

HOUSE BILL No. 5959

November 13, 2014, Introduced by Rep. Foster and referred to the Committee on Commerce.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending the title and sections 102, 103, 202, 203, 204, 205, 206, 207, 209, 302, 302a, 402, 502, 504, 505, and 506 (MCL 37.2102, 37.2103, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, 37.2209, 37.2302, 37.2302a, 37.2402, 37.2502, 37.2504, 37.2505, and 37.2506), the title as amended by 1992 PA 258, sections 102, 502, 504, 505, and 506 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, section 202 as amended by 2009 PA 190, section 302a as added by 1992 PA 70, and section 402 as amended by 1993 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define civil rights; to prohibit discriminatory

1 practices, policies, and customs in the exercise of those rights
2 based upon religion, race, color, national origin, age, sex, **SEXUAL**
3 **ORIENTATION**, height, weight, familial status, or marital status; to
4 preserve the confidentiality of records regarding arrest,
5 detention, or other disposition in which a conviction does not
6 result; to prescribe the powers and duties of the civil rights
7 commission and the department of civil rights; to provide remedies
8 and penalties; and to repeal ~~certain~~ acts and parts of acts.

9 Sec. 102. (1) The opportunity to obtain employment, housing
10 and other real estate, and the full and equal utilization of public
11 accommodations, public service, and educational facilities without
12 discrimination because of religion, race, color, national origin,
13 age, sex, **SEXUAL ORIENTATION**, height, weight, familial status, or
14 marital status as prohibited by this act, is recognized and
15 declared to be a civil right.

16 (2) This section ~~shall~~ **DOES** not ~~be construed to~~ prevent an
17 individual from bringing or continuing an action arising out of sex
18 discrimination before July 18, 1980 ~~which~~ **FOR AN** action **THAT** is
19 based on conduct similar to or identical to harassment.

20 (3) This section ~~shall~~ **DOES** not ~~be construed to~~ prevent an
21 individual from bringing or continuing an action arising out of
22 discrimination based on familial status before ~~the effective date~~
23 ~~of the amendatory act that added this subsection which~~ **JUNE 29,**
24 **1992 FOR AN** action **THAT** is based on conduct similar to or identical
25 to discrimination because of the age of persons residing with the
26 individual bringing or continuing the action.

27 Sec. 103. As used in this act:

1 (a) "Age" means chronological age except as otherwise provided
2 by law.

3 (b) "Commission" means the civil rights commission established
4 by section 29 of article V of the state constitution of 1963.

5 (c) "Commissioner" means a member of the commission.

6 (d) "Department" means the department of civil rights or its
7 employees.

8 (e) "Familial status" means 1 or more individuals under the
9 age of 18 residing with a parent or other person having custody or
10 in the process of securing legal custody of the individual or
11 individuals or residing with the designee of the parent or other
12 person having or securing custody, with the written permission of
13 the parent or other person. For purposes of this definition,
14 "parent" includes a person who is pregnant.

15 (f) "National origin" includes the national origin of an
16 ancestor.

17 (g) "Person" means an individual, agent, association,
18 corporation, joint apprenticeship committee, joint stock company,
19 labor organization, legal representative, mutual company,
20 partnership, receiver, trust, trustee in bankruptcy, unincorporated
21 organization, ~~the~~**THIS** state or a political subdivision of ~~the~~**THIS**
22 state or an agency of ~~the~~**THIS** state, or any other legal or
23 commercial entity.

24 (h) "Political subdivision" means a county, city, village,
25 township, school district, or special district or authority of ~~the~~
26 **THIS** state.

27 (i) Discrimination because of sex includes sexual harassment.

1 Sexual harassment means unwelcome sexual advances, requests for
2 sexual favors, and other verbal or physical conduct or
3 communication of a sexual nature under the following conditions:

4 (i) Submission to the conduct or communication is made a term
5 or condition either explicitly or implicitly to obtain employment,
6 public accommodations or public services, education, or housing.

7 (ii) Submission to or rejection of the conduct or communication
8 by an individual is used as a factor in decisions affecting the
9 individual's employment, public accommodations or public services,
10 education, or housing.

11 (iii) The conduct or communication has the purpose or effect of
12 substantially interfering with an individual's employment, public
13 accommodations or public services, education, or housing, or
14 creating an intimidating, hostile, or offensive employment, public
15 accommodations, public services, educational, or housing
16 environment.

17 (J) **"SEXUAL ORIENTATION" MEANS HAVING AN ORIENTATION FOR**
18 **HETEROSEXUALITY, HOMOSEXUALITY, OR BISEXUALITY OR HAVING A HISTORY**
19 **OF SUCH AN ORIENTATION OR BEING IDENTIFIED WITH SUCH AN**
20 **ORIENTATION.**

21 Sec. 202. (1) An employer shall not do any of the following:

22 (a) Fail or refuse to hire or recruit, discharge, or otherwise
23 discriminate against an individual with respect to employment,
24 compensation, or a term, condition, or privilege of employment,
25 because of religion, race, color, national origin, age, sex, **SEXUAL**
26 **ORIENTATION**, height, weight, or marital status.

27 (b) Limit, segregate, or classify an employee or applicant for

1 employment in a way that deprives or tends to deprive the employee
2 or applicant of an employment opportunity ~~—~~or otherwise adversely
3 affects the status of ~~an~~**THE** employee or applicant because of
4 religion, race, color, national origin, age, sex, **SEXUAL**
5 **ORIENTATION**, height, weight, or marital status.

6 (c) Segregate, classify, or otherwise discriminate against a
7 ~~person~~**AN INDIVIDUAL** on the basis of sex with respect to a term,
8 condition, or privilege of employment, including, but not limited
9 to, a benefit plan or system.

10 (d) Treat an individual affected by pregnancy, childbirth, or
11 a related medical condition differently for any employment-related
12 purpose from another individual who is not so affected but similar
13 in ability or inability to work, without regard to the source of
14 any condition affecting the other individual's ability or inability
15 to work. For purposes of this subdivision, a medical condition
16 related to pregnancy or childbirth does not include nontherapeutic
17 abortion not intended to save the life of the mother.

18 (2) This section does not prohibit the establishment or
19 implementation of a bona fide retirement policy or system that is
20 not a subterfuge to evade the purposes of this section.

21 (3) This section does not apply to the employment of an
22 individual by his or her parent, spouse, or child.

23 Sec. 203. An employment agency shall not fail or refuse to
24 procure, refer, recruit, or place for employment, or otherwise
25 discriminate against, an individual because of religion, race,
26 color, national origin, age, sex, **SEXUAL ORIENTATION**, height,
27 weight, or marital status; or classify or refer for employment an

1 individual on the basis of religion, race, color, national origin,
2 age, sex, **SEXUAL ORIENTATION**, height, weight, or marital status.

3 Sec. 204. A labor organization shall not **DO ANY OF THE**
4 **FOLLOWING**:

5 (a) Exclude or expel from membership, or otherwise
6 discriminate against, a member or applicant for membership because
7 of religion, race, color, national origin, age, sex, **SEXUAL**
8 **ORIENTATION**, height, weight, or marital status.

9 (b) Limit, segregate, or classify membership or applicants for
10 membership, or classify or fail or refuse to refer for employment
11 an individual in a way ~~which~~**THAT** would deprive or tend to deprive
12 that individual of an employment opportunity, or ~~which~~**THAT** would
13 limit an employment opportunity, or ~~which~~**THAT** would adversely
14 affect wages, hours, or employment conditions, or otherwise
15 adversely affect the status of an employee or an applicant for
16 employment, because of religion, race, color, national origin, age,
17 sex, **SEXUAL ORIENTATION**, height, weight, or marital status.

18 (c) Cause or attempt to cause an employer to violate this
19 article.

20 (d) Fail to fairly and adequately represent a member in a
21 grievance process because of religion, race, color, national
22 origin, age, sex, **SEXUAL ORIENTATION**, height, weight, or marital
23 status.

24 Sec. 205. An employer, labor organization, or joint labor-
25 management committee controlling an apprenticeship, on the job, or
26 other training or retraining program ~~—~~shall not discriminate
27 against an individual because of religion, race, color, national

1 origin, age, sex, **SEXUAL ORIENTATION**, height, weight, or marital
2 status ~~—~~in admission to, or employment or continuation in, a
3 program established to provide apprenticeship, on the job, or other
4 training or retraining.

5 Sec. 206. (1) An employer, labor organization, or employment
6 agency shall not print, circulate, post, mail, or otherwise cause
7 to be published a statement, advertisement, notice, or sign
8 relating to employment by the employer, or relating to membership
9 in or a classification or referral for employment by the labor
10 organization, or relating to a classification or referral for
11 employment by the employment agency, ~~which~~**THAT** indicates a
12 preference, limitation, specification, or discrimination, based on
13 religion, race, color, national origin, age, sex, **SEXUAL**
14 **ORIENTATION**, height, weight, or marital status.

15 (2) Except as permitted by rules promulgated by the commission
16 or by applicable federal law, an employer or employment agency
17 shall not **DO ANY OF THE FOLLOWING**:

18 (a) Make or use a written or oral inquiry or form of
19 application that elicits or attempts to elicit information
20 concerning the religion, race, color, national origin, age, sex,
21 **SEXUAL ORIENTATION**, height, weight, or marital status of a
22 prospective employee.

23 (b) Make or keep a record of information described in
24 subdivision (a) or ~~to~~ disclose that information.

25 (c) Make or use a written or oral inquiry or form of
26 application that expresses a preference, limitation, specification,
27 or discrimination based on religion, race, color, national origin,

1 age, sex, **SEXUAL ORIENTATION**, height, weight, or marital status of
2 a prospective employee.

3 Sec. 207. An individual seeking employment shall not publish
4 or cause to be published a notice or advertisement that specifies
5 or indicates the individual's religion, race, color, national
6 origin, age, sex, **SEXUAL ORIENTATION**, height, weight, or marital
7 status ~~—~~or **THAT** expresses a preference, specification, limitation,
8 or discrimination as to the religion, race, color, national origin,
9 age, height, weight, sex, **SEXUAL ORIENTATION**, or marital status of
10 a prospective employer.

11 Sec. 209. A contract to which ~~the~~**THIS** state, a political
12 subdivision, or an agency ~~thereof~~**OF THIS STATE OR OF A POLITICAL**
13 **SUBDIVISION** is a party shall contain a covenant by the contractor
14 and his **OR HER** subcontractors not to discriminate against an
15 employee or applicant for employment with respect to hire, tenure,
16 terms, conditions, or privileges of employment, or a matter
17 directly or indirectly related to employment, because of race,
18 color, religion, national origin, age, sex, **SEXUAL ORIENTATION**,
19 height, weight, or marital status. Breach of this covenant may be
20 regarded as a material breach of the contract.

21 Sec. 302. Except where permitted by law, a person shall not **DO**
22 **ANY OF THE FOLLOWING:**

23 (a) Deny an individual the full and equal enjoyment of the
24 goods, services, facilities, privileges, advantages, or
25 accommodations of a place of public accommodation or public service
26 because of religion, race, color, national origin, age, sex, **SEXUAL**
27 **ORIENTATION**, or marital status.

1 (b) Print, circulate, post, mail, or otherwise cause to be
2 published a statement, advertisement, notice, or sign ~~which~~ **THAT**
3 indicates that the full and equal enjoyment of the goods, services,
4 facilities, privileges, advantages, or accommodations of a place of
5 public accommodation or public service will be refused, withheld
6 from, or denied an individual because of religion, race, color,
7 national origin, age, sex, **SEXUAL ORIENTATION**, or marital status,
8 or that an individual's patronage of or presence at a place of
9 public accommodation is objectionable, unwelcome, unacceptable, or
10 undesirable because of religion, race, color, national origin, age,
11 sex, **SEXUAL ORIENTATION**, or marital status.

12 Sec. 302a. (1) This section applies to a private club that is
13 ~~defined as a place of public accommodation pursuant to~~ **UNDER**
14 section 301(a).

15 (2) If a private club allows use of its facilities by 1 or
16 more adults per membership, the use must be equally available to
17 all adults entitled to use the facilities under the membership. All
18 classes of membership shall be available without regard to race,
19 color, gender, **SEXUAL ORIENTATION**, religion, marital status, or
20 national origin. Memberships that permit use during restricted
21 times may be allowed only if the restricted times apply to all
22 adults using that membership.

23 (3) A private club that has food or beverage facilities or
24 services shall allow equal access to those facilities and services
25 for all adults in all membership categories at all times. This
26 subsection ~~shall~~ **DOES** not require service or access to facilities
27 to persons that would violate any law or ordinance regarding sale,

1 consumption, or regulation of alcoholic beverages.

2 (4) This section does not prohibit a private club from
3 sponsoring or permitting sports schools or leagues for children
4 less than 18 years of age that are limited by age or to members of
5 1 sex, if comparable and equally convenient access to the club's
6 facilities is made available to both sexes and if these activities
7 are not used as a subterfuge to evade the purposes of this article.

8 Sec. 402. An educational institution shall not do any of the
9 following:

10 (a) Discriminate against an individual in the full utilization
11 of or benefit from the institution, or the services, activities, or
12 programs provided by the institution, because of religion, race,
13 color, national origin, ~~ex~~-sex, **OR SEXUAL ORIENTATION**.

14 (b) Exclude, expel, limit, or otherwise discriminate against
15 an individual seeking admission as a student or an individual
16 enrolled as a student in the terms, conditions, or privileges of
17 the institution ~~—~~because of religion, race, color, national
18 origin, ~~ex~~-sex, **OR SEXUAL ORIENTATION**.

19 (c) For purposes of admission only, make or use a written or
20 oral inquiry or form of application that elicits or attempts to
21 elicit information concerning the religion, race, color, national
22 origin, age, sex, **SEXUAL ORIENTATION**, or marital status of a
23 person, except as permitted by rule of the commission or as
24 required by federal law, rule, or regulation, or pursuant to an
25 affirmative action program.

26 (d) Print, ~~ex~~-publish, or cause to be printed or published a
27 catalog, notice, or advertisement indicating a preference,

1 limitation, specification, or discrimination based on the religion,
2 race, color, national origin, ~~or~~ sex, **OR SEXUAL ORIENTATION** of an
3 applicant for admission to the educational institution.

4 (e) Announce or follow a policy of denial or limitation
5 through a quota or otherwise of educational opportunities of a
6 group or its members because of religion, race, color, national
7 origin, ~~or~~ sex, **OR SEXUAL ORIENTATION**.

8 Sec. 502. (1) A person engaging in a real estate transaction,
9 or a real estate broker or salesman, shall not on the basis of
10 religion, race, color, national origin, age, sex, **SEXUAL**
11 **ORIENTATION**, familial status, or marital status of a person or a
12 person residing with that person **DO ANY OF THE FOLLOWING**:

13 (a) Refuse to engage in a real estate transaction with a
14 person.

15 (b) Discriminate against a person in the terms, conditions, or
16 privileges of a real estate transaction or in the furnishing of
17 facilities or services in connection with a real estate
18 transaction.

19 (c) Refuse to receive from a person or transmit to a person a
20 bona fide offer to engage in a real estate transaction.

21 (d) Refuse to negotiate for a real estate transaction with a
22 person.

23 (e) Represent to a person that real property is not available
24 for inspection, sale, rental, or lease when in fact it is so
25 available, ~~or~~ knowingly fail to bring a property listing to a
26 person's attention, ~~or~~ refuse to permit a person to inspect real
27 property, or otherwise make unavailable or deny real property to a

1 person.

2 (f) Make, print, circulate, post, mail, or otherwise cause to
3 be made or published a statement, advertisement, notice, or sign,
4 ~~or~~ use a form of application for a real estate transaction, or make
5 a record of inquiry in connection with a prospective real estate
6 transaction, ~~which~~ **THAT** indicates, directly or indirectly, an
7 intent to make a preference, limitation, specification, or
8 discrimination with respect to the real estate transaction.

9 (g) Offer, solicit, accept, use, or retain a listing of real
10 property with the understanding that a person may be discriminated
11 against in a real estate transaction or in the furnishing of
12 facilities or services in connection ~~therewith~~ **WITH A REAL ESTATE**
13 **TRANSACTION.**

14 (h) Discriminate against a person in the brokering or
15 appraising of real property.

16 (2) A person shall not deny a person access to, or membership
17 or participation in, a multiple listing service, real estate
18 brokers' organization, or other service, organization, or facility
19 relating to the business of selling or renting real property or ~~to~~
20 discriminate against him or her in the terms or conditions of that
21 access, membership, or participation because of religion, race,
22 color, national origin, age, sex, **SEXUAL ORIENTATION**, familial
23 status, or marital status.

24 (3) This section is subject to section 503.

25 Sec. 504. (1) A person to whom application is made for
26 financial assistance or financing in connection with a real estate
27 transaction or in connection with the construction, rehabilitation,

1 repair, maintenance, or improvement of real property, or a
2 representative of that person, shall not **DO ANY OF THE FOLLOWING:**

3 (a) Discriminate against the applicant because of the
4 religion, race, color, national origin, age, sex, **SEXUAL**
5 **ORIENTATION**, familial status, or marital status of the applicant or
6 a person residing with the applicant.

7 (b) Use a form of application for financial assistance or
8 financing or make or keep a record or inquiry in connection with an
9 application for financial assistance or financing ~~which~~**THAT**
10 indicates, directly or indirectly, a preference, limitation,
11 specification, or discrimination as to the religion, race, color,
12 national origin, age, sex, **SEXUAL ORIENTATION**, familial status, or
13 marital status of the applicant or a person residing with the
14 applicant.

15 (2) A person whose business includes engaging in real estate
16 transactions shall not discriminate against a person because of
17 religion, race, color, national origin, age, sex, **SEXUAL**
18 **ORIENTATION**, familial status, or marital status ~~—~~in the purchasing
19 of loans for acquiring, constructing, improving, repairing, or
20 maintaining a dwelling, ~~or~~**IN** the making or purchasing of loans, or
21 **IN** the provision of other financial assistance secured by
22 residential real estate.

23 (3) Subsection (1)(b) does not apply to a form of application
24 for financial assistance prescribed for the use of a lender
25 regulated as a mortgagee under the national housing act, ~~chapter~~
26 ~~847, 48 Stat. 1246~~ **12 USC 1701 TO 1750G**, or by a regulatory board
27 or officer acting under the statutory authority of this state or

1 the United States.

2 Sec. 505. (1) A condition, restriction, or prohibition,
3 including a right of entry or possibility of reverter, that
4 directly or indirectly limits the use or occupancy of real property
5 on the basis of religion, race, color, national origin, age, sex,
6 **SEXUAL ORIENTATION**, familial status, or marital status is void,
7 except a limitation of use as provided in section 503(1)(c) or on
8 the basis of religion relating to real property held by a religious
9 institution or organization, or by a religious or charitable
10 organization operated, supervised, or controlled by a religious
11 institution or organization, and used for religious or charitable
12 purposes.

13 (2) A person shall not insert in a written instrument relating
14 to real property a provision that is void under this section or
15 honor such a provision in the chain of title.

16 Sec. 506. A person shall not represent, for the purpose of
17 inducing a real estate transaction from which the person may
18 benefit financially, that a change has occurred or will or may
19 occur in the composition with respect to religion, race, color,
20 national origin, age, sex, **SEXUAL ORIENTATION**, familial status, or
21 marital status of the owners or occupants in the block,
22 neighborhood, or area in which the real property is located, or
23 represent that this change will or may result in the lowering of
24 property values, an increase in criminal or antisocial behavior, or
25 a decline in the quality of schools in the block, neighborhood, or
26 area in which the real property is located.