

## H.R. & Employee Benefits E-Update

# U.S. House Contemplating Expanded Federal Employment Protections For Sexual Orientation Proposed In The Employment Non-Discrimination Act

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Employers may face new federal employment discrimination exposures if Congress adopts the prohibitions against employment discrimination based on sexual orientation proposed in The Employment Non-Discrimination Act, H.R. 2015 (ENDA) introduced by Representative Barney Frank in April. Some Congressional watchers anticipate that the House of Representatives will be asked to vote on H.R. 2015 within the next few days. ENDA presently has 169 co-sponsors.

If adopted as proposed, ENDA generally would prohibit employment discrimination on the basis of actual or perceived sexual orientation or gender identity by employers, employment agencies, labor organizations, or joint labor-management committees. ENDA would make it an unlawful employment practice:

- For an employer:
  - ✓ To fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's actual or perceived sexual orientation or gender identity;
  - ✓ For an employer to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment or otherwise adversely affect the status of the individual as an employee, because of such individual's actual or perceived sexual orientation or gender identity;
- For an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual or to classify or refer for employment any individual on the basis of the actual or perceived sexual orientation or gender identity of the individual;
- For a labor organization:
  - ✓ To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of the actual or perceived sexual orientation or gender identity of the individual;
  - ✓ To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment, or would limit such employment or otherwise adversely affect the status of the individual as an employee or as an applicant for employment because of such individual's actual or perceived sexual orientation or gender identity; or
  - ✓ To cause or attempt to cause an employer to discriminate against an individual in violation of this ENDA;
- For any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of the actual or perceived sexual orientation or gender identity of the individual in admission to, or employment in, any program established to provide apprenticeship or other training; and
- For any such covered entity to discriminate against an individual because such individual opposed any practice made an unlawful employment practice by this Act; opposed any practice that the individual reasonably believed is an unlawful employment practice under this Act; or made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

The current provisions of ENDA and other helpful information may be accessed through the Library of Congress website at <http://thomas.loc.gov/>.

If you have questions or concerns about this legislation, need assistance to identify or communicate with your Congressional Representatives about your views on this legislation, or need assistance with other human resources or employee benefit matters, wish to suggest a topic for a future program or publication or wish to request other information or materials, please contact: Cynthia Marcotte Stamer, P.C., Member, Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, LB 48, Dallas, Texas 75240. Telephone (972) 419-7188. E-mail [cstamer@gpm-law.com](mailto:cstamer@gpm-law.com).

For other helpful resources or additional information about Ms. Stamer and/or Glast, Phillips & Murray, P.C., see [CynthiaStamer.com](http://CynthiaStamer.com) or [gpm-law.com](http://gpm-law.com) or contact Ms. Stamer. If you would like to receive future Alerts or announcements about other programs or developments, please be sure that we have your current contact information – including your preferred e-mail – by providing that information to us via telephone, fax or e-mail using the above contact information.

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For other helpful resources and information about employee benefits and human resources matters, go to [CynthiaStamer.com](http://CynthiaStamer.com) or contact Ms. Stamer.

### **ABOUT CYNTHIA Marcotte STAMER**

Board Certified In Labor and Employment Law by the Texas Board of Legal Specialization, attorney Cynthia Marcotte has 20 years experience helping employers and business leaders design, implement, administer and defend human resources and other internal controls, outsourcing and other external services arrangements, employee benefit and compensation, and other human resources management and legal risk management practices. Chair of the American Bar Association (ABA) Health Law Section Managed Care & Insurance Interest Group and the ABA Real Property, Probate & Trust Section Welfare Plan Committee, she is widely recognized for her experience and knowledge on health and other employee benefit, insurance and human resources matters. Her practice focuses on working with businesses to manage their people and processes to help the business prevent and solve problems and designing employee benefit and other compensation programs, practices and products; and manage risks and costs.

Recognized in the International Who's Who of Professionals and bearing the Martindale Hubble AV-Rating, Ms. Stamer is a highly regarded legal consultant, author and speaker, who regularly conducts management and other training on a wide range of employee benefit, human resources and internal controls, and other related risk management matters. She also serves in leadership positions in numerous human resources, corporate compliance, and other professional and civic organizations. For instance, in addition her many leadership roles in the American Bar Association, Ms. Stamer also serves the editorial advisory board of The Bureau of National Affairs, Inc. (BNA), Employee Benefits Library on CD and various other editorial advisory boards, is a past Chair of the Dallas Bar Association's Executive Compensation and Employee Benefit Committee, is a former Board Member and Continuing Education Chair of the Southwest Benefits Association, a former member of the Society For Human Resources Management's Consultants Forum and Region IV Boards, on the Board of Directors of the National Kidney Foundation of North Texas, and in leadership roles in various other professional, charitable and civil organizations.

Ms Stamer is the author of 100s of publications on a host of human resources and related issues. Her writings have appeared in a variety of other publications, including works published by the American Bar Association, Aspen Publishers, BNA, the American Health Lawyers Association, and Government Institutes, Inc. and others. For a listing of some of these publications, see [cynthiastamer.com](http://cynthiastamer.com). Her insights on human resources risk management matters also have been quoted in The Wall Street Journal, various publications of The Bureau of National Affairs and Aspen Publishing, the Dallas Morning News, Spencer Publications, Health Leaders, Business Insurance, the Dallas and Houston Business Journals and a host of other publications.

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