

Genetic Information Nondiscrimination Act

Dear Reader:

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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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Genetic Information Nondiscrimination Act

Reference Number:
MTAS-1554

The **Genetic Information Nondiscrimination Act of 2008 (GINA)**, effective November 21, 2009, prohibits employers from requesting or requiring genetic information of employees or their family members. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, *the fact that an individual or an individual's family member sought or received genetic services*, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. There is an exception for the inadvertent or accidental acquisitions of genetic information — the so-called "water cooler" exception — when an employer might accidentally overhear coworkers discussing health issues.

GINA prohibits employers from using genetic information to make decisions regarding employment, hiring, promotion, terms or conditions of employment, privileges of employment, compensation or termination. It also prohibits classifying, or depriving an individual or employment opportunities on the basis of genetic information.

Violations of GINA can result in compensatory and punitive damages, reasonable attorney's fees and injunctive relief including reinstatement and hiring, back pay, and other equitable remedies. A willful violation of GINA shall be punishable by a fine of not more than \$100 for each separate offense. U.S.C. § 216(e).

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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