

**SENATE BILL NO. 98**

January 26, 1999, Introduced by Senator A. SMITH and referred to the Committee on Health Policy.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending the title and sections 102, 103, 202, 203, 204, 205, 206, 207, 209, 302, 302a, 402, 502, 504, 505, and 506 (MCL 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), the title as amended by 1992 PA 258, sections 102, 103, 502, 504, 505, and 506 as amended by 1992 PA 124, section 202 as amended by 1991 PA 11, section 302a as added by 1992 PA 70, and section 402 as amended by 1993 PA 216.

**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 GENETIC COMPOSITION, height, weight, familial status, or marital  
6 status; to preserve the confidentiality of records regarding  
7 arrest, detention, or other disposition in which a conviction  
8 does not result; to prescribe the powers and duties of the civil  
9 rights commission and the department of civil rights; to provide  
10 remedies and penalties; and to repeal ~~certain~~ acts and parts of  
11 acts.

12 Sec. 102. (1) The opportunity to obtain employment, housing  
13 and other real estate, and the full and equal utilization of  
14 public accommodations, public service, and educational facilities  
15 without discrimination because of religion, race, color, national  
16 origin, age, sex, GENETIC COMPOSITION, height, weight, familial  
17 status, or marital status as prohibited by this act, is recog-  
18 nized and declared to be a civil right.

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

23 (3) This section shall not be construed to prevent an indi-  
24 vidual from bringing or continuing an action arising out of dis-  
25 crimination based on familial status before ~~the effective date~~  
26 ~~of the amendatory act that added this subsection~~ JUNE 29, 1992  
27 which action is based on conduct similar to or identical to

1 discrimination because of the age of persons residing with the  
2 individual bringing or continuing the action.

3 Sec. 103. As used in this act:

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

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

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

10 (d) "Department" means the department of civil rights or its  
11 employees.

12 (e) "Familial status" means 1 or more individuals under the  
13 age of 18 residing with a parent or other person having custody  
14 or in the process of securing legal custody of the individual or  
15 individuals or residing with the designee of the parent or other  
16 person having or securing custody, with the written permission of  
17 the parent or other person. For purposes of this definition,  
18 "parent" includes a person who is pregnant.

19 (F) "GENETIC COMPOSITION" MEANS THE BIOCHEMICAL ELEMENTS  
20 EXISTING IN AN INDIVIDUAL THAT EVIDENCE, AND SERVE TO CONTROL THE  
21 TRANSMISSION OF, A HEREDITARY CHARACTER OR TRAIT.

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

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

3       (I) ~~(g)~~ "Person" means an individual, agent, association,  
4 corporation, 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       (J) ~~(h)~~ "Political subdivision" means a county, city, vil-  
11 lage, township, school district, or special district or authority  
12 of the state.

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

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

21       (ii) Submission to or rejection of ~~such~~ THE conduct or  
22 communication by an individual is used as a factor in decisions  
23 affecting ~~such~~ THE individual's employment, public accommo-  
24 dations or public services, education, or housing.

25       (iii) ~~Such~~ THE 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 (1) "RNA" MEANS NUCLEIC ACIDS THAT CONTAIN RIBOSE AND URACIL  
5 AS STRUCTURAL COMPONENTS AND ARE ASSOCIATED WITH THE CONTROL OF  
6 CELLULAR CHEMICAL ACTIVITIES.

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

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

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

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

24 ~~(d) Until January 1, 1994, require an employee of an insti-~~  
25 ~~tution of higher education who is serving under a contract of~~  
26 ~~unlimited tenure, or similar arrangement providing for unlimited~~  
27 ~~tenure, to retire from employment on the basis of the employee's~~

1 age. ~~As used in this subdivision, "institution of higher~~  
2 ~~education" means a public or private university, college, commu-~~  
3 ~~nity college, or junior college located in this state.~~

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

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

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

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

20 Sec. 204. A labor organization shall not:

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

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

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

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

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

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

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

1 employment by the employment agency, ~~which~~ THAT indicates a  
2 preference, limitation, specification, or discrimination, based  
3 on religion, race, color, national origin, age, sex, GENETIC  
4 COMPOSITION, height, weight, or marital status.

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

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

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

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

20 Sec. 207. An individual seeking employment shall not pub-  
21 lish or cause to be published a notice or advertisement that  
22 specifies or indicates the individual's religion, race, color,  
23 national origin, age, sex, GENETIC COMPOSITION, height, weight,  
24 or marital status, or expresses a preference, specification, lim-  
25 itation, or discrimination as to the religion, race, color,  
26 national origin, age, height, weight, sex, GENETIC COMPOSITION,  
27 or marital 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, GENETIC  
9 COMPOSITION, 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 GENETIC COMPOSITION, 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, GENETIC  
25 COMPOSITION, or marital status, or that an individual's patronage  
26 of or presence at a place of public accommodation is  
27 objectionable, unwelcome, unacceptable, or undesirable because of

1 religion, race, color, national origin, age, sex, GENETIC  
2 COMPOSITION, or 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, GENETIC COMPOSITION, 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. An educational institution shall not do any of  
2 the following:

3           (a) Discriminate against an individual in the full utiliza-  
4 tion of or benefit from the institution, or the services, activi-  
5 ties, or programs provided by the institution because of reli-  
6 gion, race, color, national origin, ~~or~~ sex, OR GENETIC  
7 COMPOSITION.

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

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

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

25           (e) Announce or follow a policy of denial or limitation  
26 through a quota or otherwise of educational opportunities of a

1 group or its members because of religion, race, color, national  
2 origin, ~~or~~ sex, OR GENETIC COMPOSITION.

3       Sec. 502. (1) A person engaging in a real estate transac-  
4 tion, or a real estate broker or salesman, shall not on the basis  
5 of religion, race, color, national origin, age, sex, GENETIC  
6 COMPOSITION, familial status, or marital status of a person or a  
7 person residing with that person:

8       (a) Refuse to engage in a real estate transaction with a  
9 person.

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

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

16       (d) Refuse to negotiate for a real estate transaction with a  
17 person.

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

24       (f) Make, print, circulate, post, mail, or otherwise cause  
25 to be made or published a statement, advertisement, notice, or  
26 sign, or use a form of application for a real estate transaction,  
27 or make a record of inquiry in connection with a prospective real

1 estate transaction, ~~which~~ THAT indicates, directly or  
2 indirectly, an intent to make a preference, limitation, specifi-  
3 cation, or discrimination with respect to the real estate  
4 transaction.

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

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

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

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

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

26 (a) Discriminate against the applicant because of the  
27 religion, race, color, national origin, age, sex, GENETIC

1 COMPOSITION, familial status, or marital status of the applicant  
2 or a person residing with the applicant.

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

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

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

25 Sec. 505. (1) A condition, restriction, or prohibition,  
26 including a right of entry or possibility of reverter, that  
27 directly or indirectly limits the use or occupancy of real

1 property on the basis of religion, race, color, national origin,  
2 age, sex, GENETIC COMPOSITION, familial status, or marital status  
3 is void, except a limitation of use as provided in section  
4 503(1)(c) or on the basis of religion relating to real property  
5 held by a religious institution or organization, or by a reli-  
6 gious or charitable organization operated, supervised, or con-  
7 trolled by a religious institution or organization, and used for  
8 religious or charitable purposes.

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

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