



the
Williams
INSTITUTE

The Economic Impact of Stigma and Discrimination against LGBT People in Georgia

Christy Mallory, Brad Sears, Eric R. Wright & Kerith Conron

January 2017

AUTHORS

This report was primarily researched and authored by:

Christy Mallory, JD, Anna M. Curren Fellow and Senior Counsel at the Williams Institute;

Brad Sears, JD, Associate Dean at UCLA School of Law and Executive Director and Roberta A. Conroy Scholar of Law and Policy at the Williams Institute;

Eric R. Wright, PhD, 2nd Century Initiative Professor of Sociology and Public Health and Chair of the Sociology Department at Georgia State University; and

Kerith Conron, ScD, Blachford-Cooper Research Director and Distinguished Scholar at the Williams Institute.

ACKNOWLEDGEMENTS

In addition, the following scholars made substantial contributions to the paper:

Taylor N.T. Brown, MA, Policy Analyst at the Williams Institute, assisted in analysis of the Georgia BRFSS data that is presented in the section on health disparities facing LGBT people, and contributed to the presentation of that data in the paper.

Jody L. Herman, PhD, Scholar of Public Policy at the Williams Institute, and **Taylor N.T. Brown, MPP**, Policy Analyst, researched and authored the economic impact of discrimination against transgender people in Georgia on Medicaid and housing programs and services.

This report was informed by an approach to understand the economic consequences of stigma and discrimination articulated in: M.V. LEE BADGETT, SHEILA NEZHAD, KEES WAALDIJK & YANA VAN DER MEULEN RODGERS, USAID & WILLIAMS INST., THE RELATIONSHIP BETWEEN LGBT INCLUSION AND ECONOMIC DEVELOPMENT: AN ANALYSIS OF EMERGING ECONOMIES 2 (2014).

We thank **Adam P. Romero**, Arnold D. Kassoy Scholar of Law and Senior Counsel at the Williams Institute, for his thoughtful review of this report.

TABLE OF CONTENTS

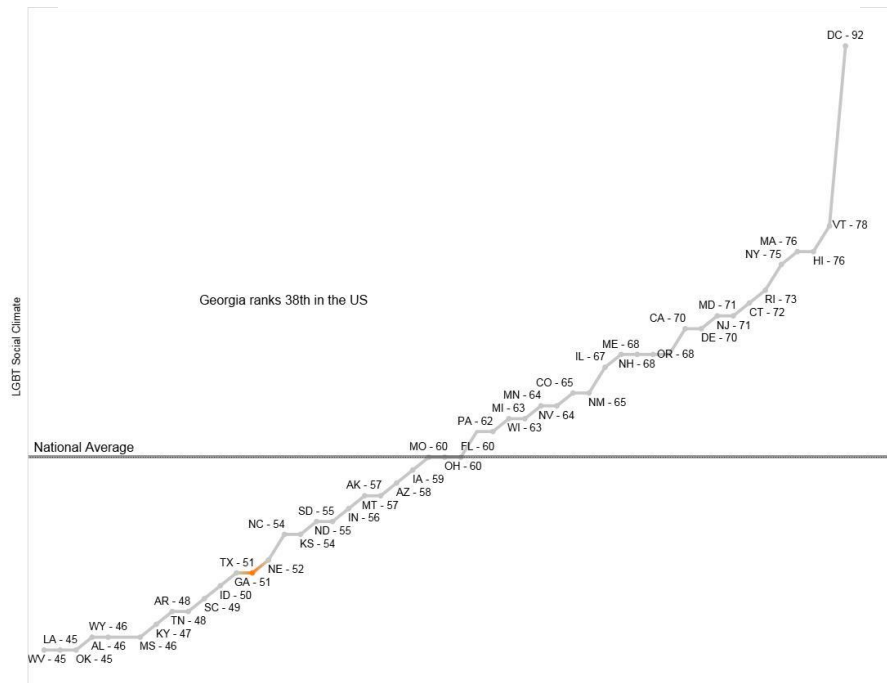
<u>Executive Summary</u>	1
<u>Section I. LGBT Population, Legal Landscape, and Social Climate</u>	7
A. LGBT People in Georgia.....	7
1. LGBT Adults	7
2. LGBTQ Youth.....	9
B. Legal Landscape.....	11
C. Public Opinion.....	16
<u>Section II. Approach to Analyzing Economic Implications of Stigma and Discrimination</u> ..	22
<u>Section III. Economic Implications of Stigma and Discrimination in the Workplace and Other Settings</u>	25
A. Discrimination and Harassment against LGBT People.....	25
1. Employment Discrimination	25
2. Discrimination in Housing and Public Accommodations	27
B. Wage Gaps	28
C. Poverty.....	30
D. Economic Impact of LGBT Stigma and Discrimination on Employers	32
1. The Business Case for Diversity	33
E. Illustration of Costs to the State Associated with Stigma and Discrimination	38
<u>Section IV. Economic Implications of Bullying and Family Rejection of LGBT Youth</u>	42
A. Bullying and Harassment of LGBT Youth.....	43
1. Middle School & High School	43
2. Higher Education.....	44
B. Family Rejection	45
C. Health Disparities Among LGBT Youth	46
1. Depression and Suicidality.....	48
2. Substance Use.....	49
D. Economic Impact of Bullying and Family Rejection of LGBT Youth	50
1. School Outcomes.....	50
2. Overrepresentation in Foster Care, Juvenile Justice System, and among the Homeless Population	52
<u>Section V. LGBT Health Disparities</u>	54
A. LGB Health Disparities in Georgia	54
B. Impact of Anti-LGBT Policies and Social Climates on LGBT Health.....	58
C. Illustration of Economic Impacts of Increased Incidence of Major Depressive Disorder and Smoking.....	62
1. Excess Costs Associated with LGBT Major Depressive Disorder	64
2. Excess Costs Associated with LGBT Smoking	65
<u>Conclusion</u>	66

EXECUTIVE SUMMARY

In Georgia, LGBT people face a challenging legal landscape and social climate, which contribute to stigma and discrimination against LGBT people in the workplace, at school, in housing, and in public life. Stigma and discrimination have been linked to negative economic impacts on governments, businesses, and the economy. For example, stigma and discrimination against LGBT employees affect businesses by creating a workforce that is less productive, and by making it more difficult for employers to recruit and retain the most talented employees. In addition, stigma and discrimination can lead to economic instability and health disparities for individuals, which increase social safety net costs for the state, and impact the economy by reducing productivity and increasing health care costs. For example, in terms of increased social safety net costs, we estimate that workplace and housing discrimination against transgender people costs the State of Georgia approximately \$1,048,000 in state Medicaid expenditures and \$477,000 in homeless shelter expenditures each year. In addition, we estimate that reducing the disparity between LGBT and non-LGBT people in rates of major depressive disorder would benefit the state’s economy by \$110.6 million to \$147.3 million each year, and reducing the disparity in rates of smoking would benefit the state’s economy by \$81.5 million to \$108.6 million each year. We conclude that if Georgia were to move toward a more supportive environment for LGBT people, the state government, business, and the economy would likely benefit.

Georgia is home to over 300,000 LGBT adults and 58,200 LGBT youth. LGBT people in the state face a challenging legal landscape and social climate. Statewide laws in Georgia offer no protections from discrimination on the bases of sexual orientation and gender identity in areas such as employment, housing, and public accommodations, and do not adequately protect LGBT youth from bullying in schools.

State Rankings on LGBT Social & Political Climate Scores



The state also lacks a number of protections for LGBT people that have been enacted in other states, such as an LGBT-inclusive hate crimes law and laws that facilitate family formation for same-sex couples. Only a few localities in Georgia extend protections from discrimination to LGBT people through local ordinances, and generally, only to municipal government employees. In terms of social environment, Georgia ranks 38th in the nation on public support for LGBT rights and acceptance of LGBT people.

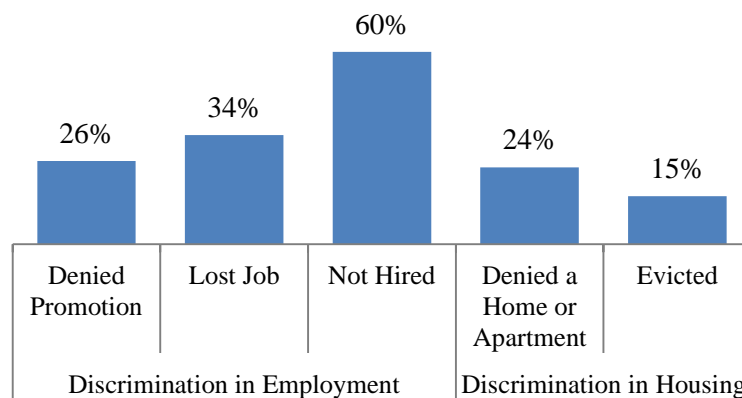
Georgia’s unsupportive legal landscape and social climate contribute to an environment in which LGBT people experience stigma and discrimination. Research has linked several forms stigma and discrimination against LGBT people to negative economic effects on businesses and governments. In this study, we consider three forms of LGBT stigma and discrimination that have economic implications: discrimination in employment and other settings; bullying and family rejection of youth; and health disparities experienced by LGBT people. In our analysis, we provide data and research documenting the prevalence of each type of stigma and discrimination in Georgia, and describe how each form is likely to affect the state’s economy. We also provide several illustrations of the magnitude of economic impact, in terms of annual cost to the state’s economy, where we have state-level data that allow us to make these estimates.

Key findings include:

LGBT People in Georgia Experience Discrimination in Employment and Other Settings

- The 2011 National Transgender Discrimination Survey found that 80% of the transgender respondents from Georgia reported experiencing harassment or mistreatment at work, 34% reported losing a job, 26% reported being denied a promotion, and 60% reported not being hired because of their gender identity at some point in their lives. In addition, 23% reported becoming homeless because of their gender identity at some point in their lives.
- A 2011 statewide survey of over 2,000 LGBT Georgians conducted by the Phillip Rush Center found that one-quarter of respondents reported experiencing employment discrimination because of their sexual orientation or

Gender Identity Discrimination among 2011 National Transgender Discrimination Survey Respondents in Georgia



gender identity, and 45% reported that they had experienced homophobia, transphobia, or harassment at work within the year prior to the survey.

- In addition, 48% of respondents to the 2011 Phillip Rush Center survey said they had experienced homophobia, transphobia, or harassment at a public establishment in the year prior to the survey; and 6% of respondents said that they had been denied housing in the past year because of their sexual orientation or gender identity.
- Public opinion polling indicates that 82% of Georgia residents, non-LGBT and LGBT, believe that LGBT people experience discrimination in the state.
- Discrimination against LGBT people in Georgia has also been documented in a number of court cases and the media. Instances of discrimination documented in these sources involve private and public sector workers in the state, including a security guard, a police officer, an automechanic, and state government employees.

LGBT People in Georgia Experience Economic Instability

- Gallup polling data from 2012-2014 indicate that 36% percent of LGBT adults in Georgia reported having a household income below \$24,000 compared to 28% of non-LGBT adults.
- Gallup data further show that same-sex couples raising children have average household incomes of over \$10,000 less than different-sex married couples raising children in Georgia.
- In addition, nearly one-third of LGBT adults (32%) in Georgia reported that they do not have enough money for food compared to around one-fifth of non-LGBT adults (21%) in response to Gallup polls. Similar proportions of LGB and non-LGB people reported that they do not have enough money to meet their health care needs.
- The 2011 National Transgender Discrimination Survey suggests that transgender people in Georgia are five times as likely to be poor and three times as likely to be unemployed as the general population in the state.
- The Trans Housing Atlanta Program estimated that more than 2% of the city's transgender residents are homeless.

Stigma and Discrimination against LGBT People in Employment and Other Settings Has Economic Consequences for Employers and the State Government

- **Productivity.** Unsupportive work environments can mean that LGBT employees are less likely to be open about their sexual orientation or gender identity at work, and more likely to be distracted, disengaged, or absent, and to be less productive. These outcomes could lead to economic losses for state and local governments, as employers, and private businesses in the state. Given that nearly 200,000 workers in Georgia identify as LGBT, the loss in productivity from a discriminatory environment could be significant.
- **Retention.** LGBT employees in less supportive work environments feel less loyal to their employers, and are more likely to plan to leave their jobs. Given the average replacement

costs of an employee, public and private employers risk losing \$9,100, on average, for each employee that leaves the state or changes jobs because of an unsupportive environment in Georgia.

- **Recruitment.** Many LGBT and non-LGBT workers, in particular those who are younger and more highly educated, prefer to work for companies with more LGBT-supportive policies, and in states with more supportive laws. To the extent that workers from other states perceive Georgia to be unsupportive of LGBT people, it may be difficult for public and private employers in the state to recruit talented employees from other places.
- **Public Benefits Expenditures.** Discrimination in employment and housing can lead to hardships for individuals including lower earnings, underemployment or unemployment, and loss of housing, which in turn can lead to increased reliance on public benefits. As an illustration of how the state is impacted by the economic instability of LGBT residents, we estimate that discrimination in the workplace and in housing against transgender people annually costs Georgia approximately \$1,048,000 in state Medicaid expenditures and \$477,000 in homeless shelter expenditures.

LGBT Youth in Georgia Experience Bullying and Harassment at School

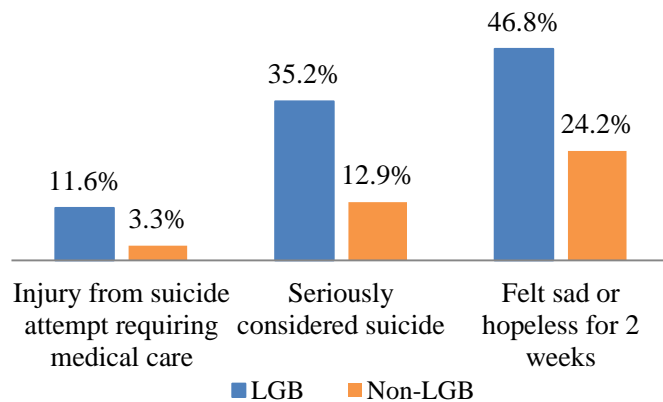
- The 2015 Youth Risk Behavior Survey from DeKalb County Georgia, found that LGB students were more likely to report being bullied at school (20.8% v. 12.8%) and electronically bullied (12.0% v. 8.0%) in the 12 months prior to the survey than non-LGB students.
- In addition, LGB students in DeKalb County were more likely than non-LGB students to report missing school because they felt unsafe at least once in the month prior to the survey (13.9% v. 8.7%).
- The 2011 National Transgender Discrimination Survey found that 83% of respondents who identified as transgender while in grades K-12 reported experiencing harassment at school, and 39% reported experiencing physical assault at school because of their gender identity.
- The 2011 Phillip Rush Center Survey found that 46% of respondents had been harassed or bullied when they were in middle or high school.
- A 2016 campus climate report based on a survey of students, faculty, and staff at the University of Georgia found that 65% of the transgender and genderqueer respondents reported experiencing exclusionary, intimidating, offensive, or hostile conduct on campus, and 47% of respondents who had experienced such conduct said that it was because of their gender identity.

LGB Youth in Georgia Experience Health Disparities

- The 2015 Youth Risk Behavior Survey from DeKalb County, Georgia found that LGB students were over twice as likely to have seriously considered suicide in the year prior to the survey compared to non-LGB students (35.2% v. 12.9%).

- LGB students in DeKalb County were also more likely than non-LGB students to report smoking cigarettes (23.1% v. 9.9%), drinking (33.0% v. 19.2%), and using marijuana (27.8% v. 21.6%) in the month prior to the survey.

Depression and Suicidality among DeKalb County, Georgia, High School Students, by Sexual Orientation (Past 12 Months)



Bullying and Family Rejection of LGBT Youth Negatively Impacts the Economy

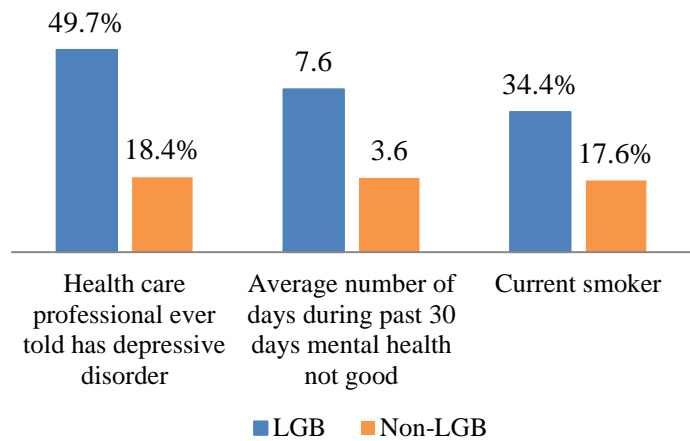
- Bullying and family rejection of LGBT youth can cause them to miss or drop out of school, become homeless, or unemployed or underemployed.
- In response to the 2011 National Transgender Discrimination Survey, of those respondents from Georgia who said they had been harassed in school, 25% reported that the harassment was so severe that they had to drop out of primary, secondary, or higher education.
- A 2015 survey of homeless youth in Atlanta found that 28.2% of the respondents identified as LGBT, far exceeding the proportion of LGBT youth in the general adolescent population.
- School drop-out and homelessness that arise due to bullying and family rejection are harmful not only to individual LGBT youth, but also have societal consequences in that they reduce the capacity of these youth to contribute to the economy as adults.
- In addition, school-based harassment and family rejection can increase costs to the state via Medicaid expenditures, incarceration, and lost wages. The Jim Casey Foundation has estimated that homelessness, juvenile justice involvement, and poor educational and employment outcomes cost nearly \$8 billion per cohort that ages out of foster care each year in the U.S. The best available data suggest that LGBT youth make up one-fifth, if not more, of each annual aging out cohort.

LGBT People Experience Health Disparities

- Research indicates that a lack of legal protections and a less favorable social climate for LGBT people contribute to adverse health outcomes for LGBT people such as major depressive disorder and smoking.

- LGB adults in Georgia who completed the 2015 Behavioral Risk Factor Surveillance System (BRFSS) survey were significantly more likely to have been diagnosed with a depressive disorder by a health care professional than non-LGB adults who completed the survey (49.7% v. 18.4%). In addition, LGB adults were significantly more likely to smoke than non-LGB adults on the 2015 BRFSS survey (34.4% v. 17.6%).

Health Characteristics of Adults in Georgia, by Sexual Orientation



Health Disparities for LGBT People in Georgia Cost Hundreds of Millions of Dollars Each Year

- A more supportive legal landscape and social climate for LGBT people in Georgia is likely to reduce health disparities between LGBT and non-LGBT people which would increase worker productivity and reduce health care costs.
- We estimate that reducing major depressive disorder and smoking among LGBT people in Georgia by 25% to 33.3% could benefit the state’s economy by \$192.1 to \$255.9 million in increased productivity and reduced health care costs each year. To the extent that a more supportive legal landscape and social climate would reduce other health disparities, the state’s economy would benefit even more.

Reduction in Costs Associated with Major Depressive Disorder and Smoking in Georgia if LGBT Disparity Were Reduced

Health Characteristic	Reduction in disparity between LGBT and Non-LGBT Georgians	LGBT individuals impacted	Annual reduction in costs (millions)
Major Depressive Disorder	25%-33.3%	7,444-9,916	\$110.6-\$147.3
Smoking	25%-33.3%	12,633-16,827	\$81.5-108.6

Georgia’s legal landscape and social climate for LGBT people is contributing to a discriminatory environment in the workplace, at school, in housing, and in public life—creating economic and health disparities for LGBT people in the state. If the state were to move toward creating a more supportive environment for LGBT people, it would likely lead to the economic advantages that result from inclusion of its LGBT residents.

SECTION I. LGBT POPULATION, LEGAL LANDSCAPE, AND SOCIAL CLIMATE IN GEORGIA

Georgia is home to an estimated 300,000 LGBT adults and approximately 58,200 LGBT youth who reflect the diversity of the state's overall population. There are few legal protections for LGBT people in Georgia.¹ Additionally, the state is ranked 38th in the nation on LGBT social climate (as measured by public support for LGBT rights and acceptance of LGBT people).² However, despite this standing, public opinion polls also show that a majority of Georgians support extending discrimination protections to LGBT people.³

A. LGBT People in Georgia

1. LGBT Adults in Georgia

Georgia is home to over 300,000 LGBT adults (3.9% of adults self-identify as LGBT)⁴, including 55,650 (0.75%) transgender adults.⁵ About 170,000 LGBT adults, live in the Atlanta metropolitan area (4.2% of the metropolitan population).⁶ They are diverse across many socio-demographic characteristics, including age, sex, race-ethnicity, and the presence of children in the household.

- Representative data from the combined 2012-2014 Gallup Daily Tracking Surveys indicate that LGBT adults in Georgia, like LGBT adults elsewhere in the South and across the United States, are younger than non-LGBT adults.⁷ As shown in Table 1 below, over half of LGBT adults in Georgia are under the age of 40.
- Approximately half of both LGBT and non-LGBT adults are female.

¹ See Section I.B., *infra* for a discussion of the legal landscape for LGBT people in Georgia.

² See Section I.C., *infra* for a discussion of public opinion on LGBT issues in Georgia.

³ Andrew R. Flores, Jody L. Herman & Christy Mallory, *Transgender Inclusion in State Non-Discrimination Policies: The Democratic Deficit and Political Powerlessness*, _ RESEARCH & POLITICS 1 (Oct. – Dec. 2015).

⁴ LGBT Data & Demographics: Georgia, Williams Inst., <http://williamsinstitute.law.ucla.edu/visualization/lgbt-stats/?topic=LGBT&area=13#density> (last visited Oct. 12, 2016) (percentage of adults in Georgia identifying as LGBT). Total adult population in the state is 7,712,446. For total adult population: search American FactFinder, <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Oct. 19, 2017) (select advanced search, enter "Population by Single Year of Age and Sex" under topic or table name and "Georgia" under state, county or place, select "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2011 to July 1, 2015" 2015 estimates).

⁵ ANDREW R. FLORES, JODY L. HERMAN, GARY J. GATES & TAYLOR N.T. BROWN, WILLIAMS INST., HOW MANY ADULTS IDENTIFY AS TRANSGENDER IN THE UNITED STATES? 2 (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/How-Many-Adults-Identify-as-Transgender-in-the-United-States.pdf>.

⁶ Frank Newport & Gary J. Gates, *San Francisco Metro Area Ranks Highest in LGBT Percentage*, GALLUP.COM, Mar. 20, 2015, http://www.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx?utm_source=Social%20Issues&utm_medium=newsfeed&utm_campaign=tiles.

⁷ LGBT Data & Demographics: Georgia, Williams Inst., *supra* note 4.

- Over half of LGBT adults in Georgia are people of color, including 28% African American/black, 8% Latino/a, 3% Asian, Pacific Islander, American Indian or Alaska Native, and 14% identified as another race or other.

Table I.a. Weighted Characteristics of Georgia Adult Participants in the 2012-2014 Gallup Daily Tracking Surveys by LGBT and non-LGBT Status (N=10,741)⁸

	LGBT (n=358)	nonLGBT (n=10,383)
	%	%
Age		
18-24	30	13
25-39	26	26
40-64	35	46
65+	9	15
Sex		
Female	49	51
Male	51	49
Race-ethnicity		
White	46	58
African-American/black	28	25
Latino/a or Hispanic	8	6
Asian, Pacific Islander, American Indian, or Alaska Native	3	2
Other	14	9
Children under 18 in Household	29	41

- Many LGBT adults in Georgia are raising children, in the context of same- and opposite-sex relationships, married and unmarried, and as single parents. Approximately 29% of LGBT adults in Georgia (87,000 individuals)⁹ and one in five same-sex couples are raising children.¹⁰ As of 2010, there were 21,320 same-sex couples living in Georgia;¹¹ by 2018, 10,659 of these couples are likely to be married.¹² While different-sex married couples are more likely to be raising children than same-sex couples, same-sex couples in the state are more likely to be raising adopted children (12%) than different-sex married couples (3%).¹³

⁸ *Id.*

⁹ *Id.*

¹⁰ Same-Sex Couple Data & Demographics: Georgia, Williams Inst., *supra* note 4.

¹¹ *Id.*

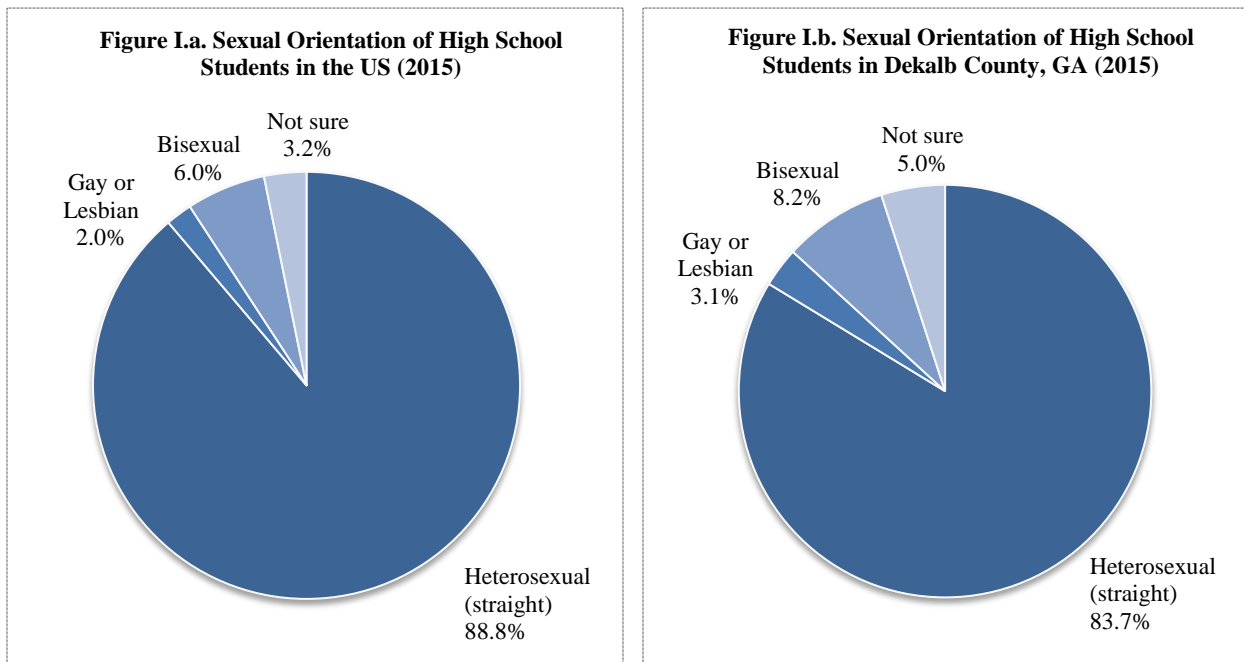
¹² JUSTIN M. O'NEILL, CHRISTY MALLORY & M.V. LEE BADGETT, WILLIAMS INST., ESTIMATING THE ECONOMIC BOOST OF MARRIAGE FOR SAME-SEX COUPLES IN GEORGIA 1 (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/GA-Econ-Impact-Aug-2014.pdf>.

¹³ *Id.* at 30, 31.

2. LGBT Youth in Georgia

The Youth Risk Behavior Surveillance System survey (YRBS) is a state-administered, school-based survey of health and health determinants that is managed by the Centers for Disease Control and Prevention (CDC). The YRBS is one of the few sources of data about LGB youth in grades 9 through 12. In 2016, the CDC released a report about the health and well-being of these youth from states and large urban school districts that included measures of sexuality from their 2015 YRBS survey.¹⁴ Questions that would make transgender youth participants identifiable on the YRBS have not yet been added to the survey.

Weighted estimates from the national YRBS indicate that 8.0% of youth in grades 9-12 identify as gay or lesbian (2.0%) or bisexual (6.0%) (see Figure 1.a).¹⁵ While data were unavailable from the state of Georgia, data from the DeKalb County School District, a school district encompassing parts of the metropolitan Atlanta area, and one of the largest school districts in the U.S, indicate that a large minority of students in this county are LGB. An estimated 11.3% of youth in grades 9-12 in the DeKalb County School District identify as gay or lesbian (3.1%) or bisexual (8.2%) (see Figure 1.b.).



We estimate that there are approximately 58,200 LGBT youth in the state of Georgia, including almost 57,100 LGB youth (8%^{16,17} of 713,400 youth ages 13 to 17 in Georgia)¹⁸ plus an

¹⁴ See Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9-12—United States and Selected Sites, 2015, <http://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>

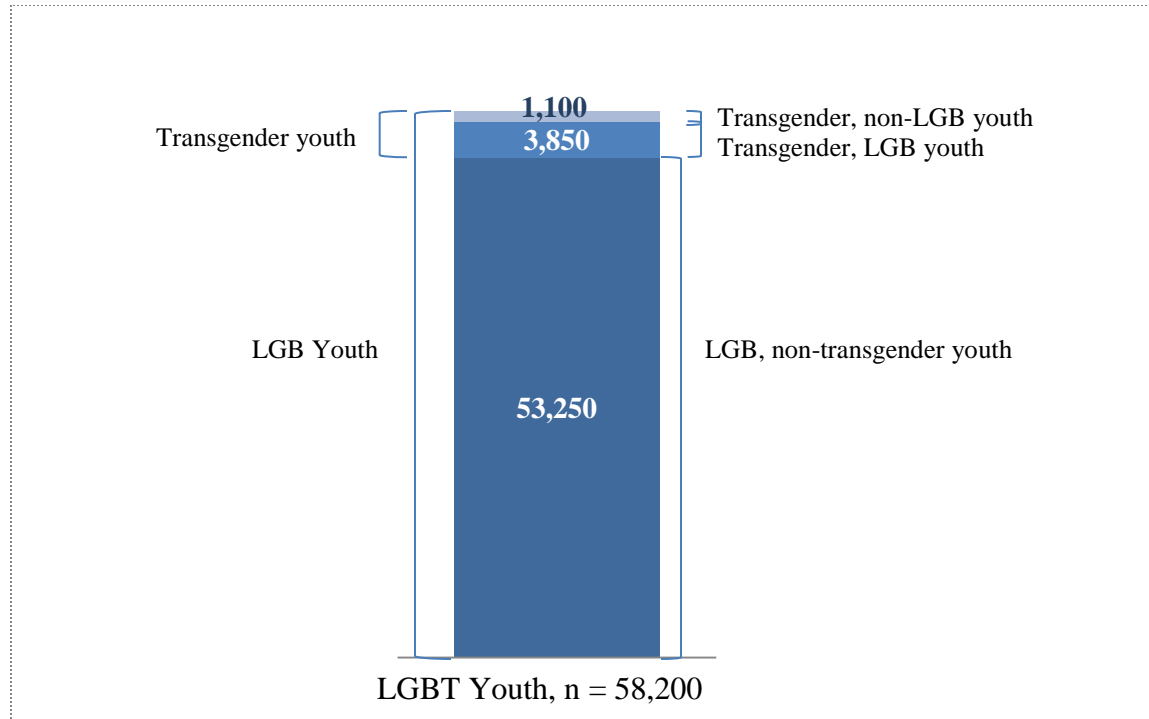
¹⁵ See *id.* 85

¹⁶ See Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9-12—United States and Selected Sites, 2015, <http://www.cdc.gov/mmwr/volumes/65/ss/pdfs/ss6509.pdf>

additional 1,100 transgender youth who are straight/heterosexual (i.e., are not LGB). An estimated 4,950 youth ages 13 to 17 in Georgia are transgender.¹⁹ We estimate that 22% of these transgender youth identify as straight/heterosexual.²⁰

Figure I.c. Estimates of the LGBT Youth Population of Georgia ages 13-17

Sources: National YRBS, 2015; Herman et al., 2016; American Community Survey, 2015



LGB youth are more likely to be female than male. Among national YRBS participants, male and female students were equally as likely to identify as gay or lesbian (2.0%). However, a larger percentage of female students identified as bisexual than male students (9.8% versus 2.4%, respectively).

¹⁷ We assume the same distribution of sexual orientation across all youth in the state, including those who declined to answer this question on the YRBS and those who are not enrolled in school.

¹⁸ Population data (aged 13-19): search American FactFinder, <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Nov. 9, 2016) (select advanced search, enter "Population by Single Year of Age and Sex" under topic or table name and "Georgia" under state, county or place, select "Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2011 to July 1, 2015" 2015 estimates).

¹⁹ ANDREW R. FLORES ET AL., WILLIAMS INST., AGE OF INDIVIDUALS WHO IDENTIFY AS TRANSGENDER IN THE UNITED STATES 4 (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/TransAgeReport.pdf>.

²⁰ JODY L. HERMAN, LGB WITHIN THE T: SEXUAL ORIENTATION IN THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY AND IMPLICATIONS FOR PUBLIC POLICY 1 (2016), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sexual-Orientation-in-NTDS-March-2016.pdf>.

B. Legal Landscape for LGBT People in Georgia

Georgia's legal landscape reflects a history of state laws and policies that have sought to limit protections for LGBT people or to discriminate against them. Although same-sex couples are now able to marry in the state following the U.S. Supreme Court's decision in *Obergefell v. Hodges*,²¹ the state and most localities continue to lack protections against sexual orientation and gender identity discrimination in the workplace, housing, public accommodations, and other areas.

1. Historical Legal Landscape

Although Georgia's sodomy law is no longer on the books, and marriage has been extended to same-sex couples in the state, these historical anti-LGBT laws likely have lingering negative effects on the social climate for LGBT people in the state.

Sodomy Law. Enforcement of Georgia's sodomy law indicates a decades-long history of discrimination against LGB people in the state. Georgia's sodomy law was never limited to sexual behavior between same-sex partners, but documented cases tracing back to the 18th Century suggest that the law was more frequently enforced against same-sex partners than different-sex partners.²² Georgia's sodomy law was also used to justify employment discrimination by the state against LGB people. For example, in 1991, a woman's offer to work at the Georgia Attorney General's office was rescinded after she told coworkers about her upcoming wedding to her same-sex partner.²³ The Attorney General's office revoked the offer because employing her "would create the appearance of conflicting interpretations of Georgia law and affect public credibility about the Department's interpretations [and]...interfere with the Department's ability to enforce Georgia's sodomy law."²⁴ The woman filed a lawsuit challenging the decision, but both the district court and the Eleventh Circuit ruled in favor of the Attorney General.²⁵

The U.S. Supreme Court upheld Georgia's sodomy law in the 1986 case *Bowers v. Hardwick*.²⁶ The Georgia Supreme Court did not invalidate the state's sodomy law until 1998.²⁷ Five years later, the U.S. Supreme Court reversed *Bowers* in *Lawrence v. Texas*, holding that laws banning private, consensual sexual conducting between adults violated the Due Process Clause.²⁸

²¹ 576 U.S. ___ (2015); *Innis v. Aderhold*, No. 1: 14-cv-1180-WSD (N.D. Ga. Oct. 7, 2015).

²² George Painter, *Sodomy Laws: Georgia*, Aug. 10, 2004, <http://www.glapn.org/sodomylaws/sensibilities/georgia.htm#fn5>.

²³ *Shahar v. Bowers*, 114 F.3d 1097, 1101 (11th Cir. 1997).

²⁴ *Id.*

²⁵ *Id.* at 1099.

²⁶ 478 U.S. 186 (1986).

²⁷ *Powell v. State*, 510 S.E.2d 18 (Ga. 1998).

²⁸ 539 U.S. 558 (2003).

Marriage Equality. Nearly a decade before any state extended marriage to same-sex couples, Georgia passed a statute prohibiting marriage equality.²⁹ In 2004, voters in Georgia approved a more sweeping constitutional ban that prohibited civil unions as well.³⁰ The referendum passed with 76% support.³¹ Georgia’s statutory and constitutional bans remained in effect until the U.S. Supreme Court ruled in 2015 that state-level bans on marriage for same-sex couples violate the Due Process and Equal Protection Clauses of the U.S. Constitution.³²

Months after the U.S. Supreme Court’s decision extending marriage nationwide, the Georgia legislature passed a bill allowing faith-based organizations to discriminate against LGBT employees and allowing ministers and faith-based organizations to refuse to perform or host wedding ceremonies for same-sex couples.³³ The bill also stated that individuals had the right to choose not to attend any religious marriage ceremony.³⁴ The bill passed the Georgia House and Senate, but was vetoed by Governor Nathan Deal. In a press conference, Governor Deal stated that “we do not have to discriminate to protect the faith-based community in Georgia.”³⁵

2. Current Legal Landscape

Discrimination Protections. Unlike most states, Georgia does not have a broad, statewide non-discrimination law that prohibits discrimination based on personal characteristics in employment or public accommodations. Georgia does have a statute that prohibits housing discrimination based on race, religion, sex, disability, familial status, and national origin,³⁶ as well as several employment non-discrimination laws that apply in limited circumstances. One employment non-discrimination law in Georgia prohibits discrimination based on race, disability, religion, sex, national origin, and age in state government employment,³⁷ and separate laws prohibit discrimination based on age³⁸ and disability³⁹ in both private and public sector employment. Georgia does not have any state-level non-discrimination laws that include sexual orientation or gender identity as protected characteristics.⁴⁰

²⁹ 1996 Ga. Laws 624.

³⁰ GA. CONST. § IV (2005).

³¹ Georgia Election Results: 2004 General Election, Ga. Sec. of State, Nov. 2, 2004, http://sos.ga.gov/elections/election_results/2004_1102/.

³² *Obergefell v. Hodges*, 576 U.S. ___ (2015); *Inniss v. Aderhold*, No. 1: 14-cv-1180-WSD (N.D. Ga. Oct. 7, 2015).

³³ H.B. 757, 2015-2016 Reg. Sess., 153rd Gen. Assem. (Ga. 2016).

³⁴ *Id.*

³⁵ Transcript: Deal HB 757 Remarks, Ga. Office of the Governor, Mar. 28, 2016, <https://gov.georgia.gov/press-releases/2016-03-28/transcript-deal-hb-757-remarks-0>.

³⁶ GA. CODE ANN. § 8-3-200 (2015).

³⁷ GA. CODE ANN. §§ 45-19-20 to 45-19-46.

³⁸ *Id.* § 34-1-2.

³⁹ *Id.* § 34-6A-2.

⁴⁰ Some federal laws that prohibit discrimination based on sex, including Title VII, have been interpreted by some courts and federal agencies to also prohibit discrimination based on gender identity and sexual orientation. These laws would apply to workers and residents of Georgia, though they are not discussed here because they are outside the scope of this memo. See Examples of Court Decisions Supporting Coverage of LGBT-Related Discrimination

Several localities in Georgia have enacted local ordinances or personnel policies that prohibit discrimination based on sexual orientation and gender identity, creating a patchwork of legal protections for LGBT people in the state. Atlanta is the only locality in Georgia that has enacted a broad local ordinance that prohibits discrimination based on sexual orientation and gender identity in public and private sector employment, housing, public accommodations, and other areas.⁴¹ At least thirty-five other localities in Georgia have adopted ordinances or personnel policies that protect their own municipal government employees from discrimination based on sexual orientation.⁴² Thirteen of these laws and policies also protect municipal employees from gender identity discrimination.⁴³

Under Title VII, U.S. EEOC, https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt_examples_decisions.cfm (last visited Jan. 3, 2017).

⁴¹ Other areas include employment by city contractors, decisions regarding potential lessors of the Atlanta Cyclorama or the Atlanta Civic Center, and decision regarding the sale of alcohol by an individual or company licensed to sell alcohol in the city. Atlanta, Ga., Bill of Rights, A § 4; ATLANTA, GA., CODE §§ 94-111, 94-112, 94-91 to 94-97, 94-68, 10-224(a), 46-1(b), 46-37, 2-1381, 2-1414, 2-1466, 10-223.

⁴² These localities include: Carrollton, Chamblee, Chattahoochee Hills, Clarkston, Dallas, Decatur, Doraville, East Point, Hapeville, Hinesville, Loganville, Macon, Midway, Norcross, North High Shoals, Oakwood, Pine Lake, Port Wentworth, Riverdale, Sandy Springs, St. Marys, Savannah, Tybee Island, Vidalia, Athens-Clarke County, Bibb County, Clayton County, Colquitt County, DeKalb County, Fulton County, Jackson County, Lincoln County, Putnam County, Rockdale County, Ware County. Carrollton, Ga., Employment, <http://www.carrollton-ga.gov/city-departments/human-resources/employment/> (last visited Oct. 17, 2016); Application for Employment, Chamblee, Ga., <http://www.chambleega.com/DocumentCenter/View/88> (last visited Oct. 17, 2016); Application for Employment, Chattahoochee Hills, Ga., http://www.chatthillsga.us/Assets/Files/Employment_Opportunities/Employment_Application.PDF (last visited Oct. 17, 2016); CLARKSTON, GA., CODE § 14-4; Application for Employment, Dallas, Ga., http://www.cityofdallasga.com/Forms/Employment_App_2015.pdf (last visited Oct. 17, 2016); Peggy Meriss, Nondiscrimination Policy, Decatur, Ga., <http://www.decaturga.com/about/nondiscrimination-policy> (last visited Oct. 17, 2016); DORAVILLE, GA., CODE, Ch. 2, Art. IX, § 2-244; EAST POINT, GA., CODE, Div. 1, Bill of Rights, § 6; Employment, Hapeville, Ga., <http://www.hapeville.org/index.aspx?NID=120> (last visited Oct. 17, 2016); Human Resources Dep't, Hinesville, Ga., <http://www.cityofhinesville.org/77/Human-Resources> (last visited Oct. 17, 2016); MACON, GA. CODE § 16-47; Employment Application, Midway, Ga., http://www.historicmidway.com/Employment_Application05714.pdf (last visited Oct. 17, 2016); MILTON, GA., CODE § 38-91; Application for Employment, Norcross, Ga., <http://www.norcrossga.net/DocumentCenter/View/397> (last visited Oct. 17, 2016); NORTH HIGH SHOALS, GA., CODE § 12-7; Oakwood, Ga., Application for Employment, <http://www.cityofoakwood.net/Assets/Files/Application12.03.12.pdf> (last visited Oct. 17, 2016); City of Pine Lake Personnel Manual Revised & Adopted (1999); Employment Application, Port Wentworth, Ga., http://www.cityofportwentworth.com/users/forms/nonpublicSafety_employmentapplication.pdf (last visited Oct. 17, 2016); Equal Employment Opportunity Policy, Riverdale, Ga., <http://www.riverdalega.gov/index.aspx?NID=102> (last visited Oct. 17, 2016); Careers, Sandy Springs, Ga., <http://www.sandyspringsga.org/Careers> (last visited Oct. 17, 2016); Employment Application, St. Marys, Ga., http://www.stmarysga.gov/stmarys/departments/human_resources/uploads/St_Marys_Employment_Application_revised_072014.pdf (Oct. 17, 2016); Dawn Ennis, *Savannah Votes to Protect LGBT City Employees from Discrimination*, ADVOCATE.COM, Dec. 10, 2015, <http://www.advocate.com/transgender/2015/12/10/savannah-votes-protect-lgbt-city-employees-discrimination>; TYBEE, GA., CODE § 2-4-1; ATHENS-CLARKE CTY, GA., CODE § 1-17; Equal Employment Opportunity Plan, Clayton Cty, Ga., http://www.claytoncountyga.gov/pdfs/human_resources/EEOP_2010_final.pdf (last visited Oct. 17, 2016); Application for Employment, Colquitt Cty, Ga., http://www.ccboc.com/document_center/Employment/1_EmploymentApplication_Fill_In.pdf (last Oct. 17, 2016); DEKALB, GA., CODE Art. I § 20-16 and Art. IX § 20-194; FULTON CTY, GA., CODE Art. I § 38-1; Employment Application, Jackson Cty, Ga., <http://www.jacksoncountygov.com/Index.aspx?page=96> (click link to download

Atlanta’s non-discrimination ordinances provide for administrative enforcement through the city’s Human Relations Commission as well as a private right of action, allowing individuals who have experienced discrimination to file a lawsuit in court.⁴⁴ The code does not specify the remedies available if the Human Relations Commission or court determines that unlawful discrimination has occurred.⁴⁵ Non-discrimination ordinances and policies that apply only to municipal employees do not provide similar enforcement mechanisms.⁴⁶

Nearly 200,000 workers in Georgia identify as LGBT (4.0% of the state’s workforce). An estimated 6% of the state’s workforce is protected from employment discrimination based on sexual orientation or gender identity under local ordinances and personnel policies.⁴⁷ An estimated 5% of Georgia’s total adult population is also protected from discrimination in other areas, such as housing and public accommodations, under Atlanta’s broader ordinance.⁴⁸

Parenting Rights. Same-sex couples face legal barriers to securing parental rights in Georgia. Georgia statutes regulating parentage use gendered terms that facially exclude same-sex couples. For instance, the donor insemination statute only applies to “a husband and wife;”⁴⁹ according to the text of the statute, a man who consents to his wife’s insemination with donor sperm would be recognized as a legal parent, but a woman with a female spouse would not. This treatment poses constitutional problems in light of the Supreme Court’s recognition of same-sex couples’ right to marry in *Obergefell v. Hodges*.⁵⁰ While recent experiences of same-sex couples in Georgia indicate that the Office of Vital Records will recognize married same-sex partners listed on a child’s birth certificate,⁵¹ a birth certificate alone does not establish parentage. Legal parentage is important because it establishes rights to and responsibilities for the child. Male same-sex couples face an even more hostile environment with regard to family formation. Because no

employment application) (last visited Oct. 17, 2016); Application for Employment, Lincoln Cty., Ga., <http://www.lcgagov.org/uploads/3/1/8/8/3188716/lcgjobapp.pdf> (last visited Oct. 17, 2016); Putnam Cty., Ga., Human Resources, <http://www.putnamcountyga.us/departments/human-resources/> (last visited Oct. 17, 2016); Rockdale Cty, Ga., Equal Opportunity Statement, <http://www.rockdalecountyga.gov/about/company-history/county-departments/human-resources/equal-opportunity-statement/> (last visited Oct. 17, 2016); Ware Cty, Ga., Mission, <http://www.warecounty.com/HumanResourcesMission.aspx> (last visited Oct. 17, 2016).

⁴³ These localities include: Atlanta, Clarkston, Decatur, Doraville, East Point, Hapeville, Macon, North High Shoals, Pine Lake, Savannah, Wentworth, Athens/Clarke County, and Fulton County.

⁴⁴ ATLANTA, GA., CODE §§ 94-210 *et seq.*

⁴⁵ *See id.*

⁴⁶ *See note 42, supra.*

⁴⁷ For workforce data: search American FactFinder, <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Oct. 18, 2016) (enter Georgia or locality name and select go, click on income tab, choose Selected Economic Characteristics for the 2015 American Community Survey).

⁴⁸ For population data, search American FactFinder, <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Oct. 18, 2016) (enter Georgia or locality name and select go, search for “age by sex”, choose Age by Sex for the 2015 American Community Survey).

⁴⁹ GA. CODE ANN. § 31-10-9(f) (2015).

⁵⁰ 576 U.S. ___ (2015); Douglas NeJaime, *Marriage Equality and the New Parenthood*, 129 HARVARD L. REV. 1186 (2016).

⁵¹ Barbara E. Katz, *Marriage Equality and the Parent-Child Relationship*, GEORGIALORDLAW.COM, http://cdn.georgialordlaw.com/wp-content/uploads/2015/12/katz_handout_marriage_equality-002.pdf (last visited Oct. 18, 2016).

statutes in Georgia directly address gestational surrogacy, for same-sex male couples, the non-biological father would ordinarily need to adopt the child and could only do so after the gestational surrogate relinquishes parental rights following the child's birth.

Safe Schools. Georgia's anti-bullying statute prohibits bullying (including cyber-bullying) and harassment at school.⁵² Unlike many state anti-bullying laws, Georgia's statute does not include an enumerated list of personal characteristics based on which students are likely to be bullied, such as race, sex, sexual orientation, or gender identity.⁵³ However, the anti-bullying policy developed by the Georgia Department of Education does expressly prohibit harassment and intimidation at schools based on sexual orientation, among other personal characteristics.⁵⁴ The policy does not expressly include gender identity in the enumerated list of protected characteristics.

Gender Marker and Name Changes. Georgia allows individuals to change their gender marker and name on identification documents, but requires proof of surgery for a gender marker change. To amend a birth certificate, an individual in Georgia must have a certified court order stating that their sex "has been changed by surgical procedure" and that their name has been changed.⁵⁵ The law does not specify the type of medical interventions that would be considered "surgical procedures." Georgia also allows individuals to change their names and gender markers on a driver's license. To obtain a name change, the individual must submit certified documentation supporting the name change to the Department of Driver Services.⁵⁶ Documentation can include a legal name change, which may be obtained by petitioning the court and publishing a notice of the name change in county records once a week for four weeks.⁵⁷ To obtain a gender marker change, the individual must submit a court order or physician's letter certifying gender change, including the date of "gender reassignment operation."⁵⁸

Other protections. Finally, Georgia also lacks a number of protections for LGBT people that have been enacted in other states, including a hate crimes law that includes sexual orientation or gender identity,⁵⁹ a law that prohibits health insurance providers from discriminating based on

⁵² GA. CODE ANN. § 20-2-751.4.

⁵³ 18 states and the District of Columbia have enumerated anti-bullying laws that include sexual orientation and gender identity along with other personal characteristics. State Maps, GLSEN.ORG, <http://www.glsen.org/article/state-maps> (last visited Oct. 19, 2016).

⁵⁴ GA. DEP'T OF EDUC., POLICY FOR PROHIBITING BULLYING, CYBERBULLYING, HARASSMENT AND INTIMIDATION 5 (2015), available at https://www.gadoe.org/Curriculum-Instruction-and-Assessment/Curriculum-and-Instruction/Documents/GaDOE%20Bullying%20Policy_May%202015.pdf.

⁵⁵ GA. CODE ANN. § 31-10-23(e).

⁵⁶ Changes to Your License, Ga. Dept' of Driver Services, <http://www.dds.ga.gov/drivers/dldata.aspx?con=1748208403&ty=dl> (last visited Oct. 18, 2016).

⁵⁷ GA. CODE ANN. § 19-12-1.

⁵⁸ Changes to Your License, Ga. Dept' of Driver Services, *supra* note 56.

⁵⁹ Georgia is one of five states that does not have a hate crimes law. Nancy Badertscher, *South Carolina, Georgia, 3 Other States Do Not Have Hate Crimes Laws*, POLITIFACT.COM, July 1, 2015, <http://www.politifact.com/georgia/statements/2015/jul/01/various-media-reports/south-carolina-georgia-3-other-states-dont-have-ha/>.

sexual orientation or gender identity,⁶⁰ a law that requires such providers to offer coverage for transition-specific medical care,⁶¹ and a ban on professional therapists engaging in efforts to change people's sexual orientation or gender identity.⁶²

C. Public Opinion

In 2014, Williams Institute scholars created the LGB Social and Political Climate Index to characterize the social environments in which LGB people reside.⁶³ The Index summarizes four items about acceptance of LGB people and attitudes toward LGB rights: 1) approval of marriage for same-sex couples; 2) approval of adoption rights for same-sex couples; 3) approval of laws that protect lesbians and gay men from employment discrimination; and 4) belief that homosexuality is a sin.⁶⁴ The Index provides climate scores for each state, denoting relative levels of social and political support for LGBT people across the U.S.⁶⁵ Higher Index scores indicate higher levels of social acceptance of LGB people, while lower scores indicate lower levels of acceptance.⁶⁶ As Figure I.d. shows, LGB Social and Political Climate Index scores range from 45 in West Virginia to 92 in the District of Columbia. Georgia has a climate score of 51, placing the state below the national average of 60, and ranking the state 38th its level of support for LGBT people and issues. However, among southern states, Georgia ranks fifth, behind Kansas, Missouri, North Carolina, and Virginia.

⁶⁰ At least 16 states and the District of Columbia have such laws (research on file with the authors).

⁶¹ At least 15 states and the District of Columbia have such laws (research on file with the authors).

⁶² Four states in the U.S. and the District of Columbia have such bans, which generally prohibit therapists and other medical professionals from trying to change a youth's sexual orientation or gender identity (research on file with the authors).

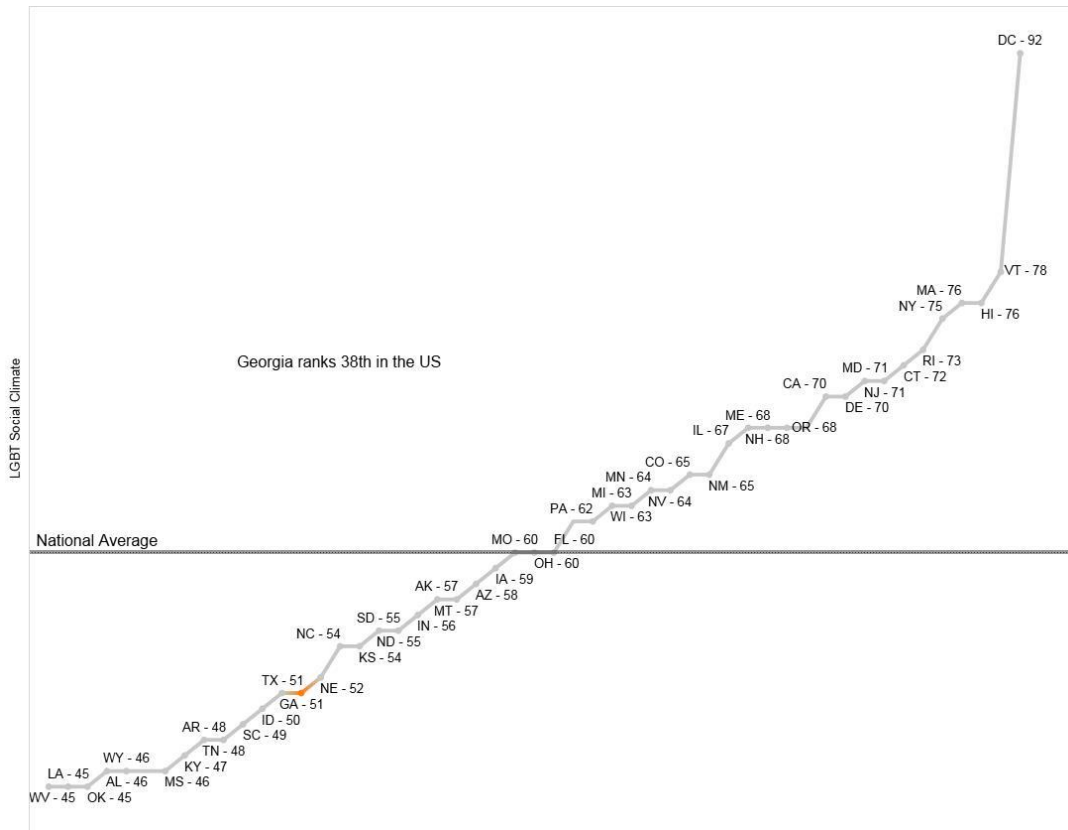
⁶³ AMIRA HASENBUSH, ANDREW R. FLORES, ANGELIKI KASTANIS, BRAD SEARS & GARY J. GATES, WILLIAMS INST., THE LGBT DIVIDE: A DATA PORTRAIT OF LGBT PEOPLE IN THE MIDWESTERN, MOUNTAIN & SOUTHERN STATES 5 (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-divide-Dec-2014.pdf>.

⁶⁴ *Id.* at 6.

⁶⁵ *Id.* at 5.

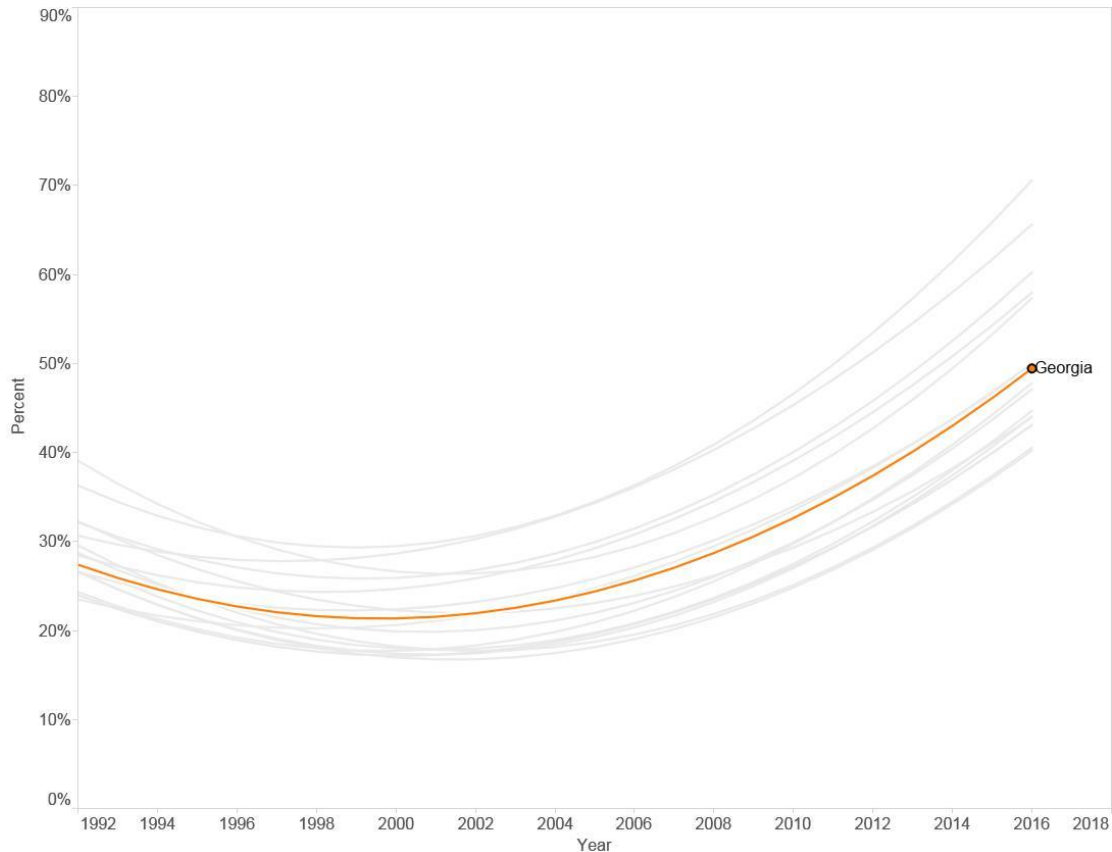
⁶⁶ *Id.* at 6.

Figure I.d. State Rankings on LGBT Social & Political Climate Index Scores (2014)



Although Georgia ranks below the national average in terms of support for LGBT people, attitudes toward LGBT people in the state are improving over time. Figure I.e. shows an increase in acceptance of same-sex marriage in Georgia, among other southern states, from 1992 to the present day.⁶⁷

Figure I.e. Public Support for Same-Sex Marriage in the South 1992-2016



In addition, recent public opinion surveys also indicate that a majority of Georgians support expanding non-discrimination protections to include LGBT protections and oppose policies allowing businesses to refuse service to LGBT people on religious grounds. The 2015 American Values Atlas, a survey of 42,000 Americans in all 50 states and 30 major metropolitan areas, found that two-thirds (66%) of Georgia residents favored legal protections from discrimination for LGBT people in areas such as employment, housing, and public accommodations.⁶⁸ Younger

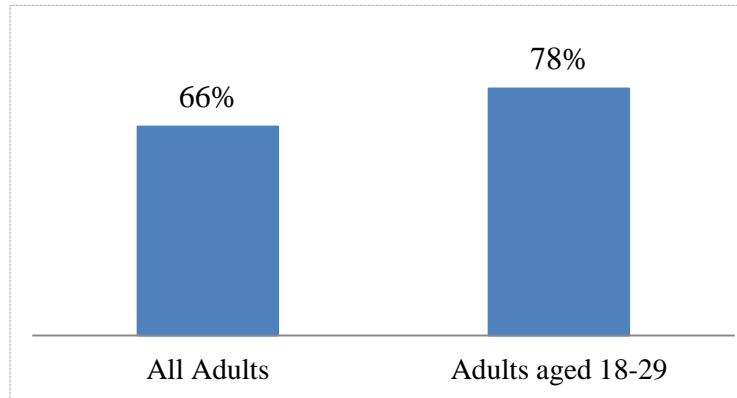
⁶⁷ Changes in support for marriage equality are rooted in two causes: generational change and attitude change. ANDREW R. FLORES & SCOTT BARCLAY, WILLIAMS INST., TRENDS IN PUBLIC SUPPORT FOR MARRIAGE FOR SAME-SEX COUPLES BY STATE (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Trends-in-Public-Support-for-Same-Sex-Marriage-2004-2014.pdf>. Less than half of the changes over time are due to younger and more accepting generations replacing older ones. Gregory B. Lewis and Charles W. Gossett, *Changing Public Opinion on Same-Sex Marriage: The Case of California*, 36 POLITICS & POLICY 4 (2008).

⁶⁸ ROBERT P. JONES, DANIEL COX, BETSY COOPER & RACHEL LIENESCH, A PROFILE OF GEORGIA RESIDENTS' ATTITUDES ON LGBT ISSUES: FINDINGS FROM THE 2015 AMERICAN VALUES ATLAS 1 (2016), available at <http://prri.org/wp-content/uploads/2016/02/PRRI-AVA-Georgia-LGBT-Report.pdf>.

residents were more likely to express support, with 78% of respondents under 30 years old in Georgia saying they were in favor of LGBT non-discrimination laws.⁶⁹

Figure I.f. Support for Laws That Would Protect LGBT People from Discrimination in Jobs, Public Accommodations, and Housing among Adults in Georgia, by Age

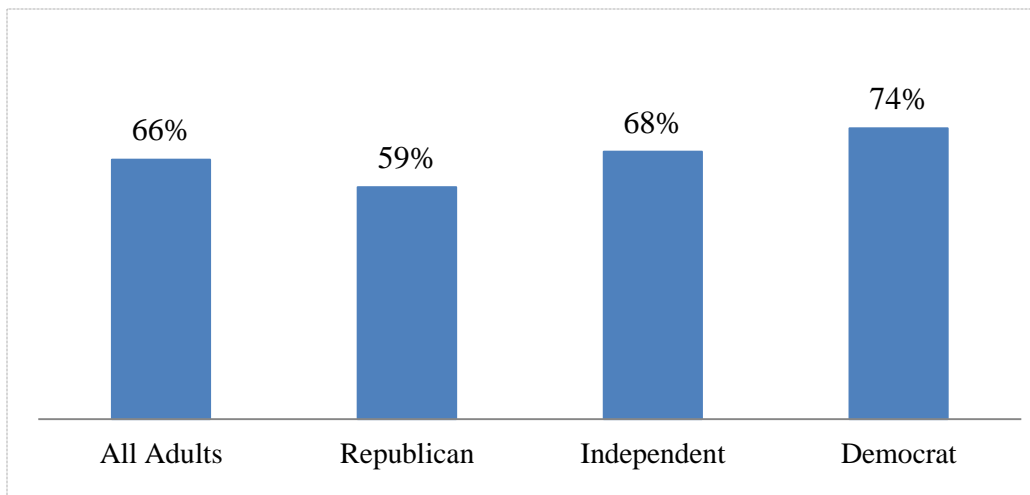
Source: American Values Atlas, 2015



The survey found support for LGBT non-discrimination laws across political parties (74% of Democrats, 68% of Independents, and 59% of Republicans were in favor) and across major religious affiliations in Georgia (73% of Catholics, 67% of white mainline protestants, 65% of black protestants, 54% of white evangelical Protestants, and 76% of religiously unaffiliated were in favor).⁷⁰ There were no significant differences in opinion by race (65% of white Georgians and 67% of black Georgians were in favor).⁷¹

Figure I.g. Support for Laws That Would Protect LGBT People from Discrimination in Jobs, Public Accommodations, and Housing among Adults in Georgia, by Political Affiliation

Source: American Values Atlas, 2015



⁶⁹ *Id.*

⁷⁰ *Id.* at 2.

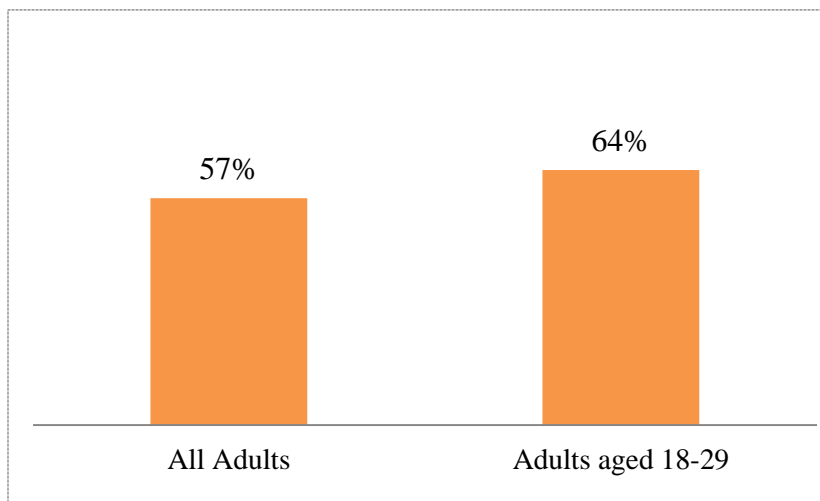
⁷¹ *Id.*

Similarly, a 2011 national public opinion poll found that 77% of respondents from Georgia were in favor a federal law to prohibit employment discrimination based on sexual orientation and gender identity.⁷²

The 2015 American Values Atlas also found that the majority of respondents (57%) from Georgia were opposed to allowing small businesses to refuse service to LGBT people on religious grounds.⁷³ Younger residents were more likely to oppose religious refusals, with 64% of respondents under age 30 saying that small businesses should not be allowed to refuse service to LGBT people on religious grounds.⁷⁴ Black respondents were more likely to oppose religious refusals than white respondents (66% v. 53%).⁷⁵

Figure I.h. Opposed to Allowing Small Businesses to Refuse to Provide Services or Products to LGBT People if Doing so Violates Their Religious Beliefs among Adults in Georgia, by Age

Source: American Values Atlas, 2015



The majority of respondents from Georgia in all but one religious group said they opposed religious refusals by small businesses. Nearly two-thirds of black Protestants (66%), religiously unaffiliated (64%), and Catholics (63%) said they were opposed to allowing small businesses to refuse service to LGBT people, along with 53% of white mainline protestants.⁷⁶ A slim majority (52%) of white evangelical Protestants said they favored a policy that would allow small businesses to refuse service to LGBT people on religious grounds.⁷⁷

⁷² Andrew R. Flores, Jody L. Herman & Christy Mallory, *Transgender Inclusion in State Non-Discrimination Policies: The Democratic Deficit and Political Powerlessness*, RESEARCH & POLITICS 1 (Oct.-Dec. 2015).

⁷³ JONES ET AL., *supra* note 68.

⁷⁴ *Id.*

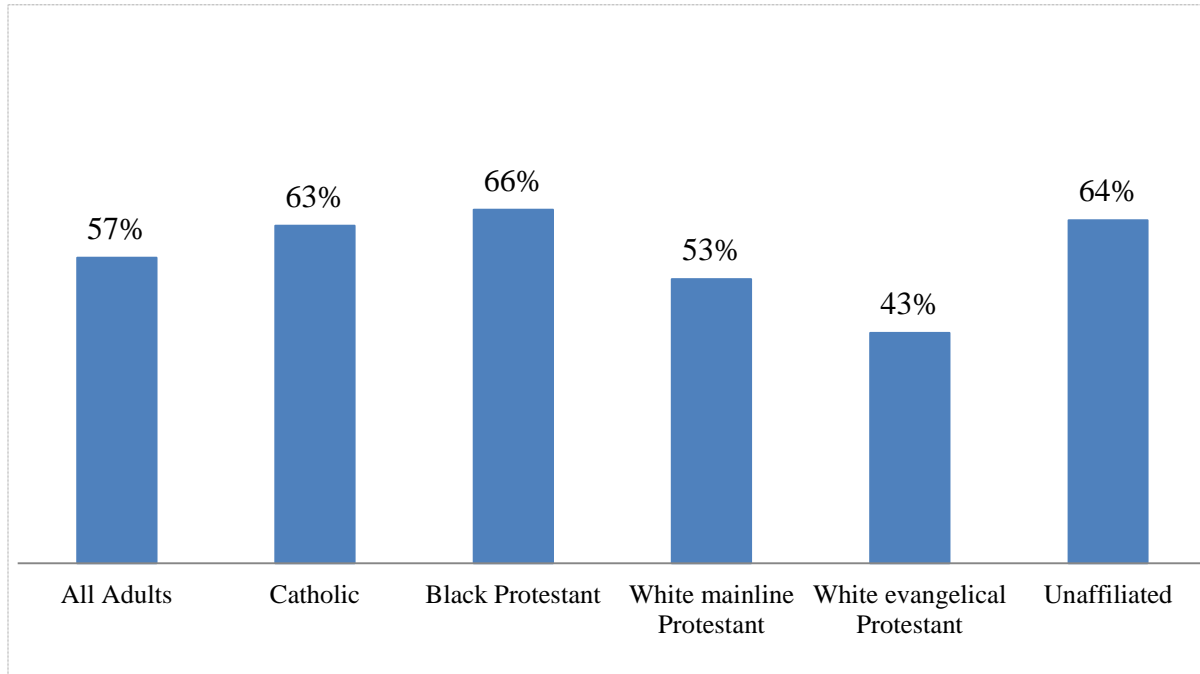
⁷⁵ *Id.*

⁷⁶ *Id.* at 3.

⁷⁷ *Id.*

Figure I.i. Opposed to Allowing Small Businesses to Refuse to Provide Services or Products to LGBT People if Doing so Violates Their Religious Beliefs among Adults in Georgia, by Religious Affiliation and Race

Source: American Values Atlas, 2015



In addition, a poll commissioned by the Atlanta Journal-Constitution in May 2016 found that a slight majority of Georgia voters (51%) were opposed to the legislature reintroducing a bill that would allow businesses to refuse service to LGBT people on religious grounds.⁷⁸ The bill had passed the legislature and was vetoed by Governor Deal earlier in the year.⁷⁹

⁷⁸ Aaron Gould Sheinin, *Poll: Overall Rating Steady for Georgia's Deal, but GOP Support Falls*, AJC.COM, May 15, 2016, <http://www.ajc.com/news/state--regional-govt--politics/poll-overall-rating-steady-for-georgia-deal-but-gop-support-falls/7uBxj1kSumWs8UUJwdkoZM/>.

⁷⁹ H.B. 757, 2015-2016 Reg. Sess., 153rd Gen. Assem. (Ga. 2016).

SECTION II. APPROACH TO ANALYZING ECONOMIC IMPLICATIONS OF STIGMA AND DISCRIMINATION AGAINST LGBT PEOPLE

In 2014, USAID and the Williams Institute produced a study addressing how stigma and discrimination against LGBT people can have economic impacts. In this report, we draw from that study and look to three forms of stigma and discrimination to assess the impact of an unsupportive legal landscape and social climate on Georgia’s economy: 1) discrimination and harassment in the workplace and other settings; 2) bullying and harassment of youth; and 3) health disparities experienced by LGBT people.⁸⁰ In our analysis, we draw on data specific to Georgia, and illustrate the magnitude of some of the costs resulting from different types of stigma and discrimination. Due to limited available data on LGBT people in the state, we are able to estimate a few of the costs related to LGBT stigma and discrimination in Georgia.

In the 2014 USAID and Williams Institute study, the authors explored both micro- and macro-level analyses to assess possible links between discrimination against LGBT people, as well as exclusionary treatment of LGBT people, and economic harms.⁸¹ In the micro-level analysis, the authors considered five types of exclusion of LGBT people and explained how they might be linked to harmful economic outcomes:

- 1) Police abuse and over-incarceration;
- 2) Higher rates of violence;
- 3) Workplace harassment and discrimination;
- 4) Discrimination and bullying of LGBT students in schools; and
- 5) Health disparities.⁸²

After considering these, the authors concluded that “human rights violations experienced by LGBT people diminish economic output and capacity at the micro-level. When LGBT people are targets of violence, denied equal access to education, stigmatized in communities, and discouraged from pursuing the jobs that maximize their skills, their contributions to the

⁸⁰ The USAID and Williams Institute study also assessed the economic impacts of two other forms of stigma and discrimination against LGBT people: 1) police abuse and over-incarceration and 2) higher rates of violence. We do not consider these forms in this report due to a lack of state-level data on effects of such stigma and discrimination against LGBT people in Georgia.

⁸¹ M.V. LEE BADGETT, SHEILA NEZHAD, KEES WAALDIJK & YANA VAN DER MEULEN RODGERS, USAID & WILLIAMS INST., THE RELATIONSHIP BETWEEN LGBT INCLUSION AND ECONOMIC DEVELOPMENT: AN ANALYSIS OF EMERGING ECONOMIES 2 (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/lgbt-inclusion-and-development-november-2014.pdf>. The micro-level analysis focused on the experiences of LGBT individuals and the defined inclusion as the ability to live one’s life as one chooses. *Id.* at 1. The macro-level analysis analyzed the effect of LGBT rights on economic development (measured by per capita gross domestic product and the Human Development Index) after controlling for other factors that influence development. *Id.* at 2.

⁸² *Id.*

whole economy are diminished, holding back economic advancement for the national economy.”⁸³

Turning to the macro-level, the authors found an association between greater protections of legal rights for sexual and gender identity minorities and economic development in emerging economies, measured by per capita GDP.⁸⁴ Notably, they found that non-discrimination laws in particular “have an especially strong correlation with GDP per capita. The importance of nondiscrimination laws could be related to their stronger connection to the treatment of LGBT people in the workplace and other settings that have direct economic relevance.”⁸⁵

While the USAID and Williams Institute study focused on national economies, similar types of discrimination and stigma confront LGBT people in Georgia and are likely to have similar economic effects.

Before we turn to the analysis, five important points:

First, we map out economic impacts in each of the three areas we analyze due to stigma and discrimination against LGBT people in Georgia in general. We do not consider how the effects specifically relate to any particular law or policy in the state.

Second, we illustrate just a few of the economic impacts created by a challenging legal landscape and social climate for LGBT people in Georgia. This report is not intended to quantify the total amount of harmful economic impacts related to stigma and discrimination against LGBT people in the state.

Third, while the forms of discrimination and stigma that we address in this study provide a useful way to understand some of the significant challenges that LGBT people face throughout their lives, different types of discrimination and stigma interact with each other and all may contribute to one or more negative outcomes for LGBT people. For example, LGBT people are more likely to be poor because of school bullying and workplace discrimination, to have poor health, and to have higher rates of incarceration and violent crime victimization. Because these factors overlap and interact, the economic impacts that we have estimated should not be summed together.

Fourth, focusing on LGBT stigma and discrimination alone will not address all negative outcomes experienced by LGBT people. LGBT people have a minority sexual orientation and/or gender identity, but also have other identities including race, ethnicity, age, disability, and gender. While a singular focus on LGBT stigma will not entirely eliminate the disparities we discuss, an approach that embraces eliminating disparities for diverse LGBT people, no

⁸³ *Id.* at 6.

⁸⁴ *Id.* at 10.

⁸⁵ *Id.* at 3.

matter what their cause, will improve the lives of many non-LGBT people as well. For example, eliminating gender and racial-ethnic wage gaps in the U.S. would both eliminate the poverty gap between same-sex and different sex-couples, as well as to lift many non-LGBT people out of poverty as well.⁸⁶

Finally, as the authors of the USAID and Williams Institute study emphasize, to move this analysis beyond this framework and the illustrations of economic impact below, we need more complete and better data on LGBT populations. In particular, the routine inclusion of sexual orientation and gender identity measures on large, population-based surveys would provide a rich source of information about LGBT people and disparities they face related to their sexual orientation and gender identity. The value of such data collection is illustrated by our use of three data sets specific to LGBT people in Georgia that were unavailable just a few years ago—data from the Youth Risk Behavior Survey (YRBS), the Behavioral Risk Factor Surveillance System (BRFSS), and the National Transgender Discrimination Survey (NTDS). We also need more research about the lived experiences of LGBT people and the effectiveness of legal protections to further assess the impact of LGBT supportive laws and climates on LGBT people.⁸⁷

⁸⁶ M.V. LEE BADGETT & ALYSSA SCHNEEBAUM, WILLIAMS INST., THE IMPACT OF WAGE EQUALITY ON SEXUAL ORIENTATION POVERTY GAPS (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-of-Wage-Equality-on-Sexual-Orientation-Poverty-Gaps-June-2015.pdf>.

⁸⁷ BADGETT, NEZHAD, WAALDIJK & RODGERS, *supra* note 81 at 49.

SECTION III. ECONOMIC IMPLICATIONS OF DISCRIMINATION AND HARASSMENT IN THE WORKPLACE AND OTHER SETTINGS

This section documents the existence of stigma and discrimination against LGBT people in employment, housing, and public accommodations, and discusses the consequences of such stigma and discrimination for LGBT individuals and for Georgia's economy. We conclude with two examples of the economic ramifications of discrimination on state expenditures.

A. Discrimination Documented in Surveys, Court Cases, and Anecdotal Reports

1. Employment Discrimination

Discrimination against LGBT workers in the U.S., as well as in Georgia, has been widely documented. For example, a 2013 national survey conducted by Pew Research Center found that 21% of LGBT respondents reported having been treated unfairly by an employer in hiring, pay, or promotions.⁸⁸ The 2015 U.S. Transgender Survey, the largest survey of transgender and gender non-conforming people in the U.S. to date, found that 27% of respondents reported being fired, denied a promotion, or not being hired for a job they applied for in the year prior to the survey because of their gender identity, and 15% report being verbally, physically, or sexually harassed at work in the year prior to the survey because of their gender identity.⁸⁹

Surveys of LGBT individuals in Georgia find similar levels of reported discrimination and harassment. For example, a 2011 statewide survey of over 2,000 LGBT Georgians found that one-quarter of respondents reported experiencing employment discrimination because of their sexual orientation or gender identity, and 45% reported that they had experienced homophobia, transphobia, or harassment at work within the year prior to the survey.⁹⁰ Additionally, in response to the 2011 National Transgender Discrimination Survey (NTDS), 80% of the transgender respondents from Georgia reported experiencing harassment or mistreatment at work, 34% reported losing a job, 26% reported being denied a promotion, and 60% reported not

⁸⁸ *A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times*, PEW RESEARCH CENTER, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>. Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians reported experiencing workplace harassment in the last five years, and 12% reported losing a job because of their sexual orientation. BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-20111.pdf>.

⁸⁹ SANDY JAMES ET AL., 2015 U.S. TRANSGENDER SURVEY 12 (2016), <http://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF>.

⁹⁰ PHILLIP RUSH CENTER, GEORGIA STATEWIDE LGBT COMMUNITY SURVEY 11-12 (2013), <http://www.rushcenteratl.org/wp-content/uploads/2013/07/Rush-Center-Survey-Results-with-Cover.pdf>.

being hired because of their gender identity at some point in their lives.⁹¹ Additionally, analysis of public opinion data indicates that 82% of Georgia residents, non-LGBT and LGBT, believe that LGBT people experience discrimination in the state.⁹²

Instances of employment discrimination against LGBT people in Georgia have also been documented in a number of court cases and the media.⁹³ Documented examples include:

- In 2015, a security guard sued her former employer, the Georgia Regional Hospital, alleging sex discrimination by her workplace supervisor. According to an appellate brief filed by her attorney, she was targeted because she identified as a lesbian and wore a male uniform and had a short haircut.⁹⁴ The district court dismissed her complaint, holding that neither sexual orientation nor gender non-conformity could form the basis of a discrimination claim.⁹⁵ The case is now pending on appeal.⁹⁶
- In 2015, a former Atlanta police officer reached a \$140,000 settlement with the Atlanta Police Department, after being forced to take unpaid medical leave after suffering several grand mal seizures. She experienced the seizures “days after she complained of anti-gay comments directed at her” by a co-worker.⁹⁷
- In 2013, a mechanic sued her former employer alleging that the employer had discriminated against her because she was transgender. She reported that her employer told her to stop talking about her transition to her co-workers and advised her not to wear feminine clothing.⁹⁸ Although the district court found that there was no evidence of unlawful discrimination, and held in favor of the employer, the Eleventh Circuit Court of Appeals reversed and sent the case back to the district court for a trial.⁹⁹ In overruling the district court’s decision, Eleventh Circuit concluded that, based on the available evidence,

⁹¹ FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY: GEORGIA RESULTS, NATIONAL CENTER FOR TRANSGENDER EQUALITY & THE GAY AND LESBIAN TASK FORCE, http://www.transequality.org/sites/default/files/docs/resources/ntds_state_ga.pdf (last visited Nov. 17, 2016).

⁹² Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with authors).

⁹³ Alan Duke & Joe Sutton, *Teacher Suspended for Showing Class Macklemore’s ‘Same Love’ Video*, CNN.COM, Sept. 12, 2013, <http://www.cnn.com/2013/09/12/showbiz/same-love-teacher-suspended/> (public school teacher reported that she was given a three-day suspension for showing students a popular music video that featured a song supporting marriage for same-sex couples); Derick Waller, *Gay Discrimination Bill Clears Senate Hurdle*, WNCN.COM, Nov. 5, 2013, <http://www.wncn.com/story/23888634/gay-discrimination-bill-clears-senate-hurdle> (Raleigh resident reported that she was fired from her job as a broadcast technician because of her sexual orientation).

⁹⁴ Appellant’s Opening Brief at 16, *Clark v. Ga. Reg’l Hosp.*, No. 15-15234 (11th Cir. Jan. 7, 2016).

⁹⁵ *Clark v. Ga. Reg’l Hosp.*, No. CV-15-103 (S.D. Ga. Sept. 9, 2015).

⁹⁶ *Clark v. Ga. Reg’l Hosp.*, *appeal docketed*, No. 15-15234 (11th Cir. Nov. 19, 2015).

⁹⁷ Matt Hennie, *City to Pay LGBT Cop \$140,000 to Settle Lawsuit*, PROJECT Q ATLANTA (June 1, 2015, 10:29 AM), http://www.projectq.us/atlanta/city_to_pay_lgbt_cop_140000_to_settle_lawsuit?gid=16896.

⁹⁸ *Chavez v. Credit Nation Auto Sales*, 49 F. Supp. 3d 1163, 1169 (N.D. Ga. 2014).

⁹⁹ *Chavez v. Credit Nation Auto Sales*, No. 14-14596, slip op. at 21 (11th Cir. Jan. 14, 2016).

a jury could determine that the employer engaged in unlawful discrimination based on sex as prohibited by Title VII.¹⁰⁰

- In 2007, a Legislative Editor for the Georgia General Assembly’s Office was terminated after her supervisor found out about her gender transition.¹⁰¹ According to the employee, her supervisor said that “the intended gender transition was inappropriate, that it would be disruptive, that some people would view it as a moral issue, and that it would make [the employee’s] coworkers uncomfortable.”¹⁰² The employee filed a lawsuit against the Office in federal court, alleging that her constitutional right to equal protection had been violated.¹⁰³ A district court in Georgia ruled in favor of the employee and the Eleventh Circuit Court of Appeals affirmed.¹⁰⁴ As of December 2011, she was eligible to return to work.¹⁰⁵
- In 2006, a state agency employee reported that she was subjected to a humiliating and invasive four-hour investigation after other employees complained about working with her because she was a lesbian. She said that she was asked questions about who looked after her children, who she lived with, and who her friends were. She was then told not to tell anybody else about what happened during the interview. According to the employee, the agency suspended her for “alleged misconduct” two weeks later.¹⁰⁶

2. Discrimination in Housing and Public Accommodations

Discrimination against LGBT people in Georgia has also been observed in the areas of public accommodations and housing. A 2011 survey of over 2,000 LGBT Georgians found that 48% of respondents said they had experienced homophobia, transphobia, or harassment at a public establishment in the year prior to the survey.¹⁰⁷ Six percent of respondents reported that they had experienced such discrimination at least once a month during the prior year.¹⁰⁸ Additionally, 17% of respondents said they had experienced homophobia, transphobia, or harassment by a firefighter, police officer, or other civil servant in the year prior to the survey.¹⁰⁹ Sixteen percent of respondents reported that they had experienced discrimination in health care and 6% of

¹⁰⁰ *Id.* at 18, 21.

¹⁰¹ *Glenn v. Brumby*, 663 F.3d 1312, 1313-14 (11th Cir. 2011).

¹⁰² *Id.* at 1316-17.

¹⁰³ *Glenn v. Brumby*, 724 F. Supp. 2d (N.D. Ga. 2010).

¹⁰⁴ *Id.*; *Glenn v. Brumby*, 663 F.3d at 1312.

¹⁰⁵ *Vandy Beth Glenn May Soon Return to Work at Ga. General Assembly*, GA. VOICE, Dec. 9, 2011, <http://thegavoice.com/vandy-beth-glenn-may-soon-return-to-work-at-ga-general-assembly/>.

¹⁰⁶ E-mail from Ming Wong, National Center for Lesbian Rights, to Christy Mallory, the Williams Institute (May 7, 2009, 11:15:00 PST) (on file with authors).

¹⁰⁷ PHILLIP RUSH CENTER, *supra* note 90 at 12.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

respondents said that they had been denied housing in the past year because of their sexual orientation or gender identity.¹¹⁰

A 2014 audit testing study conducted by the Equal Rights Center also found evidence of housing discrimination based on sexual orientation in Georgia.¹¹¹ In the study, trained testers called assisted or independent living facilities and inquired about housing options for themselves and either a same-sex or different-sex spouse.¹¹² Each facility received a call from one tester seeking housing for a same-sex couple and one call from a tester seeking housing for an opposite-sex couple.¹¹³ All couples were given similar personal and financial characteristics, including in terms of income, occupation, rental history, and credit history.¹¹⁴ The study was conducted in 10 states including Georgia.¹¹⁵ Overall, the caller asking about housing for a same-sex couple received a poorer response (related to availability, rental price, deposits and fees, amenities and specials, and application requirements) than did the caller for the opposite-sex couple in 48% of the tests conducted.¹¹⁶ In Georgia, the caller asking about housing for a same-sex couple received poorer treatment in 70% of the tests.¹¹⁷

Recent research also sheds light on the multiple forms of discrimination faced by various LGBT groups within Georgia. For example, in response to a 2012 survey of 544 Black MSM (men who have sex with men) and transgender women in Atlanta, 13% of respondents said that they had been mistreated by health care providers because of their sexual orientation and 12% said they had been mistreated by health care providers because of their race.¹¹⁸

B. Wage Gaps

Wage gap analysis has been a traditional method used by economists to measure employment discrimination against women, people of color, and LGBT people. In a meta-analysis of 31 studies on sexual orientation wage gaps, Professor Marieka Klawitter concluded that almost all studies found an earnings penalty for gay men, with an average of -11%.¹¹⁹ For lesbians, only a

¹¹⁰ *Id.*

¹¹¹ OPENING DOORS: AN INVESTIGATION OF BARRIERS TO SENIOR HOUSING FOR SAME-SEX COUPLES, THE EQUAL RIGHTS CENTER (2014), <http://lgbtagingcenter.org/resources/pdfs/lgbtSeniorHousingreportFINAL.pdf>.

¹¹² *Id.* at 12-13.

¹¹³ *Id.*

¹¹⁴ *Id.* at 12.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 14.

¹¹⁷ *Id.* at 24. A 2013 national study prepared for the U.S. Department of Housing and Urban Development, which used a similar methodology, also found that same-sex couples received less favorable treatment than opposite-sex couples in the online rental market. SAMANTHA FRIEDMAN ET AL., AN ESTIMATE OF HOUSING DISCRIMINATION AGAINST SAME-SEX COUPLES (2013), https://www.huduser.gov/portal/Publications/pdf/Hsg_Disc_against_SameSexCpls_v3.pdf.

¹¹⁸ Lisa A. Eaton et al., *The Role of Stigma and Medical Mistrust in the Routine Health Care Engagement of Black Men Who Have Sex with Men*, 105 RESEARCH & PRACTICE 75, 78 (2015).

¹¹⁹ Marieka Klawitter, *Meta-Analysis of the Effects of Sexual Orientation on Earnings*, 54 INDUST. REL. 4, 13 (2014) (finding an average wage gap of -11% and a range of -30% to 0% for gay men).

few studies found an earnings penalty and most found a significant earnings premium, even after controlling for many relevant factors. On average, the earnings premium for lesbians was +9%.¹²⁰ Klawitter concluded that her analysis “shows evidence consistent with possible discrimination—an earnings penalty—for gay men but not for lesbians.”¹²¹ A simple comparison¹²² of median incomes in Georgia suggests that men in same-sex couples also may face a wage gap. The median income of men in same-sex couples in the state is 9% lower than the median income of men in different-sex marriages.¹²³

Klawitter posited several reasons to explain why gay men may face more discrimination in the workplace, including that straight men in the U.S. have less positive attitudes towards gay men than lesbians, and that straight men are more likely to be in wage-determining senior positions than women.¹²⁴ Klawitter also pointed to several studies suggesting that when gay men and lesbians are more visible in the workplace, they have lower earnings.¹²⁵ She also noted that other research reviews have found that lesbians who do not fit the norms for femininity have a harder time securing employment.¹²⁶ Finally, it is important to keep in mind that most lesbians still earn less than most gay and heterosexual men because of the gender wage gap.¹²⁷

In addition, a forthcoming study based on representative data from 27 states, finds “clear evidence that self-identified transgender individuals have significantly lower employment rates and household incomes and significantly higher poverty rates than non-transgender individuals.” The study concludes that transgender adults suffer a “household income penalty” equivalent to 12% of annual household income.¹²⁸

A growing body of research supports that for many LGBT people who face discrimination along multiple axes of inequality, the resulting impact is greater than the sum of the parts. For example, a 2015 study found that the overall wage gap for men of color in same-sex couples was

¹²⁰ *Id.* (finding an average wage gap of +9% for lesbians with a range of -25% to +43%).

¹²¹ *Id.* at 21.

¹²² Comparison does not control for factors other than sexual orientation that may impact wages, such as education and age.

¹²³ ADAM P. ROMERO, CLIFFORD J. ROSKY, M.V. LEE BADGETT & GARY J. GATES, WILLIAMS INST., CENSUS SNAPSHOT: GEORGIA 2 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/GeorgiaCensus2000Snapshot.pdf>.

¹²⁴ Klawitter, *supra* note 119 at 21-22. Klawitter also notes that, consistent with the hypothesis of discrimination for gay men, jobs in the private sector show larger earnings penalties for gay men than in more highly regulated government sector jobs, but this pattern is not observed for lesbians—who have significant earnings premiums in the private and non-profit sectors, but none in government employment.

¹²⁵ *Id.* at 22.

¹²⁶ LOTTA SAMELIUS & ERIK WÅGBERG, SIDA, SEXUAL ORIENTATION AND GENDER IDENTITY ISSUES IN DEVELOPMENT (2005), http://www.sida.se/contentassets/77a0ee7f307a4ff49fa0514d080748dc/sexual-orientation-and-gender-identity-issues-in-development_718.pdf.

¹²⁷ M.V. LEE BADGETT & ALYSSA SCHNEEBAUM, THE IMPACT OF WAGE EQUALITY ON SEXUAL ORIENTATION POVERTY GAPS, WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-of-Wage-Equality-on-Sexual-Orientation-Poverty-Gaps-June-2015.pdf>.

¹²⁸ Carpenter et al., *Transgender Status, Employment, and Income* (forthcoming 2017), at 9 (on file with authors).

greater than what the sum of the race and sexual orientation wage gaps would have predicted. The gap was even more pronounced “in the bottom three quartiles of earnings, indicating that the magnifying negative interaction effects of minority race and sexual orientation status is most pronounced for lower-income workers.”¹²⁹

Research also indicates that non-discrimination polices help to close sexual orientation wage gaps. A 2009 study found that in states with a sexual orientation non-discrimination law, men and women in same-sex couples had a wage premium (3% and 2% respectively) and they earned approximately 0.3% more for each year the policy was in effect.¹³⁰ Similarly, two 2011 studies reported a significant impact of state non-discrimination laws on annual earnings¹³¹ and evidence that state non-discrimination laws were associated with a greater number of weeks worked for gay men -- especially in private-sector jobs.¹³² Furthermore, a 2015 study found that the enactment of state level non-discrimination laws increased wages by 4.2% and employment by 2% for gay men.¹³³

C. Poverty in the LGBT Community

While national averages indicate that LGBT people may be more likely to have higher household incomes, those averages can mask that LGBT people are also disproportionately poor¹³⁴ and that poverty is concentrated in certain groups within the LGBT community such as female couples, people of color, transgender people, youth, and the elderly. For example, key findings from a 2013 study on poverty in the LGBT community include:

- 7.6% of lesbian couples are in poverty, compared to 5.7% of married different-sex couples;
- Over 1 in 5 of children of same-sex couples are in poverty, compared to 12.1% of children of married different-sex couples;

¹²⁹ Jamie H. Douglas & Michael D. Steinberger, *The Sexual Orientation Wage Gap for Racial Minorities*, 54 *INDUST. REL.* 59, 96 (2015).

¹³⁰ Gary J. Gates, Cal. Center for Pop. Research, *The Impact of Sexual Orientation Anti-Discrimination Policies on the Wages of Lesbians and Gay Men* (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

¹³¹ Amanda K. Baumle & Dudley L. Poston Jr., *The Economic Cost of Homosexuality: Multilevel Analysis*, 89 *Soc. Forces* 1005 (2011).

¹³² Marieka M. Klawitter, *Multilevel Analysis of the Wffects of Antidiscrimination Policies on Earnings by Sexual Orientation*, 30 *J. . POL. ANALYSIS & MGMT.* 334 (2011). See also Marieka M. Klawitter & Victor B. Flatt, *The Effects of State and Local Anti-Discrimination Policies on Earnings for Gays and Lesbians*, 17 *J. POL. ANALYSIS & MGMT.* 658 (1998).

¹³³ Ian Burn, *Legal Differences in Non-Discrimination Laws and the Effect of Employment Protections for Gay Men* (Feb. 2015) (unpublished manuscript available at the Princeton University repository). The study also found that state non-discrimination laws with stronger damages, statute of limitations, and attorney's fees increase the positive impact on gay men's wages. *Id.*

¹³⁴ M.V. LEE BADGETT, LAURA E. DURSO & ALYSSA SCHNEEBAUM, WILLIAMS INST., *NEW PATTERNS OF POVERTY IN THE LESBIAN, GAY, AND BISEXUAL COMMUNITY* (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>.

- African American same-sex couples have poverty rates more twice that of married different-sex African American couples; and
- Lesbian couples who live in rural areas are much more likely to be poor (14.1%), compared to coupled lesbians in large cities (4.5%).

Similarly, research looking at the issue of food insecurity in the LGBT community has found that, in the year prior to the survey, more than one in four LGBT adults (27%) experienced a time when they did not have enough money to feed themselves or their family, and nearly one half of LGB adults aged 18-44 who are raising children (46%) received food stamps.¹³⁵

The U.S. Transgender Discrimination Survey found that, nationally, one-third of respondents were living at or near the federal poverty line, twice the rate of poverty in the general population (29% v. 14%).¹³⁶ Transgender people of color were more likely to be living in poverty, with 43% of Latino/a, 43% of American Indian, 40% of multiracial, 38% of black, 34% of Middle Eastern, and 32% of Asian respondents reporting that they were living in poverty, compared to 24% of white respondents.¹³⁷

In a 2013 study on poverty, Badgett et al. suggested that social climate and policy are linked determinants of LGB poverty: “LGB people who live in non-coastal regions of the U.S. or rural communities are more likely than those in urban and coastal regions to be in poverty. These geographic areas are more likely to have social climates that are less accepting of LGB identities, increasing the stress and discrimination that LGB people face. These locales may also be less likely to offer legal protections that would guard against major life events, such as job loss or health issues that often contribute to poverty.”¹³⁸

Building from that thesis, a 2015 report by the Williams Institute linked greater socio-economic disparities for LGBT people to region, a lack of legal protections, and poor social climate.¹³⁹ The report found that LGBT Americans face greater social and economic disparities in states without statewide laws prohibiting sexual orientation discrimination, and in regions of the country such as the South, with a poorer social climate and fewer legal protections.¹⁴⁰ For example, while

¹³⁵ Taylor N.T. Brown, Adam P. Romero & Gary J. Gates, WILLIAMS INST., FOOD INSECURITY AND SNAP PARTICIPATION IN THE LGBT COMMUNITY (2016), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Food-Insecurity-in-LGBT-Communities.pdf>

¹³⁶ JAMES ET AL., *supra* note 89 at 144.

¹³⁷ *Id.*

¹³⁸ BADGETT, DURSO & SCHNEEBAUM, *supra* note 134 at 25.

¹³⁹ AMIRA HASENBUSH, ANDREW R. FLORES, ANGELIKI KASTANIS, BRAD SEARS & GARY J. GATES, WILLIAMS INST., THE LGBT DIVIDE: A DATA PORTRAIT OF LGBT PEOPLE IN THE MIDWESTERN, MOUNTAIN & SOUTHERN STATES (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-divide-Dec-2014.pdf>.

¹⁴⁰ Press Release, Williams Inst., LGBT Americans Face Greater Social and Economic Disparities in the South, Midwest, and Mountain States (Dec. 18, 2014) (available at <http://williamsinstitute.law.ucla.edu/press/press-releases/lgbt-divide/>). In the words of report author Gary Gates: “It’s not just that LGBT people in the Midwest and South are poorer because people in those regions tend to be poorer overall. In some cases the economic

same-sex couples with children in all states face an income disadvantage when compared to their different-sex married counterparts, that income gap widens from \$4,300 in the states with protective laws states to \$11,000 in states like Georgia that lack such laws.¹⁴¹

The report, *The LGBT Divide*, shows similar disadvantages for LGBT people in Georgia, including:

- Thirty-six percent of LGBT adults in Georgia report having a household income below \$24,000 compared to 28% of non-LGBT adults.¹⁴²
- Same-sex couples raising children have average household incomes of over \$10,000 less than different-sex married couples raising children in Georgia (\$73,900 for same-sex couples compared to \$86,300 for different-sex married couples).¹⁴³
- Nearly one-third of LGBT adults (32%) in Georgia report that they do not have enough money for food compared to around one-fifth of non-LGBT adults (21%).¹⁴⁴
- Similarly, one-third of LGBT adults in Georgia report not having enough money to meet their health care needs compared to 22% of non-LGBT adults.¹⁴⁵

Data from the NTDS suggest that transgender people in Georgia are five times as likely to be poor (20% v. 4%) and three times as likely to be unemployed (21% v. 7%) as the general population in the state.¹⁴⁶ In addition, 23% of NTDS respondents in Georgia reported having become homeless at some point in their lives because of their gender identity.¹⁴⁷ The authors of the NTDS concluded that the higher rates of poverty and unemployment are “likely due to employment discrimination and discrimination in school.”¹⁴⁸

In addition, the Trans Housing Atlanta Program, a housing support organization for transgender people in Georgia, has also found high rates of homelessness among the transgender population in Atlanta, estimating that more than 2% of the city’s transgender residents are homeless.¹⁴⁹

D. Economic Impact of LGBT Stigma and Discrimination on Employers

A growing body of research finds that supportive workplace policies and practices, such as non-discrimination policies, have a positive impact on employer outcomes—what has been termed “the business case for diversity.” While this research has primarily focused on the inclusive

disadvantages that LGBT people have relative to non-LGBT people markedly increase in those regions. In others, the advantages that you see for LGBT people in other parts of the country either disappear or reverse.”

¹⁴¹ HASENBUSH ET AL., *supra* note 139.

¹⁴² *Id.* at 37.

¹⁴³ *Id.* at 35.

¹⁴⁴ *Id.* at 40.

¹⁴⁵ *Id.* at 41.

¹⁴⁶ FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY: GEORGIA RESULTS, *supra* note 91.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ Dyana Bagby, *Atlanta Effort Provides ‘Safety Net’ for Trans People*, PROJECTQ.US, Nov. 28, 2016, http://www.projectq.us/atlanta/atlanta_effort_provides_safety_net_for_trans_people.

policies and environments of individual firms, it also suggests that state economies benefit from more inclusive legal and social environments.

To the extent that Georgia's legal landscape and social climate is unsupportive of LGBT workers, the state is likely to experience negative economic outcomes. Research shows that LGBT workers in unsupportive environments are less likely to be open about their sexual orientation or gender identity at work, more likely to be distracted on the job, and less likely to be committed to staying at their current employer, compared to LGBT employees at supportive workplaces. Moreover, LGBT and non-LGBT workers from outside of a state that they perceive as unsupportive may be less likely to accept job offers from employers in the state.

1. The Business Case for Diversity

Over the past two decades, many employers have adopted non-discrimination policies to protect LGBT employees and created more inclusive workplace environments, even when not legally required to do so.¹⁵⁰ In doing so, both employers and LGBT advocates have articulated the business case for diversity, drawing on research initially related to racial and gender diversity, but now frequently evaluating LGBT-supportive policies and practices.

Corporations have increasingly enacted LGBT-supportive policies, in part, because the companies' perceive that the policies will have a positive impact on the bottom line. As of 2015, 93% of Fortune 500 companies had policies prohibiting sexual orientation discrimination and 75% included gender identity.¹⁵¹ Further, 64% offered domestic partner benefits and 40% had transgender-inclusive benefits policies.¹⁵²

Of the 18 Fortune 500 companies headquartered in Georgia,¹⁵³ 17 include sexual orientation in their non-discrimination policies, and 13 also include gender identity: Home Depot,¹⁵⁴ UPS,¹⁵⁵ Coca-Cola,¹⁵⁶ Delta Air Lines,¹⁵⁷ Aflac,¹⁵⁸ Southern Co.,¹⁵⁹ Genuine Parts,¹⁶⁰ First Data Corp.,¹⁶¹

¹⁵⁰ M.V. LEE BADGETT, MONEY, MYTHS, AND CHANGE: THE ECONOMIC LIVES OF LESBIANS AND GAY MEN (2001); NICOLE C. RAEBURN, CHANGING CORPORATE AMERICA FROM INSIDE OUT: LESBIAN AND GAY WORKPLACE RIGHTS (2004).

¹⁵¹ DARYL HERRSCHAFT ET AL., HUMAN RIGHTS CAMPAIGN, DEGREES OF EQUALITY: A NATIONAL STUDY EXAMINING WORKPLACE CLIMATE FOR LGBT PEOPLE 5 (2009), https://issuu.com/hrcworkplace/docs/hrc_degrees_of_equality_2009; DEENA FIDAS & LIZ COOPER, HUMAN RIGHTS CAMPAIGN, CORPORATE EQUALITY INDEX 2016: RATING AMERICAS WORKPLACES ON LESBIAN, GAY, BISEXUAL AND TRANSGENDER EQUALITY 7 (2016), <http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/CEI-2016-FullReport.pdf>.

¹⁵² DEENA FIDAS & LIZ COOPER, *supra* note 151.

¹⁵³ Fortune 500, Ga. Dep't of Ec. Development, <http://www.georgia.org/competitive-advantages/pro-business/fortune-500/> (last visited Oct. 20, 2016).

¹⁵⁴ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 57.

¹⁵⁵ *Id.* at 68.

¹⁵⁶ *Id.* at 80.

¹⁵⁷ *Id.* at 53.

¹⁵⁸ AFLAC, CODE OF BUSINESS CONDUCT AND ETHICS (2015), <http://investors.aflac.com/corporate-governance/code-of-conduct.aspx>.

HD Supply Holdings,¹⁶² Veritiv Corp.,¹⁶³ SunTrust Banks,¹⁶⁴ Mohawk Industries,¹⁶⁵ AGCO Corp.,¹⁶⁶ Asbury Automotive Corp.,¹⁶⁷ NCR Corp.,¹⁶⁸ PulteGroup Inc.,¹⁶⁹ and Newell Brands.¹⁷⁰

As stated in a 2015 amici brief filed by 379 large corporations in the historic marriage equality case *Obergefell v. Hodges*,¹⁷¹ the business case for diversity is clear:

Today, diversity and inclusion are a given. They are among the core principles of amici in the conduct of their businesses. The value of diversity and inclusion in the workplace has been well-documented following rigorous analyses. Amici and others recognize that diversity is crucial to innovation and marketplace success. Members of the lesbian, gay, bisexual, and transgender (“LGBT”) community are one source of that diversity.¹⁷²

In fact, a 2011 study found that when enacting non-discrimination policies, 92% of the leading companies in the U.S. did so based on a general argument that diversity is good for business, and 53% made that link specifically to LGBT-supportive policies and practices.¹⁷³ Similarly, a 2013 Williams Institute study found that over 60% of corporate respondents that offered transition-related health care coverage to their employees did so because of the business benefits.¹⁷⁴ Some

¹⁵⁹ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 66.

¹⁶⁰ Search Jobs, Genuine Parts, <http://jobs.genpt.com/job-search-results/> (last visited Oct. 20, 2016) (click on job listings for equal employment policy).

¹⁶¹ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 74.

¹⁶² Careers, HD Supply, http://hdsupply.jobs/?utm_campaign=HDSupply.com&vs=1879&utm_medium=Other&utm_source=HDSupply.com-DE (last visited Oct. 20, 2016).

¹⁶³ Veritiv, Careers at Veritiv, <http://careers.veritivcorp.com/#> (last visited Oct. 20, 2016) (click on job listings for equal employment policy).

¹⁶⁴ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 66.

¹⁶⁵ Jeff Lorberbaum, Equal Employment Opportunity Statement, Mohawk, <http://seo.nlx.org/mohawk/img/Mohawk%20EEO%20OFCCP%20Statement%20%2802028625x9C973%29.pdf> (last visited Oct. 21, 2016) (sexual orientation only).

¹⁶⁶ GLOBAL CODE OF CONDUCT, AGCO 15 (2014), <http://www.agcocorp.com/content/dam/agcocorp/whoware/Code%20of%20Conduct/AGCO%20Global%20Code%20of%20Conduct%20October%202014.pdf> (sexual orientation only).

¹⁶⁷ Code of Business Conduct and Ethics for Directors, Officers and Employees, Feb. 16, 2011, <http://phx.corporate-ir.net/phoenix.zhtml?c=130055&p=irol-govConduct> (sexual orientation only).

¹⁶⁸ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 61.

¹⁶⁹ PULTE GROUP, CODE OF ETHICAL BUSINESS CONDUCT 7 (2016), http://s1.q4cdn.com/101919580/files/doc_downloads/governance/Code-of-Ethical-Business-Conduct-050615-no-changes.pdf (sexual orientation only).

¹⁷⁰ DEENA FIDAS & LIZ COOPER, *supra* note 151 at 93.

¹⁷¹ 576 U.S. __ (2015).

¹⁷² Brief for 379 Employers and Organizations Representing Employers as Amici Curiae Supporting Petitioners, *Obergefell v. Hodges*, 576 U.S. __ (2015) (Nos. 14-556, 14-562, 14-571, 14-574), available at http://www.supremecourt.gov/ObergefellHodges/AmicusBriefs/14-556_379_Employers_and_Organizations_Representing_Employers.pdf.

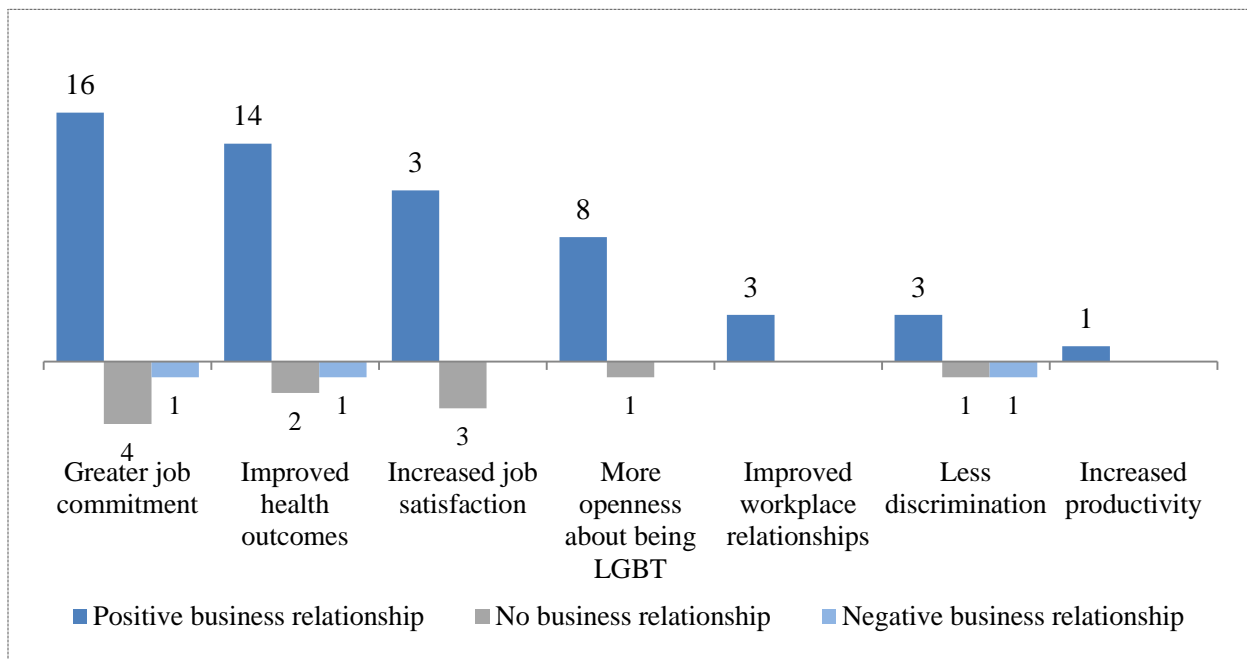
¹⁷³ BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES, (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

¹⁷⁴ JODY L. HERMAN, WILLIAMS INST., COSTS AND BENEFITS OF PROVIDING TRANSITION-RELATED HEALTH CARE COVERAGE IN EMPLOYEE HEALTH BENEFIT PLANS: FINDINGS FROM A SURVEY OF EMPLOYERS 3 (2013),

of the specific business-related outcomes that have motivated employers to adopt LGBT-supportive policies include: recruiting and retaining talented employees, sparking new ideas and innovations, attracting and serving a diverse customer base, and enhancing employee productivity.¹⁷⁵

Academic research conducted over the past two decades supports the business case for LGBT inclusion. In 2013, the Williams Institute reviewed 36 academic studies examining the effects of LGBT-supportive policies, and concluded that the research supports the existence of many positive links between LGBT-supportive policies or workplace climates and outcomes that will benefit employers.¹⁷⁶

Figure II.a. Number of studies conducted prior to 2013 showing relationship between LGBT-supportive policies or workplace climates and individual-level outcomes



A 2014 literature review of academic studies similarly concluded that LGBT-supportive policies have positive effects on LGBT employees in terms of mental health, workplace relationships, and job satisfaction.¹⁷⁷ Many of the underlying studies included in the 2013 and 2014 literature

<http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Cost-Benefit-of-Trans-Health-Benefits-Sept-2013.pdf>.

¹⁷⁵ *Id.*; SEARS & MALLORY, *supra* note 173.

¹⁷⁶ M.V. LEE BADGETT, LAURA DURSO, ANGELIKI KASTANIS, & CHRISTY MALLORY, WILLIAMS INST., THE BUSINESS IMPACT OF LGBT SUPPORTIVE WORKPLACE POLICIES, (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-May-2013.pdf>.

¹⁷⁷ Ozeren Emir, *Sexual Orientation Discrimination in the Workplace: A Systematic Review of Literature*, 109 *PROCEDIA – SOC. & BEHAV. SCI.* 1203, 1208-10 (2014).

reviews focused on three specific areas of the case for business diversity: employee recruitment, productivity/engagement, and retention. Studies focused on these outcomes have shown that:

Recruitment

- LGBT-supportive policies and workplace environments are important to LGBT employees when they are deciding where to work.¹⁷⁸
- LGBT employees prefer to work in states with more supportive laws and social environments.¹⁷⁹
- Employers are more likely to cite problems with recruitment of LGBT employees when LGBT-supportive policies are not in place.¹⁸⁰
- Many non-LGBT jobseekers also value LGBT-supportive policies and practices,¹⁸¹ particularly younger and more highly educated workers.¹⁸²

Productivity/Engagement

- LGBT-supportive policies and supportive workplace environments are associated with less discrimination and a greater likelihood that LGBT people will be out at work. Both outcomes have been linked to greater workplace engagement, improved psychological health, increased productivity, and job satisfaction.¹⁸³

¹⁷⁸ Harris Interactive, *Majority of Americans Believe Gay and Lesbian Couples in Committed Relationships Should Receive Equal Workplace Benefits as Heterosexual Married Couples*, PRNEWswire.COM, Oct. 4, 2010, <http://www.prnewswire.com/news-releases/majority-of-americans-believe-gay-and-lesbian-couples-in-committed-relationships-should-receive-equal-workplace-benefits-as-heterosexual-married-couples-104293928.html>; SYLVIA ANN HEWLETT, TODD SEARS, KAREN SUMBERG & CHRISTINA FARGNOLI, *THE POWER OF “OUT” 2.0: LGBT IN THE WORKPLACE* 29 (2013).

¹⁷⁹ Out & Equal et al., *Most Americans Say Employers Should Never Discriminate, Even on Religious Grounds*, HARRIS POLL, Oct. 30, 2014, http://media.theharrispoll.com/documents/FINAL_2014_Out_Equal_Workplace_Survey_Release_10.30.2014.pdf.

¹⁸⁰ Russell Shrader, *Broadening Partner Benefits to Improve Recruitment and Retention among LGBT Employees in United States Institutions of Higher Education*, 40 PUBLIC ADMIN. Q. 180 (2016).

¹⁸¹ SYLVIA ANN HEWLETT & KENJI YOSHINO, *OUT IN THE WORLD: SECURING LGBT RIGHTS IN THE GLOBAL MARKET PLACE* 20 (2016); Harris Interactive, *Majority of Americans Believe Gay and Lesbian Couples in Committed Relationships Should Receive Equal Workplace Benefits as Heterosexual Married Couples*, PRNEWswire.COM, Oct. 4, 2010, <http://www.prnewswire.com/news-releases/majority-of-americans-believe-gay-and-lesbian-couples-in-committed-relationships-should-receive-equal-workplace-benefits-as-heterosexual-married-couples-104293928.html>.

¹⁸² Andrew R. Flores, *Attitudes toward Transgender Rights: Perceived Knowledge and Secondary Interpersonal Contact* 3 POLITICS, GROUPS, AND IDENTITIES 398 (2015); Ilsa L. Lottes & Peter J. Kuriloff, *The Impact of College Experience of Political and Social Attitudes*, 31 SEX ROLES 31 (1994); *Gay Marriage*, PEWRESEARCH.ORG, <http://www.pewresearch.org/data-trend/domestic-issues/attitudes-on-gay-marriage/> (last visited May 3, 2016).

¹⁸³ Yuan-Hui Tsai, Sheng-Wuu Joe, Wei-Te Liu, Chieh-Peng Lin, Chou-Kang Chiu & Chaio-Chih Tang, *Modeling Job Effectiveness in the Context of Coming Out as a Sexual Minority: A Socio-Cognitive Model*, 9 REV. MANAG. SCI. 197 (2015); SYLVIA ANN HEWLETT & KENJI YOSHINO, *OUT IN THE WORLD: SECURING LGBT RIGHTS IN THE GLOBAL MARKET PLACE* 20 (2016); BADGETT ET AL., *supra* note 176.

- When LGBT employees are open about their sexual orientation or gender identity at work, teams that include both LGBT and non-LGBT workers may be more productive and more competent.¹⁸⁴
- These outcomes could lead to economic losses for state and local governments, as employers, and private businesses Georgia. Since the state government of Georgia employs over 67,000 people,¹⁸⁵ its own loss in productivity from a discriminatory environment could be significant.

Retention

- LGBT employees in supportive environments are more likely to say they are proud to work for their employer.¹⁸⁶
- LGBT employees in unsupportive environments feel less committed to their jobs.¹⁸⁷
- When a worker leaves a job, costs include a loss in productivity due to the unfilled position, the costs of hiring and training a new employee, and lower initial rates of productivity of the new employee.¹⁸⁸ A 2012 review of academic articles concluded that businesses spend about one-fifth of an employee's annual salary to replace a worker.¹⁸⁹ This rate was very consistent for most types of workers, except for executives and highly skilled positions, which have much greater turnover costs – up to 213% of annual salary.¹⁹⁰ Based on the average annual mean wage in Georgia,¹⁹¹ public and private employers are at risk of losing approximately \$9,100, on average, for each employee that

¹⁸⁴ Benjamin A. Everly, Margaret J. Shih & Geoffrey C. Ho, *Don't Ask, Don't Tell? Does Disclosure of Gay Identity Affect Partner Performance?*, 48 J. EXPERIMENTAL SOCIAL PSYCH. 407, 409 (2012).; SYLVIA ANN HEWLETT & KENJI YOSHINO, *OUT IN THE WORLD: SECURING LGBT RIGHTS IN THE GLOBAL MARKET PLACE* 22,63 (2016).

¹⁸⁵ GA. DEP'T OF ADMIN. SVCS., GEORGIA STATE GOVERNMENT: FY2015 WORKFORCE REPORT 8 (2015), <http://doas.ga.gov/assets/Human%20Resources%20Administration/Workforce%20Planning%20Resources/FY2015%20Workforce%20Report.pdf>.

¹⁸⁶ HEWLETT & YOSHINO, *supra* note 184 at 20.

¹⁸⁷ Belle R. Ragins, Romila Singh, John M. Cornwell, *Making the Invisible Visible: Fear and Disclosure of Sexual Orientation at Work*, 92 J. APPLIED PSYCHOL. 1103, 1114 (2007); Scott B. Button, *Organizational Efforts to Affirm Sexual Diversity: A Cross-Level Examination*, 86 J. APPLIED PSYCHOL. 17, 23 (2001); IAN JOHNSON & DARREN COOPER, *OUT NOW GLOBAL, LGBT DIVERSITY: SHOW ME THE BUSINESS CASE* 4, 47 (2015),

<http://www.outnowconsulting.com/media/13505/Report-SMTBC-Feb15-V17sm.pdf>; SYLVIA ANN HEWLETT & KAREN SUMBERG, *THE POWER OF OUT* (2011); DEENA FIDAS, LIZ COOPER & JENNA RASPANTI, *HUMAN RIGHTS CAMPAIGN, THE COST OF THE CLOSET AND THE REWARDS OF INCLUSION* 22 (2014), http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/Cost_of_the_Closet_May2014.pdf; Blazovich et al., *supra* note 193 at 4.

¹⁸⁸ HEATHER BOUSHEY & SARAH JANE GLYNN, *CTR. FOR AM. PROGRESS, THERE ARE SIGNIFICANT BUSINESS COST TO REPLACING EMPLOYEES* (2012), <https://www.americanprogress.org/issues/labor/report/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ The annual mean wage in Georgia is \$45,420. May 2015 State Occupational Employment and Wage Estimates: Georgia, Bureau of Labor Stats., http://www.bls.gov/oes/current/oes_GA.htm#otherlinks (last visited Oct. 20, 2016).

leaves the state or changes jobs because of the negative environment facing LGBT people.¹⁹²

In addition, several studies have linked LGBT-supportive policies and workplace environments to bottom line gains, including improved productivity, profitability, and stock prices when compared to firms without such policies.¹⁹³

This body of research suggests if Georgia were to move toward a more supportive legal landscape and social climate for LGBT people, public and private employers in the state would likely be able to more easily recruit employees from other places and retain current employees, and would likely see improved employee productivity.

E. Illustration of Costs to Georgia Associated with Stigma and Discrimination

As discussed above, discrimination in employment, housing, and other areas of life can result in LGBT people being unemployed, underemployed, underpaid, less productive, and more reliant on government benefits and social services. Here we use available data to estimate the fiscal impact of discrimination in two of many possible areas by estimating the costs associated with Medicaid participation and use of shelters that result from housing discrimination against transgender people in Georgia.

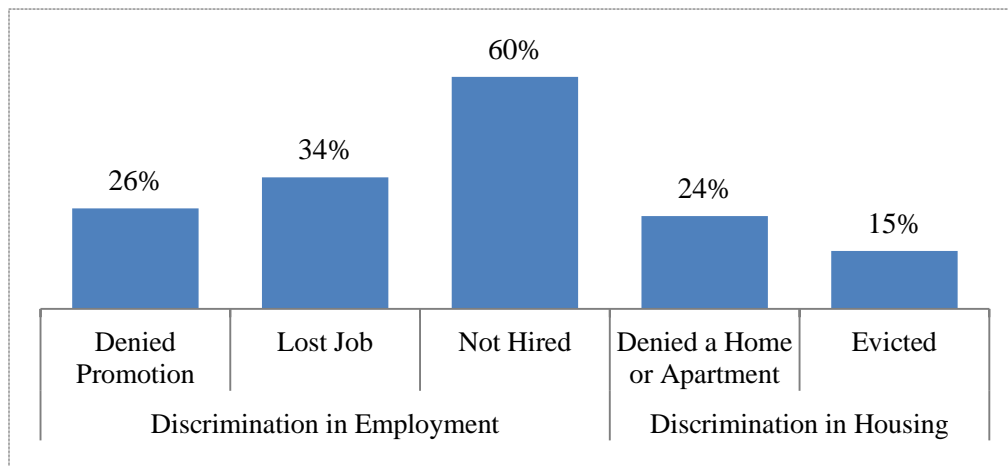
We use prevalence findings from the NTDS, coupled with estimates of the size of the transgender Georgia population (reported in Section I.A.), to estimate the number of transgender adults in Georgia who have experienced specific forms of anti-transgender bias.

¹⁹² Calculated by applying the average replacement cost of 20% annual salary to the average annual salary in Georgia. *Id.*; BOUSHEY & GLYNN, *supra* note 188.

¹⁹³ CREDIT SUISSE ESG RESEARCH, LGBT: THE VALUE OF DIVERSITY (2016), <http://www.slideshare.net/creditsuisse/lgbt-the-value-of-diversity> (finding that a basket of 270 companies supporting LGBT employees outperformed the market in terms of stock price, return on equity (ROE), cash flow returns, and economic profit generation, and that stocks of companies who have LGBT people in senior roles outperform those who do not); Feng Li and Venky Nagar, *Diversity and Performance*, 59 MGMT. SCI. 529 (2013) (finding improved operating returns on assets (ROA) after companies adopt domestic partner benefits for same-sex couples); Janell L. Blazovich, Kristin A. Cook, Janet McDonald Huston, & William R. Strawser, *Do Gay-Friendly Corporate Policies Enhance Firm Performance?* 35-36 (Apr. 2013) (unpublished manuscript, available online) (finding that “firms with gay-friendly policies benefit on key factors of financial performance, which ... increase the investor perception of the firm as proxied by stock price movements.”). *See also* BADGETT ET AL., *supra* note 176 at 23 (“A ... study found that the more robust a company’s LGBT friendly policies, the better its stock performed over the course of four years (2002-2006), compared to other companies in the same industry over the same period of time.”); Garrett D. Voge, *Investor Valuation: LGBTQ Inclusion and the Effect on a Firm’s Financials* (unpublished manuscript, available at the University of Arizona Campus Repository) (2013) <http://arizona.openrepository.com/arizona/handle/10150/297778> (finding that institutional investors value LGBT-supportive corporate policies as evaluated by stock price increases after release of LGBT Corporate Equality Index report by the Human Rights Campaign).

Figure III.a. Discrimination in Employment and Housing on the Basis of Gender Identity among NTDS Respondents in Georgia (n=167)

Source: National Transgender Discrimination Survey, 2011



Job loss, including due to anti-transgender bias, can result in economic insecurity and loss of a variety of benefits, such as health care coverage. People who experience job loss may become eligible for and enroll in Medicaid. Estimates from the Centers for Medicare and Medicaid Services find that as of August 2016, 1.7 million people were enrolled in Medicaid or the Children’s Health Insurance Program (CHIP) in Georgia.¹⁹⁴

Based on findings from the NTDS, we estimate that 4.9% of transgender adults in Georgia *who have* lost a job due to anti-transgender bias have enrolled in Medicaid.¹⁹⁵ An estimated 0.9% of transgender adults in Georgia *who have not* lost a job due to anti-transgender bias have enrolled in Medicaid. We attribute the difference in Medicaid enrollment between these two groups (4.0%) to the elevated need for Medicaid coverage resulting from employment discrimination based on gender identity. Applying this figure (4.0%) to the population of transgender adults in Georgia who have lost a job because of gender identity bias, we estimate that 757 transgender Georgians have enrolled in Medicaid because of employment discrimination on the basis of gender identity.¹⁹⁶ In 2011, average state spending per Medicaid enrollee in Georgia was

¹⁹⁴ Medicaid & CHIP in Georgia, Medicaid.gov, <https://www.medicaid.gov/medicaid/by-state/stateprofile.html?state=georgia> (last visited Dec. 8, 2106).

¹⁹⁵ Prevalence estimates for those who have lost a job due to bias and are currently enrolled in Medicaid are based on a combined sample of NTDS respondents from Georgia, North Carolina, South Carolina, Florida, Alabama, and Tennessee. There were too few respondents from Georgia for us to determine robust estimates with a sample of only Georgia respondents. We compared all five neighboring states (North Carolina, South Carolina, Florida, Alabama, and Tennessee) with Georgia on a number of key variables, including demographics and Medicaid program eligibility among other variables, to determine if grouping these states was appropriate. We concluded it was appropriate to group them together for purposes of this study. We also assume in our analysis that the experiences of respondents from this region to the NTDS, a convenience survey, mirror those of all transgender individuals in the region.

¹⁹⁶ According to the NTDS, 34% of transgender adults in Georgia have experienced job loss due to anti-transgender bias, which we estimate to be 18,921 individuals. Multiplying this figure by 4.0% yields 757 transgender adults who are enrolled in Medicaid due to job loss resulting from anti-transgender bias.

approximately \$1,384.¹⁹⁷ Therefore, we estimate that employment discrimination experienced by transgender adults on the basis of gender identity costs Georgia approximately \$1,048,000 annually in state Medicaid expenditures.

Individuals who are denied housing because of anti-transgender bias may experience homelessness and seek housing at a homeless shelter. We estimate that 2.9% of transgender adults in Georgia *who have been* denied a home or apartment due to anti-transgender bias are currently experiencing homelessness.¹⁹⁸ An estimated 1.2% of transgender adults in Georgia *who have not* been denied a home or apartment due to anti-transgender bias are currently experiencing homelessness. Therefore, we estimate that approximately 1.7% of transgender adults in Georgia, or 227 individuals, may be currently experiencing homelessness because of housing discrimination based on their gender identity.¹⁹⁹

These individuals may seek temporary housing at a homeless shelter in the state. A 2010 study by the U.S. Department of Housing and Urban Development (HUD) estimated that the cost of housing an individual experiencing homelessness at a shelter for an average length of stay based on cost data from three cities (Des Moines, IA; Houston, TX; and Jacksonville, FL) is approximately \$2,100.²⁰⁰ This is likely a conservative estimate of costs to shelter facilities as the HUD estimate only considers those experiencing homelessness for the first time and individuals only, not families. Applying this estimate to the 227 transgender residents of Georgia whom we estimate to be currently experiencing homelessness due to housing discrimination on the basis of gender identity, we estimate that this form of housing discrimination may cost Georgia up to \$477,000 annually in shelter expenditures.

Reducing or eliminating discrimination against LGBT people in employment and housing can be a cost-saving measure for the state of Georgia. As our illustration shows, to the extent that a

¹⁹⁷ Medicaid per enrollee figure available at Henry J. Kaiser Family Foundation, Georgia: Medicaid Spending per Enrollee (Full or Partial Benefit), FY2011 <http://kff.org/medicaid/state-indicator/medicaid-spending-per-enrollee/> (last visited Nov. 18, 2016). More recent data on spending per Medicaid enrollee is not available. Further calculations to determine the state proportion of expenditures, based off of the 2011 Federal Medical Assistance Percentage or FMAP (65.33%), were conducted by the authors. We believe this is a conservative estimate as the average per enrollee spending estimate includes Medicaid spending for eligible children who consistently have lower spending levels than adults. Furthermore, the FMAP for Georgia has increased, meaning the federal government provides a greater share of Medicaid expenditures. It is unclear how these changes since 2011 have impacted the per-enrollee state expenditure for Medicaid. Georgia has not adopted Medicaid expansion under the Patient Protection and Affordable Care Act (ACA).

¹⁹⁸ Prevalence estimates for those who have experienced housing discrimination and are currently experiencing homelessness are based on a combined sample of NTDS respondents from Georgia, North Carolina, South Carolina, Florida, Alabama, and Tennessee. See *supra* note 195.

¹⁹⁹ According to the NTDS, 24 percent of transgender adults in Georgia have been denied a home or apartment because of anti-transgender bias, which we estimate to total 13,360 individuals. Multiplying this figure by 1.7 percent yields 227 transgender adults who have experienced discrimination in housing and are currently experiencing homelessness.

²⁰⁰ The HUD estimate refers to costs to shelter facilities. In Georgia, the state government does provide financial support for shelter facilities. It also administers funding provided by the federal government in the form of Emergency Solutions Grants (ESG). Facilities may also receive support from local governments, grants, charitable contributions, and other sources.

statewide prohibition against gender identity discrimination can reduce or eliminate bias in employment and housing against transgender individuals, the state of Georgia could save up to \$1.5 million annually in Medicaid and shelter expenses alone. These particular costs represent only two of a variety of costs that can accrue to the state and localities when LGBT individuals face discrimination.

SECTION IV. ECONOMIC IMPLICATIONS OF BULLYING AND FAMILY REJECTION OF LGBT YOUTH

School-based bullying of LGBT youth is pervasive²⁰¹ and increases the likelihood of school dropout²⁰², poverty²⁰³, and suicide²⁰⁴. Educational attainment, especially high school completion, is a significant determinant of economic status and health across the life course.²⁰⁵ As a result, early experiences of harassment may not only shape the economic lives of LGBT people, but also have a negative effect on a state's economy. As the authors of the USAID and Williams Institute study explained, "education discrimination excludes LGBT students from opportunities to increase their human capital (that is, their knowledge and skills) and to be employed in higher-skilled jobs that contribute to overall economic productivity."²⁰⁶

To the extent that Georgia's legal landscape and social climate foster an environment that is not inclusive of LGBT youth, the state is likely to experience losses in human capital, as well as costs associated with an overrepresentation of LGBT youth in foster care, the juvenile justice system, and among the homeless. This section presents data on experiences of LGBT youth in Georgia and throughout the U.S., and reviews research that links these experiences to negative outcomes for LGBT youth that, in turn, can lead to future reductions in economic output.

²⁰¹ See, e.g., Kate L. Collier, Gabriël van Beusekom, Henny M.W. Bos & Theo G.M. Sandfort, *Sexual Orientation and Gender Identity/Expression Related Peer Victimization in Adolescence: A Systematic Review of Associated Psychological and Health Outcomes*, 50 J. SEX ROLES 299 (2013); Elise D. Berlan et al., *Sexual Orientation and Bullying among Adolescents in the Growing Up Today Study*, 46 J. ADOLESCENT HEALTH 366 (2010); Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9–12 — Youth Risk Behavior Surveillance, Selected Sites, United States, 2001–2009*, 60 MORBIDITY AND MORTALITY WEEKLY REPORT 1, 11 (2011); JOSEPH G. KOSCIW ET AL., GLSEN, THE 2015 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUEER YOUTH IN OUR NATIONS SCHOOLS (2015), available at <https://www.glsen.org/sites/default/files/GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report.pdf>; EMILY A. GREYAK, JOSEPH G. KOSCIW & ELIZABETH M. DIAZ, GLSEN, HARSH REALITIES: THE EXPERIENCES OF TRANSGENDER YOUTH IN OUR NATION'S SCHOOLS (2009), available at <http://www.teni.ie/attachments/c95b5e6b-f0e6-43aa-9038-1e357e3163ea.PDF>.

²⁰² Jorge Srabstein & Thomas Piazza, *Public Health, Safety and Educational Risks Associated with Bullying Behaviors in American Adolescents*, 20 INT. J. ADOLESCENT MED. HEALTH 223 (2008).

²⁰³ Sarah Brown & Karl Taylor, *Bullying, Education and Earnings: Evidence from the National Child Development Study*, 27 ECONOMICS EDUC. REV. 387 (2008).

²⁰⁴ Young Shin Kim & Bennett Leventhal, *Bullying and Suicide. A Review*, 20 INT. J. ADOLESCENT MED. HEALTH 133 (2008).

²⁰⁵ John Lynch & George Kaplan, *Socioeconomic Factors*, in SOCIAL EPIDEMIOLOGY 13 (Lisa F. Berkman & Ichiro Kawachi, eds., 2000).

²⁰⁶ M.V. LEE BADGETT, SHEILA NEZHAD, KEES WAALDIJK & YANA VAN DER MEULEN RODGERS, *supra* note 81 at 26.

A. Bullying and Harassment of LGBT Youth Documented in Surveys

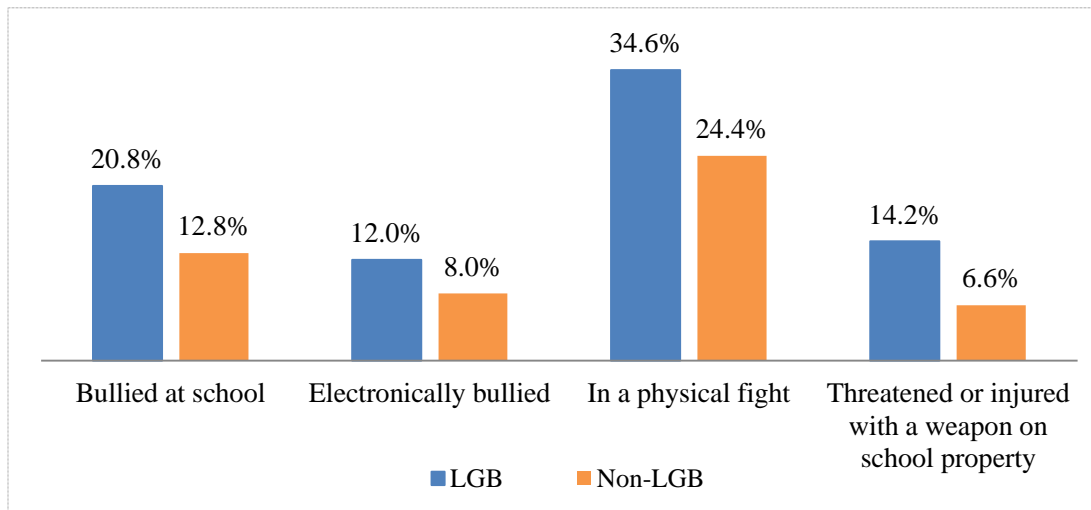
1. Middle School and High School

Data from several sources indicate that LGBT youth in Georgia face harassment, bullying, and exclusion in secondary and post-secondary schools.

The Centers for Disease Risk Control and Prevention (CDC) recently published an analysis of 2015 Youth Risk Behavior Survey (YRBS) data on LGB youth from multiple states and certain large urban school districts, including DeKalb County, GA, which included a measure of sexual orientation on its survey.²⁰⁷ This analysis compared LGB to non-LGB 9th through 12th graders on a variety of indicators of health and well-being. The 2015 DeKalb County YRBS data indicate that LGB youth in the county experience higher rates of being bullied and threatened with violence than non-LGB youth.

Figure IV.a. 12-month Teasing & Bullying of High School Students in DeKalb County, Georgia, by Sexual Orientation

Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9 – 12, United States and Selected Sites, 2016*



In DeKalb County, LGB students were more likely to report being bullied at school (20.8% v. 12.8%)²⁰⁸ and electronically bullied (12.0% v. 8.0%)²⁰⁹ in the 12 months prior to the survey than non-LGB students. In addition, LGB students were more likely to report being in a fight in the 12 months prior to the survey (34.6% v. 24.4%)²¹⁰ and were more than twice as likely to report

²⁰⁷ Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9–12 – United States and Selected Sites, 2015*, 65 MORBIDITY AND MORTALITY WEEKLY REPORT 1, 83 (2016).

²⁰⁸ *Id.* at 103.

²⁰⁹ *Id.* at 104.

²¹⁰ *Id.* at 99.

being threatened or injured with a weapon on school property (14.2% v. 6.6%)²¹¹. Not surprisingly, LGB students were more likely than non-LGB students to report missing school because they felt unsafe at least once in the month prior to the survey (13.9% v. 8.7%).²¹²

Findings from the 2015 DeKalb County YRBS are consistent with YRBS findings from 25 states and 18 other large urban school districts.²¹³ In addition, a 2011 CDC meta-analysis of YRBS data collected from 2001 through 2009 also found that, nationally, LGB students were more likely to experience bullying and violence at school than non-LGB students, suggesting that bullying is a chronic problem.²¹⁴

Bullying and harassment of LGBT youth has also been documented in Georgia, beyond DeKalb County. For instance, the 2013 GLSEN National School Climate survey reported that: 80% of Georgia middle- and high-school students responding to the survey said they had experienced verbal harassment based on their sexual orientation in the year prior to the survey, and 56% said they had experienced verbal harassment based on their gender expression.²¹⁵ Many students also reported experiencing sexual harassment (58%), cyber bullying (49%), and physical harassment (32%). Most of the students who experienced harassment did not report it to staff (65%) or their families (56%).²¹⁶ Of those who reported incidents to school authorities, only 26% said that the report resulted in effective intervention.²¹⁷

Additionally, in response to the National Transgender Discrimination Survey, 83% of Georgia participants who identified as transgender while in grades K-12 reported experiencing harassment at school, and 39% reported experiencing physical assault at school because of their gender identity.²¹⁸ Similarly, 46% of 2,124 LGBT adults in Georgia who completed a 2011 survey said that they had been harassed or bullied when they were in middle or high school.²¹⁹

2. Higher Education

Two universities in Georgia, the University of Georgia and Georgia Tech, have conducted campus climate surveys that measure LGBT inclusion on their campuses. The University of

²¹¹ *Id.* at 98.

²¹² *Id.* at 102.

²¹³ *Id.*

²¹⁴ *Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9–12 — Youth Risk Behavior Surveillance, Selected Sites, United States, 2001–2009*, *supra* note 201 at 11.

²¹⁵ GLSEN, SCHOOL CLIMATE IN GEORGIA I (2014),

<https://www.glsen.org/sites/default/files/GLSEN%202013%20Georgia%20State%20Snapshot.pdf>.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ NAT'L CTR. FOR TRANSGENDER EQUAL. & NAT'L GAY AND LESBIAN TASK FORCE, FINDINGS OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY, GEORGIA RESULTS,

http://www.transequality.org/sites/default/files/docs/resources/ntds_state_ga.pdf (last visited Dec. 19, 2016).

²¹⁹ PHILLIP RUSH CENTER, *supra* note 90 at 1.

Georgia's survey of students, faculty, and staff, which included 1,058 LGBQ²²⁰ respondents and 66 respondents who identified as transgender or genderqueer, found higher levels of discrimination and discomfort among LGBTQ individuals compared to their non-LGBTQ peers.²²¹ Nearly half (65%) of the transgender and genderqueer respondents reported experiencing exclusionary (e.g., shunned, ignored), intimidating, offensive, or hostile conduct, and 47% of transgender and genderqueer respondents who reported such conduct said it was because of their gender identity.²²² By comparison, 16% of all cisgender female respondents and 13% of cisgender male respondents reported experiencing exclusionary, intimidating, offensive, or hostile conduct.²²³ Among LGBQ respondents, 48% said they had experienced exclusionary, intimidating, offensive, or hostile conduct, compared to 26% of heterosexual respondents.²²⁴

Additionally, 12% of transgender and genderqueer respondents said they were uncomfortable or very uncomfortable with the campus climate compared to 6% of cisgender females and 4% of cisgender males.²²⁵ Similarly, 11% of LGBQ respondents said they were uncomfortable or very uncomfortable with the campus climate, compared to 6% of heterosexual respondents.²²⁶ Several LGBTQ students also shared examples of the types of harassment they faced on or around campus, including being called derogatory names and having their picture taken without consent.²²⁷

Georgia Tech's survey also found that LGB students were less likely to find the campus environment welcoming and inclusive than non-LGB students.²²⁸ Forty-one percent of LGB undergraduates and 26% of LGB graduate students said they had experienced instances of marginalization on campus (e.g., a sense of exclusion or feeling left out), compared to 22% of non-LGB undergraduates and 16% of non-LGB graduate students.²²⁹ In addition, 57% of all undergraduates and 20% of all graduate students said that they heard disparaging remarks about LGB people on campus.²³⁰

B. Family Rejection

For many youth, the challenges that they face at school are compounded by unaccepting families. This can further impair their ability to learn and graduate. Research shows that many LGBT

²²⁰ LGBQ respondents included those who identified as lesbian, gay, bisexual, pansexual, queer, or questioning. RANKIN & ASSOCIATES, UNIVERSITY OF GEORGIA CAMPUS CLIMATE RESEARCH STUDY III (2016), <http://diversity.uga.edu/uploads/documents/UGA-campus-climate-2016-full-report.pdf>.

²²¹ *Id.*

²²² *Id.* at 79.

²²³ *Id.*

²²⁴ *Id.* at 97.

²²⁵ *Id.* at 52.

²²⁶ *Id.* at 58.

²²⁷ *Id.* at 92.

²²⁸ JONATHAN GORDON, GEORGIA TECH, GT CLIMATE ASSESSMENT SURVEY REPORT 3.11-3.12 (2013), <http://facultygovernance.gatech.edu/GFGFAAS2014-102213-M-Attach1.pdf>.

²²⁹ *Id.* at 3.13.

²³⁰ *Id.* at 3.16-3.17.

youth have strained relationships with their families, or face abuse by their parents, because of their sexual orientation and gender identity.²³¹ For example, in one study about the challenges that youth face, LGBT youth ranked non-accepting families as the most important problem in their lives (26%), followed by school and bullying problems (21%), and fear of being open about being LGBT (18%).²³² In contrast, non-LGBT youth ranked classes/exams/grades (25%), college/career (14%), and financial pressures related to college or job (11%) as the most important problems in their lives.²³³

C. Health Disparities among LGBT Youth

Patterns of poor health and health risk observed among LGBT adults have been widely documented among LGBT adolescents as well. For example, the CDC analysis of 2015 YRBS data from 25 states and 19 large urban school districts reported disproportionately high rates of poor mental health and health risk behavior, commonly considered stress coping behavior,²³⁴ that disfavor LGB youth.²³⁵ Analyses of YRBS data from 2001-2009 also indicated sexual orientation disparities in mental health and health risk behaviors, suggesting that intervention efforts to date have been insufficient.²³⁶ Finally, a 2011 meta-analysis of 18 studies found that compared to non-LGB youth, LGB youth were more likely to report depression and more than twice as likely to think about suicide, over three times as likely to report that they had attempted

²³¹ E.g., Darrel Higa, Marilyn J. Hoppe, Taryn Lindhorst, Shawn Mincer, Blair Beadnell, Diane M. Morrison, Elizabeth A. Wells, Avry Todd & Sarah Mountz, *Negative and Positive Factors Associated with the Well-Being of Lesbian, Gay, Bisexual, Transgender, Queer, and Questioning (LGBTQ) Youth*, 46 YOUTH SOC'Y 1, 8 (2012); Barbara Fedders, *Coming Out for Kids: Recognizing, Respecting, and Representing LGBTQ Youth*, 6 NEV. L.J. 774, 788 (2006); Anthony R. D'Augelli, Arnold H. Grossman & Michael T. Starks, , *Parents Awareness of Lesbian, Gay, and Bisexual Youths' Sexual Orientation*, 67 J. MARRIAGE & FAMILY 474 (2005); Les Whitbeck, Xiaojin Chen, Dan R. Hoyt, Kimberly Tyler & Kurt D. Johnson, *Mental Disorder, Subsistence Strategies, and Victimization among Gay, Lesbian, and Bisexual Homeless and Runaway Adolescents*, 41 J. SEX RESEARCH 329 (2004); Brian N. Cochran, Angela J. Stewart, Joshua A. Ginzler & Ana Mari Cauce, *Challenges Faced by Homeless Sexual Minorities: Comparison of Gay, Lesbian, Bisexual, and Transgender Homeless Adolescents with Their Heterosexual Counterparts*, 92 AM. J. PUB. HEALTH 733 (2002); Bryan E. Robinson, Lynda Henley Walters & Patsy Skeen , *Responses of Parents to Learning that their Child is Homosexual and Concern over AIDS: A National Survey*, 1 J. HOMOSEXUALITY 59, 67 (1989); CHRISTY MALLORY, BRAD SEARS, AMIRA HASENBUSH & ALEXANDRA SUSMAN, WILLIAMS INST., ENSURING ACCESS TO MENTORING PROGRAMS FOR LGBTQ YOUTH (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Access-to-Youth-Mentoring-Programs.pdf>.

²³² HUMAN RIGHTS CAMPAIGN, GROWING UP LGBT IN AMERICA: HRC YOUTH SURVEY REPORT KEY FINDINGS 2 (2012), http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/Growing-Up-LGBT-in-America_Report.pdf.

²³³ *Id.*

²³⁴ See, e.g., Richard T. Liu & Lauren B. Alloy, *Stress Generation in Depression: A Systemic Review of the Empirical Literature and Recommendations for Future Study*, 30 CLIN. PSYCH. REV. 582 (2010); Jon. D. Kassel, Laura R. Stroud, Carol A. Paronis, *Smoking, Stress, and Negative Affect: Correlation, Causation, and Context Across States of Smoking*, 129 PSYCHOL. BULLETIN 129 (2003); Kathleen T. Brady & Susan C. Sonne, *The Role of Stress in Alcohol Use, Alcoholism Treatment, and Relapse*, 23 ALCOHOL RESEARCH & HEALTH 263 (1999).

²³⁵ *Id.*

²³⁶ See, e.g., Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Risk Behaviors Among Students in Grades 9–12 — Youth Risk Behavior Surveillance, Selected Sites, United States, 2001–2009*, *supra* note 201.

suicide, and more than four times as likely to have attempted suicide such that they needed medical attention.²³⁷

Other studies have linked health disparities to discrimination and unsupportive environments. For example, a 2011 study of youth in Oregon found that, in general, LGB youth were more likely to have attempted suicide than heterosexual youth, and that LGB youth in unsupportive school environments were at a 20% greater risk of attempting suicide than were LGB youth in supportive school environments.²³⁸ High levels of school-based victimization have been associated with higher levels of illicit drug use and sexual risk behavior.²³⁹ Research has also linked unsupportive family environments to depression and suicidality,²⁴⁰ high levels of stress,²⁴¹ tobacco use,²⁴² and illicit drug use²⁴³ in LGB youth and young adults.

Studies of transgender youth have also found evidence of associations between discrimination, abuse, and poorer health. A 2016 study found that transgender people who had been denied access to college bathrooms that matched their gender identity were 1.5 times more likely to have attempted suicide than those who were not denied bathroom access, and those who had been denied access to campus housing that matched their gender identity were 1.6 times more likely to have attempted suicide than those who had not been denied access.²⁴⁴ In addition, a 2010 study found that transgender respondents who had experienced gender-related abuse in their youth reported significantly higher rates of major depression and suicidality during that period of their lives than those who had not had such experiences.²⁴⁵

²³⁷ Michael P. Marshal, Laura J. Dietz, Mark S. Friedman, Ron Stall, Helen Smith, James McGinley, Brian C. Thoma, Pamela J. Murray, Anthony D'Augelli & David A. Brent, *Suicide and Depression Disparities Between Sexual Minority and Heterosexual Youth: A Meta-Analytic Review*, 49 J. ADOL. HEALTH 115 (2011).

²³⁸ Mark L. Hatzenbuehler, *The Social Environment and Suicide Attempts in Lesbian, Gay, and Bisexual Youth*, 27 PEDIATRICS 896 (2011).

²³⁹ Daniel E. Bontempo & Anthony D'Augelli, *Effects of At-School Victimization and Sexual Orientation on Lesbian, Gay, or Bisexual Youths' Health Risk Behavior*, 30 J. ADOL. HEALTH 362 (2002); Kann et al., *supra* note 201 at 11.

²⁴⁰ Another study found that LGBT youth who were rejected by their families in adolescence were 5.9 times more likely to report high levels of depression and 8.4 times more likely to have attempted suicide than LGBT youth who had not been rejected. Caitlin Ryan, David Huebner, Rafael M. Diaz & Jorge Sanchez, *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults*, 123 PEDIATRICS 346 (2009).

²⁴¹ Mark L. Hatzenbuehler & Katie A. McLaughlin, *Structural Stigma and Hypothalamic-Pituitary-Adrenocortical Axis Reactivity in Lesbian, Gay, and Bisexual Young Adults*, 47 ANN. BEHAV. MED. 39 (2014).

²⁴² Mark L. Hatzenbuehler, Hee-Jin Jun, Heather L. Corliss & S. Bryn Austin, *Structural Stigma and Cigarette Smoking in a Prospective Cohort Study of Sexual Minority and Heterosexual Youth*, 47 ANN. BEHAV. MED. 48 (2014).

²⁴³ Mark L. Hatzenbuehler, Hee-Jin Jun, Heather L. Corliss & S. Bryn Austin, *Structural Stigma and Sexual Orientation Disparities in Adolescent Drug Use*, 46 ADDICTIVE BEHAVIORS 14 (2015).

²⁴⁴ Kristie L. Seelman, *Transgender Adults' Access to College Bathrooms and Housing and the Relationship to Suicidality*, J. HOMOSEXUALITY 1 (2016).

²⁴⁵ Larry Nuttbrock, Sel Hwahng, Walter Bockting, Andrew Rosenblum, Mona Mason, Monica Macri & Jeffrey Becker, *Psychiatric Impact of Gender-Related Abuse Across the Life Course of Male-to-Female Transgender Persons*, 47 J. SEX. RES. 12 (2010).

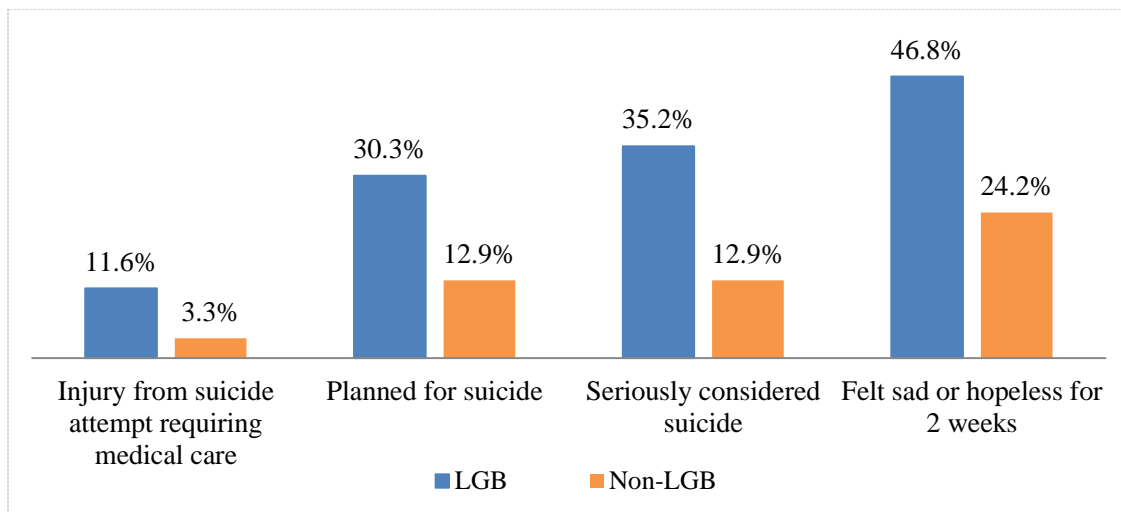
2015 DeKalb County YRBS data suggest that sexual orientation disparities in health observed elsewhere in the U.S. also persist in DeKalb County, GA.

1. Depression and Suicidality

As shown in Figure IV.b., larger proportions of LGB students in DeKalb County reported feeling isolated, depressed, and suicidal than non-LGB students. In fact, during the 12-months prior to the survey, 46.8% of LGB students reported feeling so sad or hopeless every day for over two weeks that they stopped doing some of their usual activities.²⁴⁶ That was nearly twice the rate of non-LGB students (24.2%). An affirmative answer to this question is part of the diagnostic definition of major depressive disorder.²⁴⁷

Figure IV.b. 12-month Depression and Suicidality among DeKalb County, Georgia, High School Students, by Sexual Orientation

Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9–12, United States and Selected Sites, 2015*



LGB students in DeKalb County were over twice as likely to have seriously considered suicide in the year prior to the survey compared to non-LGB students. More than one-third of LGB students (35.2%) reported seriously considering suicide in the 12-months prior the survey,²⁴⁸ 30.3% had made plan about how to attempt suicide,²⁴⁹ and 11.6% reported being injured from a suicide attempt in a way that had to be treated by a doctor or a nurse.²⁵⁰ By comparison, 12.9%

²⁴⁶ Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9 – 12 – United States and Selected Sites, 2015*, *supra* note 207 at 108.

²⁴⁷ See *Diagnostic Criteria for Major Depressive Disorder and Depressive Episodes*, PSNPALOALTO.COM, <http://www.psnpalalto.com/wp/wp-content/uploads/2010/12/Depression-Diagnostic-Criteria-and-Severity-Rating.pdf> (last visited May 4, 2016).

²⁴⁸ Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors Among Students in Grades 9 – 12 – United States and Selected Sites, 2015*, *supra* note 207 at 108.

²⁴⁹ *Id.* at 110.

²⁵⁰ *Id.* at 112.

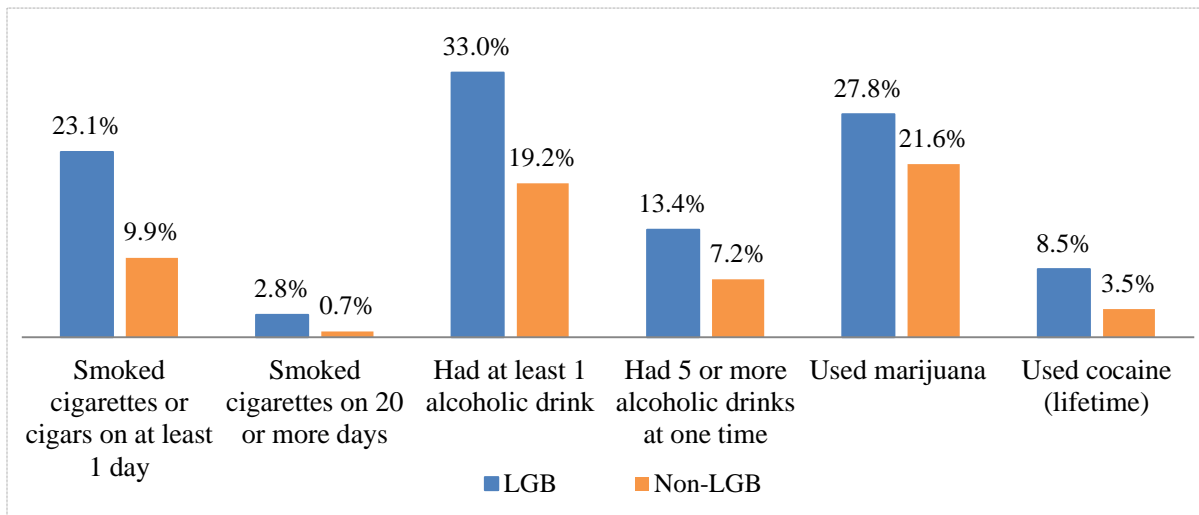
of non-LGB students in DeKalb County reported seriously considering attempting suicide in the year prior to the survey,²⁵¹ 12.9% had made a plan about how to do it,²⁵² and 3.3% reported being injured from a suicide attempt that had to be treated by a doctor or a nurse.²⁵³

2. Substance Use

LGB students in DeKalb County were also more likely to report smoking, drinking, and substance abuse than non-LGB students.

Figure III.c. 30-Day Substance Abuse among DeKalb County, Georgia, High School Students, by Sexual Orientation

Source: Laura Kann et al., *Sexual Identity, Sex of Sexual Contacts, and Health-Related Behaviors among Students in Grades 9–12, United States and Selected Sites, 2015*



LGB students were over twice as likely to report having smoked one or more cigarette or cigars in the month prior to the survey (23.1% v. 9.9%)²⁵⁴ and were also more likely to report that they had smoked cigarettes on 20 or more days in the month prior to the survey (2.8% v. 0.7%)²⁵⁵. Over 33.0% of LGB students had at least one drink in the month before the survey compared to 19.2% of non-LGB students.²⁵⁶ And 13.4% of LGB students reported having had 5 or more drinks in a row, or within a couple of hours, in the month prior to the survey compared to 7.2% of non-LGB students.²⁵⁷ LGB students were also more likely to report having used marijuana

²⁵¹ *Id.* at 109.

²⁵² *Id.* at 110.

²⁵³ *Id.* at 112.

²⁵⁴ *Id.* at 115.

²⁵⁵ *Id.* at 116.

²⁵⁶ *Id.* at 131.

²⁵⁷ *Id.* at 133.

(27.8% v. 21.6%)²⁵⁸ in the month prior to the survey, and were over twice as likely as non-LGB students to report ever having used cocaine (8.5% v 3.5%)²⁵⁹.

The 2015 DeKalb County YRBS findings are consistent with the 2015 YRBS data collected in 25 states and 18 other large urban school districts. In terms of mental health, like LGB youth in DeKalb County, LGB youth in the national YRBS sample were more likely to report that they felt so sad or hopeless that they stopped doing their usual activities for a period of time,²⁶⁰ that they had seriously considered suicide,²⁶¹ that they had made a suicide plan,²⁶² and that they had made a suicide attempt that resulted in an injury that had to be treated by a doctor or nurse.²⁶³ In terms of substance use, LGB youth in the national sample, similarly to LGB youth in DeKalb County, reported higher rates of smoking cigarettes,²⁶⁴ drinking alcohol,²⁶⁵ binge drinking,²⁶⁶ marijuana use,²⁶⁷ and cocaine use.²⁶⁸

D. Impact of Bullying and Family Rejection on Education and Economic Potential of LGBT Youth

Given the negative impacts of school-based victimization and family rejection on the health of LGBT youth, it is not surprising that LGBT youth also are more likely to skip school, become involved in the juvenile justice system, and enter foster care or become homeless. LGBT youth are less likely, on average, to finish high school or to obtain a college degree, and thus, are more likely to be unemployed or underemployed.²⁶⁹ These individual consequences have economic ramifications for the state of Georgia.

1. School Outcomes

Research shows that bullying can lead to skipping school and low academic performance among LGBT youth. Several studies, relying on representative samples of youth, found that LGB students were more likely than non-LGB students to skip school as a result of feeling unsafe. For example, a 2011 meta-analysis of 18 studies that used YRBS or National Longitudinal Study of Adolescent Health data found that, on average, LGB students were almost three times as

²⁵⁸ *Id.* at 137.

²⁵⁹ *Id.* at 141.

²⁶⁰ *Id.* at 108.

²⁶¹ *Id.* at 109.

²⁶² *Id.* at 110.

²⁶³ *Id.* at 112.

²⁶⁴ *Id.* at 115-16.

²⁶⁵ *Id.* at 131-32.

²⁶⁶ *Id.* at 133.

²⁶⁷ *Id.* at 137.

²⁶⁸ *Id.* at 141.

²⁶⁹ See, e.g., Kerith J. Conron, Matthew Mimiaga, Stewart J. Landers, *A Population-Based Study of Sexual Orientation Differences in Adult Health*, 100 AM. J. PUBLIC HEALTH 1953 (2010); Julia A. Dilley et al., *Demonstrating the Importance and Feasibility of Including Sexual Orientation in Public Health Surveys: Disparities in the Pacific Northwest*, 100 AM. J. PUBLIC HEALTH 460 (2009).

likely to report not going to school because of safety concerns as their non-LGBQ counterparts.²⁷⁰ Similarly, a 2014 analysis of pooled YRBS data from 13 sites found that LGB²⁷¹ high school students reported significantly higher rates of skipping school because they felt unsafe.²⁷²

Studies based on convenience samples also indicate that many LGBT youth skip school due to bullying and harassment. A 2009 report by the National Education Association found that, nationwide, approximately half of LGBT students who said that they experienced frequent or severe verbal harassment because of their sexual orientation or gender identity missed school at least once a month, and around 70% who said they experienced frequent or severe physical harassment missed school more than once a month.²⁷³ The report also found that LGBT youth were almost twice as likely to consider dropping out of school as their non-LGBT peers.²⁷⁴ In response to the National Transgender Discrimination Survey, 83% of Georgia respondents who expressed a transgender identity or gender non-conformity while in K-12 reported experiencing harassment at school,²⁷⁵ and 25% of those who had experienced harassment reported that it was so severe they had to drop out of primary, secondary, or higher education.²⁷⁶ Other studies have found that bullying of LGBT youth is related to poorer academic performance and higher rates of absenteeism.²⁷⁷

²⁷⁰ Kann et al., *supra* note 201 at 12.

²⁷¹ The study defined LGB students as those students who reported in response to the survey that they had had sexual contact with others of the same-sex or both same-sex and different sex-partners. Stephen T. Russell, Bethany G. Everett, Margaret Rosario & Michelle Birkett, *Indicators of Victimization and Sexual Orientation among Adolescents: Analyses from Youth Risk Behavior Surveys*, 104 AM. J. PUBLIC HEALTH, 255, 256 (2014).

²⁷² *Id.*

²⁷³ ROBERT KIM, NATIONAL EDUC. ASS'N, REPORT ON THE STATUS OF GAY, LESBIAN, BISEXUAL AND TRANSGENDER PEOPLE IN EDUCATION: STEPPING OUT OF THE CLOSET, INTO THE LIGHT 30 (2009), <http://www.nea.org/assets/docs/HE/glbstatus09.pdf>.

²⁷⁴ *Id.*

²⁷⁵ NAT'L CTR. FOR TRANSGENDER EQUAL. & NAT'L GAY AND LESBIAN TASK FORCE, *supra* note 218 at 1.

²⁷⁶ *Id.*

²⁷⁷ E.g., Joseph P. Robinson & Dorothy L. Espelage, *Bullying Explains Only Part of LGBTQ-Heterosexual Risk Disparities: Implications for Policy and Practice*, 41 EDUC. RESEARCHER 309 (2012); Alicia L. Fedewa & Soyeon Ahn, *The Effects of Bullying and Peer Victimization on Sexual-Minority and Heterosexual Youths: A Quantitative Meta-Analysis of the Literature*, 7 J. GLBT FAMILY STUDIES 398 (2011); Shelley L. Craig & Mark S. Smith, *The Impact of Perceived Discrimination and Social Support on the School Performance of Multiethnic Sexual Minority Youth*, YOUTH SOC'Y 1 (2011); ELIZABETH M. DIAZ & JOSEPH G. KOSCIW, GLSEN, SHARED DIFFERENCES: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER STUDENTS OF COLOR IN OUR NATION'S SCHOOLS (2009), http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/000/001/1332-1.pdf; MASS. DEP'T OF EDUC., MASSACHUSETTS HIGH SCHOOL STUDENTS AND SEXUAL ORIENTATION: RESULTS OF THE 2009 YOUTH RISK BEHAVIOR SURVEY, <http://www.mass.gov/cgly/YRBS09Factsheet.pdf> (last visited May 3, 2016); Jennifer Pearson, Chandra Muller & Lindsey Wilkinson, *Adolescent Same-Sex Attraction and Academic Outcomes: The Role of School Attachment and Engagement*, 54 SOC. PROBLEMS 523 (2007); Stephen T. Russell, Hinda Seif & Nhan L. Truong, *School Outcomes of Sexual Minority Youth in the United States: Evidence from a National Study*, 24 J. ADOL. 111 (2001).

2. Overrepresentation in Foster Care, Juvenile Justice System, and Among the Homeless Population

Challenging environments at home and at school contribute to an overrepresentation of LGBT youth in the child welfare system, the youth homeless population, and the juvenile justice system.

In addition to the human toll, there are direct costs to the government and social service systems created by the overrepresentation of LGBT youth in these systems.²⁷⁸ LGBT youth are overrepresented in the foster care system; 19% of youth in foster care in Los Angeles County are LGBT, 2-3 times their proportion of the general youth and young adult population.²⁷⁹ Research suggests that LGBT youth are more likely than non-LGBT youth to age out of the system.²⁸⁰ While some of those who age out transition successfully into adulthood, many do not.

Of those who age out of foster care: more than 1 in 5 will become homeless after age 18; 1 in 4 will be involved in the justice system within two years of leaving the foster care system; only 58% will graduate high school by age 19 (compared to 87% of all 19 year olds); fewer than 3% will earn a college degree by age 25 (compared to 28% all 25 year olds); and at the age of 24, only half will be employed.²⁸¹

A 2015 survey of homeless youth in Atlanta found that 28.2% of the respondents identified as LGBT.²⁸² Similarly, in response to surveys conducted in 2012 and 2015, homeless youth service providers across the U.S. estimated that between 20% and 40% of their clients were LGBT.²⁸³ A 2011 study of youth in Massachusetts found that approximately 25% of lesbian and gay youth, and 15% of bisexual youth in public high school were homeless, compared to 3% of heterosexual

²⁷⁸ For an example of costs to the foster care system due to the overrepresentation of LGBT youth in foster care, and their increased likelihood of having multiple placements and being in congregate care, see BIANCA D.M. WILSON, KHUSH COOPER, ANGELIKI KASTANIS & SHEILA NEZHAD, WILLIAMS INST., SEXUAL & GENDER MINORITY YOUTH IN LOS ANGELES FOSTER CARE: ASSESSING DISPROPORTIONALITY AND DISPARITIES IN LOS ANGELES 41 (2014).

²⁷⁹ *Id.* at 6.

²⁸⁰ *Id.* (finding that LGBTQ youth in foster care have a higher total number of placements, are more likely to be in congregate care, and are more likely to have experienced homelessness).

²⁸¹ JIM CASEY YOUTH OPPORTUNITIES INITIATIVE, ISSUE BRIEF: COST AVOIDANCE: THE BUSINESS CASE FOR INVESTING IN YOUTH AGING OUT OF FOSTER CARE 5 (2013), http://www.jimcaseyyouth.org/sites/default/files/Cost%20Avoidance%20Issue%20Brief_EMBARGOED%20until%20May%206.pdf.

²⁸² AYCNA 2016 Key Findings, Atlanta Youth Count, <http://atlantayouthcount.weebly.com/2016-key-findings.html> (last visited Nov. 29, 2016).

²⁸³ LAURA DURSO & GARY J. GATES, WILLIAMS INST., SERVING OUR YOUTH: FINDINGS FROM A NATIONAL SURVEY OF SERVICES PROVIDERS WORKING WITH LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH WHO ARE HOMELESS OR AT RISK OF BECOMING HOMELESS 3 (2012), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Serving-Our-Youth-June-2015.pdf>; SOON KYU CHOI, BIANCA D.M. WILSON, JAMA SHELTON & GARY J. GATES, WILLIAMS INST., SERVING OUR YOUTH 2015: THE NEEDS AND EXPERIENCES OF LESBIAN, GAY, BISEXUAL, TRANSGENDER, AND QUESTIONING YOUTH EXPERIENCING HOMELESSNESS (2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Serving-Our-Youth-June-2015.pdf>. See also WILSON ET AL., *supra* note 278.

youth.²⁸⁴

Data from the National Survey of Youth in Custody indicates that 12.2% of youth in custody identify as LGBT.²⁸⁵ Another study found that LGBT youth made up 15% of detained youth.²⁸⁶ Studies have shown that LGBTQ youth are more likely to be detained for offenses such as running away, truancy, curfew violations, and “ungovernability”—charges that can indicate problems with bullying in school and family rejection.²⁸⁷ Research also shows that in some instances, LGBT youth have been punished for defending themselves against their harassers,²⁸⁸ and evidence of selective enforcement against LGBT youth.²⁸⁹

Collectively, school-based harassment and family rejection, contribute to significant “welfare and Medicaid costs, the cost of incarceration, lost wages and other significant costs to individuals and to society.”²⁹⁰ For example, nationally, the Jim Casey Foundation estimates that homelessness, juvenile justice involvement, and poor educational and employment outcomes cost nearly \$8 billion per cohort of youth aging out of foster care each year. The best available data suggest that LGBT youth make up one-fifth, if not more, of each annual cohort.

²⁸⁴ Heather L. Corliss, Carol S. Goodenow, Lauren Nichols & S. Bryn Austin, *High Burden of Homelessness among Sexual-Minority Adolescents: Findings from a Representative Massachusetts High School Sample*, 9 AM. J. PUB. HEALTH 1683 (2011). For further research on homelessness among LGBTQ youth, see MALLORY ET AL., *supra* note 231.

²⁸⁵ ALLEN J. BECK & DAVID CANTOR, BUREAU OF JUSTICE STATS., U.S. DEP’T OF JUSTICE, SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH, 2012 at 20 (2013), <http://www.bjs.gov/content/pub/pdf/svjfry12.pdf>.

²⁸⁶ Laura Garnette et al., *Lesbian, Gay, Bisexual, and Transgender (LGBT) Youth and the Juvenile Justice System*, in JUVENILE JUSTICE: ADVANCING RESEARCH, POLICY, AND PRACTICE 162 (Francine T. Sherman & Francine H. Jacobs eds., 2011).

²⁸⁷ KATAYOON MAJD, JODY MARKSAMER & CAROLYN REYES, HIDDEN INJUSTICE: LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH IN JUVENILE COURTS 71 (2009), http://www.nclrights.org/wp-content/uploads/2014/06/hidden_injustice.pdf; SHANNAN WILBER, CAITLIN RYAN & JODY MARKSAMER, CHILD WELFARE LEAGUE OF AMERICA, BEST PRACTICE GUIDELINES FOR SERVING LGBT YOUTH IN OUT-OF-HOME CARE 4 (2006), <http://familyproject.sfsu.edu/sites/sites7.sfsu.edu.familyproject/files/bestpracticeslgbtyouth.pdf>.

²⁸⁸ MAJD ET AL., *supra* note 287 at 77.

²⁸⁹ Katherine E. W. Himmelstein & Hannah Bruckner, *Criminal-Justice and School Sanctions against Non-Heterosexual Youth: A National Longitudinal Study*, 127 PEDIATRICS 49 (2011).

²⁹⁰ *Id.*

SECTION V. LGBT HEALTH DISPARITIES

Experiences of discrimination and harassment, as well as living in a state with unsupportive laws and social climates, have been shown to contribute to health disparities for LGBT people. Substantial research has documented that LGBT people experience disparities on a range of health outcomes, and health-related risk factors, compared to their non-LGBT counterparts. Research shows that mood²⁹¹ and anxiety disorders,²⁹² attempted suicide,²⁹³ and self-harm²⁹⁴ are more common among sexual minorities (LGBs) than non-LGB people. Studies also indicate that rates of depression, anxiety disorders, and attempted suicide are also elevated among transgender people.²⁹⁵ In addition, LGB people are more likely to report tobacco use, drug use, and alcohol disorders than their non-LGB counterparts.²⁹⁶ As described more fully below, empirical research has linked such disparities to anti-LGBT policies and unsupportive social climates. Health survey data collected in Georgia indicate that LGB²⁹⁷ adults in the state experience the same types of disparities that have been documented in other states and on national surveys.

A. LGB Health Disparities in Georgia

One source for assessing health disparities between LGB and non-LGB people in Georgia is the Georgia Behavioral Risk Factor Surveillance System (GA BRFSS).²⁹⁸ In 2015, Georgia included the CDC-recommended sexual orientation identity measure on its BRFSS.²⁹⁹ We present our

²⁹¹ Michael King et al., *A Systematic Review of Mental Disorder, Suicide, and Deliberate Self Harm in Lesbian, Gay and Bisexual People*, 8 BMC Psychiatry 70 (2008); Kimberly F. Balsam, Theodore P. Beauchaine, Ruth M. Mickey & Esther D. Rothblum, *Mental Health of Lesbian, Gay*, 114 J. ABNORMAL PSYCH. 471 (2005).

²⁹² King et al., *supra* note 291; Wendy B. Bostwick, Carol J. Boyd, Tonda L. Hughes & Sean Esteban McCabe, *Dimensions of Sexual Orientation and the Prevalence of Mood and Anxiety Disorders in the United States*, 100 AM. J. PUBLIC HEALTH 468 (2010).

²⁹³ King et al., *supra* note 291; Susan D. Cochran & Vickie M. Mays, *Relation between Psychiatric Syndromes and Behaviorally Defined Sexual Orientation in a Sample of the US Population*, 151 J. EPIDEMIOLOGY 516 (2000).

²⁹⁴ Balsam et al., *supra* note 291. For comprehensive reviews of research on LGBT health, see INSTITUTE OF MEDICINE, *THE HEALTH OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE: BUILDING A FOUNDATION FOR BETTER UNDERSTANDING* (2011); *THE HEALTH OF SEXUAL MINORITIES: PUBLIC HEALTH PERSPECTIVES ON LESBIAN, GAY, BISEXUAL AND TRANSGENDER POPULATIONS* (ILAN H. MEYER & MARY E. NORTHRIDGE, EDS. 2007).

²⁹⁵ See INSTITUTE OF MEDICINE, *supra* note 294 at 193-97.

²⁹⁶ Cochran & Mays, *supra* note 293; AMERICAN LUNG ASSOC., *SMOKING OUT A DEADLY THREAT: TOBACCO USE IN THE LGBT COMMUNITY* (2010), <http://www.lung.org/assets/documents/research/lgbt-report.pdf>; Kelly E. Green & Brian A. Feinstein, *Substance Use in Lesbian, Gay, and Bisexual Populations: An Update on Empirical Research and Implications for Treatment*, 26 PSYCHOL. ADDICT. BEHAV. 265 (2012).

²⁹⁷ We are deliberate when using LGBT and LGB in this section. If we are using just LGB, it is because the underlying survey only had a measure of sexual orientation, and did not ask about gender identity.

²⁹⁸ About BRFSS, U.S. Centers for Disease Control & Prevention, <https://www.cdc.gov/brfss/about/index.htm> (last visited Dec. 12, 2016); Behavioral Risk Factor Surveillance System, Ga. Dep't of Public Health, <https://dph.georgia.gov/georgia-behavioral-risk-factor-surveillance-system-brfss> (last visited Nov. 22, 2016).

Administered jointly by the CDC and Georgia Department of Public Health, the Georgia BRFSS is an anonymous survey of adults 18 years and older about a variety of health behaviors and preventive health practices.

²⁹⁹ Sexual orientation identity was assessed with the following item: "Do you consider yourself to be (1) straight, (2) lesbian or gay, (3) bisexual." U.S. CENTERS FOR DISEASE CONTROL AND PREVENTION, 2015 QUESTIONNAIRE 69 (2014), available at <http://www.cdc.gov/brfss/questionnaires/pdf-ques/2015-brfss-questionnaire-12-29-14.pdf>.

analysis of data from Georgia’s 2015 BRFSS below, noting where our results are similar or dissimilar to patterns observed in other samples.

We assessed the health of LGB and non-LGB adults on three health outcomes that are widely viewed as stress-coping responses³⁰⁰ and which have been specifically linked to LGBT stigma and discrimination in prior research: depression, smoking, and binge drinking; as well as two other population health indicators (the number of days respondents experienced poor mental health during the month prior to the survey, and respondents’ experiences of feeling limited in their usual activities because of poor health). In our analyses we include individuals who identified as lesbian, gay, or bisexual (LGB) and those who identified as heterosexual/straight (non-LGB). We were unable to identify transgender individuals because Georgia’s BRFSS does not include a measure of gender identity or of transgender status.

The proportion of LGB (n=86) and non-LGB (n=3,564) people in Georgia that reported each health outcome are shown in Figure V.a. below. The proportions are weighted to reflect the population of Georgia as is recommended by the Centers for Disease Control and Prevention when analyzing these data.³⁰¹

Mental Health. LGB adults in the 2015 BRFSS were significantly more likely to have ever been diagnosed with a depressive disorder (including depression, major depression, dysthymia, or minor depression) by a health care professional when compared to non-LGB adults in Georgia (49.7% v. 18.4%).³⁰² They reported twice as many days of being in poor mental health in the month prior to the survey than non-LGB respondents (7.6 days v. 3.6 days).³⁰³ Also, more LGB than non-LGB respondents reported being limited in their activities because of mental, physical, or emotional problems (29.6% v. 21.6%).³⁰⁴ LGB respondents also reported that poor physical or mental health kept them from doing their usual activities for one day more in the prior month than non-LGB respondents (3.8 days v. 2.6 days).³⁰⁵

³⁰⁰ See, e.g., Liu & Alloy, *supra* note 234; Kassel et al., *supra* note 234; Brady & Sonne, *supra* note 234.

³⁰¹ Behavioral Risk Factor Surveillance System Weighting BRFSS Data: BRFSS 2015, U.S. Centers for Disease Control and Prevention, http://www.cdc.gov/brfss/annual_data/2015/pdf/weighting_the_data_webpage_content.pdf (last visited Dec. 12, 2015). LGB survey respondents in Georgia were younger than the heterosexual/straight survey respondents. In order to make “fair” comparisons between sexual orientation groups, we use statistical controls to make the two groups comparable on age.

³⁰² AOR (95% CI) = 4.70 (2.59, 8.52).

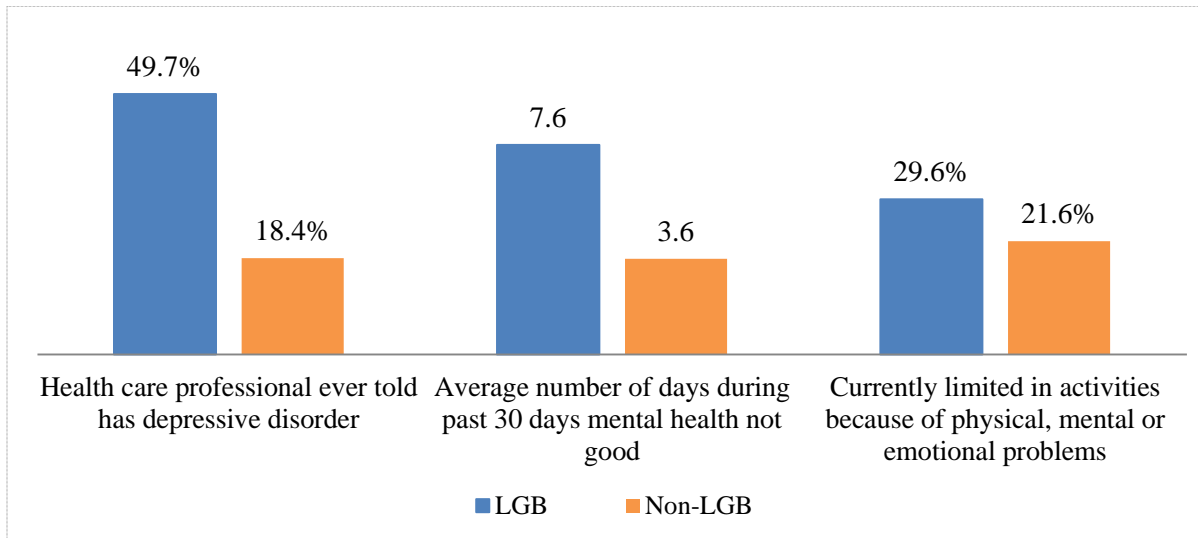
³⁰³ Adjusted b = 2.90, p < 0.01.

³⁰⁴ AOR (95% CI) = 2.18 (1.11, 4.30).

³⁰⁵ Adjusted b = 1.60, p<0.01.

Figure V.a. Health Characteristics of Adults in Georgia, by Sexual Orientation

Source: Georgia BRFSS, 2015



Smoking. LGB adults in Georgia were significantly more likely to smoke than non-LGB adults. More than one-third of LGB adults in Georgia (34.4%) were current smokers, compared to 17.6% of non-LGB adults.³⁰⁶

Drinking. LGB adults in Georgia were more likely than non-LGB adults to be binge drinkers (23.9% v. 14.5%),³⁰⁷ although the difference was not statistically significant. Binge drinking is defined as five or more drinks on at least one occasion in the past month for men and four or more drinks for women. LGB and non-LGB adults reported similar levels of heavy drinking (6.9% v. 5.0%),³⁰⁸ defined as having more than two drinks per day for men and more than one drink per day for women.

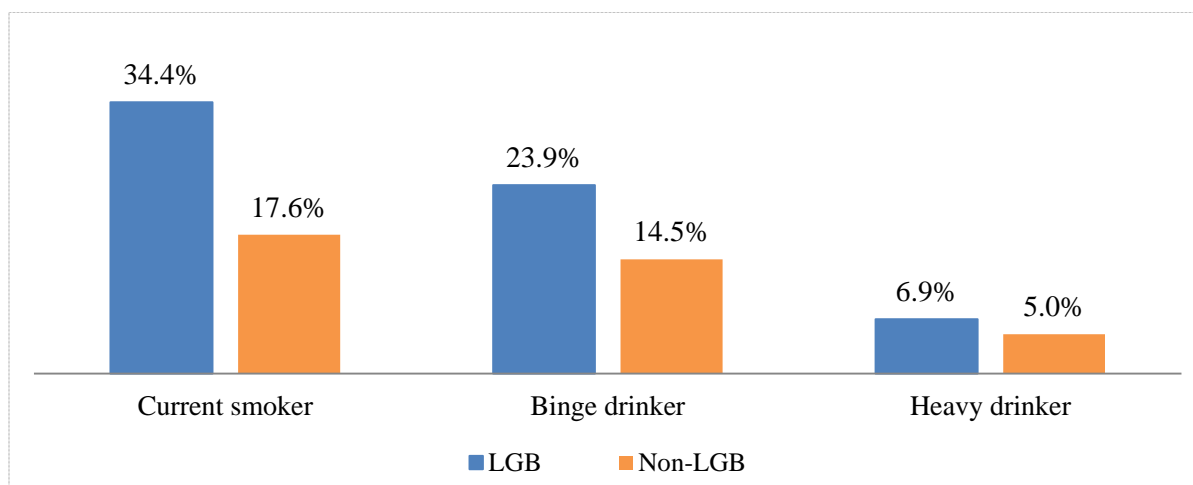
³⁰⁶ AOR (95% CI) = 3.18 (1.58, 6.41).

³⁰⁷ AOR (95% CI) = 1.36 (0.67, 2.79).

³⁰⁸ AOR (95% CI) = 1.25 (0.43, 3.64).

Figure V.b. Substance Abuse Among Adults in Georgia, by Sexual Orientation

Source: Georgia BRFSS, 2015



Our findings are generally consistent with analyses of BRFSS data collected in other states and with analyses of National Health Interview Survey data. For example, an analysis of BRFSS data collected in 10 states³⁰⁹ in 2010 found that LGB individuals were more likely to be current smokers than their non-LGB counterparts, and gay and bisexual men had higher rates of mental distress and life dissatisfaction than heterosexual men.³¹⁰ Two studies analyzing BRFSS data from Massachusetts³¹¹ and Washington State³¹² similarly found disparities across a range of health outcomes and behaviors for LGB respondents, including poor physical and mental health, activity limitation, tension or worry, smoking, excessive drinking, and drug use. An analysis of data from the 2013 National Health Interview Survey found that LGB adults aged 18-64 in the U.S. were more likely to be current smokers (27.2 LG v. 29.5% bisexual v. 19.6% non-LGB). They were also more likely to binge drink than their non-LGB counterparts.³¹³ In addition, bisexual respondents were significantly more likely to report experiencing severe psychological distress in the 30 days prior to the survey than respondents who identified as straight (11.0% v. 3.9%).³¹⁴

³⁰⁹ In 2010, 12 states had added a question about sexual orientation to their BRFSS surveys (Alaska, Arizona, California, Colorado, Maine, Massachusetts, Montana, New Mexico, North Dakota, Oregon, Washington, and Wisconsin), but data two states (Colorado and Oregon) were unavailable to the authors at the time of analysis, so the study was based on data collected in the remaining 10 states. John R. Blosnich et al., *Health Inequalities among Sexual Minority Adults: Evidence from Ten U.S. States, 2010*, 46 AM. J. PREV. MED. 337, 338 (2014).

³¹⁰ *Id.* at 340.

³¹¹ Kerith J. Conron, Matthew J. Mimiaga, Stewart J. Landers, *A Population-Based Study of Sexual Orientation and Gender Differences in Adult Health*, 100 AM. J. PUBLIC HEALTH 1953 (2010).

³¹² Julia A. Dilley et al., *Demonstrating the Importance and Feasibility of Including Sexual Orientation in Public Health Surveys: Health Disparities in the Pacific Northwest*, 100 AM. J. PUBLIC HEALTH 460 (2010).

³¹³ Brian W. Ward et al., *Sexual Orientation and Health Among U.S. Adults: National Health Interview Survey, 2013*, 77 NATIONAL HEALTH STATS. REPORT 1, 4 (2015), available at <https://www.cdc.gov/nchs/data/nhsr/nhsr077.pdf>.

³¹⁴ *Id.*

B. Impact of Anti-LGBT Policies and Unsupportive Social Climates on LGBT Health

Empirical research has linked LGBT health disparities, including disparities in health-related risk factors, to anti-LGBT policies and unsupportive social climates. This connection has been recognized by the U.S. Department of Health and Human Services in *Healthy People 2010* and *Healthy People 2020*³¹⁵ and the Institute of Medicine of the National Academies.³¹⁶ Research also suggests that stigmatizing campaigns around the passage of anti-LGBT policies, or negative media messaging that draws attention to unsupportive social climates, may exacerbate these disparities.

The *minority stress model* suggests that unsupportive social climates, created by anti-LGBT prejudice, stigma, and discrimination, expose LGBT individuals to excess stress, which, in turn, causes adverse health outcomes, resulting in health disparities for sexual minorities and transgender individuals compared with heterosexuals.³¹⁷ Research that has focused on mental and physical health outcomes of LGBT people supports the minority stress model.³¹⁸ This research has demonstrated that both interpersonal experiences of stigma and discrimination, such as being fired from a job for being LGBT, and structural stigma, such as living in a state without LGBT-supportive laws, contribute to minority stress.³¹⁹

A number of studies have found evidence of links between minority stressors and negative mental health outcomes in LGB people, including a higher prevalence of psychiatric disorders,³²⁰

³¹⁵ *Healthy People 2020*, DEP'T OF HEALTH AND HUMAN SERV., https://www.healthypeople.gov/sites/default/files/HP2020_brochure_with_LHI_508_FNL.pdf (last visited Jan. 3, 2016). *Healthy People 2010* identified the gay and lesbian population among groups targeted to reduce health disparities in the United States. In explaining the reason for the inclusion of the gay and lesbian population as one of the groups requiring special public health attention, the Department of Health and Human Services noted, "The issues surrounding personal, family, and social acceptance of sexual orientation can place a significant burden on mental health and personal safety." DEPT. OF HEALTH AND HUMAN SVCS, OFFICE OF DISEASE PREVENTION AND HEALTH PROMOTION, *HEALTHY PEOPLE 2010: UNDERSTANDING AND IMPROVING HEALTH* 16 (2d ed. 2000).

³¹⁶ INSTITUTE OF MEDICINE, *supra* note 294 at 14 ("LGBT people . . . face a profound and poorly understood set of . . . health risks due largely to social stigma").

³¹⁷ Ilan H. Meyer, *Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence*, 129 PSYCHOL. BULL. 674 (2009); INSTITUTE OF MEDICINE, *supra* note 294.

³¹⁸ *Id.*; AM. PSYCH. ASSOC., *STRESS IN AMERICA: THE IMPACT OF DISCRIMINATION* 8, 22 (2016).

³¹⁹ See Mark L. Hatzenbuehler, Hee-Jin Jun, Heather L. Corliss & S. Bryn Austin, *Structural Stigma and Cigarette Smoking in a Prospective Cohort Study of Sexual Minority and Heterosexual Youth*, 47 ANN. BEHAV. MED. 48 (2014).

³²⁰ *E.g.*, Katie A. McLaughlin, Mark L. Hatzenbuehler & Katherine M. Keyes, *Responses to Discrimination and Psychiatric Disorders among Black, Hispanic, Female, and Lesbian, Gay, and Bisexual Individuals*, 100 AM. J. PUBLIC HEALTH 1477 (2010); Ellen D.B. Riggle, Sharon S. Rostosky & Sharon G. Horne, *Marriage Amendments and Lesbian, Gay, and Bisexual Individuals in the 2006 Election*, 6 SEXUALITY RESEARCH & SOCIAL POLICY 80 (2009).

including depression³²¹ and psychological distress,³²² as well as loneliness, suicidal intention,³²³ deliberate self-harm,³²⁴ and low self-esteem.³²⁵ Studies have also linked minority stress in LGB people to an increased prevalence of high-risk health-related behaviors, such as tobacco use, drug use, and alcohol disorders.³²⁶

For example, a 2016 study by the American Psychological Association linked experiences of discrimination to increased stress and poorer health for LGBT people.³²⁷ The study found that LGBT adults reported higher average levels of perceived stress (6.0 vs. 5.0 on a 10-point scale) and were more likely to report extreme levels of stress (39% v. 23%) in the prior 30 days than adults who were non-LGBT.³²⁸ Job stability was a current source of stress for 57% of LGBT adults compared to 36% of non-LGBT adults.³²⁹ The study also found that many LGBT respondents had experienced discrimination.³³⁰ Nearly one-fourth (23%) of the LGBT adults

³²¹ E.g., Robyn Zakalik & Meifen Wei, *Adult Attachment, Perceived Discrimination Based on Sexual Orientation, Depression in Gay Males: Examining the Mediation and Moderation Effects*, 53 J. OF COUNSELING PSYCHOL. 302 (2006).

³²² E.g., Vickie M. Mays & Susan D. Cochran, *Mental Health Correlates of Perceived Discrimination Among Lesbian, Gay, and Bisexual Adults in the United States*, 91 AM. J. PUB. HEALTH 1869 (2001).; David M. Huebner, Carol J. Nemeroff & Mary C. Davis, *Do Hostility and Neuroticism Confound Associations Between Perceived Discrimination and Depressive Symptom?* 24 J. SOC. & CLINICAL PSYCHOL. 723 (2005); Ilan H. Meyer, *Minority Stress and Mental Health in Gay Men*, 36 J. OF HEALTH & SOC. BEHAV. 38 (1995).

³²³ David M. Huebner, Gregory M. Rebchook & Susan M. Kegeles, *Experiences of Harassment, Discrimination, and Physical Violence Among Young Gay and Bisexual Men*, 94 AM. J. OF PUB. HEALTH 1200 (2004).

³²⁴ James Warner et al., *Rates and Predictors of Mental Illness in Gay Men, Lesbians and Bisexual Men and Women: Results from a Survey Based in England and Wales*, 185 BRITISH J. OF PSYCHIATRY 479 (2004).

³²⁵ E.g., Jesus Ramirez-Valles et al., *Confronting Stigma: Community Involvement and Psychological Well-Being Among HIV-positive Latino Gay Men*. 27 HISP. J. OF BEHAV. SCI. 101 (2005).

³²⁶ E.g., Keren Lehavot & Jane M. Simoni, *The Impact of Minority Stress on Mental Health and Substance Use among Sexual Minority Women*, 79 J. CONSULT. CLIN. PSYCHOL. 159 (2011); Sean Esteban McCabe, Wendy B. Bostwick, Tonda L. Hughes, Brady T. West & Carol J. Boyd, *The Relationship between Discrimination and Substance Use Disorders among Lesbian, Gay, and Bisexual Adults in the United States*, 100 AM. J. PUBLIC HEALTH 1946 (2010); Mark L. Hatzenbuehler, Katie A. McLaughlin, Katherine M. Keyes & Deborah S. Hasin, *The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study*, 100 AM. J. PUBLIC HEALTH 452 (2010); Genevieve N. Weber, *Using to Numb the Pain: Substance Use and Abuse among Lesbian, Gay, and Bisexual Individuals*, 30 J. MENTAL HEALTH COUNSELING 31 (2008).

³²⁷ AM. PSYCH. ASSOC., *supra* note 318.

³²⁸ *Id.* at 22. LGBT adults were also more likely than non-LGBT adults to report experiencing increased stress over the past year (49% v. 34%). More than one-third of adults who are LGBT believed they were not doing enough to manage their stress, compared to one-fifth of non-LGBT adults saying the same (35% v. 20%).

³²⁹ *Id.*

³³⁰ The percentage of respondents who were reported as having experienced discrimination said that they had either experienced “at least one of the five day-to-day stressors ‘less than once a year’ or more often; or ever experienced one of nine major forms of discrimination.” The five day-to-day stressors included: 1. You are treated with less courtesy or respect than other people; 2. You receive poorer service than other people at restaurants or stores; 3. People as if they think you are not smart; 4. People act as if they are afraid of you; 5. You are threatened or harassed.” The nine major forms of discrimination included: 1. Have you ever been unfairly fired from a job? 2. Have you ever been unfairly denied a promotion? 3. For unfair reasons, have you ever been not hired for a job? 4. Have you ever been unfairly stopped, searched, questioned, physically threatened or abused by the police? 5. Have you ever been unfairly discouraged by a teacher or advisor from continuing your education? 6. Have you ever been unfairly prevented from moving into a neighborhood because the landlord or a relator refused to sell or rent you a house or apartment? 7. Have you ever moved into a neighborhood where neighbors made life difficult for you or your family? 8. Have you ever been treated unfairly when receiving health care? 9. Have you ever been treated

reported that they had ever been unfairly stopped, searched, questioned, physically threatened or abused by the police; nearly one-fourth (24%) reported being unfairly discouraged by a teacher or advisor to continue their education; and one-third (33%) reporting being unfairly not hired for a job.³³¹

Studies have also linked a lack of legal protections and a poor state social climate to health disparities for LGBT people. For example, a 2009 study by Mark Hatzenbuehler et al. found that an unsupportive state-level legal landscape for LGB people was associated with “higher rates of psychiatric disorders across the diagnostic spectrum, including any mood, anxiety, and substance use disorder” in the LGB population than found in LGB populations in states with more supportive laws.³³² A 2010 study by the same authors found that rates of anxiety, mood disorders, and alcohol use disorder increased significantly for LGB respondents after their state passed a constitutional ban on marriage for same-sex couples, and rates were unchanged in states that did not pass bans. The authors concluded that their “findings provide the strongest empirical evidence to date that living in states with discriminatory laws may serve as a risk factor for psychiatric morbidity in LGB populations.”³³³ Drawing on these findings and prior research, Hatzenbuehler concluded that “the recent laws that have been passed [anti-LGBT laws in North Carolina and Mississippi], as well the prejudicial attitudes that underlie them, are likely to have negative consequences for the mental and physical health of LGBT populations.”³³⁴

Similarly, researchers who used 2011 North Carolina BRFSS data to study health disparities between LGB and non-LGB people in the state, noted that the poor legal and social environment for LGB people in the South may exacerbate the disparities:

Of additional concern is that many Southeastern states have failed to incorporate sexual minorities into existing laws (e.g., employment nondiscrimination) or have adopted new anti-LGB policies (e.g., prohibiting legal recognition of same-sex relationships), both of which may create and exacerbate unhealthy social environments for LGB populations, even as evidence of the health impact of local and state policies on LGB health grows. This context may yield health profiles different from New England and the Pacific

unfairly while using transportation (e.g., buses, taxis, trains, at an airport, etc.). Press Release, Am. Psych. Assoc., 2015 Stress in America: Methodology, <http://www.apa.org/news/press/releases/stress/2015/methodology.aspx> (last visited Dec. 5, 2016) (see Measurement with Experience with Discrimination).

³³¹ AM. PSYCH. ASSOC., *supra* note 318 at 6-7.

³³² Mark L. Hatzenbuehler, Katherine M. Keyes & Deborah S. Hasin, *State-Level Policies and Psychiatric Morbidity in Lesbian, Gay, and Bisexual Populations*, 99 AM. J. PUBLIC HEALTH 2275, 2277 (2009). The study looked at two types of laws: employment non-discrimination laws and hate crimes laws. *Id.* at 2275. If a state did not include sexual orientation as a protected characteristic in either type of law, it was considered an unsupportive state. *Id.* at 2277.

³³³ Hatzenbuehler, McLaughlin, Keyes & Hasin, *supra* note 326 at 456. See also, Ben Lennox Kail, Katie L. Acosta & Eric R. Wright, *State-Level Marriage Equality and the Health of Same-Sex Couples*, 105 AM. J. PUBLIC HEALTH 1101 (2015).

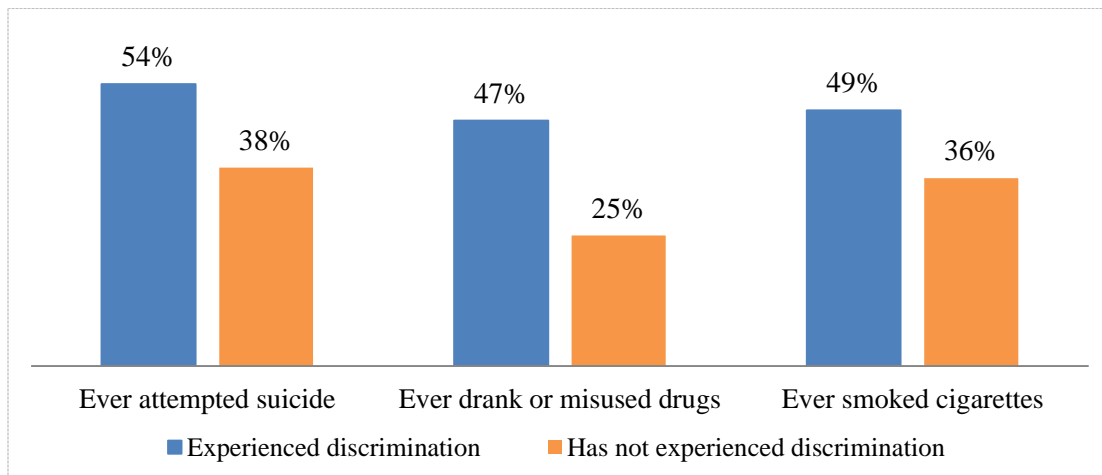
³³⁴ Mark L. Hatzenbuehler, *The Health Consequences of Hate*, COLUMBIA UNIV., Apr. 26, 2016, <https://www.mailman.columbia.edu/public-health-now/news/health-consequences-hate>.

Northwest, areas that currently have a greater number of policies in place that support LGB and transgender rights.³³⁵

Existing research suggests that transgender people experience patterns of minority stress and negative mental health outcomes similar to those experienced by LGB people. Analysis of data collected from transgender adults in Georgia through the 2011 National Transgender Discrimination Survey found that respondents who had lost their jobs due to discrimination were more likely to say that they had ever attempted suicide (53.5% v. 37.8%), drank or misused drugs (46.5% v. 25.3%), and smoked (48.8% v. 36.2%) than respondents who did not report such discrimination.³³⁶ Other studies have similarly found evidence of links between minority stress factors and psychological distress,³³⁷ attempted suicide,³³⁸ HIV risk behavior,³³⁹ and depression³⁴⁰ among transgender populations.

Figure V.c. Mental Health and Substance Use by Lifetime Employment Discrimination among Transgender Adults in Georgia

Source: National Transgender Discrimination Survey, 2011



³³⁵ Derrick D. Matthews & Joseph G. L. Lee, *A Profile of North Carolina Lesbian, Gay, and Bisexual Health Disparities*, 106 AM. J. PUB. HEALTH 98 (2014).

³³⁶ Analysis by Jody L. Herman using data from the National Transgender Discrimination Survey. Data on file with authors.

³³⁷ Walter O. Bockting, Michael H. Miner, Rebecca E. Swinburne Romine, Autumn Hamilton & Eli Coleman, *Stigma, Mental Health, and Resilience in an Online Sample of the US Transgender Population*, 103 AM. J. PUBLIC HEALTH 943 (2013).

³³⁸ Kristen Clements-Nolle, Rani Marx & Mitchell Katz, *Attempted Suicide among Transgender Persons: The Influence of Gender-Based Discrimination and Victimization*, 51 J. HOMOSEXUALITY 53 (2006); JAIME M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN & MARA KEISLING, NATIONAL CENTER FOR TRANSGENDER EQUALITY & THE NATIONAL GAY AND LESBIAN TASK FORCE, *INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY* (2011), http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf.

³³⁹ Eiko Sugano, Tooru Nemoto & Don Operario, *The Impact of Exposure to Transphobia on HIV Risk Behavior in a Sample of Transgendered Women of Color in San Francisco*, 10 AIDS & BEHAVIOR 217 (2006).

³⁴⁰ Tooru Nemoto, Birte Bödeker & Mariko Iwamoto, *Social Support, Exposure to Violence and Transphobia, and Correlates of Depression among Male-to-Female Transgender Women with a History of Sex Work*, 101 AM. J. PUBLIC HEALTH 1980 (2010).

Additionally, research indicates that laws or policies restricting bathroom access for transgender people can negatively impact their health, and can put them in danger of verbal and physical harassment. For example, a 2008 survey of transgender and gender non-conforming people in Washington, D.C. found that 54% of respondents had experienced a physical health problem from trying to avoid public bathrooms, including dehydration, urinary tract infections, kidney infections, and other kidney related problems.³⁴¹ Further, 58% of the respondents reported that they “avoided going out in public due to a lack of safe restroom facilities,” 68% reported that they had been verbally harassed in a restroom, and 9% reported that they had been physically assaulted in a restroom.³⁴²

While research provides strong support for direct links between anti-LGBT policies or unsupportive environments and negative health outcomes, there may be other related factors that could contribute to the magnitude of observed disparities. For example, researchers have noted that healthier and better-resourced LGBT people may be able to move to more supportive climates than LGBT peers in worse health which would heighten observed disparities in less accepting places.³⁴³ Nonetheless, the research indicates that minority stress factors, including a lack of legal protections, discrimination, and a poor social climate, contribute to LGBT health disparities in Georgia.

C. Illustration of Economic Impacts of Increased Incidence of Major Depressive Disorder & Smoking

Poor health “can affect people’s ability to be productive at work, reduce labor force participation when people cannot work, and burden public health care funds when individuals rely on emergency care rather than regular or preventative care.”³⁴⁴ For these reasons, poor health, in general, imposes costs on employers and governments.³⁴⁵ When LGBT people experience poorer health outcomes than their non-LGBT counterparts, there are economic costs beyond those which would exist in the absence of the disparity. Thus, to the extent that factors contributing to LGBT health disparities can be reduced or eliminated, the economy will benefit.³⁴⁶

To illustrate the cost savings that would result from eliminating health disparities facing LGBT people in Georgia, we follow a model used by Canadian research organization Community – University Institute for Social Research (CUISR). CUISR estimated the costs associated with LGBT health disparities in Canada through a four-step method:

³⁴¹ Jody L. Herman, *Gendered Restrooms and Minority Stress: The Public Regulation of Gender and Its Impact on Transgender People’s Lives*, 19 J. PUBLIC MANAGEMENT & SOCIAL POL. 65, 75 (2013).

³⁴² *Id.* at 71, 76.

³⁴³ Hatzenbuehler, McLaughlin, Keyes & Hasin, *supra* note 326 at 452.

³⁴⁴ M.V. LEE BADGETT, SHEILA NEZHAD, KEES WAALDIJK & YANA VAN DER MEULEN RODGERS, USAID & WILLIAMS INST., THE RELATIONSHIP BETWEEN LGBT INCLUSION AND ECONOMIC DEVELOPMENT: AN ANALYSIS OF EMERGING ECONOMIES (2014), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/lgbt-inclusion-and-development-november-2014.pdf>.

³⁴⁵ *Id.*

³⁴⁶ *Id.*

- Determining prevalence for health outcomes for LGB and non-LGB populations.
- Subtracting the prevalence for non-LGB population from that for LGB populations.
- Multiplying the difference in prevalence by the total LGB population to determine the number of LGB people who would have not had those health outcomes if the rates were the same.
- Multiplying the excess number of LGB people with each health outcome by the annual cost per affected person associated with the outcome as drawn from existing research.

In this report, we used CUISR’s method to estimate the costs associated with higher prevalence of two health outcomes – major depressive disorder and smoking – in LGB adults in Georgia. To the extent possible, we used data on these health outcomes and related costs specific to Georgia. Where we could not find reliable cost data for these health outcomes at the state-level, we used national data as a proxy. Given the limited data we have about health outcomes for transgender people nationally or in Georgia, we assume for purposes of our analysis that transgender people have the same rates of the health conditions described below as LGB people. The available research on health outcomes for transgender people indicates that this is a conservative assumption.³⁴⁷

Since there are a variety of factors leading to each disparity, we assume that improving the laws and social climate of Georgia for LGBT people would reduce observed disparities by a fraction. This is consistent with the 2009 Hatzenbuehler et al. study described above, in which health disparities for LGB people related to mood and alcohol use disorder were lower in states with more supportive laws, but were still present.³⁴⁸

Specifically, we assume a range of a 25% to 33.3% reduction in the *disparity* between LGB and non-LGB people on each outcome could be achieved if the state were to move towards extending legal protections and improving the social climate for LGBT people. This range is a conservative assumption based on our review of the best available research on LGB-health disparities in LGBT-supportive and unsupportive environments including the 2009 and 2010 Hatzenbuehler et al. studies.

Further, we note that there may be significant overlap in the costs that we estimate because some people may have major depressive disorder and smoke, and the costs associated with each condition may overlap. For this reason, our estimates are not intended to be cumulative, but rather to illustrate that significant cost savings could result if the disparity observed for either health outcome were reduced.

³⁴⁷ E.g., George R. Brown & Kenneth T. Jones, *Mental Health and Medical Health Disparities in 5135 Transgender Veterans Receiving Healthcare in the Veterans Health Administration: A Case-Control Study*, 3 LGBT HEALTH 122 (2016).

³⁴⁸ Hatzenbuehler, Keyes & Hasin, *supra* note 332 at 2277.

1. Excess Costs Associated with LGBT Major Depressive Disorder (MDD)

In order to best estimate the annual costs associated with MDD, we rely on data from the National Epidemiologic Survey on Alcohol and Related Conditions (NESARC), a general population study with a large, nationally representative sample of adults. An analysis of 2004-5 NESARC data found that, nationally, 18.0% of LGB respondents had major depressive disorder in the 12 months prior to the survey, compared to 8.1% of non-LGB respondents.³⁴⁹

Applying the percentage of excess prevalence of MDD among LGB people (18.0% - 8.1% = 9.9%) to Georgia's LGBT population (an estimated 300,785 adults)³⁵⁰ indicates that there are approximately 29,800 more people who have major depressive disorder in Georgia than would be expected in the general population. As shown in Table IV.a. below, we further estimate that if 25% to 33.3% of the sexual orientation and gender identity disparity were reduced by improving the social climate for LGBT people, there would be between 7,444 and 9,916 fewer LGBT people living with MDD.

To estimate the annual cost per person suffering from MDD, we drew from a 2015 study, *The Economic Burden of Adults with Major Depressive Disorder in the United States (2005 and 2010)*.³⁵¹ The study found that the annual total cost of MDD, nationwide, in 2010 was \$210.5 billion. The costs included loss of productivity in the workplace, absenteeism from work, costs for medical and pharmaceutical services, and suicide-related costs. In order to determine the cost per person with MDD, we divided the total cost by the number of adults with the condition in 2010.³⁵² Next, we adjusted the cost per person with MDD in 2010 for inflation.³⁵³ In inflation-adjusted dollars, the 2016 cost per person with MDD was \$14,885.49.³⁵⁴

³⁴⁹ Hatzenbuehler, Keyes & Hasin, *supra* note 332 at 2279. For an explanation of how major depressive disorder is determined on the NESARC see U.S. ALCOHOL EPIDEMIOLOGIC DATA REFERENCE MANUAL, ALCOHOL USE AND ALCOHOL USE DISORDERS IN THE UNITED STATES, A 3-YEAR FOLLOW-UP: MAIN FINDINGS FROM THE 2004-2005 WAVE 2 NATIONAL EPIDEMIOLOGIC SURVEY ON ALCOHOL AND RELATED CONDITIONS (NESARC) 19 (2010), https://pubs.niaaa.nih.gov/publications/NESARC_DRM2/NESARC2DRM.pdf.

³⁵⁰ See Section XXX, *supra*.

³⁵¹ Paul E. Greenberg et al., *The Economic Burden of Adults with Major Depressive Disorder in the United States (2005 and 2010)*, 76 J. CLIN. PSYCHIATRY 155 (2015). Greenberg et al. used data from the National Survey on Drug Use and Health to identify people who met the diagnostic criteria for major depressive episode within the past year. The cost estimates are largely based on medical claims filed by those who had been diagnosed with major depressive disorder (and compared to a control group). Similarly, the prevalence of MDD we use for our estimates was determined by identifying individuals who met the diagnostic criteria for MDD in data collected by the NESARC. All cost data used in our estimates are drawn directly from the calculations made by Greenberg et al.

³⁵² The study found that, in 2010, 15,446,771 adults in the U.S. suffered from major depressive disorder. *Id.* Dividing the total cost (\$210,548,000,000) by the number of sufferers (15,446,771) indicates that the cost per sufferer was \$13,630.55 in 2010.

³⁵³ To adjust for inflation, we used the U.S. Bureau of Labor Statistics' inflation calculator available at CPI Inflation Calculator, U.S. Bureau of Labor Stats., <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited Apr. 28, 2016).

³⁵⁴ We assume that the costs associated with depression would be the same in 2016 as they were in 2010 (adjusted for inflation).

For the reasons described above, we estimate that Georgia may be able to reduce the disparity in MDD between LGBT and non-LGBT people by 25% to 33.3% by taking measures to improve legal protections for LGBT people. Applying this range would mean an eventual annual reduction in costs associated with MDD in Georgia of approximately \$110.6 to \$147.3 million.

Table V.a. Reduction in Costs Associated with MDD in Georgia if LGBT Disparity Were Reduced

Reduction in disparity between LGBT and Non-LGBT Georgians	LGBT individuals impacted	Annual reduction in costs (millions)
25%	7,444	\$110.6
33.3%	9,916	\$147.3

2. Excess Costs Associated with LGBT Smoking

Our analysis of Georgia’s 2015 BRFSS data found that 34.4% of LGB respondents were current smokers, compared to 17.6% of non-LGB respondents. Applying the percentage (16.8%) of excess prevalence of smoking among LGB people in Georgia to the state’s LGBT population (300,785 adults)³⁵⁵ indicates that there are approximately 50,500 more people who currently smoke in Georgia than would be expected in the general population.

A 2010 study estimates the annual costs per current smoker as \$5,725.73.³⁵⁶ The total included costs from workplace productivity losses (\$1,150.69), medical care costs (\$2,006.23), and premature death (\$2,568.81).³⁵⁷ We adjusted for inflation³⁵⁸ to estimate that the 2016 cost per current smoker in Georgia is \$6,451.45.

As shown in Table V.b. below, if the disparity in current smoking for LGBT people in Georgia were reduced by a range of 25% to 33.3%, the savings would be \$81.5 million to \$108.6 million per year.

Table V.b. Reduction in Costs Associated with Smoking in Georgia if LGBT Disparity Were Reduced

Reduction in disparity between LGBT and Non-LGBT Georgians	LGBT individuals impacted	Annual reduction in costs (millions)
25%	12,633	\$81.5
33.3%	16,827	\$108.6

³⁵⁵ See Section I.A. *supra*.

³⁵⁶ JILL S. RUMBERGER, CHRISTOPHER S. HOLLENBEAK, & DAVID KLINE, POTENTIAL COSTS OF SMOKING CESSATION: AN OVERVIEW OF THE APPROACH TO STATE SPECIFIC ANALYSIS (2010), available at <http://www.lung.org/assets/documents/tobacco/economic-benefits.pdf>.

³⁵⁷ *Id.* at 366-67.

³⁵⁸ To adjust for inflation, we used the U.S. Bureau of Labor Statistics’ inflation calculator available at U.S. Bureau of Labor Stats., CPI Inflation Calculator, <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited Nov. 23, 2016).

If Georgia were to extend legal protections to LGBT people and if social acceptance of LGBT increased, the state would likely see improvements in the health of LGBT people. Furthermore, consideration of just two health disparities for LGBT people in the state – MDD and smoking – suggests that Georgia would see hundreds of millions of dollars in returns on both savings associated with reduced health care and social service costs and in greater productivity.

CONCLUSION

Georgia's unsupportive legal landscape and social climate contribute to an environment in which LGBT people experience stigma and discrimination, which in turn, have economic consequences for businesses in Georgia and the state itself. Discrimination in the workplace undermines the advantages of diversity in the workplace, eroding worker productivity and making talented employees more difficult to recruit and retain. Discrimination in employment, housing, and other areas can also lead to increased reliance on public benefits. Considering just transgender Georgians experiences, we estimate that employment and housing discrimination is costing the state up to \$1.5 million annually in increased Medicaid and shelter expenditures. In addition, bullying and family rejection of LGBT youth in Georgia likely have lifelong impacts on education and earning potential of youth, resulting in lower participation in jobs that contribute to overall economic productivity. Finally, unsupportive environments have been linked to health disparities for LGBT people, which likely impact Georgia's economy by hundreds of millions of dollars each year in lost productivity and health care costs. Considering only disparities on just two health outcomes, we estimate that Georgia could benefit by \$110.6 million to \$147.3 million if the disparity between LGBT people and non-LGBT people in rates of major depressive disorder were reduced by a fraction, and could benefit by \$81.5 million to \$108.6 million if the disparity in rates of smoking were reduced by a fraction. In sum, if Georgia were to take steps toward a more supportive legal landscape and social climate, the state's economy would benefit.