

Miami-Dade County, Florida, to Prohibit Discrimination Based on Gender Identity and Expression

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Miami-Dade County is set to become the 21st municipality in Florida to adopt legal protections for individuals based on gender identity and expression. County commissioners on December 2, 2014, voted 8-3 to amend the county's human rights law (Chapter 11A of the Code of Miami-Dade County) to prohibit discrimination in housing, public accommodations, and employment based on gender identity or gender expression.

The ordinance will become effective December 12, 2014, 10 days after the date of enactment, unless vetoed by the Mayor. Mayor Carlos A. Gimenez's spokesperson reportedly stated that the Mayor intends to sign the ordinance.

The ordinance adds "gender identity" and "gender expression" to list of protected characteristics in the law. The protected characteristics presently include race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, and sexual orientation.

Under the ordinance, "gender identity" is defined as "a person's innate, deeply felt psychological identification as a man, woman or some other gender, which may or may not correspond to the sex assigned to them at birth (e.g., the sex listed on their birth certificate)."

"Gender expression" is defined as "all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another."

According to the Office of Human Rights and Fair Employment Practices, Miami-Dade County has received 16 discrimination complaints based on gender identity or expression since the 2009-2010 fiscal year, and it has generally accepted these complaints under the gender or sexual orientation category.

Employers doing business in Miami-Dade County should update their anti-discrimination and anti-harassment policies to address the expanded protected characteristics. Employers also should ensure that supervisors and human resources professionals are trained on the unique issues that arise in the workplace related to the new protected categories.

Please contact a Jackson Lewis attorney with any questions you may have about this and other developments affecting employers.

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