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New York State Legislature Passes New Bill Banning Transgender Discrimination

By Carolyn D. Richmond, Glenn S. Grindlinger, and Matthew C. Berger

The New York State Assembly and New York State Senate passed the Gender Expression Non-Discrimination Act (GENDA) on January 15, 2019. The bill is expected to be signed into law by Governor Andrew Cuomo and will, among other things, amend the New York State Human Rights Law (NYSHRL) to prohibit discrimination against transgender and non-gender conforming individuals. GENDA will take effect 30 days after Gov. Cuomo signs the bill into law.

Specifically, GENDA will add Subdivision 35 to Section 292 of the NYSHRL, which defines “gender identity or expression” as “a person’s actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.” Additionally, GENDA will add “gender identity or expression” to the NYSHRL, the Civil Rights Law, and the Education Law as a protected characteristic and prohibit discrimination on the basis of gender identity or expression in employment, housing, education, and public accommodations. Although New York currently has regulations in place—promulgated by the New York State Division of Human Rights in 2016—prohibiting

discrimination and harassment on the basis of gender identity, gender dysphoria, and transgender status, GENDA will codify those regulations into law.

Accordingly, even though New York already has regulations prohibiting discrimination on the basis of gender identity and transgender status, employers should contact counsel to review—and if necessary—revise their current employee handbooks and policies to ensure compliance with GENDA.

For more information about this Alert, please contact Carolyn D. Richmond at 212.878.7983 or crichmond@foxrothschild.com, Glenn S. Grindlinger at 212.905.2305 or ggrindlinger@foxrothschild.com, or any other member of Fox Rothschild’s Labor & Employment Department.