

HOUSE BILL No. 4850

June 17, 2003, Introduced by Reps. Kolb, McConico, Meisner, Tobocman, Minore, Gielegem, Rivet, O'Neil, Condino, Lipsey, Gleason, Jamnick, Clack, Zelenko, Woodward, Accavitti, Paletko, Cheeks, Whitmer, Anderson, Farrah and Hardman and referred to the Committee on 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:

TITLE

An act to define civil rights; to prohibit discriminatory
practices, policies, and customs in the exercise of those rights

1 based upon religion, race, color, national origin, age, sex,
2 **sexual orientation**, height, weight, familial status, or marital
3 status; to preserve the confidentiality of records regarding
4 arrest, detention, or other disposition in which a conviction
5 does not result; to prescribe the powers and duties of the civil
6 rights commission and the department of civil rights; to provide
7 remedies and penalties; and to repeal ~~certain~~ acts and parts of
8 acts.

9 Sec. 102. (1) The opportunity to obtain employment, housing
10 and other real estate, and the full and equal utilization of
11 public accommodations, public service, and educational facilities
12 without discrimination because of religion, race, color, national
13 origin, age, sex, **sexual orientation, gender identity or**
14 **expression**, height, weight, familial status, or marital status as
15 prohibited by this act, is recognized and declared to be a civil
16 right.

17 (2) This section ~~shall~~ **does** not ~~be construed to~~ prevent
18 an individual from bringing or continuing an action arising out
19 of sex discrimination before July 18, 1980 ~~which~~ **for an action**
20 **that** is based on conduct similar to or identical to harassment.

21 (3) This section ~~shall~~ **does** not ~~be construed to~~ prevent
22 an individual from bringing or continuing an action arising out
23 of discrimination based on familial status before the effective
24 date of the amendatory act that added this subsection ~~which~~ **for**
25 **an action that** is based on conduct similar to or identical to
26 discrimination because of the age of persons residing with the
27 individual bringing or continuing the action.

1 Sec. 103. As used in this act:

2 (a) "Age" means chronological age except as otherwise
3 provided by law.

4 (b) "Commission" means the civil rights commission
5 established by section 29 of article V of the state constitution
6 of 1963.

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

8 (d) "Department" means the department of civil rights or its
9 employees.

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

17 **(f) "Gender identity or expression" means having or being**
18 **perceived as having a gender-related self-identity or expression**
19 **whether or not associated with an individual's assigned sex at**
20 **birth.**

21 **(g) —(f)—** "National origin" includes the national origin of
22 an ancestor.

23 **(h) —(g)—** "Person" means an individual, agent, association,
24 corporation, joint apprenticeship committee, joint stock company,
25 labor organization, legal representative, mutual company,
26 partnership, receiver, trust, trustee in bankruptcy,
27 unincorporated organization, the state or a political subdivision

1 of the state or an agency of the state, or any other legal or
2 commercial entity.

3 **(i)** ~~—(h)—~~ "Political subdivision" means a county, city,
4 village, township, school district, or special district or
5 authority of the state.

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

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

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

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

25 **(k)** "Sexual orientation" means having an orientation for
26 heterosexuality, homosexuality, or bisexuality or having a
27 history of such an orientation or being identified with such an

1 orientation.

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

4 (a) Fail or refuse to hire or recruit, discharge, or
5 otherwise discriminate against an individual with respect to
6 employment, compensation, or a term, condition, or privilege of
7 employment, because of religion, race, color, national origin,
8 age, sex, **sexual orientation, gender identity or expression,**
9 height, weight, or marital status.

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

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~~
22 ~~institution of higher education who is serving under a contract~~
23 ~~of unlimited tenure, or similar arrangement providing for~~
24 ~~unlimited tenure, to retire from employment on the basis of the~~
25 ~~employee's age. As used in this subdivision, "institution of~~
26 ~~higher 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, **sexual orientation, gender**
 11 **identity or expression**, height, weight, or marital status; or
 12 classify or refer for employment an individual on the basis of
 13 religion, race, color, national origin, age, sex, **sexual**
 14 **orientation, gender identity or expression**, height, weight, or
 15 marital status.

16 Sec. 204. A labor organization shall not **do any of the**
 17 **following**:

18 (a) Exclude or expel from membership, or otherwise
 19 discriminate against, a member or applicant for membership
 20 because of religion, race, color, national origin, age, sex,
 21 **sexual orientation, gender identity or expression**, height,
 22 weight, or marital status.

23 (b) Limit, segregate, or classify membership or applicants
 24 for membership, or classify or fail or refuse to refer for
 25 employment an individual in a way ~~which~~ **that** would deprive or
 26 tend to deprive that individual of an employment opportunity, or
 27 ~~which~~ **that** would limit an employment opportunity, or ~~which~~

1 **that** would adversely affect wages, hours, or employment
2 conditions, or otherwise adversely affect the status of an
3 employee or an applicant for employment, because of religion,
4 race, color, national origin, age, sex, **sexual orientation,**
5 **gender identity or expression,** height, weight, or marital
6 status.

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

9 (d) Fail to fairly and adequately represent a member in a
10 grievance process because of religion, race, color, national
11 origin, age, sex, **sexual orientation, gender identity or**
12 **expression,** height, weight, or marital status.

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

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

1 classification or referral for employment by the employment
2 agency, ~~which~~ **that** indicates a preference, limitation,
3 specification, or discrimination, based on religion, race, color,
4 national origin, age, sex, **sexual orientation, gender identity or**
5 **expression**, height, weight, or marital status.

6 (2) Except as permitted by rules promulgated by the
7 commission or by applicable federal law, an employer or
8 employment agency shall not **do any of the following**:

9 (a) Make or use a written or oral inquiry or form of
10 application that elicits or attempts to elicit information
11 concerning the religion, race, color, national origin, age, sex,
12 **sexual orientation, gender identity or expression**, height,
13 weight, or marital status of a prospective employee.

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

16 (c) Make or use a written or oral inquiry or form of
17 application that expresses a preference, limitation,
18 specification, or discrimination based on religion, race, color,
19 national origin, age, sex, **sexual orientation, gender identity or**
20 **expression**, height, weight, or marital status of a prospective
21 employee.

22 Sec. 207. An individual seeking employment shall not
23 publish or cause to be published a notice or advertisement that
24 specifies or indicates the individual's religion, race, color,
25 national origin, age, sex, **sexual orientation, gender identity or**
26 **expression**, height, weight, or marital status, or expresses a
27 preference, specification, limitation, or discrimination as to

1 the religion, race, color, national origin, age, height, weight,
 2 sex, **sexual orientation, gender identity or expression**, or
 3 marital status of a prospective employer.

4 Sec. 209. A contract to which ~~the~~ **this** state, a political
 5 subdivision, or an agency ~~thereof~~ **of this state or a political**
 6 **subdivision** is a party shall contain a covenant by the contractor
 7 and his **or her** subcontractors not to discriminate against an
 8 employee or applicant for employment with respect to hire,
 9 tenure, terms, conditions, or privileges of employment, or a
 10 matter directly or indirectly related to employment, because of
 11 race, color, religion, national origin, age, sex, **sexual**
 12 **orientation, gender identity or expression**, height, weight, or
 13 marital status. Breach of this covenant may be regarded as a
 14 material breach of the contract.

15 Sec. 302. Except where permitted by law, a person shall not
 16 **do any of the following:**

17 (a) Deny an individual the full and equal enjoyment of the
 18 goods, services, facilities, privileges, advantages, or
 19 accommodations of a place of public accommodation or public
 20 service because of religion, race, color, national origin, age,
 21 sex, **sexual orientation, gender identity or expression**, or
 22 marital status.

23 (b) Print, circulate, post, mail, or otherwise ~~cause to be~~
 24 ~~published~~ **publish** a statement, advertisement, notice, or sign
 25 ~~which~~ **that** indicates that the full and equal enjoyment of the
 26 goods, services, facilities, privileges, advantages, or
 27 accommodations of a place of public accommodation or public

1 service will be refused, withheld from, or denied an individual
2 because of religion, race, color, national origin, age, sex,
3 **sexual orientation, gender identity or expression**, or marital
4 status, or that an individual's patronage of or presence at a
5 place of public accommodation is objectionable, unwelcome,
6 unacceptable, or undesirable because of religion, race, color,
7 national origin, age, sex, **sexual orientation, gender identity or**
8 **expression**, or marital status.

9 Sec. 302a. (1) This section applies to a private club that
10 is defined as a place of public accommodation ~~pursuant to~~ **under**
11 section 301(a).

12 (2) If a private club allows use of its facilities by 1 or
13 more adults per membership, the use must be equally available to
14 all adults entitled to use the facilities under the membership.
15 All classes of membership shall be available without regard to
16 race, color, gender, **sexual orientation, gender identity or**
17 **expression**, religion, marital status, or national origin.
18 Memberships that permit use during restricted times may be
19 allowed only if the restricted times apply to all adults using
20 that membership.

21 (3) A private club that has food or beverage facilities or
22 services shall allow equal access to those facilities and
23 services for all adults in all membership categories at all
24 times. This subsection shall not require service or access to
25 facilities to persons that would violate any law or ordinance
26 regarding sale, consumption, or regulation of alcoholic
27 beverages.

1 (4) This section does not prohibit a private club from
2 sponsoring or permitting sports schools or leagues for children
3 less than 18 years of age that are limited by age or to members
4 of 1 sex, if comparable and equally convenient access to the
5 club's facilities is made available to both sexes and if these
6 activities are not used as a subterfuge to evade the purposes of
7 this article.

8 Sec. 402. An educational institution shall not do any of
9 the following:

10 (a) Discriminate against an individual in the full
11 utilization of or benefit from the institution, or the services,
12 activities, or programs provided by the institution because of
13 religion, race, color, national origin, ~~or~~ sex, **sexual**
14 **orientation, or gender identity or expression.**

15 (b) Exclude, expel, limit, or otherwise discriminate against
16 an individual seeking admission as a student or an individual
17 enrolled as a student in the terms, conditions, or privileges of
18 the institution, because of religion, race, color, national
19 origin, ~~or~~ sex, **sexual orientation, or gender identity or**
20 **expression.**

21 (c) For purposes of admission only, make or use a written or
22 oral inquiry or form of application that elicits or attempts to
23 elicit information concerning the religion, race, color, national
24 origin, age, sex, **sexual orientation, gender identity or**
25 **expression,** or marital status of a person, except as permitted by
26 rule of the commission or as required by federal law, rule, or
27 regulation, or pursuant to an affirmative action program.

1 (d) Print or publish or cause to be printed or published a
2 catalog, notice, or advertisement indicating a preference,
3 limitation, specification, or discrimination based on the
4 religion, race, color, national origin, ~~or~~ sex, **sexual**
5 **orientation, or gender identity or expression**, of an applicant
6 for admission to the educational institution.

7 (e) Announce or follow a policy of denial or limitation
8 through a quota or otherwise of educational opportunities of a
9 group or its members because of religion, race, color, national
10 origin, ~~or~~ sex, **sexual orientation, or gender identity or**
11 **expression**.

12 Sec. 502. (1) A person engaging in a real estate
13 transaction, or a real estate broker or salesman, shall not on
14 the basis of religion, race, color, national origin, age, sex,
15 **sexual orientation, gender identity or expression**, familial
16 status, or marital status of a person or a person residing with
17 that person **do any of the following**:

18 (a) Refuse to engage in a real estate transaction with a
19 person.

20 (b) Discriminate against a person in the terms, conditions,
21 or privileges of a real estate transaction or in the furnishing
22 of facilities or services in connection with a real estate
23 transaction.

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

26 (d) Refuse to negotiate for a real estate transaction with a
27 person.

1 (e) Represent to a person that real property is not available
2 for inspection, sale, rental, or lease when in fact it is so
3 available, or knowingly fail to bring a property listing to a
4 person's attention, or refuse to permit a person to inspect real
5 property, or otherwise make unavailable or deny real property to
6 a person.

7 (f) ~~Make, print~~ **Print**, circulate, post, mail, or otherwise
8 ~~cause to be made or published~~ **make or publish** a statement,
9 advertisement, notice, or sign, or use a form of application for
10 a real estate transaction, or make a record of inquiry in
11 connection with a prospective real estate transaction, ~~which~~
12 **that** indicates, directly or indirectly, an intent to make a
13 preference, limitation, specification, or discrimination with
14 respect to the real estate transaction.

15 (g) Offer, solicit, accept, use, or retain a listing of real
16 property with the understanding that a person may be
17 discriminated against in a real estate transaction or in the
18 furnishing of facilities or services in connection ~~therewith~~
19 **with a real estate transaction.**

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

22 (2) A person shall not deny a person access to, or membership
23 or participation in, a multiple listing service, real estate
24 brokers' organization or other service, organization, or facility
25 relating to the business of selling or renting real property or
26 to discriminate against him or her in the terms or conditions of
27 that access, membership, or participation because of religion,

1 race, color, national origin, age, sex, **sexual orientation**,
2 **gender identity or expression**, familial status, or marital
3 status.

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

5 Sec. 504. (1) A person to whom application is made for
6 financial assistance or financing in connection with a real
7 estate transaction or in connection with the construction,
8 rehabilitation, repair, maintenance, or improvement of real
9 property, or a representative of that person, shall not **do any of**
10 **the following**:

11 (a) Discriminate against the applicant because of the
12 religion, race, color, national origin, age, sex, **sexual**
13 **orientation, gender identity or expression**, familial status, or
14 marital status of the applicant or a person residing with the
15 applicant.

16 (b) Use a form of application for financial assistance or
17 financing or make or keep a record or inquiry in connection with
18 an application for financial assistance or financing ~~which~~ **that**
19 indicates, directly or indirectly, a preference, limitation,
20 specification, or discrimination as to the religion, race, color,
21 national origin, age, sex, **sexual orientation, gender identity or**
22 **expression**, familial status, or marital status of the applicant
23 or a person residing with the applicant.

24 (2) A person whose business includes engaging in real estate
25 transactions shall not discriminate against a person because of
26 religion, race, color, national origin, age, sex, **sexual**
27 **orientation, gender identity or expression**, familial status, or

1 marital status, in the purchasing of loans for acquiring,
2 constructing, improving, repairing, or maintaining a dwelling or
3 the making or purchasing of loans or the provision of other
4 financial assistance secured by residential real estate.

5 (3) Subsection (1)(b) does not apply to a form of application
6 for financial assistance prescribed for the use of a lender
7 regulated as a mortgagee under the national housing act,
8 chapter 847, 48 Stat. 1246, or by a regulatory board or officer
9 acting under the statutory authority of this state or the United
10 States.

11 Sec. 505. (1) A condition, restriction, or prohibition,
12 including a right of entry or possibility of reverter, that
13 directly or indirectly limits the use or occupancy of real
14 property on the basis of religion, race, color, national origin,
15 age, sex, **sexual orientation, gender identity or expression,**
16 familial status, or marital status is void, except a limitation
17 of use as provided in section 503(1)(c) or on the basis of
18 religion relating to real property held by a religious
19 institution or organization, or by a religious or charitable
20 organization operated, supervised, or controlled by a religious
21 institution or organization, and used for religious or charitable
22 purposes.

23 (2) A person shall not insert in a written instrument
24 relating to real property a provision that is void under this
25 section or honor such a provision in the chain of title.

26 Sec. 506. A person shall not represent, for the purpose of
27 inducing a real estate transaction from which the person may

1 benefit financially, that a change has occurred or will or may
2 occur in the composition with respect to religion, race, color,
3 national origin, age, sex, **sexual orientation, gender identity or**
4 **expression**, familial status, or marital status of the owners or
5 occupants in the block, neighborhood, or area in which the real
6 property is located, or represent that this change will or may
7 result in the lowering of property values, an increase in
8 criminal or antisocial behavior, or a decline in the quality of
9 schools in the block, neighborhood, or area in which the real
10 property is located.