

# “Gay Rights” or Discrimination based on Sexual Orientation

## Background:

### Washington’s Law Against Discrimination

Washington's Law Against Discrimination (Chapter 49.60 RCW) establishes that it is a civil right to be free from discrimination based on race, color, creed, national origin, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to employment, places of public resort, accommodation, or amusement, commerce; and real estate, credit, and insurance transactions.

To effectuate the right to be free from discrimination, the law defines certain practices as being unfair. For example, it is deemed to be an unfair practice to fire or to refuse to hire a person based on sex, race, creed, color, national origin, marital status, the presence of any sensory or physical disability, or the use of a trained dog guide or service animal. There are some exceptions to the Law Against Discrimination. For example, employers with fewer than eight employees and non-profit religious or sectarian organizations are exempt from this law.

### Washington’s Human Rights Commission

The Washington State Human Rights Commission (WSHRC) is responsible, in part, for administering and enforcing the Law Against Discrimination. The WSHRC receives and investigates complaints made by persons alleging unfair practices in violation of this law. If the WSHRC finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If this process fails, the WSHRC must refer the matter to an administrative law judge who may, after a hearing on the matter, issue an order providing relief to the complainant.

## Recent Legislation

In 2006, the Legislature passed **HB 2661** which adds “sexual orientation” to the list of prohibited practices under Washington’s Law Against Discrimination and expands the jurisdiction of the WSHRC to enforce the new law. In HB 2661, “sexual orientation” is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity. "Gender expression or identity" is defined as “having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.” There are some questions regarding the meaning of these terms and their application but there has been no litigation yet over potential interpretations.

Real estate transactions that include the sharing, rental, or sublease of a dwelling unit when the dwelling unit is to be occupied by the owner or sublessor are exempted from the Law Against Discrimination. Further, the Law Against Discrimination is not to be construed to require an employer to establish employment goals or quotas based on sexual orientation, to modify or supersede state law relating to marriage, or to endorse any specific belief, practice, behavior, or orientation.