



JULY 9, 2014

HOUSTON EQUAL RIGHTS ORDINANCE CRIMINALIZES DISCRIMINATION

In Houston, it is now a crime (Houston Ordinance No. 2014-530, known as the “Houston Equal Rights Ordinance”) for employers with 50 or more employees to discriminate against individuals based on their inclusion in a protected class. The Ordinance not only includes well-known protected classes—race, sex, age, disability, national origin, religion, color, military status, genetic information, and ethnicity—but also prohibits discrimination based on an employee’s sexual orientation or gender identity (including transsexuals).

The Ordinance’s definition of “discrimination” is far broader than Title VII, and includes “[a]ny intentional act or demonstration of preference or antipathy in making decisions regarding employment that adversely affect” an employee’s employment. The Ordinance is not limited to discrimination, but also includes retaliation against employees who file complaints. **Managers and owners may be held criminally liable for making discriminatory decisions.**

Over the next two years, the Ordinance will expand its reach to include businesses with only 25 or more employees (as of June 27, 2015) and then with 15 or more employees in June 2016.

Complaints of the crime are investigated by the Houston Inspector General. A **separate criminal violation** (Class C misdemeanor) is punishable by fines between \$250.00 and \$500.00 **for each day** that a violation is committed, continued, or permitted, but the aggregate of all fines relating to the same complaint filed by a complainant cannot exceed a total of \$5,000.00.

WHAT DOES THIS NEW ORDINANCE MEAN FOR HOUSTON EMPLOYERS?

Consider the following:

- Update provisions in your Employee Handbook to incorporate the expanded list of prohibited conduct as well as the broader definition of discrimination.
- Revise your investigation policies and procedures to apply to criminal complaints.
- Consider the impact of being charged with a crime under this new law and how that might impact a later civil claim of discrimination or retaliation brought against you.
- Make managers and owners aware of criminal liabilities they may be exposed to when making decisions affecting employees.

If you have questions regarding the Houston Equal Rights Ordinance or other employment issues relating to your business, we invite you to contact the Employment Law Section of Gray Reed & McGraw, P.C. at 214-954-4135.