

West Virginia

LGBTQ+ Business Climate Score

out of a possible 100 points

49.90

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



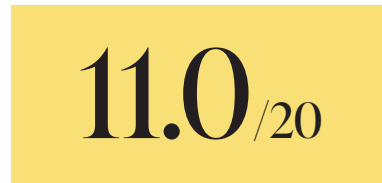
For more context around these scores, and to learn more about the criteria we used to assess how state laws, actions and attitudes toward LGBTQ+ people create business and talent risks, please visit outleadership.com/driving-equality/us-state-ceo-briefs/

West Virginia



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.

11.6_{/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.

10.5_{/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.

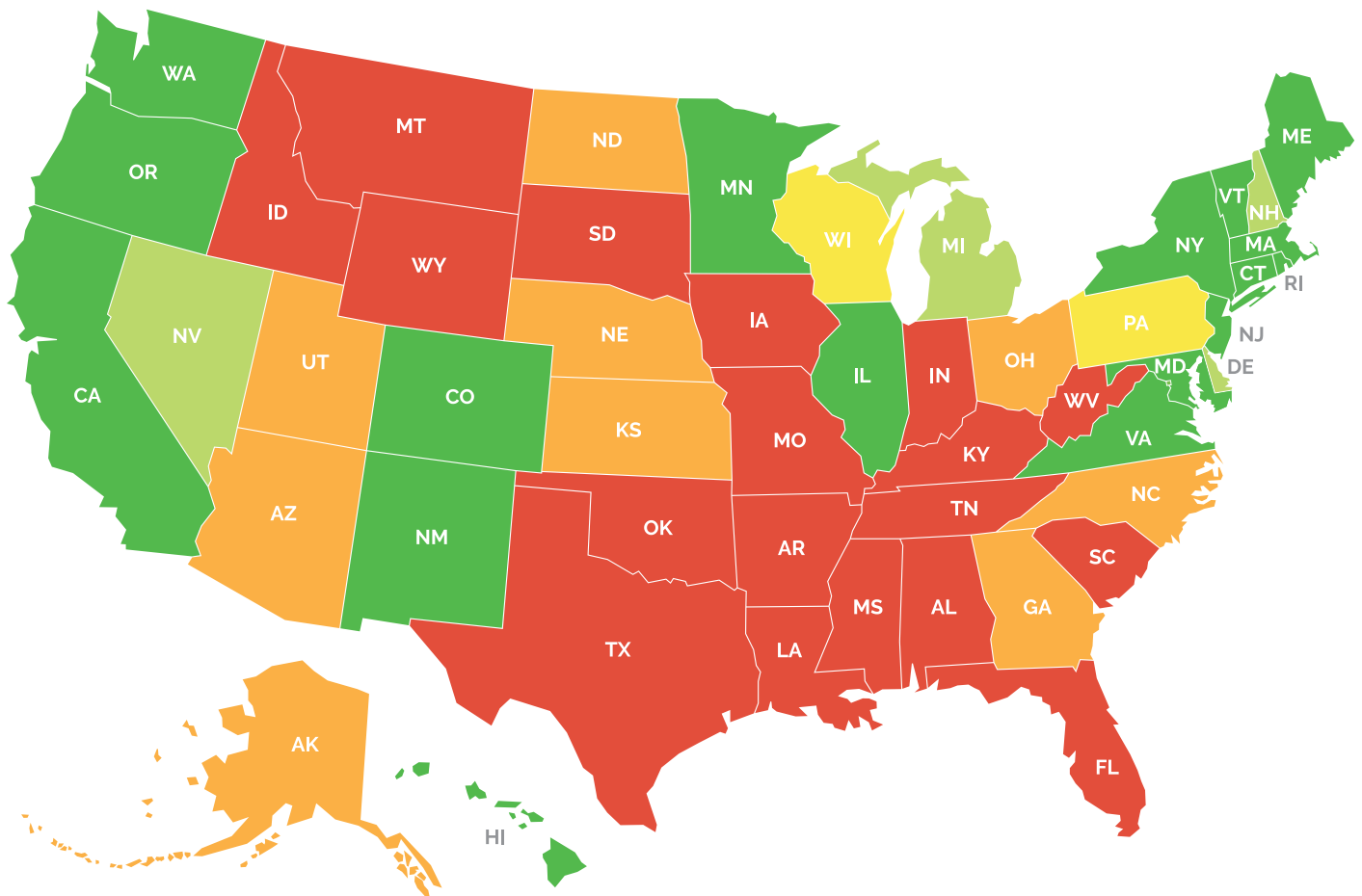
7.0_{/20}

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.





West Virginia Talking Points

4.1% of West Virginians identify as LGBTQ+. Conservatively, that's LGBTQ+ personal income of \$2.4 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 \$8,280 to replace an employee in West Virginia, and it can cost up to \$327,764 to replace senior executives.

West Virginia 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 West Virginia fosters a business environment where being inclusive is supported.

Regional Context

The Southeast

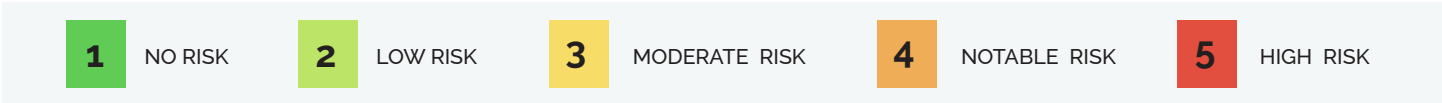
Out Leadership and FCB partnered on original market research into the attitudes of American workers on LGBTQ+ inclusion, which fielded in 2019 and 2020. These briefs as a whole will be updated on an ongoing basis by Out Leadership because we recognize the ever-changing nature of policy on the local,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



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<h2>Brand Risk</h2> <p>5 HIGH RISK</p> <p>Companies incur high risk to their brands by operating in West Virginia. There are no statewide LGBTQ+ inclusive nondiscrimination or hate crimes protections, and the state's senators have negative voting records on LGBTQ+ issues.</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 West Virginia in light of the state's business climate and reputation.</p>
<h2>Talent Risk</h2> <p>4 NOTABLE RISK</p> <p>LGBTQ+ professionals are likely to consider West Virginia's legal and social environment unfriendly. There is no statewide LGBTQ+ inclusive nondiscrimination law or hate crimes protections, and no guaranteed trans healthcare protections, all of which make working in West Virginia unattractive to LGBTQ+ talent.</p>	<h2>Marketing Risk</h2> <p>5 HIGH RISK</p> <p>There is notable risk involved in marketing to the LGBTQ+ community in West Virginia, 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.</p>
<h2>Future Risk</h2> <p>3 MODERATE RISK</p> <p>West Virginia has had a low but steady pattern of discriminatory bills filed in recent years, with none becoming law to date. With no statewide nondiscrimination law in place, we assess the state as having moderate risk of future negative events.</p>	

Current Legal Status of LGBTQ+ People in West Virginia

Legal status of the Lesbian, Gay and Bisexual Community

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

A number of municipalities offer full discrimination protections through city ordinances, including: Athens, Charles Town, Charleston, Harpers Ferry, Huntington, Lewisburg, Martinburg, Morgantown, Shepherdstown, Sutton, Wheeling, and Thurmond.

There are no state-wide discrimination protections for sexual orientation or gender identity for state employees.

West Virginia requires child-placement agencies to ensure that children have equal access to services regardless of sexual orientation.

The state also requires that wellness staff of childcare centers undergo sensitivity training about working with LGBTQ+ youths.

There are no state laws that explicitly ban LGBTQ+ individuals from adopting.

There are no state laws permitting agencies to decline prospective adoptive parents based on religious beliefs.

Birth certificates list both same-sex parents as "Parent" on a birth certificate.

West Virginia has had a religious exemption law, the West Virginia Religious Freedom Restoration Act, since 2016.

Knowingly exposing someone to or infecting them with a venereal disease, including HIV, is punishable by up to \$100 and 30 days in jail.

West Virginia's hate crime law does not offer protection based upon sexual orientation or gender identity.

There is no ban on conversion therapy in the state.



Legal Status of the Transgender Community

As of 2022, West Virginia will amend the gender marker on a birth certificate without a court order, following a lawsuit brought by the ACLU, ACLU of West Virginia, and the Harvard Law School LGBTQ+ Advocacy Clinic. The Vital Registration office will also remove the individual's previous name and gender marker from their birth certificate to reduce the risk of outing transgender individuals and make it safer and easier to amend birth certificates.

To amend the name on a driver's license, applicants must submit a birth certificate or court order demonstrating the change. Updating the gender marker requires a Gender Designation Form signed by a licensed physician.

West Virginia's Medicaid program specifically excludes coverage for gender confirmation surgery.

There are no other specific bans or protections regarding transgender healthcare coverage.

In 2021, West Virginia passed a law barring transgender girls from playing on school girls' sports teams from middle school through college.

A class-action lawsuit was filed against the state of West Virginia challenging the ban on Medicaid coverage for gender-affirming healthcare and a federal judge ruled that West Virginia's Medicaid program may no longer exclude coverage for gender-affirming surgical care for transgender beneficiaries. The ruling has been appealed.

Government Statements and Actions

In February 2024, West Virginia's House of Delegates passed legislation defining in state statutes and official public policies that a person's sex is determined at birth and that gender equity terms may not be substituted – impacting cisgender women and transgender people. The bill awaits consideration from the West Virginia Senate.

In August 2022, a federal judge ruled that West Virginia's Medicaid program may no longer exclude coverage for gender-affirming surgical care for transgender beneficiaries.

In March 2023, a federal appeals court heard oral arguments for a case in which West Virginia seeks to reverse this ruling

In April 2022, West Virginia State Senate passed HB 3293- This bill bans the participation of trans athletes in play sports in line with their gender identity.

Joshua Higginbotham became the first republican lawmaker to come out as a gay man in 2021.

In 2020, Rosemary Ketchum, elected to Wheeling City Council, became the first openly trans elected official in West Virginia.

In 2017, the West Virginia Supreme Court of Appeals ruled that attacks based on sexual orientation are not covered by the state's hate crime law.

There was a fairness bill that would ban LGBTQ+ discrimination, introduced in the 2020 legislative session, but it was never brought to the floor.

The mayors of all the municipalities that have passed LGBTQ+ protections banded together in public support of adding LGBTQ+ protections to the state's Human Rights Act.

Two delegates introduced a bill amendment in 2019 that would have banned municipalities from adopting stronger LGBTQ+ protections than the state has; it failed to advance out of committee by two votes.

In March 2019, U.S. Senator Joe Manchin became the only Democrat to come out against the Equality Act, which would extend federal protections to LGBTQ+ people. His sticking point was around local control of whether transgender children in schools can use the restroom that aligns with their gender identity.

West Virginia has 10 anti-LGBTQ+ bills working their way from the legislation.

Socio-cultural Environment of LGBTQ+ People in West Virginia

Status of LGBTQ+ Organizing and Community

West Virginia's Rainbow Pride is completely run by volunteers.

In 2020, trans plaintiffs filed a class-action lawsuit against the state challenging the ban on Medicaid coverage for gender-affirming healthcare. The state filed for a dismissal but a judge ruled in May 2021 that the case can move forward. A federal district court ruled in favor of the trans plaintiffs in 2022.

Cultural Views of the LGBTQ+ Community

LGBTQ+ people in West Virginia face legal challenges not faced by non-LGBTQ+ persons.

In June 2019, State Senator Mike Azinger wrote a local op-ed decrying LGBTQ+ rights after reading coverage of a pride picnic. The state's GOP chairwoman, Melody Potter, publicly endorsed his take on social media.

When a Pride flag on a church in Morgantown was vandalized multiple times in the leadup to Pride month 2019, church leaders announced that they responded by making a donation to PFLAG.

48% of West Virginians oppose small-business religious exemptions that would legalize anti-LGBTQ+ discrimination.

64% of West Virginians favor LGBTQ+ nondiscrimination protections.



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.

