

Human Resources Legislative Update

Federal Reforms Introduced to Prohibit Discrimination on Basis of Gender Identity or Gender Expression

Date: May 19, 2016

On May 17, 2016, the federal government introduced [Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code](#), proposed legislation adding gender identity and gender expression to the list of prohibited grounds of discrimination in the *Canadian Human Rights Act* (CHRA). If passed, Bill C-16 would protect transgender and gender-diverse persons from discrimination in employment, and with respect to the denial of goods, services, premises, facilities or accommodation in the federal sphere.

The proposed legislation also amends the *Criminal Code* to extend the protection against hate propaganda to any section of the public that is distinguished by gender identity or expression. It would also require a court imposing a sentence to consider evidence that an offence was motivated by bias, prejudice or hate based on gender identity or expression as an aggravating circumstance.

The terms “gender identity” and “gender expression” are not defined in Bill C-16. However, a [Backgrounder provided with the government’s News Release](#) provides the following guidance on both terms:

- **Gender identity** is each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the same as or different from the gender typically associated with their sex assigned at birth. For some persons, their gender identity is different from the gender typically associated with their sex assigned at birth; this is often described as *transgender* or simply *trans*. Gender identity is fundamentally different from a person’s sexual orientation.
- **Gender expression** is how a person publicly presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways of expressing gender.

[Proposed federal legislation to add gender identity to the list of prohibited grounds under the CHRA](#) has been considered during prior legislative sessions.