

HOUSE BILL No. 4919

June 6, 2001, Introduced by Reps. Woodward 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, and 302 (MCL 37.2102, 37.2103, 37.2202, 37.2203,
37.2204, 37.2205, 37.2206, 37.2207, and 37.2302), the title as
amended by 1992 PA 258, section 102 as amended by 1992 PA 124,
section 103 as amended by 1999 PA 202, and section 202 as amended
by 1991 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define civil rights; to prohibit discriminatory
practices, policies, and customs in the exercise of those rights
based upon religion, race, color, national origin, age, sex,
height, weight, familial status, ~~or~~ marital status, OR PERSONAL
APPEARANCE; to preserve the confidentiality of records regarding

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1 arrest, detention, or other disposition in which a conviction
 2 does not result; to prescribe the powers and duties of the civil
 3 rights commission and the department of civil rights; to provide
 4 remedies and penalties; to provide for fees; and to repeal cer-
 5 tain acts and parts of acts.

6 Sec. 102. (1) The opportunity to obtain employment, housing
 7 and other real estate, and the full and equal utilization of
 8 public accommodations, public service, and educational facilities
 9 without discrimination because of religion, race, color, national
 10 origin, age, sex, height, weight, familial status, ~~or~~ marital
 11 status, OR PERSONAL APPEARANCE as prohibited by this act, is rec-
 12 ognized and declared to be a civil right.

13 (2) This section ~~shall not be construed to~~ DOES NOT pre-
 14 vent an individual from bringing or continuing an action arising
 15 out of sex discrimination before July 18, 1980 ~~which~~ FOR AN
 16 action THAT is based on conduct similar to or identical to
 17 harassment.

18 (3) This section ~~shall not be construed to~~ DOES NOT pre-
 19 vent an individual from bringing or continuing an action arising
 20 out of discrimination based on familial status before ~~the effec-~~
 21 ~~tive date of the amendatory act that added this subsection which~~
 22 JUNE 29, 1992 FOR AN action THAT is based on conduct similar to
 23 or identical to discrimination because of the age of persons
 24 residing with the individual bringing or continuing the action.

25 Sec. 103. As used in this act:

26 (a) "Age" means chronological age except as otherwise
 27 provided by law.

1 (b) "Commission" means the civil rights commission
2 established by section 29 of article V of the state constitution
3 of 1963.

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

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

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

14 (f) "National origin" includes the national origin of an
15 ancestor.

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

23 (H) "PERSONAL APPEARANCE" MEANS THE OUTWARD APPEARANCE OF AN
24 INDIVIDUAL OF EITHER SEX WITH REGARD TO PHYSICAL CHARACTERISTICS,
25 MANNER OR STYLE OF DRESS, MANNER OR STYLE OF PERSONAL GROOMING,
26 INCLUDING, BUT NOT LIMITED TO, HAIR STYLE OR FACIAL HAIR, OR MODE
27 OF TRANSPORTATION. PERSONAL APPEARANCE DOES NOT INCLUDE A

1 REASONABLE REQUIREMENT OF PERSONAL HYGIENE, UNIFORMS, OR OTHER
2 PRESCRIBED STANDARDS IF THE REQUIREMENT IS APPLIED UNIFORMLY FOR
3 ADMITTANCE TO A PUBLIC ACCOMMODATION OR IS UNIFORMLY APPLIED TO A
4 CLASS OF EMPLOYEES FOR A REASONABLE BUSINESS PURPOSE OR IF THE
5 PHYSICAL CHARACTERISTICS, MANNER OR STYLE OF DRESS, OR MANNER OR
6 STYLE OF PERSONAL GROOMING PRESENTS A DANGER TO THE HEALTH, WEL-
7 FARE, OR SAFETY OF ANOTHER INDIVIDUAL.

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

11 (J) ~~(i)~~ "Discrimination because of sex" includes sexual
12 harassment. "Sexual harassment" means unwelcome sexual advances,
13 requests for sexual favors, and other verbal or physical conduct
14 or communication of a sexual nature under the following
15 conditions:

16 (i) Submission to the conduct or communication is made a
17 term or condition either explicitly or implicitly to obtain
18 employment, public accommodations or public services, education,
19 or housing.

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

24 (iii) The conduct or communication has the purpose or effect
25 of substantially interfering with an individual's employment,
26 public accommodations or public services, education, or housing,
27 or creating an intimidating, hostile, or offensive employment,

1 public accommodations, public services, educational, or housing
2 environment.

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

5 (a) Fail or refuse to hire or recruit, discharge, or other-
6 wise discriminate against an individual with respect to employ-
7 ment, compensation, or a term, condition, or privilege of employ-
8 ment, because of religion, race, color, national origin, age,
9 sex, height, weight, ~~or~~ marital status, OR PERSONAL
10 APPEARANCE.

11 (b) Limit, segregate, or classify an employee or applicant
12 for employment in a way that deprives or tends to deprive the
13 employee or applicant of an employment opportunity, or otherwise
14 adversely affects the status of an employee or applicant because
15 of religion, race, color, national origin, age, sex, height,
16 weight, ~~or~~ marital status, OR PERSONAL APPEARANCE.

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

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

1 (2) This section ~~shall~~ DOES not ~~be construed to~~ prohibit
2 the establishment or implementation of a bona fide retirement
3 policy or system that is not a subterfuge to evade the purposes
4 of this section.

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

7 Sec. 203. An employment agency shall not fail or refuse to
8 procure, refer, recruit, or place for employment, or otherwise
9 discriminate against, an individual because of religion, race,
10 color, national origin, age, sex, height, weight, ~~or~~ marital
11 status, OR PERSONAL APPEARANCE; or classify or refer for employ-
12 ment an individual on the basis of religion, race, color,
13 national origin, age, sex, height, weight, ~~or~~ marital status,
14 OR PERSONAL APPEARANCE.

15 Sec. 204. A labor organization shall not:

16 (a) Exclude or expel from membership, or otherwise discrimi-
17 nate against, a member or applicant for membership because of
18 religion, race, color, national origin, age, sex, height, weight,
19 ~~or~~ marital status, OR PERSONAL APPEARANCE.

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

1 national origin, age, sex, height, weight, ~~or~~ marital status,
2 OR PERSONAL APPEARANCE.

3 (c) Cause or attempt to cause an employer to violate this
4 article.

5 (d) Fail to fairly and adequately represent a member in a
6 grievance process because of religion, race, color, national
7 origin, age, sex, height, weight, ~~or~~ marital status, OR PER-
8 SONAL APPEARANCE.

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

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

1 (2) Except as permitted by rules promulgated by the
2 commission or by applicable federal law, an employer or
3 employment agency shall not:

4 (a) Make or use a written or oral inquiry or form of appli-
5 cation that elicits or attempts to elicit information concerning
6 the religion, race, color, national origin, age, sex, height,
7 weight, ~~or~~ marital status, OR PERSONAL APPEARANCE of a prospec-
8 tive employee.

9 (b) Make or keep a record of information described in
10 subdivision (a) or ~~to~~ disclose that information.

11 (c) Make or use a written or oral inquiry or form of appli-
12 cation that expresses a preference, limitation, specification, or
13 discrimination based on religion, race, color, national origin,
14 age, sex, height, weight, ~~or~~ marital status, OR PERSONAL
15 APPEARANCE of a prospective employee.

16 Sec. 207. An individual seeking employment shall not pub-
17 lish or cause to be published a notice or advertisement that
18 specifies or indicates the individual's religion, race, color,
19 national origin, age, sex, height, weight, ~~or~~ marital status,
20 OR PERSONAL APPEARANCE, or expresses a preference, specification,
21 limitation, or discrimination as to the religion, race, color,
22 national origin, age, height, weight, sex, ~~or~~ marital status,
23 OR PERSONAL APPEARANCE of a prospective employer.

24 Sec. 302. Except where permitted by law, a person shall
25 not:

26 (a) Deny an individual the full and equal enjoyment of the
27 goods, services, facilities, privileges, advantages, or

1 accommodations of a place of public accommodation or public
2 service because of religion, race, color, national origin, age,
3 sex, ~~or~~ marital status, OR PERSONAL APPEARANCE.

4 (b) Print, circulate, post, mail, or otherwise cause to be
5 published a statement, advertisement, notice, or sign ~~which~~
6 THAT indicates that the full and equal enjoyment of the goods,
7 services, facilities, privileges, advantages, or accommodations
8 of a place of public accommodation or public service will be
9 refused, withheld from, or denied an individual because of reli-
10 gion, race, color, national origin, age, sex, ~~or~~ marital
11 status, OR PERSONAL APPEARANCE or that an individual's patronage
12 of or presence at a place of public accommodation is objection-
13 able, unwelcome, unacceptable, or undesirable because of reli-
14 gion, race, color, national origin, age, sex, ~~or~~ marital
15 status, OR PERSONAL APPEARANCE.