

# SENATE BILL No. 462

April 26, 2007, Introduced by Senators CHERRY, THOMAS, CLARKE, BARCIA, OLSHOVE, SCOTT, HUNTER, BASHAM, GLEASON, CLARK-COLEMAN, SWITALSKI, JACOBS, BRATER, SCHAUER and WHITMER and referred to the Committee on Commerce and Tourism.

A bill to amend 1976 PA 453, entitled  
"Elliott-Larsen civil rights act,"  
by amending sections 202, 205, 206, and 208 (MCL 37.2202, 37.2205,  
37.2206, and 37.2208), section 202 as amended by 1991 PA 11.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

7           (b) Limit, segregate, or classify an employee or applicant for  
8 employment in a way that deprives or tends to deprive the employee  
9 or applicant of an employment opportunity, or otherwise adversely

1 affects the status of an employee or applicant because of religion,  
2 race, color, national origin, age, sex, height, weight, **FAMILIAL**  
3 **STATUS**, or marital status.

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

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

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

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

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

1 training or retraining.

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

12       (2) Except as permitted by rules promulgated by the commission  
13 or by applicable federal law, an employer or employment agency  
14 shall not:

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

20       (b) ~~Make~~ **EXCEPT AS NECESSARY TO ADMINISTER A BENEFIT PROGRAM,**  
21 **MAKE** or keep a record of information described in subdivision (a)  
22 or ~~to~~ disclose that information.

23       (c) Make or use a written or oral inquiry or form of  
24 application that expresses a preference, limitation, specification,  
25 or discrimination based on religion, race, color, national origin,  
26 age, sex, height, weight, **FAMILIAL STATUS**, or marital status of a  
27 prospective employee.

1           Sec. 208. A person subject to this article may apply to the  
2 commission for an exemption on the basis that religion, national  
3 origin, age, height, weight, **FAMILIAL STATUS, MARITAL STATUS,** or  
4 sex is a bona fide occupational qualification reasonably necessary  
5 to the normal operation of the business or enterprise. Upon  
6 sufficient showing, the commission may grant an exemption to the  
7 appropriate section of this article. An employer may have a bona  
8 fide occupational qualification on the basis of religion, national  
9 origin, sex, age, **FAMILIAL STATUS,** or marital status, height and  
10 weight without obtaining prior exemption from the commission,  
11 ~~provided that~~**BUT** an employer who does not obtain an exemption  
12 ~~shall have~~**HAS** the burden of establishing that the qualification is  
13 reasonably necessary to the normal operation of the business.