



"...meeting community needs...enhancing quality of life."

LEGAL SERVICES DEPARTMENT

Office of the City Attorney

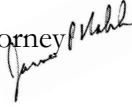
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TO: Alderperson Mike Smith
Members of the Safety and Licensing Committee

FROM: James P. Walsh, City Attorney 

DATE: March 10, 2014

RE: Resolution #4-R-14/Coenen

The above Resolution was referred by the Committee to this office for information regarding which aspects of the resolution may be covered by either federal or State of Wisconsin law. Our comments follow.

There are a number of federal laws relating to employment discrimination. The primary provisions arise from Title VII of the Civil Rights Act of 1964. That act prohibits employment discrimination based on race, color, religion, sex or national origin. A great deal of case law has developed around what specifically those terms include, but it is also instructive to note that other issues have been addressed through legislation. Those include age discrimination, qualified persons with disabilities, discrimination based on genetic information are all issues addressed by federal law.

Likewise the State of Wisconsin has adopted fair employment statutes which cover similar areas but the State has also expanded its coverage. Wisconsin's fair employment laws can be found in §111.31 through §111.395 of the Wisconsin Statutes. The more extensive provisions of the Wisconsin Statutes address unfair discrimination in employment based on age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of lawful products off the employer's premises during non-working hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters, and that such discrimination substantially and adversely effects the general welfare of the state. Wisconsin Statutes §111.31(1). There are also provisions in the Wisconsin Statutes which address things such as honesty testing, the results of genetic testing, service in the U.S. armed forces, the State defense force, or the National Guard of any state.

The federal prohibition against discrimination in places of public accommodation is addressed in 42 U.S. Code 2000A, inter alia. Similar to the employment discrimination, that section provides protection against discrimination based on race, color, religion, or national origin.

The State of Wisconsin has likewise added a prohibition on discrimination in places of public accommodation in §106.52 of the Wisconsin Statutes. That section prohibits discrimination based

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on sex, race, color, creed, disability, sexual orientation, national origin or ancestry. The administration of these provisions in Wisconsin is the Department of Workforce Development.

There is no provision in either state or federal law which precludes the City of Appleton from adopting the resolution proposed. All "classifications" identified in the resolution are found within Wisconsin or federal law with the exception of gender identity and/or gender expression.

Hopefully this information is of assistance to the Committee. If you have any questions in this regard, please do not hesitate to contact me.

JPW:jls