

SENATE BILL NO. 351

June 05, 2019, Introduced by Senators MOSS, CHANG, BRINKS, WOJNO, IRWIN, GEISS, MCCANN, BULLOCK, MCMORROW, ALEXANDER, BAYER, POLEHANKI, HERTEL, ANANICH, SANTANA and HOLLIER 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, 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:

1 TITLE

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, sex, **sexual**
5 **orientation, gender identity or expression**, height, weight,
6 familial status, or marital status; to preserve the confidentiality
7 of 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; and
11 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 public
14 accommodations, public service, and educational facilities without
15 discrimination because of religion, race, color, national origin,
16 age, sex, **sexual orientation, gender identity or expression**,
17 height, weight, familial status, or marital status as prohibited by
18 this act, is recognized and declared to be a civil right.

19 (2) This section ~~shall~~**does** not be construed to prevent an
20 individual from bringing or continuing an action arising out of sex
21 discrimination before July 18, 1980 ~~which~~**for an action that** is
22 based on conduct similar to or identical to harassment.

23 (3) This section ~~shall~~**does** not be construed to prevent an
24 individual from bringing or continuing an action arising out of
25 discrimination based on familial status before ~~the effective date~~
26 ~~of the amendatory act that added this subsection which~~ **June 29,**

1 **1992 for an** action **that** is based on conduct similar to or identical
2 to discrimination because of the age of persons residing with the
3 individual bringing or continuing the action.

4 Sec. 103. As used in this act:

5 (a) "Age" means chronological age except as otherwise provided
6 by law.

7 (b) "Commission" means the civil rights commission established
8 by section 29 of article V of the state constitution 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) "Familial status" means 1 or more individuals under the
13 age of 18 residing with a parent or other person having custody or
14 in the process of securing legal custody of the individual or
15 individuals or residing with the designee of the parent or other
16 person having or securing custody, with the written permission of
17 the parent or other person. For purposes of this definition,
18 "parent" includes a person who is pregnant.

19 **(f) "Gender identity or expression" means having or being**
20 **perceived as having a gender-related self-identity or expression**
21 **whether or not associated with an individual's assigned sex at**
22 **birth.**

23 (g) ~~(f)~~—"National origin" includes the national origin of an
24 ancestor.

25 (h) ~~(g)~~—"Person" means an individual, agent, association,
26 corporation, joint apprenticeship committee, joint stock company,
27 labor organization, legal representative, mutual company,
28 partnership, receiver, trust, trustee in bankruptcy, unincorporated
29 organization, the state or a political subdivision of the state or

1 an agency of the state, or any other legal or commercial entity.

2 (i) ~~(h)~~ "Political subdivision" means a county, city, village,
3 township, school district, or special district or authority of ~~the~~
4 **this** state.

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

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

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

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

22 (k) **"Sexual orientation" means having an orientation for**
23 **heterosexuality, homosexuality, or bisexuality or having a history**
24 **of such an orientation or being identified with such an**
25 **orientation.**

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

27 (a) Fail or refuse to hire or recruit, discharge, or otherwise
28 discriminate against an individual with respect to employment,
29 compensation, or a term, condition, or privilege of employment,

1 because of religion, race, color, national origin, age, sex, **sexual**
2 **orientation, gender identity or expression**, height, weight, or
3 marital status.

4 (b) Limit, segregate, or classify an employee or applicant for
5 employment in a way that deprives or tends to deprive the employee
6 or applicant of an employment opportunity ~~—~~or otherwise adversely
7 affects the status of ~~an~~**the** employee or applicant because of
8 religion, race, color, national origin, age, sex, **sexual**
9 **orientation, gender identity or expression**, height, weight, or
10 marital status.

11 (c) Segregate, classify, or otherwise discriminate against a
12 ~~person~~**an individual** on the basis of sex with respect to a term,
13 condition, or privilege of employment, including, but not limited
14 to, a benefit plan or system.

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

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

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

28 Sec. 203. An employment agency shall not fail or refuse to
29 procure, refer, recruit, or place for employment, or otherwise

1 discriminate against, an individual because of religion, race,
2 color, national origin, age, sex, **sexual orientation, gender**
3 **identity or expression**, height, weight, or marital status; or
4 classify or refer for employment an individual on the basis of
5 religion, race, color, national origin, age, sex, **sexual**
6 **orientation, gender identity or expression**, height, weight, or
7 marital status.

8 Sec. 204. A labor organization shall not **do any of the**
9 **following**:

10 (a) Exclude or expel from membership, or otherwise
11 discriminate against, a member or applicant for membership because
12 of religion, race, color, national origin, age, sex, **sexual**
13 **orientation, gender identity or expression**, height, weight, or
14 marital status.

15 (b) Limit, segregate, or classify membership or applicants for
16 membership, or classify or fail or refuse to refer for employment
17 an individual in a way ~~which~~**that** would deprive or tend to deprive
18 that individual of an employment opportunity, or ~~which~~**that** would
19 limit an employment opportunity, or ~~which~~**that** would adversely
20 affect wages, hours, or employment conditions, or otherwise
21 adversely affect the status of an employee or an applicant for
22 employment, because of religion, race, color, national origin, age,
23 sex, **sexual orientation, gender identity or expression**, height,
24 weight, or marital status.

25 (c) Cause or attempt to cause an employer to violate this
26 article.

27 (d) Fail to fairly and adequately represent a member in a
28 grievance process because of religion, race, color, national
29 origin, age, sex, **sexual orientation, gender identity or**

1 **expression**, height, weight, or marital status.

2 Sec. 205. An employer, labor organization, or joint labor-
3 management committee controlling an apprenticeship, on the job, or
4 other training or retraining program, shall not discriminate
5 against an individual because of religion, race, color, national
6 origin, age, sex, **sexual orientation, gender identity or**
7 **expression**, height, weight, or marital status, in admission to, or
8 employment or continuation in, a program established to provide
9 apprenticeship on the job, or other training or retraining.

10 Sec. 206. (1) An employer, labor organization, or employment
11 agency shall not print, circulate, post, mail, or otherwise cause
12 to be published a statement, advertisement, notice, or sign
13 relating to employment by the employer, or relating to membership
14 in or a classification or referral for employment by the labor
15 organization, or relating to a classification or referral for
16 employment by the employment agency, ~~which~~**that** indicates a
17 preference, limitation, specification, or discrimination, based on
18 religion, race, color, national origin, age, sex, **sexual**
19 **orientation, gender identity or expression**, height, weight, or
20 marital status.

21 (2) Except as permitted by rules promulgated by the commission
22 or by applicable federal law, an employer or employment agency
23 shall not **do any of the following**:

24 (a) Make or use a written or oral inquiry or form of
25 application that elicits or attempts to elicit information
26 concerning the religion, race, color, national origin, age, sex,
27 **sexual orientation, gender identity or expression**, height, weight,
28 or marital status of a prospective employee.

29 (b) Make or keep a record of information described in

1 subdivision (a) or ~~to~~ disclose that information.

2 (c) Make or use a written or oral inquiry or form of
3 application that expresses a preference, limitation, specification,
4 or discrimination based on religion, race, color, national origin,
5 age, sex, **sexual orientation, gender identity or expression,**
6 height, weight, or marital status of a prospective employee.

7 Sec. 207. An individual seeking employment shall not publish
8 or cause to be published a notice or advertisement that specifies
9 or indicates the individual's religion, race, color, national
10 origin, age, sex, **sexual orientation, gender identity or**
11 **expression,** height, weight, or marital status, or expresses a
12 preference, specification, limitation, or discrimination as to the
13 religion, race, color, national origin, age, height, weight, sex,
14 **sexual orientation, gender identity or expression,** or marital
15 status of a prospective employer.

16 Sec. 209. A contract to which ~~the~~**this** state, a political
17 subdivision, or an agency ~~thereof~~**of this state or of a political**
18 **subdivision** is a party ~~shall~~**must** contain a covenant by the
19 contractor and his **or her** subcontractors not to discriminate
20 against an employee or applicant for employment with respect to
21 hire, tenure, terms, conditions, or privileges of employment, or a
22 matter directly or indirectly related to employment, because of
23 race, color, religion, national origin, age, sex, **sexual**
24 **orientation, gender identity or expression,** height, weight, or
25 marital status. Breach of this covenant may be regarded as a
26 material breach of the contract.

27 Sec. 302. Except where permitted by law, a person shall not **do**
28 **any of the following:**

29 (a) Deny an individual the full and equal enjoyment of the

1 goods, services, facilities, privileges, advantages, or
2 accommodations of a place of public accommodation or public service
3 because of religion, race, color, national origin, age, sex, **sexual**
4 **orientation, gender identity or expression**, or marital status.

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

17 Sec. 302a. (1) This section applies to a private club that is
18 defined as a place of public accommodation ~~pursuant to~~**under**
19 section 301(a).

20 (2) If a private club allows use of its facilities by 1 or
21 more adults per membership, the use must be equally available to
22 all adults entitled to use the facilities under the membership. All
23 classes of membership ~~shall~~**must** be available without regard to
24 race, color, gender, **sexual orientation, gender identity or**
25 **expression**, religion, marital status, or national origin.
26 Memberships that permit use during restricted times may be allowed
27 only if the restricted times apply to all adults using that
28 membership.

29 (3) A private club that has food or beverage facilities or

1 services shall allow equal access to those facilities and services
 2 for all adults in all membership categories at all times. This
 3 subsection ~~shall~~**does** not require service or access to facilities
 4 to persons that would violate any law or ordinance regarding sale,
 5 consumption, or regulation of alcoholic beverages.

6 (4) This section does not prohibit a private club from
 7 sponsoring or permitting sports schools or leagues for children
 8 less than 18 years of age that are limited by age or to members of
 9 1 sex, if comparable and equally convenient access to the club's
 10 facilities is made available to both sexes and if these activities
 11 are not used as a subterfuge to evade the purposes of this article.

12 Sec. 402. An educational institution shall not do any of the
 13 following:

14 (a) Discriminate against an individual in the full utilization
 15 of or benefit from the institution, or the services, activities, or
 16 programs provided by the institution because of religion, race,
 17 color, national origin, ~~or~~sex, **sexual orientation, or gender**
 18 **identity or expression.**

19 (b) Exclude, expel, limit, or otherwise discriminate against
 20 an individual seeking admission as a student or an individual
 21 enrolled as a student in the terms, conditions, or privileges of
 22 the institution, because of religion, race, color, national origin,
 23 ~~or~~sex, **sexual orientation, or gender identity or expression.**

24 (c) For purposes of admission only, make or use a written or
 25 oral inquiry or form of application that elicits or attempts to
 26 elicit information concerning the religion, race, color, national
 27 origin, age, sex, **sexual orientation, gender identity or**
 28 **expression,** or marital status of a person, except as permitted by
 29 rule of the commission or as required by federal law, rule, or

1 regulation, or pursuant to an affirmative action program.

2 (d) Print or publish or cause to be printed or published a
3 catalog, notice, or advertisement indicating a preference,
4 limitation, specification, or discrimination based on the religion,
5 race, color, national origin, ~~or~~ sex, **sexual orientation, or gender**
6 **identity or expression**, of an applicant for admission to the
7 educational institution.

8 (e) Announce or follow a policy of denial or limitation
9 through a quota or otherwise of educational opportunities of a
10 group or its members because of religion, race, color, national
11 origin, ~~or~~ sex, **sexual orientation, or gender identity or**
12 **expression**.

13 Sec. 502. (1) A person engaging in a real estate transaction,
14 or a real estate broker or salesman, shall not on the basis of
15 religion, race, color, national origin, age, sex, **sexual**
16 **orientation, gender identity or expression**, familial status, or
17 marital status of a person or a person residing with that person **do**
18 **any of the following:**

19 (a) Refuse to engage in a real estate transaction with a
20 person.

21 (b) Discriminate against a person in the terms, conditions, or
22 privileges of a real estate transaction or in the furnishing of
23 facilities or services in connection with a real estate
24 transaction.

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

27 (d) Refuse to negotiate for a real estate transaction with a
28 person.

29 (e) Represent to a person that real property is not available

1 for inspection, sale, rental, or lease when in fact it is so
 2 available, or knowingly fail to bring a property listing to a
 3 person's attention, or refuse to permit a person to inspect real
 4 property, or otherwise make unavailable or deny real property to a
 5 person.

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

13 (g) Offer, solicit, accept, use, or retain a listing of real
 14 property with the understanding that a person may be discriminated
 15 against in a real estate transaction or in the furnishing of
 16 facilities or services in connection ~~therewith~~**with that**
 17 **transaction.**

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

20 (2) A person shall not deny a person access to, or membership
 21 or participation in, a multiple listing service, real estate
 22 brokers' organization or other service, organization, or facility
 23 relating to the business of selling or renting real property or ~~to~~
 24 discriminate against him or her in the terms or conditions of that
 25 access, membership, or participation because of religion, race,
 26 color, national origin, age, sex, **sexual orientation, gender**
 27 **identity or expression**, familial status, or marital status.

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

29 Sec. 504. (1) A person to whom application is made for

1 financial assistance or financing in connection with a real estate
 2 transaction or in connection with the construction, rehabilitation,
 3 repair, maintenance, or improvement of real property, or a
 4 representative of that person, shall not **do any of the following:**

5 (a) Discriminate against the applicant because of the
 6 religion, race, color, national origin, age, sex, **sexual**
 7 **orientation, gender identity or expression**, familial status, or
 8 marital status of the applicant or a person residing with the
 9 applicant.

10 (b) Use a form of application for financial assistance or
 11 financing or make or keep a record or inquiry in connection with an
 12 application for financial assistance or financing ~~which—that~~
 13 indicates, directly or indirectly, a preference, limitation,
 14 specification, or discrimination as to the religion, race, color,
 15 national origin, age, sex, **sexual orientation, gender identity or**
 16 **expression**, familial status, or marital status of the applicant or
 17 a person residing with the applicant.

18 (2) A person whose business includes engaging in real estate
 19 transactions shall not discriminate against a person because of
 20 religion, race, color, national origin, age, sex, **sexual**
 21 **orientation, gender identity or expression**, familial status, or
 22 marital status, in ~~the purchasing of~~ loans for acquiring,
 23 constructing, improving, repairing, or maintaining a dwelling or
 24 ~~the in~~ making or purchasing ~~of~~ loans or ~~the provision of~~ **providing**
 25 other financial assistance secured by residential real estate.

26 (3) Subsection (1)(b) does not apply to a form of application
 27 for financial assistance prescribed for the use of a lender
 28 regulated as a mortgagee under the national housing act, ~~chapter~~
 29 ~~847, 48 Stat. 1246~~ **12 USC 1701 to 1750g**, or by a regulatory board

1 or officer acting under the statutory authority of this state or
2 the United 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 property
6 on the basis of religion, race, color, national origin, age, sex,
7 **sexual orientation, gender identity or expression**, familial status,
8 or marital status is void, except a limitation of use as provided
9 in section 503(1)(c) or on the basis of religion relating to real
10 property held by a religious institution or organization, or by a
11 religious or charitable organization operated, supervised, or
12 controlled 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 relating
15 to real property a provision that is void under this section or
16 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
19 benefit financially, that a change has occurred or will or may
20 occur in the composition with respect to religion, race, color,
21 national origin, age, sex, **sexual orientation, gender identity or**
22 **expression**, familial status, or marital status of the owners or
23 occupants in the block, neighborhood, or area in which the real
24 property is located, or represent that this change will or may
25 result in the lowering of property values, an increase in criminal
26 or antisocial behavior, or a decline in the quality of schools in
27 the block, neighborhood, or area in which the real property is
28 located.

29 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.