

# **The Impact of Sexual Orientation Anti-discrimination Policies on the Wages of Lesbians and Gay Men**

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## **Introduction**

Beginning in the 1970s some US cities, counties, and states have adopted laws and policies that prohibit employment discrimination on the basis of sexual orientation. These policies follow in the path of similar protections targeted at race, sex, religion, national origin, and physical disability discrimination. In this paper, we use data from the 2000 US Census to examine the effects of policies banning sexual orientation employment discrimination on earnings for men and women in same-sex couples.

As of 2005, 257 U.S. localities provide some form of civil rights protection for sexual minority individuals in employment (Human Rights Campaign website 2005). Moreover, almost half of all states (25) prohibit discrimination on the basis of sexual orientation for government workers. Despite the proliferation of these policies, only one published study has examined the effects of labor market protection on the basis of sexual orientation.<sup>1</sup> Klawitter and Flatt (1998) used data on same-sex unmarried partners from the 1990 Census and found no relationship between state and local antidiscrimination ordinances and average earnings. In this paper we revisit the relationship of sexual orientation-based employment protection and earnings using more recent US data and using a more comprehensive model of the diffusion and timing of impacts of the policies.

Economists and sociologists have long been interested in the labor market opportunities of demographically identifiable groups such as women, racial and ethnic minorities, immigrants, and disabled people. More recently they have examined the effects of sexual orientation on employment and earnings. Several published studies of gay men in the United States have shown that gay men earn less than similarly skilled straight men, possibly due to employment discrimination (e.g., Badgett 1995, Black, et al. 2000, Black et al. 2003, Allegretto and Arthur 2001, Carpenter 2005b), but others found no earnings differences (Carpenter 2005a). Estimates of the effect of sexual orientation on earnings for females have also been mixed, especially when bisexual women were considered separately (Badgett 1995, Black et al. 2000, Black et al. 2003, Carpenter 2005a). Of these previous studies focusing on sexual orientation based earnings differentials, none has explicitly examined the effectiveness of antidiscrimination policies in limiting labor market discrimination. As mentioned above, the only published study to directly assess the effects of these policies found no impact on average earnings for people in same-sex couples (Klawitter and Flatt 1998). On the other hand, Button, Rienzo, and Wald (1995) reported that local government officials believed that the policies increased recognition of sexual orientation discrimination, reduced discrimination, and improved the environment for gays and lesbians.

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<sup>1</sup> We direct the reader to a recent review article by Badgett (2003) for a more general discussion of the existing literature on the effect of sexual orientation on earnings.

In this paper, we use more recent data to expand the analysis of the impact of employment discrimination and antidiscrimination policies on earnings. We anticipate possible different policy effects for individuals by: demographics (sex, race), education (or other proxy for strata of the labor market), type of employment (government, private, nonprofit sectors), and geography (urban/non-urban). In addition, the policy impacts may have differential impacts based on policy characteristics: type of policy (public sector or private sector coverage), the level of government (state, local), the time since implementation, and the proximity to other labor markets with or without antidiscrimination coverage.

### **Data and Methodological Issues**

Measuring the effects of sexual orientation anti-discrimination policies on the wages of gay men and lesbians implies that we have information on those wages. In truth, few data sources include sexual orientation questions along with wage information and among those that do, sample sizes for gay men and lesbians are often very small. Census enumerations of same-sex “unmarried partners” from 1990 and 2000 provides a partial solution to this data problem in that it offers a large sample of same-sex couples.

For these analyses, we use the 1990 and 2000 Census Public Use Microdata Samples (PUMS). The 1990 sample was derived from the Integrated Public Use Microdata Series (IPUMS) data (Steven Ruggles, Matthew Sobek, Trent Alexander, Catherine A. Fitch, Ronald Goeken, Patricia Kelly Hall, Miriam King, and Chad Ronnander. Integrated Public Use Microdata Series: Version 3.0 [Machine-readable database]. Minneapolis, MN: Minnesota Population Center [producer and distributor], 2004, [www.ipums.org](http://www.ipums.org)). For the 2000 sample of same-sex couples, observations from the 5% and 1% PUMS are combined. A 1-in-2 sample of non-coupled and different-sex coupled individuals was drawn from the 1% PUMS. We restrict the analyses to full-time workers age 18-69. The 1990 sample includes 12,653 individuals from same-sex couples and 1,008,082 men and women who are either not coupled or part of a different-sex couple. The 2000 sample includes 52,580 individuals from same-sex couples and a random sample of 654,589 men and women who are either not coupled or part of a different-sex couple.

Same-sex couples are identified from the roster that the householder uses to describe how every person in the house is related to him or her. These same-sex couples are commonly understood to be primarily gay and lesbian couples (Black et al., 2000) even though the Census does not ask any questions about sexual orientation, sexual behavior, or sexual attraction (three common ways used to identify gay men and lesbians in surveys). Rather, census forms include a number of relationship categories to define how individuals in a household are related to the householder. These fall into two broad categories: related persons (including husband/wife, son/daughter, brother/sister, etc.), and unrelated persons (including unmarried partner, housemate/roommate, roomer/boarder, other non-relative, etc.).

Since 1990, the Census Bureau has included an “unmarried partner” category to describe an unrelated household member’s relationship to the householder. If the householder describes another adult of the same sex as his or her “unmarried partner” or “husband/wife,” the household counts as a same-sex unmarried partner household in 2000. In 1990, same-sex “husbands” and “wives” were not included in the enumeration

of same-sex “unmarried partners.” (see Gates and Ost 2004 for a detailed explanation of counting same-sex couples). For this reason, the two samples are not completely compatible. However, a methodology described in Gates and Sell (forthcoming) provides a way to separate the 2000 sample of same-sex couples into those who likely identified as “unmarried partner” and those who identified as married couples. We will use this method to conduct analyses to assess the sensitivity of our results to the differences in the two samples.

The Census data regarding same-sex couples do not capture all gay men and lesbians in the United States for at least two important reasons. First, the Census only captures data about same-sex couples of which one person in the couple is the partner of the household. The Census does not identify single gay men and lesbians. Limited data make it difficult to assess exactly how coupled gay men and lesbians might differ from their single counterparts, but in the general population, single people tend to be younger, less educated, and have lower incomes than their coupled counterparts.

In addition, the Census most likely undercounts even the population of same-sex couples. There are several potential reasons for suspecting an undercount. Concerns about revealing their sexual orientation (even indirectly) to the federal government may have led many gay and lesbian couples to indicate a status that would not indicate the true nature of their relationship. Other couples may have felt that “unmarried partner” or “husband/wife” does not accurately describe their relationship. A study of the undercount of same-sex unmarried partners in Census 2000 indicates that these were the two most common reasons that gay and lesbian couples chose not to designate themselves as unmarried partners (Badgett and Rogers 2003). Census tabulations also would not capture couples living in a household with someone else who filled out the census form.

In addition to undercounting the number of same-sex couples in the population, the Census 2000 data may also erroneously include some different-sex couples in the same-sex couple population. Gates and Ost (2004) describe a measurement error resulting from different-sex married couples inadvertently checking the incorrect sex of one of the partners. This error, although thought to be small, may impact some of the characteristics of same-sex couples.

It should be noted that self-reporting of sexual orientation (via coupling status) could be correlated with (higher) income, potentially biasing the sample. This type of selection bias would result in endogeneity in a wage equation. Unfortunately, we do not have sufficient data to resolve these endogeneity problems.

We estimate log linear weekly wage regressions to estimate (by sex) the relationship between earnings and a vector of worker characteristics, including race and membership in a same sex couple along with an indicator variable for the existence of an anti-discrimination policy interacted with an indicator variable if the individual is part of a same-sex couples. The dependent variable in each of our regressions is natural log of hourly wage and salary income. Our other independent regression variables include, race, sex, potential experience (age-education-6), presence of children, English language ability, citizenship, race/ethnicity, region, disability, central city, veteran status.

We will also estimate separate regressions that include indicators for industry and occupation.

### **Preliminary findings**

To date, we have analyzed only state-level policy implications. We will eventually include indicators for local policies as well. Our results from the Census 2000 data suggest that individuals within same-sex couples (both men and women) receive a roughly 4% wage premium if they live in states that provide employment discrimination protection based on sexual orientation. Non-coupled and different-sex married men and women do not receive a premium while those within different-sex unmarried couples receive a premium about half that of the same-sex couple counterparts.

These very early findings suggest a possible effect of policies on the wages of gay men and lesbians, but perhaps also indicate a broader impact on unmarried couples in general. It could be that the existence of these policies indicates not only a greater social acceptance of gay men and lesbians, but also of other non-traditional family structures, like non-marital cohabitation among different-sex couples. To the extent that societal stigmatization of homosexuality correlates with stigmatization of other alternative family forms, a reduction of such stigma (as indicated by sexual orientation non-discrimination laws), could result in reduced wage inequality for both those in same-sex couples and those in non-married different-sex couples.

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