



## New Law Prohibits Discrimination Based on Gender Identity

On May 26, 2023, Minnesota enacted a new law ([House Bill 447](#)) that prohibits employment discrimination based on gender identity, effective **Jan. 1, 2024**.

### New Protected Trait

Minnesota's existing law prohibits employers from discriminating against employees and applicants based on certain characteristics known as "protected traits." These include sexual orientation, which is defined as having or being perceived as having either an emotional, physical or sexual attachment to another person without regard to sex or a self-image or identity not traditionally associated with one's biological maleness or femaleness. House Bill 447 removes the second part of that definition and adds gender identity as a separate and distinct protected trait.

### Gender Identity Defined

Under the new law, gender identity is defined as an individual's "inherent sense of being a man, woman, both or neither." The new law also specifies that an individual's gender identity is not necessarily visible to others and may or may not correspond to the individual's assigned sex at birth or primary or secondary sex characteristics.

### Prohibited Actions

The protected trait addition means that employers may not take any of the following actions based on an employee or applicant's gender identity:

- Discharge or refuse to hire the individual;
- Discriminate against the individual in hiring, tenure, compensation, terms, upgrading, conditions, facilities or privileges of employment; or
- State a preference or limitation in any job advertisement.

In addition, employers are prohibited from asking about or otherwise seeking information about an individual's gender identity.

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Provided to you by Wits Financial

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## Important Dates

### Gender Identity Law

A new Minnesota law narrows the definition of "sexual orientation" under existing anti-discrimination laws but adds broad protections against discrimination based on gender identity.

### Broad Definition

The new law defines gender identity as an individual's inherent sense of being a man, woman, both or neither.

### Enforcement

Employers that violate the new law may face criminal misdemeanor charges, civil lawsuits, and orders to pay damages, attorneys' fees and costs.

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***Starting Jan. 1, 2024, employers may not discriminate based on an individual's inherent sense of being a man, woman, both or neither.***