

LGBTQ+ Business Climate Score
South Dakota

35.83

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

South Dakota



Legal & Nondiscrimination Protection

There are no statewide nondiscrimination protections for LGBTQ+ people in South Dakota. Changing the gender markers on a birth certificate requires a court order, and a driver's license requires either a court order, an amended birth certificate, or an affidavit from a doctor attesting to a medical gender transition. However, there are non-discrimination policies in certain cities that include sexual orientation and gender identity. More cities are also exploring home-rule status, which would allow more inclusive non-discrimination policies to be passed.



Youth & Family Support

It's legal to discriminate against potential adoptive parents on religious grounds. Conversion therapy is legal in the state. There are no protections for youths in foster care, specifically, though there are more general rules stipulating that social services clients can't be subject to discrimination.





Political & Religious Attitudes

South Dakota has a religious exemption law as of 2021. The state's Governor and U.S. Senators have a track record of speaking and legislating against LGBTQ+ equality.

7.40_{/20}



Health Access & Safety

There are no hate crimes protections on the basis of sexual orientation or gender identity. HIV exposure is considered a felony.* Trans healthcare is only covered for public employees in a few towns and counties, and it's specifically banned from the state health plan.

6.50_{/20}



Work Environment & Employment

13% of transgender employees in South Dakota reported being harassed in the past year due to their gender identity, and 19% report mistreatment such as being told to present in the wrong gender in order to keep a job. 29% of LGBTQ+ individuals in South Dakota reported food insecurity, almost triple the rate for non-LGBTQ+ people (12%). Up to 30% of LGBTQ+ individuals in South Dakota reported making less than \$24,000 per year. 15% of LGBTQ+ individuals report unemployment in South Dakota, five-times the rate for non-LGBTQ+ people (3%).

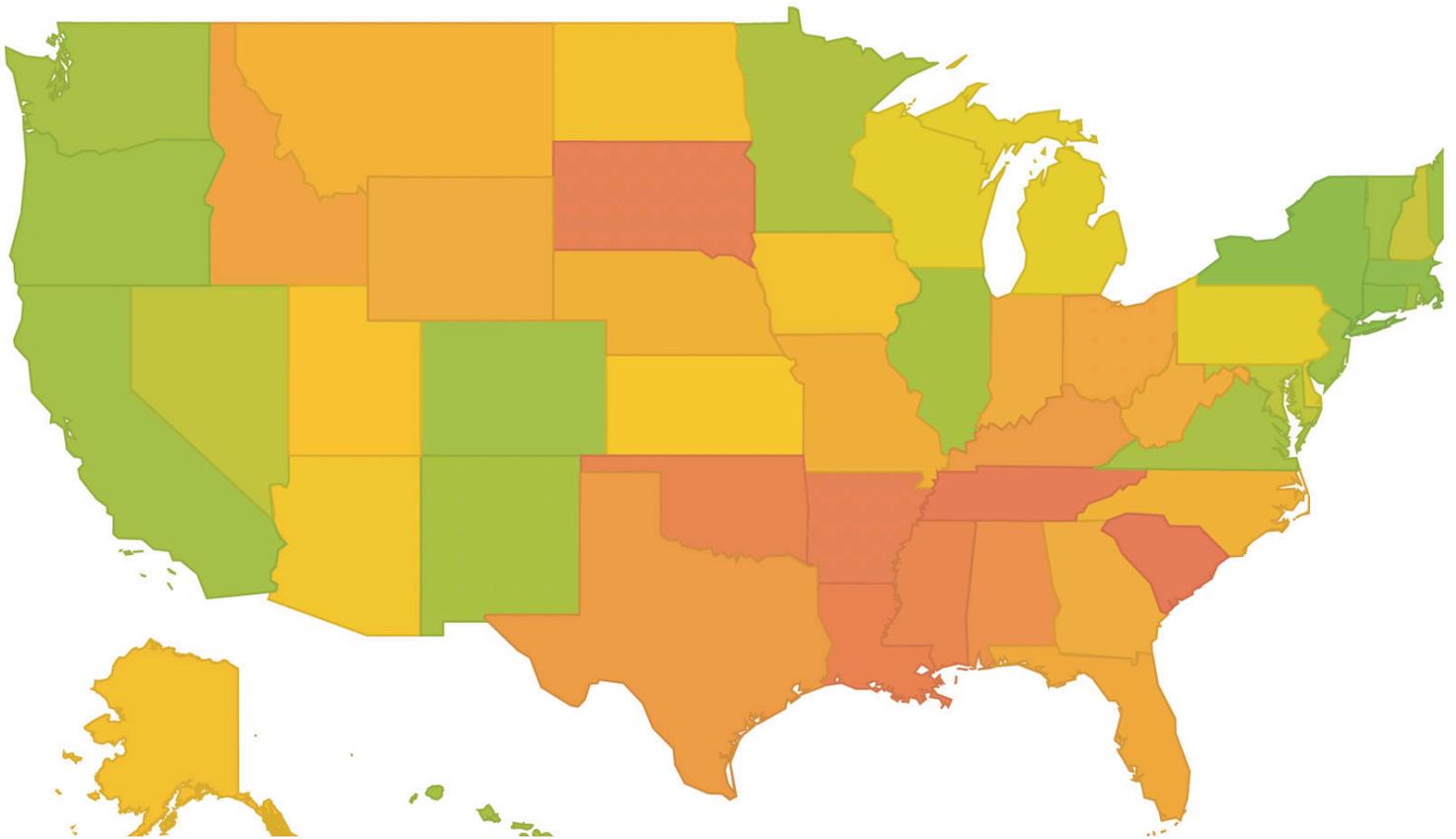
7_{/20}

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.





South Dakota Talking Points

3% of South Dakotans identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$1.3 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 \$8,154 to replace an employee in South Dakota, and it can cost up to \$536,653 to replace senior executives. South Dakota and the businesses operating there have strong financial 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 South Dakota continues to foster a business environment where being inclusive is supported.

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

South Dakota 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 South Dakota – equality is good for everyone's bottom line.

Regional Context

The Midwest

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.

Only 50.8% of LGBTQ+ workers in the Midwest are out at work. They are only slightly more comfortable being open with their managers than other regions (14% more likely), but they are the least likely to cover their identity at work (17% less likely than nationwide). This could be due to the Midwest having the lowest rates for observing microaggressions (23% less likely) and hearing or engaging in negative conversations on average. However, workers in this region do not typically go out of their way to do business with inclusive companies (21% less likely than the nation as a whole). This is primarily driven by those who live in more rural areas where respondents were 85% less likely to do business with companies that are inclusive.

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 Midwest region included: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, North Dakota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Current Legal Status of LGBTQ+ People in South Dakota

Legal status of the Lesbian, Gay and Bisexual Community

There are no statewide nondiscrimination protections covering sexual orientation or gender identity.

State employees are not protected from discrimination on the basis of sexual orientation or gender identity, but some counties and cities have passed local protections.

South Dakota permits child placement agencies to deny service based on religious objections.

However, the South Dakota Department of Social Services has a policy that its "staff, programs and policies must not discriminate against clients or applicants for services because of actual or perceived race, color, sex, age, sexual orientation, gender identity, disability, religion or national origin."

Intentional exposure to HIV is considered a class 3 felony, punishable by up to 15 years of imprisonment and an optional fine of \$30,000. "Intentional exposure" covers anything from sexual contact to blood or organ donation to sharing needles. Actual transmission of HIV not required to trigger prosecution.

There are no hate crimes protections on the basis of sexual orientation or gender identity.

There is no ban on conversion therapy in South Dakota.

As of March 2021, the state has a religious exemption law on the books.

Legal Status of the Transgender Community

"South Dakota does not have a specific gender correction provision, but the general statute governing amendments to birth certificates is a S.D. Admin." To apply for an amended birth certificate the applicant should submit an application for birth record, a copy of the applicant's photo ID, a certified copy of a court order, and applicable fees to the Department of Health.

Changing the gender markers on a driver's license requires a court order, an updated birth certificate, or a signed affidavit from a physician stating the applicant's gender has been medically altered.

Trans healthcare coverage isn't specifically banned under the state's Medicaid program or in private insurance coverage, but it isn't protected or mandated either.

The South Dakota state health plan specifically excludes coverage for services or drugs related to gender confirmation.

Government Statements and Actions

Gov. Kristi Noem is on a mission in 2021 to ban trans girls from girls' sports teams. After a bill failed to pass the state legislature, she issued executive orders to the same effect and asked lawmakers to reconsider the issue in a special session (they said no). School system officials say the executive orders are unenforceable.

As of January 2022, Gov. Kristi Noem introduced House Bill 1006 and Senate Bill 46 that would prevent transgender women and girls from participating in women's and girls' sports. In January 2022, SB 46 was passed.

In July 2019, the Oglala Sioux Tribe legalized same-sex marriage and in September 2019 it approved hate crime legislation aimed at fighting attacks against LGBTQ+ people. There are currently efforts to pass similar legislation across all 9 tribal reservations in the state.

In 2017, the Governor of South Dakota signed into law a bill that allows adoption agencies to deny services and child placement based on religious objections and prohibits the state from taking adverse action against an agency that does so.

Another group of anti-LGBTQ+ bills were introduced but again didn't pass in 2020. These included bills that would punish doctors for treating minors with gender dysphoria and another that the ACLU described as "an omnibus anti-LGBTQ+ bill."

0 counties of 66 have an ordinance prohibiting discrimination on the basis of gender identity and sexual orientation in private employment, housing, and public accommodations.

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 South Dakota. There are no statewide LGBTQ+ inclusive nondiscrimination protections, the state's governor and senators have negative voting records on LGBTQ+ issues, and the state allows discrimination against adoptive parents on religious grounds.

Client Risk

5 HIGH RISK

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

Talent Risk

5 HIGH RISK

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

Marketing Risk

5 HIGH RISK

There is notable risk involved in marketing to the LGBTQ+ community in South Dakota, 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, and there are anti-LGBTQ+ bills introduced every legislative session.

Future Risk

4 HIGH RISK

South Dakota consistently sees discriminatory bills filed each year, and some have shown movement. There is a child welfare religious exemption law on the books. Risk of a future negative event remains high.

Socio-cultural Environment of LGBTQ+ People in South Dakota

Status of LGBTQ+ Organizing and Community

Sioux Falls, the biggest city in the state, held its first pride parade in 2019. There are about nine other pride festivals or events throughout South Dakota.

The state is considered easy fodder for anti-LGBTQ+ lobbyists, making every legislative session subject to the introduction of multiple discriminatory bills – 16 in the past few years alone. Only one ended up passing, a result that is credited to outspoken trans advocates in the state.

There are at least three state-wide organizations (ACLU of SD, Transformation SD and Equality SD) that advocate for LGBTQ+ people/rights. The cities of Sioux Falls, Rapid City and Pierre all have local LGBTQ+ volunteer organizations.

Most of the colleges/universities have Gay/Straight alliances or a diversity center.

Cultural Views of the LGBTQ+ Community

42% of South Dakotans favor allowing small businesses religious exemptions to discriminate against potential LGBTQ+ customers.

68% of South Dakotans favor nondiscrimination laws that would protect LGBTQ+ people.





Partners

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