

Kentucky

LGBTQ+ Business Climate Score

out of a possible 100 points

39.85
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/

Kentucky



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.

10.60_{/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.

9.00_{/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.

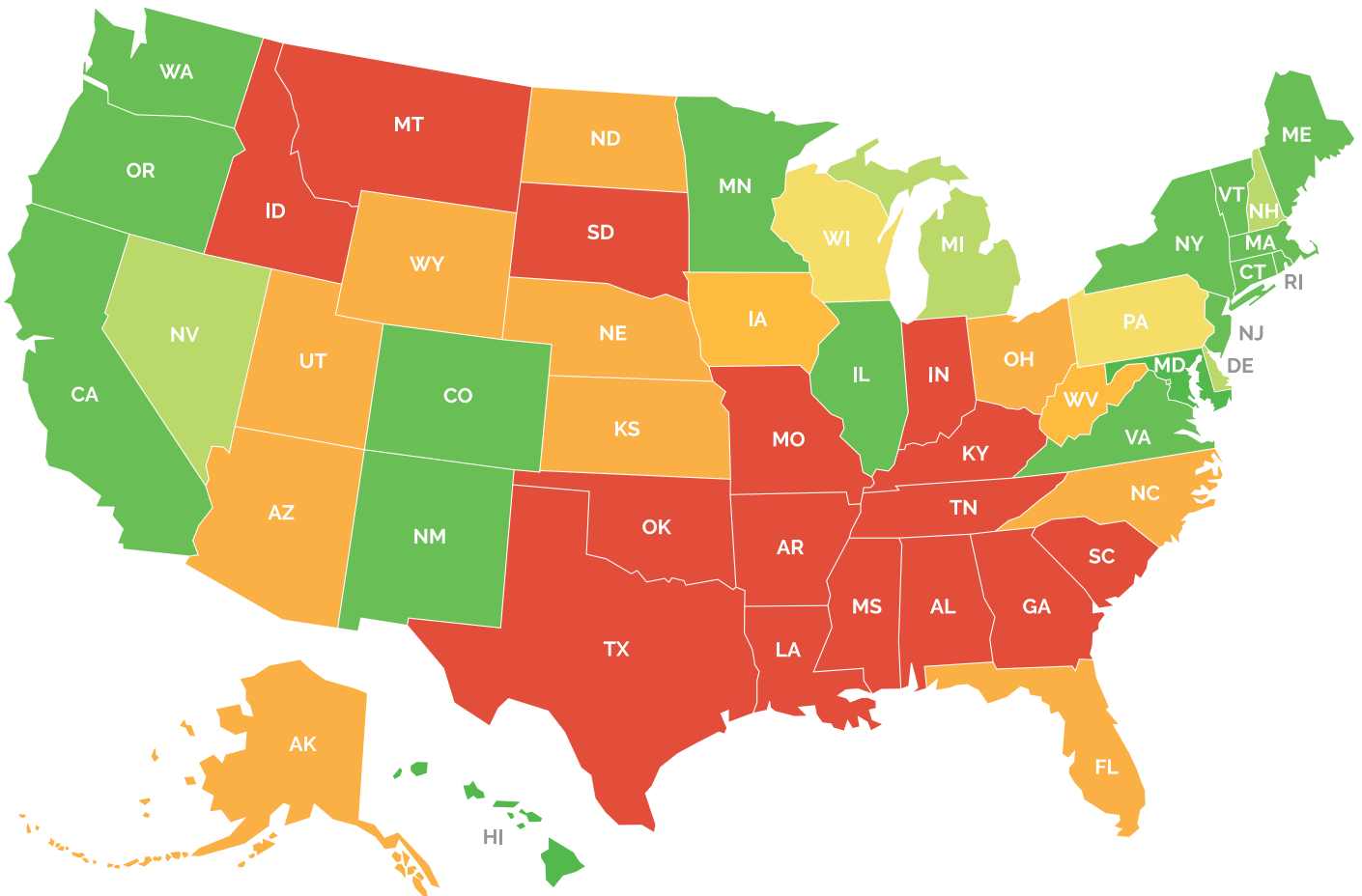
7.00_{/20}

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.





Kentucky Talking Points

3.4% of Kentuckians identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$6.3 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 \$8,482 to replace an employee in Kentucky, and it can cost up to \$325,000 to replace senior executives. Kentucky 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 Kentucky continue to foster a business environment where being inclusive is supported.

State leaders should set a welcoming, not a stigmatizing tone. Increased hostile policy toward the LGBTQ+ community will have a negative impact on companies ability to attract and retain top talent.

Kentucky 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 Kentucky – 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.

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 Kentucky, where there are no statewide LGBTQ+ inclusive nondiscrimination protections and the state's U.S. senators have significant track records of standing 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 Kentucky in light of the state's business climate and reputation.

Talent Risk

4

NOTABLE RISK

LGBTQ+ talent are likely to consider Kentucky's legal and social environment unfriendly. There is no statewide LGBTQ+ inclusive nondiscrimination law, and transgender people are de facto required to have surgery in order to change gender markers, both of which make working in Kentucky unattractive to LGBTQ+ professionals.

Marketing Risk

3

MODERATE RISK

There is moderate risk involved in marketing to the LGBTQ+ community in Kentucky, where there is no statewide LGBTQ+ inclusive nondiscrimination law, and legislative progress on LGBTQ+ equality has stalled in recent years.

Future Risk

3

MODERATE RISK

The state has seen a decline in discriminatory bills filed in recent years, but it does have one religious exemption law on the books, related to membership in state college student groups. With a newly divided government as of 2019, however, we assess only a moderate risk of future negative events.



Current Legal Status of LGBTQ+ People in Kentucky

Legal status of the Lesbian, Gay and Bisexual Community

Kentucky does not have statewide legislation which explicitly protects LGBTQ+ people. However, various nondiscrimination protection applies due to statewide policy interpretations, executive orders and municipalities' actions.

In 2008, former Governor Steve Beshear issued an executive order banning employment discrimination based on sexual orientation and gender identity against state executive branch employees, but the order does not permit employees to file suit in court based on a violation of the non-discrimination requirements.

Twenty-one cities in Kentucky have adopted Fairness Ordinances protecting LGBTQ+ residents from discrimination in employment. A subset of these cities also ban housing discrimination based on a person's sexual orientation or gender identity. In 2020, bills for statewide fairness laws were filed in both the state house and state senate.

The state doesn't explicitly ban discrimination for youths in foster care on the basis of sexual orientation or gender identity.

Private child-caring facilities under contract with the state are required to adopt and enforce a written policy that demonstrates consideration for and sensitivity to the sexual orientation of the youths in their care.

Kentucky law permits single LGBTQ+ individuals and same-sex couples to adopt children.

Kentucky's Religious Freedom Protection Act prohibits the government from substantially burdening a person's freedom of religion, unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest.

Kentucky has used general criminal laws to prosecute people for failing to disclose HIV status to sexual partners and for other forms of perceived exposure to HIV transmission risk, such as spitting. It is also a felony for someone aware of an HIV-positive status to donate organs, skin or other human tissues.

Kentucky's hate crime statutes are inclusive of sexual orientation, but not gender identity.

There is no ban on conversion therapy in Kentucky. In February, Gov. Andy Beshear spoke out in favor of passing one. In 2020, the city of Covington became the first in the state to pass a local-level conversion therapy ban.

Legal Status of the Transgender Community

Gender markers on a birth certificate can be updated with proof of surgery. A sworn statement by a licensed physician indicating that the gender of an individual has been changed by surgical procedure is required.

To change the gender marker on a driver's license, applicants must submit an updated birth certificate showing the updated gender, a court order of gender change, a 10-year passport showing the updated gender or a letter from a surgeon stating that gender confirmation surgery has been completed.

Kentucky state Medicaid has no explicit policy regarding transgender health coverage and care.

Government Statements and Actions

In 2023, Republican lawmakers overrode Gov. Andy Beshear's veto of a bill that bans transgender medical treatment for those under 18. The legislature has also introduced bills that would force teachers to out LGBTQ+ students to their parents, inhibit LGBTQ+ students from accessing mental and physical health assistance at school, and prevent transgender individuals from using restrooms that correspond with their gender identity, among other anti-LGBTQ+ bills.

Democratic Gov. Andy Beshear let lapse a long-term contract with a Baptist foster care agency in spring 2021 after the agency refused to sign a contract with a clause banning LGBTQ+ discrimination. Republican lawmakers argued that it's a religious freedom violation.

In February 2020, Gov. Andy Beshear became the state's first sitting governor to attend an LGBTQ+ rights rally held annually at the start of the legislative session.

After same-sex marriage became legal, Kim Davis, a Kentucky county clerk, refused to issue all marriage licenses on religious grounds. Davis was ordered by a federal judge to issue the licenses and was jailed for five days after she refused to do so. The case was eventually resolved when the state legislature passed a law removing the names of county clerks from Kentucky marriage licenses. Davis lost her re-election bid in 2018, although former Governor Matt Bevin has supported her.

In April 2019 a federal appeals court ruled that the state is responsible for paying the legal fees for applicants who challenged county clerk Kim Davis's refusal to marry same-sex couples.

In 2018, the U.S. Court of Appeals for the Sixth Circuit (which covers Kentucky) ruled that Title VII of the Civil Rights Act of 1964 prohibits employment discrimination against trans people. It also ruled that employers may not use the federal Religious Freedom Restoration Act to justify discrimination against LGBTQ+ people. (The case, *EEOC v. RG and GR Harris Funeral Homes, Inc.*, has been appealed to the U.S. Supreme Court and was heard in October 2019.)

Socio-cultural Environment of LGBTQ+ People in Kentucky

Status of LGBTQ+ Organizing and Community

Kentuckiana Pride's 20th anniversary was skipped in 2020 due to coronavirus, but the festival is scheduled to take place in June 2023. 20,000+ people attend the Louisville-based event each year.

Southern Kentucky saw its first-ever pride event in 2019, a response to the town of Somerset voting down a potential anti-discrimination law. And Eastern Kentucky's first-ever pride celebration was in 2018.

Cultural Views of the LGBTQ+ Community

A married lesbian couple looking for a good deal on tax preparation in 2021 were stunned to see a sign on the accountant's door in the town of Radcliffe that read, "Homosexual marriage is not recognized." Coverage noted that this isn't the first known example of a tax preparer refusing to serve same-sex couples.

Though visibility and acceptance are rising, Kentucky remains a state where a barbecue joint selling an anti-LGBTQ+ t-shirt isn't universally panned: after the shirt made the news in April 2019, they reportedly sold out and ordered more.

53% of residents oppose allowing small business religious exemptions.

64% of Kentuckians favor LGBTQ+ anti-discrimination laws.



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.

