

HOUSE BILL No. 6222

November 18, 1992, Introduced by Rep. Perry Bullard and referred to the Committee on Civil Rights, Constitution and Women's Issues.

A bill to amend the title and sections 102, 103, 202, 203, 204, 205, 206, 207, 209, 302, 302a, 402, 502, 504, 505, and 506 of Act No. 453 of the Public Acts of 1976, entitled as amended "Elliott-Larsen civil rights act," sections 102, 103, 502, 504, 505, and 506 as amended by Act No. 124 of the Public Acts of 1992, section 202 as amended by Act No. 11 of the Public Acts of 1991, section 302a as added by Act No. 70 of the Public Acts of 1992, and section 402 as amended by Act No. 512 of the Public Acts of 1982, being sections 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 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 102, 103, 202, 203, 204,
2 205, 206, 207, 209, 302, 302a, 402, 502, 504, 505, and 506 of Act

1 No. 453 of the Public Acts of 1976, sections 102, 103, 502, 504,
2 505, and 506 as amended by Act No. 124 of the Public Acts of
3 1992, section 202 as amended by Act No. 11 of the Public Acts of
4 1991, section 302a as added by Act No. 70 of the Public Acts of
5 1992, and section 402 as amended by Act No. 512 of the Public
6 Acts of 1982, being sections 37.2102, 37.2103, 37.2202, 37.2203,
7 37.2204, 37.2205, 37.2206, 37.2207, 37.2209, 37.2302, 37.2302a,
8 37.2402, 37.2502, 37.2504, 37.2505, and 37.2506 of the Michigan
9 Compiled Laws, are amended to read as follows:

10 TITLE

11 AN ACT to define civil rights; to prohibit discriminatory
12 practices, policies, and customs in the exercise of those rights
13 based upon religion, race, color, national origin, age, sex,
14 SEXUAL ORIENTATION, height, weight, familial status, or marital
15 status; to preserve the confidentiality of records regarding
16 arrest, detention, or other disposition in which a conviction
17 does not result; to prescribe the powers and duties of the civil
18 rights commission and the department of civil rights; to provide
19 remedies and penalties; and to repeal certain acts and parts of
20 acts.

21 Sec. 102. (1) The opportunity to obtain employment, housing
22 and other real estate, and the full and equal utilization of
23 public accommodations, public service, and educational facilities
24 without discrimination because of religion, race, color, national
25 origin, age, sex, SEXUAL ORIENTATION, height, weight, familial
26 status, or marital status as prohibited by this act, is
27 recognized and declared to be a civil right.

1 (2) This section shall not be construed to prevent an
2 individual from bringing or continuing an action arising out of
3 sex discrimination before July 18, 1980 which action is based on
4 conduct similar to or identical to harassment.

5 (3) This section shall not be construed to prevent an indi-
6 vidual from bringing or continuing an action arising out of dis-
7 crimination based on familial status before the effective date of
8 the amendatory act that added this subsection which action is
9 based on conduct similar to or identical to discrimination
10 because of the age of persons residing with the individual bring-
11 ing or continuing the action.

12 Sec. 103. As used in this act:

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

15 (b) "Commission" means the civil rights commission estab-
16 lished by section 29 of article ~~5~~ V of the state constitution
17 of 1963.

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

19 (d) "Department" means the department of civil rights or its
20 employees.

21 (e) "Familial status" means 1 or more individuals under the
22 age of 18 residing with a parent or other person having custody
23 or in the process of securing legal custody of the individual or
24 individuals or residing with the designee of the parent or other
25 person having or securing custody, with the written permission of
26 the parent or other person. For purposes of this definition,
27 "parent" includes a person who is pregnant.

1 (f) "National origin" includes the national origin of an
2 ancestor.

3 (g) "Person" means an individual, agent, association, corpo-
4 ration, joint apprenticeship committee, joint stock company,
5 labor organization, legal representative, mutual company, part-
6 nership, receiver, trust, trustee in bankruptcy, unincorporated
7 organization, the state or a political subdivision of the state
8 or an agency of the state, or any other legal or commercial
9 entity.

10 (h) "Political subdivision" means a county, city, village,
11 township, school district, or special district or authority of
12 the state.

13 (i) Discrimination because of sex includes sexual harassment
14 which means unwelcome sexual advances, requests for sexual
15 favors, and other verbal or physical conduct or communication of
16 a sexual nature when:

17 (i) Submission to such conduct or communication is made a
18 term or condition either explicitly or implicitly to obtain
19 employment, public accommodations or public services, education,
20 or housing.

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

25 (iii) Such conduct or communication has the purpose or
26 effect of substantially interfering with an individual's
27 employment, public accommodations or public services, education,

1 or housing, or creating an intimidating, hostile, or offensive
2 employment, public accommodations, public services, educational,
3 or housing environment.

4 (J) "SEXUAL ORIENTATION" MEANS HAVING AN ORIENTATION FOR
5 HETEROSEXUALITY, HOMOSEXUALITY, OR BISEXUALITY, OR HAVING A HIS-
6 TORY OF SUCH AN ORIENTATION OR BEING IDENTIFIED WITH SUCH AN
7 ORIENTATION.

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

10 (a) Fail or refuse to hire or recruit, discharge, or other-
11 wise discriminate against an individual with respect to employ-
12 ment, compensation, or a term, condition, or privilege of employ-
13 ment, because of religion, race, color, national origin, age,
14 sex, SEXUAL ORIENTATION, height, weight, or marital status.

15 (b) Limit, segregate, or classify an employee or applicant
16 for employment in a way that deprives or tends to deprive the
17 employee or applicant of an employment opportunity, or otherwise
18 adversely affects the status of an employee or applicant because
19 of religion, race, color, national origin, age, sex, SEXUAL
20 ORIENTATION, height, weight, or marital status.

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

25 (d) Until January 1, 1994, require an employee of an
26 institution of higher education who is serving under a contract
27 of unlimited tenure, or similar arrangement providing for

1 unlimited tenure, to retire from employment on the basis of the
2 employee's age. As used in this subdivision, "institution of
3 higher education" means a public or private university, college,
4 community college, or junior college located in this state.

5 (2) This section shall not be construed to prohibit the
6 establishment or implementation of a bona fide retirement policy
7 or system that is not a subterfuge to evade the purposes of this
8 section.

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

11 Sec. 203. An employment agency shall not fail or refuse to
12 procure, refer, recruit, or place for employment, or otherwise
13 discriminate against, an individual because of religion, race,
14 color, national origin, age, sex, SEXUAL ORIENTATION, height,
15 weight, or marital status; or classify or refer for employment an
16 individual on the basis of religion, race, color, national
17 origin, age, sex, SEXUAL ORIENTATION, height, weight, or marital
18 status.

19 Sec. 204. A labor organization shall not:

20 (a) Exclude or expel from membership, or otherwise discrimi-
21 nate against, a member or applicant for membership because of
22 religion, race, color, national origin, age, sex, SEXUAL
23 ORIENTATION, height, weight, or marital status.

24 (b) Limit, segregate, or classify membership or applicants
25 for membership, or classify or fail or refuse to refer for
26 employment an individual in a way ~~which~~ THAT would deprive or
27 tend to deprive that individual of an employment opportunity, or

1 ~~which~~ THAT would limit an employment opportunity, or ~~which~~
2 THAT would adversely affect wages, hours, or employment condi-
3 tions, or otherwise adversely affect the status of an employee or
4 an applicant for employment, because of religion, race, color,
5 national origin, age, sex, SEXUAL ORIENTATION, height, weight, or
6 marital status.

7 (c) Cause or attempt to cause an employer to violate this
8 article.

9 (d) Fail to fairly and adequately represent a member in a
10 grievance process because of religion, race, color, national
11 origin, age, sex, SEXUAL ORIENTATION, height, weight, or marital
12 status.

13 Sec. 205. An employer, labor organization, or joint
14 labor-management committee controlling an apprenticeship, on the
15 job, or other training or retraining program, shall not discrimi-
16 nate against an individual because of religion, race, color,
17 national origin, age, sex, SEXUAL ORIENTATION, height, weight, or
18 marital status, in admission to, or employment or continuation
19 in, a program established to provide apprenticeship on the job,
20 or other training or retraining.

21 Sec. 206. (1) An employer, labor organization, or employ-
22 ment agency shall not print, circulate, post, mail, or otherwise
23 cause to be published a statement, advertisement, notice, or sign
24 relating to employment by the employer, or relating to membership
25 in or a classification or referral for employment by the labor
26 organization, or relating to a classification or referral for
27 employment by the employment agency, which indicates a

1 preference, limitation, specification, or discrimination, based
2 on religion, race, color, national origin, age, sex, SEXUAL
3 ORIENTATION, height, weight, or marital status.

4 (2) Except as permitted by rules promulgated by the commis-
5 sion or by applicable federal law, an employer or employment
6 agency shall not:

7 (a) Make or use a written or oral inquiry or form of appli-
8 cation that elicits or attempts to elicit information concerning
9 the religion, race, color, national origin, age, sex, SEXUAL
10 ORIENTATION, height, weight, or marital status of a prospective
11 employee.

12 (b) Make or keep a record of information described in subdi-
13 vision (a) or to disclose that information.

14 (c) Make or use a written or oral inquiry or form of appli-
15 cation that expresses a preference, limitation, specification, or
16 discrimination based on religion, race, color, national origin,
17 age, sex, SEXUAL ORIENTATION, height, weight, or marital status
18 of a prospective employee.

19 Sec. 207. An individual seeking employment shall not pub-
20 lish or cause to be published a notice or advertisement that
21 specifies or indicates the individual's religion, race, color,
22 national origin, age, sex, SEXUAL ORIENTATION, height, weight, or
23 marital status, or expresses a preference, specification, limita-
24 tion, or discrimination as to the religion, race, color, national
25 origin, age, height, weight, sex, SEXUAL ORIENTATION, or marital
26 status of a prospective employer.

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

11 Sec. 302. Except where permitted by law, a person shall
12 not:

13 (a) Deny an individual the full and equal enjoyment of the
14 goods, services, facilities, privileges, advantages, or accommo-
15 dations of a place of public accommodation or public service
16 because of religion, race, color, national origin, age, sex,
17 SEXUAL ORIENTATION, or marital status.

18 (b) Print, circulate, post, mail, or otherwise cause to be
19 published a statement, advertisement, notice, or sign ~~which~~
20 THAT indicates that the full and equal enjoyment of the goods,
21 services, facilities, privileges, advantages, or accommodations
22 of a place of public accommodation or public service will be
23 refused, withheld from, or denied an individual because of reli-
24 gion, race, color, national origin, age, sex, SEXUAL ORIENTATION,
25 or marital status, or that an individual's patronage of or
26 presence at a place of public accommodation is objectionable,
27 unwelcome, unacceptable, or undesirable because of religion,

1 race, color, national origin, age, sex, SEXUAL ORIENTATION, or
2 marital status.

3 Sec. 302a. (1) This section applies to a private club that
4 is defined as a place of public accommodation pursuant to
5 section 301(a).

6 (2) If a private club allows use of its facilities by 1 or
7 more adults per membership, the use must be equally available to
8 all adults entitled to use the facilities under the membership.
9 All classes of membership shall be available without regard to
10 race, color, gender, SEXUAL ORIENTATION, religion, marital
11 status, or national origin. Memberships that permit use during
12 restricted times may be allowed only if the restricted times
13 apply to all adults using that membership.

14 (3) A private club that has food or beverage facilities or
15 services shall allow equal access to those facilities and serv-
16 ices for all adults in all membership categories at all times.
17 This subsection shall not require service or access to facilities
18 to persons that would violate any law or ordinance regarding
19 sale, consumption, or regulation of alcoholic beverages.

20 (4) This section does not prohibit a private club from spon-
21 soring or permitting sports schools or leagues for children less
22 than 18 years of age that are limited by age or to members of 1
23 sex, if comparable and equally convenient access to the club's
24 facilities is made available to both sexes and if these activi-
25 ties are not used as a subterfuge to evade the purposes of this
26 article.

1 Sec. 402. (1) An educational institution shall not:

2 (a) Discriminate against an individual in the full
3 utilization of or benefit from the institution, or the services,
4 activities, or programs provided by the institution because of
5 religion, race, color, national origin, ~~or~~ sex, OR SEXUAL
6 ORIENTATION.

7 (b) Exclude, expel, limit, or otherwise discriminate against
8 an individual seeking admission as a student or an individual
9 enrolled as a student in the terms, conditions, or privileges of
10 the institution, because of religion, race, color, national
11 origin, ~~or~~ sex, OR SEXUAL ORIENTATION.

12 (c) For purposes of admission only, make or use a written or
13 oral inquiry or form of application that elicits or attempts to
14 elicit information concerning the religion, race, color, national
15 origin, age, sex, SEXUAL ORIENTATION, or marital status of a
16 person, except as permitted by rule of the commission or as
17 required by federal law, rule, or regulation, or pursuant to an
18 affirmative action program.

19 (d) Print or publish or cause to be printed or published a
20 catalog, notice, or advertisement indicating a preference, limi-
21 tation, specification, or discrimination based on the religion,
22 race, color, national origin, ~~or~~ sex, OR SEXUAL ORIENTATION of
23 an applicant for admission to the educational institution.

24 (e) Announce or follow a policy of denial or limitation
25 through a quota or otherwise of educational opportunities of a
26 group or its members because of religion, race, color, national
27 origin, ~~or~~ sex, OR SEXUAL ORIENTATION.

1 (f) Encourage or condone legally required discrimination
2 against an individual on the basis of race or color by knowingly
3 making or maintaining after April 1, 1984, an investment in an
4 organization operating in the republic of South Africa. This
5 subdivision ~~shall~~ DOES not apply to a private educational
6 institution.

7 (g) Encourage or condone religious discrimination or ethnic
8 discrimination by knowingly making or maintaining after February
9 1, 1983, an investment in an organization operating in the Union
10 of Soviet Socialist Republics.

11 (2) The department shall compile, from information obtained
12 from the United States department of commerce, a current register
13 of organizations operating in the republic of South Africa and
14 the Union of Soviet Socialist Republics. The department shall
15 make the register available, upon request, to a person ~~, board,~~
16 ~~or commission~~ for a reasonable charge.

17 (3) As used in this section:

18 (a) "Investment" means money placed in shares of stock and
19 other equity interests. Investment does not include an evidence
20 of indebtedness arising from a transfer of direct obligations of,
21 or obligations that are fully guaranteed as to principal and
22 interest by, the United States or any agency ~~thereof~~ OF THE
23 UNITED STATES, that a bank is obligated to repurchase or a bank
24 deposit made in the ordinary course of business.

25 (b) "Organization" means a United States firm, or a
26 subsidiary or affiliate of a United States firm, as determined by
27 the United States department of commerce.

1 Sec. 502. (1) A person engaging in a real estate
2 transaction, or a real estate broker or salesman, shall not on
3 the basis of religion, race, color, national origin, age, sex,
4 SEXUAL ORIENTATION, familial status, or marital status of a
5 person or a person residing with that person:

6 (a) Refuse to engage in a real estate transaction with a
7 person.

8 (b) Discriminate against a person in the terms, conditions,
9 or privileges of a real estate transaction or in the furnishing
10 of facilities or services in connection with a real estate
11 transaction.

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

14 (d) Refuse to negotiate for a real estate transaction with a
15 person.

16 (e) Represent to a person that real property is not avail-
17 able for inspection, sale, rental, or lease when in fact it is so
18 available, or knowingly fail to bring a property listing to a
19 person's attention, or refuse to permit a person to inspect real
20 property, or otherwise make unavailable or deny real property to
21 a person.

22 (f) Make, print, circulate, post, mail, or otherwise cause
23 to be made or published a statement, advertisement, notice, or
24 sign, or use a form of application for a real estate transaction,
25 or make a record of inquiry in connection with a prospective real
26 estate transaction, ~~which~~ THAT indicates, directly or
27 indirectly, an intent to make a preference, limitation,

1 specification, or discrimination with respect to the real estate
2 transaction.

3 (g) Offer, solicit, accept, use, or retain a listing of real
4 property with the understanding that a person may be discrimi-
5 nated against in a real estate transaction or in the furnishing
6 of facilities or services in connection ~~therewith~~ WITH A REAL
7 ESTATE TRANSACTION.

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

10 (2) A person shall not deny a person access to, or member-
11 ship or participation in, a multiple listing service, real estate
12 brokers' organization or other service, organization, or facility
13 relating to the business of selling or renting real property or
14 to discriminate against him or her in the terms or conditions of
15 that access, membership, or participation because of religion,
16 race, color, national origin, age, sex, SEXUAL ORIENTATION,
17 familial status, or marital status.

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

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

24 (a) Discriminate against the applicant because of the reli-
25 gion, race, color, national origin, age, sex, SEXUAL ORIENTATION,
26 familial status, or marital status of the applicant or a person
27 residing with the applicant.

1 (b) Use a form of application for financial assistance or
2 financing or make or keep a record or inquiry in connection with
3 an application for financial assistance or financing ~~which~~ THAT
4 indicates, directly or indirectly, a preference, limitation,
5 specification, or discrimination as to the religion, race, color,
6 national origin, age, sex, SEXUAL ORIENTATION, familial status,
7 or marital status of the applicant or a person residing with the
8 applicant.

9 (2) A person whose business includes engaging in real estate
10 transactions shall not discriminate against a person because of
11 religion, race, color, national origin, age, sex, SEXUAL
12 ORIENTATION, familial status, or marital status, in the purchas-
13 ing of loans for acquiring, constructing, improving, repairing,
14 or maintaining a dwelling or the making or purchasing of loans or
15 the provision of other financial assistance secured by residen-
16 tial real estate.

17 (3) Subsection (1)(b) does not apply to a form of applica-
18 tion for financial assistance prescribed for the use of a lender
19 regulated as a mortgagee under the national housing act,
20 chapter 847, 48 Stat. 1246, or by a regulatory board or officer
21 acting under the statutory authority of this state or the United
22 States.

23 Sec. 505. (1) A condition, restriction, or prohibition,
24 including a right of entry or possibility of reverter, that
25 directly or indirectly limits the use or occupancy of real
26 property on the basis of religion, race, color, national origin,
27 age, sex, SEXUAL ORIENTATION, familial status, or marital status

1 is void, except a limitation of use as provided in section
2 503(1)(c) or on the basis of religion relating to real property
3 held by a religious institution or organization, or by a reli-
4 gious or charitable organization operated, supervised, or con-
5 trolled by a religious institution or organization, and used for
6 religious or charitable purposes.

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

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