

Intersection of GINA and ADA

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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The Genetic Information and Non Discrimination Law (GINA) was signed into law by President Bush in May of 2008 and took effect November 21, 2009. As one could imagine GINA and ADA commonly intersect because disabilities are often the result of genetic issues.

GINA prohibits discrimination based on the possibility that someone will acquire a condition in the future. ADA protects individuals who currently have impairments or who are perceived as having impairments if they meet the definition of disability under ADA.

GINA restricts employers and insurers from acquiring and using genetic information except in limited circumstances. With respect to employment, GINA:

- prohibits discrimination and harassment on the basis of genetic information;
- prohibits employers from obtaining genetic info except in narrow circumstances; and
- requires employers to keep genetic such as: results of genetic tests for cancer genes, hereditary diseases, and other disorders. Results information confidential.

When an employer requests medical information in the course of administering ADA, there is a potential to obtain information that could be protected by GINA, including genetic information such as: results of genetic tests for cancer genes, hereditary diseases, and other disorders. Results of genetic information on family members are also protected under GINA. GINA protections include requests for genetic information by an employer about employees or their family members as well as genetic information regarding a fetus or embryo. It also includes the manifestation of a disease or disorder that may pertain to employees or their family members.

If you do use ADA accommodation forms, be sure to provide a disclaimer stating you are not soliciting genetic test results from employees or their family members or anything that may not be applicable to the ADA and covered by GINA.

Tests that are not considered genetic are:

- tests for the presence of a virus not composed of human DNA, RNA, proteins;
- metabolites;
- tests for the presence of alcohol or illegal drugs;
- cholesterol tests, liver function tests, and complete blood counts.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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