

LGBTQ+ Business Climate Score

# Texas

45.63

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



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](http://www.outleadership.com/staterisk)

# Texas



### Legal & Nondiscrimination Protection

There are no statewide nondiscrimination protections for sexual orientation and gender identity in Texas, though some have been passed at the local level in several major cities. Gender markers can be changed on birth certificates and driver's licenses but only through court orders, and both require a doctor's note. Surgery is not required in either case.



### Youth & Family Support

Conversion therapy is legal in Texas. The state is one of seven states that prohibit teaching about LGBTQ+ issues or history in the education system. Child welfare officials as well as state-funded adoption and foster care agencies are allowed to act in accordance with their religious beliefs to discriminate against LGBTQ+ people.





## Political & Religious Attitudes

Texas state lawmakers are actively working to crack down on LGBTQ+ rights. The state already has a Religious Freedom Restoration Act in place. The governor of Texas and both senators have active anti-LGBTQ+ records.

7.40<sub>/20</sub>



## Health Access & Safety

Texas Medicaid does not cover transgender healthcare, and the state does not ban the exclusion of transgender healthcare coverage by private insurers. While there are no laws criminalizing HIV status, prosecutions of HIV+ individuals have occurred under general criminal codes.

12<sub>/20</sub>



## Work Environment & Employment

13% of transgender employees in Texas report being harassed in the past year due to their gender identity, and 29% report mistreatment such as being forced to use a restroom that does not match their gender. 27% of LGBTQ+ Texans report food insecurity, compared to 16% of non-LGBTQ+ Texans. LGBTQ+ unemployment (8%) is slightly higher than the general population (6%).

11<sub>/20</sub>

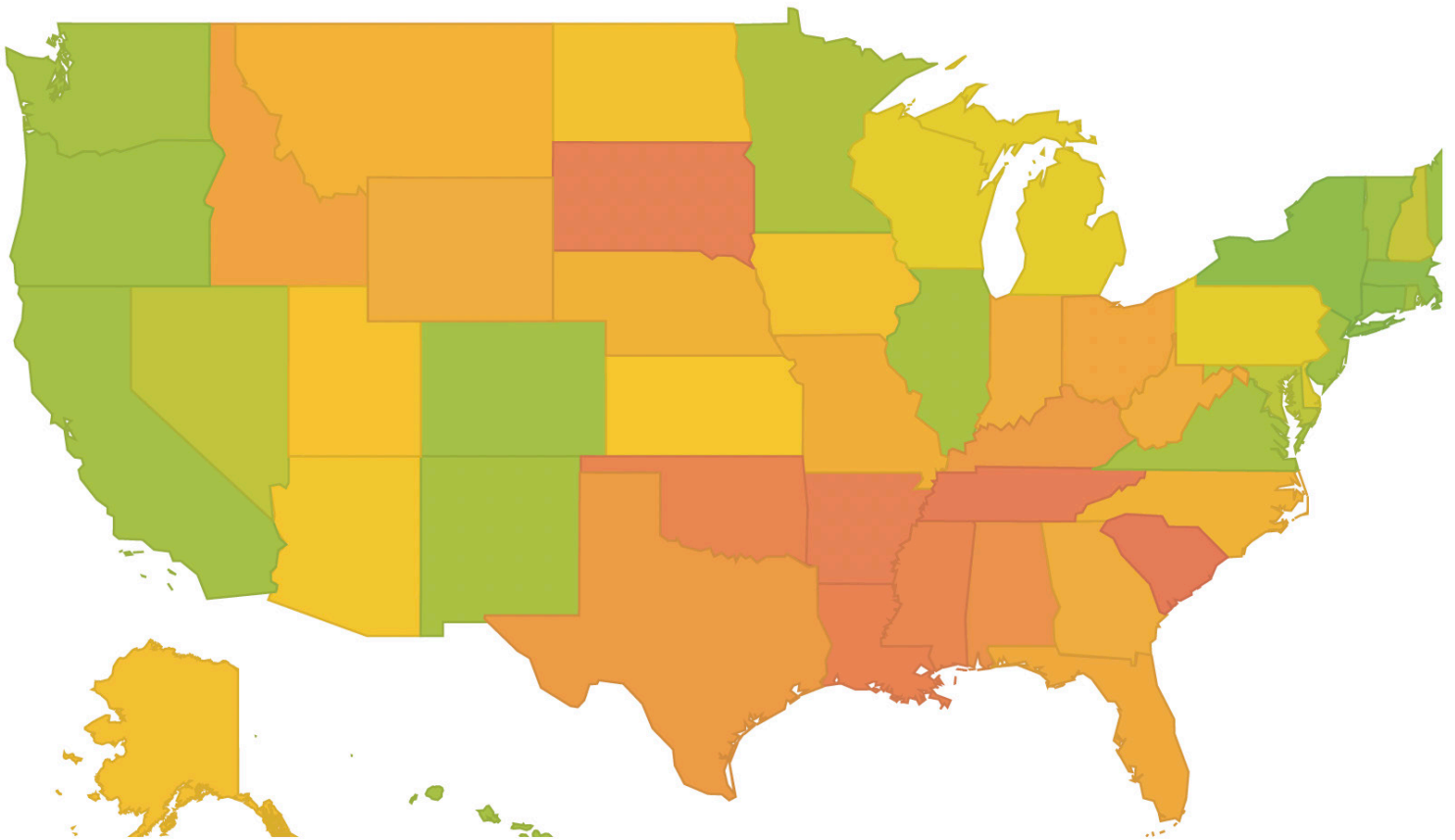
## A Note on Methodology

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.

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# 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.





# Texas Talking Points

4.1% of Texans identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$57.8 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 \$9,740 to replace an employee in Texas, and it can cost up to \$510,500 to replace senior executives. Texas 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 Texas continue to foster a business environment where being inclusive is supported.

State political leaders should set a welcoming, not a stigmatizing tone

Texas has a regressive attitude towards trans-inclusive health coverage. Treating trans people as unequal makes us look complicit if we choose to do business in Texas — equality is good for everyone's bottom line.



## Regional Context

# The Southwest

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 Southwest region had the lowest percent of non-LGBTQ+ respondents being willing to self-identify as an ally (44%), but, surprisingly, had the highest percentage of respondents classifying as LGBTQ+ friendly (slightly over 90%). Over half of the of LGBTQ+workers in the Southwest are out at work (54.4%, second behind the Southeast region)and LGBTQ+ workers in this region are also 14% less likely to feel they need to engage in covering behaviors around their sexual orientation at work to be successful. However,state leadership in this region is not seen as inclusive, and workers were 36% more likely to say that their leadership speaks about LGBTQ+ in predominantly negative terms. This region was also 43% more likely to list “including visibly LGBTQ+ people in advertising and communications” as one of the top ways that business could demonstrate their support. However, the non-LGBTQ+ respondents in this region were the least likely to list public demonstrations of support as one of the top ways that businesses could express their commitment to the LGBTQ+ community. Particularly around marketing to LGBTQ+customers and public advocacy (77% and 50% less likely respectively).

*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 (LGBTQ+ and Non-LGBTQ+ 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 (LGBTQ+ vs Non-LGBTQ+).*

**States in the Southwest region included: Arizona, New Mexico, Oklahoma, Texas.**

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# Current Legal Status of LGBTQ+ People in Texas

## Legal status of the Lesbian, Gay and Bisexual Community

The Equal Access to Intrastate Commerce Act (EAICA) prohibits local governments in Tennessee from extending non-discrimination protections to groups not protected by the Tennessee Human Rights Act (THRA). Because the THRA does not protect sexual orientation or gender identity, the EAICA prevents local governments from enacting generally applicable ordinances prohibiting LGBTQ+ discrimination. The EAICA also limits the definition of "sex" in the THRA to "refer [...] only to the designation of an individual person as male or female as indicated on the individual's birth certificate."

Four local governments have taken advantage of a small exception in the EAICA that permits municipalities to provide additional non-discrimination protections to their own employees. Chattanooga, Memphis, Knoxville, and the Metropolitan Government of Nashville and Davidson County have all passed local ordinances protecting their employees from discrimination on the basis of sexual orientation or gender identity.

Tennessee's Department of Children's Services has a nondiscrimination policy stating that it will "provide services to all children/youth to ensure safety and well-being, to promote dignity and respect for all children/youth and families inclusive of their gender identity, gender expression, and sexual orientation, and to protect their civil rights consistent with State and Federal laws including youth who identify as lesbian, gay, bisexual, transgender, and intersex."

However, in January 2020, Gov. Bill Lee signed a law allowing adoption agencies to discriminate against potential LGBTQ+ parents on the basis of religion. At least 35 major companies warned that the measure will bring economic harm to the state by dissuading businesses from operating or expanding there.

Tennessee's criminal law includes a sentencing enhancement if a defendant's crime was partly or wholly motivated by an animus against a protected group. This hate-crime law explicitly covers individuals who were targeted "because of the defendant's belief or perception" about the victim's sexual orientation.

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Tennessee permits conversion therapy.

"Don't Say Gay Bill" is an updated version of a previously filed TN bill that aims to censor LGBTQ+ content in public school textbooks and instructional materials.

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## Legal Status of the Transgender Community

As of 2021, trans minors in Tennessee are not allowed to use bathrooms that align with their gender identity at school and are deprived of gender-affirming healthcare. Trans girls are banned from girls' sports teams.

In March 2018, the US Court of Appeals for the Sixth Circuit — which includes Tennessee— held that discrimination on the basis of transgender or transitioning status violates Title VII of the Civil Rights Act of 1964.

Tennessee is the last state that explicitly prohibits an individual from changing the sex listed on their birth certificate following gender reassignment surgery. There are multiple lawsuits challenging this law in court.

Tennessee requires "[a] statement from the attending physician that necessary medical procedures to accomplish the change in gender are complete" in order for an individual to change the gender on their driver's license.

There is no explicit requirement that an individual must change the name on their license in order to change the listed gender.

If a person does wish to change his or her name, they can petition the local circuit, probate or county court. An individual who has been convicted of first-degree murder, second-degree murder, or a sex crime cannot change their name. Individuals who have been convicted of any other felony must demonstrate that the name-change request won't harm public safety.

TennCare — Tennessee's Medicaid program — specifically excludes gender confirmation surgery from coverage. It does not explicitly exclude hormone treatment from coverage.

Tennessee law does not prohibit private insurers from writing policies with transgender-specific exclusions.



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Tennessee's Attorney General recently issued a formal opinion stating that the hate-crime provision that provides a sentencing enhancement if a defendant's crime was partly or wholly motivated by an animus against a protected group applies when a defendant targets a transgender individual.

TN SB1861 was introduced in January 2022, which requires the commissioner of education to withhold a portion of the education finance funds to Local Education Agencies (LEAs) if the LEA refuses/fails to determine a student's gender for purposes of participation in school sports.

TN HB1895 was signed and enacted by Gov. Bill Lee that prohibits transgender youth in participating in sports consistent with their gender identity.

TN HB2316 was introduced in February 2022 that would "prohibit biological males from participating in intercollegiate and intramural sports that are designed for females."

TN SB2777 was introduced in February 2022 that would allow public school teachers to refuse to use a student's preferred pronoun if the pronoun is not consistent with the student's biological sex.

TN SB0657 was introduced in February 2022 that would criminalize the provisions of gender affirming health care to minors unless the parent/guardian has written a recommendation from a minimum of three physicians.

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## Government Statements and Actions

Gov. Bill Lee signed a law in 2021 allowing parents to opt their kids out of LGBTQ-related school curricula.

He also signed into law a policy that businesses allowing gender-affirmative restroom use must display a sign shaming them about it.

In 2017, the Tennessee governor signed a "plain meaning" bill into law that requires "undefined terms [to] be given their natural and ordinary meaning." Groups such as the ACLU of Tennessee and the Tennessee Equality Project argued against the law, on the grounds that it could facilitate the interpretation of laws in ways that are detrimental to LGBTQ+ individuals.



In recent years, the state assembly has regularly considered a wide range of legislation that would curtail LGBTQ+ rights in Tennessee.

Senator Marsha Blackburn expressed vocal support for former President Trump’s transgender military ban — since rolled back by Joe Biden — and she opposed the

Violence Against Women Act specifically because it included LGBTQ+ provisions.

The mayor of Nashville issued an executive order to add LGBTQ+ as a recognized category of minority-owned business for government procurement.

Tennessee’s state colleges and universities include sexual orientation and gender identity in their non-discrimination policies.

In March 2021, HB0003, also known as “Attack on Trans Athletes” was signed into law that dismisses a student’s self-identifying gender by re-assigning their gender, based on their birth certificate, in order to participate in school sports.

# 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

5 HIGH RISK

Companies incur high risk to their brands by operating in Texas. There are no statewide LGBTQ+ inclusive nondiscrimination protections, the state's governor and senators have negative voting records on LGBTQ+ issues, and state lawmakers are nationally known for opposing LGBTQ+ equality.

## Client Risk

5 HIGH RISK

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

## Talent Risk

5 HIGH RISK

LGBTQ+ talent are highly likely to consider Texas's legal and social environment unfriendly. There is no statewide LGBTQ+ inclusive nondiscrimination law, and state lawmakers are vocally anti-LGBTQ+, both of which make working in Texas unattractive to LGBTQ+ professionals.

## Marketing Risk

5 HIGH RISK

There is notable risk involved in marketing to the LGBTQ+ community in Texas, where there is no statewide LGBTQ+ inclusive nondiscrimination law, sexual orientation and gender identity are not protected under state hate crimes legislation, no statewide restrictions exist on the practice of conversion therapy, teaching about LGBTQ+ issues or history in the education system is prohibited, and religious freedom laws are in place.

## Future Risk

4 HIGH RISK

The state legislature remains skewed to an anti-LGBTQ+ orientation, with many headline-making, discriminatory bills filed every legislative session. Risk of a future negative event remains high.

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# Socio-cultural Environment of LGBTQ+ People in Texas

## Status of LGBTQ+ Organizing and Community

Five openly LGBTQ+ state legislators started the state's first LGBTQ+ Caucus in early 2019. They make up nearly 20% of the house's women members.

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## Cultural Views of the LGBTQ+ Community

Texas is one of the worst states in terms of LGBTQ+ protections, but 70% of Texans oppose LGBTQ+ discrimination (that's 6% lower than the national statistic)





# Partners

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