

Date: 3/10/09

Re: Employment Non-Discrimination Act

What is the Employment Non-Discrimination Act?

The Employment Non-Discrimination Act (ENDA) would prohibit discrimination on the basis of sexual orientation or gender identity. The bill is modeled on existing civil rights laws, including Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act.

What ENDA Does:

- Extends federal current employment discrimination protections to sexual orientation and gender identity;
- Prohibits public and private employers from using an individual's sexual orientation or gender identity as the basis for employment decisions, such as hiring, firing, promotion or compensation;
- Provides for the same procedures, and similar, but somewhat more limited, remedies as are permitted under Title VII and the Americans with Disabilities Act;
- Applies to Congress and the federal government, as well as employees of state and local governments;

ENDA Does Not:

- Apply to businesses with fewer than 15 employees;
- Apply to religious organizations;
- Apply to the uniformed members of the armed forces;
- Allow for quotas or preferential treatment based on sexual orientation or gender identity;
- Allow a "disparate impact" claims. Therefore, an employer is not required to justify a neutral practice that may have a statistically disparate impact on individuals because of their sexual orientation or gender identity; or,



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- Allow the Equal Employment Opportunity Commission to collect statistics on sexual orientation or gender identity or compel employers to collect such statistics.

Status:

The bill was introduced in late 2007 in a previous session of Congress. The House of Representatives quickly passed the bill but it was not voted on by the Senate. With a Democratic majority in the current Senate the bill could be re-introduced in the near future.

Ohio Law:

Ohio law does not currently prohibit discrimination based on an individual's sexual orientation/preference. Legislation has been introduced in the past seeking to prohibit such discrimination; however, the legislation did not pass.

Regardless, employers for the sake of employee relations and to avoid other potential liability issues (such as physical confrontations) should investigate reports of sexual orientation harassment/discrimination as they would any other discrimination claim.