

SENATE BILL No. 122

February 1, 2005, Introduced by Senators BRATER, BASHAM, JACOBS, PATTERSON, CHERRY, SCOTT, CLARK-COLEMAN, OLSHOVE, CLARKE and LELAND and referred to the Committee on Commerce and Labor.

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), 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:

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

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1 right.

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

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

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

19 Sec. 103. As used in this act:

20 (a) "Age" means chronological age except as otherwise provided
21 by law.

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

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

25 (D) **"COMPENSATION" MEANS ALL EARNINGS OF AN EMPLOYEE,**
26 **INCLUDING WAGES AND BENEFITS, WHETHER DETERMINED ON THE BASIS OF**
27 **TIME, TASK, PIECE, COMMISSION, OR OTHER METHOD OF CALCULATION FOR**

1 **LABOR, SERVICES, OR WORK PERFORMED.**

2 (E) ~~—(d)—~~ "Department" means the department of civil rights
3 or its employees.

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

11 (G) ~~—(f)—~~ "National origin" includes the national origin of
12 an ancestor.

13 (H) ~~—(g)—~~ "Person" means an individual, agent, association,
14 corporation, joint apprenticeship committee, joint stock company,
15 labor organization, legal representative, mutual company,
16 partnership, receiver, trust, trustee in bankruptcy, unincorporated
17 organization, the state or a political subdivision of the state or
18 an agency of the state, or any other legal or commercial entity.

19 (I) ~~—(h)—~~ "Political subdivision" means a county, city,
20 village, township, school district, or special district or
21 authority of the state.

22 (J) ~~—(i)—~~ Discrimination because of sex includes sexual
23 harassment. Sexual harassment means unwelcome sexual advances,
24 requests for sexual favors, and other verbal or physical conduct or
25 communication of a sexual nature under the following conditions:

26 (i) Submission to the conduct or communication is made a term
27 or condition either explicitly or implicitly to obtain employment,

1 public accommodations or public services, education, or housing.

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

6 (iii) The conduct or communication has the purpose or effect of
7 substantially interfering with an individual's employment, public
8 accommodations or public services, education, or housing, or
9 creating an intimidating, hostile, or offensive employment, public
10 accommodations, public services, educational, or housing
11 environment.

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

13 (a) Fail or refuse to hire, ~~or~~ recruit, discharge, or
14 otherwise discriminate against an individual with respect to
15 employment, compensation, or a term, condition, or privilege of
16 employment — because of religion, race, color, national origin,
17 age, sex, height, weight, or marital status.

18 (b) Limit, segregate, or classify an employee or applicant for
19 employment in a way that deprives or tends to deprive the employee
20 or applicant of an employment opportunity — or otherwise
21 adversely affects the status of an employee or applicant because of
22 religion, race, color, national origin, age, sex, height, weight,
23 or marital status.

24 (c) Segregate, classify, or otherwise discriminate against ~~a~~
25 ~~person~~ **AN INDIVIDUAL** on the basis of sex with respect to a term,
26 condition, or privilege of employment, including, but not limited
27 to, a benefit plan or system.

1 (d) ~~Until January 1, 1994, require an employee of an~~
2 ~~institution of higher education who is serving under a contract of~~
3 ~~unlimited tenure, or similar arrangement providing for unlimited~~
4 ~~tenure, to retire from employment on the basis of the employee's~~
5 ~~age. As used in this subdivision, "institution of higher education"~~
6 ~~means a public or private university, college, community college,~~
7 ~~or junior college located in this state.~~ **FAIL OR REFUSE TO PROVIDE**
8 **COMPENSATION EQUALLY FOR WORK OF COMPARABLE VALUE IN TERMS OF THE**
9 **COMPOSITE SKILL, RESPONSIBILITY, EFFORT, EDUCATION OR TRAINING, AND**
10 **WORKING CONDITIONS BECAUSE OF RELIGION, RACE, COLOR, NATIONAL**
11 **ORIGIN, AGE, SEX, HEIGHT, WEIGHT, OR MARITAL STATUS.**

12 (2) This section ~~shall not be construed to~~ **DOES NOT** prohibit
13 the establishment or implementation of a bona fide retirement
14 policy or system that is not a subterfuge to evade the purposes of
15 this section.

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