



HOUSE BILL No. 5107

November 9, 1999, Introduced by Reps. Godchaux, Martinez, Schauer, Thomas, Scranton, Brater, Woodward, LaForge, Price, Hansen, Garza, Bogardus, Jacobs, Minore and Stallworth and referred to the Committee on Constitutional Law and Ethics.

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, 103, 502, 504, 505, and 506 as amended by
1992 PA 124, section 202 as amended by 1991 PA 11, 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

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

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

19 (2) This section shall not be construed to prevent an indi-
20 vidual from bringing or continuing an action arising out of sex
21 discrimination before July 18, 1980 which action is based on con-
22 duct similar to or identical to harassment.

23 (3) This section shall not be construed to prevent an indi-
24 vidual from bringing or continuing an action arising out of dis-
25 crimination based on familial status before the effective date of
26 the amendatory act that added this subsection which action is
27 based on conduct similar to or identical to discrimination

1 because of the age of persons residing with the individual
2 bringing or continuing the action.

3 Sec. 103. As used in this act:

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

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

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

10 (d) "Department" means the department of civil rights or its
11 employees.

12 (E) "DISABILITY" MEANS ANY OF THE FOLLOWING:

13 (i) A PHYSICAL OR MENTAL IMPAIRMENT THAT SUBSTANTIALLY
14 LIMITS 1 OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN INDIVIDUAL.

15 (ii) A RECORD OF AN IMPAIRMENT DESCRIBED IN SUBPARAGRAPH
16 (i).

17 (iii) BEING REGARDED AS HAVING AN IMPAIRMENT DESCRIBED IN
18 SUBPARAGRAPH (i).

19 (F) ~~(e)~~ "Familial status" means 1 or more individuals
20 under the age of 18 residing with a parent or other person having
21 custody or in the process of securing legal custody of the indi-
22 vidual or individuals or residing with the designee of the parent
23 or other person having or securing custody, with the written per-
24 mission of the parent or other person. For purposes of this def-
25 inition, "parent" includes a person who is pregnant.

26 (G) ~~(f)~~ "National origin" includes the national origin of
27 an ancestor.

1 (H) ~~(g)~~ "Person" means an individual, agent, association,
2 corporation, joint apprenticeship committee, joint stock company,
3 labor organization, legal representative, mutual company, part-
4 nership, receiver, trust, trustee in bankruptcy, unincorporated
5 organization, the state or a political subdivision of the state
6 or an agency of the state, or any other legal or commercial
7 entity.

8 (I) ~~(h)~~ "Political subdivision" means a county, city, vil-
9 lage, township, school district, or special district or authority
10 of the state.

11 (J) ~~(i)~~ Discrimination because of sex includes sexual
12 harassment, which means unwelcome sexual advances, requests for
13 sexual favors, and other verbal or physical conduct or communica-
14 tion of a sexual nature when:

15 (i) Submission to such conduct or communication is made a
16 term or condition either explicitly or implicitly to obtain
17 employment, public accommodations or public services, education,
18 or housing.

19 (ii) Submission to or rejection of such conduct or communi-
20 cation by an individual is used as a factor in decisions affect-
21 ing such individual's employment, public accommodations or public
22 services, education, or housing.

23 (iii) Such conduct or communication has the purpose or
24 effect of substantially interfering with an individual's employ-
25 ment, public accommodations or public services, education, or
26 housing, or creating an intimidating, hostile, or offensive

1 employment, public accommodations, public services, educational,
2 or housing environment.

3 (K) "SEXUAL ORIENTATION" MEANS HAVING AN EMOTIONAL, PHYSI-
4 CAL, OR SEXUAL ATTACHMENT TO ANOTHER PERSON WITHOUT REGARD TO THE
5 SEX OF THAT PERSON OR HAVING OR BEING PERCEIVED AS HAVING AN ORI-
6 ENTATION FOR SUCH ATTACHMENT, OR HAVING OR BEING PERCEIVED AS
7 HAVING A SELF-IMAGE OR IDENTITY NOT TRADITIONALLY ASSOCIATED WITH
8 ONE'S BIOLOGICAL SEX. SEXUAL ORIENTATION DOES NOT INCLUDE A
9 PHYSICAL OR SEXUAL ATTACHMENT TO CHILDREN BY AN ADULT.

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

12 (a) Fail or refuse to hire or recruit, discharge, or other-
13 wise discriminate against an individual with respect to employ-
14 ment, compensation, or a term, condition, or privilege of employ-
15 ment, because of religion, race, color, national origin, age,
16 DISABILITY, sex, SEXUAL ORIENTATION, height, weight, or marital
17 status.

18 (b) Limit, segregate, or classify an employee or applicant
19 for employment in a way that deprives or tends to deprive the
20 employee or applicant of an employment opportunity, or otherwise
21 adversely affects the status of an employee or applicant because
22 of religion, race, color, national origin, age, DISABILITY, sex,
23 SEXUAL ORIENTATION, height, weight, or marital status.

24 (c) Segregate, classify, or otherwise discriminate against a
25 person on the basis of sex with respect to a term, condition, or
26 privilege of employment, including, but not limited to, a benefit
27 plan or system.

~~1 (d) Until January 1, 1994, require an employee of an~~
~~2 institution of higher education who is serving under a contract~~
~~3 of unlimited tenure, or similar arrangement providing for unlim-~~
~~4 ited tenure, to retire from employment on the basis of the~~
~~5 employee's age. As used in this subdivision, "institution of~~
~~6 higher education" means a public or private university, college,~~
~~7 community college, or junior college located in this state.~~

8 (2) This section shall not be construed to prohibit the
 9 establishment or implementation of a bona fide retirement policy
 10 or system that is not a subterfuge to evade the purposes of this
 11 section.

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

14 Sec. 203. An employment agency shall not fail or refuse to
 15 procure, refer, recruit, or place for employment, or otherwise
 16 discriminate against, an individual because of religion, race,
 17 color, national origin, age, DISABILITY, sex, SEXUAL ORIENTATION,
 18 height, weight, or marital status; or classify or refer for
 19 employment an individual on the basis of religion, race, color,
 20 national origin, age, DISABILITY, sex, SEXUAL ORIENTATION,
 21 height, weight, or marital status.

22 Sec. 204. A labor organization shall not:

23 (a) Exclude or expel from membership, or otherwise discrimi-
 24 nate against, a member or applicant for membership because of
 25 religion, race, color, national origin, age, DISABILITY, sex,
 26 SEXUAL ORIENTATION, height, weight, or marital status.

1 (b) Limit, segregate, or classify membership or applicants
2 for membership, or classify or fail or refuse to refer for
3 employment an individual in a way ~~which~~ THAT would deprive or
4 tend to deprive that individual of an employment opportunity, or
5 ~~which~~ THAT would limit an employment opportunity, or ~~which~~
6 THAT would adversely affect wages, hours, or employment condi-
7 tions, or otherwise adversely affect the status of an employee or
8 an applicant for employment, because of religion, race, color,
9 national origin, age, DISABILITY, sex, SEXUAL ORIENTATION,
10 height, weight, or marital status.

11 (c) Cause or attempt to cause an employer to violate this
12 article.

13 (d) Fail to fairly and adequately represent a member in a
14 grievance process because of religion, race, color, national
15 origin, age, DISABILITY, sex, SEXUAL ORIENTATION, height, weight,
16 or marital status.

17 Sec. 205. An employer, labor organization, or joint
18 labor-management committee controlling an apprenticeship, on the
19 job, or other training or retraining program, shall not discrimi-
20 nate against an individual because of religion, race, color,
21 national origin, age, DISABILITY, sex, SEXUAL ORIENTATION,
22 height, weight, or marital status, in admission to, or employment
23 or continuation in, a program established to provide apprentice-
24 ship on the job, or other training or retraining.

25 Sec. 206. (1) An employer, labor organization, or employ-
26 ment agency shall not print, circulate, post, mail, or otherwise
27 cause to be published a statement, advertisement, notice, or sign

1 relating to employment by the employer, or relating to membership
2 in or a classification or referral for employment by the labor
3 organization, or relating to a classification or referral for
4 employment by the employment agency, which indicates a prefer-
5 ence, limitation, specification, or discrimination, based on
6 religion, race, color, national origin, age, DISABILITY, sex,
7 SEXUAL ORIENTATION, height, weight, or marital status.

8 (2) Except as permitted by rules promulgated by the commis-
9 sion or by applicable federal law, an employer or employment
10 agency shall not:

11 (a) Make or use a written or oral inquiry or form of appli-
12 cation that elicits or attempts to elicit information concerning
13 the religion, race, color, national origin, age, DISABILITY, sex,
14 SEXUAL ORIENTATION, height, weight, or marital status of a pro-
15 spective employee.

16 (b) Make or keep a record of information described in subdi-
17 vision (a) or ~~to~~ disclose that information.

18 (c) Make or use a written or oral inquiry or form of appli-
19 cation that expresses a preference, limitation, specification, or
20 discrimination based on religion, race, color, national origin,
21 age, DISABILITY, sex, SEXUAL ORIENTATION, height, weight, or mar-
22 ital status of a prospective employee.

23 Sec. 207. An individual seeking employment shall not pub-
24 lish or cause to be published a notice or advertisement that
25 specifies or indicates the individual's religion, race, color,
26 national origin, age, DISABILITY, sex, SEXUAL ORIENTATION,
27 height, weight, or marital status, or expresses a preference,

1 specification, limitation, or discrimination as to the religion,
2 race, color, national origin, age, DISABILITY, height, weight,
3 sex, SEXUAL ORIENTATION, or marital status of a prospective
4 employer.

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

16 Sec. 302. Except where permitted by law, a person shall
17 not:

18 (a) Deny an individual the full and equal enjoyment of the
19 goods, services, facilities, privileges, advantages, or accommo-
20 dations of a place of public accommodation or public service
21 because of religion, race, color, national origin, age,
22 DISABILITY, sex, SEXUAL ORIENTATION, or marital status.

23 (b) Print, circulate, post, mail, or otherwise cause to be
24 published a statement, advertisement, notice, or sign ~~which~~
25 THAT indicates that the full and equal enjoyment of the goods,
26 services, facilities, privileges, advantages, or accommodations
27 of a place of public accommodation or public service will be

1 refused, withheld from, or denied an individual because of
2 religion, race, color, national origin, age, DISABILITY, sex,
3 SEXUAL ORIENTATION, or marital status, or that an individual's
4 patronage of or presence at a place of public accommodation is
5 objectionable, unwelcome, unacceptable, or undesirable because of
6 religion, race, color, national origin, age, DISABILITY, sex,
7 SEXUAL ORIENTATION, or marital status.

8 Sec. 302a. (1) This section applies to a private club that
9 is defined as a place of public accommodation pursuant to
10 section 301(a).

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

19 (3) A private club that has food or beverage facilities or
20 services shall allow equal access to those facilities and serv-
21 ices for all adults in all membership categories at all times.
22 This subsection shall not require service or access to facilities
23 to persons that would violate any law or ordinance regarding
24 sale, consumption, or regulation of alcoholic beverages.

25 (4) This section does not prohibit a private club from spon-
26 soring or permitting sports schools or leagues for children less
27 than 18 years of age that are limited by age or to members of 1

1 sex, if comparable and equally convenient access to the club's
2 facilities is made available to both sexes and if these activi-
3 ties are not used as a subterfuge to evade the purposes of this
4 article.

5 Sec. 402. An educational institution shall not do any of
6 the following:

7 (a) Discriminate against an individual in the full utiliza-
8 tion of or benefit from the institution, or the services, activi-
9 ties, or programs provided by the institution because of reli-
10 gion, race, color, national origin, ~~or~~ DISABILITY, sex, OR
11 SEXUAL ORIENTATION.

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

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

24 (d) Print or publish or cause to be printed or published a
25 catalog, notice, or advertisement indicating a preference, limi-
26 tation, specification, or discrimination based on the religion,
27 race, color, national origin, ~~or~~ DISABILITY, sex, OR SEXUAL

1 ORIENTATION of an applicant for admission to the educational
2 institution.

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

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

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

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

19 (c) Refuse to receive from a person or transmit to a person
20 a 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 avail-
24 able 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

1 property, or otherwise make unavailable or deny real property to
2 a person.

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

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

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

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

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

26 Sec. 504. (1) A person to whom application is made for
27 financial assistance or financing in connection with a real

1 estate transaction or in connection with the construction,
2 rehabilitation, repair, maintenance, or improvement of real prop-
3 erty, or a representative of that person, shall not:

4 (a) Discriminate against the applicant because of the reli-
5 gion, race, color, national origin, age, DISABILITY, sex, SEXUAL
6 ORIENTATION, familial status, or marital status of the applicant
7 or a person residing with the applicant.

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

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

24 (3) Subsection (1)(b) does not apply to a form of applica-
25 tion for financial assistance prescribed for the use of a lender
26 regulated as a mortgagee under the national housing act,
27 chapter 847, 48 Stat. 1246, or by a regulatory board or officer

1 acting under the statutory authority of this state or the United
2 States.

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

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

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

1 block, neighborhood, or area in which the real property is
2 located.