



FAQ SHEET

Definitions and FAQ's under Proposed Sexual Orientation & Gender Identity Protections In the Local Hutchinson Human Relations Code

INTRODUCTION

On November 1, 2011, members of the local chapter of the Kansas Equality Coalition submitted a request to the Hutchinson City Council to add sexual orientation and gender identity as protected classes under the local human relations code. City code currently includes classes afforded protection by Federal and State law which are: race, religion, color, age (forty or more years), sex, disability, national origin, ancestry, and familial status (in housing only).

On February 7, 2012, Mayor Ron Sellers requested the Hutchinson Human Relations Commission to study the issue and report back to the City Council within 90 days. Several public forums have been scheduled to receive input from the public on the issues, so that such input is considered as the HHRC develops alternatives to recommend to the City Council.

The following material is intended to provide guidance on how the proposed protections would be interpreted in the local human relations code.

SUGGESTED DEFINITIONS

1. Sexual Orientation - Actual, or perceived, male or female heterosexuality, homosexuality, or bisexuality by inclination, practice, or expression.
2. Gender Identity - A gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

FREQUENTLY ASKED QUESTIONS

EMPLOYMENT

1. Q. What employers are covered under the proposal?

A. Employers doing business within the corporate city limits of Hutchinson are covered by Chapter 3 of the Code. The meaning of “employer” follows Kansas statute (K.S.A. 44-1002) and includes any person employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, nonsectarian corporations, and organizations engaged in social service work, but shall not include a nonprofit fraternal or social association or corporation. The City has no jurisdiction over the state of Kansas and political and municipal subdivisions thereof.

2. Q. Are there Affirmative Action requirements?

A. No. This proposal does not require you to give preference to, or seek out an applicant from a protected class.

3. Q. Can an employer refuse to hire or fire an individual because of that person’s sexual orientation or gender identity or expression?

A. No. Employers may not consider sexual orientation or gender identity or expression when making hiring, firing, or other employment related decisions. Employers would also be prohibited from discrimination in compensation and other terms of employment based on sexual orientation or gender identity or expression.

4. Q. How would this proposal affect dress codes at work?

A. As before, you may require an employee to follow reasonable workplace grooming and appearance standards. Dress codes would not be precluded as long as an employer allows an employee to appear, groom and dress consistent with the employee’s gender identity and gender expression.

5. Q. I am an employer – would the new rules mean that I have to eliminate gender-segregated restroom?

A. You would not have to eliminate gender-segregated restrooms. You may still maintain gender-segregated restrooms (and other facilities such as dressing rooms or locker rooms). A transgender person must be allowed to use restrooms appropriate to their gender identity rather than their assigned gender at birth without being harassed or questioned. Where single occupancy restrooms are available, they may be designated as “gender neutral.”

PUBLIC ACCOMMODATIONS

1. Q. What are “public accommodations”?

A. “Public accommodations” refer to providers of goods and/or services to the public. Restaurants, hospitals, stores, theaters, and service providers (including government) are some examples of public accommodations.

2. Q. Will the ordinance require businesses to eliminate gender-segregated restrooms?

A. No. It will remain lawful for businesses to maintain gender-segregated restrooms. It is recommended that, where single occupancy restrooms are available, they be designated as “gender neutral.”

Transgender individuals should be permitted to use gender-segregated restrooms in accordance with their gender identity, rather than their birth sex. With respect to facilities that are restricted on the basis of sex, the following are some of the factors that suggest discriminatory conduct related to gender identity has occurred:

- Not allowing individuals to use a restroom or other gender-segregated facility consistent with their gender identity or gender expression; or
- Requiring an individual to provide identification as a means of identifying their gender before allowing them to use the restroom or other gender-segregated facility.

3. Q. What if other patrons have safety or moral objections to a transgender individual's use of a gender-segregated restroom?

A. Covered entities are encouraged to provide accommodations to individuals who have concerns about use of public restrooms because of gender identity or gender expression. Such accommodations could include, for example, offering the use of a private restroom to a member of the public, or encouraging that individual to wait until the other person has left the restroom.

Remember, however, that it would be illegal to require a transgender person to use a gender-neutral restroom facility, or to require a transgender person to use restrooms appropriate to their gender identity only when others are not present.

4. Q. Must transgender people also be allowed to use gender-segregated locker and shower facilities?

A. Yes. It is recommended that public accommodation facilities, such as locker rooms, which are designated for use based on sex, take steps to create private spaces within them (for example, by installing curtains or cubicles). Individuals who are nonetheless uncomfortable with sharing locker or shower facilities with a transgender person should be accommodated by allowing those individuals to shower or change at a time when they will be able to use the facility in private. Similarly, if a transgender individual requests to use locker or shower facilities in private, because of safety or privacy concerns, the individual should be accommodated in that request. Factors that suggest discriminatory conduct has occurred will include not allowing individuals to use a locker room or shower consistent with their gender identity or gender expression.

HOUSING

1. Q. Are there any changes for those who own rental property?

A. The proposed amendment would not allow discrimination with regard to sexual orientation or gender identity in rental housing. There are no special accommodations required. There are no changes to rules regarding behaviors, so long as rules are equally applied.

2. Q. Is anyone exempt from the proposed ordinance with regard to renting?

A. Housing providers or landlords who own 3 or fewer units are exempt. The exception is no one can discriminate in advertising.

3. Q. Are there any changes with regard to the sale, mortgages or loans for property?

A. The proposed amendment would not allow discrimination in selling, advertising and the approval of loans as it relates to property.

(Note: The U.S. Department of Housing and Urban Development (HUD) has issued new guidelines providing lesbian, gay, bisexual and transgender (LGBT) individuals and families with further assistance when facing housing discrimination under the Fair Housing Act.)

GENERAL

1. Q. As an employer, landlord or business owner, am I exempted from these requirements if my religious beliefs disagree with protections in the ordinance?"

A. No, under the current ordinance, you are prohibited from discriminatory practices in employment, housing or public accommodations. This proposal would add sexual orientation and gender identity to protected classes already in place.

2. Q. Are there any exempt entities under the human relations code?

A. Religious based groups, non-profit institutions controlled by religious associations or societies and non-profit private clubs that are not open to the public are exempt from the requirements of Chapter 3 now and would continue to be exempt should the proposed amendment become law. There is an exception to this exemption, if any of these groups open their services to the general public.

For example, if a church has a parish hall that they rent out to the general public, they could not discriminate against a gay couple who want to rent the building for a party. If the church only rents the building to their parishioners, they can continue to do so.

3. Q. What happens when a person files a discrimination complaint with the City?

A. Provided the City provides sufficient staffing to handle formal complaints, the case would be processed under the provisions of the local human relations code, Chapter 3 of the City Code.

First, the Human Relations Officer invites parties to attempt mediation of the complaint through a Preliminary Investigate Conference. If there is no mediation, the case is assigned for full investigation. Based on facts collected in the investigation, the Human Relations Officer would make a determination of either Probable Cause or No Probable Cause. If the determination is No Probable Cause, the case is closed. If the ruling is Probable Cause, parties once again attempt to resolve the complaint through Conciliation.

If Conciliation is successful, the case is resolved and closed as a Satisfactory Negotiated Settlement. If Conciliation fails, the Human Relations Commission would issue a written notice requiring the respondent to answer to the charges before a hearing examiner, who will make findings of fact and conclusions of law, and issue orders based thereon. The ruling of the hearing examiner is binding upon the parties and is deemed an order of the Human Relations Commission. The Commission's order is subject to enforcement and review in District Court. (See the attached flow chart for the Complaint Process under Chapter 3.)

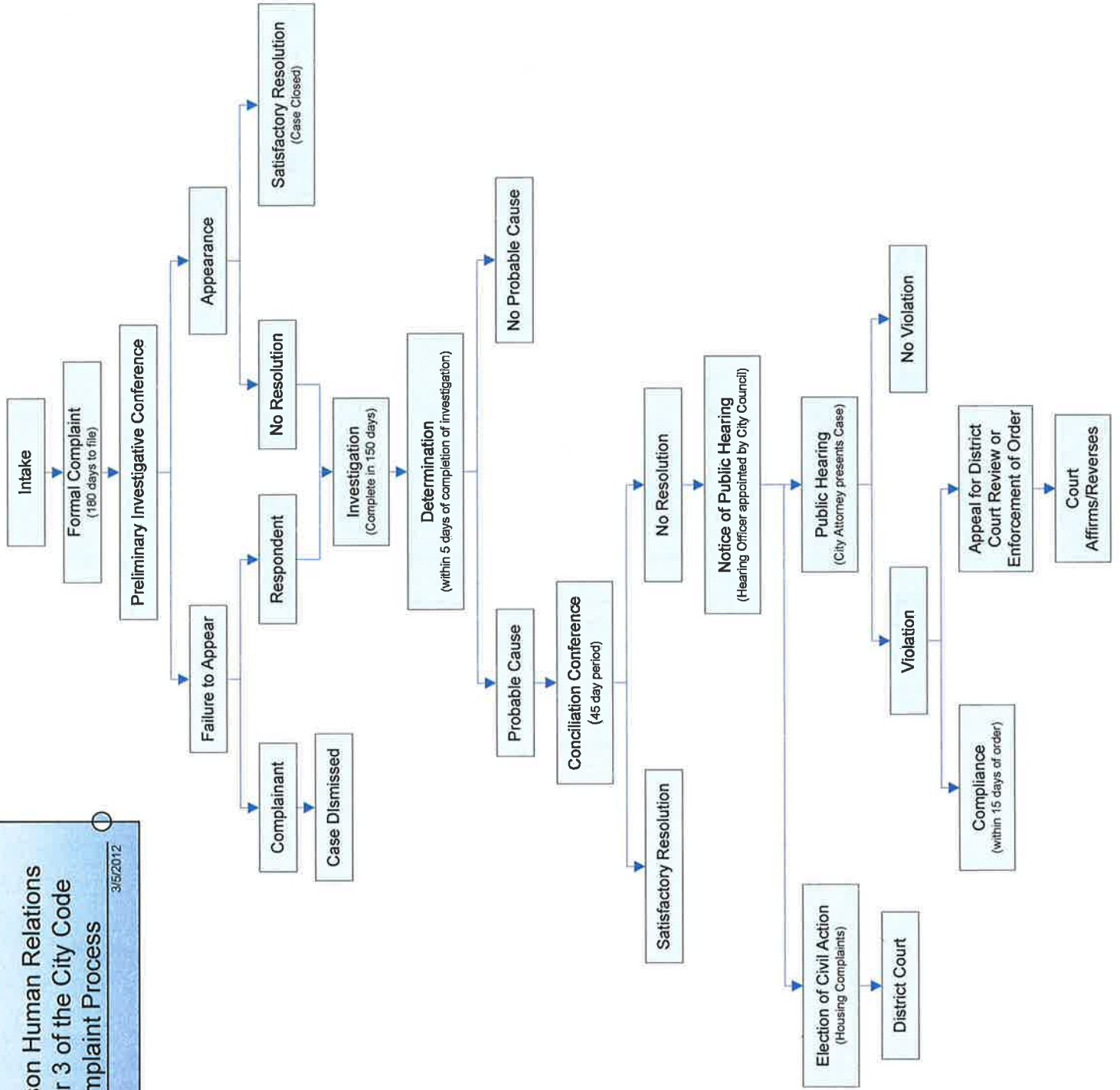
4. Q. Is sexual orientation and gender identity discrimination covered under Federal law? Do other states or cities have sexual orientation and gender identity protections? What about Kansas, and other cities in Kansas?

Neither sexual orientation or gender identity is covered by Federal anti-discrimination law. However, at least 181 cities and counties, 21 states and the District of Columbia prohibit sexual orientation discrimination in employment by statute. (Find attached a January 2012 map of states with laws banning sexual orientation and gender identity discrimination in employment, and an October 2011 listing of cities and counties that include a ban against transgender discrimination.)

Kansas does not cover sexual orientation or gender identity discrimination under the Kansas Act Against Discrimination, which covers employment, housing, and public accommodations. However, Kansas protects state employees from job discrimination based on sexual orientation and gender identity, under an executive order by Gov. Kathleen Sebelius. Lawrence is currently the only city in Kansas offering protection for both classes in employment, housing and public accommodations. Ordinances providing similar protection in the cities of Wichita and Manhattan have been repealed.

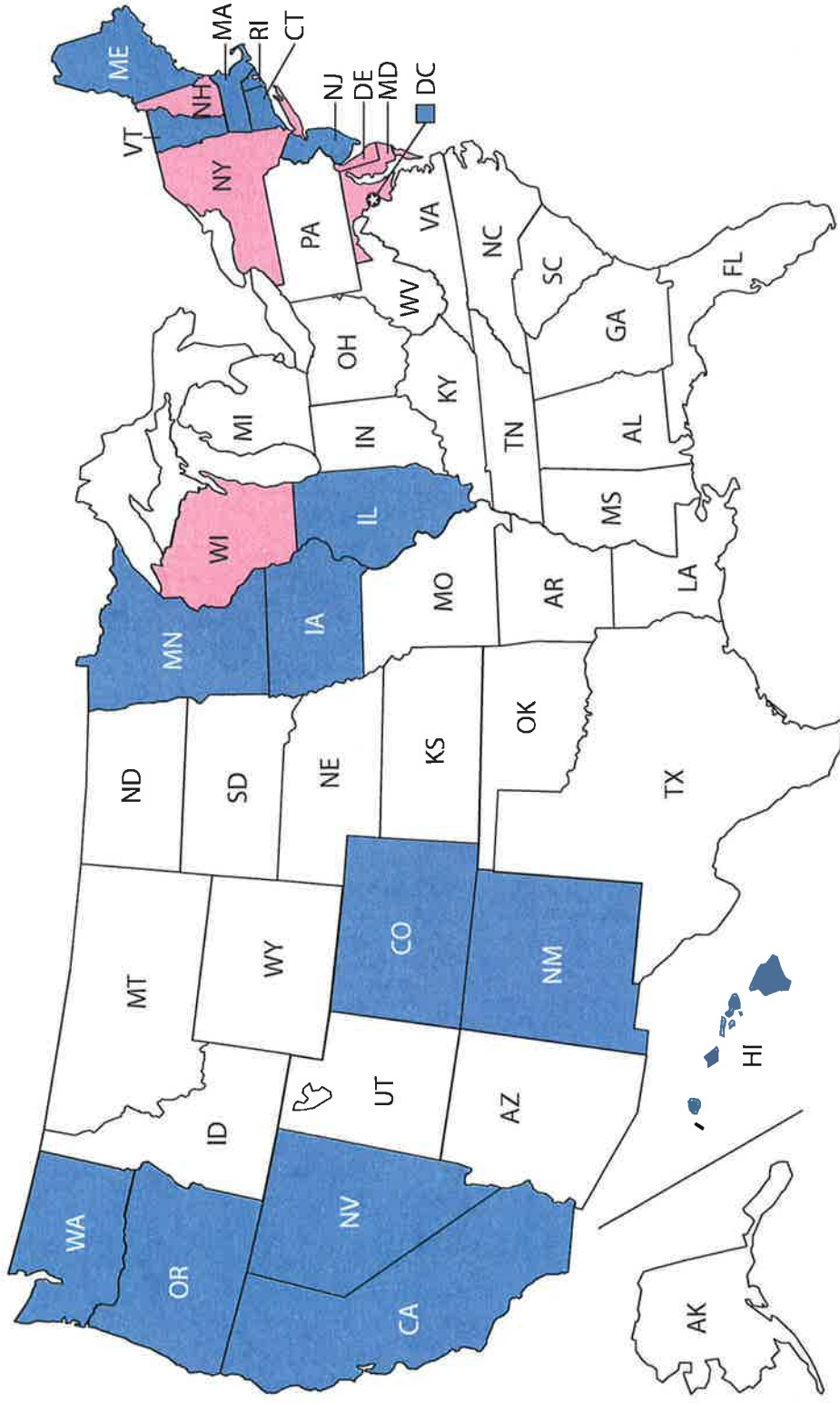
Hutchinson Human Relations Chapter 3 of the City Code Complaint Process

3/5/2012



State Nondiscrimination Laws in the U.S.

This map was last updated on January 20, 2012



States banning discrimination based on sexual orientation and gender identity/expression (16 states and the District of Columbia)
Minnesota (1993); Rhode Island (1995, 2001)¹; New Mexico (2003); California (1992, 2003)¹; District of Columbia (1977, 2005)¹; Illinois (2005); Maine (2005); Hawaii (1991, 2005, 2006, 2011)²; New Jersey (1992, 2006)¹; Washington (2006)¹; Iowa (2007); Oregon (2007); Vermont (1992, 2007)¹; Colorado (2007); Connecticut (1991, 2011)¹; Nevada (1999, 2011)¹; Massachusetts (1989, 2011)¹

Laws banning discrimination based on sexual orientation (5 states)

Wisconsin (1982); New Hampshire (1997); Maryland (2001); New York (2002); Delaware (2009)

¹California, Connecticut, DC, New Jersey, Massachusetts, Nevada, Rhode Island and Vermont first passed sexual orientation nondiscrimination laws, then later passed gender identity/expression laws.

²In 1991, Hawaii enacted a law prohibiting sexual orientation discrimination in employment. In 2005, it enacted a law prohibiting sexual orientation and gender identity/expression discrimination in housing. In 2006, public accommodations protections were added for sexual orientation and gender identity/expression. In 2011, gender identity was added to the employment discrimination law.

Jurisdictions with Explicitly Transgender-Inclusive Nondiscrimination Laws

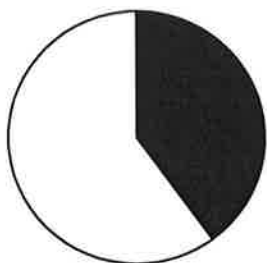
National Gay and Lesbian Task Force



STATE LAWS (15 and D.C.)

■ U.S. Population Covered by a Transgender-Inclusive
Nondiscrimination Law: 119,041,592 = 44%

□ U.S. Population Not Covered: 158,974,749 = 56%
(Total U.S. Population: 281,424,602)



California – 33,871,648	Minnesota – 4,919,479
Colorado – 4,301,261	New Jersey – 8,414,350
Connecticut – 3,405,607	New Mexico – 1,819,046
District of Columbia – 572,059	Nevada – 1,998,257
Hawai`i – 1,211,537	Oregon – 3,421,399
Illinois – 12,419,293	Rhode Island – 1,048,319
Iowa – 2,926,324	Vermont – 608,827
Maine – 1,274,923	Washington – 5,894,121

CITY AND COUNTY LAWS (143)

In Arizona

Tucson: 486,699

In California

Los Angeles: 3,694,820
Oakland: 339,337
San Francisco: 776,733
San Diego: 1,223,400
Santa Cruz County: 55,602
Incl. Santa Cruz: 54,593
West Hollywood: 35,716

In Colorado

Boulder: 94,673
Denver: 554,636

In Florida

Broward County: 1,623,018
Dunedin: 35,691
Gainesville: 95,447
Gulfport: 12,527
Leon County: 239,452
Miami Beach: 87,933
Monroe County: 79,589
Incl. Key West: 25,478
Orange County: 896,344
Palm Beach County: 1,131,184
Incl. W. Palm Bch: 82,103
Incl. Lake Worth: 35,133
Tampa: 303,447
Volusia: 443,343

In Georgia

Atlanta: 416,474

In Illinois

Carbondale: 20,681

In Illinois, con't:

Champaign: 67,518
Cook County: 5,376,741
Incl. Chicago: 2,896,016

Decatur: 81,860
DeKalb: 39,018
Evanston: 74,239
Peoria: 112,936
Springfield: 111,454
Urbana: 36,395

In Indiana

Bloomington: 69,291
Indianapolis/Marion County¹: 781,870
West Lafayette: 28,788

In Iowa

Decorah: 8,172
Iowa City: 62,220
Johnson County: 21,559²
Waterloo: 68,474

In Kentucky

Covington: 43,370
Jefferson County¹: 693,604
Incl. Louisville¹: 256,231
Lexington-Fayette Urban County: 260,512

In Louisiana

New Orleans: 484,674

In Maryland

Baltimore: 651,154
Montgomery County: 873,341

In Massachusetts

Boston: 589,141
Cambridge: 101,355
Northampton: 28,978

In Michigan

Ann Arbor: 114,024
Detroit: 951,270
East Lansing: 46,525
Ferndale: 22,105
Grand Rapids: 197,800
Huntington Woods: 6,151
Kalamazoo: 77,145
Lansing: 119,128
Saugatuck city: 3,590
Saugatuck twship: 1,065
Ypsilanti: 22,362

In Minnesota

Minneapolis: 382,618
St. Paul: 287,151

In Missouri

Kansas City: 441,545
University City: 37,428

In Montana

Missoula: 57,053

In New York

Albany: 95,658
Binghamton: 47,380
Buffalo: 292,648
New York City: 8,008,278
Rochester: 219,773
Suffolk County: 1,419,369
Tompkins County: 96,501
Incl. Ithaca: 28,775

In Ohio

Akron: 217,074
Bowling Green: 29,636
Cincinnati: 331,285
Cleveland: 478,403
Columbus: 747,755
Dayton: 166,179
Lakewood: 56,646
Oxford: 21,943
Shaker Heights: 29,405
Toledo: 313,619

In Oregon

Beaverton: 76,129
Bend: 52,029
Benton County: 78,153
Corvallis: 52,950
Hillsboro: 70,186
Lake Oswego: 35,278
Lincoln City: 7,437
Multnomah County²: 660,486
Incl. Portland: 529,121
Salem: 136,924

In Pennsylvania

Allegheny County: 1,281,666
Incl. Pittsburgh: 334,563
Allentown: 106,632
Bethlehem: 71,329
Doylestown: 8,226
Easton: 26,263
Erie County: 280,843
Harrisburg: 48,950
Haverford: 48,498
Lancaster: 56,348
Lansdowne: 11,044
Lower Merion: 59,850
New Hope: 2,252
Philadelphia: 1,517,550
Reading: 81,207

In Pennsylvania, con't:

Scranton: 76,415
State College: 38,420
Swarthmore: 6,170
West Chester: 17,861
York: 40,862

In South Carolina

Charleston: 96,650
Columbia: 116,278
Richland County: 320,781

In Texas

Austin: 656,562
Dallas: 1,188,580
El Paso: 563,662
Fort Worth: 534,694

In Utah

Grand County: 8380
Incl. Moab: 4,779
Logan: 42,670
Ogden: 77,266
Salt Lake County: 898,387
Incl. Midvale: 27,029
Incl. Murray: 34,024
Incl. S. Lake City: 181,743
Incl. Taylorsville: 57,439
Incl. West Valley City: 108,896
Summit County: 29,736
Incl. Park City: 7,371

In Washington

King County: 1,737,034
Incl. Burien: 31,881
Incl. Seattle: 563,374
Olympia: 42,514
Tacoma: 193,556

In West Virginia

Charleston: 53,421

In Wisconsin

Madison: 208,054
Milwaukee: 596,974

¹Metro Louisville, the merged Louisville and Jefferson County government, repassed and combined these laws in 2004 to apply to Metro Louisville. Indianapolis and Marion County's shared governmental structure passed this law.

²The law passed in Johnson County only applies to unincorporated areas of the county, population 21,559, although the national statistics are unaffected because Iowa has a statewide law. 2,135 Portlanders live outside of Multnomah County and 2,274 Lake Oswegoans live inside of Multnomah County, however this doesn't affect the national statistics because Oregon has a statewide law.

NOTE: Only laws that reach private entities are included above. Additional states and cities have policies against discrimination against public employees. The most recent version of this fact sheet is available on the transgender issues section of www.thetaskforce.org. Population data from 2000 Census. Last updated October 2011.