ people in predominantly negative terms. Like most regions, there is a strong difference between urban and rural audiences, especially for the self-rated importance of team diversity when looking for jobs. LGBTQ+/Allies living in Rural areas care the least about diverse teams when looking for jobs (49% less likely than nationwide).

Finally, audiences in the Northeast were 20% more likely to list "Supporting LGBTQ+ Pride celebrations" as one of their top 3 ways businesses can demonstrate their support for the community.

Unless otherwise noted, all comparisons for more or less likely are compared to the National results. Regional results are based off of 1,500 respondents (LGBT+ and Non-LGBT+ responses have been weighted to be age-representative for each audience in each region). National results are based off of 600 respondents representative of each audience (LGBT+ vs Non-LGBT+).

States in the Northeast region included: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont.



Current Legal Status of LGBTQ+ People in Pennsylvania

Legal status of the Lesbian, Gay and Bisexual Community

Pennsylvania does not have statewide nondiscrimination legislation explicitly covering LGBTQ+ individuals. However, various nondiscrimination protections apply due to statewide policy interpretations, executive orders and municipalities' actions.

In August 2018, the Pennsylvania Human Relations Commission expanded nondiscrimination protection under two state laws to include LGBTQ+ individuals. The first law, the Pennsylvania Human Relations Act (PHRA), prohibits discrimination in the context of employment, public accommodation, housing and commercial property. The second law is the Pennsylvania Fair Educational Opportunities Act (PFEOA), which prohibits discrimination in post-secondary education. LGBTQ+ people can file complaints with the Commission under PHRA and PFEOA. The two pieces of guidance define "sex" as a protected class to include "sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity, and/or gender expression depending on the individual facts of the case."

Despite these recent advances in the interpretation and enforcement of nondiscrimination laws, the PHRA and PFEOA do not include the words "sexual orientation" or "gender identity," which means they lack binding legal authority.

State employees and employees of contractors doing business with Pennsylvania are protected against discrimination on the basis of sexual orientation and gender expression or identity.

Philadelphia's local nondiscrimination legislation is particularly robust and ban LGBTQ+ discrimination in housing and public places. The city also classifies attacks based on sexual orientation or gender identity as hate crimes.

In Philadelphia, foster and adoption agencies which contract with the city are required to abide by its nondiscrimination policies.

For pregnant same-sex female couples married at the time of the child's birth, the Pennsylvania Department of Health, Vital Records Department will issue birth certificates with the names of both same-sex spouses listed as the parents.

Pennsylvania law is not settled with respect to the recognition of parental rights for same-sex partners, even when they are married and both listed

on their child's birth certificate. Same-sex partners who conceive using donors should pursue adoption by the non-biological parent to ensure parental rights are recognized. The 2002 Pennsylvania Supreme Court decision *In re Adoption of R.B.F.* expressly allows second-parent adoptions, enabling a same-sex parent to adopt his or her partner's biological or adoptive child without terminating the first parent's legal status.

Surrogacy contracts are legal for same-sex couples in Pennsylvania.

No state law prohibits joint adoption by a same-sex couple. Pennsylvania's hate crimes law does not enumerate sexual orientation or gender identity as protected classes.

There's no statewide law banning conversion therapy in Pennsylvania. At the local level, it's banned in Pittsburgh, Philadelphia, Allentown, Doylestown, Reading, State College, Yardley Borough and Bethlehem. There was a proposed bill to ban it introduced in the house in 2019 but it stalled in committee.

Pennsylvania's Religious Freedom Protection Act ("RFPA") states that a state "agency shall not substantially burden a person's free exercise of religion, including any burden that results from a rule of general applicability." A person may assert that an agency has violated this law as a defense in a judicial or administrative proceeding, and may bring an action in court in certain circumstances. As noted previously, the new guidance for the PHRA and PFOEA may result in respondents' use of the protections under RFPA to avoid enforcement of nondiscrimination. Pennsylvania's law only applies to only applies to individuals, churches and tax-exempt organizations (not for-profit businesses like bakers or florists).

Legal Status of the Transgender Community

Children in foster care are protected from gender discrimination.

To update the gender marker on a Pennsylvania birth certificate, an individual must simply fill out a request form, specifying male, female, or nonbinary or "x."

To update the gender marker on a Pennsylvania driver's license or identification card, an individual must have a signed statement from a licensed provider certifying the individual's gender identity.

Name changes on Pennsylvania driver's licenses and identification cards require the support of official documentation, such as a court order certifying the change.

Some municipalities have laws protecting transgender individuals and students in lieu of statewide laws. For instance, Philadelphia public schools are required

to allow transgender students to use facilities consistent with their gender identity. Similarly, single-occupancy public bathrooms in Philadelphia are required to have gender-neutral signage.

Pennsylvania Medical Assistance program (Medicaid) has covered some surgical procedures and medical care related to gender confirmation. Insurers in the state are prohibited from discriminating on the basis of sex, sexual orientation or gender identity, meaning medically necessary services must be covered regardless of a policyholder's gender identity.

Government Statements and Actions

Former Pennsylvania health secretary Rachel Levine became the highest-ranking trans official in the nation's history – and the first openly trans person to be confirmed by the US Senate – when she was confirmed as President Joe Biden's assistant health secretary.

After Republican state lawmakers introduced a trans sports inclusion ban in 2021, Gov. Tom Wolf proclaimed that, should it pass, he would veto it. The bill is currently still in review by the Pennsylvania House and Senate.

In May 2020, Pennsylvania became the first state to collect sexual orientation and gender identity data for coronavirus cases.

In July 2018, a Third Circuit panel held that transgender-inclusive policies in a Pennsylvania school that allow transgender students to use the locker and restrooms that are consistent with their gender identities do not violate anyone's constitutional rights to bodily privacy. The case, *Doe Boyertown Area School District*, was appealed to the U.S. Supreme Court, but justices denied to entertain it.

In August 2018, Governor Tom Wolf signed an executive order creating the Pennsylvania Commission on LGBTQ+ Affairs to serve as the Commonwealth's advocate agency for LGBTQ+ citizens. Tasked with advising the governor on policies, procedures, legislation and regulations that impact the LGBTQ+ community, as well as acting as a resource for Commonwealth and local agencies, departments and citizens, the Commission on LGBTQ+ Affairs is the first of its kind in the United States.

In June 2018 Governor Tom Wolf vowed to veto a Republican-sponsored bill pending in the state legislature that could nullify numerous LGBTQ+-inclusive ordinances.

Democrats in the state legislature have repeatedly tried to add sexual orientation and gender identity to the state's nondiscrimination laws, thus far unsuccessfully.



Impact of LGBTQ+ Discrimination on Business Talent

1 NO RISK

2 LOW RISK

3 MODERATE RISK

4 NOTABLE RISK

5 HIGH RISK

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Brand Risk

2 LOW RISK

Companies incur low risk to their brands by operating in Pennsylvania, where there are no statewide LGBTQ+ inclusive nondiscrimination protections, but the conversation is slowly moving in the right direction.

Client Risk

2 LOW RISK

There is low risk of LGBTQ+ or strong ally clients pulling their business from companies operating in Pennsylvania in light of the state's business climate and reputation.

Talent Risk

2 LOW RISK

Pennsylvania lacks statewide comprehensive nondiscrimination laws, which might make LGBTQ+ professionals think twice about moving there.

Marketing Risk

3 MODERATE RISK

Attitudes towards LGBTQ+ people can vary widely between Pennsylvania's major cities and its rural areas, so companies incur moderate risk by marketing to LGBTQ+ people there.

Future Risk

1 NO RISK

Pennsylvania has a low volume of negative bills filed in recent years, and none enacted in law, and we would not expect that to change in the near future. We assess this state as currently having no risk of a negative, headline-making event.

Socio-cultural Environment of LGBTQ+ People in Pennsylvania

Status of LGBTQ+ Organizing and Community

There's currently no statewide LGBTQ+ focused equality organization in Pennsylvania.

The Mayor of Philadelphia established an Office of LGBTQ+ Affairs, which made international news in 2017 with its introduction of the More Color, More Pride LGBTQ+Pride flag.

Cultural Views of the LGBTQ+ Community

68% of Pennsylvanians favor nondiscrimination laws to protect LGBTQ+ people.

56% oppose allowing LGBTQ+ discrimination on religious grounds.





Partners

Our partnerships make our work possible. The first State LGBTQ+ Business Climate Index released in 2019 was funded by a grant from the Gill Foundation. The Index is based on data graciously shared by the Movement Advancement Project and the Williams Institute. Ropes & Gray is our pro bono legal partner for the CEO Business Briefs globally, and their research informs this Index. FCB partnered with us to conduct original market research into American attitudes toward LGBTQ+ workplace inclusion, informing the Regional Context section of the State CEO Briefs. America Competes supported the development of the scoring for the Risk Assessments, particularly for the Future Risk score.

