

South Dakota

LGBTQ+ Business Climate Score

out of a possible 100 points

34.80

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/

South Dakota



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.

5.0/20



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.

8.5/20



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.

7.8_{/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.

6.5_{/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.

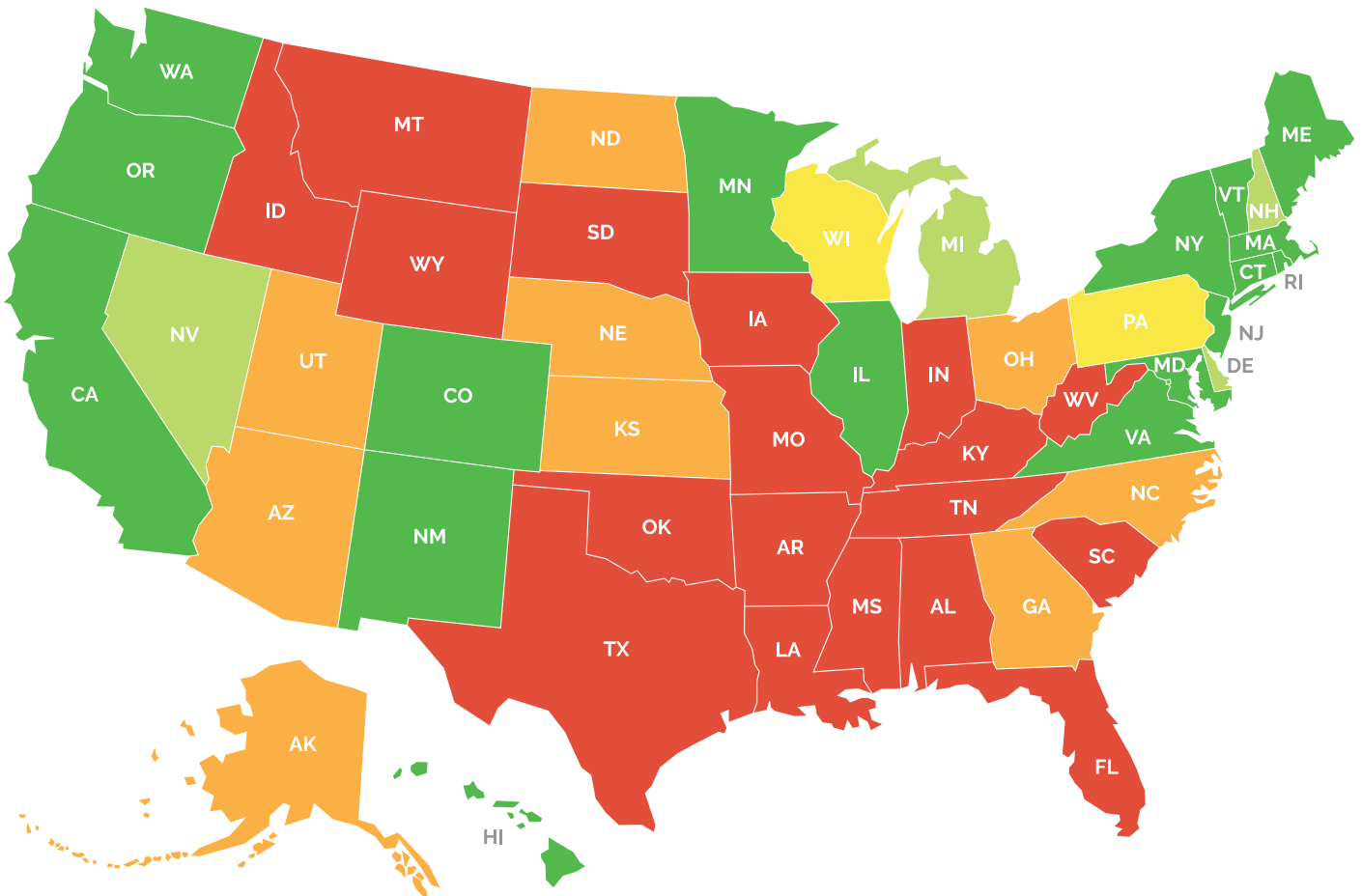
7.0_{/20}

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

5.3% of South Dakotans identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$1.5 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.

LGBTQ+ people in South Dakota face legal challenges not experienced by non-LGBTQ+ residents and discrimination on the basis of sexual orientation and gender identity is not banned statewide.

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 begins to foster a business environment where being inclusive is supported.

Regional Context

The Midwest

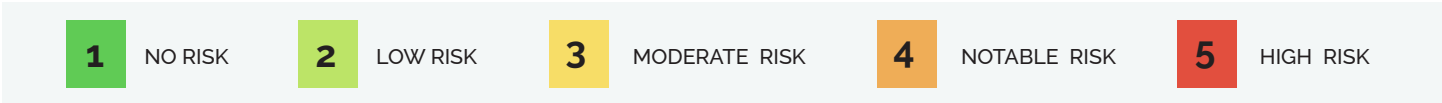
Out Leadership and FCB partnered on original market research into the attitudes of American workers on LGBTQ+ inclusion, which fielded in 2019 and 2020. These briefs as a whole will be updated on an ongoing basis by Out Leadership because we recognize the ever-changing nature of policy on the local, 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.

Impact of LGBTQ+ Discrimination on Business Talent



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<h2>Brand Risk</h2> <p>5 HIGH RISK</p> <p>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.</p>	<h2>Client Risk</h2> <p>5 HIGH RISK</p> <p>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.</p>
<h2>Talent Risk</h2> <p>5 HIGH RISK</p> <p>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.</p>	<h2>Marketing Risk</h2> <p>5 HIGH RISK</p> <p>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.</p>
<h2>Future Risk</h2> <p>4 HIGH RISK</p> <p>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.</p>	



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 May 2024, the state has a religious exemption law on the books.

Legal Status of the Transgender Community

In 2023, South Dakota passed HB 1080 which forbids doctors from providing gender-affirming care, including puberty blockers and hormone replacement therapy, to minors and also requires trans youth to detransition.

In 2022, South Dakota Senate Bill 46, an anti-transgender sports ban bill, was passed and signed into law by Gov. Kristi Noem..

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

In 2022 and 2023, South Dakota lawmakers introduced several bills that would negatively impact the LGBTQ+ community.

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Gov. Kristi Noem was 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.

In February 2022, Gov. Kristi Noem signed Senate Bill 46 into law, preventing transgender women and girls from participating in women's and girls' sports.

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.



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.

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

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.

