



The Gender Expression Non-Discrimination Act (GENDA)

What would GENDA do?

This legislation would prohibit discrimination because of a person's gender identity or expression. It would, in particular, make it impermissible to discriminate against an individual simply because that person does not fit a narrow stereotype of what it means to be a man or a woman.

Why is it import to include gender identity and gender expression in New York State's human rights law?

Transgender people face serious discrimination, not only in the workplace, but also in housing, public accommodations and in lending transactions.

- Many pre-operative and post-operative transsexuals are fired when their employers find out about their plan to undergo sex reassignment or learn that they have already undergone such surgery.
- Transgender people often face severe discrimination when they try to find a place to live.
- Many transgender and gender non-conforming people are denied equal treatment in public accommodations. They are asked to leave restaurants, hotels, stores, medical facilities, and educational institutions. They are denied credit. They are refused access to restroom facilities.
- Transgender people who cross-dress outside the workplace live in fear that their employer will discover that fact and fire them.
- All New Yorkers should take a stand against this invidious gender-based discrimination. Everyone deserves to live and work with equality and dignity. No one should lose a job or be denied a place to live because of their gender identity or expression.

Why is GENDA written as it is?

To ensure that transgender people are included in the New York State human rights law, Senator Thomas Duane and Assemblyman Richard Gottfried have introduced legislation that adds the category of "gender identity or expression" to the state's Human Rights law, and defined that category in the law's definition section. If passed, this statutory language will make it clear to all New Yorkers that no one should be subject to discrimination because of their gender identity or gender expression. The definition as written is very similar to the definitions used in New Mexico, Rhode Island, Boston, Baltimore, New York City and many other jurisdictions.

What other jurisdictions have this kind of legislation?

As of April 2003, three states—Minnesota, New Mexico, and Rhode Island—and 54 cities and counties in the U.S. had passed non-discrimination laws that protect transgender people.

- Transgender civil rights legislation has passed in jurisdictions as varied as Ann Arbor, Mich.; Baltimore, Md.; Boulder, Colo.; Multnomah County, Or.; Pittsburgh, Pa.; Rochester, N.Y.; Toledo, Oh.; Tucson, Ariz.; San Francisco, Ca.; Seattle, Wash.; Suffolk County, New York; and York, Pa..
- Lucent Technologies, Apple Computers, IBM, American Airlines and many other large corporations have adopted non-discrimination policies that protect transgender people. It is simply good for business to hire and retain employees based on the quality of their work—discrimination costs businesses because they lose talented and experienced employees. A full list of employers who have policies prohibiting discrimination against transgender people is available on the web at <http://www.transgenderlaw.org/employer/>.

What has been the experience in jurisdictions that protect people from discrimination on the basis of their gender identity or gender expression?

Three years ago, former New York Mayor Ed Koch asked the mayors of jurisdictions that protect gender non-conforming people to report on their city's experience with these types of law—and none of the mayors reported back that implementing the law had caused any major problems or a rash of lawsuits. Mayor Koch wrote an opinion editorial on this issue, which is included in this package.

Jurisdictions that have such laws in place, such as San Francisco, have developed compliance guidelines to help employers and employees understand how to implement the law.

Why can't the prohibition against discrimination based on sexual orientation protect transgender people?

First, sexual orientation as a legal concept is understood to refer only to whether a person is homosexual, heterosexual, or bisexual. Moreover, the Sexual Orientation Non-Discrimination Act, as passed in 2002, defined sexual orientation narrowly, making it impossible for a judge to interpret that definition to include transgender people unless the discrimination against a transgender person occurred because of their sexual orientation.

As a practical matter, not all non-transgender people are straight and not all transgender people are gay. Many gender non-conforming and transgender people identify as heterosexual or "straight." For example, many transgender women have male domestic partners and many transgender men have female domestic partners.

When transgender people face discrimination it often has no relationship to our sexual orientation, but instead is based entirely on the gender identity or gender expression. That is why there must be specific language in the legislation addressing discrimination on these bases.

The Transgender Law & Policy Institute brings experts and advocates together to work on law and policy initiatives designed to advance transgender equality. Information on transgender rights legislation and litigation, as well as news updates and charts and maps listing jurisdictions with transgender inclusive human rights laws can be found on our web page at <http://www.transgenderlaw.org>.