RESEARCH BRIEF

Countering Anti-LGBTQ+ Legislation in the United States:

An LGBTQ+ Youth Voter Engagement Approach

September 2024

EXECUTIVE SUMMARY

Over the past decade, legal protections for LGBTQ+ people have regressed in many parts of the US, with explicitly anti-LGBTQ+ policy becoming a staple of right-wing campaign promises. In this brief, we review the relevant research and recommend a nonpartisan voting initiative that seeks to engage young LGBTQ+ ("queer") voters in an effort to counter anti-LGBTQ+ legislation in the ballot box. Distinctly queer-youth-centered voting initiatives have not yet been attempted on a large scale, and we argue that this approach will offer a more preventative, more united solution than those offered by existing tactics, which are broadly reactionary or divisive in nature.

In Part 1, we provide a brief background on the extent of anti-LGBTQ+ legislation in the US. We outline the variance in LGBTQ+ protections between states and highlight the speed with which these protections have regressed in many parts of the country.

In Part 2, we describe our theoretical framework, rooted in two primary theoretical assumptions: (1) the vote can be conceived as a "preventative veto" of future undesirable legislation; and (2) centering queer civil rights in the voter engagement process results in nonpartisan mobilization of queer voters.

In Part 3, we outline three complementary strands of evidence to underscore the potential of a queer youth voting initiative. First, we discuss preliminary statistical results which indicate that voting behaviors have stronger, more proximal influence over LGBTQ+ policy outcomes than the behaviors of other political actors. Then, we provide demographic data highlighting the rapidly growing size of the LGBTQ+ electorate, particularly in the youngest generation of voters. Finally, we introduce case studies of the three states with the closest presidential election results in 2020. By comparing these states' victory margins to their respective populations of young, LGBTQ-identifying public university students, we find that this demographic has the size and potential to meaningfully shift results of contentious races.

Finally, in Part 4, we offer guidance on how to implement the proposed queer youth voting initiative, and in Part 5, we provide our concluding remarks.

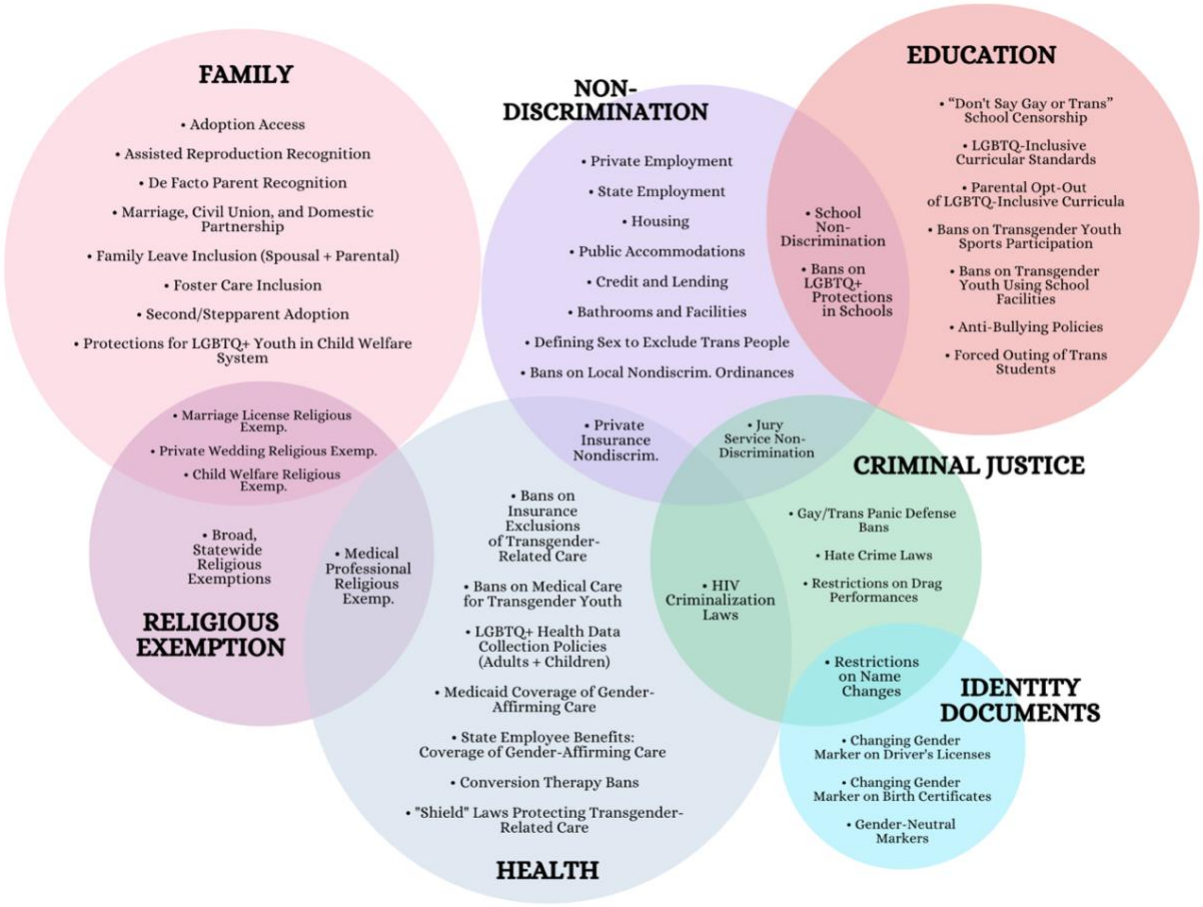
PART 1 – BACKGROUND

In June of 2023, the Human Rights Campaign declared a "state of emergency" for lesbian, gay, bisexual, transgender, and queer (LGBTQ+) Americans for the first time in its history (HRC, 2023). Throughout the past decade, anti-LGBTQ+ policy has become increasingly prevalent in the United States. This has not only normalized violent, anti-LGBTQ+ rhetoric on political debate stages and campaign trails, but it has also resulted in a dramatic decrease in legal protections for LGBTQ+ Americans. Just last year, over 530 anti-LGBTQ+ bills were introduced in state legislatures, representing nearly a third of all anti-LGBTQ+ legislation proposed since 2015 (Lhant, 2024).

Some of the most fundamental rights of LGBTQ+ people – from the right to marry and have children to the right to access adequate healthcare – are on the ballot in contemporary American politics, and increasingly so. **Figure 1** outlines these protections, all of which state legislatures are free to amend, remove, or replace in the absence of federal legislation [adapted from Babu (2023)]. Because the federal government has codified protections for LGBTQ+ people in only a handful of cases (ACLU, 2024), nearly every protection in this figure is vulnerable to revocation (and has been in at least one state). Examples of actively discriminatory bills – as opposed to revocation of civil or social protections – include so-called "Don't Say LGBTQ+" bills, which ban teachers and students from discussing LGBTQ- or gender-related topics in public schools; bans on gender-affirming medical care for transgender youth, which in many

cases come with felony charges for their parents and medical providers; and bans on drag performances, versions of which have been written to also ban trans people from public spaces (O'Kelley, 2023; MAP, 2024).

Figure 1 – Many LGBTQ+ Safety Nets Are Vulnerable to Rollback



Most pressingly, with each successive legislative session, the number of LGBTQ-related policy issues on which the US government legislates increases, as do the number of novel anti-LGBTQ+ bills (MAP, 2024). Since 2020, over one-third of all states (*N*=19) have rolled back protections for LGBTQ+ people, while a quarter of all states (*N*=12) have steadily worsened in LGBTQ+ protections since 2010 (Babu, 2023). **Figures 2-4** visualize these trends using QTPI scores, a system based on MAP's index which quantifies each state's extent of LGBTQ+ protections, with greater QTPI indicating stronger protections [adapted from Babu (2023); MAP (2024)].

Figure 2 – The Extent of Anti-LGBTQ+ Policy Is Worsening

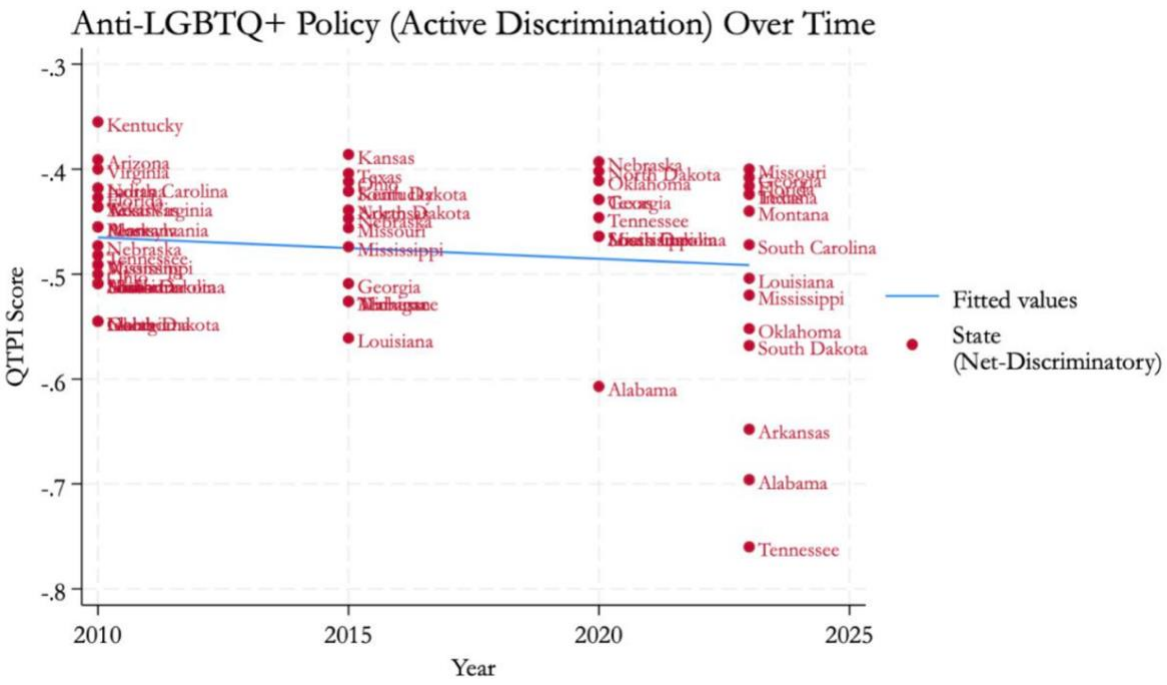


Figure 3 – Typology of States Based on their QTPI Scores

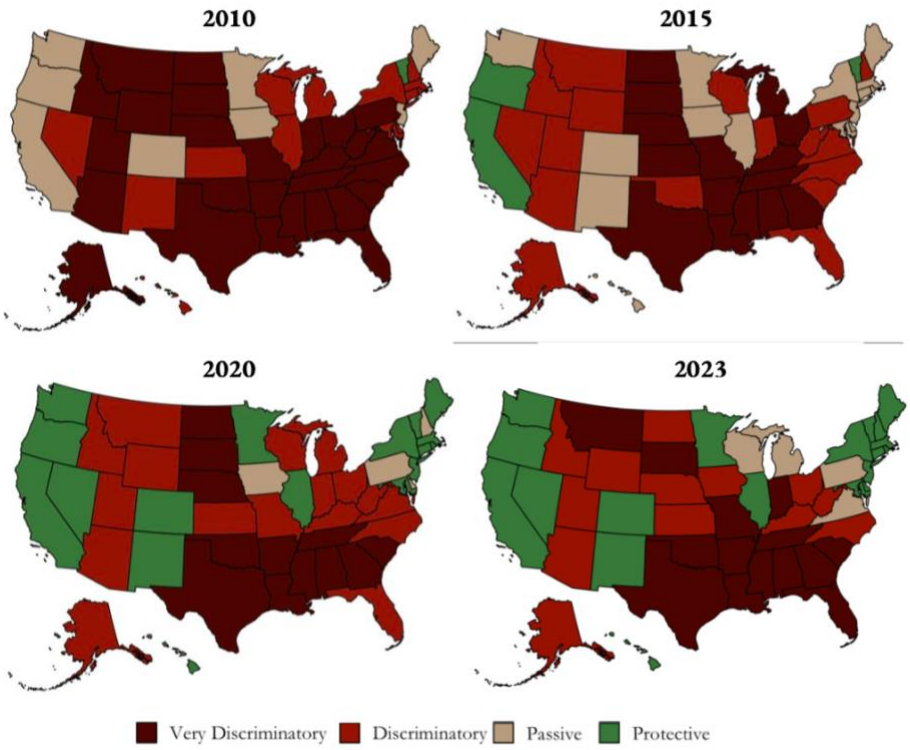
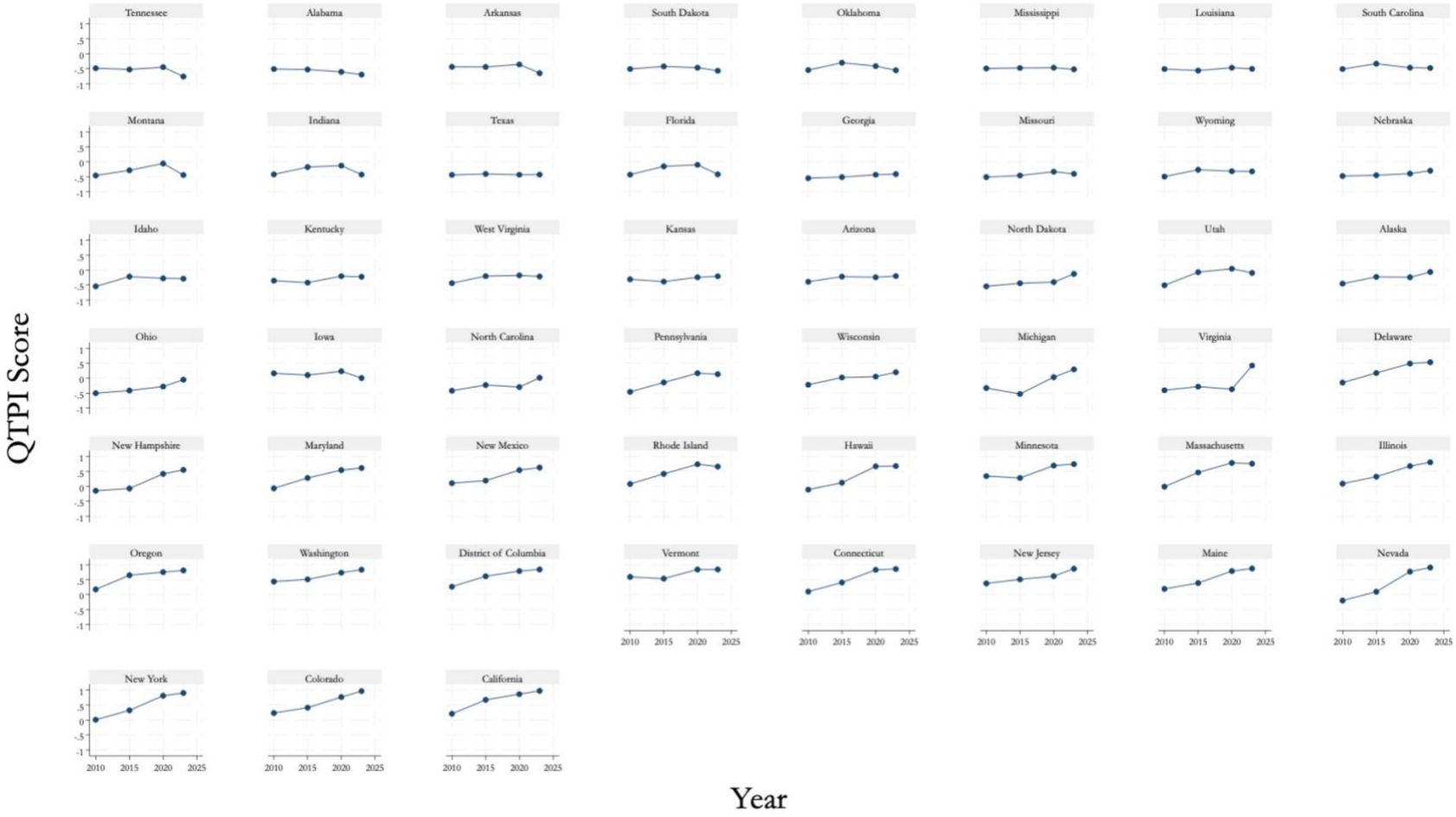


Figure 4 – LGBTQ+ Protections Have Worsened or Stagnated in Many States Since 2010



In this brief, we recommend addressing this problem by way of a nonpartisan voting initiative that seeks to mobilize young LGBTQ+ (queer) voters through peer-to-peer engagement about LGBTQ+ rights issues at stake in upcoming elections. This will (1) encourage queer voters of all political identities to prioritize their own rights when voting and (2) counter anti-LGBTQ+ legislation by preventing the election of anti-LGBTQ+ candidates in the first place, rather than employing strictly reactionary solutions once the discriminatory legislation has already been enacted.

PART 2 – THEORETICAL FRAMEWORK

A voting-based approach to countering anti-LGBTQ+ policy in the US is rooted firmly in the following theoretical belief:

> *The vote can be conceived as a "preventative veto" of future undesirable legislation, whereby a voter casts a ballot based on negative preferences (what they do not want), as opposed to only positive preferences (what they do want), thus blocking designers of discriminatory legislation from entering public office.*

The average voter does not hold formal veto power in the political process – that is, they cannot prevent a proposed piece of LGBTQ+ legislation from being enacted at any given phase of its lifecycle. However, as per Kang (2009), we can understand the vote as a "preventative veto" in which undesired legislation is prevented altogether. Kang outlines a normative and positive account of voting as a means by which voters may express and act on negative preferences, as opposed to only their positive preferences, which to Kang take too great a focus in the voting literature. This conception of the vote as veto is particularly relevant (a) to minority voters, who are particularly likely to express (and for minority candidates, be subject to) a negative preference when voting (Kang, 2009; Magni and Reynolds, 2021); and (b) in a first-past-the-post voting process like that of the US, where negative preferences can be expressed in the ballot box just as easily as positive preferences (i.e., voting *against* Candidate A by voting for Candidate B yields the same outcome as voting *for* Candidate B by voting for Candidate B). Thus, capitalizing on the power of negative preferences – i.e., encouraging voters to vote against candidates that seek to limit or revoke their civil protections/rights – may likely prove effective for LGBTQ+ voters in the American context.

Under this theoretical assumption, the queer youth vote – if mobilized around nonpartisan goals of queer liberation and civil rights – becomes a viable means by which we can counter anti-LGBTQ+ legislation through the introduction of a "preventative veto" of future anti-LGBTQ+ bills.

PART 3 – EVIDENCE

Below, we present three complementary strands of evidence to underscore the potential of a queer youth voting initiative in the ongoing attempts to combat anti-LGBTQ+ legislation in the US.

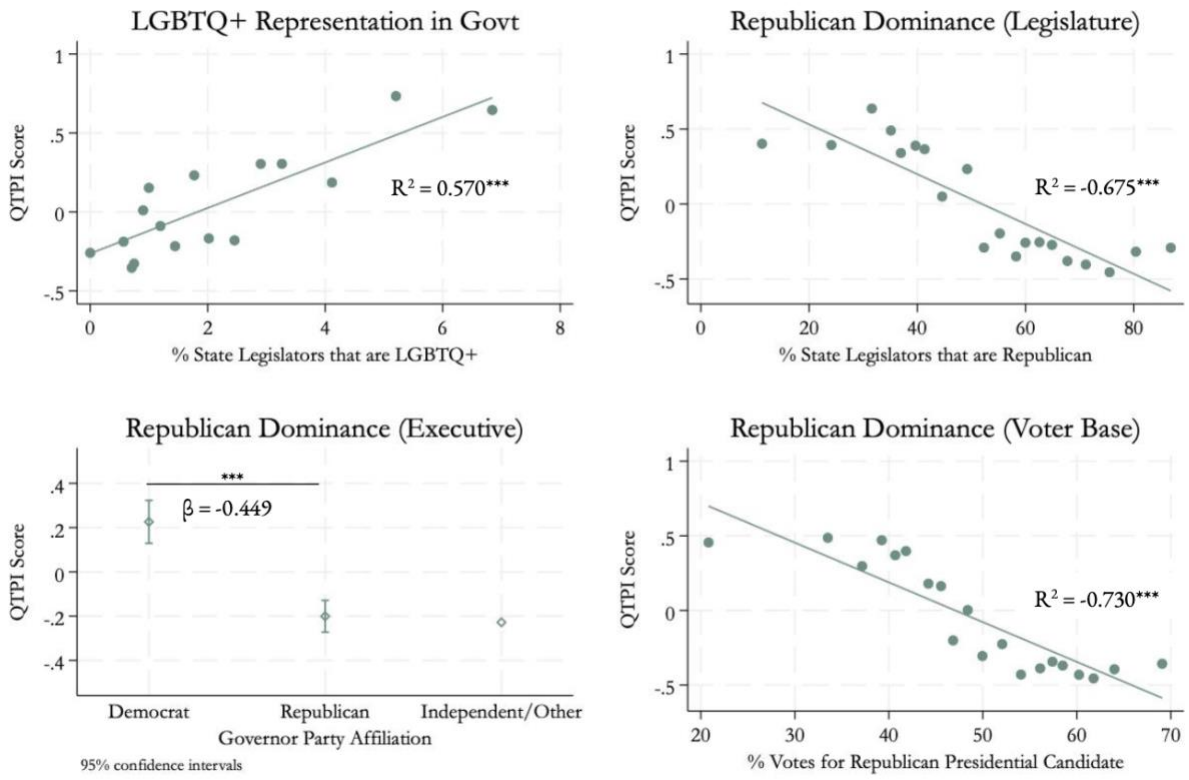
PART 3.1 – Voting Behaviors Are the Strongest, Most Proximate Influencers of LGBTQ+ Policy Outcomes

In order to rigorously evaluate the feasibility of such a proposal, it must first be asked whether voting can significantly influence LGBTQ+ policy outcomes.

Investigation into what has driven the recent wave of anti-LGBTQ+ legislation has been limited, but preliminary research indicates that the most proximate drivers of LGBTQ+ policy are voting behaviors. Babu (2023) considers thirteen possible factors that could influence a state's extent of LGBTQ+ protections, ranging from its ruralness to its history of racial segregation. Babu finds that (1) political actors (e.g., voters, legislators, chief executives) exert the most proximal statistical influence over LGBTQ+ policy outcomes; and (2) Republican voter mobilization in national elections best predicts LGBTQ+ protections in any given US state – more so than Republican dominance in legislative bodies, LGBTQ+ representation in legislative bodies, or Republican dominance in the executive [**Figure 5**; larger R^2 indicates a stronger relationship with QTPI score ("LGBTQ-friendliness"); adapted from Babu (2023)]. More rigorous statistical tests exhibited a similarly strong and proximal relationship between voting behaviors and LGBTQ+ policy outcomes (Babu, 2023).

While these data are preliminary, they indicate that voting indeed matters when it comes to LGBTQ+ legislation – and that LGBTQ+ advocates may benefit from shifting focus toward voter outreach and engagement.

Figure 5 – Voters, More So Than Other Political Actors, Have the Strongest Statistical Relationship with LGBTQ+ Policy Outcomes



PART 3.2 – LGBTQ+ Youth Are the Fastest-Growing Voter Demographic in the US

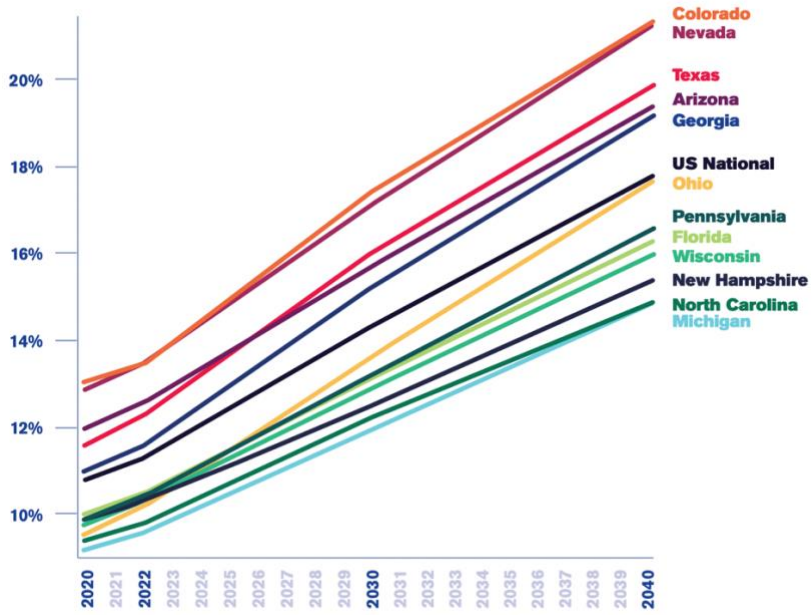
Next, even if we are certain that voting can meaningfully shift LGBTQ+ policy outcomes (as the data in **Figure 5** suggests), we must determine whether LGBTQ+ youth constitute a significant enough proportion of the voter pool to merit a targeted mobilization effort.

In 2022, 11.3% of voting-age Americans identified as LGBTQ+. While exact proportions vary slightly from state to state, demographic trends nationwide reveal significant increases in LGBTQ+ identification year after year (**Figure 6**; HRC, 2022). More specifically, the number of LGBTQ-identifying voters in the 2040 election will be nearly double that in the 2020 election, with nearly 1 in 5 Americans predicted to identify as LGBTQ+. Moreover, rates of LGBTQ+ identification are expected to exceed national levels in a number of key swing

states, including Georgia, Arizona, Texas, Nevada, and Colorado (**Figure 6**; HRC, 2022).

Figure 6 – Percentage of Voting-Age Population That Identifies as LGBTQ+ Over Time (Nationally + in Electorally Competitive States)

	2020	2022	2030	2040
US National	10.8%	11.3%	14.3%	17.8%
Arizona	12.0%	12.6%	15.7%	19.4%
Colorado	13.0%	13.5%	17.4%	21.4%
Florida	10.0%	10.5%	13.1%	16.3%
Georgia	11.0%	11.6%	15.2%	19.2%
Michigan	9.2%	9.6%	12.0%	14.9%
Nevada	12.9%	13.5%	17.1%	21.3%
New Hampshire	9.9%	10.3%	12.5%	15.4%
North Carolina	9.4%	9.8%	12.2%	14.9%
Ohio	9.5%	10.2%	13.6%	17.7%
Pennsylvania	9.8%	10.4%	13.2%	16.6%
Texas	11.6%	12.3%	16.0%	19.9%
Wisconsin	9.8%	10.3%	12.9%	16.0%



This increase in the percentage of adults who identify as LGBTQ+ does not represent a real increase in the number of queer people, but rather, an increase in the number of people who feel comfortable sharing their queer identities with others – and thus, an increase in the number of people who are active members of the queer community and modulate their voting behaviors as such. This trend is reflected primarily in the youngest generations. As of 2022, over a quarter of voting-age people in Generation Z (born 1997-2003; ages 18-24) identify as

LGBTQ+, representing an 11% increase from the next oldest generation, Millennials (born 1981-1996; ages 25-39) (**Figure 7**; HRC, 2022). This represents the fastest growth of any voting demographic in the United States (HRC, 2022), exhibiting that young LGBTQ+ voters constitute a significant portion of the voting population and will do so even more dramatically in the decades ahead.

Figure 7 – LGBTQ+ People Make Up Over a Quarter of the Newest Generation of Voters

	Pre-New Gen±	New Generation±	Gen Z	Millennial	Gen X	Boomer*	Traditionalist*
Generation	*X - 2015*	*2004-2014*	*1997-2003*	*1981-1996*	*1965-1980*	*1946-1964*	*1934-1945*
U.S. National	27.0%	27.0%	27.0%	15.6%	7.6%	4.6%	4.9%
Arizona	30.9%	30.9%	30.9%	17.7%	7.9%	5.3%	5.3%
Colorado	30.7%	30.7%	30.7%	19.5%	8.6%	4.8%	4.8%
Florida	26.3%	26.3%	26.3%	14.3%	8.0%	5.0%	5.0%
Georgia	29.3%	29.3%	29.3%	14.8%	7.0%	4.5%	4.5%
Michigan	22.8%	22.8%	22.8%	14.9%	5.9%	3.9%	3.9%
Nevada	33.0%	33.0%	33.0%	17.9%	9.9%	5.5%	5.5%
New Hampshire	23.7%	23.7%	23.7%	16.9%	7.6%	4.2%	4.2%
North Carolina	22.1%	22.1%	22.1%	13.7%	6.2%	4.6%	4.6%
Ohio	30.0%	30.0%	30.0%	13.7%	6.5%	3.4%	3.4%
Pennsylvania	26.7%	26.7%	26.7%	15.2%	6.9%	4.1%	4.1%
Texas	29.2%	29.2%	29.2%	15.5%	7.3%	4.8%	4.8%
Wisconsin	24.8%	24.8%	24.8%	15.6%	6.6%	4.3%	4.3%

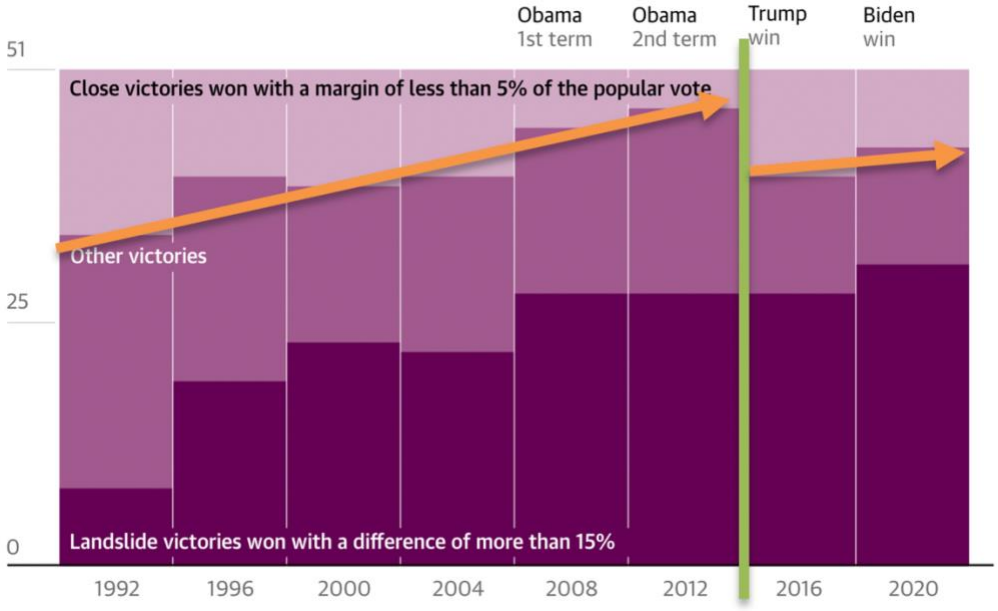
PART 3.3 – Young LGBTQ+ Voters *Can* Make the Difference in Contentious Races

Finally, now that we have identified young LGBTQ+ people as a rapidly growing sect of the voter pool, it must be asked whether their collective impact in the ballot box can meaningfully influence election outcomes.

The number of states with close victories in US national elections (i.e., won with <5% of the popular vote) had been on steady decline since the early 1990s. That was until 2016, when several "safe" Democrat and Republican states saw unprecedentedly small victory margins. The 2020 election saw a similarly large number of close statewide election results, indicating that this trend may continue as political polarization in the United States increases [**Figure 8**;

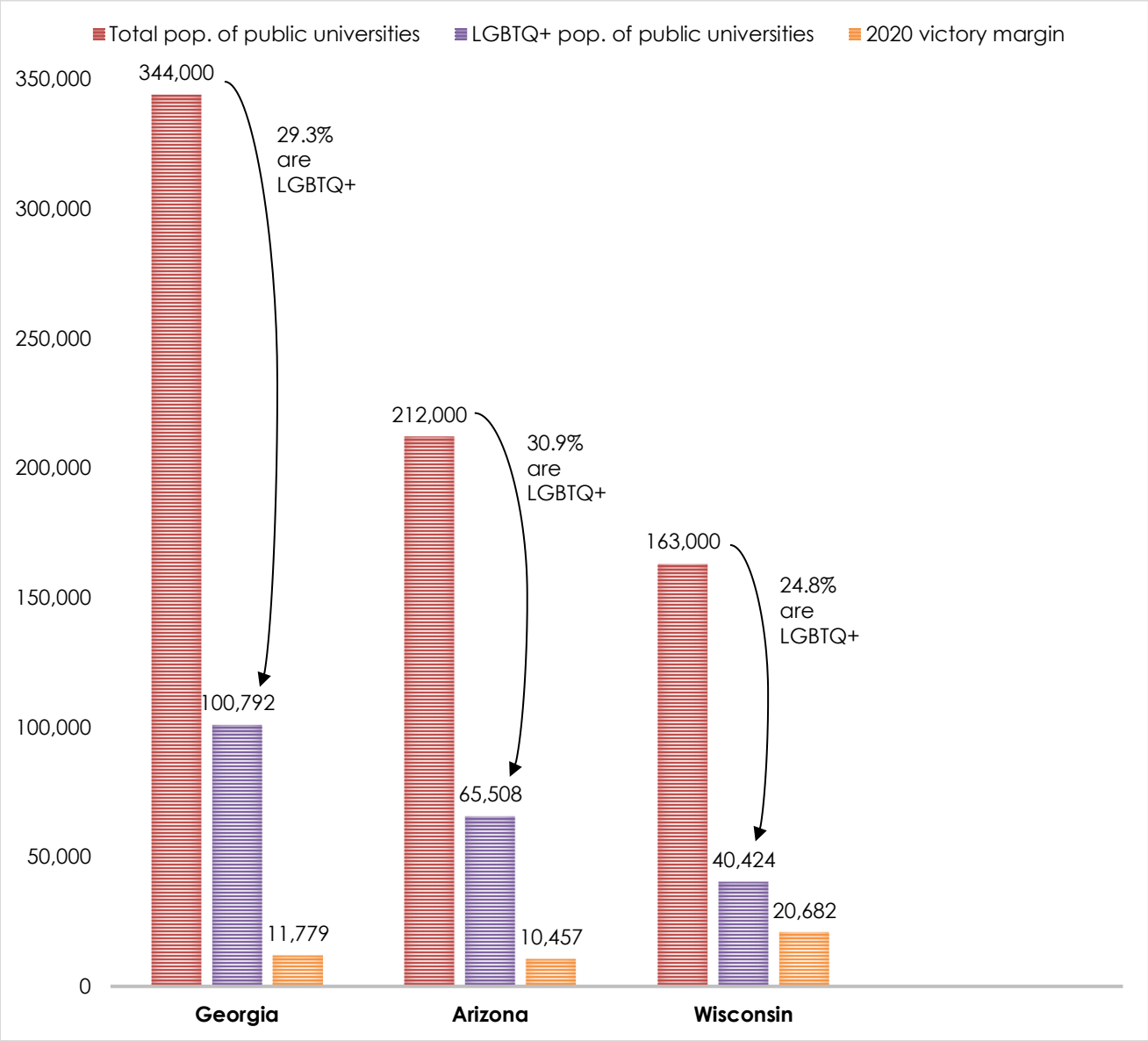
adapted from Paz, Blight and Levine (2024)]. This means that election results are increasingly influenced by smaller proportions of the voting population.

Figure 8 – The Number of States with Close Victories in National Elections Has Been Unexpectedly High in Recent Years



Let us consider three case studies from the 2020 presidential election: Arizona, Georgia, and Wisconsin. Each state is distinct in terms of its demographic, geographic, sociopolitical, and cultural features; however, all three had extremely small victory margins in this election – the three smallest in the US. Joe Biden won Arizona's election by a margin of 10,457 votes; Georgia's by 11,779 votes; and Wisconsin's by 20,682 votes. To put these numbers in perspective, consider **Figure 9**. Here, these victory margins are visualized alongside the population of young people enrolled in public universities in each state. Assuming these students are of typical college age (18-24), we can use the LGBTQ+ demographic data in **Figure 7** to estimate the number of LGBTQ-identifying students in these states' public universities. As **Figure 9** shows, queer public university students vastly outnumber the margins that pushed Biden over the edge in each of these states. Thus, only *a fraction of a fraction* of the LGBTQ+ youth population (1 in 8 queer public university students in GA; 1 in 6 in AZ; and 1 in 2 in WI) could make the difference in contentious races in the US.

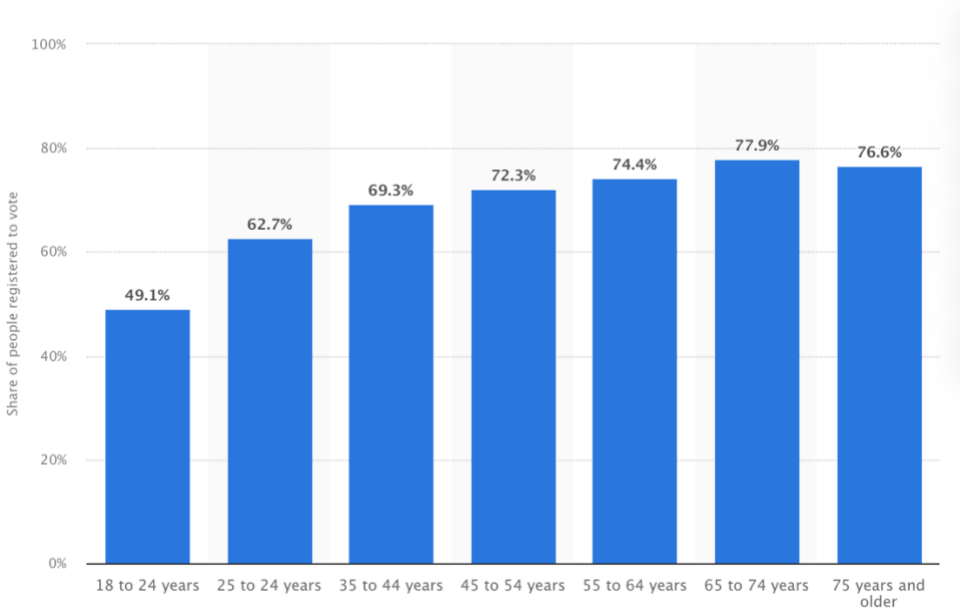
Figure 9 – LGBTQ-Identifying Public University Students Vastly Outnumber the 2020 Victory Margins in Key Swing States



These case studies help exhibit the scale on which elections in the United States are won, thus highlighting the influence that the LGBTQ+ youth vote could have on election outcomes. However, it is valuable to consider whether those college-aged queer voters are already democratically engaged. Put plainly, engagement with this group may be redundant if they are already voting. Unfortunately, data on LGBTQ+ voter turnout is extremely limited and will be key to understanding which sects of the LGBTQ+ community require the greatest level of engagement. What existing data do show is that young voters aged 18-

24 – of which 27% identify as LGBTQ+ – are by far the least likely to vote, with more than 50% being unregistered (**Figure 10**; Statista, 2024). Thus, young queer people show immense, untapped potential for improvement when it comes to engagement in the democratic process.

Figure 10 – Young Voters Are Far Less Likely to Vote



PART 4 – IMPLEMENTATION

In this section, we outline a model for our proposed queer youth voting initiative. We recommend the following framework:

WHO:

→ Queer youth-led and queer youth-focused

In light of the data in **Figure 9**, it is prudent to begin the engagement process with LGBTQ-identifying university students. First, we recommend recruiting a class of youth ambassadors, who will act as the local liaisons for the voting initiative. These ambassadors can be recruited from universities in key swing states (see below) and use their existing social and academic connections with their peers to engage with them on issues relating to voting. Preexisting relationships of this sort – as well as the broader ties shared by many young queer people – will allow for more effective, peer-to-peer engagement. Localizing outreach in this way will also allow the initiative to operate on a lean, targeted budget.

WHERE:

→ (1) State-level action

As outlined above, LGBTQ+ university students can be the difference in contentious statewide elections in the US. Thus, focus should be maintained on universities in states with consistently close races at the state and national levels (as these are the levels at which LGBTQ+ policy is set). States of interest are Arizona, Florida, Georgia, Michigan, Nevada, Ohio, Pennsylvania, and Wisconsin.

→ (2) National-level action

While young queer voters on their own may not have the power to completely shift electoral outcomes in states with less contentious elections, we recommend building a unified voting initiative wherein young queer people – no matter where they come from in the US – are empowered to make their voices heard in the ballot box. This is crucial not only for coalition-building as a voting bloc but also for elections in the near future when LGBTQ+ people will comprise a much larger share of the electorate. When this time comes, queer voters could feasibly exert greater influence in races where anti-LGBTQ+ candidates are presumed to face little electoral competition.

Thus, while efforts should be focused on key swing states in the beginning stages of this voting initiative, we recommend establishing an online presence that promotes civic engagement for LGBTQ+ people throughout the country. This should include a strong social media presence for broad youth engagement; online resources for LGBTQ+ voters to learn about the issues at stake in their local elections; virtual voter outreach events; and the cultivation of a national database of volunteers interested in helping with LGBTQ+ voter engagement.

HOW:

→ We first recommend establishing a summer leadership program in which recruited ambassadors receive training on voter registration, mobilization, and engagement. Then, throughout the academic year, ambassadors can provide targeted civic education to their peers, register them to vote, and distribute materials outlining the LGBTQ-relevant issues at stake in upcoming elections. This peer-to-peer engagement will be done in person – likely via partnerships with the university's LGBTQ-related clubs or cultural centers – and include the collection of contact information for continued engagement via text or email.

PART 5 – CONCLUSION

Recent rollbacks in legal protections for LGBTQ+ people in the United States require immediate attention. While downstream approaches to countering anti-LGBTQ+ legislation, such as lobbying or counter-legislation, have been effective in the past, they have only exacerbated the ideological and legal divide between states, primarily along partisan lines. Thus, the strategy proposed above provides a preventative, unified approach to countering anti-LGBTQ+ legislation, wherein young queer voters of all political identities are encouraged to make their voices heard in the ballot box and help elect officials who will protect their civil liberties while in office.

The evidence we provide reveal that (1) voters, more so than other political actors, have the greatest statistical influence over LGBTQ+ policy outcomes; (2) the LGBTQ+ electorate is massively increasing in size, particularly among young voters; and (3) young queer voters have the numbers and untapped potential to shift election outcomes in contentious races in the United States. In light of this evidence, we believe queer youth voter engagement could offer an innovative solution to the ongoing onslaught of anti-LGBTQ+ legislative action in the US.

Importantly, the model we propose takes advantage of the increasingly small victory margins in recent US elections. However, many states and municipalities in the US do not have consistently close races and enact anti-LGBTQ+ legislation behind a fortified wall of "safe anti-LGBTQ+ seats." Thus, further work must be done to protect queer people in states where action in the ballot box by queer youth may not be enough to elect LGBTQ-friendly officials. Moreover, more robust data on LGBTQ+ youth voting patterns must be collected and analyzed, particularly at the state level, in order to understand which particular subsects of LGBTQ+ youth require the most engagement.

We believe now is the time to implement this plan and potentially expand the initiative to target LGBTQ+ youth who are below voting age. This sect of the population is small but growing and has increasingly large stakes in the democratic process as more of their rights become subject to attack.

Recommended Citation: OutVote. (2024). Countering Anti-LGBTQ+ Legislation in the United States: An LGBTQ+ Youth Voter Engagement Approach.

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