

SENATE BILL NO. 4

January 12, 2023, Introduced by Senators MOSS, IRWIN, GEISS, WOJNO, POLEHANKI, CHERRY, MCDONALD RIVET, HERTEL, MCMORROW, CAVANAGH, CHANG, BAYER, MCCANN, SANTANA, KLINEFELT, CAMILLERI, SINGH, SHINK, BRINKS and ANTHONY and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

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, 301, 302, 302a, 402, 501, 502, 504, 505, and 506 (MCL 37.2102, 37.2103, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, 37.2209, 37.2301, 37.2302, 37.2302a, 37.2402, 37.2501, 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, sections 103 and 301 as amended by 1999 PA 202,

section 202 as amended by 2009 PA 190, 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:

1 TITLE

2 An act to define civil rights; to prohibit discriminatory
3 practices, policies, and customs in the exercise of those rights
4 based upon religion, race, color, national origin, age, sex, **sexual**
5 **orientation, gender identity or expression**, height, weight,
6 familial status, or marital status; to preserve the confidentiality
7 of records regarding arrest, detention, or other disposition in
8 which a conviction does not result; to prescribe the powers and
9 duties of the civil rights commission and the department of civil
10 rights; to provide remedies and penalties; to provide for fees; and
11 to repeal certain acts and parts of acts.

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

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

23 (3) This section ~~shall~~**does** not be construed to prevent an
24 individual from bringing or continuing an action arising out of
25 discrimination based on familial status before ~~the effective date~~
26 ~~of the amendatory act that added this subsection which action is~~

1 **June 29, 1992 for a claim** based on conduct similar to or identical
2 to discrimination because of the age of ~~persons~~ **anyone** residing
3 with the individual bringing or continuing the action.

4 Sec. 103. As used in this act:

5 (a) "Age" means chronological age except as otherwise provided
6 by law.

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

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

10 (d) "Department" means the department of civil rights or its
11 employees.

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

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

23 (g) ~~(f)~~"National origin" includes the national origin of an
24 ancestor.

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

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

3 **(i)** ~~(h)~~—"Political subdivision" means a county, city, village,
4 township, school district, or special district or authority of ~~the~~
5 **this** 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 or
9 communication of a sexual nature under the following conditions:

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

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

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

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

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

28 (a) Fail or refuse to hire or recruit, discharge, or otherwise
29 discriminate against an individual with respect to employment,

1 compensation, or a term, condition, or privilege of employment,
 2 because of religion, race, color, national origin, age, sex, **sexual**
 3 **orientation, gender identity or expression**, height, weight, or
 4 marital status.

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

12 (c) Segregate, classify, or otherwise discriminate against a
 13 ~~person~~**an individual** on the basis of sex with respect to a term,
 14 condition, or privilege of employment, including, but not limited
 15 to, a benefit plan or system.

16 (d) Treat an individual affected by pregnancy, childbirth, or
 17 a related medical condition differently for any employment-related
 18 purpose from another individual who is not so affected but similar
 19 in ability or inability to work, without regard to the source of
 20 any condition affecting the other individual's ability or inability
 21 to work. For purposes of this subdivision, a medical condition
 22 related to pregnancy or childbirth does not include nontherapeutic
 23 abortion not intended to save the life of the mother.

24 (2) This section does not prohibit the establishment or
 25 implementation of a bona fide retirement policy or system that is
 26 not a subterfuge to evade the purposes of this section.

27 (3) This section does not apply to the employment of an
 28 individual by ~~his or her~~**the individual's** parent, spouse, or child.

29 Sec. 203. An employment agency shall not fail or refuse to

1 procure, refer, recruit, or place for employment, or otherwise
 2 discriminate against, an individual because of religion, race,
 3 color, national origin, age, sex, **sexual orientation, gender**
 4 **identity or expression**, height, weight, or marital status; or
 5 classify or refer for employment an individual on the basis of
 6 religion, race, color, national origin, age, sex, **sexual**
 7 **orientation, gender identity or expression**, height, weight, or
 8 marital status.

9 Sec. 204. A labor organization shall not **do any of the**
 10 **following:**

11 (a) Exclude or expel from membership, or otherwise
 12 discriminate against, a member or applicant for membership because
 13 of religion, race, color, national origin, age, sex, **sexual**
 14 **orientation, gender identity or expression**, height, weight, or
 15 marital status.

16 (b) Limit, segregate, or classify membership or applicants for
 17 membership, or classify or fail or refuse to refer for employment
 18 an individual in a way ~~which~~**that** would deprive or tend to deprive
 19 that individual of an employment opportunity, or ~~which~~**that** would
 20 limit an employment opportunity, or ~~which~~**that** would adversely
 21 affect wages, hours, or employment conditions, or otherwise
 22 adversely affect the status of an employee or an applicant for
 23 employment, because of religion, race, color, national origin, age,
 24 sex, **sexual orientation, gender identity or expression**, height,
 25 weight, or marital status.

26 (c) Cause or attempt to cause an employer to violate this
 27 article.

28 (d) Fail to fairly and adequately represent a member in a
 29 grievance process because of religion, race, color, national

1 origin, age, sex, **sexual orientation, gender identity or**
2 **expression**, height, weight, or marital status.

3 Sec. 205. An employer, labor organization, or joint labor-
4 management committee controlling an apprenticeship, on the job, or
5 other training or retraining program, shall not discriminate
6 against an individual because of religion, race, color, national
7 origin, age, sex, **sexual orientation, gender identity or**
8 **expression**, height, weight, or marital status, in admission to, or
9 employment or continuation in, a program established to provide
10 apprenticeship on the job, or other training or retraining.

11 Sec. 206. (1) An employer, labor organization, or employment
12 agency shall not print, circulate, post, mail, or otherwise cause
13 to be published a statement, advertisement, notice, or sign
14 relating to employment by the employer, or relating to membership
15 in or a classification or referral for employment by the labor
16 organization, or relating to a classification or referral for
17 employment by the employment agency, ~~which~~**that** indicates a
18 preference, limitation, specification, or discrimination, based on
19 religion, race, color, national origin, age, sex, **sexual**
20 **orientation, gender identity or expression**, height, weight, or
21 marital status.

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

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

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

3 (c) Make or use a written or oral inquiry or form of
4 application that expresses a preference, limitation, specification,
5 or discrimination based on religion, race, color, national origin,
6 age, sex, **sexual orientation, gender identity or expression,**
7 height, weight, or marital status of a prospective employee.

8 Sec. 207. An individual seeking employment shall not publish
9 or cause to be published a notice or advertisement that specifies
10 or indicates the individual's religion, race, color, national
11 origin, age, sex, **sexual orientation, gender identity or**
12 **expression,** height, weight, or marital status, or expresses a
13 preference, specification, limitation, or discrimination as to the
14 religion, race, color, national origin, age, height, weight, sex,
15 **sexual orientation, gender identity or expression,** or marital
16 status of a prospective employer.

17 Sec. 209. A contract to which ~~the~~**this** state, a political
18 subdivision, or an agency ~~thereof~~**of this state or of a political**
19 **subdivision** is a party ~~shall~~**must** contain a covenant by the
20 contractor and ~~his~~**the contractor's** subcontractors not to
21 discriminate against an employee or applicant for employment with
22 respect to hire, tenure, terms, conditions, or privileges of
23 employment, or a matter directly or indirectly related to
24 employment, because of race, color, religion, national origin, age,
25 sex, **sexual orientation, gender identity or expression,** height,
26 weight, or marital status. Breach of this covenant may be regarded
27 as a material breach of the contract.

28 Sec. 301. As used in this article:

29 (a) "Place of public accommodation" means a business, or an

1 educational, refreshment, entertainment, recreation, health, or
 2 transportation facility, or institution of any kind, whether
 3 licensed or not, whose goods, services, facilities, privileges,
 4 advantages, or accommodations are extended, offered, sold, or
 5 otherwise made available to the public. Place of public
 6 accommodation also includes the facilities of the following private
 7 clubs:

8 (i) A country club or golf club.

9 (ii) A boating or yachting club.

10 (iii) A sports or athletic club.

11 (iv) A dining club, except a dining club that in good faith
 12 limits its membership to the members of a particular religion for
 13 the purpose of furthering the teachings or principles of that
 14 religion and not for the purpose of excluding individuals of a
 15 particular ~~gender,~~ **sex**, race, or color.

16 (b) "Public service" means a public facility, department,
 17 agency, board, or commission, owned, operated, or managed by or on
 18 behalf of ~~the~~ **this** state, a political subdivision, or an agency
 19 ~~thereof~~ **of this state or of a political subdivision** or a tax exempt
 20 private agency established to provide service to the public, except
 21 that public service does not include a state or county correctional
 22 facility with respect to actions and decisions regarding an
 23 individual serving a sentence of imprisonment.

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

26 (a) Deny an individual the full and equal enjoyment of the
 27 goods, services, facilities, privileges, advantages, or
 28 accommodations of a place of public accommodation or public service
 29 because of religion, race, color, national origin, age, sex, **sexual**

1 **orientation, gender identity or expression,** or marital status.

2 (b) Print, circulate, post, mail, or otherwise cause to be
 3 published a statement, advertisement, notice, or sign ~~which that~~
 4 indicates that the full and equal enjoyment of the goods, services,
 5 facilities, privileges, advantages, or accommodations of a place of
 6 public accommodation or public service will be refused, withheld
 7 from, or denied an individual because of religion, race, color,
 8 national origin, age, sex, **sexual orientation, gender identity or**
 9 **expression,** or marital status, or that an individual's patronage of
 10 or presence at a place of public accommodation is objectionable,
 11 unwelcome, unacceptable, or undesirable because of religion, race,
 12 color, national origin, age, sex, **sexual orientation, gender**
 13 **identity or expression,** or marital status.

14 Sec. 302a. (1) This section applies to a private club that is
 15 defined as a place of public accommodation ~~pursuant to under~~
 16 section 301(a).

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

26 (3) A private club that has food or beverage facilities or
 27 services shall allow equal access to those facilities and services
 28 for all adults in all membership categories at all times. This
 29 subsection ~~shall does~~ not require service or access to facilities

1 to persons that would violate any law or ordinance regarding sale,
2 consumption, or regulation of alcoholic beverages.

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

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

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

16 (b) Exclude, expel, limit, or otherwise discriminate against
17 an individual seeking admission as a student or an individual
18 enrolled as a student in the terms, conditions, or privileges of
19 the institution, because of religion, race, color, national origin,
20 ~~or~~ sex, **sexual orientation, or gender identity or 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,~~ **an individual,** except as
26 permitted by rule of the commission or as required by federal law,
27 rule, or regulation, or pursuant to an affirmative action program.

28 (d) Print or publish or cause to be printed or published a
29 catalog, notice, or advertisement indicating a preference,

1 limitation, specification, or discrimination based on the religion,
 2 race, color, national origin, ~~or~~ **sex, sexual orientation, or gender**
 3 **identity or expression**, of an applicant for admission to the
 4 educational institution.

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

10 Sec. 501. As used in this article:

11 (a) "Real property" includes a building, structure, mobile
 12 home, real estate, land, mobile home park, trailer park, tenement,
 13 leasehold, or an interest in a real estate cooperative or
 14 condominium.

15 (b) "Real estate transaction" means the sale, exchange,
 16 rental, or lease of real property, or an interest ~~therein~~ **in real**
 17 **property**.

18 (c) "Housing accommodation" includes improved or unimproved
 19 real property, or a part ~~thereof, which~~ **of improved or unimproved**
 20 **real property, that** is used or occupied, or is intended, arranged,
 21 or designed to be used or occupied, as the home or residence of 1
 22 or more ~~persons~~ **individuals**.

23 (d) "Real estate broker or ~~salesman~~ **salesperson**" means a
 24 person, whether licensed or not, who, for or with the expectation
 25 of receiving a consideration, lists, sells, purchases, exchanges,
 26 rents, or leases real property; who negotiates or attempts to
 27 negotiate any of those activities; who holds ~~himself~~ **oneself** out as
 28 engaged in those activities; who negotiates or attempts to
 29 negotiate a loan secured or to be secured by a mortgage or other

1 encumbrance upon real property; who is engaged in the business of
 2 listing real property in a publication; or a person employed by or
 3 acting on behalf of a real estate broker or ~~salesman~~**salesperson**.

4 Sec. 502. (1) A person engaging in a real estate transaction,
 5 or a real estate broker or ~~salesman~~**salesperson**, shall not on the
 6 basis of religion, race, color, national origin, age, sex, **sexual**
 7 **orientation, gender identity or expression**, familial status, or
 8 marital status of ~~a person~~**an individual** or ~~a person~~**anyone**
 9 residing with that ~~person~~**individual do any of the following:**

10 (a) Refuse to engage in a real estate transaction with a
 11 person.

12 (b) Discriminate against a person in the terms, conditions, or
 13 privileges of a real estate transaction or in the furnishing of
 14 facilities or services in connection with a real estate
 15 transaction.

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

18 (d) Refuse to negotiate for a real estate transaction with a
 19 person.

20 (e) Represent to a person that real property is not available
 21 for inspection, sale, rental, or lease when in fact it is so
 22 available, or knowingly fail to bring a property listing to a
 23 person's attention, or refuse to permit a person to inspect real
 24 property, or otherwise make unavailable or deny real property to a
 25 person.

26 (f) Make, print, circulate, post, mail, or otherwise cause to
 27 be made or published a statement, advertisement, notice, or sign,
 28 or use a form of application for a real estate transaction, or make
 29 a record of inquiry in connection with a prospective real estate

1 transaction, ~~which~~**that** indicates, directly or indirectly, an
 2 intent to make a preference, limitation, specification, or
 3 discrimination with respect to the real estate transaction.

4 (g) Offer, solicit, accept, use, or retain a listing of real
 5 property with the understanding that a person may be discriminated
 6 against in a real estate transaction or in the furnishing of
 7 facilities or services in connection ~~therewith~~**with that**
 8 **transaction.**

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

11 (2) A person shall not deny a person access to, or membership
 12 or participation in, a multiple listing service, real estate
 13 brokers' organization or other service, organization, or facility
 14 relating to the business of selling or renting real property or ~~to~~
 15 discriminate against ~~him or her~~**the person** in the terms or
 16 conditions of that access, membership, or participation because of
 17 religion, race, color, national origin, age, sex, **sexual**
 18 **orientation, gender identity or expression,** familial status, or
 19 marital status.

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

21 Sec. 504. (1) A person to whom application is made for
 22 financial assistance or financing in connection with a real estate
 23 transaction or in connection with the construction, rehabilitation,
 24 repair, maintenance, or improvement of real property, or a
 25 representative of that person, shall not **do any of the following:**

26 (a) Discriminate against the applicant because of the
 27 religion, race, color, national origin, age, sex, **sexual**
 28 **orientation, gender identity or expression,** familial status, or
 29 marital status of the applicant or ~~a person~~**an individual** residing

1 with the applicant.

2 (b) Use a form of application for financial assistance or
 3 financing or make or keep a record or inquiry in connection with an
 4 application for financial assistance or financing ~~which~~**that**
 5 indicates, directly or indirectly, a preference, limitation,
 6 specification, or discrimination as to the religion, race, color,
 7 national origin, age, sex, **sexual orientation, gender identity or**
 8 **expression**, familial status, or marital status of the applicant or
 9 ~~a person~~**an individual** residing with the applicant.

10 (2) A person whose business includes engaging in real estate
 11 transactions shall not discriminate against a person because of
 12 religion, race, color, national origin, age, sex, **sexual**
 13 **orientation, gender identity or expression**, familial status, or
 14 marital status, in ~~the purchasing of~~ loans for acquiring,
 15 constructing, improving, repairing, or maintaining a dwelling or
 16 ~~the~~**in** making or purchasing ~~of~~ loans or ~~the provision of~~**providing**
 17 other financial assistance secured by residential real estate.

18 (3) Subsection (1)(b) does not apply to a form of application
 19 for financial assistance prescribed for the use of a lender
 20 regulated as a mortgagee under the national housing act, ~~chapter~~
 21 ~~847, 48 Stat. 1246~~**12 USC 1701 to 1750g**, or by a regulatory board
 22 or officer acting under the statutory authority of this state or
 23 the United States.

24 Sec. 505. (1) A condition, restriction, or prohibition,
 25 including a right of entry or possibility of reverter, that
 26 directly or indirectly limits the use or occupancy of real property
 27 on the basis of religion, race, color, national origin, age, sex,
 28 **sexual orientation, gender identity or expression**, familial status,
 29 or marital status is void, except a limitation of use as provided

1 in section 503(1)(c) or on the basis of religion relating to real
2 property held by a religious institution or organization, or by a
3 religious or charitable organization operated, supervised, or
4 controlled by a religious institution or organization, and used for
5 religious or charitable purposes.

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

9 Sec. 506. A person shall not represent, for the purpose of
10 inducing a real estate transaction from which the person may
11 benefit financially, that a change has occurred or will or may
12 occur in the composition with respect to religion, race, color,
13 national origin, age, sex, **sexual orientation, gender identity or**
14 **expression**, familial status, or marital status of the owners or
15 occupants in the block, neighborhood, or area in which the real
16 property is located, or represent that this change will or may
17 result in the lowering of property values, an increase in criminal
18 or antisocial behavior, or a decline in the quality of schools in
19 the block, neighborhood, or area in which the real property is
20 located.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.