

Legislative Analysis



INCLUDE PREGNANCY AND LACTATING STATUS IN PROTECTED CATEGORY OF SEX

Phone: (517) 373-8080
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Senate Bill 823 as passed by the Senate
Sponsor: Sen. Stephanie Chang
House Committee: Health Policy [Discharged]
Senate Committee: Housing and Human Services
Complete to 12-18-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 823 would amend the Elliott-Larsen Civil Rights Act to provide that the term *sex* includes pregnancy or lactating status when used in Article 3, which prohibits discrimination in the full and equal enjoyment of public accommodations or services.¹

Generally speaking, the act prohibits discriminatory practices, policies, and customs based on religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, familial status [having children], or marital status. These are often called “protected categories” with reference to the act. The act is enforced by private lawsuits and by the Michigan Civil Rights Commission, which through the Michigan Department of Civil Rights investigates and acts on discrimination complaints.

Article 3 of the act prohibits a person from doing either of the following (except when allowed by law):

- Denying an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a *place of public accommodation* or *public service* because of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, or marital status.
- Printing, circulating, posting, mailing, or otherwise causing to be published a statement, advertisement, notice, or sign that indicates either of the following:
 - That the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service will be refused, withheld from, or denied an individual because of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, or marital status.
 - That an individual's patronage of or presence at a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable because of religion, race, color, national origin, age, sex, sexual orientation, gender identity or expression, or marital status.

Place of public accommodation means a business, or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

¹ For purposes of Article 2, which prohibits employment discrimination, the term *sex* currently includes pregnancy, childbirth, the termination of a pregnancy, or a related medical condition.

Place of public accommodation also includes the facilities of the following private clubs:

- A country club or golf club.
- A boating or yachting club.
- A sports or athletic club.
- A dining club, except a dining club that in good faith limits its membership to the members of a particular religion for the purpose of furthering the teachings or principles of that religion and not for the purpose of excluding individuals of a particular sex, race, or color.

Public service means a public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of this state, a political subdivision, or an agency of this state or of a political subdivision or a tax exempt private agency established to provide service to the public, except that public service does not include a state or county correctional facility with respect to actions and decisions regarding an individual serving a sentence of imprisonment.

The bill would specifically provide that the above prohibition applies to discrimination on the basis of pregnancy or lactating status.

MCL 37.2301

FISCAL IMPACT:

Senate Bill 823 may result in a marginal increase in civil rights complaint cases processed and investigated by the Department of Civil Rights. The department would likely be able to handle any expected increase in cases with existing staff and resources.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Michael Cossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.