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## BLOGS

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# Sexual Orientation Protection from Discrimination in Minnesota

The Supreme Court hears arguments today in the second of two landmark cases involving the national same-sex marriage discussion. The arguments are timely in the state of Minnesota, where an amendment to define marriage as solely between a man and a woman was defeated this past November and a same-sex marriage bill was recently introduced in the state legislature.

As the Supreme Court wrestles with the constitutionality of the Defense of Marriage Act and California's Proposition 8, it is important for employers in Minnesota to remember that although Minnesota does not recognize same-sex marriage, it has, since 1993, recognized sexual orientation as a protected class for purposes of discrimination law. While the majority of states do not recognize sexual orientation as a protected class, Minnesota's definition of sexual orientation is the broadest in the nation: having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. This definition protects lesbian, gay, bisexual and transgender individuals from discrimination in the workplace. It also protects individuals who associate with members of the LGBT community.

At the same time that Minnesota's definition of sexual orientation provides broad protection from discrimination based on sexual orientation, the Minnesota Human Rights Act also includes various exemptions from its provisions. Private organizations providing services to minors think Boy Scouts, recreational soccer leagues, 4-H clubs, and summer camps may consider sexual orientation in hiring. Furthermore, the MHRA provides an exemption to religious or fraternal organizations.

Since the inception of sexual orientation as a protected status in 1993, discrimination cases brought under this status have accounted for about 3% of the total charges filed with the Minnesota Department of Human Rights. Regardless of how the Supreme Court rules on the same-sex marriage issue, employers should be aware of whether sexual orientation is a protected status in their state and should ensure their training materials and policies comply with state law.