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Criminal Justice Laws: Jury Service Nondiscrimination

No updates required since April 26, 2024

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Recommended citation:

Movement Advancement Project. "Equality Maps: Jury Service Nondiscrimination."
www.mapresearch.org/equality-maps/jury_nondiscrimination. Accessed [Date of access].



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Background

Jury service is an important civic responsibility, and the U.S. Constitution guarantees the right to a jury of one's peers. Nondiscrimination protections are an important tool in ensuring that juries are representative of the broader community and to help ensure fairer and more equitable outcomes in the legal system. Currently, [federal law](#) prohibits discrimination against jurors based on their race, religion, sex, and other characteristics, but this law does not explicitly cover such discrimination based on sexual orientation or gender identity. In 2018, the [American Bar Association](#) formally urged governments at all levels to explicitly prohibit discrimination against jurors based on sexual orientation and gender identity. This map shows the status of jury nondiscrimination protections across the country.

Equality Map & Additional Resources

- See our [Equality Map: Jury Service Nondiscrimination](#), which is updated and maintained in real time alongside this document.
- The LGBTQ+ Bar Association. n.d. "[Jury Access](#)" overview, and "[The History of Jury Access and the LGBTQ+ Bar's Advocacy](#)."
- American Bar Association. 2018. [Resolution 108D](#), urging courts to extend *Batson v. Kentucky* (1986), prohibiting discrimination against jurors on the basis of race, to also prohibit discrimination against jurors on the basis of sexual orientation or gender identity/expression.
- Mark E. Wojcik. 2019. "[Extending Batson to Peremptory Challenges of Jurors Based on Sexual Orientation and Gender Identity](#)." *Northern Illinois University Law Review* 40(1):1-43.
- Julia C. Maddera. 2016. "[Batson in Transition: Prohibiting Peremptory Challenges on the Basis of Gender Identity or Expression](#)." *Columbia Law Review* 116(1):195-236.



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Summary Table

Category	States	Source	Year Enacted
States that prohibit jury discrimination based on sexual orientation and gender identity <i>(10 states)</i> <i>Note: some states' bills/laws define sexual orientation to include gender identity. See "State-by-State Sources & More Detail" below for more.</i>	California	SO: <i>People v. Garcia</i> GI: AB 87	2000 2015
	Colorado	SB 200	2008
	Hawai'i	SO: SmithKline v. Abbott GI: SB 2136	2014 2022
	Illinois	SB 1378	2019
	Maine	LD 611	2017
	Maryland	HB 1397	2024
	Minnesota	HF 335	2013
	New York	SO: SB 720 GI: SB 1047	2002 2019
	Oregon	SB 2	2007
	Washington	SO: SmithKline v. Abbott SOGI: HB 2398	2014 2018
States that prohibit jury discrimination based on sexual orientation only <i>(7 states + 2 territories)</i>	Alaska	SmithKline v. Abbott	2014
	Arizona	SmithKline v. Abbott	2014
	Guam	SmithKline v. Abbott	2014
	Idaho	SmithKline v. Abbott	2014
	Massachusetts	Commonwealth v. Carter	2021
	Montana	SmithKline v. Abbott	2014
	Nevada	SmithKline v. Abbott	2014
	Northern Mariana Islands	SmithKline v. Abbott	2014
States that prohibit jury discrimination based on gender identity only <i>(1 state)</i>	Wisconsin	756.001(3) , initiated by State Supreme Court Order No. 96-08	1996
	New Hampshire	HB 608	2019
States with no known prohibition against jury discrimination based on sexual orientation or gender identity <i>(32 states, D.C., + 3 territories)</i>	All others		



State-by-State Sources & More Detail

Alabama

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Alaska

- No state jury nondiscrimination law enumerating sexual orientation or gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Arizona

- No state jury nondiscrimination law enumerating sexual orientation or gender identity
 - However, state has [eliminated all peremptory strikes](#)—removing potential jurors without giving a reason—to reduce bias.
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Arkansas

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

California

- State jury nondiscrimination law covers sexual orientation and gender identity
- See [CA CCP 231.7](#). See also:
 - *People v. Garcia* (2000), California Appellate Court decision prohibiting jury discrimination based on sexual orientation
 - [AB 87](#) (2015, effective January 1, 2016), which [advocates described](#) as adding gender identity protections. AB 87 amended CA CCP 231.5 to refer to [CA GOV 11135](#), which includes sexual orientation and sex, defined in [CA GOV 12926](#) to include gender identity.
 - [AB 3070](#) (2020, effective January 1, 2021) explicitly adding gender identity to the jury nondiscrimination law (CA CCP 231.7)
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Colorado

- State jury nondiscrimination law enumerates sexual orientation and gender identity
- See [C.R.S. 13-71-104, SB200](#) (2008) added sexual orientation, defined to include transgender status. [HB1108](#) (2021) moved gender identity and gender expression out of the definition of sexual orientation and into their own enumerated characteristics throughout state law.

Connecticut

- No state jury nondiscrimination law enumerating sexual orientation or gender identity



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Delaware

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

District of Columbia

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Florida

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Georgia

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Hawai'i

- State jury nondiscrimination law covers gender identity and expression
- See [SB2136](#) (2022)
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Idaho

- No state jury nondiscrimination law enumerating sexual orientation or gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Illinois

- State jury nondiscrimination law covers sexual orientation and gender identity
- See SB899 (2017, effective January 1, 2018, creating jury nondiscrimination law), [SB1378](#) (2019, effective January 1, 2020, adding sexual orientation), and [775 ILCS 5/1-103\(O-1\)](#) defining sexual orientation to include gender identity

Indiana

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Iowa

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Kansas

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Kentucky

- No state jury nondiscrimination law enumerating sexual orientation or gender identity



Louisiana

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Maine

- State jury nondiscrimination law covers sexual orientation and gender identity
- See [LD 611](#) (2017, adding sexual orientation), [MRS §1202-A](#), and [MRS §4553 9-C](#) defining sexual orientation to include gender identity

Maryland

- State jury nondiscrimination law covers sexual orientation and gender identity
- See [HB 1397](#) (2024)

Massachusetts

- State jury nondiscrimination law covers sexual orientation only
- See [Commonwealth v. Carter](#) (2021)

Michigan

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Minnesota

- State jury nondiscrimination law covers sexual orientation and gender identity
- See [HF 335](#) (2013), [MN §593.32](#), and [MN §363A.03\(44\)](#) defining sexual orientation to include gender identity

Mississippi

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Missouri

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Montana

- No state jury nondiscrimination law enumerating sexual orientation or gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Nebraska

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Nevada

- No state jury nondiscrimination law enumerating sexual orientation or gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).



New Hampshire

- State jury nondiscrimination law enumerates gender identity only
- See [NH RSA 500-A:4](#) and [HB 608](#) (2019, effective January 1, 2020) adding gender identity

New Jersey

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

New Mexico

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

New York

- State jury nondiscrimination law covers sexual orientation or gender identity
- See [SB 720](#) (2002, effective January 16, 2003) for sexual orientation and [SB 1047](#) (2019) for gender identity. See also [NY Attorney General website](#) explaining that the 2002 law applies to [the exercise of civil rights](#), which includes jury service. The 2019 law added gender identity to the same areas of law as the 2002 law.

North Carolina

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

North Dakota

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Ohio

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Oklahoma

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Oregon

- State jury nondiscrimination law covers sexual orientation and gender identity
- See [ORS § 10.030](#) ([SB2](#), 2007, effective January 1, 2008) and [§ 174.100\(7\)](#), defining sexual orientation to include gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Pennsylvania

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Rhode Island

- No state jury nondiscrimination law enumerating sexual orientation or gender identity



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South Carolina

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

South Dakota

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Tennessee

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Texas

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Utah

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Vermont

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Virginia

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Washington

- State jury nondiscrimination law covers sexual orientation or gender identity
- See [HB2398](#) (2018) and [RCW 2.36.080](#), referring to [RCW 49.60.030](#) which enumerates sexual orientation, [defined](#) to include gender identity
- State is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

West Virginia

- No state jury nondiscrimination law enumerating sexual orientation or gender identity

Wisconsin

- State jury nondiscrimination law enumerates sexual orientation only
- See [WI 756.001\(3\)](#), initiated by State Supreme Court [Order No. 96-08](#) (1996, effective 1997) rather than legislation. See further discussion in [Wojcik \(2019\)](#), pp. 33-35.

Wyoming

- No state jury nondiscrimination law enumerating sexual orientation or gender identity



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U.S. Territories

American Samoa

- No territory jury nondiscrimination law enumerating sexual orientation or gender identity

Commonwealth of the Northern Mariana Islands

- No territory jury nondiscrimination law enumerating sexual orientation or gender identity
- Territory is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Guam

- No territory jury nondiscrimination law enumerating sexual orientation or gender identity
- Territory is in federal court of appeals district (U.S. Ninth Circuit Court of Appeals) that has ruled that equal protection prohibits jury service discrimination based on sexual orientation. See [SmithKline v. Abbott](#) (2014).

Puerto Rico

- No territory jury nondiscrimination law enumerating sexual orientation or gender identity

U.S. Virgin Islands

- No territory jury nondiscrimination law enumerating sexual orientation or gender identity