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BILL ANALYSIS



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Senate Bill 147 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Erika Geiss

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 3-23-23

CONTENT

The bill would amend the Elliot-Larsen Civil Rights Act (ELCRA) to delete a provision specifying that the prohibition against an employer treating an individual affected by pregnancy, childbirth, or a related medical condition differently from another individual does not apply in the case of a nontherapeutic abortion not intended to save the life of the mother. In addition, the bill would prohibit an employer from treating differently an individual affected by the termination of a pregnancy.

Specifically, the ELCRA prohibits an employer from treating an individual affected by pregnancy, childbirth, or a related medical condition differently for any employment-related purpose from another individual who is not so affected but similar in ability or inability to work, without regard to the source of any condition affecting the other individual's ability or inability to work. The bill also would prohibit an employer from treating differently as described above an individual affected by the termination of a pregnancy.

For the purposes of the prohibition above, the Act specifies that a medical condition related to pregnancy or childbirth does not include nontherapeutic abortion not intended to save the life of the mother. The bill would delete this provision.

In addition, the ELCRA specifies that "sex" includes pregnancy, childbirth, or a medical condition related to pregnancy or childbirth that does not include a nontherapeutic abortion not intended to save the life of the mother. Instead, under the bill, "sex" would include pregnancy, childbirth, or a medical condition related to pregnancy or childbirth or the termination of a pregnancy.

Generally, the ELCRA prohibits an employer from discriminating against an individual based on religion, race, color, national origin, age, sex, height, weight, or marital status. The bill also would prohibit an employer from discriminating against an individual based on sexual orientation and gender identity or expression. (Note: this language also was included in Senate Bill 4).

The bill is tie-barred to Senate Bill 4. (Senate Bill 4, which amends the ELCRA to prohibit discrimination based on sexual orientation or gender identity or expression, was enacted and became Public Act 6 of 2023. It will take effect on the 91st day after the Legislature adjourns sine die.)

MCL 37.2201 & 37.2202

BRIEF RATIONALE

The passage of Proposal 22-3 codified an individual right to reproductive freedom in the Michigan Constitution, including the right to carry out all decisions about pregnancy and abortion. Some people believe that an employer should not be able to treat an individual

affected by the termination of a pregnancy differently than another individual given the constitutional rights enshrined by Proposal 22-3. Accordingly, it has been suggested that the ELCRA be amended to prohibit an employer from doing so.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Cory Savino, PhD

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.