

Despite progress, LGBTQ Michiganders are still waiting for solid nondiscrimination protections

Dawn R Wolfe

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Michigan Gov. Gretchen Whitmer delivers her State of the State address to a joint session of the House and Senate, Tuesday, Feb. 12, 2019, at the State Capitol Building in Lansing, Michigan. She has advocated for extending nondiscrimination protections to the LGBT community.

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In many ways, the civil rights of Michigan's LGBTQ communities are on a stronger footing than ever before. In May 2018, the state's Civil Rights Commission expanded its interpretation of existing law to include sexual minorities, and announced it would start taking and investigating anti-LGBTQ discrimination complaints.

In January, newly elected Gov. Gretchen Whitmer signed an executive order banning discrimination in employment and provision of services in state government and among businesses and other organizations contracting with the state. She also eliminated the exemption for nonprofit religious organizations found in a similar order signed by outgoing Republican Gov. Rick Snyder.

Former Attorney General Bill Schuette may have issued a 2018 opinion saying that the Civil Rights Commission was out of bounds when it extended discrimination protections to LGBTQ residents, but the commission—all of the members of which were appointed or re-appointed by Snyder—ignored him. The commission has also asked current Attorney General Dana Nessel, who helped win the court fight for marriage equality, to revisit Schuette's opinion. In early February, she agreed to do so. And, of course, marriage equality has been the law of the land since 2015.

While these developments mark huge strides forward for the cause of equal protection under the law, Michigan still has a long way to go. In a law being contested in federal court by the ACLU of Michigan, state-contracted foster care and adoption agencies are allowed to practice religion-based bigotry against sexual minorities.

Equality Michigan, Michigan's largest LGBTQ victim-advocacy organization, says that it served more than 400 victims of anti-LGBTQ discrimination and violence in 2018 alone. In the largest survey of its kind, in 2015 [the National Center for Transgender Equality found widespread discrimination and harassment](#) against transgender Michiganders in areas including employment, education, housing, and health care.

Even with all the progress the state has made, the ACLU of Michigan fielded a complaint after a Kroger cashier refused to sell cigarettes to a transgender man whose gender marker didn't match the legal name on his driver's license, and one from a gay man who is being harassed by the security guard at his apartment complex.

The solution, advocates say, is simple: The state must expand the state's Elliott-Larsen Civil Rights Act to explicitly protect Michiganders on the basis of sexual orientation and gender identity.

LGBTQ advocates aren't the only ones advocating for the change. Gov. Whitmer made it a key point in her Feb. 12 State of the State address. Last year, a group including business leaders and former Republican lawmakers joined together to oppose former Attorney General Schuette's campaign for governor in part, they said in [a report in the Detroit News](#), because of "who's showing tolerance for people who are different."

Everyday Michiganders are also on board. In 2017, the EPIC-MRA polling firm [released survey results](#) showing that 7 in 10 residents supported nondiscrimination protections for the state's sexual minorities. But despite this widespread support, two powerful barriers still stand in the way of Michigan finally joining 21 states and the District of Columbia in protecting its LGBTQ residents: [Republican state House Speaker Lee Chatfield](#) and Republican state Senate Majority Leader Mike Shirkey, [who backed Schuette's attempted interference with the Michigan Civil Rights Commission](#).

When it was originally passed in 1976, [Michigan's Elliott-Larsen Civil Rights Act](#) was ahead of its time. In addition to banning discrimination in employment, housing, and public accommodations based on the usual factors such as race, sex, and an individual's choice of religion, the act went further to prohibit unequal treatment based on factors that included height and weight. Efforts to extend those protections to LGBTQ individuals, though, have hit a brick wall since the first attempt in 1983—including a 2014 push that had the support of business leaders, the general public, and Gov. Snyder.

Jay Kaplan, the staff attorney for the ACLU of Michigan's LGBT Project, told Daily Kos that full state protections could turn out to be even more important in the age of Trump. Kaplan explained that several federal courts have found that discrimination against LGBTQ Americans is a form of sex discrimination. But under Trump, "for the first time in more than a decade, the Justice Department is arguing that sex discrimination laws do not cover LGBT people, that they're not protected," Kaplan said. Anti-equality forces are also appealing previous decisions to the U.S. Supreme Court, "and given the new majority, we don't know for sure [what will happen]. If the Supreme Court issues a decision that LGBT people are not covered under sex discrimination civil rights laws, then we are back to the drawing board," he added.

"Ultimately, we need a legislative solution," said Erin Knott, the executive director of Equality Michigan, "so we're not relying on [the Michigan Civil Rights Commission's] interpretation." Knott called on Shirkey and Chatfield to allow a vote on the next bill that's introduced to expand the Elliott-Larsen Act.

"Just look at the history," Kaplan said. "Look at some of the legislation that's been introduced in our state that would either deny rights or take away rights from LGBT people over the years. It's very clear that this is a population of people who have been marginalized through governmental policies, through laws, and through practices," including the claim that publicly operated businesses should be able to cite their religious beliefs to deny service to whomever they wish.

If you are an LGBTQ Michigan resident who has been discriminated against in employment, housing, public accommodations, or health care, or who has faced discrimination from a state-contracted adoption or foster care agency, help is available. File a complaint with the Michigan Civil Rights Commission by [clicking here](#) or calling them toll-free at 800-482-3604.

You can also contact Equality Michigan for help, including for assistance in contacting the Michigan Civil Rights Commission. Equality Michigan's Victim Services department can be reached by email at report@equalitymi.org, by phone at 313-537-7000, or online by [clicking here](#).

Dawn Wolfe is a freelance writer and journalist based in Ann Arbor, Michigan. This post was written and reported through our [Daily Kos freelance program](#).