

Human Rights Act Amended to Prohibit Discrimination Based on Sexual Orientation in Illinois

On January 21, 2005, Illinois Governor Rod Blagojevich signed legislation that amended the Illinois Human Rights Act and prohibits employers from discriminating on the basis of sexual orientation.

Illinois becomes the fifteenth state to bar discrimination based on sexual orientation. No federal law prohibits discrimination based on sexual orientation in the private-sector workplace. Thus, Illinois law offers employees greater protection than federal law in this respect. The existing ordinances of the City of Chicago and Cook County bar discrimination based on sexual orientation.

The legislation applies to any employer who has 15 or more employees, and is effective January 1, 2006. It defines "sexual orientation" as "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." This language would appear to include transsexuals in the protected class. It does not include "a physical or sexual attraction to a minor by an adult." The new law explicitly does not require an employer to give preferential treatment based on sexual orientation, nor does it require any affirmative action policies or programs based on sexual orientation.

The Illinois Department of Human Rights administers the Illinois Human Rights Act, which was originally passed in 1979. The Department of Human Rights received about 4,000 charges of discrimination in 2004. Based on a study done by the Department in 1997-98, it expects approximately 275-300 additional complaints with the addition of sexual orientation to the list of protected classes, which already includes race, color, religion, sex, national origin, ancestry, citizenship status (with regard to employment), age (40 and over), marital status, physical or mental handicap, military service or unfavorable military discharge.

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