

# MAPPING TRANSGENDER EQUALITY IN THE UNITED STATES



## This report was authored by:

### **Movement Advancement Project**

The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight, and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen efforts for maximum impact. MAP's policy research informs the public and policymakers about the legal and policy needs of LGBT people and their families.

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## This report was developed in partnership with:

### **National Center for Transgender Equality**

The National Center for Transgender Equality (NCTE) is the nation's leading social justice advocacy organization winning life saving change for transgender people. NCTE was founded in 2003 by transgender activists who recognized the urgent need for policy change to advance transgender equality. For more information, visit [www.transequality.org](http://www.transequality.org).

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TABLE OF CONTENTS

**INTRODUCTION .....1**

**METHODOLOGY .....5**

**OVERALL FINDINGS .....7**

    Legal Protections for Transgender People Lag Behind Protections for LGB People ..... 7

    A Lack of Legal Protections is Reflected in Pervasive Discrimination Against Transgender People.... 11

**FINDINGS BY POLICY AREA .....12**

    Non-Discrimination ..... 14

    LGBT Youth ..... 15

    Health & Safety ..... 16

    Identity Documents ..... 17

    Adoption & Parenting ..... 18

**CONCLUSION .....19**

**ENDNOTES .....20**

## INTRODUCTION

In the year and a half since the Supreme Court's decision affirming the nationwide freedom to marry, the lesbian, gay, bisexual, and transgender (LGBT) community has experienced significant ups and downs. The ban on transgender people serving in the military was lifted and changing federal regulations have helped LGBT people access health care, provided protections against employment discrimination by federal contractors, and supported safer schools. In 2016, progress on the state and local levels also continued as several states removed barriers to accessing accurate identity documents for transgender people and other states and cities moved to ban harmful "conversion therapy" practices.

But even before the November 2016 election results dramatically changed the political landscape, the path towards progress has been challenging. After the Supreme Court decision, anti-LGBT activists redoubled efforts to undermine a broad range of legal protections for LGBT people across the country. In late 2015, non-discrimination protections for the LGBT community were put to a popular vote in Houston, and defeated. And in 2016, roughly 200 anti-LGBT bills were introduced in over 20 states in a single legislative session. This backlash resulted in some of the most aggressive anti-LGBT laws seen in the last decade. For example, North Carolina's discriminatory HB2 law bans transgender people from using the bathroom that matches their gender identity and prohibits cities and counties from passing transgender-inclusive non-discrimination laws. Meanwhile, Mississippi enacted a law that permits businesses, doctors, and government officials to deny needed services and care to LGBT people.

Compounding these challenges, the results of the November 2016 election indicate that many of the hard-fought victories are now at an increased risk and efforts to erode LGBT rights at the federal and state levels are likely to have broader political support. With state legislative sessions restarting in early January 2017, there are hundreds of pieces of anti-equality legislation being considered, including virulent laws similar to North Carolina's HB2, which would make it impossible for transgender people to use public restrooms, and "license to discriminate" laws like the one passed in Mississippi that would allow individuals and government officials to refuse to recognize legally married same-sex couples and to otherwise discriminate against LGBT people.

To help make sense of our current policy landscape in the states, this report, *Mapping Transgender Equality in the United States*, looks at legal equality for LGBT people across the country. Recognizing that transgender people remain on the front lines of much anti-LGBT legislation—they are the most vulnerable to discrimination and also face the brunt of anti-equality laws—this report pays particular attention to the key gaps in legal equality for transgender Americans and opportunities for increasing the safety, health, and security of transgender people through state policy change. Laws prohibiting transgender people from using public restrooms may be particularly vicious, but these laws are not the only type of legislation that impact transgender people's lives and livelihood. From safe school policies to healthcare exclusions to the barriers facing transgender people updating their identity documents, there are myriad ways in which state legislatures and courts have supported or prohibited discrimination based on gender identity. As shown on the infographics on pages 2-3, the differences in the lived experiences of transgender people in states with laws supporting transgender people and states that legislate discrimination are stark.

The report makes clear that, despite recent gains for LGBT people, we are still far from achieving full legal equality, especially for transgender people. The current political climate makes proactive, affirmative progress on LGBT equality more difficult, but it is needed more now than ever. In fact, as the analysis in this report illustrates, a majority of states (31) have a low or negative overall rating in terms of legal equality for transgender people, and 22 states have a low or negative rating for lesbian, gay and bisexual people.

Examining state-level legal protections and gaps paints a bleak picture, particularly given the current composition of state legislatures and governorships, but this analysis also highlights opportunities for progress. By categorizing and examining the key laws and policies (both good and bad) affecting transgender Americans, this report outlines a clear legislative and administrative need to advance transgender equality at the state level. By articulating the many areas of law and policy that impact transgender people's lives, from schools to identity documents to health and safety and nondiscrimination, this report can be used to educate state policymakers on the many challenges facing transgender people, to common ground, and to mobilize transgender advocates and their allies.

This report is current as of February 1, 2017. MAP provides daily updates to laws and policies affecting LGBT people through our Equality Maps, found at [www.lgbtmap.org/equality-maps](http://www.lgbtmap.org/equality-maps). Readers are encouraged to visit the online maps for the most up-to-date information about a particular law or a particular state.

# HIGH EQUALITY STATE



## PROTECTED FROM BULLYING AND DISCRIMINATION IN SCHOOLS

**FACT:** Students in schools with an enumerated anti-bullying policy, a Gay-Straight Alliance (GSA), and/or an LGBT-inclusive curriculum experienced lower levels of victimization based on gender expression compared to students in schools without an anti-bullying policy, a GSA, and/or an LGBT-inclusive curriculum.<sup>1</sup>



## ACCESS TO MEDICALLY-NECESSARY HEALTHCARE

**FACT:** Transition-related care is medically necessary, which is why it is now covered under federal healthcare regulations.<sup>2</sup>



## CAN CHANGE THE NAME AND GENDER MARKER ON THEIR IDENTIFICATION

**FACT:** Transgender people who have identity documents that match the gender they live everyday are less likely to experience hiring discrimination and housing discrimination.<sup>3</sup>



## PROTECTED FROM BEING UNFAIRLY FIRED, EVICTED, OR REFUSED ACCESS TO PUBLIC PLACES

**FACT:** 58% of transgender workers are out as transgender to at least one person at their place of employment. But transgender people are not explicitly protected from employment, housing, and public accommodations discrimination under federal non-discrimination law.<sup>4</sup>

<sup>1</sup> Kosciw et al., "The 2015 National School Climate Survey."

<sup>2</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

<sup>3</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

<sup>4</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

# NEGATIVE EQUALITY STATE



## NOT PROTECTED FROM BULLYING AND DISCRIMINATION IN SCHOOLS

**FACT:** Transgender students are more likely to have experienced victimization or to have felt unsafe at school than non-transgender students. Three quarters (75%) of transgender students felt unsafe at school and 70% reported avoiding bathrooms.<sup>1</sup>



## CANNOT ACCESS MEDICALLY-NECESSARY HEALTHCARE

**FACT:** Transgender people reported postponing medical care when sick or injured because they fear discrimination (23%) or could not afford necessary care (33%).



## OFTEN CANNOT CHANGE THE NAME AND GENDER MARKER ON THEIR IDENTIFICATION

**FACT:** Over two-thirds of transgender people (68%) live without ID that matches their gender identity. Nearly one-third (32%) of those who presented ID in public places that did not match their gender identity/expression reported being verbally harassed, denied benefits or service, asked to leave, or assaulted.<sup>3</sup>



## CAN BE UNFAIRLY FIRED, EVICTED, OR KICKED OUT OF PUBLIC PLACES

**FACT:** In the past year, 27% of transgender workers report being fired, denied a promotion, or not being hired for a job they applied for because of their gender identity or expression. Nearly one-quarter (23%) of transgender people report having been evicted or refused a home or apartment in the past year because of their gender identity/expression. Nearly one-third (31%) of transgender people report being denied service, verbally harassed, or physically assaulted in the past year in a place of public accommodation.<sup>4</sup>

<sup>1</sup> Kosciw et al., "The 2015 National School Climate Survey."

<sup>2</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

<sup>3</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

<sup>4</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."

## METHODOLOGY

This report examines the level of equality found in each state as measured by the number of pro- and anti-transgender laws and policies found in the state. MAP's state policy tallies take into consideration the number of positive laws and policies within each state that help drive equality for LGBT people. The tallies examine over 35 individual laws, grouped into six major policy categories including:

- Marriage and Relationship Recognition
- Adoption and Parenting
- Non-Discrimination
- LGBT Youth
- Health and Safety
- Ability for Transgender People to Correct the Name and Gender Marker on Identity Documents

Each positive law counts as a single point (though fractions of a point are awarded in some instances, such as for positive local laws that do not cover the entire state population or for a law that only covers a portion of the possible areas). A state's policy tally is reduced by a point if the state has a negative law that harms or deliberately targets LGBT people. A state's possible overall policy tally may range from -10 to 38.5.

The tally distinguishes between laws and policies that harm or protect based on sexual orientation and laws and policies that harm or protect based on gender identity. In general, laws covering sexual orientation affect lesbian, gay, and bisexual people, while laws covering gender identity affect transgender people, although there is significant overlap. A state that has good protections on the basis of sexual orientation but does not have good protections on the basis of gender identity may not receive a "high" score in the overall state policy tally. Table 1 shows the cut-offs for a state having a "negative," "low," "medium" or "high" tally for sexual orientation protections, gender identity protections, and the overall tally.

This report primarily focuses on legal equality for transgender people, and therefore examines the degree to which states provide protections based on gender identity. (Of course, many transgender people are lesbian, gay, or bisexual, and so are impacted by laws that harm or protect based on sexual orientation.)

The gender identity tally is based on 25 state laws and policies in the five key categories of Non-Discrimination, LGBT Youth Laws and Policies, Health and Safety, Ability for Transgender People to Correct the Name and Gender Marker on Identity Documents, and Adoption and Parenting. Laws that focus on sexual orientation only, such as marriage or other forms of relationship recognition, are not addressed in the gender identity tally because they are not focused on a person's gender identity or identity as a transgender person.

Note that this report only examines existing laws—it does not look at the social climate or proposed legislation, nor does it take into account implementation or interpretation of each state's laws. The tallies do not reflect the efforts of advocates and/or opportunities for future change. States with low tallies might shift rapidly with an influx of resources, whereas those states with high tallies might continue to expand equality for LGBT people in ways that can provide models for other states.

A more detailed methodology, including explanations of each policy area and the potential values associated with each policy, is available on MAP's [Detailed Tally Methodology](#) page.<sup>a</sup>

**Table 1: Cutoffs for Each Tally Rating**

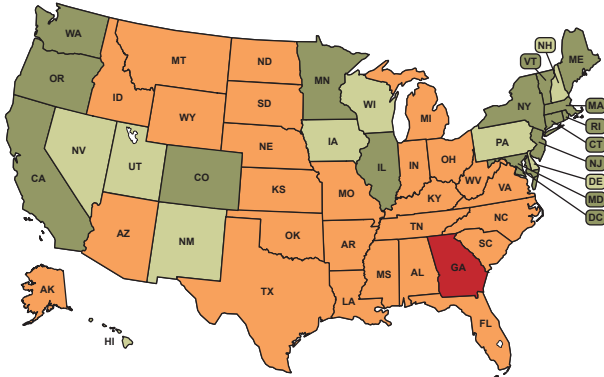
	Sexual Orientation Tally	Gender Identity Tally	Overall Tally
<b>High</b>	12 to 20.5	9 to 18.00	<b>21 to 38.5</b>
<b>Medium</b>	5 to 11.99	4 to 8.99	<b>9 to 20.99</b>
<b>Low</b>	0 to 4.99	0 to 3.99	<b>0 to 8.99</b>
<b>Negative</b>	<0	<0	<0

<sup>a</sup> Detailed Tally Methodology page: [http://www.lgbtmap.org/tally\\_rubric](http://www.lgbtmap.org/tally_rubric).



# STATE TALLIES BY SEXUAL ORIENTATION AND GENDER IDENTITY

## OVERALL POLICY TALLY BY STATE



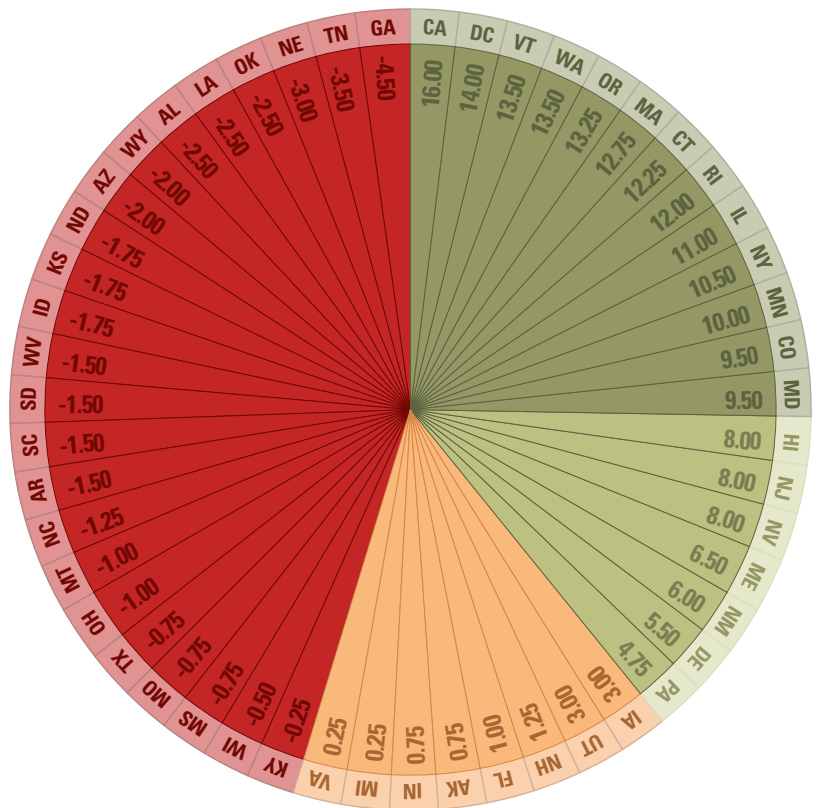
## GENDER IDENTITY POLICY TALLY BY STATE

### NEGATIVE EQUALITY STATES

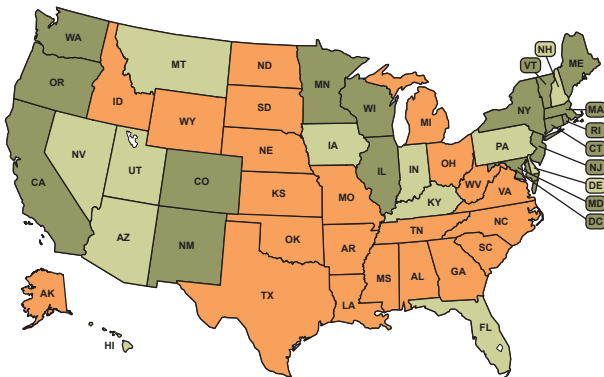
23 STATES, 35% OF THE LGBT POPULATION

### HIGH EQUALITY STATES

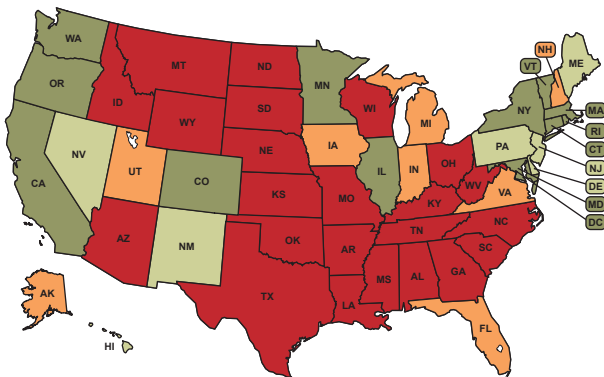
12 STATES & DC, 39% OF THE LGBT POPULATION



## SEXUAL ORIENTATION POLICY TALLY BY STATE



## GENDER IDENTITY POLICY TALLY BY STATE



### LOW EQUALITY STATES

8 STATES, 16% OF THE LGBT POPULATION

### MEDIUM EQUALITY STATES

7 STATES, 9% OF THE LGBT POPULATION

KEY

HIGH POLICY TALLY

MEDIUM POLICY TALLY

LOW POLICY TALLY

NEGATIVE POLICY TALLY

## OVERALL FINDINGS

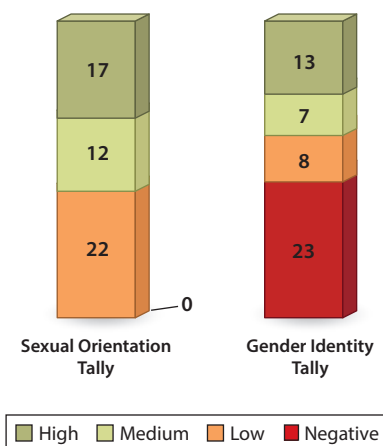
### Legal Protections for Transgender People Lag Behind Protections for LGB People

The infographic on the previous page shows each state's overall policy tally as well as the sexual orientation tally and gender identity tally for all 50 states plus the District of Columbia, as of October 2016 (detailed individual state data can be found online on our [Equality Maps](#)). What is notable is the degree to which legal protections based on gender identity lag protections based on sexual orientation. As shown on the sexual orientation tally map (on the previous page), no states have a negative tally and 22 states have a low tally, for a total of 22 states with a negative or low tally. But as is evident on the gender identity tally map, almost half of states (23) have a negative tally and a further 8 states have a low tally, totaling 31 states with a negative or low tally (see *Figure 1*). As shown in the infographic on the next page, 51% of LGBT people live in states that have a hostile or low gender identity tally.

As mentioned in the methodology section, the gender identity tally is based on policies in the five key categories of Non-Discrimination, LGBT Youth Laws and Policies, Health and Safety, the Ability for Transgender People to Correct the Name and Gender Marker on Identity Documents, and Adoption and Parenting. *Table 2* on pages 8-9 examines the data by state. Twelve states and D.C. have high equality for gender identity overall, but not one state has high equality ratings across all five legal categories. In fact, only California and D.C. have high equality ratings in four categories of law. There are also states like Illinois and Colorado that have high overall gender identity tallies, but have a negative tally for the ability for transgender people to change their identity documents. There are opportunities for progress in even the highest rating states.

**Figure 1: States are More Likely to Have Low or Negative Gender Identity Tallies than Low or Negative Sexual Orientation Tallies**

Number of States by Rating



Conversely, over half of states (28) have a low or negative rating in all five gender identity policy categories. States are most likely to score poorly on the identity document tally and the health and safety tally, and most states in the low and negative categories score poorly on both. This happens when states require that transgender people complete sex reassignment surgery (a procedure which not all transgender people want or can afford) in order to change their identity documents and/or when states allow private insurers and state Medicaid programs to deny transgender people medically-necessary transition-related care.

# OVER HALF OF LGBT PEOPLE LIVE IN STATES WITH HOSTILE OR LOW GENDER IDENTITY TALLIES

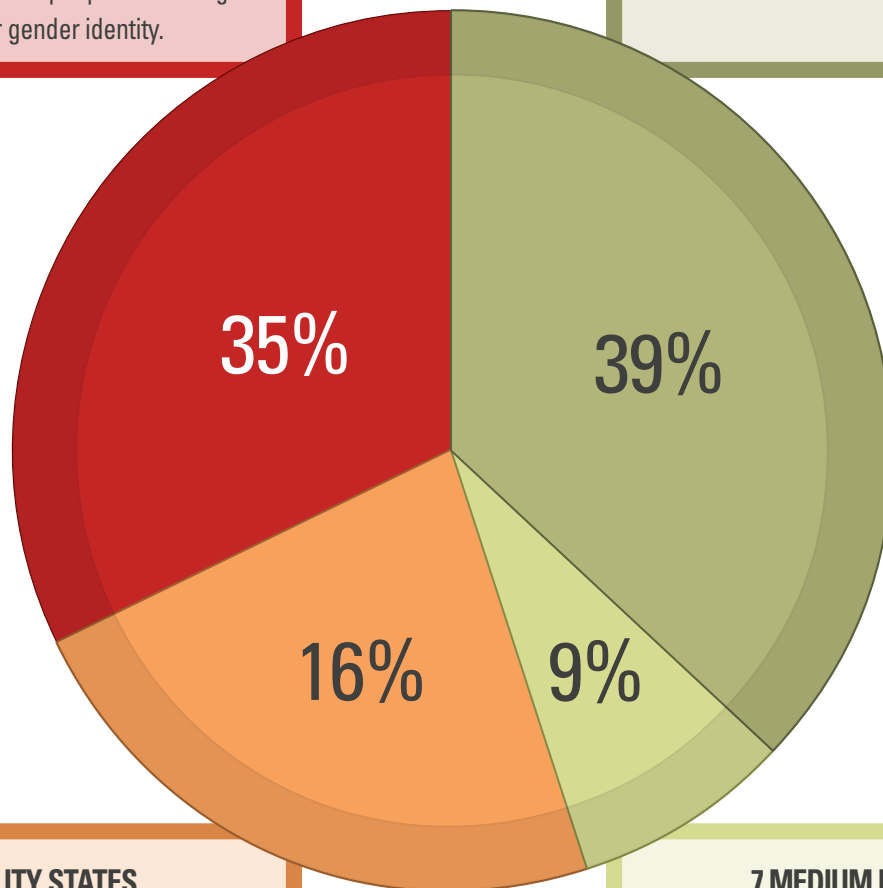
## % OF LGBT POPULATION LIVING IN STATES WITH EACH GENDER IDENTITY TALLY

### 23 NEGATIVE EQUALITY STATES

Mississippi passed a law in 2016 that permits businesses, doctors, and government officials to deny needed services and care to LGBT people. North Carolina's HB2 bans transgender people from using the bathroom that matches their gender identity.

### 12 HIGH EQUALITY STATES, PLUS D.C.

In 2016, Massachusetts passed a law prohibiting discrimination in public accommodations on the basis of gender identity.



### 8 LOW EQUALITY STATES

Utah's non-discrimination law, passed in 2015, prohibits discrimination on the basis of gender identity in housing and employment, but does not protect transgender people from discrimination in places of public accommodation.

### 7 MEDIUM EQUALITY STATES

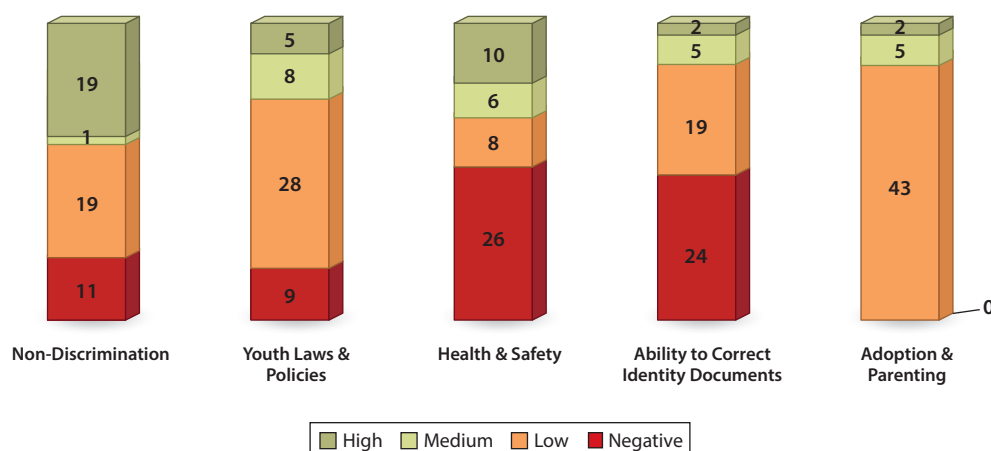
In 2016, Pennsylvania removed transgender exclusions from the state Medicaid program, covering all medically-necessary gender transition services.

Table 2: State Policy Tally Table						
State	Gender Identity Equality Tally	Non-Discrimination Equality Tally	LGBT Youth Equality Tally	Health & Safety Equality Tally	Identity Documents Equality Tally	Adoption & Parenting Equality Tally
Possible Total	Max= 18	Max=4.5	Max=4	Max=4.5	Max=3	Max=2
California	16.00	3.5	4	4	2.5	2
District of Columbia	14.00	3.5	3	4.5	3	0
Vermont	13.50	4.5	3	4	2	0
Washington	13.50	4.5	2	4	3	0
Oregon	13.25	3.5	3	4.25	1.5	1
Massachusetts	12.75	4.5	2	3.25	2	1
Connecticut	12.25	4	2	3.25	3	0
Rhode Island	12.00	4	1	4	1	2
Illinois	11.00	4	4	3.5	-0.5	0
New York	10.50	3.5	2	2.5	1.5	1
Minnesota	10.00	4.5	2	2	1.5	0
Colorado	9.50	4.5	2	3.5	-0.5	0
Maryland	9.50	4	1	3	1.5	0
New Jersey	8.00	4.5	3	0.5	-1	1
Hawaii	8.00	3.5	0.5	2	2	0
Nevada	8.00	3.5	1	2	1.5	0
Maine	6.50	4.5	2	0	0	0
New Mexico	6.00	4	1	1	0	0
Delaware	5.50	3.5	0.5	2.5	-1	0
Pennsylvania	4.75	0.75	0	2	2	0
Iowa	3.00	4.5	2	-1.5	-2	0
Utah	3.00	2	0.5	-0.5	1	0
New Hampshire	1.25	0	1	-1.25	1.5	0
Florida	1.00	1	0	-0.5	0.5	0
Alaska	0.75	0.75	0	-1.5	1.5	0
Indiana	0.75	0.75	0	0	0	0

Table 2: State Policy Tally Table (continued)						
State	Gender Identity Equality Tally	Non-Discrimination Equality Tally	LGBT Youth Equality Tally	Health & Safety Equality Tally	Identity Documents Equality Tally	Adoption & Parenting Equality Tally
Possible Total	Max= 18	Max=4.5	Max=4	Max=4.5	Max=3	Max=2
Michigan	0.25	0.25	0	0.5	-0.5	0
Virginia	0.25	-0.25	0	-0.5	1	0
Kentucky	-0.25	0.75	0	0	-1	0
Wisconsin	-0.50	0	0	-1	-0.5	1
Texas	-0.75	0	-0.5	-0.25	0	0
Mississippi	-0.75	-1.25	-0.5	-0.5	1.5	0
Missouri	-0.75	0.25	-0.5	-0.5	0	0
Ohio	-1.00	0	0	-0.5	-0.5	0
Montana	-1.00	0	0	1	-2	0
North Carolina	-1.25	-0.25	1	0	-2	0
Arkansas	-1.50	-1	1	-0.5	-1	0
South Dakota	-1.50	0	-0.5	-0.5	-0.5	0
West Virginia	-1.50	0	0	-1.5	0	0
South Carolina	-1.50	-0.5	-0.5	-0.5	0	0
Idaho	-1.75	0.25	0	-0.5	-1.5	0
North Dakota	-1.75	-0.25	0	-0.5	-1	0
Kansas	-1.75	-0.75	0	-0.5	-0.5	0
Arizona	-2.00	0.25	-0.5	-1.25	-0.5	0
Wyoming	-2.00	0	0	-0.5	-1.5	0
Alabama	-2.50	-0.5	-0.5	-0.5	-1	0
Louisiana	-2.50	-0.5	-0.5	-0.5	-1	0
Oklahoma	-2.50	-0.5	-0.5	-0.5	-1	0
Nebraska	-3.00	0	0	-1.5	-1.5	0
Tennessee	-3.50	-1	0	-1.5	-1	0
Georgia	-4.50	0	0	-1.5	-3	0

**Figure 2: Low Legal Equality Based on Gender Identity Across All Policy Areas**

Number of States by Rating



Looking at the data by policy category also reveals limited legal protections (see *Figure 2*). There is no policy category in which more than half of states earn medium or high ratings. State protections across the major policy categories is uneven. For example, while 20 states and D.C. have taken steps to add non-discrimination protections, in employment, housing, and public accommodation, based on gender identity (and sexual orientation) and therefore are ranked as high or medium equality states in non-discrimination laws, only seven states have medium to high ratings on policies that govern gender marker changes on driver's licenses and birth certificates. Other policy areas see extreme variations across the states, for example, 10 states have high equality in health and safety, but 26 states have negative ratings in this policy area, meaning a transgender person who lives in Nebraska may face discrimination by their healthcare provider and be refused medically-necessary transition-related services while a transgender person who lives in Oregon may conversely have full access to transition-related healthcare with a culturally competent medical practitioner.

### A Lack of Legal Protections is Reflected in Pervasive Discrimination Against Transgender People

The general lack of legal protections and passage of discriminatory laws leaves transgender people especially vulnerable to being unfairly fired, kicked out of their apartment, harassed at school, barred from necessary

healthcare, or denied service in places like restaurants and stores. For example:

#### Discrimination in employment, housing, and public accommodations

- The US Transgender Survey (USTS) found that 23% of transgender and gender non-conforming people had experienced housing discrimination in the past year because of their gender identity/expression.<sup>2</sup>
- Nearly one-third (30%) of transgender workers report being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace in the past year because of their gender identity or expression.<sup>3</sup>
- Out of respondents who visited a place of public accommodation where staff or employees thought or knew they were transgender, nearly one-third (31%) experienced at least one type of mistreatment in the past year in a place of public accommodation. This included 14% who were denied equal treatment or service, 24% who were verbally harassed, and 2% who were physically attacked for being transgender.<sup>4</sup>

#### Hostile environments in schools

- According to GLSEN's 2015 National School Climate Survey, transgender students were more likely than all other students to have negative experiences at school; three quarters (75%) of transgender students felt unsafe at school because of their gender expression.<sup>5</sup>

- The 2015 National School Climate Survey also reported that over two thirds of transgender students (70%) reported avoiding bathrooms, compared to less than half of all other groups of students.<sup>6</sup>
- Transgender students were also found to be particularly affected by discriminatory school policies; 60% of transgender students had been required to use the bathroom or locker room of their sex on their birth certificate rather than the gender they live everyday; and 28% of transgender students had been prevented from wearing clothes because they were considered inappropriate based on the sex on their birth certificate.<sup>7</sup>

### Discrimination in medical care

- One-third (33%) of respondents in the USTS reported having at least one negative experience with a health care provider in the past year related to being transgender, such as verbal harassment or refusal of treatment.<sup>8</sup>
- In the past year, 23% of transgender respondents postponed medical care because of fear of being mistreated, and 33% did not see a doctor because of cost.

### Barriers to accurate identity documents

- Only eleven percent (11%) of respondents in the USTS had their name and gender accurately updated on all IDs and records. Forty-nine percent (49%) do not have any ID that matches their lived name, and 67% do not have any ID that matches their lived gender.<sup>9</sup>
- Thirty-five percent (35%) of those who did not try to change their legal name and 32% of those who did not try to change their gender marker did not try because they could not afford it.<sup>10</sup>
- As a result of showing an ID with a name or gender that did not match their gender presentation, 25% of people were verbally harassed, 16% were denied services or benefits, 9% were asked to leave a location or establishment, and 2% were assaulted or attacked.<sup>11</sup>

## FINDINGS BY POLICY AREA

The remainder of this report looks more deeply at each policy category, providing an explanation of the various laws and policies that comprise that category and showing the category score for each state. The infographics provide an in-depth look at each category of law and allow for easy comparison between the categories. While the laws and policies are grouped into distinct categories, they are interconnected in important ways that affect the daily lives of transgender people.

Consider a state that requires transgender people to have proof of sex reassignment surgery in order to change the gender marker on identity documents, and at the same time has laws and policies that exclude transition-related healthcare. The absence of equality in one area of law impacts a person's ability to access services or protections made available through a separate law or policy. For example, when transgender youth lack protections from discrimination and bullying in schools, they are significantly less likely to graduate and pursue higher education, which limits their future employment opportunities even in states with non-discrimination protections in the workplace.<sup>12</sup>



## Vital Federal Protections in a Time of Uncertainty

As detailed throughout this report, protections for transgender people at the state level vary. And the United States still lacks federal nondiscrimination legislation that explicitly protects LGBT people from discrimination. Despite the absence of explicit federal legislation and the current state patchwork of state protections, recent progress in federal law through courts and federal government agencies has resulted in vital federal protections in a number of areas, including employment, education, healthcare and access to identity documents. Yet the outcome of the 2016 presidential and congressional elections may put many of these protections at risk. While it is uncertain to what extent federal agencies and Congress can or wish to undo these federal protections, it is important to understand these existing protections for transgender people.

Many of the federal protections available to transgender people are the result of a growing understanding that federal laws prohibiting discrimination based on “sex” also prohibit discrimination based on gender identity. When a transgender person is discriminated against in the workplace or at school for being transgender, that discrimination is inherently based on gender, that is, notions of how men and women should dress and behave.

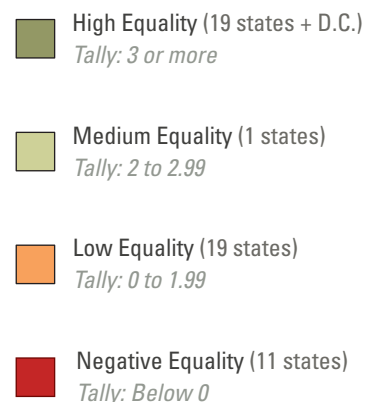
For example, various rulings by the federal courts and the Equal Employment Opportunity Commission (EEOC) extend Title VII of the Civil Rights Act’s prohibition on sex discrimination in employment to prohibit discrimination on the basis of gender identity.<sup>13</sup> The EEOC has also stated that workers have the right to use workplace restrooms consistent with their gender identity, and that prohibiting them to use that restroom is illegal employment discrimination. But these rulings are not binding on private employers and not all federal courts agree.

Several federal agencies have issued regulations and guidance similarly extending prohibitions on sex discrimination to include gender identity and expression. These regulations and guidance could be at-risk under the new federal administration, though hopefully as understanding of these vital protections grows, the regulations and guidance will stay in place.

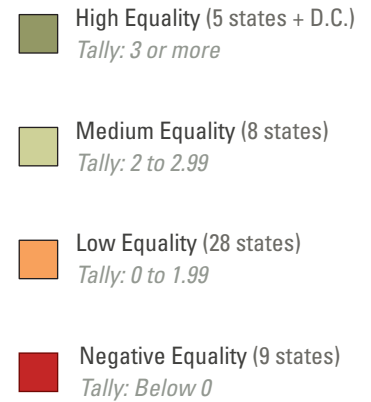
- Under the non-discrimination provisions of the **Affordable Care Act**, any healthcare facility or insurance company that receives federal funding, including state Medicaid agencies, marketplace insurers, and hospitals, may not discriminate on the basis of sex, which includes gender identity and expression.<sup>14</sup> This important provision also means that virtually all insurance companies may not exclude transgender-related care from coverage. Federal legislative efforts to repeal the entirety of the Affordable Care Act are underway, and whether the nondiscrimination provisions will be a part of any replacement legislation is unclear.
- The **Department of Housing and Urban Development (HUD)** issued the Equal Access Rule banning anti-LGBT bias in all federally-funded housing programs.<sup>15</sup> HUD also issued guidance to all homeless shelters and transitional housing programs receiving federal funds clarifying that all persons should have access to shelter based on their gender identity.<sup>16</sup>
- The **Department of Justice (DOJ)** and the **Department of Education** have issued guidance that under Title IX of the Civil Rights Act, schools cannot discriminate against transgender students or students who do not conform to gender stereotypes, including in access to facilities and sex-segregated spaces.<sup>17</sup>
- The **Social Security Administration and Department of State** updated their policies on gender marker changes in Social Security records and passports, respectively, to no longer require proof of surgery, and other federal agencies have adopted similar policies.<sup>18</sup>

It is unclear whether these policies, decisions and interpretations will be maintained by the new administration, though stripping them away would leave transgender people even more vulnerable. Even with the protections listed above, transgender people still face so many challenges. For example, in some areas like public accommodations discrimination, federal law does not currently prohibit discrimination based on sex and therefore cannot, by interpretation, prohibit discrimination based on gender identity. Additionally, some federal agencies, like the Department of Veterans Affairs, have policies that discriminate against transgender people by denying them access to medically-necessary transition-related healthcare or by refusing to respect their gender identity. This report also paints a vivid picture of the lack of state protections, and underlines the need for explicit protections for transgender people and the state and federal levels.





<sup>1</sup> "Examples of Court Decisions Supporting Coverage of LGBT-Related Discrimination Under Title VII," U.S. Equal Employment Opportunity Commission, accessed October 13, 2016, [https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt\\_examples\\_decisions.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/lgbt_examples_decisions.cfm).

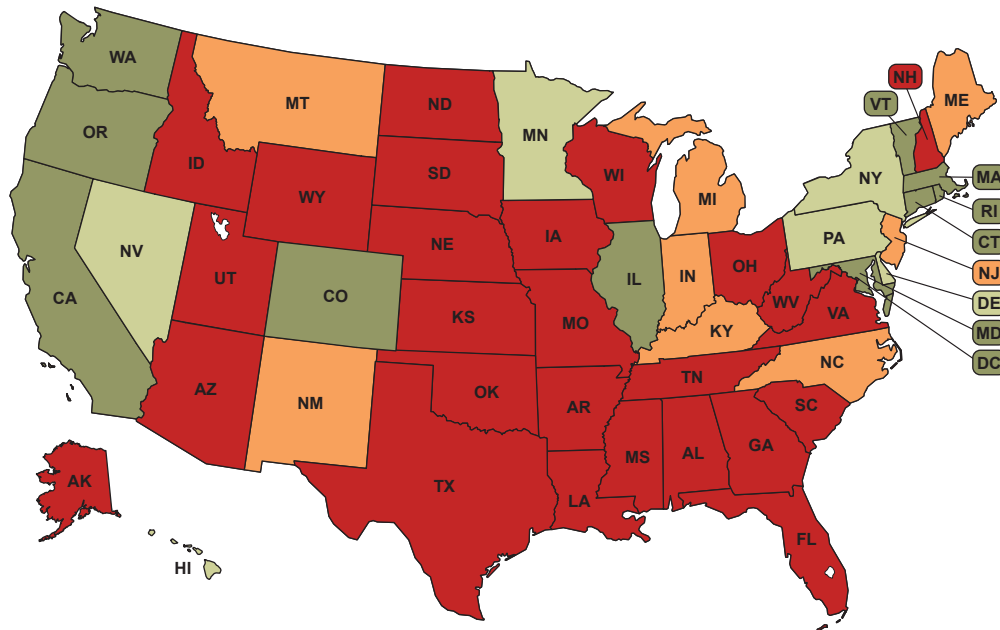


While there has been significant progress made in this policy area, gaps in protection remain. Only 5 states and D.C. have high LGBT youth equality tally ratings. Less than one-quarter (24%) of the LGBT population lives in states with high LGBT youth ratings and 58% of the population lives in states with low or negative ratings.

For a detailed explanation of each law, please see our [Methodology Page](#).



# HEALTH AND SAFETY LAWS AND POLICIES



- High Equality (10 states + D.C.)  
Tally: 3 or more
- Medium Equality (6 states)  
Tally: 2 to 2.99
- Low Equality (8 states)  
Tally: 0 to 1.99
- Negative Equality (26 states)  
Tally: Below 0

## HOW STATES ARE SCORED ON HEALTH AND SAFETY LAWS AND POLICIES

Health and safety laws and policies are particularly important to transgender people, who face serious health disparities, threats to safety, and systemic barriers to healthcare. For example, transgender people face HIV infection rates many times higher than the general population, as well as higher rates of bias-motivated violence. These disparities are particularly acute for transgender people of color.

The health and safety equality tally pertains to the health and safety of transgender people and includes a range of important laws and policies. Hate crimes laws require law enforcement agencies to investigate and prosecute crimes committed with bias against people based on gender identity and sexual orientation. Insurance non-discrimination laws, both in private insurance and Medicaid, protect people from being unfairly denied health insurance coverage or from being unfairly excluded from coverage for certain health care procedures, including transition-related care, because of their gender identity. Transgender-inclusive state health benefits provide transgender state employees access to transgender and transition-related health care through their employment health benefits. HIV criminalization laws criminalize the transmission of, or perceived exposure to, HIV and other infectious diseases. The laws create a strong disincentive for being tested for HIV, and result in adverse public health outcomes.

The health and safety equality tally is the most varied policy area. Some states have taken important steps to prohibit discrimination in healthcare and promote the safety of transgender people, while others maintain harmful healthcare exclusions and outdated HIV laws. Currently, 16 states and the District of Columbia have high or medium health and safety tally ratings and 44% of the LGBT population lives in these states. However, 26 states have negative tally ratings covering 41% of the LGBT population.

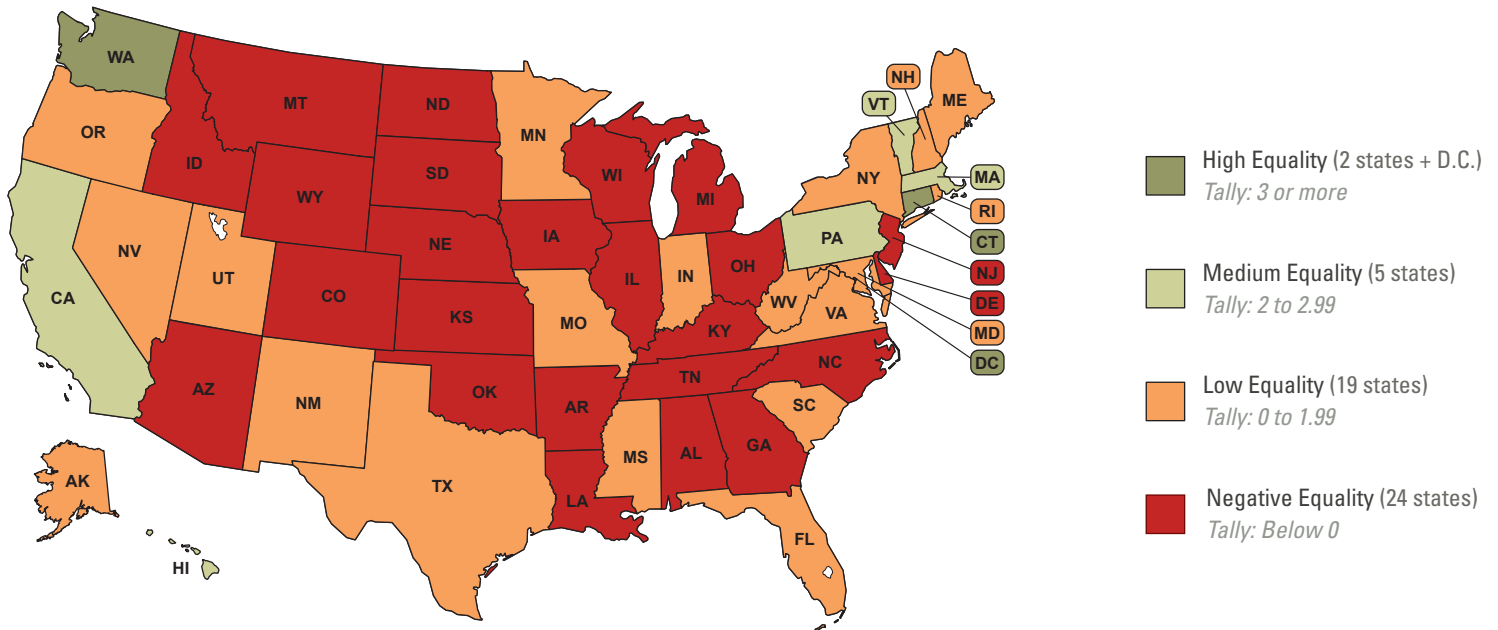
NOTE: Hate crime laws are designed to deter bias-motivated crimes, however there is no consensus around the efficacy of these laws in preventing hate crimes against LGBT people. In fact, some advocates believe hate crime laws may be counterproductive to that goal. Research suggests that the enforcement of hate crime laws disproportionately impacts marginalized communities, particularly communities of color. Read more about how criminalization impacts people of color [here](#).

	Points for Negative Law	Points for Positive Law
Hate Crimes Laws Covering LGBT People	n/a	1
Private Health Insurance Non-Disc Laws	n/a	1
Health Insurance Providers Banned from Excluding Coverage from Transgender-Specific Care	n/a	1
<b>Negative:</b> State Medicaid Policies Related to Coverage for Transgender People	-1	1
Transgender Inclusive Health Benefits for State Employees	n/a	0.5
<b>Negative:</b> State Criminalizes Exposure to and/or Transmission of HIV	-0.5	n/a
Tally Range for Health and Safety Laws and Policies:		-1.5 to 4.5

For a detailed explanation of each law, please see our [Methodology Page](#).



# IDENTITY DOCUMENTS LAWS AND POLICIES



Identity document laws and policies make it easier for transgender people to correct their driver's licenses and birth certificates so that the gender marker and name match the gender the person lives every day, rather than the gender on their original birth certificate. From passports to driver's licenses, identification that accurately reflects an individual's name and gender is essential for societal participation. Whether an individual wants to apply for employment, open a bank account, or board an airplane, they must present documents or records to verify their identity.

In high equality states like Washington and Connecticut, the law facilitates access to accurate identity documents with minimal barriers, whereas in negative equality states like Georgia and Michigan the law maintains outdated surgical requirements for transgender people in order to change their identification, something many transgender people either do not want or cannot afford.

Research finds that having identification that doesn't match one's gender identity or presentation (how someone looks or dresses) exposes people to a range of negative outcomes, from denial of employment to violence. Yet high costs and burdensome legal requirements can make updating identification difficult or impossible. According to the Report on the 2015 U.S. Transgender Survey (USTS), only 11% of respondents reported that all of their IDs were updated to match the name and gender they live everyday, while more than two-thirds (68%) reported that none of their IDs were updated. The USTS also found that 32% of respondents who have shown an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or service, asked to leave, or assaulted.

Scores on Identity Documents Laws and Policies are quite low. Eighty-four percent of states have negative or low rankings in Identity Documents compared to 59% of negative or low ranking states in Non-Discrimination.

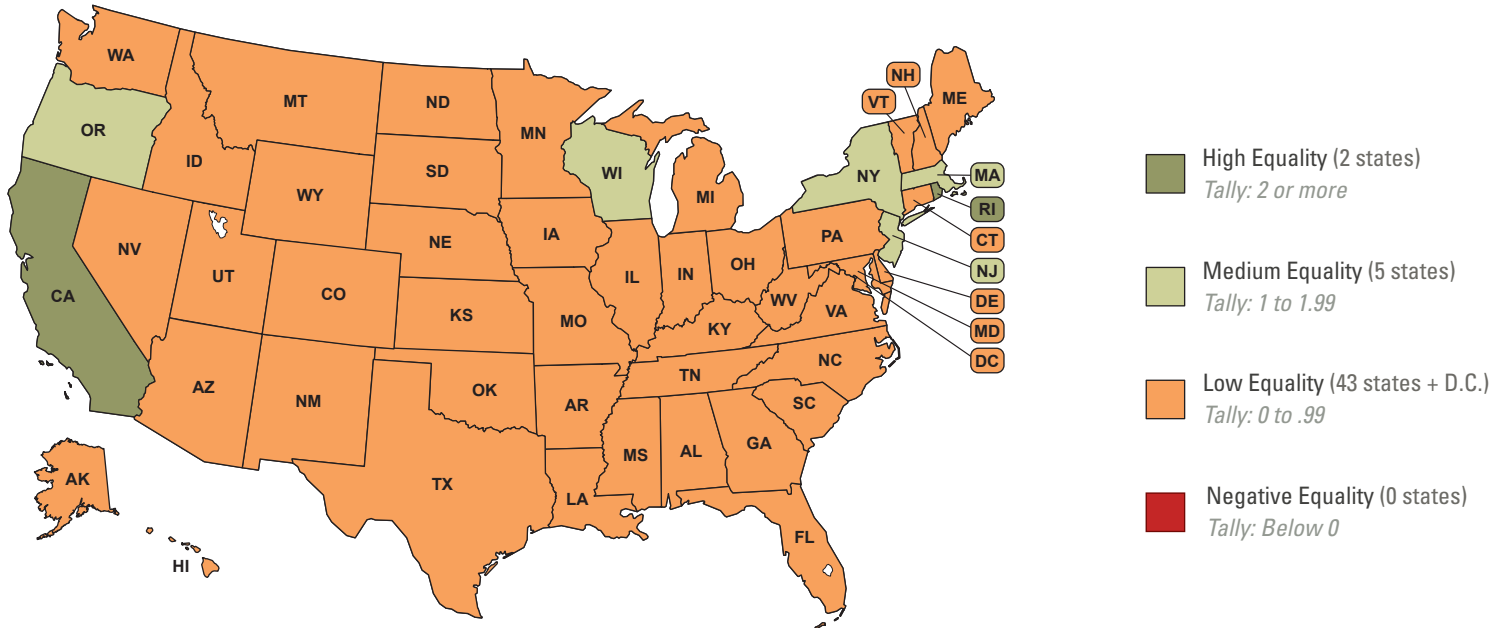
## HOW STATES ARE SCORED ON IDENTITY DOCUMENTS LAWS AND POLICIES

	Points for Negative Law	Points for Positive Law
Driver's Licenses	-1	1
Birth Certificates	-1	1
Name Changes	-1	1
<b>Tally Range for Identity Documents Laws and Policies:</b>	<b>-3</b>	<b>to 3</b>

For a detailed explanation of each law, please see our [Methodology Page](#).



# ADOPTION & PARENTING LAWS AND POLICIES



Adoption and parenting laws and policies pertain to adoption, foster parenting, and other parental recognition rights for transgender parents. Adoption non-discrimination laws protect parents from discrimination based on gender identity and sexual orientation by adoption agencies and officials. Foster care non-discrimination laws protect foster parents and foster children from discrimination based on gender identity and sexual orientation by foster care agencies and officials.

Transgender people can and do become parents in a number of different ways, from having a child to surrogacy to adoption. Laws in some states, like California, support the right and ability of transgender people to be parents in each of these situations by providing protections from discrimination based on gender identity. In other states, laws lack these explicit protections, which places the rights of transgender parents in the hands of individual courts.

Although no states explicitly ban transgender people from adopting or fostering, relatively few states have taken steps to prohibit discrimination based on gender identity in these areas either. Currently, seven states have high or medium adoption and parenting equality tallies and only 30% of the LGBT population lives in these states.

## HOW STATES ARE SCORED ON ADOPTION AND PARENTING LAWS AND POLICIES

	Points for Negative Law	Points for Positive Law
Adoption Non-Discrimination Protections	n/a	1
Foster Care Non-Discrimination Protections	n/a	1
<b>Tally Range for Adoption &amp; Parenting Law and Policies: n/a to 2</b>		

For a detailed explanation of each law, please see our [Methodology Page](#).

## CONCLUSION

This report offers a snapshot of the legal and policy landscape for LGBT people across the states with a focus on legal equality for transgender people. A shocking 23 states have negative policy tallies for gender identity, meaning they have more laws that actively harm transgender people than laws that help or protect them. No state has a high level of equality across all major policy areas affecting transgender people. And there is no major policy area in which even half of states have a medium or high tally.

The state landscape is unsurprising given that legal protections for transgender people have advanced slowly—and that transgender people have been the primary target of backlash against recent advances in LGBT equality. North Carolina has attempted to ban transgender people from using public bathrooms—and has banned its cities from extending non-discrimination protections to LGBT workers. More states are now considering similar legislation despite the tremendous economic harms experienced by North Carolina as a result of its law. Federal efforts to protect transgender youth in schools and transgender workers on the job have been met with coordinated lawsuits driven by hostile states and anti-transgender activists, like the multi-state injunction against the Department of Education's guidance that schools should allow transgender students to use facilities that match the gender they live every day. The recent changes in the federal administration put at risk the many important protections for transgender people that have been made through regulation, interpretations, and executive orders.

Also, given that many of the administrative gains were based on court rulings, the future of federal protections will likely depend partly on the courts.

Adding to the challenge, scarce funds continue to stall progress in areas of the country that are most reluctant to legislate equality for transgender people, leaving advocates to meet greater resistance with very few resources.

Examining gender identity protections across the states cannot show the lived experiences of transgender people. But it can illustrate how far we have to go before we achieve legal equality for transgender people. Given the pervasive systemic discrimination faced by transgender people today, change must happen on many levels—federal, state, and local policy; within institutions and communities; and in the hearts and minds of the public.<sup>b</sup> This report, *Mapping Transgender Equality*, outlines needed state-level policy change. The report can also be used at the local level as, in many cases, cities, counties and school boards or districts may be able to provide local protections that are not provided by the state. Until these changes take place, transgender people will continue to face significant discrimination and disparities across all aspects of daily life—from education to employment to housing to healthcare.

Learn more about our Methodology [here](#).

<sup>b</sup> The National Center for Transgender Equality developed a robust blueprint for advancing transgender equality at the federal level. It is available at: [http://www.transequality.org/sites/default/files/docs/resources/NCTE\\_Blueprint\\_June2015.pdf?quot%3B=](http://www.transequality.org/sites/default/files/docs/resources/NCTE_Blueprint_June2015.pdf?quot%3B=).

### Learn More About Policy Tallies Online

See detailed individual state policy information as well as full LGBT policy tallies [here](#).



## ENDNOTES

- <sup>1</sup> <https://www.aclu.org/lgbt-non-discrimination-and-anti-lgbt-bills-across-country>
- <sup>2</sup> James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.
- <sup>3</sup> M. V. Lee Badgett et al., "Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination" (The Williams Institute, June 2007), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Lau-Ho-Bias-in-the-Workplace-Jun-2007.pdf>.
- <sup>4</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>5</sup> Kosciw, J. G., Greytak, E. A., Giga, N. M., Villenas, C. & Danischewski, D. J. (2016). The 2015 National School Climate Survey: The experiences of lesbian, gay, bisexual, transgender, and queer youth in our nation's schools. New York: GLSEN.
- <sup>6</sup> Kosciw et al., "The 2015 National School Climate Survey."
- <sup>7</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>8</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>9</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>10</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>11</sup> James et al., "The Report of the 2015 U.S. Transgender Survey."
- <sup>12</sup> Kosciw et al., "The 2015 National School Climate Survey."
- <sup>13</sup> "What You Should Know About EEOC and the Enforcement Protections for LGBT Workers: Applicable Federal Law," U.S. Equal Employment Opportunity Commission, accessed October 13, 2016, [https://www.eeoc.gov/eeoc/newsroom/wysk/enforcement\\_protections\\_lgbt\\_workers.cfm#applicable](https://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm#applicable).
- <sup>14</sup> U.S. Department of Health and Human Services, "Nondiscrimination in Health Programs and Activities," May 18, 2016, <https://www.federalregister.gov/documents/2016/05/18/2016-11458/nondiscrimination-in-health-programs-and-activities>.
- <sup>15</sup> <http://portal.hud.gov/hudportal/documents/huddoc?id=12lgbtfinalrule.pdf>
- <sup>16</sup> <https://www.federalregister.gov/documents/2016/09/21/2016-22589/equal-access-in-accordance-with-an-individuals-gender-identity-in-community-planning-and-development>
- <sup>17</sup> <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>
- <sup>18</sup> <https://travel.state.gov/content/passports/en/passports/information/gender.html>; <https://faq.ssa.gov/link/portal/34011/34019/Article/2856/How-do-I-change-my-gender-on-Social-Security-s-records>



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