

FIRM NEWS

MICHIGAN LEGISLATURE AMENDS CIVIL RIGHTS ACT TO PROTECT SEXUAL ORIENTATION AND GENDER IDENTIFICATION

Article

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Today the Michigan Legislature approved bills amending Michigan's Elliott-Larsen Civil Rights Act (ELCRA) to include sexual orientation and gender identification as protected classes. Governor Whitmer is expected to sign the changes.

ELCRA prohibits discrimination in employment, public accommodations, housing and real estate, and educational facilities, when such discrimination is based on a person's protected status, such as age, race, gender, religion, weight, height and marital status. The recently passed bills add "sexual orientation, gender identity or expression" to the list of protected classifications. "Gender identity or expression" is defined as "having or being perceived as having a gender-related self-identity or expression whether or not associated with an individual's assigned sex at birth." "Sexual orientation" as "having an orientation for heterosexuality, homosexuality, or bisexuality or having a history of such an orientation or being identified with such an orientation."

Employers with one or more employees and other persons or entities covered by ELCRA will be required to treat gender identity or expression and sexual orientation as protected classes. While the Michigan Supreme Court adopted the U.S. Supreme Court's reasoning under Title VII and issued a decision in July 2022 holding that ELCRA's prohibition against gender discrimination necessarily encompassed discrimination based on sexual orientation, these amendments go a step further and add "gender identity and expression" to the list of classes protected by ELCRA from discrimination.

The amendments were supported by numerous Michigan chambers of commerce and major companies.

To the extent employers have not yet updated non-discrimination and harassment policies or employee handbooks to reflect the expanded coverage, they may want to consider doing so now.

Nemeth Bonnette Brouwer PC will continue to monitor changes in the law pertaining to discrimination. Feel free to contact any of the attorneys at the firm with your questions.