

# HOUSE BILL No. 5030

June 27, 1991, Introduced by Reps. Harrison, Joe Young, Sr., Wallace, Bennane, O'Neill, DeMars, Varga, Stallworth, Dobronski, Hood, Keith, Perry Bullard, Kilpatrick, Yokich, Profit and Clarke and referred to the Committee on Civil Rights, Constitution and Women's Issues.

A bill to amend the title and sections 102, 103, 502, 503, 504, 505, 506, 605, and 701 of Act No. 453 of the Public Acts of 1976, entitled as amended

"Elliott-Larsen civil rights act,"

section 102 as amended by Act No. 45 of the Public Acts of 1982, section 103 as amended by Act No. 202 of the Public Acts of 1980, and section 505 as amended by Act No. 170 of the Public Acts of 1980, being sections 37.2102, 37.2103, 37.2502, 37.2503, 37.2504, 37.2505, 37.2506, 37.2605, and 37.2701 of the Michigan Compiled Laws; and to add section 506a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 102, 103, 502, 503, 504,  
2 505, 506, 605, and 701 of Act No. 453 of the Public Acts of 1976,  
3 section 102 as amended by Act No. 45 of the Public Acts of 1982,  
4 section 103 as amended by Act No. 202 of the Public Acts of 1980,

1 and section 505 as amended by Act No. 170 of the Public Acts of  
2 1980, being sections 37.2102, 37.2103, 37.2502, 37.2503, 37.2504,  
3 37.2505, 37.2506, 37.2605, and 37.2701 of the Michigan Compiled  
4 Laws, are amended and section 506a is added to read as follows:

5 TITLE

6 An act to define civil rights; to prohibit discriminatory  
7 practices, policies, and customs in the exercise of those rights  
8 based upon religion, race, color, national origin, age, sex,  
9 height, weight, FAMILIAL STATUS, or marital status; to preserve  
10 the confidentiality of records regarding arrest, detention, or  
11 other disposition in which a conviction does not result; to pre-  
12 scribe the powers and duties of the civil rights commission and  
13 the department of civil rights; to provide remedies and penal-  
14 ties; and to repeal certain acts and parts of acts.

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

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

26 (3) THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT AN  
27 INDIVIDUAL FROM BRINGING OR CONTINUING AN ACTION ARISING OUT OF

1 DISCRIMINATION BASED ON FAMILIAL STATUS BEFORE THE EFFECTIVE DATE  
2 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION WHICH ACTION IS  
3 BASED ON CONDUCT SIMILAR TO OR IDENTICAL TO DISCRIMINATION  
4 BECAUSE OF THE AGE OF PERSONS RESIDING WITH THE INDIVIDUAL BRING-  
5 ING OR CONTINUING THE ACTION.

6 Sec. 103. As used in this act:

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

9 (b) "Commission" means the civil rights commission estab-  
10 lished by section 29 of article 5 of the state constitution of  
11 1963.

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

13 (d) "Department" means the department of civil rights or its  
14 employees.

15 (E) "FAMILIAL STATUS" MEANS 1 OR MORE INDIVIDUALS UNDER THE  
16 AGE OF 18 RESIDING WITH A PARENT OR OTHER PERSON HAVING CUSTODY  
17 OR IN THE PROCESS OF SECURING LEGAL CUSTODY OF THE INDIVIDUAL OR  
18 INDIVIDUALS OR RESIDING WITH THE DESIGNEE OF THE PARENT OR OTHER  
19 PERSON HAVING OR SECURING CUSTODY, WITH THE WRITTEN PERMISSION OF  
20 THE PARENT OR OTHER PERSON. FOR PURPOSES OF THIS DEFINITION,  
21 "PARENT" INCLUDES A PERSON WHO IS PREGNANT.

22 (F) ~~(e)~~ "National origin" includes the national origin of  
23 an ancestor.

24 (G) ~~(f)~~ "Person" means an individual, agent, association,  
25 corporation, joint apprenticeship committee, joint stock company,  
26 labor organization, legal representative, mutual company,  
27 partnership, receiver, trust, trustee in bankruptcy,

1 unincorporated organization, the state or a political subdivision  
2 of the state or an agency of the state, or any other legal or  
3 commercial entity.

4 (H) ~~(g)~~ "Political subdivision" means a county, city, vil-  
5 lage, township, school district, or special district or authority  
6 of the state.

7 (I) ~~(h)~~ Discrimination because of sex includes sexual  
8 harassment which means unwelcome sexual advances, requests for  
9 sexual favors, and other verbal or physical conduct or communica-  
10 tion of a sexual nature when:

11 (i) Submission to such conduct or communication is made a  
12 term or condition either explicitly or implicitly to obtain  
13 employment, public accommodations or public services, education,  
14 or housing.

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

19 (iii) Such conduct or communication has the purpose or  
20 effect of substantially interfering with an individual's employ-  
21 ment, public accommodations or public services, education, or  
22 housing, or creating an intimidating, hostile, or offensive  
23 employment, public accommodations, public services, educational,  
24 or housing environment.

25 Sec. 502. (1) A person engaging in a real estate transac-  
26 tion, or a real estate broker or salesman, shall not on the basis  
27 of religion, race, color, national origin, age, sex, FAMILIAL

1 STATUS, or marital status of a person or a person residing with  
2 that person:

3 (a) Refuse to engage in a real estate transaction with a  
4 person.

5 (b) Discriminate against a person in the terms, conditions,  
6 or privileges of a real estate transaction or in the furnishing  
7 of facilities or services in connection ~~therewith~~ WITH A REAL  
8 ESTATE TRANSACTION.

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

11 (d) Refuse to negotiate for a real estate transaction with a  
12 person.

13 (e) Represent to a person that real property is not avail-  
14 able for inspection, sale, rental, or lease when in fact it is so  
15 available, or knowingly fail to bring a property listing to a  
16 person's attention, or refuse to permit a person to inspect real  
17 property, OR OTHERWISE MAKE UNAVAILABLE OR DENY REAL PROPERTY TO  
18 A PERSON.

19 (f) ~~Print~~ MAKE, PRINT, circulate, post, mail, or otherwise  
20 cause to be MADE OR published a statement, advertisement, notice,  
21 or sign, or use a form of application for a real estate transac-  
22 tion, or make a record of inquiry in connection with a prospec-  
23 tive real estate transaction, which indicates, directly or indi-  
24 rectly, an intent to make a preference, limitation, specifica-  
25 tion, or discrimination with respect ~~thereto~~ TO THE REAL ESTATE  
26 TRANSACTION.

1 (g) Offer, solicit, accept, use, or retain a listing of real  
2 property with the understanding that a person may be  
3 discriminated against in a real estate transaction or in the fur-  
4 nishing of facilities or services in connection therewith.

5 (H) DISCRIMINATE AGAINST A PERSON IN THE BROKERING OR  
6 APPRAISING OF REAL PROPERTY.

7 (2) A PERSON SHALL NOT DENY A PERSON ACCESS TO, OR MEMBER-  
8 SHIP OR PARTICIPATION IN, A MULTIPLE LISTING SERVICE, REAL ESTATE  
9 BROKERS' ORGANIZATION OR OTHER SERVICE, ORGANIZATION, OR FACILITY  
10 RELATING TO THE BUSINESS OF SELLING OR RENTING REAL PROPERTY OR  
11 TO DISCRIMINATE AGAINST HIM OR HER IN THE TERMS OR CONDITIONS OF  
12 THAT ACCESS, MEMBERSHIP, OR PARTICIPATION BECAUSE OF RELIGION,  
13 RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, FAMILIAL STATUS, OR MARI-  
14 TAL STATUS.

15 (3) ~~-(2)-~~ This section is subject to section 503.

16 Sec. 503. (1) Section 502 ~~shall~~ DOES not apply TO ANY OF  
17 THE FOLLOWING:

18 (a) ~~to the~~ THE rental of a housing accommodation in a  
19 building ~~which~~ THAT contains housing accommodations for not  
20 more than 2 families living independently of each other if the  
21 owner or a member of the owner's immediate family resides in 1 of  
22 the housing accommodations, or to the rental of a room or rooms  
23 in a single family dwelling by a person if the lessor or a member  
24 of the lessor's immediate family resides ~~therein~~ IN THE  
25 DWELLING.

26 (b) ~~To the~~ THE rental of a housing accommodation for not  
27 more than 12 months by the owner or lessor ~~where~~ IF it was

1 occupied by him OR HER and maintained as his OR HER home for at  
2 least 3 months immediately preceding occupancy by the tenant and  
3 is ~~temporarily vacated while maintaining~~ MAINTAINED AS THE  
4 OWNER'S OR LESSOR'S legal residence.

5 (c) With respect to the age provision AND THE FAMILIAL  
6 STATUS PROVISION only, ~~to~~ the sale, rental, or lease of housing  
7 accommodations meeting the requirements of federal, state, or  
8 local housing programs for senior citizens, or accommodations  
9 otherwise intended, advertised, designed or operated, bona fide,  
10 for the purpose of providing housing accommodations for persons  
11 50 years of age or older.

12 (2) As used in subsection (1), "immediate family" means a  
13 spouse, parent, child, or sibling.

14 (3) Information relative to the marital status of an indi-  
15 vidual may be obtained when necessary for the preparation of a  
16 deed or other instrument of conveyance.

17 Sec. 504. (1) A person to whom application is made for  
18 financial assistance or financing in connection with a real  
19 estate transaction or in connection with the construction, reha-  
20 bilitation, repair, maintenance, or improvement of real property,  
21 or a representative of that person, shall not:

22 (a) Discriminate against the applicant because of the reli-  
23 gion, race, color, national origin, age, sex, FAMILIAL STATUS, or  
24 marital status of the applicant or a person residing with the  
25 applicant.

26 (b) Use a form of application for financial assistance or  
27 financing or make or keep a record or inquiry in connection with

1 an application for financial assistance or financing which  
 2 indicates, directly or indirectly, a preference, limitation,  
 3 specification, or discrimination as to the religion, race, color,  
 4 national origin, age, sex, FAMILIAL STATUS, or marital status of  
 5 the applicant or a person residing with the applicant.

6 (2) A PERSON WHOSE BUSINESS INCLUDES ENGAGING IN REAL ESTATE  
 7 TRANSACTIONS SHALL NOT DISCRIMINATE AGAINST A PERSON BECAUSE OF  
 8 RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, FAMILIAL  
 9 STATUS, OR MARITAL STATUS, IN THE PURCHASING OF LOANS FOR ACQUIR-  
 10 ING, CONSTRUCTING, IMPROVING, REPAIRING, OR MAINTAINING A DWELL-  
 11 ING OR THE MAKING OR PURCHASING OF LOANS OR THE PROVISION OF  
 12 OTHER FINANCIAL ASSISTANCE SECURED BY RESIDENTIAL REAL ESTATE.

13 (3) ~~(2)~~ Subsection (1)(b) ~~shall~~ DOES not apply to a form  
 14 of application for financial assistance prescribed for the use of  
 15 a lender regulated as a mortgagee under the national housing act,  
 16 ~~as amended, being 12 U.S.C. sections 1701 to 1750g (Supp.~~  
 17 ~~1973)~~ CHAPTER 847, 48 STAT. 1246, or by a regulatory board or  
 18 officer acting under the statutory authority of this state or the  
 19 United States.

20 Sec. 505. (1) A condition, restriction, or prohibition,  
 21 including a right of entry or possibility of reverter, ~~which~~  
 22 THAT directly or indirectly limits the use or occupancy of real  
 23 property on the basis of religion, race, color, national origin,  
 24 age, sex, FAMILIAL STATUS, or marital status is void, except a  
 25 limitation of use as provided in section 503(1)(c) or on the  
 26 basis of religion relating to real property held by a religious  
 27 institution or organization, or by a religious or charitable



1 organization operated, supervised, or controlled by a religious  
2 institution or organization, and used for religious or charitable  
3 purposes.

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

7 Sec. 506. A person shall not represent, for the purpose of  
8 inducing a real estate transaction from which the person may ben-  
9 efit financially, that a change has occurred or will or may occur  
10 in the composition with respect to religion, race, color,  
11 national origin, age, sex, FAMILIAL STATUS, or marital status of  
12 the owners or occupants in the block, neighborhood, or area in  
13 which the real property is located, or represent that this change  
14 will or may result in the lowering of property values, an  
15 increase in criminal or antisocial behavior, or a decline in the  
16 quality of schools in the block, neighborhood, or area in which  
17 the real property is located.

18 SEC. 506A. THIS ARTICLE DOES NOT PRECLUDE THE USE BY A  
19 LANDLORD OF REASONABLE ACCOMMODATIONS AS REQUIRED BY SECTION  
20 102(2) OF THE MICHIGAN HANDICAPPERS' CIVIL RIGHTS ACT, ACT  
21 NO. 220 OF THE PUBLIC ACTS OF 1976, BEING SECTION 37.1102 OF THE  
22 MICHIGAN COMPILED LAWS.

23 Sec. 605. (1) If the commission, after a hearing on a  
24 charge issued by the department, determines that the respondent  
25 has violated this act OR THE HANDICAPPERS' CIVIL RIGHTS ACT, ACT  
26 NO. 220 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 37.1101 TO  
27 37.1607 OF THE MICHIGAN COMPILED LAWS, the commission shall state

1 its findings of fact and conclusions of law and shall issue a  
2 final order requiring the respondent to cease and desist from the  
3 discriminatory practice and to take such other action as it deems  
4 necessary to secure equal enjoyment and protection of civil  
5 rights. If at a hearing on a charge, a pattern or practice of  
6 discrimination prohibited by this act OR ACT NO. 220 OF THE  
7 PUBLIC ACTS OF 1976 appears in the evidence, the commission may,  
8 upon its own motion or on motion of the claimant, amend the  
9 pleadings to conform to the proofs, make findings, and issue an  
10 order based on those findings. A copy of the order shall be  
11 delivered to the respondent, the claimant, the attorney general,  
12 and to other public officers and persons as the commission deems  
13 proper.

14 (2) Action ordered under this section may include, but is  
15 not limited to:

16 (a) Hiring, reinstatement, or upgrading of employees with or  
17 without back pay.

18 (b) Admission or restoration of individuals to labor organi-  
19 zation membership, admission to or participation in a guidance  
20 program, apprenticeship training program, on the job training  
21 program, or other occupational training or retraining program,  
22 with the utilization of objective criteria in the admission of  
23 persons to those programs.

24 (c) Admission of persons to a public accommodation or an  
25 educational institution.

26 (d) Sale, exchange, lease, rental, assignment, or sublease  
27 of real property to a person.

1 (e) Extension to all persons of the full and equal enjoyment  
2 of the goods, services, facilities, privileges, advantages, or  
3 accommodations of the respondent.

4 (f) Reporting as to the manner of compliance.

5 (g) Requiring the posting of notices in a conspicuous place  
6 which the commission may publish or cause to be published setting  
7 forth requirements for compliance with civil rights law or other  
8 relevant information which the commission determines necessary to  
9 explain those laws.

10 (h) Payment to an injured party of profits obtained by the  
11 respondent through a violation of section 506 OF THIS ACT OR OF  
12 ACT NO. 220 OF THE PUBLIC ACTS OF 1976.

13 (i) Payment to the complainant of damages for an injury or  
14 loss caused by a violation of this act, including a reasonable  
15 attorney's fee.

16 (j) Payment to the complainant of all or a portion of the  
17 costs of maintaining the action before the commission, including  
18 reasonable attorney fees and expert witness fees, ~~when~~ IF the  
19 commission determines that award to be appropriate.

20 (K) PAYMENT OF A CIVIL FINE.

21 (L) ~~(K)~~ Other relief the commission deems appropriate.

22 (3) In the case of a respondent operating by virtue of a  
23 license issued by the state, a political subdivision, or an  
24 agency ~~thereof~~ OF THE STATE OR POLITICAL SUBDIVISION, if the  
25 commission, upon notice and hearing, determines that the respon-  
26 dent has violated this act and that the violation was authorized,  
27 requested, commanded, performed, or knowingly permitted by the

1 board of directors of the respondent or by an officer or  
2 executive agent acting within the scope of his OR HER employment,  
3 the commission shall so certify to the licensing agency. Unless  
4 the commission's finding is reversed in the course of judicial  
5 review, the finding of the commission may be grounds for revoca-  
6 tion of the respondent's license.

7 (4) In the case of a respondent who violates this act in the  
8 course of performing under a contract or subcontract with the  
9 state, a political subdivision, or an agency ~~thereof~~ OF THE  
10 STATE OR POLITICAL SUBDIVISION, where the violation was autho-  
11 rized, requested, commanded, performed, or knowingly permitted by  
12 the board of directors of the respondent or by an officer or  
13 executive agent acting within the scope of his OR HER employment,  
14 the commission shall so certify to the contracting agency.  
15 Unless the commission's finding is reversed in the course of  
16 judicial review, the finding is binding on the contracting  
17 agency.

18 Sec. 701. Two or more persons shall not conspire to, or a  
19 person shall not:

20 (a) Retaliate or discriminate against a person because the  
21 person has opposed a violation of this act, or because the person  
22 has made a charge, filed a complaint, testified, assisted, or  
23 participated in an investigation, proceeding, or hearing under  
24 this act.

25 (b) Aid, abet, incite, compel, or coerce a person to engage  
26 in a violation of this act.

1 (c) Attempt directly or indirectly to commit an act  
2 prohibited by this act.

3 (d) ~~Wilfully~~ WILLFULLY interfere with the performance of a  
4 duty or the exercise of a power by the commission or 1 of its  
5 members or authorized representatives.

6 (e) ~~Wilfully~~ WILLFULLY obstruct or prevent a person from  
7 complying with this act or an order issued or rule promulgated  
8 under this act.

9 (F) COERCE, INTIMIDATE, THREATEN, OR INTERFERE WITH A PERSON  
10 IN THE EXERCISE OR ENJOYMENT OF, OR ON ACCOUNT OF HIS OR HER  
11 HAVING AIDED OR ENCOURAGED ANY OTHER PERSON IN THE EXERCISE OR  
12 ENJOYMENT OF, ANY RIGHT GRANTED OR PROTECTED BY THIS ACT.