

AFFIRM TRANSGENDER IDENTITY AT WORK AND IN PUBLIC LIFE

THE PROBLEM

In 2020, the U.S. Supreme Court ruled in *Bostock v. Clayton County* that Title VII's prohibition on sex discrimination in the workplace is inclusive of discrimination based on sexual orientation and gender identity. Of the [more than 8 million LGBTQIA+ workers](#) in the United States, transgender people disproportionately face harassment, discrimination, and barriers to equal opportunity. In a July 2023 survey of transgender workers, half of whom were people of color, 82% [reported having faced workplace discrimination](#), including being fired, not hired, not promoted, or verbally, physically, or sexually harassed. Despite these high rates of workplace discrimination, the Trump administration has stopped investigating gender identity claims and rolled back long-standing administrative decisions that articulate elements of discrimination faced by transgender workers, including [bathroom access at worksites](#).

The impacts of workplace discrimination on transgender people's economic security are amplified by other state-based restrictions that inhibit full legal recognition of a transgender person's identity. Several states are [narrowly defining sex](#) to allow exclusion of or discrimination against transgender people across a wide range of spaces and services, such as [domestic violence shelters](#) and bathrooms in public buildings. Recently, [some states imposed criminal penalties](#) on transgender people who use bathrooms consistent with their gender identity. Some states are also limiting [modification of gender markers](#) on government documents, with Kansas notably [revoking the driver's licenses of 1,700 transgender residents](#) in early 2026.

With an estimated [over 2.1 million transgender adults](#) in the United States, states cannot ignore the societal and economic barriers that are imposed when transgender people face exclusion from public life or unchecked discrimination. Transgender people already face [disproportionate rates of poverty, unemployment and underemployment](#), and [housing insecurity](#). Such exclusion also results in problematic policing of gender in public spaces, ultimately exacerbating harassment faced by both transgender and cisgender women who do not conform to sex-based stereotypes. State policies should instead work to recognize and affirm transgender identity within a state's regulatory framework, while also rooting out discriminatory conduct in workplace and public accommodations.

THE SOLUTION

- **Enumerate sexual orientation and gender identity in statewide and local nondiscrimination laws in employment, housing, and public accommodations.** Especially after the U.S. Supreme Court decision in *Bostock v. Clayton County*, some jurisdictions have clarified that protections against sex discrimination are inclusive of discrimination faced by LGBTQIA+ individuals. However, specifically enumerating sexual orientation and gender identity within nondiscrimination laws can raise awareness about legal rights and ensure that employers, landlords, and other institutional actors are accountable for preventing and remedying anti-LGBTQIA+ discrimination.
- **Ensure robust implementation of statewide or local nondiscrimination laws in employment, housing, and public accommodations.** Where nondiscrimination policies exist, encourage the state fair employment practices agency, state or local human rights commission, or other relevant entity to promulgate guidance articulating different elements of gender identity discrimination, including access to sex-separated facilities (e.g., bathrooms, locker rooms, domestic violence shelters, etc.).
- **Direct the state attorney general, state human rights commission, state fair employment practices agency, or other appropriate entity to investigate hostile workplace environments impacting transgender workers.**
- **Implement [policies that remove barriers](#) to obtaining or modifying government identification documents (e.g., birth certificates, driver's licenses) to allow for name changes and accurate gender markers.** States can take action to streamline administrative processes to request name and gender marker changes, reduce documentation requirements to establish such changes, and protect the privacy of individuals—especially minors—who are requesting such changes.

TALKING POINTS ON THE SOLUTION

- **No one should be fired or face workplace discrimination because of who they are.** Employers should be vigilant about building an inclusive workplace so that no worker faces harassment or is denied the opportunity to succeed in their job because of their identity. Workers are now less able to rely on federal civil rights enforcement to hold employers accountable, and states should be taking every step to fill in the gap to ensure equal employment opportunity.
- **Workplaces have had trans-inclusive facilities policies for years without increased privacy or safety risks for colleagues or customers.** Workplaces have had inclusive policies for over a decade, with the [Equal Employment Opportunity Commission](#) first finding that anti-trans discrimination can be investigated as unlawful in 2015. Workplaces are well-equipped to manage the different privacy needs of workers and customers while

continuing to enforce general policies that prohibit misconduct like harassment or assault.

- **Forcing transgender people into restrooms that don't match their gender identity puts their safety at risk.** Trans people are [more likely to be confronted, harassed, or excluded](#) from a bathroom when required to use facilities according to their sex assigned at birth. Trans people are our colleagues and part of our workplaces, and they need to be able to use the bathroom just like everyone else.

Additional Messaging Resources

- [Movement Advancement Project \(MAP\) Messaging Guide on Transgender People and Restrooms](#)
- [EEO Leaders Public Statements Responding to the Trump Administration's Actions Adversely Impacting Equal Employment Opportunity](#)

Public Popularity

- In a January 2026 survey, 82% [of adults supported guaranteeing the right to be free from sex-based discrimination](#), including harassment, in the workplace.
- In a February 2026 poll, 79% [of Americans believed transgender people should be protected](#) from discrimination in hiring and employment.
- In interviews conducted in 2025, [72% of Americans supported nondiscrimination protections](#) for LGBTQIA+ individuals.

Examples of State and Local Policies

- Over 20 states have nondiscrimination laws that are inclusive of sexual orientation and gender identity in [employment](#) and [public accommodations](#), such as [Oregon](#) and [Utah](#) (employment), as well as [New Mexico](#) and [Washington state](#) (public accommodations).
- Over a dozen states have administrative processes that do not require provider documentation to amend [birth certificates](#) or [driver's licenses](#) to accurately reflect an individual's gender marker. These processes have been streamlined through state law in places like [California](#) (birth certificates) and [Illinois](#) (driver's licenses).
- Among other states, the Maryland Attorney General's office has published [guidance](#) to the LGBTQIA+ community concerning protections under Maryland law as well as a joint [Know Your Rights guide](#) with the Maryland Commission on Civil Rights that specifically addresses discrimination against LGBTQIA+ people.