

# HOUSE BILL No. 5856

May 20, 1992, Introduced by Reps. Hood, Richard A. Young, Wallace, Keith, Bennane and Hollister and referred to the Committee on Appropriations.

A bill to amend the title and section 602 of Act No. 453 of the Public Acts of 1976, entitled as amended "Elliott-Larsen civil rights act," being section 37.2602 of the Michigan Compiled Laws; to add section 602a; and to repeal certain parts of the act on a specific date.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 602 of Act No. 453 of the  
2 Public Acts of 1976, being section 37.2602 of the Michigan  
3 Compiled Laws, are amended and section 602a is added to read as  
4 follows:

### TITLE

5  
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,

1 height, weight, or marital status; to preserve the  
2 confidentiality of records regarding arrest, detention, or other  
3 disposition in which a conviction does not result; to prescribe  
4 the powers and duties of the civil rights commission and the  
5 department of civil rights; to provide remedies and penalties; TO  
6 PROVIDE FOR FEES; and to repeal certain acts and parts of acts.

7       Sec. 602. The department shall:

8       (a) Be responsible to the executive director, who shall be  
9 the principal executive officer of the department and shall be  
10 responsible for executing the policies of the commission.

11       (b) Appoint necessary employees and agents and fix their  
12 compensation in accordance with civil service rules. The attor-  
13 ney general shall appear for and represent the department or the  
14 commission in a court having jurisdiction of a matter under this  
15 act.

16       (c) Receive, initiate, investigate, conciliate, adjust, dis-  
17 pose of, issue charges, and hold hearings on complaints alleging  
18 a violation of this act, and approve or disapprove plans to cor-  
19 rect past discriminatory practices which have caused or resulted  
20 in a denial of equal opportunity with respect to groups or per-  
21 sons protected by this act.

22       (d) Require answers to interrogatories, order the submission  
23 of books, papers, records, and other materials pertinent to a  
24 complaint, and require the attendance of witnesses, administer  
25 oaths, take testimony, and compel, through court authorization,  
26 compliance with its orders or an order of the commission.

1 (e) Cooperate or contract with persons and state, local, and  
2 other agencies, both public and private, including agencies of  
3 the federal government and of other states.

4 (f) Monitor THE AWARDING AND EXECUTION OF contracts to  
5 ~~insure~~ ENSURE compliance by a contractor or a subcontractor  
6 with a covenant entered into OR TO BE ENTERED INTO pursuant to  
7 section ~~210~~ 209.

8 SEC. 602A. (1) IF A PERSON WHO IS CONDUCTING BUSINESS OR  
9 SEEKING TO CONDUCT BUSINESS WITH THE STATE OR AN AGENCY OF THE  
10 STATE REQUESTS THE DEPARTMENT TO REVIEW THE PERSON'S EQUAL  
11 EMPLOYMENT OPPORTUNITY PRACTICES FOR THE PURPOSE OF DETERMINING  
12 THE PERSON'S COMPLIANCE WITH A COVENANT ENTERED INTO, OR WILLING-  
13 NESS TO COMPLY WITH A COVENANT TO BE ENTERED INTO, PURSUANT TO  
14 SECTION 209, THE DEPARTMENT MAY CHARGE THE PERSON A \$100.00  
15 REVIEW FEE TO DEFRAY THE COSTS OF CONDUCTING THE REVIEW.

16 (2) A REVIEW FEE IMPOSED PURSUANT TO SUBSECTION (1) IS DUE  
17 AND PAYABLE TO THE DEPARTMENT AT THE TIME THE REQUEST FOR A  
18 REVIEW DESCRIBED IN SUBSECTION (1) IS SUBMITTED TO THE  
19 DEPARTMENT.

20 (3) A PERSON SHALL NOT BE REQUIRED TO PAY MORE THAN 1 REVIEW  
21 FEE IMPOSED PURSUANT TO SUBSECTION (1) IN A CALENDAR YEAR.

22 (4) THE DEPARTMENT MAY CHARGE A CONTRACTOR THAT IS A PARTY  
23 TO A CONTRACT WITH THE STATE OR AN AGENCY OF THE STATE A FEE IN  
24 AN AMOUNT EQUAL TO .0005 OF THE CONTRACT AMOUNT TO DEFRAY THE  
25 COSTS OF MONITORING THE CONTRACT PURSUANT TO SECTION 602(F).  
26 THIS SUBSECTION ONLY APPLIES TO A CONTRACTOR IF THE CONTRACT

1 AMOUNT BETWEEN THE STATE OR AN AGENCY OF THE STATE AND THE  
2 CONTRACTOR IS \$100,000.00 OR MORE.

3 (5) A FEE IMPOSED PURSUANT TO SUBSECTION (4) IS DUE AND PAY-  
4 ABLE TO THE DEPARTMENT AS FOLLOWS:

5 (A) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), IF THE  
6 CONTRACT AMOUNT IS PAID TO THE CONTRACTOR IN A LUMP SUM PAYMENT,  
7 THE FEE IS DUE AND PAYABLE AT THE TIME THE CONTRACT PAYMENT IS  
8 MADE TO THE CONTRACTOR.

9 (B) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (C), IF THE  
10 CONTRACT AMOUNT IS PAID TO THE CONTRACTOR IN 2 OR MORE PAYMENTS,  
11 THE FEE IS DUE AND PAYABLE IN INSTALLMENTS AT THE TIME EACH CON-  
12 TRACT PAYMENT IS MADE TO THE CONTRACTOR IN AN AMOUNT PROPORTIONAL  
13 TO THE PERCENTAGE OF THE ENTIRE CONTRACT AMOUNT REPRESENTED BY  
14 THE CONTRACT PAYMENT.

15 (C) UPON THE WRITTEN APPROVAL OF THE DEPARTMENT, THE STATE  
16 OR AN AGENCY OF THE STATE AND A CONTRACTOR MAY SPECIFY A FEE PAY-  
17 MENT SCHEDULE IN THE CONTRACT TO PROVIDE FOR PROMPT PAYMENT OF  
18 THE FEE DURING THE TERM OF THE CONTRACT.

19 (6) IF A CONTRACT AMOUNT IS REDUCED OR INCREASED ON A CON-  
20 TRACT ON WHICH A FEE IS IMPOSED PURSUANT TO SUBSECTION (4), THE  
21 FEE SHALL BE REFUNDED OR INCREASED ON A PROPORTIONAL BASIS TO THE  
22 REDUCTION OR INCREASE IN THE CONTRACT AMOUNT.

23 (7) FEES IMPOSED AND COLLECTED BY THE DEPARTMENT PURSUANT TO  
24 THIS SECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND CRED-  
25 ITED TO THE CIVIL RIGHTS CONTRACT MONITORING FUND CREATED IN  
26 SUBSECTION (8).

1       (8) THE CIVIL RIGHTS CONTRACT MONITORING FUND IS CREATED AS  
2 A SEPARATE FUND IN THE STATE TREASURY TO BE ADMINISTERED AND  
3 EXPENDED BY THE DEPARTMENT AS PROVIDED IN THIS SUBSECTION. THE  
4 DEPARTMENT SHALL ONLY USE THE FUND TO DEFRAY THE COST OF MONITOR-  
5 ING CONTRACTS PURSUANT TO SECTION 602(F) ON WHICH A FEE IS  
6 IMPOSED PURSUANT TO THIS SECTION. ALL INTEREST EARNED BY THE  
7 FUND SHALL BE CREDITED TO THE FUND. ANY MONEY, INCLUDING INTER-  
8 EST EARNED BY THE FUND, REMAINING IN THE FUND AT THE END OF A  
9 FISCAL YEAR SHALL BE CARRIED OVER IN THE FUND TO THE NEXT AND  
10 SUCCEEDING FISCAL YEARS AND SHALL NOT BE CREDITED TO OR REVERT TO  
11 THE GENERAL FUND.

12       (9) BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL  
13 SUBMIT A REPORT REGARDING THE PRECEDING FISCAL YEAR TO THE STAND-  
14 ING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES THAT  
15 ARE RESPONSIBLE FOR CIVIL RIGHTS MATTERS, THE SENATE AND HOUSE  
16 APPROPRIATIONS SUBCOMMITTEES ON CIVIL RIGHTS MATTERS, AND THE  
17 SENATE AND HOUSE FISCAL AGENCIES. THE ANNUAL REPORT REQUIRED BY  
18 THIS SUBSECTION SHALL INCLUDE THE FOLLOWING:

19       (A) THE TOTAL NUMBER OF FEES IMPOSED PURSUANT TO  
20 SUBSECTIONS (1) AND (4), RESPECTIVELY.

21       (B) THE TOTAL AMOUNT OF FEES COLLECTED PURSUANT TO  
22 SUBSECTIONS (1) AND (4), RESPECTIVELY.

23       (C) THE TOTAL NUMBER OF MONITORING ACTIVITIES CONDUCTED PUR-  
24 SUANT TO SECTION 602(F).

25       (D) A DETAILED EXPLANATION OF HOW FEES COLLECTED PURSUANT TO  
26 THIS SECTION HAVE BEEN EXPENDED TO MONITOR CONTRACTS PURSUANT TO  
27 SECTION 602(F).

1 (E) ANY ADDITIONAL INFORMATION THE DEPARTMENT CONSIDERS  
2 NECESSARY.

3 (10) THIS SECTION APPLIES TO CONTRACTS DESCRIBED IN THIS  
4 SECTION THAT ARE ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF  
5 THIS SECTION.

6 Section 2. Section 602a of Act No. 453 of the Public Acts  
7 of 1976, being section 37.2602a of the Michigan Compiled Laws, is  
8 repealed effective upon the expiration of 2 years after the  
9 effective date of this amendatory act.