

# HOUSE BILL No. 4457

March 6, 1997, Introduced by Reps. McManus, Goschka, McBryde, Perricone, Green, Cropsey, Voorhees, Rocca, Jaye, Law, Horton, Gernaat, Dalman, Rhead, Llewellyn and Walberg and referred to the Committee on Constitutional and Civil Rights.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending the title and section 210 (MCL 37.2210), the title as amended by 1992 PA 258, and by adding section 210a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

### TITLE

2 An act to define civil rights; to prohibit discriminatory OR  
3 PREFERENTIAL practices, policies, and customs in the exercise of  
4 those rights based upon religion, race, color, national origin,  
5 age, sex, height, weight, familial status, or marital status; to  
6 preserve the confidentiality of records regarding arrest, deten-  
7 tion, or other disposition in which a conviction does not result;  
8 to prescribe the powers and duties of the civil rights commission  
9 and the department of civil rights; to provide remedies and  
10 penalties; and to repeal ~~certain~~ acts and parts of acts.

1           Sec. 210. ~~A~~ EXCEPT FOR A PUBLIC EMPLOYER SUBJECT TO  
2 SECTION 210A, A person subject to this article may adopt and  
3 carry out a plan to eliminate present effects of past discrimina-  
4 tory practices or assure equal opportunity with respect to reli-  
5 gion, race, color, national origin, or sex if the plan is filed  
6 with the commission under rules of the commission and the commis-  
7 sion approves the plan.

8           SEC. 210A. (1) A PUBLIC EMPLOYER MAY ADOPT AND CARRY OUT A  
9 PLAN TO ELIMINATE PRESENT EFFECTS OF PAST DISCRIMINATORY PRAC-  
10 TICES OR ASSURE EQUAL OPPORTUNITY WITH RESPECT TO RELIGION, RACE,  
11 COLOR, NATIONAL ORIGIN, OR SEX ONLY IF THE LEGISLATURE APPROPRI-  
12 ATES TO THE COMMISSION FUNDS NECESSARY TO IMPLEMENT THIS SECTION  
13 AND ALL OF THE FOLLOWING CONDITIONS ARE MET:

14           (A) THE PUBLIC EMPLOYER SUBMITS A PROPOSAL OF THE PLAN OR  
15 SIGNIFICANT CHANGES TO AN APPROVED PLAN TO THE COMMISSION, PRO-  
16 VIDES PUBLIC NOTICE OF THAT PROPOSAL IN ACCORDANCE WITH RULES  
17 PROMULGATED BY THE COMMISSION, AND ADDITIONALLY POSTS COPIES OF  
18 THAT PUBLIC NOTICE IN CONSPICUOUS LOCATIONS AT THE SITE OR SITES  
19 TO BE AFFECTED BY THE PROPOSAL.

20           (B) THE PROPOSED PLAN DOCUMENTS WITH SPECIFICITY THE PRESENT  
21 EFFECTS OF PAST DISCRIMINATORY PRACTICES THAT ARE TO BE REMEDIED  
22 BY THE PLAN, THE ACTIONS, PRACTICES, OR METHODS TO BE USED TO  
23 REMEDY THE PRESENT EFFECTS OF PAST DISCRIMINATION OR TO ASSURE  
24 EQUAL OPPORTUNITY, AND THE FACTS THAT DEMONSTRATE THE NECESSITY  
25 OF THE PLAN TO ASSURE EQUAL OPPORTUNITY UNDER THIS SECTION.

26           (C) THE PROPOSED PLAN DOES NOT INCLUDE QUOTAS.

1 (D) THE COMMISSION MAKES THE PROPOSED PLAN AVAILABLE FOR  
2 PUBLIC REVIEW AND COMMENT FOR A PERIOD OF 90 DAYS BEFORE  
3 RENDERING ANY DETERMINATION ON THAT PROPOSAL.

4 (E) NOT MORE THAN 90 DAYS AFTER EXPIRATION OF THE REVIEW AND  
5 COMMENT PERIOD, THE COMMISSION APPROVES THE PROPOSED PLAN. THE  
6 COMMISSION MAY APPROVE THE PROPOSED PLAN ONLY AFTER DETERMINING  
7 BOTH OF THE FOLLOWING:

8 (i) THAT A COMPELLING GOVERNMENTAL INTEREST IS MET BY THE  
9 PROPOSED PLAN.

10 (ii) THAT THE PROPOSED PLAN IS NARROWLY TAILORED SOLELY TO  
11 FURTHER THE COMPELLING GOVERNMENTAL INTEREST DESCRIBED IN SUB-  
12 PARAGRAPH (i).

13 (F) THE COMMISSION LIMITS ITS APPROVAL OF THE PLAN FOR A  
14 PERIOD OF NOT MORE THAN 5 YEARS.

15 (G) THE COMMISSION MAKES THE APPROVED PLAN AVAILABLE FOR  
16 PUBLIC REVIEW.

17 (2) AFTER EXPIRATION OF THE COMMISSION'S APPROVAL OF A PLAN  
18 UNDER THIS SECTION, A PUBLIC EMPLOYER SHALL NOT ADOPT THE SAME OR  
19 A SIMILAR PLAN UNLESS HE OR SHE SUBMITS TO THE COMMISSION A PRO-  
20 POSAL OF THAT PLAN AND THE COMMISSION APPROVES THAT PLAN IN  
21 ACCORDANCE WITH SUBSECTION (1).

22 (3) A PUBLIC EMPLOYER'S PLAN DESCRIBED IN SUBSECTION (1)  
23 THAT IS NOT SUBMITTED TO AND APPROVED BY THE COMMISSION UNDER  
24 SUBSECTION (1) IS VOID AND MAY NOT BE USED AS A DEFENSE AGAINST A  
25 CLAIM OF DISCRIMINATION OR PREFERENTIAL PRACTICE UNDER THIS ACT.

1 (4) AS USED IN THIS SECTION, "PUBLIC EMPLOYER" MEANS THE  
2 EMPLOYER OF A PUBLIC EMPLOYEE AS THAT TERM IS DEFINED IN SECTION  
3 1 OF 1947 PA 336, MCL 423.201.