

HOUSE BILL No. 4661

April 24, 2001, Introduced by Reps. Godchaux, Kolb, Jacobs, Thomas, McConico, Scranton, Dennis, Woodward, Bogardus, Lipsey, Murphy, Schauer, Whitmer, Hardman, Jamnick, Bovin, Garza, Hansen, Zelenko, Rivet, Waters, Switalski, Stallworth, Basham and Lemmons and referred to the Committee on Civil Law and the Judiciary.

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, 502, 504, 505, and 506 as amended by 1992
PA 124, section 103 as amended by 1999 PA 202, 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 SEXUAL ORIENTATION, 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, SEXUAL ORIENTATION, 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~~ DOES not ~~be construed to~~ prevent
20 an individual from bringing or continuing an action arising out
21 of sex discrimination before July 18, 1980 ~~which~~ FOR AN action
22 THAT is based on conduct similar to or identical to harassment.

23 (3) This section ~~shall~~ DOES not ~~be construed to~~ prevent
24 an individual from bringing or continuing an action arising out
25 of discrimination based on familial status before the effective
26 date of the amendatory act that added this subsection ~~which~~ FOR
27 AN action THAT 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 V of the state constitution of
8 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) "National origin" includes the national origin of an
20 ancestor.

21 (g) "Person" means an individual, agent, association, corpo-
22 ration, joint apprenticeship committee, joint stock company,
23 labor organization, legal representative, mutual company, part-
24 nership, receiver, trust, trustee in bankruptcy, unincorporated
25 organization, the state or a political subdivision of the state
26 or an agency of the state, or any other legal or commercial
27 entity.

1 (h) "Political subdivision" means a county, city, village,
2 township, school district, or special district or authority of
3 the state.

4 (i) Discrimination because of sex includes sexual
5 harassment. Sexual harassment means unwelcome sexual advances,
6 requests for sexual favors, and other verbal or physical conduct
7 or communication of a sexual nature under the following
8 conditions:

9 (i) Submission to the conduct or communication is made a
10 term or condition either explicitly or implicitly to obtain
11 employment, public accommodations or public services, education,
12 or housing.

13 (ii) Submission to or rejection of the conduct or communica-
14 tion by an individual is used as a factor in decisions affecting
15 the individual's employment, public accommodations or public
16 services, education, or housing.

17 (iii) The conduct or communication has the purpose or effect
18 of substantially interfering with an individual's employment,
19 public accommodations or public services, education, or housing,
20 or creating an intimidating, hostile, or offensive employment,
21 public accommodations, public services, educational, or housing
22 environment.

23 (J) "SEXUAL ORIENTATION" MEANS HAVING AN ORIENTATION FOR
24 HETEROSEXUALITY, HOMOSEXUALITY, OR BISEXUALITY, OR HAVING A HIS-
25 TORY OF SUCH AN ORIENTATION OR BEING IDENTIFIED WITH SUCH AN
26 ORIENTATION.

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

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

8 (b) Limit, segregate, or classify an employee or applicant
9 for employment in a way that deprives or tends to deprive the
10 employee or applicant of an employment opportunity, or otherwise
11 adversely affects the status of an employee or applicant because
12 of religion, race, color, national origin, age, sex, SEXUAL
13 ORIENTATION, height, weight, or marital status.

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

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

25 (2) This section ~~shall~~ DOES not ~~be construed to~~ prohibit
26 the establishment or implementation of a bona fide retirement

1 policy or system that is not a subterfuge to evade the purposes
2 of this section.

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

5 Sec. 203. An employment agency shall not fail or refuse to
6 procure, refer, recruit, or place for employment, or otherwise
7 discriminate against, an individual because of religion, race,
8 color, national origin, age, sex, SEXUAL ORIENTATION, height,
9 weight, or marital status; or classify or refer for employment an
10 individual on the basis of religion, race, color, national
11 origin, age, sex, SEXUAL ORIENTATION, height, weight, or marital
12 status.

13 Sec. 204. A labor organization shall not:

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

18 (b) Limit, segregate, or classify membership or applicants
19 for membership, or classify or fail or refuse to refer for
20 employment an individual in a way ~~which~~ THAT would deprive or
21 tend to deprive that individual of an employment opportunity, or
22 ~~which~~ THAT would limit an employment opportunity, or ~~which~~
23 THAT would adversely affect wages, hours, or employment condi-
24 tions, or otherwise adversely affect the status of an employee or
25 an applicant for employment, because of religion, race, color,
26 national origin, age, sex, SEXUAL ORIENTATION, height, weight, or
27 marital status.

1 (c) Cause or attempt to cause an employer to violate this
2 article.

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

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

15 Sec. 206. (1) An employer, labor organization, or employ-
16 ment agency shall not print, circulate, post, mail, or otherwise
17 cause to be published a statement, advertisement, notice, or sign
18 relating to employment by the employer, or relating to membership
19 in or a classification or referral for employment by the labor
20 organization, or relating to a classification or referral for
21 employment by the employment agency, ~~which~~ THAT indicates a
22 preference, limitation, specification, or discrimination, based
23 on religion, race, color, national origin, age, sex, SEXUAL
24 ORIENTATION, height, weight, or marital status.

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

1 (a) Make or use a written or oral inquiry or form of
2 application that elicits or attempts to elicit information con-
3 cerning the religion, race, color, national origin, age, sex,
4 SEXUAL ORIENTATION, height, weight, or marital status of a pro-
5 spective employee.

6 (b) Make or keep a record of information described in subdi-
7 vision (a) or ~~to~~ disclose that information.

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

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

21 Sec. 209. A contract to which ~~the~~ THIS state, a political
22 subdivision, or an agency ~~thereof~~ OF THIS STATE OR A POLITICAL
23 SUBDIVISION is a party shall contain a covenant by the contractor
24 and his OR HER subcontractors not to discriminate against an
25 employee or applicant for employment with respect to hire,
26 tenure, terms, conditions, or privileges of employment, or a
27 matter directly or indirectly related to employment, because of

1 race, color, religion, national origin, age, sex, SEXUAL
2 ORIENTATION, height, weight, or marital status. Breach of this
3 covenant may be regarded as a material breach of the contract.

4 Sec. 302. Except where permitted by law, a person shall
5 not:

6 (a) Deny an individual the full and equal enjoyment of the
7 goods, services, facilities, privileges, advantages, or accommo-
8 dations of a place of public accommodation or public service
9 because of religion, race, color, national origin, age, sex,
10 SEXUAL ORIENTATION, or marital status.

11 (b) Print, circulate, post, mail, or otherwise ~~cause to be~~
12 ~~published~~ PUBLISH a statement, advertisement, notice, or sign
13 ~~which~~ THAT indicates that 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 will
16 be refused, withheld from, or denied an individual because of
17 religion, race, color, national origin, age, sex, SEXUAL
18 ORIENTATION, or marital status, or that an individual's patronage
19 of or presence at a place of public accommodation is objection-
20 able, unwelcome, unacceptable, or undesirable because of reli-
21 gion, race, color, national origin, age, sex, SEXUAL ORIENTATION,
22 or marital status.

23 Sec. 302a. (1) This section applies to a private club that
24 is defined as a place of public accommodation ~~pursuant to~~ UNDER
25 section 301(a).

26 (2) If a private club allows use of its facilities by 1 or
27 more adults per membership, the use must be equally available to

1 all adults entitled to use the facilities under the membership.
2 All classes of membership shall be available without regard to
3 race, color, gender, SEXUAL ORIENTATION, religion, marital
4 status, or national origin. Memberships that permit use during
5 restricted times may be allowed only if the restricted times
6 apply to all adults using that membership.

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

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

20 Sec. 402. An educational institution shall not do any of
21 the following:

22 (a) Discriminate against an individual in the full utiliza-
23 tion of or benefit from the institution, or the services, activi-
24 ties, or programs provided by the institution because of reli-
25 gion, race, color, national origin, ~~or~~ sex, OR SEXUAL
26 ORIENTATION.

1 (b) Exclude, expel, limit, or otherwise discriminate against
2 an individual seeking admission as a student or an individual
3 enrolled as a student in the terms, conditions, or privileges of
4 the institution, because of religion, race, color, national
5 origin, ~~or~~ sex, OR SEXUAL ORIENTATION.

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

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

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

22 Sec. 502. (1) A person engaging in a real estate transac-
23 tion, or a real estate broker or salesman, shall not on the basis
24 of religion, race, color, national origin, age, sex, SEXUAL
25 ORIENTATION, familial status, or marital status of a person or a
26 person residing with that person:

1 (a) Refuse to engage in a real estate transaction with a
2 person.

3 (b) Discriminate against a person in the terms, conditions,
4 or privileges of a real estate transaction or in the furnishing
5 of facilities or services in connection with a real estate
6 transaction.

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

9 (d) Refuse to negotiate for a real estate transaction with a
10 person.

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

17 (f) ~~Make, print~~ PRINT, circulate, post, mail, or otherwise
18 ~~cause to be made or published~~ MAKE OR PUBLISH a statement,
19 advertisement, notice, or sign, or use a form of application for
20 a real estate transaction, or make a record of inquiry in connec-
21 tion with a prospective real estate transaction, ~~which~~ THAT
22 indicates, directly or indirectly, an intent to make a prefer-
23 ence, limitation, specification, or discrimination with respect
24 to the real estate transaction.

25 (g) Offer, solicit, accept, use, or retain a listing of real
26 property with the understanding that a person may be
27 discriminated against in a real estate transaction or in the

1 furnishing of facilities or services in connection ~~therewith~~
2 WITH A REAL ESTATE TRANSACTION.

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

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

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

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

19 (a) Discriminate against the applicant because of the reli-
20 gion, race, color, national origin, age, sex, SEXUAL ORIENTATION,
21 familial status, or marital status of the applicant or a person
22 residing with the applicant.

23 (b) Use a form of application for financial assistance or
24 financing or make or keep a record or inquiry in connection with
25 an application for financial assistance or financing ~~which~~ THAT
26 indicates, directly or indirectly, a preference, limitation,
27 specification, or discrimination as to the religion, race, color,

1 national origin, age, sex, SEXUAL ORIENTATION, familial status,
2 or marital status of the applicant or a person residing with the
3 applicant.

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

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

18 Sec. 505. (1) A condition, restriction, or prohibition,
19 including a right of entry or possibility of reverter, that
20 directly or indirectly limits the use or occupancy of real prop-
21 erty on the basis of religion, race, color, national origin, age,
22 sex, SEXUAL ORIENTATION, familial status, or marital status is
23 void, except a limitation of use as provided in section 503(1)(c)
24 or on the basis of religion relating to real property held by a
25 religious institution or organization, or by a religious or char-
26 itable organization operated, supervised, or controlled by a

1 religious institution or organization, and used for religious or
2 charitable purposes.

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

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