



What's New in HR Law

Four New Prohibited Grounds Proposed for the Ontario *Human Rights Code*

September 25, 2017

BOTTOM LINE

The *Human Rights Code Amendment Act, 2017* ("Bill 164") proposes to amend the Ontario *Human Rights Code* (the "*Code*") to include four new prohibited grounds of discrimination: immigration status, genetic characteristics, police records, and social conditions.

Bill 164 was introduced in the Ontario legislature on October 4, 2017. The proposed new grounds of discrimination are briefly described below.

1. Immigration Status

Bill 164 defines "immigration status" as the status according to Canadian immigration law.

The proposed prohibited ground of immigration status would bolster the *Code's* existing protections with respect to citizenship.

2. Genetic Characteristics

Bill 164 proposes to give individuals the right to equal treatment without discrimination even if they refuse to undergo a genetic test or refuse to disclose, or authorize the disclosure of, the results of a genetic test.

Adding “genetic characteristics” as a prohibited ground of discrimination would align the Ontario *Human Rights Code* with the *Canadian Human Rights Act*, which was amended in May 2017 to provide similar protections.

It is believed that the prohibited ground of genetic characteristics would protect individuals from discrimination or harassment on the basis of medical conditions that they have or will have.

3. Police Records

Bill 164 defines “police records” as charges and convictions, with or without a record suspension, and any police records, including records of a person’s contact with police.

The prohibited ground of police records would replace the existing prohibited ground of “record of offences,” thereby providing broader human rights protection for people who have come into contact with the police. This amendment also complements recent government efforts to end arbitrary police carding.

4. Social Conditions

Bill 164 defines “social condition” as social or economic disadvantage that results from:

- (a) employment status;
- (b) source or level of income;
- (c) housing status, including homelessness;
- (d) level of education; or
- (e) any other circumstance similar to those mentioned in (a), (b), (c), and (d).

The addition of social conditions as a prohibited ground would likely provide enhanced human rights protection for individuals who experience poverty, unemployment, and homelessness.

Check the Box

The Ontario Human Rights Commission has publicly endorsed the proposed amendments under Bill 164. However, Bill 164 must move through the second and third reading stages before the amendments are incorporated into the *Code*. The second reading of Bill 164 is scheduled for October 26, 2017.

If Bill 164 becomes law, employers must ensure that the workplace is free from discrimination and harassment with respect to the new prohibited grounds.

We will monitor the status of Bill 164 as it proceeds through the legislative process and provide further updates as necessary.

For further information, please contact Cassandra Ma at 416-408-5508, or your regular lawyer at the firm.



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