

Labor and Employment Attorneys 12-4-09

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TITLE II OF THE GENETIC INFORMATION NONDISCRIMINATION ACT IS NOW EFFECTIVE

On November 21, 2009, Title II of the Genetic Information Nondiscrimination Act (GINA), which prohibits discrimination against employees or job applicants based on their genetic information or predisposition to certain diseases, became effective. Enforced by the Equal Employment Opportunity Commission (EEOC), Title II of GINA also limits employers' abilities to acquire and disclose genetic information and prohibits harassment on the basis of such information.

Under Title II of GINA, covered employers may not use genetic information to discriminate against employees or applicants regarding any aspect of employment such as hiring, firing, compensation, promotions, transfers and job assignments. Title II of GINA defines genetic information to include, for example, an individual's or his family member's genetic testing information, as well as information pertaining to any disease, disorder or condition of an individual's family members. Although Title II of GINA generally forbids covered employers from even obtaining genetic information, there are some narrow exceptions to this rule, such as when an employer inadvertently acquires genetic information by overhearing a conversation.

The provisions in Title II of GINA apply to the same covered entities under Title VII of the Civil Rights Act of 1964, regardless of whether or not the employer conducts genetic testing. Thus, private, state and local government employers with fifteen (15) or more employees, employment agencies, labor unions and joint labor-management training programs must comply with Title II of GINA. These covered entities are also required to post conspicuous notices that describe GINA's applicable provisions. Accordingly, the EEOC has revised its "Equal Employment Opportunity is the Law" poster, [available here](#), to reflect Title II of GINA.

Covered employers should strongly consider implementing policies and updating their handbooks to ensure compliance with Title II of GINA. Please feel free to contact an attorney in Reinhart's Labor and Employment Practice for any needed assistance.

This *Headlines in Labor and Employment Law e-alert* provides general information about labor and employment issues. It should not be construed as legal advice or a legal opinion. Readers should seek legal counsel concerning specific factual situations confronting them.

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