

# HOUSE BILL No. 4556

April 22, 1999, Introduced by Reps. Middaugh, Patterson, Howell, Caul, Bogardus, Woodward, Cherry, Bradstreet, Tabor, LaSata, Dennis, Jacobs, Richner, Basham, Hart, Shackleton, DeWeese, Pappageorge, Raczkowski, Bisbee, Birkholz, Jansen and Scranton and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending the title and sections 201, 202, 203, 204, 205, 206, 207, and 209 (MCL 37.2201, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, and 37.2209), the title as amended by 1992 PA 258, section 201 as amended by 1980 PA 202, and section 202 as amended by 1991 PA 11.

**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,

5

height, weight, familial status, or marital status; TO PROHIBIT

6

DISCRIMINATORY PRACTICES, POLICIES, AND CUSTOMS IN EMPLOYMENT,

7

LABOR ORGANIZATION MEMBERSHIP, OR EMPLOYMENT AGENCY ACTIVITIES

1 BASED ON GENETIC COMPOSITION; to preserve the confidentiality of  
2 records regarding arrest, detention, or other disposition in  
3 which a conviction does not result; to prescribe the powers and  
4 duties of the civil rights commission and the department of civil  
5 rights; to provide remedies and penalties; to provide for fees;  
6 and to repeal ~~certain~~ acts and parts of acts.

7 Sec. 201. As used in this article:

8 (a) "Employer" means a person who has 1 or more employees,  
9 and includes an agent of that person.

10 (b) "Employment agency" means a person regularly undertaking  
11 with or without compensation to procure, refer, recruit, or place  
12 an employee for an employer or to procure, refer, recruit, or  
13 place for an employer or person the opportunity to work for an  
14 employer and includes an agent of that person.

15 (C) "GENETIC COMPOSITION" MEANS THE BIOCHEMICAL ELEMENTS  
16 EXISTING IN AN INDIVIDUAL THAT EVIDENCE, AND SERVE TO CONTROL THE  
17 TRANSMISSION OF, A HEREDITARY CHARACTER OR TRAIT.

18 (D) "GENETIC TEST" MEANS A PROCEDURE FOR DETERMINING THE  
19 PRESENCE OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN  
20 INDIVIDUAL, AND INCLUDES BUT IS NOT LIMITED TO A TEST OF CHROMO-  
21 SOMES, PROTEINS, OR NUCLEIC ACIDS SUCH AS DNA, RNA, OR MITOCHON-  
22 DRIAL DNA TO IDENTIFY A PREDISPOSING GENETIC CHARACTERISTIC.

23 (E) ~~(c)~~ "Labor organization" includes:

24 (i) An organization of any kind, an agency or employee rep-  
25 resentation committee, group, association, or plan in which  
26 employees participate and which exists for the purpose, in whole  
27 or in part, of dealing with employers concerning grievances,

1 labor disputes, wages, rates of pay, hours, or other terms or  
2 conditions of employment.

3 (ii) A conference, general committee, joint or system board,  
4 or joint council which is subordinate to a national or interna-  
5 tional labor organization.

6 (iii) An agent of a labor organization.

7 (F) "RNA" MEANS NUCLEIC ACIDS THAT CONTAIN RIBOSE AND URACIL  
8 AS STRUCTURAL COMPONENTS AND ARE ASSOCIATED WITH THE CONTROL OF  
9 CELLULAR CHEMICAL ACTIVITIES.

10 (G) ~~(d)~~ "Sex" includes, but is not limited to, pregnancy,  
11 childbirth, or a medical condition related to pregnancy or child-  
12 birth that does not include nontherapeutic abortion not intended  
13 to save the life of the mother.

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

16 (a) Fail or refuse to hire or recruit, discharge, or other-  
17 wise discriminate against an individual with respect to employ-  
18 ment, compensation, or a term, condition, or privilege of employ-  
19 ment, because of religion, race, color, national origin, age,  
20 sex, GENETIC COMPOSITION, height, weight, or marital status.

21 (b) Limit, segregate, or classify an employee or applicant  
22 for employment in a way that deprives or tends to deprive the  
23 employee or applicant of an employment opportunity, or otherwise  
24 adversely affects the status of an employee or applicant because  
25 of religion, race, color, national origin, age, sex, GENETIC  
26 COMPOSITION, height, weight, or marital status.

1 (c) Segregate, classify, or otherwise discriminate against a  
2 person on the basis of sex OR GENETIC COMPOSITION with respect to  
3 a term, condition, or privilege of employment, including, but not  
4 limited to, a benefit plan or system.

5 ~~(d) Until January 1, 1994, require an employee of an insti-~~  
6 ~~tution of higher education who is serving under a contract of~~  
7 ~~unlimited tenure, or similar arrangement providing for unlimited~~  
8 ~~tenure, to retire from employment on the basis of the employee's~~  
9 ~~age. As used in this subdivision, "institution of higher~~  
10 ~~education" means a public or private university, college, commu-~~  
11 ~~nity college, or junior college located in this state.~~

12 (D) REQUIRE AN INDIVIDUAL TO SUBMIT TO A GENETIC TEST AS A  
13 CONDITION OF EMPLOYMENT OR PROMOTION.

14 (2) This section shall not be construed to prohibit the  
15 establishment or implementation of a bona fide retirement policy  
16 or system that is not a subterfuge to evade the purposes of this  
17 section.

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

20 Sec. 203. An employment agency shall not fail or refuse to  
21 procure, refer, recruit, or place for employment, or otherwise  
22 discriminate against, an individual because of religion, race,  
23 color, national origin, age, sex, GENETIC COMPOSITION, height,  
24 weight, or marital status; or classify or refer for employment an  
25 individual on the basis of religion, race, color, national  
26 origin, age, sex, GENETIC COMPOSITION, height, weight, or marital  
27 status.

1           Sec. 204. A labor organization shall not:

2           (a) Exclude or expel from membership, or otherwise discrimi-  
3 nate against, a member or applicant for membership because of  
4 religion, race, color, national origin, age, sex, GENETIC  
5 COMPOSITION, height, weight, or marital status.

6           (b) Limit, segregate, or classify membership or applicants  
7 for membership, or classify or fail or refuse to refer for  
8 employment an individual in a way ~~which~~ THAT would deprive or  
9 tend to deprive that individual of an employment opportunity, or  
10 ~~which~~ THAT would limit an employment opportunity, or ~~which~~  
11 THAT would adversely affect wages, hours, or employment condi-  
12 tions, or otherwise adversely affect the status of an employee or  
13 an applicant for employment, because of religion, race, color,  
14 national origin, age, sex, GENETIC COMPOSITION, height, weight,  
15 or marital status.

16           (c) Cause or attempt to cause an employer to violate this  
17 article.

18           (d) Fail to fairly and adequately represent a member in a  
19 grievance process because of religion, race, color, national  
20 origin, age, sex, GENETIC COMPOSITION, height, weight, or marital  
21 status.

22           Sec. 205. An employer, labor organization, or joint  
23 labor-management committee controlling an apprenticeship, on the  
24 job, or other training or retraining program, shall not discrimi-  
25 nate against an individual because of religion, race, color,  
26 national origin, age, sex, GENETIC COMPOSITION, height, weight,  
27 or marital status, in admission to, or employment or continuation

1 in, a program established to provide apprenticeship on the job,  
2 or other training or retraining.

3       Sec. 206. (1) An employer, labor organization, or employ-  
4 ment agency shall not print, circulate, post, mail, or otherwise  
5 cause to be published a statement, advertisement, notice, or sign  
6 relating to employment by the employer, or relating to membership  
7 in or a classification or referral for employment by the labor  
8 organization, or relating to a classification or referral for  
9 employment by the employment agency, ~~which~~ THAT indicates a  
10 preference, limitation, specification, or discrimination, based  
11 on religion, race, color, national origin, age, sex, GENETIC  
12 COMPOSITION, height, weight, or marital status.

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

16       (a) Make or use a written or oral inquiry or form of appli-  
17 cation that elicits or attempts to elicit information concerning  
18 the religion, race, color, national origin, age, sex, GENETIC  
19 COMPOSITION, height, weight, or marital status of a prospective  
20 employee.

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

23       (c) Make or use a written or oral inquiry or form of appli-  
24 cation that expresses a preference, limitation, specification, or  
25 discrimination based on religion, race, color, national origin,  
26 age, sex, GENETIC COMPOSITION, height, weight, or marital status  
27 of a prospective employee.

1           Sec. 207. An individual seeking employment shall not  
2 publish or cause to be published a notice or advertisement that  
3 specifies or indicates the individual's religion, race, color,  
4 national origin, age, sex, GENETIC COMPOSITION, height, weight,  
5 or marital status, or expresses a preference, specification, lim-  
6 itation, or discrimination as to the religion, race, color,  
7 national origin, age, height, weight, sex, GENETIC COMPOSITION,  
8 or marital status of a prospective employer.

9           Sec. 209. A contract to which the state, a political subdi-  
10 vision, or an agency ~~thereof~~ OF THE STATE OR A POLITICAL  
11 SUBDIVISION is a party shall contain a covenant by the contractor  
12 and his OR HER subcontractors not to discriminate against an  
13 employee or applicant for employment with respect to hire,  
14 tenure, terms, conditions, or privileges of employment, or a  
15 matter directly or indirectly related to employment, because of  
16 race, color, religion, national origin, age, sex, GENETIC  
17 COMPOSITION, height, weight, or marital status. Breach of this  
18 covenant may be regarded as a material breach of the contract.