

**SENATE BILL NO. 389**

February 24, 1999, Introduced by Senator A. SMITH and referred to the Committee on Human Resources, Labor, Senior Citizens and Veterans Affairs.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending sections 102, 103, and 202 (MCL 37.2102, 37.2103, and 37.2202), sections 102 and 103 as amended by 1992 PA 124 and section 202 as amended by 1991 PA 11.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 102. (1) The opportunity to obtain employment, housing  
2 and other real estate, and the full and equal utilization of  
3 public accommodations, public service, and educational facilities  
4 without discrimination because of religion, race, color, national  
5 origin, age, sex, height, weight, familial status, or marital  
6 status as prohibited by this act — is recognized and declared  
7 to be a civil right.

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

6       (3) This section ~~shall not be construed to~~ DOES NOT pre-  
7 vent an individual from bringing or continuing an action arising  
8 out of discrimination based on familial status before ~~the effec-~~  
9 ~~tive date of the amendatory act that added this subsection~~ JUNE  
10 29, 1992, which action is based on conduct similar to or identi-  
11 cal to discrimination because of the age of persons residing with  
12 the individual bringing or continuing the action.

13       (4) THIS SECTION DOES NOT PREVENT AN INDIVIDUAL FROM BRING-  
14 ING OR CONTINUING AN ACTION ARISING OUT OF DISCRIMINATION BECAUSE  
15 OF RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, HEIGHT,  
16 WEIGHT, OR MARITAL STATUS BEFORE THE EFFECTIVE DATE OF THE AMEN-  
17 DATORY ACT THAT ADDED THIS SUBSECTION IF THE ACTION IS BASED ON  
18 CONDUCT SIMILAR OR IDENTICAL TO CONDUCT PROHIBITED IN SECTION  
19 202(1)(D).

20       Sec. 103. As used in this act:

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

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

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

1 (D) "COMPENSATION" MEANS ALL EARNINGS OF AN EMPLOYEE,  
2 INCLUDING WAGES AND BENEFITS, WHETHER DETERMINED ON THE BASIS OF  
3 TIME, TASK, PIECE, COMMISSION, OR OTHER METHOD OF CALCULATION FOR  
4 LABOR, SERVICES, OR WORK PERFORMED.

5 (E) ~~(d)~~ "Department" means the department of civil rights  
6 or its employees.

7 (F) ~~(e)~~ "Familial status" means 1 or more individuals  
8 under the age of 18 residing with a parent or other person having  
9 custody or in the process of securing legal custody of the indi-  
10 vidual or individuals or residing with the designee of the parent  
11 or other person having or securing custody, with the written per-  
12 mission of the parent or other person. For purposes of this  
13 ~~definition~~ SUBDIVISION, "parent" includes a person who is  
14 pregnant.

15 (G) ~~(f)~~ "National origin" includes the national origin of  
16 an ancestor.

17 (H) ~~(g)~~ "Person" means an individual, agent, association,  
18 corporation, joint apprenticeship committee, joint stock company,  
19 labor organization, legal representative, mutual company, part-  
20 nership, receiver, trust, trustee in bankruptcy, unincorporated  
21 organization, the state or a political subdivision of the state  
22 or an agency of the state, or any other legal or commercial  
23 entity.

24 (I) ~~(h)~~ "Political subdivision" means a county, city, vil-  
25 lage, township, school district, or special district or authority  
26 of the state.

1           (J) ~~(i)~~ "Discrimination because of sex" includes sexual  
2 harassment which means unwelcome sexual advances, requests for  
3 sexual favors, and other verbal or physical conduct or communica-  
4 tion of a sexual nature ~~when~~ IF:

5           (i) Submission to ~~such~~ THE conduct or communication is  
6 made a term or condition either explicitly or implicitly to  
7 obtain employment, public accommodations, ~~or~~ public services,  
8 education, or housing.

9           (ii) Submission to or rejection of ~~such~~ THE conduct or  
10 communication by an individual is used as a factor in decisions  
11 affecting ~~such~~ THE individual's employment, public  
12 accommodations, ~~or~~ public services, education, or housing.

13           (iii) ~~Such~~ THE conduct or communication has the purpose or  
14 effect of substantially interfering with an individual's employ-  
15 ment, public accommodations, ~~or~~ public services, education, or  
16 housing, or creating an intimidating, hostile, or offensive  
17 employment, public accommodations, public services, educational,  
18 or housing environment.

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

21           (a) Fail or refuse to hire, ~~or~~ recruit, discharge, or oth-  
22 erwise discriminate against an individual with respect to employ-  
23 ment, compensation, or a term, condition, or privilege of employ-  
24 ment ~~—~~ because of religion, race, color, national origin, age,  
25 sex, height, weight, or marital status.

26           (b) Limit, segregate, or classify an employee or applicant  
27 for employment in a way that deprives or tends to deprive the

1 employee or applicant of an employment opportunity ~~—,~~ or  
2 otherwise adversely affects the status of an employee or appli-  
3 cant because of religion, race, color, national origin, age, sex,  
4 height, weight, or marital status.

5 (c) Segregate, classify, or otherwise discriminate against  
6 ~~a person~~ AN INDIVIDUAL on the basis of sex with respect to a  
7 term, condition, or privilege of employment, including, but not  
8 limited to, a benefit plan or system.

9 (d) ~~Until January 1, 1994, require an employee of an insti-~~  
10 ~~tution of higher education who is serving under a contract of~~  
11 ~~unlimited tenure, or similar arrangement providing for unlimited~~  
12 ~~tenure, to retire from employment on the basis of the employee's~~  
13 ~~age. As used in this subdivision, "institution of higher~~  
14 ~~education" means a public or private university, college, commu-~~  
15 ~~nity college, or junior college located in this state.~~ FAIL OR  
16 REFUSE TO PROVIDE COMPENSATION EQUALLY FOR WORK OF COMPARABLE  
17 VALUE IN TERMS OF THE COMPOSITE SKILL, RESPONSIBILITY, EFFORT,  
18 EDUCATION OR TRAINING, AND WORKING CONDITIONS BECAUSE OF RELI-  
19 GION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX, HEIGHT, WEIGHT, OR  
20 MARITAL STATUS.

21 (2) This section ~~shall not be construed to~~ DOES NOT pro-  
22 hibit the establishment or implementation of a bona fide retire-  
23 ment policy or system that is not a subterfuge to evade the pur-  
24 poses of this section.

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