

Arkansas

LGBTQ+ Business Climate Score

out of a possible 100 points

32.00

HIGH RISK

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 outleadership.com/driving-equality/us-state-ceo-briefs/

Arkansas



Legal & Nondiscrimination Protection

The Legal and Nondiscrimination Protections section includes two subsections: The **Personal Legal Scale** assesses the state's laws directly impacting LGBTQ+ individuals. This includes processes for transgender people to change their gender markers on birth certificates and driver's licenses, as well as protections for individuals in housing, the workplace, public spaces, foster care, and more. **Two Nondiscrimination Protections Scales** assess the extent to which LGBTQ+ people are protected under state law. One evaluates nondiscrimination laws related to employment and the other evaluates any nondiscrimination laws related to housing, public accommodations, credit and lending.



Youth & Family Support

The Youth and Family Support section contains three subsections. The **Family Support Scale** measures how supportive the state is of LGBTQ+ people who are in or wish to start families. Elements of this scale include: the percentage of LGBTQ+ families raising children, and whether state family leave laws cover same-gender couples and allow workers to care for the children they are raising. The **Children and Youth Scale** assesses the resources available to LGBTQ+ children and youth in the state, including whether the state has non-discrimination laws and policies for LGBTQ+ students. The **Targeted Laws** section evaluates states on whether they ban discussion of same-gender marriage in schools, and whether they ban conversion therapy for minors.





Political & Religious Attitudes

The Political and Religious Attitudes section contains two subsections. Taken together, these scales assess the tone of the state's conversation around LGBTQ+ rights. The **Religious Protections Scale** assesses the extent and impacts of a state's constitutional or statutory religious exemption laws, and whether state law provides for targeted religious exemption from laws governing child welfare services, private wedding services, and the provision of medical care. The **State Leadership Scores** are Out Leadership's unique measures evaluating the state's most senior elected officials – the Governor and the two U.S. Senators – and assessing how they've represented their views of LGBTQ+ people in speeches and in their political platforms, and in terms of how they've acted with regard to laws impacting LGBTQ+ equality.

6.80_{/20}



Health Access & Safety

The Health Access and Safety section contains two subsections. The **Health Scale** assesses LGBTQ+ people's access to insurance and medical care in each state, giving particular emphasis to the most economically precarious and vulnerable members of the community. The **Safety Scale** is based on two significant laws protecting or criminalizing behaviors affecting LGBTQ+ people. It asks whether the state protects LGBTQ+ people in its hate crime laws. It also assesses whether the state criminalizes exposure to or transmission of HIV.

6.00_{/20}



Work Environment & Employment

The Work Environment and Employment section contains two subsections. The **Work Environment Scale** assesses transgender individuals' experiences at work, including incidences of verbal harassment, sexual assault, and other mistreatment. The **Employment Scale** is based on assessments of LGBTQ+ employment in the state. This scale includes the percentage of LGBTQ+ people making less than \$24,000 annually (approximately the current Federal poverty line), and the differences in unemployment rates and food insecurity between LGBTQ+ and non-LGBTQ+ identified individuals.

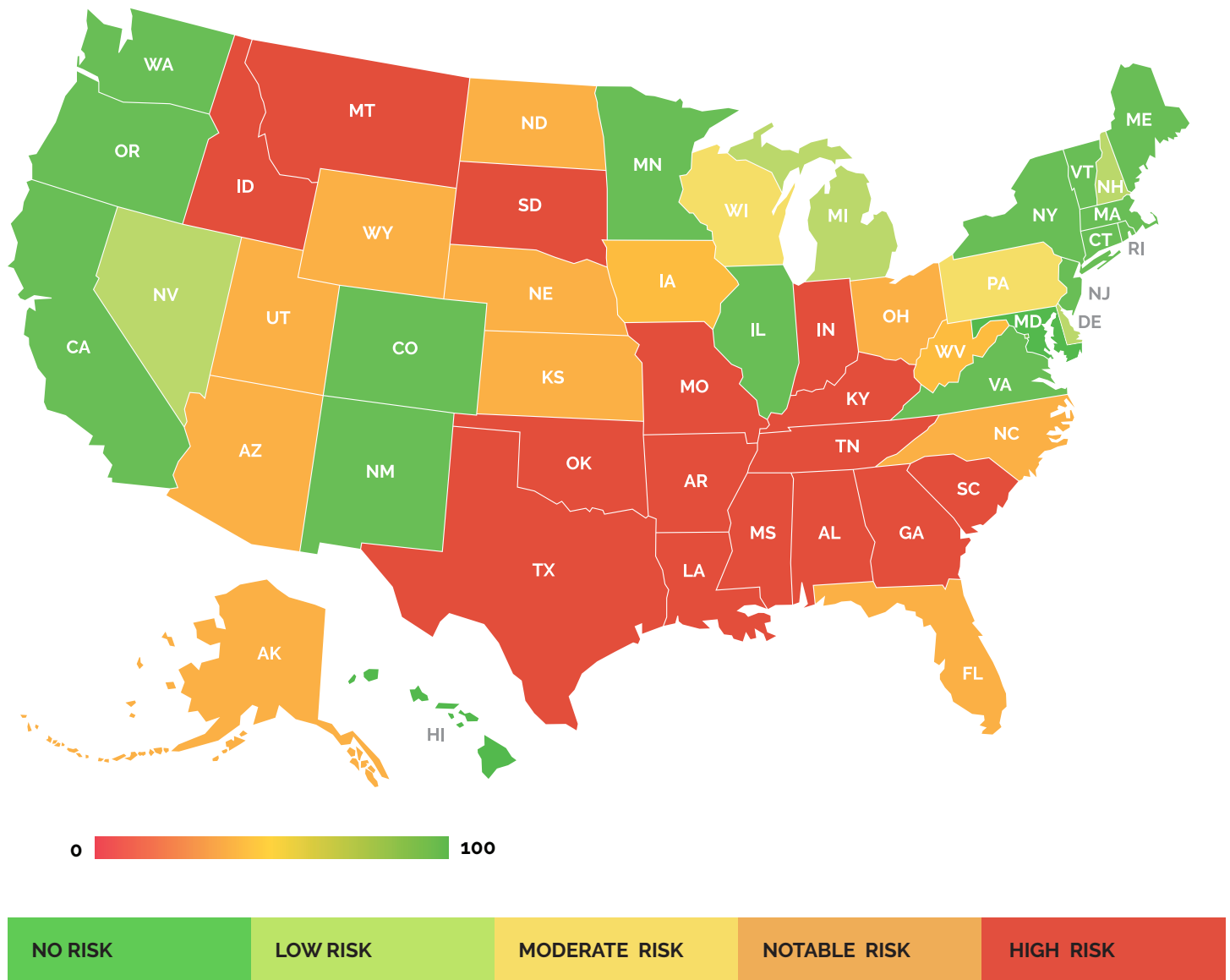
7.00_{/20}

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.





Arkansas Talking Points

3.3% of Arkansas's residents identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$4.2 billion – it's a market my business can't afford to ignore.

Increased hostile policy toward the LGBTQ+ community will have a negative impact on companies ability to attract and retain top talent.

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 \$8,106 to replace an employee in Arkansas, and it can cost up to \$270,425 to replace senior executives. Arkansas and the businesses operating there have strong financial incentives to create inclusive workplaces in the interest of keeping these costs down.

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 Arkansas foster a business environment where being inclusive is supported.

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.

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 Arkansas, where there are no state wide LGBTQ+ inclusive nondiscrimination protections and cities are being actively prevented by the state from passing more progressive policies. Nonetheless, Northwest Arkansas has a more progressive culture, and is a hub of state industry and a major draw for out-of-state and foreign talent.

Client Risk

5

HIGH RISK

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

Talent Risk

4

NOTABLE RISK

Companies incur high risk to their brands by operating in Arkansas, where there are no statewide LGBTQ+ inclusive nondiscrimination protections and cities are being actively prevented by the state from passing more progressive policies. Nonetheless, Northwest Arkansas has a more progressive culture, and is a hub of state industry and a major draw for out-of-state and foreign talent.

Marketing Risk

5

HIGH RISK

There is notable risk involved in marketing to the LGBTQ+ community in Arkansas, 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 religious freedom laws are in place.

Future Risk

5

Arkansas has seen a sporadic pattern of discriminatory bill-filing over the past five years. The state also has a law in place that preempts any city from passing an LGBTQ+-inclusive nondiscrimination ordinance. The future risk of negative events remains high in the state.

Current Legal Status of LGBTQ+ People in Arkansas

Legal status of the Lesbian, Gay and Bisexual Community

Arkansas law does not offer discrimination protections based on gender identity or sexual orientation in housing, employment, public accommodation, or education. State law currently prohibits local governments from passing protections.

The capital city of Little Rock and several other cities, including Conway, Hot Springs, and North Little Rock, prohibit discrimination on the basis of sexual orientation and gender identity in public employment. The city of Eureka Springs prohibits discrimination on the basis of sexual orientation and gender identity in both public and private employment, housing, and public accommodations.

Arkansas voters passed Arkansas Proposed Initiative Act No. 1 in 2008 to prohibit individuals living together outside a legal marriage from adopting or providing foster care to minors. The measure was proposed primarily to prohibit same-sex couples from being adoptive or foster parents. In 2010, the law was found unconstitutional, a ruling upheld unanimously by the Arkansas Supreme Court in 2011.

The Arkansas Supreme Court in 2006 also struck down a state regulation banning LGBTQ+ people and households where any LGBTQ+ adult resided from foster parenting.

Arkansas does not have a hate crime law that attaches penalties to criminal convictions when motivated by gender identity or sexual orientation. Arkansas has no restrictions on conversion therapy.

Arkansas considers people living with HIV to be a danger to the public when they have sex or donate blood without disclosing their status. A person living with HIV or AIDS who engages in either of these acts without knowing their status are criminally liable regardless and may be charged with a Class A felony. Neither the intent to transmit HIV nor transmission of HIV is required for prosecution. Conviction can result in a sentence of six to 30 years' imprisonment and a fine of up to \$15,000. Additionally, people convicted of engaging in sexual conduct without disclosing their status could end up being required to register as a sex offender.

All people living with HIV in Arkansas who know their HIV status must inform

doctors or dentists of their HIV status before receiving treatment. Failure to meet this requirement is a Class A misdemeanor punishable by up to one year in prison, a \$2,500 fine, or both.

In March 2023, governor Sarah Huckabee Sanders signed both a anti LGBTQ+ bathroom bill, restricting the bathroom use of trans individuals to their gender assigned at birth, she also signed a bill restricting drag performance in the state.

Legal Status of the Transgender Community

Gender marker changes on birth certificates require submitting an affidavit to the Circuit Court with a physician attesting to gender affirmation surgery. It's possible to file for a name change at the same time.

Upon securing a Court Order of Name Change, the person can apply to update the legal name and gender marker in social security records, passport and birth certificate.

Arkansas does not ban excluding transgender healthcare from insurance coverage, and it doesn't provide transgender-inclusive health benefits to state employees.

The Education Department of Arkansas declared in 2016 that it would not investigate civil-rights complaints from transgender students who are barred from school bathrooms that match their gender identities.

State law provides protection for students against bullying, which is defined as being "reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student." The law specifically protects students from bullying based on race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity,

physical appearance, health condition, sexual orientation and other attributes. District employees witnessing or knowing about bullying must report it to the principal. Every school principal (or designee) must promptly investigate the report and make a record of the investigation and any action taken. Retaliation against a reporting person is against the law.

State Medicaid is silent on transgender healthcare coverage and care. The state offers a gender neutral "x" option on drivers licenses, and gender markers on licenses can be changed by simply requesting to do so. The state has passed many anti LGBTQ+ bills in the last year. Many of which specifically target the trans population (medical access, bathroom use, etc).

Government Statements and Actions

The state legislature passed a law in March 2021 banning minors from accessing gender-affirming healthcare. The Republican Governor, Asa Hutchinson, vetoed the measure, calling it a "step too far," but the legislative branch overrode him.

However, that same month, Hutchinson did sign into law a bill that allows healthcare providers to deny people treatment based on religious or moral objections, allowing them to deny care to LGBTQ+ people in Arkansas. He also signed into law a ban on trans women playing on women's student sports teams.

In response to the state-level anti-trans legislation, the city council of Fayetteville in May 2021 passed a resolution reaffirming their commitment to protecting trans people there.

Fayetteville had an anti-discrimination ordinance in force until January 2019, when the state Supreme Court ruled that it violates the state's law prohibiting local laws that provide more protections to LGBTQ+ people than the state does. That is, the city's nondiscrimination law violated state law. No court has yet ruled on that state law's constitutionality.

Arkansas passed a Religious Freedom Restoration Act in 2015. It prohibits the government from levying a "substantial burden" on an individual's freedom of religion, stipulating that such a "burden" must be a "compelling government interest" in the least restrictive manner possible. The state RFRA law mirrors the federal RFRA law, but Arkansas's state Constitution does have additional language regarding religious liberty that the U.S. Constitution does not.

In 2019, a bill was filed in the State Senate that would have allowed adoption agencies to discriminate against prospective LGBTQ+ parents on religious grounds. It did not run in committee. In 2017, a bill was filed and then rejected in the state House of Representatives to allow individuals, institutions, providers, and payers of healthcare, would be able to refuse to be involved in any type of service to which they object to on a moral, ethical, or religious grounds, free from any type of liability, regardless of the effects on patients and employers.

Former Arkansas governor Mike Huckabee claimed in spring 2019 that LGBTQ+ rights are the "greatest threat" to American morality.

The state's entire congressional delegation has a zero percent equality score from HRC.



Socio-cultural Environment of LGBTQ+ People in Arkansas

Status of LGBTQ+ Organizing and Community

Central Arkansas Pride, including Little Rock Pride Fest, launched in 2013. Northwest Arkansas Pride, which is centered in Fayetteville, is planning its 17th year for late June 2021. Batesville, Jonesboro, Harrison, and other areas of the state also have pride events. Lucie's place, the state's only LGBTQ+-specific shelter for young adults, opened in 2012.

Cultural Views of the LGBTQ+ Community

66% of state residents favor LGBTQ+ nondiscrimination laws.
46% oppose - and the same number favor - LGBTQ+ discrimination based on religion.



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.

