

HOUSE BILL No. 4628

April 19, 2005, Introduced by Reps. Condino, Kolb, Wojno, Plakas, Alma Smith, Bieda, Tobocman, Polidori, Vagnozzi, Leland, Gleason, Accavitti, Meisner, Whitmer and Lemmons, III and referred to the Committee on Government Operations.

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, 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, 37.2402, 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 1991 PA 11, 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 OR

1 **HARASSING** practices, policies, and customs in the exercise of those
 2 rights based upon religion, race, color, national origin, age, sex,
 3 height, weight, familial status, or marital status; to preserve the
 4 confidentiality of records regarding arrest, detention, or other
 5 disposition in which a conviction does not result; to prescribe the
 6 powers and duties of the civil rights commission and the department
 7 of civil rights; to provide remedies and penalties; and to repeal
 8 ~~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 **OR HARASSMENT** because of religion, race, color,
 13 national origin, age, sex, 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~~ **FOR AN**
 24 action **THAT** is based on conduct similar to or identical to
 25 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) "HARASS" MEANS ANY OF THE FOLLOWING, AS APPLICABLE:

16 (i) DIRECTING UNWELCOME VERBAL OR PHYSICAL CONDUCT OR
17 COMMUNICATION TO AN INDIVIDUAL BASED ON OR RELATED TO THE
18 INDIVIDUAL'S RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX,
19 HEIGHT, WEIGHT, FAMILIAL STATUS, OR MARITAL STATUS IF THE CONDUCT
20 OR COMMUNICATION VIOLATES THIS ACT AND HAS THE PURPOSE OR EFFECT OF
21 SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EMPLOYMENT, PUBLIC
22 ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING, OR
23 CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE EMPLOYMENT, PUBLIC
24 ACCOMMODATIONS, PUBLIC SERVICES, EDUCATIONAL, OR HOUSING
25 ENVIRONMENT.

26 (ii) DIRECTING UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL
27 FAVORS, OR OTHER VERBAL OR PHYSICAL CONDUCT OR COMMUNICATION OF A

1 SEXUAL NATURE OR BASED ON OR RELATED TO AN INDIVIDUAL'S SEX TO AN
2 INDIVIDUAL IF ANY OF THE FOLLOWING ARE MET:

3 (A) SUBMISSION TO THE CONDUCT OR COMMUNICATION IS MADE A TERM
4 OR CONDITION EITHER EXPLICITLY OR IMPLICITLY TO OBTAIN EMPLOYMENT,
5 PUBLIC ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING.

6 (B) SUBMISSION TO OR REJECTION OF THE CONDUCT OR COMMUNICATION
7 BY AN INDIVIDUAL IS USED AS A FACTOR IN DECISIONS AFFECTING THE
8 INDIVIDUAL'S EMPLOYMENT, PUBLIC ACCOMMODATIONS OR PUBLIC SERVICES,
9 EDUCATION, OR HOUSING.

10 (C) THE CONDUCT OR COMMUNICATION HAS THE PURPOSE OR EFFECT OF
11 SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EMPLOYMENT, PUBLIC
12 ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING, OR
13 CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE EMPLOYMENT, PUBLIC
14 ACCOMMODATIONS, PUBLIC SERVICES, EDUCATIONAL, OR HOUSING
15 ENVIRONMENT.

16 (G) ~~-(f)-~~ "National origin" includes the national origin of
17 an ancestor.

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

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

~~———— (i) Discrimination because of sex includes sexual harassment. Sexual harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communication of a sexual nature under the following conditions:~~

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

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

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

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

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

(b) Limit, segregate, or classify an employee or applicant for employment in a way that deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant because of religion,

1 race, color, national origin, age, sex, height, weight, or marital
2 status.

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

7 ~~—— (d) Until January 1, 1994, require an employee of an~~
8 ~~institution of higher education who is serving under a contract of~~
9 ~~unlimited tenure, or similar arrangement providing for unlimited~~
10 ~~tenure, to retire from employment on the basis of the employee's~~
11 ~~age. As used in this subdivision, "institution of higher education"~~
12 ~~means a public or private university, college, community college,~~
13 ~~or junior college located in this state.~~

14 (2) This section ~~shall~~ **DOES** not ~~be construed to~~ prohibit
15 the establishment or implementation of a bona fide retirement
16 policy or system that is not a subterfuge to evade the purposes of
17 this section.

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

20 Sec. 203. An employment agency shall not fail or refuse to
21 procure, refer, recruit, or place for employment, ~~or~~ otherwise
22 discriminate against, **OR HARASS** an individual because of religion,
23 race, color, national origin, age, sex, height, weight, or marital
24 status; or classify or refer for employment an individual on the
25 basis of religion, race, color, national origin, age, sex, height,
26 weight, or marital status.

27 Sec. 204. A labor organization shall not **DO ANY OF THE**

1 **FOLLOWING:**

2 (a) Exclude or expel from membership, ~~or~~ otherwise
3 discriminate against, **OR HARASS** a member or applicant for
4 membership because of religion, race, color, national origin, age,
5 sex, height, weight, or marital status.

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

15 (c) Cause or attempt to cause an employer to violate this
16 article.

17 (d) Fail to fairly and adequately represent a member in a
18 grievance process because of religion, race, color, national
19 origin, age, sex, height, weight, or marital status.

20 Sec. 205. An employer, labor organization, or joint labor-
21 management committee controlling an apprenticeship, on the job, or
22 other training or retraining program — shall not discriminate
23 against **OR HARASS** an individual because of religion, race, color,
24 national origin, age, sex, height, weight, or marital status, in
25 admission to, or employment or continuation in, a program
26 established to provide apprenticeship on the job, or other training
27 or retraining.

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

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

14 (a) Make or use a written or oral inquiry or form of
15 application that elicits or attempts to elicit information
16 concerning the religion, race, color, national origin, age, sex,
17 height, weight, or marital status of a prospective employee.

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

20 (c) Make or use a written or oral inquiry or form of
21 application that **HARASSES OR** expresses a preference, limitation,
22 specification, or discrimination based on religion, race, color,
23 national origin, age, sex, height, weight, or marital status of a
24 prospective employee.

25 Sec. 207. An individual seeking employment shall not publish
26 or cause to be published a notice or advertisement that specifies
27 or indicates the individual's religion, race, color, national

1 origin, age, sex, height, weight, or marital status, or **HARASSES OR**
 2 expresses a preference, specification, limitation, or
 3 discrimination as to the religion, race, color, national origin,
 4 age, height, weight, sex, or marital status of a prospective
 5 employer.

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

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

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

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

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

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

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

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

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

25 (d) Print or publish or cause to be printed or published a
26 catalog, notice, or advertisement ~~indicating~~ **THAT HARASSES OR**
27 **INDICATES** a preference, limitation, specification, or

1 discrimination based on the religion, race, color, national origin,
2 or sex of an applicant for admission to the educational
3 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.

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, familial status,
11 or marital status of a person or a person residing with that person
12 **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~~ **OR HARASS AN INDIVIDUAL** in
16 the terms, conditions, or privileges of a real estate transaction
17 or in the furnishing of facilities or services in connection with a
18 real estate 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~~ **PRINT**, circulate, post, mail, or otherwise
3 ~~cause to be made or published~~ **MAKE OR PUBLISH** a statement,
4 advertisement, notice, or sign, or use a form of application for a
5 real estate transaction, or make a record of inquiry in connection
6 with a prospective real estate transaction, ~~which~~ **THAT HARASSES**
7 **OR** indicates, directly or indirectly, an intent to make a
8 preference, limitation, specification, or discrimination with
9 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 discriminated
12 against **OR HARASSED** in a real estate transaction or in the
13 furnishing of facilities or services in connection ~~therewith~~ **WITH**
14 **A REAL ESTATE TRANSACTION.**

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

17 (2) A person shall not deny a person access to, or membership
18 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 to
21 discriminate against him or her in the terms or conditions of that
22 access, membership, or participation because of religion, race,
23 color, national origin, age, sex, familial status, or marital
24 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 estate

1 transaction or in connection with the construction, rehabilitation,
 2 repair, maintenance, or improvement of real property, or a
 3 representative of that person, shall not **DO ANY OF THE FOLLOWING:**

4 (a) Discriminate against **OR HARASS** the applicant because of
 5 the religion, race, color, national origin, age, sex, familial
 6 status, or marital status of the applicant or a person residing
 7 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 an
 10 application for financial assistance or financing ~~which~~ **THAT**
 11 **HARASSES OR** indicates, directly or indirectly, a preference,
 12 limitation, specification, or discrimination as to the religion,
 13 race, color, national origin, age, sex, familial status, or marital
 14 status of the applicant or ~~a person~~ **AN INDIVIDUAL** residing with
 15 the applicant.

16 (2) A person whose business includes engaging in real estate
 17 transactions shall not discriminate against ~~a person~~ **OR HARASS AN**
 18 **INDIVIDUAL** because of religion, race, color, national origin, age,
 19 sex, familial status, or marital status, in the purchasing of loans
 20 for acquiring, constructing, improving, repairing, or maintaining a
 21 dwelling or the making or purchasing of loans or the provision of
 22 other financial assistance secured by 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 familial status, or marital status is void, except a limitation of
7 use as provided in section 503(1)(c) or on the basis of religion
8 relating to real property held by a religious institution or
9 organization, or by a religious or charitable organization
10 operated, supervised, or controlled by a religious institution or
11 organization, and used for religious or charitable purposes.

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

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