

2018 STATE EQUALITY INDEX

A REVIEW OF STATE LEGISLATION AFFECTING THE LESBIAN, GAY, BISEXUAL, TRANSGENDER AND QUEER COMMUNITY AND A LOOK AHEAD IN 2019



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DFAR FRIENDS

As we fought back against continued attacks on the LGBTQ community at all levels of government, 2018 proved to be a banner year for equality as we worked with our allies in states across the nation to advance laws protecting our community.

Bipartisan pro-equality lawmakers in Washington, Delaware, Maryland, New Hampshire, and Hawaii all passed legislation outlawing the dangerous and discredited practice of so-called "conversion therapy." As of this report's release, New York has also protected LGBTQ youth from this form of child abuse, and more states stand poised to pass similar protections in 2019.

In Vermont, lawmakers passed bipartisan legislation improving accessibility of single-user facilities for transgender and gender non-conforming people. And in New Hampshire, thanks to the tireless work of local advocates and lawmakers, transgender people are finally protected from discrimination across the Granite State.

In 2018, only two of 110 anti-LGBTQ bills introduced across 29 states became law, with both Kansas and Oklahoma permitting child welfare organizations -- including adoption and foster care agencies -- to discriminate against qualified prospective parents because they are LGBTQ.

While some anti-LGBTQ officials pushed forward with their anti-equality agendas, key stakeholders raised their voices against them, including leading companies. The American business community has made clear that when looking for expansion or relocation opportunities, it has become standard practice to prioritize inclusive communities that value diversity. Coupled with the Municipal Equality Index (MEI), the State Equality Index (SEI) continues to serve as a vital tool for business leaders and state officials alike when it comes to economic development and making crucial evaluations about the welcoming (and unwelcoming) nature of all 50 states.

In 2019, even as we face the prospect of another flurry of anti-LGBTQ bills, HRC will continue to partner with advocates and pro-equality lawmakers in states nationwide to make inroads wherever possible to expand equality for LGBTQ people.

This work would not be possible without our partners at the Equality Federation Institute and the statewide LGBTQ organizations and leaders who work to bring equality to the communities they call home. By working in coalition, we can bring about real and lasting change by advancing equality for all and building a more perfect union.

Sincerely

CHAD GRIFFIN President Human Rights Campaign Foundation



DFAR FRIENDS

continue to win equality town by town, state by state.

Each year this report illustrates how far we've come and We also suffered some losses this year. Kansas, the challenges we need to conquer. Most importantly it Oklahoma, and South Carolina enacted religious "license shows what's possible when we work together. to discriminate" policies that allow adoption and foster care agencies to place LGBTQ children in homes that This year, in a historic first, voters in Massachusetts won't affirm who they are, or deny LGBTQ prospective rejected attempts to undo nondiscrimination protections parents the opportunity to adopt. for transgender people. This victory was possible

because state and national organizations worked in partnership along with hundreds of volunteers, and transgender people and their families powerfully shared their stories with their friends and neighbors. This campaign will serve as an inspiration and model for future victories.

Our momentum continued on many other fronts. Five more states banned conversion therapy: Delaware, Hawaii, Maryland, New Hampshire, and Washingtonbringing the total to 15 plus DC! New Hampshire also banned discrimination based on gender identity in employment, housing, and public accommodations. Hawaii prohibited discrimination based on sexual orientation or gender identity in state-funded educational programs. Washington banned anti-LGBTQ discrimination in insurance plans. New Jersey ended the requirement for surgery to change gender markers on birth certificates, and New Jersey and Rhode Island now require death certificates to document a person's gender identity. California and Illinois issued resolutions recognizing the role of viral load suppression in treatment and prevention of HIV, and Washington enacted a law to remove "any and all" barriers to HIV testing. New Hampshire passed a law requiring workers' compensation to cover prophylactic treatment for exposure (PEP).

Every year for the last several years, the State Equality Index has highlighted how far we have come in the fight for LGBTQ equality in each state. Our freedom is under siege from our motivated opposition, but the resiliency of our community has never been more evident as we

This year we will no doubt face more attempts to unravel progress in the form of statewide anti-LGBTQ adoption bills, anti-transgender bathroom bans, and efforts to preempt new non-discrimination protections. However, the incredible leaders of the state equality organizations who are on the front lines every day, from Equality Ohio to Equality Texas to Basic Rights Oregon, are prepared to hold the line against attacks and move us forward.

The strength of the state-based LGBTQ movement is critical to elevate our representation, visibility and equality across the country. As we look to the next legislative session, the State Equality Index should serve as a recognition of how far we have come and how much we have yet to achieve.

In solidarity,

Institute

Rebere yours

REBECCA ISAACS

Executive Director Equality Federation



SUMMARY OF STATE DEVELOPMENTS IN 2018

In 2018, the LGBTQ movement saw tremendous momentum on good bills. This map shows the states that passed laws pertaining to LGBTQ equality in their respective SEI categories this year.

This year's legislative victories set the stage for future advances to further LGBTQ equality. States continued to pass legislation that would protect youth from so-called "conversion therapy" and expand non-discrimination protections to all LGBTQ people.

For a full review of state legislation that was introduced, considered, passed, or failed in 2018, please see **HRC.ORG/SEI**.

Religious Refusal & Relationship Recognition

- Parenting Laws
- \star Non-Discrimination Laws
- Hate Crimes & Criminal Justice
- Youth Laws
- **Health & Safety**



GOOD VS BAD 2018



KEY STATE LAW AND POLICY DEVELOPMENTS IN 2018

PARENTING

Bills creating a license to discriminate in the provision of child welfare services continued to be the most successful type of anti-LGBTQ legislation in state legislatures. Two such laws were passed in 2018 -in Oklahoma and Kansas-and a budget proviso with similar effect was passed in South Carolina. Georgia, however, staved off the persistent attempt to pass such a bill there.

RELATIONSHIP RECOGNITION/RELIGIOUS REFUSAL

Over the past year, states considered legislation to broaden the scope of religious refusals to allow for discrimination against LGBTQ people and undermine relationship recognition for same-sex couples. Generally, the bills tended to fall into three main categories: undermining marriage equality, creating broad religious carve-outs in state nondiscrimination laws, and instituting laws that create broad religious exemptions across laws or in specific areas of the law such as counseling services.

States are looking more towards laws that provide an absolute ability to discriminate against LGBTQ people in narrow areas of the law rather than the sweeping yet not fully knowable scope of Religious **Freedom Restoration Acts.**

There were pro-equality bills dealing with parenting that also passed: Washington adopted a law modernizing its parentage act, New Jersey clarified its surrogacy laws, and both California and Hawaii added new provisions to their foster care bill of rights to include affirming care for LGBTQ youth.

In the wake of Indiana's disastrous adoption of a Religious Freedom Restoration Act (RFRA) in 2015, there has been a steady decline in the number of RFRA bills introduced. States are looking more towards laws that provide an absolute ability to discriminate against LGBTQ people in narrow areas of the law rather than the sweeping yet not fully knowable scope of RFRAs. However, despite this trend both Georgia and lowa debated passing RFRAs though both bills ultimately failed to move.

Finally, bills creating a license to discriminate in the provision of child welfare services-which are included in the parenting category of the SEI-are also religious refusal bills.

NON-DISCRIMINATION

The biggest news in non-discrimination laws this year came from New England: New Hampshire amended its non-discrimination law to include protections on the basis of gender identity, and a ballot measure in Massachusetts which would have repealed Massachusetts' prohibition of

discrimination on basis of gender identity in places of public accommodations failed. While several states had bills introduced that would undermine nondiscrimination protections, none advanced through the legislature.

HATE CRIMES AND CRIMINAL JUSTICE

2018 brought encouraging developments in state hate crime laws. Mississippi, Iowa, South Carolina, Georgia, Oklahoma and Tennessee introduced bills that either sought to broaden the scope of existing hate crime laws to include sexual orientation and gender identity or create new, more inclusive hate crime laws. North Carolina and Virginia also introduced bills that would require additional reporting requirements, studies, or the development of reporting hotlines for the state.

The California legislature passed a law requiring the development of LGBTQ-inclusive training for law enforcement officials. Additionally, Rhode Island passed legislation prohibiting the use of a "gay or trans panic" defense in criminal cases.

Massachusetts passed a law that would prohibit the placement of LGBTQ prisoners in solitary confinement solely because of their identity. Transgender inmates in Connecticut must now be housed according to their identity, rather than their sex assigned at birth. In addition, the State will ensure that transgender inmates are searched by officers matching their gender, have their pronouns respected, and have access to clothing and toiletries matching their gender while incarcerated.

YOUTH

In 2018, twenty five states considered bills aimed at restricting so-called "conversion therapy"-danger and discredited practices that falsely claim to change a person's sexual orientation or gender iden or expression. Five states-Washington, Maryland, Hawaii, New Hampshire, and Delaware-enacted anti-conversion therapy protections that prohibit stat licensed mental healthcare providers from engaging in these abusive practices with minors.

In Hawaii, a bill proscribing discrimination against LGBTQ students in all state and federally-funded educational programs and activities became law. Other states, including California, proposed laws to expand existing SOGI-inclusive nondiscrimination protections in education.

HEALTH AND SAFETY

In 2018, two states took critical steps forward to streamline the process for ensuring that vital records reflect a person's authentic gender: Rhode Island and New Jersey both did so regarding death certificates, and New Jersey also did so regarding birth certificates and in public institutions of higher education. Vermont passed a law requiring all single-user restrooms to be designated as gender-free.

In 2018, twenty five states considered bills aimed at restricting so-called "conversion therapy"dangerous and discredited practices that falsely claim to change a person's sexual orientation or gender identity or expression.



SUMMARY | DEVELOPMENTS

	A number of states introduced bills to remove
rous	restrictions on public schools providing accurate
	LGBTQ-inclusive sex education and ensure that
tity	instruction on HIV prevention is medically accurate
	and current. Indiana enacted an anti-LGBTQ bill
	that achieves the opposite, restricting access to
te-	inclusive sex education by adding new requirements
1	for prior parental consent for instruction covering
	sexual orientation and gender identity.

Lastly, eleven states introduced bills to prevent transgender youth from accessing bathrooms and other gender-segregated facilities consistent with their gender identity. Fortunately, no such bills passed this year.

Three states-New Hampshire, Michigan, and Pennsylvania—considered but ultimately did not pass legislation that would have excluded critical genderaffirming care from being covered in Medicaid, CHIP, or prison health care programs.

COMPARATIVE LEGISLATION AT A GLANCE

NON-DISCRIMINATION LAWS

GOOD BILLS INTRODUCED GOOD BILLS PASSED



OVERALL



PARENTING LAWS



RELIGIOUS REFUSAL & RELATIONSHIP RECOGNITION









HEALTH & SAFETY



OUTLOOK FOR 2019

State legislatures continue to consider both pro- and anti-equality legislation, and there are several exciting developments already in 2019 which may signal a turn in the tide of LGBTQ-related legislation in the states. We continue to see more proactive, pro-equality efforts succeed overall-including nondiscrimination laws, protections against the practice of so-called "conversion therapy", and executive orders prohibiting discrimination by state employees and contractors—and the low rate of success of anti-LGBTQ bills in 2018 may signal that state legislatures are getting the message that equality is good public policy.

PRO-EQUALITY EFFORTS

Already in 2019, we have seen two pro-equality bills enacted, with additional pro-equality bills beginning to advance in legislatures nationwide. In New York, a shift in the New York State Senate leadership allowed two critical protections that had been stalled to pass into law: the Gender Expression Non-Discrimination Act, which added gender identity and expression into the state's existing non-discrimination laws related to employment, housing, places of public accommodation, education, and hate crimes; and a ban on the abusive, discredited practice of so-called "conversion therapy" for youth. Other bills that have begun to advance include proposals in Virginia to prohibit discrimination in public sector employment and in housing.

In addition to legislation, we have seen executive orders issued by new governors in Ohio, Wisconsin, Michigan and Kansas to prohibit discrimination on the basis of sexual orientation and gender identity in state employment, and in some cases contracting.

Other pro-equality bills that may gain traction in state legislatures this year include measures to protect LGBTQ youth from the practice of conversion therapy; to extend existing non-discrimination laws to cover discrimination in the areas of jury service, credit, or education; to require mandatory reporting of hate crimes; to prohibit the use of so-called gay and trans panic defenses in criminal trials, to make it easier for transgender people to update their identity documents to reflect their true gender; to make single-occupancy restrooms all-gender; and to be inclusive of LGBTQ-identities when collecting population data.

ANTI-EQUALITY EFFORTS

Given the low rate of success for anti-LGBTQ equality legislation in 2018, it may be that fewer state legislatures pursue anti-LGBTQ legislation, or that they pursue it with less vigor. For example, legislative leaders in Texas have indicated that they will not be considering an antitransgender bathroom bill in 2019.

The trend in anti-LGBTQ legislation over the past few years, however, has been to push for bills that allow narrower, more targeted types of discrimination-such as licenses to discriminate in the provision of child welfare services. We expect that anti-LGBTQ lawmakers in many states will continue to introduce and advance this type of bill that aims to allow individuals and businesses to discriminate against LGBTQ people based on religious or moral objections in specific sectors, like education, adoption and foster care services. We also anticipate seeing preemption laws that attempt to reduce the power of cities and towns to protect their LGBTQ residents and visitors from discrimination, with the potential to eliminate or gut existing local nondiscrimination protections.

CONCLUSION

We are cautiously optimistic that state legislators are hearing from their constituents and key stakeholders the message that LGBTQ equality is good for businessand that anti-LGBTQ legislation can inflict irreparable economic and reputational harm on states that adopt or seriously consider such bills.



We are cautiously optimistic that state legislators are hearing from their constituents and key stakeholders the message that LGBTQ equality is good for business.

SUMMARY | OUTLOOK FOR 2019

Overall, attempts to pass legislation that targets the transgender community in places of public accommodation, including in restrooms, appear to have largely fallen out of favor following the major economic and reputational harm that has come to states that have passed or strongly considered such legislation. However, these efforts do continue, and a bill targeting transgender student athletes has already been introduced in South Dakota this year. Opponents of equality will continue to target this particularly vulnerable segment of the LGBTQ community.

Based on activity in recent years and results from the 2018 elections, we are concerned that lawmakers in South Dakota, Texas, Iowa, Tennessee, West Virginia, Georgia, and Oklahoma may be states that are particularly likely to entertain anti-equality legislation.

While we continue to anticipate that anti-equality legislation will be introduced around the country, and in some places may succeed, we will be watching this year to see if the surge in such legislation has passed. In addition, this year presents unprecedented opportunity for pro-equality gains in many state legislatures.

SUMMARY | ISSUE MAPS

NON-DISCRIMINATION IN **EMPLOYMENT**

STATES THAT PROHIBIT EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

Maryland

Minnesota

New York

Nevada

Maine

California Colorado Connecticut Delaware District of Columbia Hawaii Illinois lowa

Oregon Rhode Island Massachusetts Utah Vermont Washington New Hampshire New Jersey New Mexico

STATES THAT PROHIBIT EMPLOYMENT DISCRIMINATION BASED ON SEXUAL ORIENTATION ONLY

Wisconsin

NON-DISCRIMINATION IN HOUSING



STATES THAT PROHIBIT HOUSING DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

California	lowa
Colorado	Maine
Connecticut	Maryland
Delaware	Massach
District of	Minneso
Columbia	Nevada
Hawaii	New Har
Illinois	New Jer

New Mexico New York Maryland Oregon Massachusetts Rhode Island Minnesota Utah Vermont New Hampshire Washington New Jersey

STATES THAT PROHIBIT HOUSING DISCRIMINATION BASED ON SEXUAL ORIENTATION ONLY

Wisconsin

NON-DISCRIMINATION IN **PUBLIC ACCOMMODATIONS**

NON-DISCRIMINATION IN **EDUCATION**



STATES THAT PROHIBIT PUBLIC ACCOMMODATIONS DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

New Jersey

California
Colorado
Connecticut
Delaware
District of
Columbia
Hawaii
Illinois

New Mexico lowa Maine New York Maryland Oregon Massachusetts Rhode Island Minnesota Vermont Washington Nevada New Hampshire

STATES THAT PROHIBIT PUBLIC ACCOMMODATIONS DISCRIMINATION BASED ON SEXUAL ORIENTATION ONLY

Wisconsin

STATES THAT PROHIBIT NON-DISCRIMINATION IN EDUCATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

California Illinois Colorado lowa Connecticut Maine District of Columbia Minnesota Hawaii Nevada

New Jersey New York Oregon Massachusetts Vermont Washington

STATES THAT PROHIBIT NON-DISCRIMINATION IN EDUCATION ON THE BASIS OF SEXUAL ORIENTATION ONLY

New Mexico

Wisconsin

SUMMARY | ISSUE MAPS

ANTI-BULLYING LAWS

SECOND PARENT ADOPTION*



STATES WITH ANTI-BULLYING LAWS THAT PROVIDE SPECIFIC PROTECTION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

Arkansas	lowa	New York
California	Maine	North Carolina
Colorado	Maryland	Oregon
Connecticut	Massachusetts	Rhode Island
Delaware	Minnesota	Vermont
District of	Nevada	Washington
Columbia	New Hampshire	
Illinois	New Jersey	

STATES WITH ANTI-BULLYING LAWS THAT PREVENT SCHOOL DISTRICTS FROM SPECIFICALLY PROTECTING LGBTQ STUDENTS

South Dakota Missouri

STATES WITH LAWS THAT RESTRICT THE **INCLUSION OF LGBTQ TOPICS IN SCHOOLS**

Alabama Arizona Louisiana

Mississippi Oklahoma South Carolina

Texas

STATES WHERE SECOND-PARENT ADOPTION IS AN OPTION FOR SAME-SEX COUPLES STATEWIDE

llinois

California	llinois
Colorado	Maine
Connecticut	Massac
District of	Montar
Columbia	New Je
Idaho	New Yo

Oregon Pennsylvania Massachusetts Montana Vermont New Jersey New York

★ Please see individual state scorecards for other criteria related to relationship recognition on adoption and non-discrimination provisions.



South Dakota

TRANSGENDER HEALTHCARE

GENDER MARKER CHANGE ON **IDENTIFICATION** DOCUMENTS



STATES WITH BANS ON INSURANCE EXCLUSIONS FOR TRANSGENDER HEALTH CARE

California	Illinois
Colorado	Maryland
Connecticut	Massachusetts
Delaware	Michigan
District of	Minnesota
Columbia	Nevada
Hawaii	New Jersey

New Mexico New York Oregon Pennsylvania Rhode Island Vermont Washington

STATES WITH TRANSGENDER-INCLUSIVE HEALTH BENEFITS FOR STATE EMPLOYEES

California	Massachusetts	Rhode Island
Connecticut	Minnesota	Vermont
Delaware	Nevada	Washington
District of	New Jersey	
Columbia	New York	
Maryland	Oregon	

STATES WITH TRANSGENDER COVERAGE EXCLUSIONS IN MEDICAID

Alaska Michigan Georgia Missouri Hawaii Nebraska Idaho Nevada New Hampshire Maine Tennessee

lowa

Т W W ١٨

exas	
Vest Virginia	
Visconsin	
Vyoming	
, 0	

STATES WITH LAWS AND POLICIES THAT FACILITATE GENDER MARKER CHANGE ON DRIVER'S LICENSE ONLY

Alaska	Kansas
Arizona	Maine
Colorado	Massachuset
Connecticut	Michigan
Delaware	Missouri
Idaho	New Hampsh
Indiana	New Mexico
lowa	

Ohio Vermont Massachusetts Virginia West Virginia New Hampshire

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STATES WITH LAWS AND POLICIES THAT FACILITATE GENDER MARKER CHANGE **ON DRIVER'S LICENSES AND BIRTH CERTIFICATES**

California District of Columbia Hawaii Illinois

Maryland Minnesota Nevada New Jersey New York

Oregon Pennsylvania Rhode Island Washington

STATES WITH LAWS AND POLICIES THAT PREVENT TRANSGENDER PEOPLE FROM RECEIVING APPROPRIATE IDENTIFICATION

Idaho

Tennessee

SUMMARY | ISSUE MAPS

HIV/AIDS CRIMINALIZATION

HATE CRIMES & CRIMINAL JUSTICE





STATES THAT HAVE A LAW THAT ADDRESSES HATE OR BIAS CRIMES BASED ON SEXUAL **ORIENTATION AND GENDER IDENTITY**

California	Maine	New York
Colorado	Maryland	Oregon
Connecticut	Massachusetts	Rhode Island
Delaware	Minnesota	Vermont
District of	Missouri	Washington
Columbia	Nevada	
Hawaii	New Jersey	
Illinois	New Mexico	

STATES WITH LAWS THAT CRIMINALIZE BEHAVIORS THAT CARRY A LOW OR NEGLIGIBLE RISK OF HIV TRANSMISSION

Alabama Arkansas Colorado Florida Georgia Idaho Illinois Indiana Kentucky	Louisiana Maryland Michigan Minnesota Mississippi Missouri Nebraska New Jersey North Carolina
Кепциску	North Carolina

Ohio Oklahoma Pennsylvania South Carolina South Dakota Tennessee Utah Virginia

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STATES THAT HAVE A LAW THAT ADDRESSES HATE OR BIAS CRIMES BASED ON SEXUAL **ORIENTATION ONLY**

hode Island

Arizona Florida lowa Kansas

Kentucky Louisiana Nebraska New Hampshire

Tennessee Texas Wisconsin

ANTI-CONVERSION THERAPY

DATA COLLECTION



STATES THAT COLLECT DATA ON THE BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM (BRFSS) ON THE BASIS OF SEXUAL **ORIENTATION AND GENDER IDENTITY**

Connecticut Minne	sippi South Caro
Delaware Missis	na Texas
Florida Monta	a Vermont
Georgia Nevad	Aexico Virginia
Hawaii New M	York Washingto
Illinois New Y	Carolina Wisconsin

STATES THAT COLLECT DATA ON BOTH THE BRFSS AND YRBSS FOR SEXUAL **ORIENTATION AND GENDER IDENTITY**

Delaware	Massachusetts	Vermont
Hawaii	Rhode Island	Wisconsin

STATES WITH LAWS THAT PROTECT YOUTH **FROM CONVERSION THERAPY** California Illinois

Maryland

Nevada

New York

Camonna
Connecticut
Delaware
District of
Columbia
Hawaii

Oregon Rhode Island Vermont Washington New Hampshire New Jersey New Mexico

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ania and rolina Arizona

Arkansas

California

Florida

Illinois

Indiana

lowa

Connecticut

n

STATES THAT COLLECT DATA ON THE YOUTH RISK BEHAVIOR SURVEILLANCE SYSTEM (YRBSS) ON THE BASIS OF SEXUAL ORIENTATION

Kentucky Nebraska Nevada New Hampshire New Mexico New York North Carolina Oklahoma

Pennsylvania South Carolina Texas West Virginia Wyoming

STATE CATEGORIES FOR SEI SCORECARDS

In the SEI scorecards, we have grouped states into several broad categories to provide a general idea about the types of advocacy which occur in different states as well as the types of statewide laws and policies affecting LGBTQ equality in such states. The categories are:

HIGH PRIORITY TO ACHIEVE BASIC EQUALITY

In these states, advocates focus on raising support for basic LGBTQ equality, such as non-discrimination laws. These states are most likely to have religious refusal or other anti-LGBTQ laws. Advocates might further LGBTQ equality by focusing on municipal protections for LGBTQ people or opposing negative legislation that would

BUILDING EQUALITY

In these states, advocates work to build upon initial advances toward LGBTQ equality, such as the passage of a safe schools law, expanding non-discrimination protections, or some protections in healthcare. Work in these states varies widely but may focus on opposing negative legislation, passing comprehensive nondiscrimination laws, or making it easier for LGBTQ people to create families.



SOLIDIFYING EQUALITY

These states generally have several basic measures of equality, including non-discrimination protections or anti-bullying laws. Advocates work to ensure the broad implementation of these laws while advancing laws concerning parenting, youth, health, and safety to achieve full equality for the LGBTQ community.

WORKING TOWARD INNOVATIVE EQUALITY

These states have a broad range of protections to ensure equality for LGBTQ people, including comprehensive non-discrimination laws, safe schools laws, and work to create healthcare access for transgender people. Advocates focus on the implementation of laws and advance innovative legislation that addresses the needs of the vulnerable.

GEORGIA

While we've seen dozens of harmful bills and amendments introduced over the years, our fight during the 2018 legislative session narrowed down to whether or not state-funded adoption and foster care agencies should be allowed to refuse to work with same-sex couples and LGBTQ youth.

Making this fight harder, Georgia's adoption laws were in desperate need of updating, requiring bad language be stripped from an otherwise good bill that was first introduced in 2017. With pressure from child welfare groups and allies of the LGBTQ community, a deal was made to advance a bill to the Governor's desk that didn't include

However, the deal also meant that a second bill would be introduced allowing faith-based agencies Similar bills have passed in ten states over recent Georgia the eleventh.

At rallies and in editorials, we highlighted the stories of youth and families that would be hurt by this legislation. We held presentations and briefings reputation as a business, tourist, and convention destination. And, despite desperate attempts from our opponents in the final hours of the session, we were ultimately successful in keeping the bill from advancing to the Governor's desk.

STATE HIGHLIGHT

We were also successful in leveraging the harms of this bill into our electoral strategies later in the year, and specifically defeated a number of lawmakers that had supported this and other anti-LGBTQ bills over the past few years.

Georgia still has a long way to go to provide fairness, safety, and opportunity to its LGBTQ residents and visitors; however, we have shown that being anti-LGBTQ has consequences. More importantly, we are gaining the momentum needed deserves in the years ahead.

JEFF GRAHAM

Chief Executive Officer





Every child deserves a loving home and every family should be able to recognize familial relationships free from discrimination on the basis of sexual orientation or gender identity.

This category evaluates state laws, policies, or court cases that allow for the creation and recognition of family units or that affect the ability of LGBTQ families to adopt and provide legal recognition for their families.

Some states prevent LGBTQ individuals or same-sex couples from serving as adoptive or foster parents, and many public child welfare agencies still discriminate against gualified, licensed LGBTQ foster and adoptive families. When LGBTQ families are denied the ability to foster and adopt children, children are denied the right to safe, happy, and healthy permanent homes.

Note that not all states allow for each of the family creation legal mechanisms detailed in this category. It is also important to note that family law can differ widely between jurisdictions, and items in the category may not reflect variances in family law issues between different counties within a state. Unless there is a specific prohibition on joint or second parent adoptions in a state, it is likely that at least some same-sex couples are able to adopt via these mechanisms through individual judges.

POSITIVE LAWS & POLICIES

SECOND PARENT ADOPTION

This item indicates state laws or court decisions that allow a second parent of the same sex to petition to adopt their partner's children, regardless of whether they are in a legally recognized relationship.

SURROGACY LAWS

This item indicates state laws that explicitly allow for gestational surrogacy but do not exclude LGBTQ people or privilege married partners. Gestational surrogacy is a surrogacy arrangement where the surrogate has no genetic relation to the child.

FOSTER CARE NON-DISCRIMINATION

This item indicates state laws or administrative policies that prohibit discrimination against LGBTQ people in the placement of foster youth.

FOSTER PARENT TRAINING REQUIRED

This item indicates state laws or agency regulations that require prospective foster parents to receive training regarding LGBTQ youth in areas like cultural competency and legal requirements.

PARENTAL PRESUMPTION FOR SAME-SEX COUPLES

This item indicates that the state, through statewide court rulings, statutes, or agency guidance, presumes that a parental relationship exists for both parents in a same-sex marriage with regard to any children born of that marriage.

CONSENT TO INSEMINATE

This item indicates state laws that specifically allow unmarried same-sex couples to create parentage for both parents for an intended child by formally consenting to insemination of one of the parents

DE FACTO PARENT RECOGNITION

This item indicates a limited recognition of de facto parents as a basis for visitation or custody, generally through court cases. De facto parents are individuals who serve in the role of a parent, but have no legally recognized tie to the child.



All loving and committed couples deserve equal respect and legal recognition. Support for marriage equality for same-sex couples has grown rapidly, and after the Obergefell ruling by the U.S. Supreme Court, every state is obligated to recognize the marriages of same-sex partners.

Following this historic ruling, several states have continuously introduced bills that would limit recognition

NEGATIVE LAWS & POLICIES

STATE RELIGIOUS FREEDOM RESTORATION ACTS

This item indicates state laws that purport to preserve "religious freedom", but which may in fact undermine state non-discrimination protections. Their laws generally fall within one of two categories: the so-called "religious freedom restoration acts", and the laws that specifically allow marriage-service providers to discriminate on the basis of their religion. State laws that explicitly make clear that civil rights protections are not subject to religious refusal will not fall in this category.

RELIGIOUS EXEMPTIONS FOR PROFESSIONAL TRAINING/PRACTICE

This item indicates state laws that specifically prevent public institutions of higher education

of same-sex marriages or allow state officials to refuse to provide licenses or other services for same-sex couples.

or state professional licensing boards from disciplining students or professionals for failing to meet their professional standards of conduct (generally relating to non-discrimination) on the basis of their personal religious beliefs.

FIRST AMENDMENT DEFENSE ACT

This item indicates state laws that purport to protect religious expression but actually grant a right to discriminate. These laws protect people working at a public agency, or a private individual or agency that receives funds, licensing, or other recognition from the state, from losing any of those benefits as a result of discriminatory action that is based on an individual's sexual orientation or gender identity.

TENNESSEE

The Rev. Pamela Hawkins asked me the question every advocate dreams of being asked, "What do you need right now?"

I knew the answer. We needed a reliable way to fill legislative committee rooms with people showing discriminatory bills are up for a vote.

My theory was that retired persons would be a natural fit for this special mission because their flexible schedules allow them to be at the Legislature while others are at work or school.

As Pam and I talked, we decided that diverse faith communities could play a role.

Recently retired herself, Pam had connections with a number of congregations and clergy. In fact, she had already helped us develop lists of clergy publicly opposing legislation like the antitransgender bathroom bills that have appeared in Tennessee over the last three years.

Pam began reaching out to her contacts. Soon we had scheduled our first orientation for retired persons willing to exercise a "ministry of presence" in the halls of the Legislature.

We rightly hear a great deal about including youth in advocacy. Seniors can also be agents in transforming our public policy work. The stereotype is that retirees and people of faith would be more likely to support discriminatory legislation. That is all the more reason to make sure we recruit volunteers from every age group.

As advocates, we always ask, "What should be done?" Sometimes the answer comes when we ask, "Who should do it?" We are grateful to Pam for helping us forge a new path in protecting

CHRIS SANDERS

Executive Director Tennessee Equality Project



NON-DISCRIMINATION LAWS & POLICIES

It should not be legal to deny someone the right to work, rent a home, receive an education, or be served in a place of public accommodation because of their sexual orientation or gender identity.

Recognizing that LGBTQ people should be free of discrimination in all areas of life, this publication takes a comprehensive view of non-discrimination laws and policies, looking at areas where not every state provides protections. This category evaluates whether discrimination on the basis of sexual orientation and gender identity is explicitly prohibited through statewide laws or policies in a host of areas,

POSITIVE LAWS & POLICIES

EMPLOYMENT

This item indicates state laws that prohibit discriminat in private employment on the basis of sexual orientati or gender identity, among other categories.

HOUSING

This item indicates state laws that prohibit discriminat in rental or purchase of housing on the basis of sexual orientation or gender identity.

PUBLIC ACCOMMODATIONS

This item indicates state laws that prohibit discriminat in public accommodations on the basis of sexual orientation or gender identity.

Public accommodations are generally defined as entities, both public and private, that are used by the public. Examples may include retail stores, rental establishments, and service establishments, as well a educational institutions or recreation facilities. The types of entities that fall into this category vary widel and are based on state law.

EDUCATION

This item indicates state laws that prohibit discriminat against students in public education on the basis of sexual orientation or gender identity.

ADOPTION

This item indicates state laws or administrative policie that protect youth involved in the adoption system from discrimination on the basis of sexual orientation or gender identity.

SCORECARD | CRITERIA

including employment, housing, education, and public
accommodations. In some states, the protections
outlined in a specific area do not exist for any characteristic—including race, sex, or disability.
For each item in this category, it is noted whether the

law or policy provides non-discrimination protection on the basis of sexual orientation, gender identity, or both.

EOSTED CADE

tion ion	This item indicates state laws or administrative policies that protect youth involved in the foster care system from discrimination on the basis of sexual orientation or gender identity.
tion al tion	INSURANCE This item indicates state laws or administrative policies that prohibit discrimination in at least some forms of insurance on the basis of sexual orientation or gender identity.
	CREDIT This item indicates state laws or administrative policies that prohibit discrimination in the granting of credit, establishment of loans, or other elements of banking on the basis of sexual orientation or gender identity.
ıs y	JURY SELECTION This item indicates state laws, administrative policies, or court decisions that prohibit discrimination in jury selection on the basis of sexual orientation or gender identity.
tion es	COLLEGES AND UNIVERSITIES This item indicates state laws or state university system policies that prohibit discrimination in admission and access to campus services and facilities on the basis of sexual orientation or gender identity.

*** NON-DISCRIMINATION** LAWS & POLICIES

POSITIVE LAWS & POLICIES

NON-DISCRIMINATION POLICY FOR STATE EMPLOYEES

This item indicates state laws or administrative policies that prohibit discrimination against state employees on the basis of sexual orientation or gender identity.

NEGATIVE LAWS & POLICIES

RESTRICTIONS ON MUNICIPAL PROTECTIONS

This item indicates state laws that prevent municipalities in a state from passing non-discrimination ordinances that would protect categories broader than those protected by state law, generally leaving out sexual orientation and gender identity.

This is different from states that have adopted "Dillon's Rule", which also limits municipal power but does so without a discriminatory intent.

> Recognizing that LGBTQ people should be free of discrimination in all areas of life, this publication takes a comprehensive view of non-discrimination laws & policies, looking at areas where not every state provides protections.



MARYLAND

During the 2018 General Assembly session, our State House and Governor took steps to protect LGBTQ youth in Maryland. In May of 2018, Maryland became the 11th state to legally protect LGBTQ youth from conversion therapy when Republican Governor Larry Hogan signed SB 1028 into law.

Additionally, our representatives passed SB not being accepted for who she is. We applaud 1218 creating a state fund that expands housing and honor Delegate Simonaire's courage and and support services to unaccompanied youth the strong example and impassioned message that she sent to LGBTQ youth in our state. experiencing homelessness – a disproportionate number of whom identify as members of the Looking ahead to 2019, FreeState Justice will LGBTQ community. continue our focus on affirming and protecting Maryland's prohibition on conversion therapy the rights of LGBTQ youth, working for access is an important affirmation to LGBTQ youth to high-quality affirming healthcare, fighting for equity for trans and gender expansive Marylanders, across our state. It unequivocally states they are and expanding our LGBTQ Legal Defense Fund perfect as they are and are deserving of every to help those in Maryland facing discrimination. is proud to have worked alongside the Human Together with partners like the Human Rights Campaign (HRC), WISE of Anne Arundel Rights Campaign, we know we can make County, and our unwavering elected officials Maryland the national leader in LGBTQ to pass this legislation with bipartisan support.

SB 1028 was introduced by Senator Richard Madaleno and Delegate Bonnie Cullison, and SB 1218 was introduced by Senator William Smith, Jr. and Delegate Mary Washington. MARK PROCOPIO

During debate on SB 1028 on the House floor, then-Republican Delegate Meagan Simonaire broke with party lines and addressed the House floor with passionate, personal remarks urging her colleagues to support the bill. She said, "What is not broken, cannot be fixed." In her remarks, she shared that she is bisexual and personally experienced the pain associated with

STATE HIGHLIGHT



Executive Director FreeState Justice



NEW JERSEY

New Jersey continued to make great strides for transgender equality in 2018, passing legislation to simplify birth and death certificate changes, establishing the first interagency State Transgender Tasks Force in the country, and issuing guidance affirming transgender students.

In July of 2018, Governor Philip D. Murphy (D) signed three pieces of legislation advancing equality for transgender New Jerseyans. A1718/ S478, named for transgender activist Babs Siperstein, simplifies the process for changing the gender marker on a birth certificate by removing the outdated and burdensome "proof of surgery" requirement, replacing a letter from a therapist gender option.

A1726/S493 mandates that death certificates reflect a person's gender identity irrespective of the gender they were assigned at birth. Finally, A1727/S705 establishes the New Jersey comprised of representatives from 17 state agencies, transgender activists and advocates, parents of transgender children, and professionals legal and healthcare fields.

Then in September of 2018, the New Jersey Department of Education (DOE) issued guidelines on working with transgender students to every public school in the state.

The guidelines were mandated by a 2017 law and Garden State Equality worked with community partners, such as the local GLSEN chapters and the ACLU-NJ, on both the legislative push and the development of the guidelines through a stakeholder group set up by the NJ DOE. The new guidelines provide clarity to schools on the rights of transgender students and guidance on how to and beyond.

Garden State Equality is proud to have worked on these groundbreaking laws and guidelines with our allies in the state legislature and agencies, our community partners in social justice movements across the state, and Governor Murphy. We look forward to continued success in the fight for

AARON POTENZA Director of Policy Garden State Equality



• HATE CRIMES & CRIMINAL JUSTICE LAWS

No one should be at risk of violence, targeted by criminal laws, or profiled by law enforcement because of their sexual orientation, gender identity, or HIV status.

This category evaluates state criminal laws to deter whether they equally protect residents on the basis sexual orientation and gender identity, include LGBT people in hate crimes laws, eliminate unjust defense to violent crimes committed against LGBTQ people, proscribe police profiling of LGBTQ individuals.

POSITIVE LAWS & POLICIES

ENUMERATED HATE CRIMES LAWS

This item indicates state laws that specifically include sexual orientation or gender identity in hate crimes protections.

MANDATORY REPORTING OF HATE CRIME **STATISTICS**

This item indicates state laws that require the collect of data regarding incidents of hate crimes based on sexual orientation or gender identity and reporting that data to the federal government.

NEGATIVE LAWS & POLICIES

SODOMY LAWS

This item indicates state laws that purport to criminalize sodomy, regardless of whether they are enforced. Note that these laws are not enforceable due to the Supreme Court's *Lawrence v. Texas* decision, but they still need to be officially repealed by the state legislature.

rmine	This category also notes the presence of negative laws
s of	that harm public health efforts, like those that criminalize
BTQ	people living with HIV, as well as unconstitutional
ses	statutes like anti-sodomy laws that perpetuate stigma
e, and	against LGBTQ people by their continued existence.

	ELIMINATION OF BIAS RAGE OR PANIC
de	DEFENSE FOR CRIMINAL ACTS
	This item indicates a state law that prohibits the
	use of an affirmative defense that may be used
	to excuse or classify a criminal charge as a lesser
ES	charge because the revelation of the victim's
	sexual orientation or gender identity caused the
ction	defendant to lose control and turn violent.
l	

PROHIBITING PROFILING BASED ON ACTUAL OR PERCEIVED LGBTQ STATUS BY LAW ENFORCEMENT

This section denotes a state statute that prohibits law enforcement from targeting a person based on their actual or perceived sexual orientation or gender identity without trustworthy information relevant to linking that person to a crime.

HIV CRIMINALIZATION LAWS

This item indicates state laws that criminalize behaviors of HIV+ people that carry a low or negligible risk of HIV transmission. States that criminalize behaviors that carry a higher risk of youth-retransmission will not be noted by this measure.

YOUTH-RELATED LAWS & POLICIES

All youth should be able to participate in schools and communities that are safe and welcoming, regardless of their sexual orientation or gender identity.

This category evaluates a range of measures concerning the safety and well-being of LGBTQ youth, including safe school laws, laws to protect youth from dangerous and discredited conversion therapy, and laws to address youth homelessness. Recognizing that schools play an especially important role in the growth and development of young people, we looked at a number of measures relating to bullying prevention and school safety.

Several items in this category, particularly with regard to protecting youth from conversion therapy and addressing youth homelessness, are rapidly evolving areas of the law. While currently only a few states provide these protections, additional states will likely address these policy issues in future years.

POSITIVE LAWS & POLICIES

ANTI-BULLYING LAWS

These items indicate state laws that protect youth from bullying and harassment, generally by requiring individual school districts to have anti-bullying policies in place. Credit was given for laws that are enumerated, meaning they specifically list characteristics that are frequently the target of bullying and harassment, while providing anti-bullying protection for all students.

Enumeration is especially important to protect LGBTQ students, as research has demonstrated that nonenumerated policies are no more effective to protect vulnerable students than having no policy in place. State laws are only indicated by this item if they provide protection based on both sexual orientation and gender identity.

The second item indicates states with model policies and guidance documents, generally created by the state Department of Education, that enumerate sexual orientation and gender identity.

The "Alternative Discipline" item indicates state laws that specifically include language that supports alternative forms of discipline that focus on education, remediation, prevention, and providing support for the target of bullying, rather than exclusionary discipline, criminalization, or "zero tolerance" policies for bullying and harassment.

Finally, the "Cyberbullying" item indicates that the state's anti-bullying law covers incidents of bullying and harassment that occur electronically, through the internet or another electronic medium. States and individual school districts vary widely on the degree to which anti-cyberbullying enforcement extends beyond the walls of the school. This category does not assess these distinctions, simply whether the law addresses bullying and harassment through electronic means.

SCHOOL SUICIDE PREVENTION POLICIES

This item indicates state laws that require public school districts to have policies that focus on suicide prevention and intervention.

TRANSGENDER INCLUSION IN SPORTS

This item indicates either legislation, regulations from the state Department of Education, or authoritative guidance from the state organization that regulates intramural secondary school sports allowing transgender students reasonable opportunity and access to participate in school sports.

PROTECTION FROM CONVERSION THERAPY

This item indicates laws designed to protect LGBTQ youth from conversion therapy through licensing restrictions that prevent licensed mental healthcare professionals from conducting conversion therapy on youth under age 18.

POSITIVE LAWS & POLICIES

LAWS TO ADDRESS LGBTQ YOUTH HOMELESSNESS

This item indicates state laws that specifically address homelessness among LGBTQ youth. For example, requiring homeless youth service providers to have non-discrimination policies in place, adequate cultural competency training, enhanced data collection to better understand disparities among this vulnerable population, and ensure homeless transgender youth are able to receive appropriate services based on their gender identity and expression.

NEGATIVE LAWS & POLICIES

INEQUALITY IN AGE OF CONSENT FOR SAME-SEX COUPLES

This item indicates state laws that create different standards for the age of consent in same-sex and different-sex couples. Many states have a so-called "Romeo and Juliet" exception to age of consent laws, which prevents violation of these laws as long as the couple is within a particular age range; however, for some states this exception only applies to different-sex couples.

SCHOOL LAWS THAT CRIMINALIZE YOUTH

This item refers to anti-bullying laws that have either the mandatory, one-size-fits-all discipline or zerotolerance policies, or the laws that specifically criminalize either bullying or cyberbullying. The item does not apply to general laws that extend anti-harassment protections to an electronic medium unless they refer specifically to schools, bullying, or cyberbullying.

ANTI-BULLYING LAWS THAT PROHIBIT ENUMERATION

This item indicates state anti-bullying laws that specifically prohibit school districts from listing characteristics that are frequently the target of bullying and harassment. This undermines the protection of the law for vulnerable populations such as LGBTQ youth.

LGBTQ-INCLUSIVE SEX EDUCATION LAWS

This item indicates state law or regulatory guidance that requires any sexual health education provided to students be specifically inclusive of LGBTQ youth.

LGBTQ-INCLUSIVE JUVENILE JUSTICE POLICIES

This item indicates state laws, regulations, or policies designed to protect LGBTQ youth in juvenile justice settings from discrimination on the basis of sexual orientation and gender identity.

LAWS THAT RESTRICT INCLUSION OF LGBTQ **TOPICS IN SCHOOLS**

This item indicates state laws that prohibit educators from discussing LGBTQ topics in schools or that require that any discussion of LGBTQ topics in schools be presented in a negative way. While these laws generally pertain only to sexual health education, they are frequently interpreted in a broader way by school districts. In some states these laws are not operative, but because of the negative impact they can have on LGBTQ youth, even if they are not officially enforced, they are still noted as present.

A HEALTH & SAFETY LAWS & POLICIES

Everyone should be able to access appropriate health care that is culturally competent and affirming, regardless of their sexual orientation or gender identity. Moreover, everyone should be able to access identity documents that reflect the way in which they live their lives.

This category evaluates a range of measures relating to the health and safety of LGBTQ people, including access to health care, the ability to obtain appropriate identity documents, and the collection of health survey data of LGBTQ people. Data collection pertaining to LGBTQ populations is especially important because, over time, it will allow us to assess and address health disparities among LGBTQ communities.

With the rapidly evolving nature of health care and consistent push for reforms from elected officials, it is likely that measures relating to non-discrimination in health care and prohibitions on transgender health care exclusion will continue to grow.

POSITIVE LAWS & POLICIES

LGBTQ NON-DISCRIMINATION PROTECTIONS IN AFFORDABLE CARE ACT (ACA) **EXCHANGES**

This item indicates state laws or administrative policies that specifically prohibit discrimination on the basis of sexual orientation or gender identity by insurance providers and health care providers through state implementation of the ACA.

While the ACA and federal regulations make clear that healthcare and insurance providers must not discriminate, enforcement is administered by the states, and so it is important that state laws and policies establish exchanges that reflect federal non-discrimination mandates.

States that do not operate their own exchanges (and therefore have no relevant laws or policies) cannot receive credit for this item.

BAN ON INSURANCE EXCLUSIONS FOR TRANS HEALTH CARE

This item indicates state laws or administrative policies that prohibit private health insurance providers from issuing policies with explicit bans on transgender or transition-related health care.

TRANSGENDER HEALTHCARE INCLUSION IN STATE MEDICAID

This item indicates state laws or agency rules that specifically allow for transition-related coverage for transgender people through state Medicaid.

TRANSGENDER-INCLUSIVE HEALTH BENEFITS FOR STATE EMPLOYEES

This item indicates state laws, administrative policies, or court decisions that provide transgender state employees access to transgender and transition-related health care through their employment health benefits.

NAME AND GENDER CHANGE ON **IDENTIFICATION DOCUMENTS**

These items indicate state laws or administrative policies that allow transgender people to change their gender markers on their driver's licenses or birth certificates with a minimum of difficulty. Generally, this means that these laws or policies will create a clear process and not have specific surgery requirements in order to change one's gender marker.

While there are sometimes court decisions that allow transgender people to amend their identity documents even in states without explicit rules, these items will consider only statewide laws or policies.

POSITIVE LAWS & POLICIES

HEALTH DATA COLLECTION

This item indicates the presence of sexual orientation or gender identity-related survey questions on national health data collections that are administered by the state. The Centers for Disease Control and Prevention (CDC) conducts two federal health data surveys in the majority of states: the Behavioral Risk Factor Surveillance System (BRFSS) among adults FACILITIES and the Youth Risk Behavior Surveillance System This item indicates state laws or agency guidance (YRBSS) among secondary-school aged youth. Only requiring single-occupancy facilities (that is, restrooms LGBTQ-related optional questions adopted by the or changing rooms meant to accommodate only one CDC are counted for this measure. person at a time) to be designated as all-gender.

NEGATIVE LAWS & POLICIES

LAWS PROHIBITING TRANSGENDER **PEOPLE FROM RECEIVING APPROPRIATE IDENTIFICATION**

This item indicates states laws, administrative policies, or court decisions preventing transgender people from updating the gender markers on their driver's licenses or birth certificates under any circumstances.

TRANSGENDER EXCEPTIONS IN STATE **MEDICAID COVERAGE**

This item indicates state laws or administrative policies that explicitly prohibit Medicaid coverage for transitionrelated care for transgender people.

SCORECARD | CRITERIA

k	ALL-GENDER SINGLE-OCCUPANCY
	populations. Note that not every state administers the YRBSS, and states that do not are indicated with an "N/A."
ed	and they include optional questions pertaining to LGBTQ
	two specific surveys, as they are prominent health surveys
on	federal data collection, this measure looks at only these
	While there are many other forms of both state and

ACKNOWLEDGING CONTEXT

RESEARCH PROCESS

The SEI scorecards are meant to assess the presence of statewide laws, policies, and court decisions that affect LGBTQ equality, either positively or negatively. Research for this project was conducted by the SEI team — a group of staff attorneys, pro bono attorneys and law fellows — based on the criteria for each law and policy item, and compiled into a sample scorecard for each state. The data was drawn from publicly available sources. The draft scorecards were provided to members of the Equality Federation, and these organizations were offered an opportunity to review the scorecards, ask any questions, give input, and provide additional sources for the SEI team to consider. These assessments were considered by the SEI team and a final scorecard for each state was developed.

For each of the category descriptions, the SEI team made determinations on whether laws, administrative policies, or court decisions would qualify for each state law and policy item based on the nature of the item, typical statewide laws and policies concerning that item, and our determination about best practices for that item.

Laws refer to statewide statutes, either passed through the state's legislative process or through referendum. Administrative regulations and policies refer to agency guidance or documented policies from a state executive agency that has a legal effect (i.e., the policy is not merely aspirational - it is enforceable). The nature of these agency regulations and policies can vary widely based on the nature of the category, the state agency, and the administrative process in that state. Court decisions refer to final rulings by a relevant state or federal court with a statewide jurisdiction and for which the decision is in effect.

IMPORTANCE OF MUNICIPAL ADVOCACY

While the SEI examines statewide laws and policies that affect LGBTQ equality, it is important to recognize the substantial and growing role that municipal law has on LGBTQ equality across the country. In many states with a more difficult political climate for LGBTQ equality, advocates may focus on municipal protections rather than statewide law and policy for strategic reasons. Passage of municipal protections can serve to protect a large population of LGBTQ people immediately, whereas passage of statewide protections may not be feasible for years, if at all.

Also, passage of municipal protections can facilitate passage of statewide laws and policies in several ways. For example, it can show that the potential negative outcomes opponents use to block protections for LGBTQ people are demonstrably false, it empowers local advocates to become more involved, and it helps convince lawmakers that protections in their districts should be passed at the state level.

For a nationwide evaluation of municipal law, policies and services affecting LGBTQ equality, please see the Municipal Equality Index, available at hrc.org/mei.

IMPLEMENTATION AND LIVED EXPERIENCE

The SEI is an assessment of the statewide laws and policies which affect LGBTQ equality in each state and the District of Columbia. It is a roadmap for the types of state laws and policies that advocates can work toward to make positive change and a marker by which we can measure the steady passage of statewide laws and policies affecting LGBTQ equality. However, the SEI does not rank states in terms of LGBTQ equality, nor is it an assessment of the culturally friendliest states for LGBTQ people to live.

Moreover, the SEI is not able to measure the implementation of laws, policies, or court cases that affect LGBTQ equality, which can have a very real impact on the day-to-day lived experiences of LGBTQ people. While the SEI looks at the presence or absence of statewide laws and policies, it is impossible to determine the extent to which those laws are actively enforced or whether relevant training occurs. In fact, enforcement may vary considerably between states and municipalities within in a state. Many municipalities will have laws and policies that go beyond the basic requirements of statewide law, creating additional protections in areas such as non-discrimination or safe schools.

> Advocacy for statewide laws and policies concerning LGBTQ equality will vary drastically in different regions, based on state politics, historical context, state legislative issues, and countless other factors.

Finally, the SEI is not an evaluation of statewide advocacy efforts. We recognize that advocacy for statewide laws and policies concerning LGBTQ equality will vary drastically in different regions, based on state politics, historical context, state legislative issues, and countless other factors. For example, in some regions it may be a major victory for advocates to kill negative legislation, while in other states, such legislation has no real chance of passing. The SEI strives to present a balanced view of the types of advocacy that occurs in different states around the country, as well as a factual record of the presence of statewide laws and policies that positively or negatively affect LGBTO equality.



LICENSES TO **DISCRIMINATE IN THE** PROVISION OF CHILD WELFARE SERVICES

WHAT ARE LICENSES TO DISCRIMINATE IN CHILD WELFARE SERVICES?

The last four years have seen a surge of bills introduced in state legislatures that aim to diminish the rights of lesbian, gay, bisexual, transgender and queer (LGBTQ) people.

In 2015, state versions of the Religious Freedom Restoration Acts proliferated in states, like Indiana, angered by the imminent arrival of marriage equality; in 2016, state legislatures took aim at the transgender community with bills like North Carolina's infamous HB2; and in 2017 state legislatures pursued more targeted bills that carved out religiously- or morallybased refusals from professional regulation of certain sectors. Among these targeted refusal bills were licenses to discriminate in child welfare services. The number of these nearly doubled in 2017, from 4 to 7, with new laws passed in Alabama, South Dakota, and Texas. 2018 brought new laws in Oklahoma and Kansas, as well as as a discriminatory budget proviso in South Carolina. Compounding the alarm about the implications of these state laws, the Trump/Pence administration has doubled down on this discrimination with an executive order that has the potential to expand this kind of discrimination even further in federally administered or funded programs, and is considering granting two states (South Carolina and Texas) a waiver from complying with existing non-discrimination requirements.

To be clear, these laws are about discrimination — they permit taxpayer-funded programs to pick and choose to whom they provide services they have been paid by the government to deliver. Proponents of these bills have been very forthright that the bills are a lingering reaction to marriage equality — their purpose is to enshrine discrimination into law by granting state contractors and grantees who provide taxpayer-funded child welfare services the ability to discriminate with impunity in the

provision of those services against qualified samesex couples or LGBTQ individuals who want to adopt. However, some of the exemptions are so broad they'd also allow agencies to object to placement with single parents, parents of another faith or an interfaith couple, and others. Some of these bills are also drawn in such a way that there are implications around the agencies being able to responsibly care for LGBTQ youth, and some would implicate youth's reproductive rights as well.

This contrived controversy dates back about a decade as marriage equality spread from just a few states to the entire country. Some providers of child welfare services, citing religious objections, have threatened to cease providing state-funded services if they are forced to serve same-sex couples or other potential parents seeking to adopt a child – from interfaith couples to single parents to a married a couple where one prospective parent had been previously divorced. One of the cruelest consequences of these types of bills is that they would allow agencies to refuse to place foster children with members of their extended families - a practice often considered to be in the best interest of the child - based solely on the agency's religious beliefs. A loving, LGBTQ-identified grandparent, for example, or a stable, eager LGBTQ relative could be deemed objectionable as a matter of religious belief and therefore an unsuitable placement for a child. This is contrary to the guiding principle in child welfare to prioritize the placement of children within their family of origin whenever a relative is able and willing to step in.

Further, some of these laws would allow agencies responsible for caring for LGBTQ youth to refer that child to a provider of the abusive and discredited practice of so-called "conversion therapy", if that was consistent with the agency's religious beliefs, without the state being able to intervene, cancel the contract, or withdraw support in other ways. They would also allow an agency to refuse to give a child access to affirming mental health care, or to prevent them from continuing to receive hormone therapy. Similarly, some of the bills explicitly state that the agency can refuse to provide reproductive health care including contraception or abortion.

Child welfare services should be guided by the overarching principle that guides all family law: all determinations should be in the "best interest of the child". It isn't in the best interest of a child to deny them a qualified, loving family simply because that family doesn't share all of the tenets of the placing agency's faith, and it certainly isn't in the best interest of an LGBTQ child to be denied medical treatment, or subjected to abusive discredited practices, because the host family or child welfare agency wants to change a child's LGBTQ identity. The best interests of the child are served by making a case by case determination about whether placement of a child with a prospective family is in that child's best interest.

CONCLUSION

The proliferation of these bills in states across the country - not to mention the threat of the federal government adopting similar policies via law, regulation, or policy - should alarm anyone who believes that children in our child welfare system deserve to have their best interests be at the heart of every decision made on their behalf. The justifications for these licenses to discriminate simply don't hold up — and the harms they impose are very real.

It is important to acknowledge that religious organizations who engage in child welfare work are entitled to their religious viewpoints, and that the state cannot and should not be legislating on matters of faith. However, when engaged in taxpayer-funded activity, such as when the state awards a contract to care for children who are wards of the state in a foster care setting, state contractors should not be allowed to pick and choose to whom they provide services they have been paid by the government to deliver. These children are the state's responsibility, and they should not be subjected to discrimination or denial of necessary services simply because the state has delegated the responsibility to care for them to a provider.

License to discriminate in child welfare bills are simply one more effort to write anti-LGBTQ discrimination into law. These bills are not supported by the larger adoption community or by mental health professionals. They are not supported by the data either - data shows that LGBTQ parents are as well equipped to care for children as non-LGBTQ parents, and data also shows that in jurisdictions where religiously-affiliated agencies have withdrawn their operations in protest of having to treat same-sex couples equally that children have not been subjected to longer waits in care. Rather, these laws are harmful and unnecessary. Discriminating against qualified prospective parents using taxpayer dollars does a disservice both to the children who need homes and to the entire state; and allowing those charged with a child's care to discriminate against a child is simply unconscionable.

For more information about licenses to discriminate in the provision of child welfare services, see HRC's report titled, Disregarding the Best Interest of the Child: Licenses to Discriminate in Child Welfare Services, on www.hrc.org

NATIONAL STATS

TOTAL STATES WITH NON-DISCRIMINATION **PROTECTIONS***

FOR SEXUAL ORIENTA-

FOR GENDER IDENTITY











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ALABAMA HIGH PRIORITY TO ACHIEVE BASIC EQUALITY

PARENTING LAWS

Second Parent Adoption Surrogacy Laws Foster Care Non-Discrimination Foster Parent Training Required Parental Presumption for Same-Sex Couples Consent to Inseminate De Facto Parent Recognition Prohibition of Surrogacy Laws Permitting Discrimination in Adoption/Foster Placement **HATE CRIMES & CRIMINAL JUSTICE LAWS Enumerated Hate Crimes Laws** Mandatory Reporting of Hate Crimes Statistics Elimination of Bias Rage or Panic Defense for Criminal Acts Prohibiting Profiling Based on Actual or \square Perceived LGBTQ Status by Law Enforcement Sodomy Laws HIV/AIDS Criminalization Laws

NON-DISCRIMINATION LAWS

	Employment	
	Housing	
	Public Accommodations	
	Education	
	Adoption	
	Foster Care	
	Insurance	
	Credit	
	Jury Selection	
-	Colleges & Universities	
	Non-Discrimination Policy for State Employees	
	Restrictions on Municipal Protections	
	Religious Exemptions in State Non-Discrimination Laws	

RELIGIOUS REFUSAL & RELATIONSHIP RECOGNITION

State Religious Freedom Restoration Act	
Religious Exemptions for Professional Training/Practice	
First Amendment Defense Act	(



YOUTH LAWS

Anti-Bullying Laws

- Enumerated Categories in Law
- Enumerated Model Policy
- Alternative Discipline
- Cyberbullying

School Suicide Prevention Policies Required

Transgender Inclusion in Sports

Protection from Conversion Therapy

Laws to Address LGBTQ Youth Homelessness

LGBTQ Inclusive Sex Education Laws

LGBTQ Inclusive Juvenile Justice Policies

Inequality in Age of Consent for Same-Sex Couples

School Laws that Criminalize Youth

Anti-Bullying Laws that Prohibit Enumeration

Laws that Restrict Inclusion of LGBTQ Topics in Schools

ANNUAL PROGRESS



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SCORECARD | STATE

LGBTQ Non-Discrimination Protections in ACA Exchanges	
Transgender Healthcare Coverage	
 Ban on Insurance Exclusions for Trans Health Care 	
 Transgender Healthcare Inclusion in State Medicaid 	
 Trans Inclusive Health Benefits for State Employees 	
Name and Gender Updates on Identification Documents	
Driver's Licenses	
Birth Certificates	
Health Data Collection	
BRFSS	
YRBS	
All-Gender Single Occupancy Facilities	
Laws Prohibiting Transgender People from Receiving Appropriate ID	
Transgender Exclusions in State Medicaid Coverage	

ALASKA **HIGH PRIORITY TO ACHIEVE BASIC EQUALITY**

PARENTING LAWS

Second Parent Adoption	E
Surrogacy Laws	ŀ
Foster Care Non-Discrimination	F
Foster Parent Training Required	E
Parental Presumption for Same-Sex Couples	ŀ
Consent to Inseminate	F
De Facto Parent Recognition	
Prohibition of Surrogacy	(
Laws Permitting Discrimination in Adoption/Foster Placement	(
HATE CRIMES & CRIMINAL JUSTICE LAWS	r F
Enumerated Hate Crimes Laws	
	ľ
Mandatory Reporting of Hate Crimes Statistics	
Mandatory Reporting of Hate Crimes Statistics Elimination of Bias Rage or Panic Defense for Criminal Acts	
Elimination of Bias Rage or Panic Defense	

NON-DISCRIMINATION LAWS

	RELIGIOUS REFUSAL & RELATIONSHIP RECOGNITIO	N
stics	Non-Discrimination Laws	
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gender identity only

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gender identity only

- No statewide law or policy for sexual orientation or gender identity
- Statewide law or policy for both sexual orientation and gender identity

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FOR MORE INFORMATION ABOUT CRITERIA OR THE SEI SCORING SYSTEM, PLEASE REFER TO PAGE 28 OR VISIT No statewide law or policy Statewide law or policy for sexual orientation only

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Statewide law or policy for both sexual orientation and gender identity

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gender identity only

Statewide law or policy for both sexual orientation and gender identity

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gender identity only

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Statewide law or policy for both sexual orientation and gender identity

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	Education	
	Adoption	
	Foster Care	
	Insurance	
	Credit	
	Jury Selection	
	Colleges & Universities	
	Non-Discrimination Policy for State Employees	
	Restrictions on Municipal Protections	
	Religious Exemptions in State Non-Discrimination Laws	
6		

RELIGIOUS REFUSAL & **RELATIONSHIP RECOGNITION**





gender identity only

Statewide law or policy for both sexual orientation and gender identity

YOUTH LAWS

Anti-Bullying Laws

- Enumerated Categories in Law
- Enumerated Model Policy
- Alternative Discipline
- Cyberbullying

School Suicide Prevention Policies Required

Transgender Inclusion in Sports

Protection from Conversion Therapy

Laws to Address LGBTQ Youth Homelessness

LGBTQ Inclusive Sex Education Laws

LGBTQ Inclusive Juvenile Justice Policies

Inequality in Age of Consent for Same-Sex Couples

School Laws that Criminalize Youth

Anti-Bullying Laws that Prohibit Enumeration

Laws that Restrict Inclusion of LGBTQ Topics in Schools

ANNUAL PROGRESS



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Not Applicable

SCORECARD | STATE

LGBTO Non-Discrimination Protections in ACA Exchanges	
Transgender Healthcare Coverage	
 Ban on Insurance Exclusions for Trans Health Care 	
 Transgender Healthcare Inclusion in State Medicaid 	
 Trans Inclusive Health Benefits for State Employees 	
Name and Gender Updates on Identification Documents	
Driver's Licenses	Г
Birth Certificates	
Health Data Collection	
BRFSS	
YRBS	
All-Gender Single Occupancy Facilities	
Laws Prohibiting Transgender People from Receiving Appropriate ID	
Transgender Exclusions in State Medicaid Coverage	

WYOMING **HIGH PRIORITY TO ACHIEVE BASIC EQUALITY**

PARENTING LAWS

Second Parent Adoption Surrogacy Laws Foster Care Non-Discrimination Foster Parent Training Required Parental Presumption for Same-Sex Couples Consent to Inseminate De Facto Parent Recognition Prohibition of Surrogacy Laws Permitting Discrimination in Adoption/Foster Placement **HATE CRIMES & CRIMINAL JUSTICE LAWS Enumerated Hate Crimes Laws** Mandatory Reporting of Hate Crimes Statistics Elimination of Bias Rage or Panic Defense for Criminal Acts Prohibiting Profiling Based on Actual or Perceived LGBTQ Status by Law Enforcement Sodomy Laws

NON-DISCRIMINATION LAWS

Employment	
Housing	
Public Accommodations	
Education	
Adoption	
Foster Care	
Insurance	
Credit	
Jury Selection	
Colleges & Universities	
Non-Discrimination Policy for State Employees	
Restrictions on Municipal Protections	
Religious Exemptions in State Non-Discrimination Laws	

RELIGIOUS REFUSAL & RELATIONSHIP RECOGNITION

State Religious Freedom Restoration Act	(
Religious Exemptions for Professional Training/Practice	(
First Amendment Defense Act	(



Statewide law or policy for both sexual orientation and gender identity

YOUTH LAWS

Anti-Bullying Laws

- Enumerated Categories in Law
- Enumerated Model Policy
- Alternative Discipline
- Cyberbullying

School Suicide Prevention Policies Required

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School Laws that Criminalize Youth

Anti-Bullying Laws that Prohibit Enumeration

Laws that Restrict Inclusion of LGBTQ Topics in Schools

ANNUAL PROGRESS



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HIV/AIDS Criminalization Laws

SCORECARD | STATE

LGBTQ Non-Discrimination Protections in ACA Exchanges	
Transgender Healthcare Coverage	
 Ban on Insurance Exclusions for Trans Health Care 	
 Transgender Healthcare Inclusion in State Medicaid 	
 Trans Inclusive Health Benefits for State Employees 	
Name and Gender Updates on Identification Documents	
Driver's Licenses	
Birth Certificates	
Health Data Collection	
BRFSS	
YRBS	
All-Gender Single Occupancy Facilities	
Laws Prohibiting Transgender People from Receiving Appropriate ID	
Transgender Exclusions in State Medicaid Coverage	

SCORECARD CHANGES FOR THE **2019 SEI**

The legal landscape for LGBTQ equality has shifted rapidly in the past several years.

States have continued to push for LGBTQ equality beyond relationship recognition after the ruling in Obergefell v. Hodges made marriage equality the law of the land. Many are increasingly focused on passing non-discrimination laws, protecting LGBTQ youth and expanding healthcare access for transgender people. This publication will continue to evaluate the changing landscape of law and provide the fullest picture of LGBTQ equality in the states.

POSITIVE

- LGBTQ cultural competency training requirements for various types of professionals (doctors, mental health professionals, etc.)
- Proper gender and name requirements on death certificates for transgender people
- Mandatory LGBTQ-inclusive training for law enforcement
- LGBTQ-inclusive paid family leave laws .

The rise in religious refusal bills that have become law calls for greater attention from LGBTQ advocates. The SEI will continue to recognize various laws that fall in this category. Future editions may include more nuance if particular types of laws gain traction.

We will consider other changes to the SEI scorecard based on developments in state law over the next few years. As a general matter, we will not include an item on the SEI scorecard unless at least one state has passed a law or policy that gualifies under criteria for an item. Potential new criteria for future editions may include:

NEGATIVE

- Laws that restrict access to supportive student groups in public schools
- Laws that allow government officials or businesses to refuse to recognize legal marriages

ACKNOWLEDGMENTS

ABOUT THE AUTHORS

Sarah Warbelow is the legal director at the Human Rights Campaign, leading HRC's team of lawyers and fellows focused on federal, state, and municipal policy. She also coordinates HRC's advocacy efforts as amicus curiae ("friend of the court") in litigation affecting the lesbian, gay, bisexual, transgender and gueer community. She received her bachelors' degrees in social relations and women's studies from Michigan State University and her master's of public policy and law degree from the University of Michigan. Warbelow is admitted to the bar of Michigan.

THE SEI TEAM

The SEI would not be complete without the time, talent Every year, our press team delivers the story of state and commitment of the many folks mentioned below. equality to the masses. Our colleagues Liz Halloran, lanthe Metzger and Allison Turner once again lended We want to thank Breanna Diaz for her contribution their talent to capture the state of LGBTQ equality in to this year's report. Her research and advocacy 2018. We appreciate working with them.

shaped this publication into a better tool for the LGBTQ movement.

A significant portion of the research for the SEI was conducted by HRC's 2018 McCleary law fellows; James Hampton, Faith Gingrich-Goetz, Katie Ritter, Michael Lambert, Lydia Tsao and Christopher Romero. We thank them for their thorough research and willingness to lend a hand when needed.

A special thank you to Marisa Escudero for lending her research and proofreading skills. This publication would not have been possible without her dedication to this project.

THE EQUALITY FEDERATION INSTITUTE

It's been our great pleasure to work in partnership with the Equality Federation Institute on this report. Members of the Equality Federation strive each day to achieve the equality measures that this report indexes, bringing state policy and advocacy expertise, grassroots organizing, and local experience to the fight for LGBTQ equality. The State Equality Index, and indeed, the tremendous gains in LGBTQ equality at the state level, would not be possible without their effort and relentless commitment.

Cathryn Oakley is the state legislative director and senior counsel at the Human Rights Campaign. She advises state and local legislators to enact laws that further LGBTQ equality. Oakley is a member of the Virginia bar and practiced family law before joining the Human Rights Campaign. She is a graduate of George Mason University School of Law and Smith College.

Collen Kutney is the senior manager of HRC's state and municipal programs, and manages the SEI from start to finish. Kutney pulls the strings behind the research, design, outreach, composition, and launch of the SEI. They are a graduate of the University at Albany in Albany, NY.

We'd also would like to thank Bob Villaflor for his consultation with this year's design. The SEI's electric design was imagined by the talented team at General Design Company. The creativity and innovation of Soung Wiser, Caroline Brickell and Christie Liberatore made this year's report truly special.

The HRC digital team, particularly Carolyn Simon, Emily Roberts, and Brian McBride, ensured that this report, plus all state scorecards, are available on the web at hrc.ora/sei.

Please see the next page for the logos of groups who provided feedback to make the SEI a success.

We look forward to working with you again for SEI 2019!

The State Equality Index would not have been possible without the valuable contributions made by state advocates. A particular thanks therefore goes out to the following:



The strength of the state-based LGBTQ movement is critical to elevate our representation, visibility and equality across the country. As we look to the next legislative session, the *State Equality Index* should serve as a recognition of how far we have come and how much we have yet to achieve.



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