

# SENATE BILL No. 40

January 25, 2005, Introduced by Senator THOMAS and referred to the Committee on Judiciary.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending section 605 (MCL 37.2605), as amended by 1992 PA 124.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 605. (1) If the commission, after a hearing on a charge  
2 issued by the department, determines that the respondent has  
3 violated this act, **THE PERSONS WITH DISABILITIES CIVIL RIGHTS ACT,**  
4 **1976 PA 220, MCL 37.1101 TO 37.1607, OR THE MICHIGAN RACIAL**  
5 **PROFILING AND REPORT STATISTICS ACT,** the commission shall state its  
6 findings of fact and conclusions of law and shall issue a final  
7 order requiring the respondent to cease and desist from the  
8 discriminatory practice and to take ~~such~~ **ANY** other action ~~as~~ it  
9 ~~deems~~ **CONSIDERS** necessary to secure equal enjoyment and protection

1 of civil rights. If at a hearing on a charge, a pattern or practice  
 2 of discrimination prohibited by this act, ~~or Act No. 220 of the~~  
 3 ~~Public Acts of 1976~~ **THE PERSONS WITH DISABILITIES CIVIL RIGHTS**  
 4 **ACT, 1976 PA 220, MCL 37.1101 TO 37.1607, OR THE MICHIGAN RACIAL**  
 5 **PROFILING AND REPORT STATISTICS ACT** appears in the evidence, the  
 6 commission may, upon its own motion or on motion of the claimant,  
 7 amend the pleadings to conform to the proofs, make findings, and  
 8 issue an order based on those findings. ~~A~~ **THE COMMISSION SHALL**  
 9 **DELIVER A** copy of the order ~~shall be delivered~~ to the respondent,  
 10 the claimant, the attorney general, and ~~to~~ **ANY** other public  
 11 ~~officers and persons as~~ **OFFICER OR PERSON** the commission ~~deems~~  
 12 **CONSIDERS** proper.

13 (2) ~~Action ordered~~ **AN ORDER ISSUED** under this section may  
 14 include, but is not limited to, **1 OR MORE OF THE FOLLOWING ACTIONS:**

15 (a) Hiring, reinstatement, or upgrading of employees with or  
 16 without back pay.

17 (b) Admission or restoration of individuals to labor  
 18 organization membership ~~—~~ **OR** admission to or participation in a  
 19 guidance program, apprenticeship training program, on the job  
 20 training program, or other occupational training or retraining  
 21 program, with the utilization of objective criteria in the  
 22 admission of persons to those programs.

23 (c) Admission of persons to a public accommodation or an  
 24 educational institution.

25 (d) Sale, exchange, lease, rental, assignment, or sublease of  
 26 real property to a person.

27 (e) Extension to all persons of the full and equal enjoyment

1 of the goods, services, facilities, privileges, advantages, or  
2 accommodations of the respondent.

3 (f) Reporting as to the manner of compliance.

4 (g) Requiring the posting of notices in a conspicuous place  
5 ~~which~~ **THAT** the commission may publish or cause to be published  
6 setting forth requirements for compliance with civil rights law or  
7 other relevant information ~~which~~ **THAT** the commission determines  
8 necessary to explain those laws.

9 (h) Payment to an injured party of profits obtained by the  
10 respondent through a violation of section 506 of this act or of  
11 ~~Act No. 220 of the Public Acts of 1976~~ **THE PERSONS WITH**  
12 **DISABILITIES CIVIL RIGHTS ACT, 1976 PA 220, MCL 37.1101 TO 37.1607.**

13 (i) Payment to the complainant of damages for an injury or  
14 loss caused by a violation of this act, including a reasonable  
15 attorney's fee.

16 (j) Payment to the complainant of all or a portion of the  
17 costs of maintaining the action before the commission, including  
18 reasonable attorney fees and expert witness fees, if the commission  
19 determines that **THE** award ~~to be~~ **IS** appropriate.

20 (k) Payment of a civil fine for a violation of article 5 of  
21 this act, an amount directly related to the cost to the state for  
22 enforcing this statute not to exceed **1 OF THE FOLLOWING:**

23 (i) \$10,000.00 for the first violation.

24 (ii) \$25,000.00 for the second violation within a 5-year  
25 period.

26 (iii) \$50,000.00 for 2 or more violations within a 7-year  
27 period.

1 (l) Other relief the commission ~~deems~~ **CONSIDERS** appropriate.

2 (3) ~~In the case of~~ **IF** a respondent **IS** operating by virtue of  
3 a license issued by ~~the~~ **THIS** state, a political subdivision, or  
4 an agency of ~~the~~ **THIS** state or political subdivision, ~~if~~ **AND**  
5 the commission, upon notice and hearing, determines that the  
6 respondent has violated this act and that the violation was  
7 authorized, requested, commanded, performed, or knowingly permitted  
8 by the board of directors of the respondent or by an officer or  
9 executive agent acting within the scope of his or her employment,  
10 the commission shall so certify to the licensing agency. Unless the  
11 commission's finding is reversed in the course of judicial review,  
12 the finding of the commission may be grounds for revocation of the  
13 respondent's license.

14 (4) ~~In the case of~~ **IF** a respondent ~~who~~ violates this act  
15 in the course of performing under a contract or subcontract with  
16 ~~the~~ **THIS** state, a political subdivision, or an agency of ~~the~~  
17 **THIS** state or political subdivision, ~~where~~ **AND** the violation was  
18 authorized, requested, commanded, performed, or knowingly permitted  
19 by the board of directors of the respondent or by an officer or  
20 executive agent acting within the scope of his or her employment,  
21 the commission shall so certify to the contracting agency. Unless  
22 the commission's finding is reversed in the course of judicial  
23 review, the finding is binding on the contracting agency.

24 Enacting section 1. This amendatory act does not take effect  
25 unless all of the following bills of the 93rd Legislature are  
26 enacted into law:

27 (a) Senate Bill No. 41.

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(b) Senate Bill No. 42.

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