

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4476

(As passed the House, December 2, 1999)

A bill to amend 1976 PA 453, entitled

"An act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex, height, weight, familial status, or marital status; to preserve the confidentiality of records regarding arrest, detention, or other disposition in which a conviction does not result; to prescribe the powers and duties of the civil rights commission and the department of civil rights; to provide remedies and penalties; to provide for fees; and to repeal certain acts and parts of acts," by amending sections 103, 205a, and 301 (MCL 37.2103, 37.2205a, and 37.2301), section 103 as amended by 1992 PA 124, section 205a as amended by 1982 PA 45, and section 301 as amended by 1992 PA 70.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 103. As used in this act:

2 (a) "Age" means chronological age except as otherwise pro-
3 vided by law.

4 (b) "Commission" means the civil rights commission estab-
5 lished by section 29 of article ~~5~~ V of the state constitution
6 of 1963.

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

8 (d) "Department" means the department of civil rights or its
9 employees.

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1 (e) "Familial status" means 1 or more individuals under the
2 age of 18 residing with a parent or other person having custody
3 or in the process of securing legal custody of the individual or
4 individuals or residing with the designee of the parent or other
5 person having or securing custody, with the written permission of
6 the parent or other person. For purposes of this definition,
7 "parent" includes a person who is pregnant.

8 (f) "National origin" includes the national origin of an
9 ancestor.

10 (g) "Person" means an individual, agent, association, corpo-
11 ration, joint apprenticeship committee, joint stock company,
12 labor organization, legal representative, mutual company, part-
13 nership, receiver, trust, trustee in bankruptcy, unincorporated
14 organization, the state or a political subdivision of the state
15 or an agency of the state, or any other legal or commercial
16 entity

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20 (h) "Political subdivision" means a county, city, village,
21 township, school district, or special district or authority of
22 the state.

23 (i) Discrimination because of sex includes sexual
24 harassment. ~~which~~ SEXUAL HARASSMENT means unwelcome sexual
25 advances, requests for sexual favors, and other verbal or physi-
26 cal conduct or communication of a sexual nature ~~when~~ UNDER THE
27 FOLLOWING CONDITIONS:

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1 (i) Submission to ~~such~~ THE conduct or communication is
2 made a term or condition either explicitly or implicitly to
3 obtain employment, public accommodations or public services, edu-
4 cation, or housing.

5 (ii) Submission to or rejection of ~~such~~ THE conduct or
6 communication by an individual is used as a factor in decisions
7 affecting ~~such~~ THE individual's employment, public accommoda-
8 tions or public services, education, or housing.

9 (iii) ~~Such~~ THE conduct or communication has the purpose or
10 effect of substantially interfering with an individual's employ-
11 ment, public accommodations or public services, education, or
12 housing, or creating an intimidating, hostile, or offensive
13 employment, public accommodations, public services, educational,
14 or housing environment.

Sec. 205a. (1) An employer, employment agency, or labor
organization, other than a law enforcement agency of ~~the~~ THIS
state or a political subdivision of ~~the~~ THIS state, shall not in
connection with an application for employment ~~, personnel,~~ or
membership, or in connection with the terms, conditions, or
privileges ~~or~~ OF employment ~~, personnel,~~ or membership request,
make, or maintain a record of information regarding ~~an~~ A
MISDEMEANOR arrest, detention, or disposition ~~of a violation of law~~
~~in which~~ WHERE a conviction did not result. A person ~~shall~~ IS
not ~~be held~~ guilty of perjury or otherwise FOR giving a false
statement by failing to recite or acknowledge information the person
has a civil right to withhold by this section. This section ~~shall~~
DOES not apply to information relative to a felony charge before
conviction or dismissal.

(2) AS USED IN THIS SECTION, "LAW ENFORCEMENT AGENCY" INCLUDES
THE STATE DEPARTMENT OF CORRECTIONS.

15 Sec. 301. As used in this article:

16 (a) "Place of public accommodation" means a business, or an
17 educational, refreshment, entertainment, recreation, health, or
18 transportation facility, or institution of any kind, whether
19 licensed or not, whose goods, services, facilities, privileges,
20 advantages, or accommodations are extended, offered, sold, or
21 otherwise made available to the public. Place of public accommo-
22 dation also includes the facilities of the following private
23 clubs:

24 (i) A country club or golf club.

25 (ii) A boating or yachting club.

26 (iii) A sports or athletic club.

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1 (iv) A dining club, except a dining club that in good faith
2 limits its membership to the members of a particular religion for
3 the purpose of furthering the teachings or principles of that
4 religion —, and not for the purpose of excluding individuals of
5 a particular gender, race, or color.

6 (b) "Public service" means a public facility, department,
7 agency, board, or commission, owned, operated, or managed by or
8 on behalf of the state, a political subdivision, or an agency
9 thereof —, or a tax exempt private agency established to provide
10 service to the public, EXCEPT THAT PUBLIC SERVICE DOES NOT
11 INCLUDE A STATE OR COUNTY CORRECTIONAL FACILITY WITH RESPECT TO
12 ACTIONS AND DECISIONS REGARDING AN INDIVIDUAL SERVING A SENTENCE
13 OF IMPRISONMENT.

14 Enacting section 1. This amendatory act is curative and
15 intended to correct any misinterpretation of legislative intent in
16 the court of appeals decision Neal v. Department of Corrections, 232
17 Mich App 730 (1998).
18 This legislation further expresses the original intent of the
19 legislature that an individual serving a sentence of imprisonment
20 in a state or county correctional facility is not within the pur-
21 view of this act.