



## **Federal Government Is Contemplating a New Protected Class**

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In the last year Ohio has recognized two new protected classes: “military status,” which was part of the Ohio Veterans Package, and “genetic information,” which was enacted nationwide as part of the Genetic Information Non-Discrimination Act (GINA). As a result, Ohio employers are now prohibited by law from discrimination on the basis of military status or genetic information.

In addition, currently pending in the federal legislature is the Employment Non-Discrimination Act (ENDA). If passed as currently proposed, the law would prohibit most public and private employers from discriminating against applicants or employees on the basis of their sexual orientation, transgender status or gender identity. The bill as currently written does exempt certain groups (i.e., U.S. military, veterans’ service groups and religious organizations) and does not require employers to provide benefits to domestic partners of their employees.

The bill was re-introduced on June 19, 2009, in the House of Representatives and reportedly has increasing and bipartisan support. It currently is pending in the Subcommittee on the Constitution, Civil Rights, and Civil Liberties but is expected to be enacted into law in the near future, probably this calendar year or in 2010. President Barack Obama has indicated that he supports the legislation and would sign the bill into law.

While certain local laws and laws that apply only to public employers currently prohibit discrimination on the basis of sexual orientation, this measure as written is significantly broader in scope than most of the existing provisions. If passed, it would raise new issues with which Ohio employers would have to grapple, such as the use of gender-specific restrooms and implementing and enforcing gender-specific dress codes.

### **Practice Pointer**

As always, the best defense an employer has to avoid discrimination claims is to generally treat all employees fairly and train its supervisors and managers to do the same. This includes implementing and uniformly enforcing workplace policies.

If you have any questions or need assistance with the development of workplace policies or supervisor/management training, please contact Melanie Webber, Jennifer Cordesman or Maribeth Wuertz in Millisor & Nobil’s HR Practice Group at (440) 838-8800.<sup>1</sup> Also visit our website, [www.millisor.com](http://www.millisor.com), which we recently and significantly revised. The website includes additional information regarding a variety of employment issues relevant to Ohio employers and additional information regarding all of our firm’s products and services.

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<sup>1</sup> This article was written to provide accurate information; however, it is not intended as legal advice.