

LGBTQ+ Business Climate Score

Tennessee

35.33

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

Tennessee



Legal & Nondiscrimination Protection

Not only does Tennessee lack LGBTQ+ discrimination protections, it has a law that prohibits local governments from expanding those protections to groups that aren't covered at the state level. The state does not allow trans people to change the gender markers on their birth certificates, and surgery is required to change a gender marker on a driver's license.



Youth & Family Support

Conversion therapy is legal in Tennessee. The state's Department of Children's Services operates using LGBTQ+ inclusive policies toward children.





Political & Religious Attitudes

State politicians have extensive records of voting and speaking against LGBTQ+ rights and protections. There is no "religious freedom" law, but state lawmakers often introduce bills with a religious component, such as bills that would render national same-sex marriage laws void.

7.60_{/20}



Health Access & Safety

State Medicaid policy explicitly excludes transgender individuals in Tennessee. Hate crime protections exist for sexual orientation, but not for gender identity. It is a felony to knowingly expose someone else to HIV.

6_{/20}



Work Environment & Employment

29% of transgender employees in Tennessee report being harassed in the past year due to their gender identity, and 43% report mistreatment such as being forced to use a restroom not matching their gender identity. 28% of LGBTQ+ Tennesseans report food insecurity, compared to 17% of non-LGBTQ+ Tennesseans.

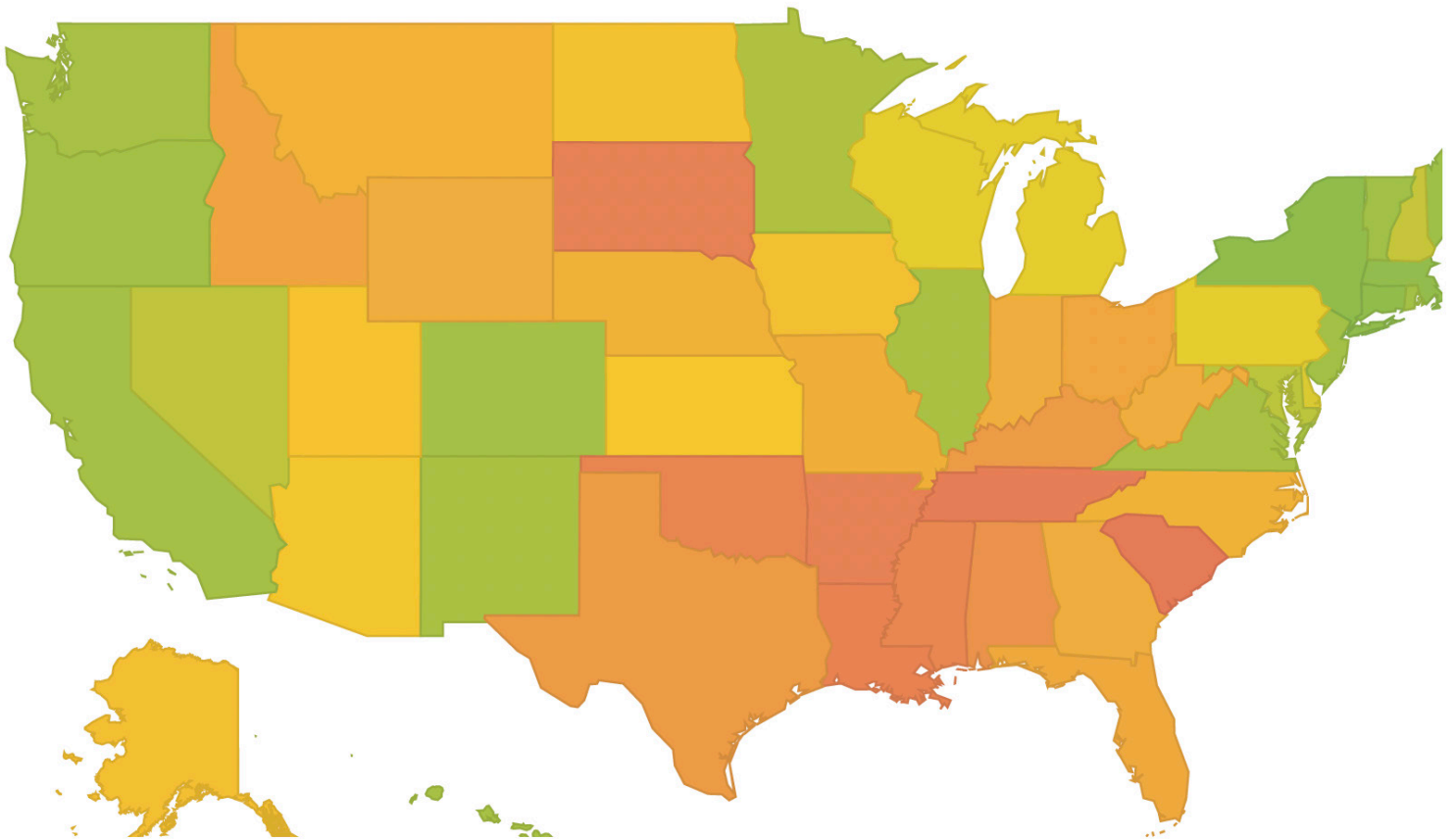
9_{/20}

A Note on Methodology

Download this report to learn how and why Out Leadership created the LGBTQ+ Business Climate Index for the 50U.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.





Tennessee Talking Points

3.5% of Tennessee residents identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$11.1 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 \$8,710 to replace an employee in Tennessee, and it can cost upwards of \$325,000 to replace senior executives. Tennessee 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 Tennessee continue to foster a business environment where being inclusive is supported.

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

Regional Context

The Southeast

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.

LGBTQ+ workers in the Southeast are the most likely to be out at work (54.4%), but they are also 25% more likely to feel that covering behaviors are important for work place success. More broadly, non LGBTQ+ workers in this region preferred for businesses to demonstrate their support for the LGBTQ+ community using internal initiatives (like hiring more LGBTQ+ employees and creating more inclusive HR policies). However, this group was 57% less likely to approve of more public demonstrations of support (like withdrawing sponsorship from sporting events in less inclusive areas). LGBTQ+ workers in this region are 39% more likely to support inclusive businesses and 17% more likely to consider LGBTQ+ friendliness in making spending decisions compared to the non-LGBT workers nationwide. However, there is a perception that state leadership speaks about the LGBTQ+ community in a more negative way (39% more likely than nationwide), which could partially explain why LGBTQ+ workers in the Southeast are 19% more likely to say that they would be open to moving to a state with better LGBTQ+ support.

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 Southeast region included: Alabama, Arkansas, Kentucky, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.

Current Legal Status of LGBTQ+ People in Tennessee

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.

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.

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.

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.

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 LGBT+ individuals.

In recent years, the state assembly has regularly considered a wide range



of legislation that would curtail LGBT+ 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 LGBT+ provisions.

The mayor of Nashville issued an executive order to add LGBT+ 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 Tennessee, where there are no statewide LGBTQ+ inclusive nondiscrimination protections and local governments are prohibited from expanding those protections to groups that aren't covered at the state level. The state's governor and senators have negative voting records on LGBTQ+ issues, and stand vocally against LGBTQ+ interests.

Client Risk

5 HIGH RISK

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

Talent Risk

5 HIGH RISK

LGBTQ+ professionals are very likely to consider Tennessee's legal and social environment unfriendly. There is no statewide LGBTQ+ inclusive nondiscrimination law, municipalities are prohibited from instituting LGBTQ+ protections, and the state has discriminatory policies on gender marker changes and transgender healthcare, all of which make working in Tennessee unattractive to LGBTQ+ talent.

Marketing Risk

4 NOTABLE RISK

There is notable risk involved in marketing to the LGBTQ+ community in Tennessee.

Future Risk

4 HIGH RISK

Tennessee is one of the highest-risk states for a future negative event. Appetite for discriminatory legislation appears to be high among some state lawmakers, with high bill volumes year on year. The state also has multiple discriminatory laws on the books. Risk of a future negative event is high.



Socio-cultural Environment of LGBTQ+ People in Tennessee

Status of LGBTQ+ Organizing and Community

Equality Tennessee organized religious leaders against the spate of anti-LGBTQ bills –over 100 clergy came out against them.

The spate of transphobic laws passed in 2021 caused multiple music industry companies, as well as trans celebrities Jennifer Pritzker and Elliot Page, to speak out against the state's actions.

Cultural Views of the LGBTQ+ Community

Tennessee counselors and therapists may refuse to provide services to a client if the client's "goals, outcomes, or behaviors... conflict with the sincerely held principles of the counselor or therapist." This enables a Tennessee counselor or therapist to turn away LGBTQ+ clients, provided that the counselor or therapist refers the prospective client to a provider who will see that person and the prospective client is not in imminent danger of harming him or herself or others.

Taylor Swift, a Tennessee native, spoke out on politics for the first time in 2020 in opposition to Marsha Blackburn's candidacy for the Senate, writing: "[Blackburn] believes businesses have a right to refuse service to gay couples. She also believes they should not have the right to marry. These are not MY Tennessee values." Blackburn won the election.



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.

