

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Civil Rights

Bureau name:

Civil Rights Commission

Name of person filling out RIS:

Trevino, Marcelina

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Rule Set Information:

ARD assigned rule set number:

2024-23 CR

Title of proposed rule set:

Organization, Practice, And Procedure

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

The Michigan Elliott-Larsen Civil Rights Act provides that [t]he commission shall...[p]romulgate, amend, or repeal rules to carry out this act[.]" MCL 37.2601(1)(f).

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules are not applicable or related to any federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

R 37.4(3) Complaint may be submitted via mail and electronically.

Ohio, Indiana, Illinois, Wisconsin, Minnesota, Pennsylvania, and New York allow mail and electronic submissions.

Kentucky does not allow electronic submissions.

R 37.4(4) Department to evaluate complaint to determine if it will proceed with certified complaint; if not notify claimant and instruct on how to proceed.

Ohio, Indiana, New York, Kentucky, Minnesota, and Wisconsin have a complaint evaluation process. Illinois does not have a process for early evaluation of complaints.

R 37.4(7) Makes filing timeline requirements subject to prevailing law.

No other reviewed Great Lake State (i.e. Ohio, Indiana, New York, Pennsylvania, Kentucky, Minnesota, Wisconsin, and Illinois) has similar language making the filing timeline subject to "prevailing law."

R 37.4(11)(a) Complaints and Certified Complaints must acknowledge if there are proceedings pending before other state or federal courts or administrative bodies based on the same facts, occurrences or transaction in complaint/certified complaint.

Wisconsin, Kentucky, Pennsylvania, and Ohio do not require acknowledgement of proceedings before other state or federal courts, or administrative bodies based on the same facts, occurrences or transaction in the complaint/certified complaint. Minnesota and Illinois require acknowledgement.

R 37.4(11)(b) Complaint/Certified Complaint must provide status or disposition of a matter that is before a court or administrative body.

New York and Indiana require disclosure of the status or disposition. Wisconsin, Minnesota, Kentucky, Pennsylvania, Illinois, and Ohio do not.

R 37.4(12) Department or commission may stay or dismiss complaint or certified complaint if action is pending before another judicial or administrative tribunal or agency.

Minnesota, Kentucky, Pennsylvania, and Illinois allow for dismissal. Ohio, Indiana, New York, and Wisconsin do not.

R 37.5 Conciliation conference.

R. 37.5(4)(d) The department is given the option to unilaterally enter into a consent agreement with respondents that is in the public's interest in order to address alleged discrimination/retaliation.

Ohio, Minnesota, Pennsylvania, Kentucky, Indiana, and New York allow consent agreements with respondents that are in the public's interest without complainant's consent. Wisconsin and Illinois do not.

R 37.7 Reconsideration of refusal to draft a certified complaint or file a charge; request; hearing.

R 37.7(4) In reconsideration hearings that are granted the department may inform the parties of the proceeding by any means it deems "reasonably calculated to give actual notice."

None of the Great Lake States used for comparison have a similar provision.

R 37.7(5) The commission is given the option to inform parties if it will consider further the reconsideration by any means it deems "reasonably calculated to give actual notice."

None of the Great Lake States used for comparison have a similar provision.

R 37.10 Charge; service.

R 37.10 Allows copies of the charge or amended charge and notice to respondent regarding answer to the charge to be provided to parties "by other means as is reasonably calculated to give actual notice."

None of the Great Lake States used for comparison have a similar provision.

R 37.12 Hearing.

R 37.12(4). A verbatim stenographic record of a Rule12 hearing proceeding must be made and maintained.

Each of the Great Lake States has a requirement that hearings be recorded.

R 37.18 Appeals from order of commission or department.

R 37.18 An appellant who challenges a final order of the commission or department in court is required to name the commission and department as parties and the respondent and complainant are also required to be named as a party. Minnesota, Ohio, New York, Illinois, Pennsylvania, Kentucky, and Indiana have a substantially similar requirement. Wisconsin does not.

R 37.30 Signature.

R 37.30(1)(a) and (b) Respondent's signature on an answer certifies that respondent has read it, and that the contents are true and grounded in fact to the best of knowledge, information and belief.

Pennsylvania, Illinois, and New York have a substantially similar language/requirement. Wisconsin, Ohio, Minnesota, Indiana, and Kentucky do not.

R 37.32 Posting of notices.

R 37.32 The commission may require persons and entities within its jurisdiction to post notices that set forth requirements for compliance with applicable civil rights laws or other relevant information determined to be necessary to explain the law.

Wisconsin, Pennsylvania, Indiana, Kentucky, and Illinois have a similar posting language. Ohio, Minnesota, and New York do not.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

R 37.4 Complaints; certified complaints.

R 37.4(3) Complaint may be submitted via mail and electronically.

Proposed rule R 37.4(3) exceeds the standards of Kentucky only. The proposed rule allows for greater flexibility in filing. There are no appreciable costs associated with this deviation.

R 37.4(4) Department to evaluate complaint to determine if it will proceed with certified complaint; if not notify claimant and instruct on how to proceed.

Proposed rule R 37.4(4) exceeds the standards of Illinois only. The proposed rule allows for the conservation of departmental resources and expeditious resolution or disposition of complaints. There are no appreciable costs associated with this deviation.

R 37.4(7) Makes filing timeline requirements subject to prevailing law.

No other reviewed Great Lake State (i.e. Ohio, Indiana, New York, Pennsylvania, Kentucky, Minnesota, Wisconsin, and Illinois) has similar language making the filing timeline subject to “prevailing law.” This proposed rule provides clarity to parties on timelines and gives guidance. There are no appreciable costs associated with this deviation.

R 37.4(11)(a) Complaints and Certified Complaints must acknowledge if there are proceedings pending before other state or federal courts or administrative bodies based on the same facts, occurrences or transaction in complaint/certified complaint.

Proposed rule R 37.4(11)(a) exceeds the standards in Wisconsin, Kentucky, Pennsylvania, and Ohio. This proposed rule allows the department and commission to judiciously expend their resources in the resolution of complaints. There are no appreciable costs associated with this deviation.

R 37.4(11)(b) Complaint/Certified Complaint must provide status or disposition of a matter that is before a court or administrative body.

Proposed rule R 37.4(11)(b) exceeds the standards in Wisconsin, Minnesota, Kentucky, Pennsylvania, Illinois, and Ohio. This proposed rule allows the department and commission to judiciously expend their resources in the resolution of complaints. There are no appreciable costs associated with this deviation.

R 37.4(12) Department or commission may stay or dismiss complaint or certified complaint if action is pending before another judicial or administrative tribunal or agency.

Proposed rule R 37.4(12) exceeds the standards in Indiana, Ohio, New York, and Wisconsin. This proposed rule allows the department and commission to judiciously expend their resources in the resolution of complaints. There are no appreciable costs associated with this deviation.

R 37.5 Conciliation conference.

R 37.5(4)(d) The department is given the option to unilaterally enter into a consent agreement with respondents that is in the public’s interest in order to address alleged discrimination/retaliation.

Proposed rule R. 37.5(4)(d) exceeds the standards of Wisconsin and Illinois. This proposed rule allows the department and commission to advance the public’s interest in the resolution of civil rights complaints and concentrate its limited resources on complaints that are not susceptible to public interest resolutions. There are no appreciable costs associated with this deviation.

R 37.7 Reconsideration of refusal to draft a certified complaint or file a charge; request; hearing.

R 37.7(4) In reconsideration hearings that are granted the department may inform the parties of the proceeding by any

means it deems “reasonably calculated to give actual notice.”

Proposed rule R 37.7(4) exceeds the standard in all compared states. This proposed rule provides the department with multiple means of providing notice to parties. There are no appreciable costs associated with this deviation.

R 37.7(5) The commission is given the option to inform parties if it will consider further the reconsideration by any means it deems “reasonably calculated to give actual notice.”

Proposed rule R 37.7(5) exceeds the standard in all compared states. This proposed rule provides the department with multiple means of providing notice to parties. There are no appreciable costs associated with this deviation.

R 37.10 Charge; service.

R 37.10 Allows copies of the charge or amended charge and notice to respondent regarding answer to the charge to be provided to parties “by other means as is reasonably calculated to give actual notice.”

Proposed rule R 37.10 exceeds the standard in all compared states. This proposed rule provides the department with multiple means of providing notice to parties. There are no appreciable costs associated with this deviation.

R 37.12 Hearing.

R 37.12(4). A verbatim stenographic record of a Rule 12 hearing proceeding must be made and maintained.

Proposed rule R 37.12(4) does not exceed but is consistent with the standards of the compared states.

R 37.18 Appeals from order of commission or department.

R 37.18 An appellant who challenges a final order of the commission or department in court is required to name the commission and department as parties and the respondent and complainant are also required to be named as a party. Proposed rule R 37.18 exceeds the standards in Wisconsin, Pennsylvania, Indiana and Kentucky. The proposed rule allows the commission and department to timely advance its interest in the litigation. There are no appreciable costs associated with this deviation.

R 37.30 Signature.

R 37.30(1)(a) and (b) Respondent’s signature on an answer certifies that respondent has read it, and that the contents are true and grounded in fact to the best of knowledge, information and belief.

Proposed rule R 37.30(1) exceeds the standard in Ohio, Wisconsin, Minnesota, Indiana, and Kentucky. This proposed rule allows the department and commission to rely on the representation made in the answer and emphasizes to the respondent the importance of veracity in responding to the complaint. There are no appreciable costs associated with this deviation.

R 37.32 Posting of notices.

R 37.32 The commission may require persons and entities within its jurisdiction to post notices that set forth requirements for compliance with applicable civil rights laws or other relevant information determined to be necessary to explain the law.

Proposed rule R 37.32 exceeds the standards in Ohio, Minnesota and New York. This proposed rule allows the commission to educate the public and those subject to the state’s civil rights laws of their rights and obligation. There are no appreciable costs associated with this deviation.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no rules, laws, or other legal requirements that overlap, duplicate, or conflict with these proposed rules.

These rules are consistent with and facilitate implementation of relevant state civil rights laws.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The Michigan Civil Rights Commission and Department of Civil Rights are unique within state government in that they are constitutionally and statutorily responsible for the enforcement of civil rights within the state. These state laws, Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, supersede any local laws in the areas of civil rights and therefore neither require nor necessitate coordination with a potential myriad of local regulation or ordinances on the topic of civil rights. Also, the federal civil rights laws operate in a separate sphere and thus the rules of the federal agencies that may implement them are inapplicable.

Purpose and Objectives of the Rule(s)

4. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules address several issues/behaviors: (1) Filing Complaints - Under the proposed rules complaints can be submitted by mail and electronically. The current rules address filing complaints in person although there had been developed a practice of submitting them via mail; (2) Initial Evaluation of Complaint for Determination on Proceeding – There has been lacking a formal process for an initial evaluation of a complaint to determine whether there were sufficient grounds not to proceed with the complaint. While there were no official numbers with respect to complaints that could have been disposed of at this early stage there was sufficient anecdotal evidence to justify the proposed rule; (3) Subjecting Filing Timeline to Prevailing Law – This proposed rule recognizes that certain laws regarding timelines for filing complaints may impact filing decisions and that these laws may change over time. Therefore, maximum flexibility was necessary to adapt to potential changes without having to engage in the lengthy process of amending the rules to conform with the law; (4) Identification of Pending Judicial or Administrative Proceeding and Power to Dismiss Complaint – Complainants in Michigan have the right to file a civil rights action in state or federal court. In instances where this occurs and a departmental complaint is pending it can make the efforts of the department and commission duplicative and waste department resources. Having the option to stay or dismiss the associated complaint becomes vital. While there are no official numbers as to the frequency of this happening, the proposed rule is designed to dissuade such occurrence and where they occur allow the department and commission to responsibly manage its resources; (5) Public Interest Consent Agreements – There are instances where a complaint can be resolved directly with the respondent on terms that the department determines are in the public's interest. This is a power inherent in the authority of the department. There are no documented instances of where the exercise of this power would have been appropriate over the years; (6) Expanded Notice Mechanisms - Traditionally the department and commission have adopted the modern prevailing methods for notifying parties of matters related to a complaint as reflected in the rules. On occasions parties may not receive notification or have access to a specific means of notification. There are no definitive numbers on the frequency of these occurrences; (7) Verbatim Stenographic Recording of Hearings - The department and commission have historically created and maintained a record of hearing proceedings. However, this practice was never codified in the rules; (8) Identification of Parties on Appeal – Parties have a legal right to appeal final decision of the department or commission to a court of competent jurisdiction. It is important that all relevant parties are joined in the litigation, including the department, respondents, and complainants. While there are no official numbers as to how often the proper parties were not joined on appeal, a recent instance prompted a proposed rule aimed at addressing this matter; (9) Confirmation of Significance of Respondent's Signature on Answer – The rules require respondents to answer a complaint. However, there was no language, as with the complainant's signature on the complaint, that assured that the respondent had read the answer and attested to its accuracy and veracity; and (10) Posting of Notices – The commission currently has the authority, as set forth in the Administrative Procedures Act, to require persons and entities within its jurisdiction to post notices that set forth requirements for compliance with applicable civil rights laws or other relevant information determined to be necessary to explain the law. The proposed rule merely codifies this power in the rules.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

- (1) Filing Complaints – It cannot be estimated how many complainants will make use of the electronic means of submission or mail. It is expected that the electronic filing method will be widely used by complainants.
- (2) Initial Evaluation of Complaint for Determination on Proceeding – Every complaint will receive this evaluation.
- (3) Subjecting Filing Timeline to Prevailing Law – Every complaint will be subject to this proposed rule.
- (4) Identification of Pending Judicial or Administrative Proceeding and Power to Dismiss Complaint – It cannot be estimated how many complainants will comply with this proposed rule.
- (5) Public Interest Consent Agreements – Every complaint will be evaluated for its potential to be resolved through a consent agreement that is in the public's interest.
- (6) Expanded Notice Mechanisms – It cannot be estimated how often the department will have to use the expanded notice mechanisms.
- (7) Verbatim Stenographic Recording of Hearings - The creation and maintaining of a record of hearing proceedings will continue for all hearings.
- (8) Identification of Parties on Appeal – It is estimated that every party will resort to this proposed rule and follow it accordingly.
- (9) Confirmation of Significance of Respondent's Signature on Answer – It is estimated that every respondent will comply with this proposed rule.
- (10) Posting of Notices – There no estimate to be given regarding this proposed rule.

B. Describe the difference between current behavior/practice and desired behavior/practice.

- (1) Filing Complaints - Under the proposed rules, complaints can be submitted by mail and electronically. The current rule allows for in-person filings.
- (2) Initial Evaluation of Complaint for Determination on Proceeding – Currently there is no adopted practice for the type of early resolution that the proposed rule allows.
- (3) Subjecting Filing Timeline to Prevailing Law – This proposed rule does not address any particular current practice.
- (4) Identification of Pending Judicial or Administrative Proceeding and Power to Dismiss Complaint – Currently parties may or may not advise the department or commission of pending litigation related to the substance of their complaint. The proposed rule would require this disclosure.
- (5) Public Interest Consent Agreements – Currently the department resolves matters based on mutual consent among the parties. The proposed rules allow for resolutions directly with respondents through a consent agreement that is in the public's interest.
- (6) Expanded Notice Mechanisms - Currently the rules have adopted methods for notifying parties of matters via mail or electronically. However, under the proposed rule the commission and department may adopt a range of notification methods as the circumstances dictate.
- (7) Verbatim Stenographic Recording of Hearings – There is no difference between the current practice and the proposed rule, which merely codifies the existing practice.
- (8) Identification of Parties on Appeal – Currently parties may or may not identify all relevant parties on their appeal to the appropriate court. The proposed rule would require the appellant to make the department and/or commission, respondent, and complainant a party to the appeal.
- (9) Confirmation of Significance of Respondent's Signature on Answer – Currently the rules do not confirm the significance of the respondent's signature on their answer to the complaint. Under the proposed rules the respondent's signature on the answer avers that they have read the answer and attest to its accuracy and veracity.
- (10) Posting of Notices – The commission currently has the authority, as set forth in the Administrative Procedures Act, to require persons and entities within its jurisdiction to post notices that set forth requirements for compliance with applicable civil rights laws or other relevant information determined to be necessary to explain the law. The proposed rule merely codifies this power in the rules.

C. What is the desired outcome?

- (1) Filing Complaints -Individual will avail themselves of the new mechanisms for filing which will make the process more convenient for them and the department.
- (2) Initial Evaluation of Complaint for Determination on Proceeding – The department will be able to dispose of more complaints early in the review process.
- (3) Subjecting Filing Timeline to Prevailing Law – The parties will comply with timeline filing rules based on the law at the time of filing.
- (4) Identification of Pending Judicial or Administrative Proceeding and Power to Dismiss Complaint – Complainant will give notice to the department or commission regarding judicial proceedings which will then allow for the department or commission to appropriately allocate its resources in handling the complaint.
- (5) Public Interest Consent Agreements – The department or commission will take advantage of the opportunity to resolve matters with respondents in a manner that appreciably inures to the benefit of the public.
- (6) Expanded Notice Mechanisms - The department or commission will increase its ability to provide parties with important notices in a timely manner.
- (7) Verbatim Stenographic Recording of Hearings – The parties will be made aware of the official process for recording hearings.
- (8) Identification of Parties on Appeal – Complainant and respondent who appeal a final decision of the department or commission will routinely identify all relevant parties on their appeal to the appropriate court and make the department and/or commission, respondent and complainant a party to the appeal.
- (9) Confirmation of Significance of Respondent’s Signature on Answer – It is expected that all respondents will understand the impact and importance of the content of their answer.
- (10) Posting of Notices – The commission currently has the authority, as set forth in the Administrative Procedures Act, to require persons and entities within its jurisdiction to post notices that set forth requirements for compliance with applicable civil rights laws or other relevant information determined to be necessary to explain the law. The proposed rule merely codifies this power in the rules.

5. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

- (1) Filing Complaints – The proposed rules codify existing methods of filing complaints. The inability to be apprised of the way a complaint can be filed by resorting to the rules may cause confusion and unnecessary delay in filing a complaint. The department’s website details these methods of filing, but clarity in the rules will likely reduce confusion and delay.
- (2) Initial Evaluation of Complaint for Determination on Proceeding – The department has always reserved and exercised the right to make a preliminary evaluation of a complaint to determine whether it will proceed in filing a certified complaint. The proposed rules codify this for the parties, thereby avoiding potential confusion regarding decisions on proceeding with complaints.
- (3) Subjecting Filing Timeline to Prevailing Law – This proposed rule recognizes that certain laws regarding timelines for filing complaints may impact filing decisions and that these laws may change over time. Therefore, maximum flexibility was necessary to adapt to potential changes without having to engage in the lengthy process of amending the rules to conform with the law.
- (4) Identification of Pending Judicial or Administrative Proceeding and Power to Dismiss Complaint – Failing to inform the department or commission of pending judicial or administrative proceedings involving the subject matter of the complaint results in the unnecessary commitment of staff resources in an environment of increasing demand for the department’s investigatory resources and potential fiscal tightening. This drain on resources will likely occur in the absence of the proposed rule.
- (5) Public Interest Consent Agreements – It may be the case that the department can expeditiously resolve complaints that implicate the public’s interest by entering into a consent agreement with respondents, while giving due consideration to the complainant’s concerns, but ultimately basing the decision on the overarching public’s interest. Without the exercise of this power staff resources and time will be unnecessarily consumed and wasted.
- (6) Expanded Notice Mechanisms – Untimely or non-notification to a party is disruptive to the complaint investigation and resolution process, causing unnecessary delays and potentially compromising the interest of a party, in addition to increasing the expenditure of staff resources and time. These unfortunate occurrences naturally flow from limitations on methods of notice and are likely to occur in the absence of the proposed rule.
- (7) Verbatim Stenographic Recording of Hearings – Without a complete documented record of a hearing the entire process for commission review and final decision and the exercise of the right to judicial review becomes impossible. In the absence of the proposed rule these outcomes are certain to occur.
- (8) Identification of Parties on Appeal – Failure to identify and join all the parties that should be involved in an appeal of a final decision of the department or commission results in delaying adjudication of the matter, becomes a burden on judicial resources and may prejudice a party or compromise their interest in the appeal. This harm is more than likely to occur in the absence of the proposed rule.
- (9) Confirmation of Significance of Respondent’s Signature on Answer – It is extremely important that an investigation and its outcome be based on verified factual information from a respondent and that the respondent review their answer before submission to ensure that the information it contains is accurate. Without a respondent’s understanding of the significance and gravity of their answer in relationship to the resolution of the complaint it could likely lead to increased expenditure of staff time and resources to ascertain accurate information or an unfortunate, but avoidable, outcome for the respondent.
- (10) Posting of Notices – Civil rights laws are a crucial part of the legal, political, religious and social landscape of the state. They guarantee equal access to and enjoyment of certain accommodations, privileges, opportunities, and rights. These laws help to guide the behavior of individuals and entities in ways that inure to the benefit of all citizens. Thus, notification of these civil rights becomes a vital obligation of our government. Failure to provide a mechanism to apprise citizens of their civil rights can have a detrimental impact on prevention of violations and the opportunity to assert your civil rights.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The law with respect to civil rights at the federal and state level is dynamic and evolving. Technological changes and our periodic review of our systems and internal processes for investigating and resolving civil rights complaints allows us to evaluate and implement measures to improve operations. In order to efficiently and effectively accomplish our constitutional and statutory duties regarding civil rights investigations and protections it is necessary to review and revise our rules as necessary. In this instance, leaving the rules in their current state would significantly limit the department's ability to process the increasing amount of civil rights complaints it receives and resolve backlogged cases.

6. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

Michigan civil rights law, which the proposed rules implement, have been instituted to protect, promote and guarantee access to and enjoyment of certain opportunities, privileges, accommodations, and rights afforded to all residents of Michigan irrespective of specifically identified characteristics that have historically been used to deny them. The proposed rules have been designed to expedite the investigation and resolution of civil rights complaints filed with the Michigan Department of Civil Rights so that complainants and respondents can receive a comprehensive and appropriate review of their civil rights matter.

7. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no rules in this rule set that are obsolete or unnecessary.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

8. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There is no anticipated fiscal impact associated with the implementation or operation of the proposed rules.

9. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

There is no agency appropriation or funding source provided for this rule set because there are no anticipated expenditures associated with this proposed rule set.

10. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules actually place no identifiably significant burden on individuals. In fact, where a proposed rule relates to the public it is intended to remove burdens associated with filing complaints, receiving timely responses and notifications from the department and obtaining speedy resolutions to complaints.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There are no identified burdens.

Impact on Other State or Local Governmental Units

11. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no increases or decreases in revenue to other state or local governmental units resulting from these proposed rules. Likewise, there are no cost increases or reductions for state or local governmental units resulting from these proposed rules.

12. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There is no program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by these proposed rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Governmental units are subject to the requirements of the state's civil rights laws. While there are no record keeping, reporting requirements, or changes to operational practices that are required by the proposed rules, they generally must refrain from engaging in acts of discrimination or retaliation that violate the civil rights of citizens as set forth in the Michigan Elliott-Larsen Civil Rights Act, Michigan Persons with Disabilities Civil Rights Act and the established case law interpreting these statutes.

13. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

There are no expenditures associated with these proposed rules. Therefore, there has been no appropriation to local or state governmental units or a funding source provided for any expenditures associated with the proposed rules.

Rural Impact

14. In general, what impact will the rules have on rural areas?

These rules will have the same impact on those subject to the state's civil rights laws irrespective of geographic location. The specific proposed rules will generally allow for individuals filing complaints in those areas to more easily file complaints and receive an expeditious resolution to their complaint. In addition, they will potentially be able to have more improved, efficient communication with the department.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The public and private interest in having easier access to the department and commission and their civil rights enforcement capabilities, mechanisms, and resolution processes will be appreciably affected by the proposed rules.

Environmental Impact

15. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules are not anticipated to have any impact on the environment.

Small Business Impact Statement

16. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The Michigan Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, by operation of law and their language are intended to apply to all relevant businesses, irrespective of their size. The proposed rules are therefore required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act.

17. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The proposed rules are therefore legally required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The Michigan Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, by operation of law and their language are intended to apply to all relevant businesses, irrespective of their size. The proposed rules are therefore required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act. Ostensibly every small business in the state would be affected by the proposed rules with no appreciable effect.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The Michigan Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, by operation of law and their language are intended to apply to all relevant businesses, irrespective of their size. The proposed rules are therefore required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The Michigan Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, by operation of law and their language are intended to apply to all relevant businesses, irrespective of their size. The proposed rules are therefore required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed rules do not establish performance standards to replace design or operation standards required by the proposed rules.

18. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact the proposed rules will have on small businesses due to their size or geographic location.

19. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no reports required to comply with the proposed rules.

20. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no anticipated costs of compliance for small businesses affected by the proposed rules.

21. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no anticipated legal, accounting or consulting services small businesses would incur in complying with the proposed rules.

22. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no anticipated legal, accounting, consulting services or other costs small businesses would incur in complying with the proposed rules. Therefore, there is no need to estimate the ability of small businesses to absorb such costs.

23. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The state's civil rights laws, which the proposed rules implement, do not exempt small businesses as a category from its legal requirements. The Michigan Elliott-Larsen Civil Rights Act and Persons with Disabilities Civil Rights Act, by operation of law and their language are intended to apply to all relevant businesses, irrespective of their size. The proposed rules are therefore required to be applied to all businesses covered by the the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act.

24. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

Civil rights requirements are not susceptible nor recommended to be altered to accommodate the size of business. Doing so would have a severe negative impact on citizens of Michigan generally, and the specific protected classifications our civil rights laws are intended to protect. Lesser standards is likely to invite the very conditions, patterns of behavior and debilitating offenses the laws were designed to eradicate, regulate and outlaw.

25. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The department has not specifically involved small or any businesses in the development of the proposed rules. It is anticipated that during the public hearing period businesses and other interested stakeholder will participate in the process.

A. If small businesses were involved in the development of the rules, please identify the business(es).

There were no small businesses involved in the development of the rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

26. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

There are no anticipated statewide compliance costs of the rule amendments on business or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

All businesses, groups, and individuals that are subject to the Michigan Elliott-Larsen Civil Rights Act and Michigan Persons with Disabilities Civil Rights Act will be directly affected by, bear any unanticipated costs and directly benefit from the proposed rules. This would potentially include all individuals and businesses domiciled in or otherwise present in the state.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

There are no additional costs that will be imposed on businesses or other groups as a result of the proposed rules. If there are costs they are negligible and incapable of determination at this time.

27. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no actual statewide compliance costs that would be imposed on individuals as a result of the proposed rules.

A. How many and what category of individuals will be affected by the rules?

The categories of individuals affected by these rules are the protected classifications covered by the Michigan civil rights laws. These classifications include: Race, Religion, Ethnicity, Color, National Origin, Mental or Physical Disability, Genetic Information, Sex, Age, Sexual Orientation, Gender Identity, Gender Expression, Marital Status, Height, Weight, Arrest Record, and Source of Income (Housing).

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

These rules allow for the individuals within these classifications to more easily submit complaints of discrimination or retaliation and have those complaints expeditiously reviewed and resolved. Individuals will also have more clarity and instruction regarding appeal of department and commission final decisions and orders. While it is difficult to determine the number of complaints that will be resolved as a result of these proposed rules, it is anticipated that the proposed rules will have such an impact.

28. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no quantifiable cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

29. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

These rules allow for the individuals within these classifications to more easily submit complaints of discrimination or retaliation and have those complaints expeditiously reviewed and resolved. Individuals will also have more clarity and instruction regarding appeal of department and commission final decisions and orders. While it is difficult to determine the number of complaints that will be resolved as a result of these proposed rules, it is anticipated that the proposed rules will have such an impact.

30. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

There are no discernable impacts the proposed rules will have on business growth and job creation in Michigan.

31. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

There are no individuals or business that will be disproportionately affected by the proposed rules. The proposed rules operate equally on all individuals and businesses, irrespective of geographic location, business size, segment of the public, or industry sector.

32. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The proposed rules were based on a review of the operation of the department and commission to codify existing practices, and where necessary, improve current practices and processes. This entailed a collaborative review of departmental operations and current rule set by present and former staff with the operational expertise, practical knowledge, and primary responsibility for operational oversight and process implementation. The insights and input of these individuals over months of multiple meetings with relevant data review, were relied upon in compiling the regulatory impact statement, impact of the proposed rules and any necessary cost-benefit analysis. The department also reviewed the rules, state laws and regulations of comparable civil rights or human rights commissions in the states of Ohio, Kentucky, Indiana, Illinois, Pennsylvania, New York, Minnesota and Wisconsin.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

To the extent estimates were required for a proposed rule the department relied on data from its CRIS (Civil Rights Investigation System) case management system.

Alternative to Regulation

33. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no statutory amendments necessary.

34. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The enforcement of civil rights and protection of those rights as guaranteed by the state constitution and Michigan civil rights statutes, as implemented by the proposed rules, can not be made subject to a regulatory program or private market-based mechanisms. None of the comparative states utilize private market-based systems to enforce, protect, advance, and secure civil rights.

35. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There are no reasonable alternatives to the proposed rules that would achieve the same or similar goals.

Additional Information

36. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

There are no instructions regarding the method of complying with these rules.