



# Gender Identity: Quick Facts

## What is “Gender Identity”?

Everyone has a gender identity. Gender identity is a person’s innate sense of being male or female, of being more masculine or more feminine, that is independent from his or her body. Scientific studies suggest genetics, hormones, and fetal development may all contribute to determining why we are born with a particular gender identity. We express our gender identities through social cues such as clothing, accessories, voice, hairstyles, grooming, mannerisms, communication styles, body shape, body movement, and chosen activities.

## Why should Gender Identity be added to the Indiana Civil Rights Law?

Men and women who exhibit characteristics commonly associated with the opposite sex (generally referred to as “transgender”) are often discriminated against in employment, education, public accommodations, and housing. This discrimination has left a large number of capable Hoosiers unemployed, without opportunities for education and proper health care, unable to take care of their families, and at risk for slipping into poverty and homelessness. Being placed in a vulnerable financial and social position, transgender people may be more likely to be forced to resort to unsafe means of support and to be victims of hate crimes.

## What will adding Gender Identity to the Indiana Civil Rights Law accomplish?

This legislation would prohibit discrimination in employment, education, public accommodations, and housing based upon a person’s gender identity or expression. It would, for example, prohibit firing or refusing to hire an individual simply because that person is an effeminate male, a masculine female, a transgender person, or a person who has received sex reassignment treatment.

## Isn’t this kind of discrimination already illegal under state and federal prohibitions against “sex” discrimination?

Many courts have found that laws prohibiting sex discrimination do not protect transgender people. While there is no rational reason why transgender people should be excluded from protection under sex discrimination laws, there is no guarantee that courts will interpret Indiana law in this manner.

Although Title VII of the Civil Rights Act of 1964 prohibits sex discrimination in the workplace, most federal courts have held that Title VII does not provide protections based on gender identity. In addition, transgender people were explicitly excluded from coverage under the Americans With Disabilities Act.

## Wouldn’t adding “sexual orientation” protect transgender people from discrimination?

Sexual orientation and gender identity are not the same thing. **Sexual orientation** refers to whether a person is gay, straight, or bisexual. Gender identity is an understanding of oneself as male or female, more masculine or more feminine.

Moreover, some courts have clearly said that sexual orientation laws do not prohibit discrimination because of a person’s gender identity or expression.

## Will this law encourage cross-dressing in the workplace?

There has not been an increase in cross-dressing in the workplaces in the jurisdictions that have adopted similar anti-discrimination provisions. Like non-transgender people, transgender people simply want to go to work in clothing that is not at odds with their gender identity.

Adding gender identity to the state civil rights law would not prevent an employer from enforcing a written dress policy. This legislation simply means that employees may dress in the type of professional clothing that is both consistent with an employer’s dress policy and which conforms to their gender identity.

## Are we going out on a limb here? Is our jurisdiction going to be the first to adopt this kind of law?

State workers in Indiana are already protected from discrimination based on gender identity based on an Executive Order issued by Governor Mitch Daniels (R). Indianapolis city worker are similarly protected by an Executive Order issued by Mayor Bart Peterson (D). Due to the amended Human Rights Ordinances in Indianapolis and Bloomington, employers with six or more employees in the cities of Indianapolis and Bloomington are prohibited from discriminating on the basis of gender identity in employment. These ordinances cover discrimination in education, public accommodations, and housing as well as employment. Adding gender identity to state civil rights law would simply provide the same protections to all citizens of Indiana that are currently enjoyed only by some.

In addition to these ordinances and orders in Indiana, eight states (Illinois, Minnesota, Rhode Island, New Mexico, California, Maine, Hawaii, and Washington) and 81 cities and counties across the U.S. have passed similar anti-discrimination laws that explicitly prohibit discrimination based on gender identity or expression. Roughly 31% of the U.S. population (about 86 million people) now lives in jurisdictions with protections against discrimination based on gender identity.

Such civil rights legislation has passed in jurisdictions that compete with Indiana for employees, such as:

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|------------------------|-------------------------------------|
| <u>Ann Arbor, MI</u>   | <u>Huntington Woods, MI</u>         |
| <u>Champaign, IL</u>   | <u>Jefferson County, KY</u>         |
| <u>Chicago, IL</u>     | <u>Lexington-Fayette County, KY</u> |
| <u>Cook County, IL</u> | <u>Louisville, KY</u>               |
| <u>Covington, KY</u>   | <u>Peoria, IL</u>                   |
| <u>Decatur, IL</u>     | <u>Springfield, IL</u>              |
| <u>DeKalb, IL</u>      | <u>Toledo, OH</u>                   |
| <u>Evanston, IL</u>    | <u>Urbana, IL</u>                   |

Kentucky prohibits discrimination based on gender identity in state employment. DePauw University, a private liberal arts school in Greencastle also added gender identity protections to its nondiscrimination policy.

Both Cummins and Eli Lilly and Company have added gender identity protections to their corporate personnel policies, as have Bank One, Verizon Wireless, Aetna, Motorola, NCR Corp, Lucent Technologies, Proliance Energy, Apple Computers, and more.

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