

HOUSE BILL No. 4649

April 24, 2007, Introduced by Reps. Condino, Meadows, Byrnes, Alma Smith, Miller, Kathleen Law, Vagnozzi, Tobocman and Bieda and referred to the Committee on Judiciary.

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, 302, 402, 502, and 504 (MCL 37.2102, 37.2103, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, 37.2209, 37.2302, 37.2402, 37.2502, and 37.2504), the title as amended by 1992 PA 258, sections 102, 502, and 504 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, section 202 as amended by 1991 PA 11, and section 402 as amended by 1993 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define civil rights; to prohibit discriminatory **OR HARASSING** practices, policies, and customs in the exercise of those rights based upon religion, race, color, national origin, age, sex,

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1 height, weight, familial status, or marital status; to preserve the
2 confidentiality of records regarding arrest, detention, or other
3 disposition in which a conviction does not result; to prescribe the
4 powers and duties of the civil rights commission and the department
5 of civil rights; to provide remedies and penalties; and to repeal
6 ~~certain acts and parts of acts.~~

7 Sec. 102. (1) The opportunity to obtain employment, housing
8 and other real estate, and the full and equal utilization of public
9 accommodations, public service, and educational facilities without
10 discrimination **OR HARASSMENT** because of religion, race, color,
11 national origin, age, sex, height, weight, familial status, or
12 marital status as prohibited by this act, is recognized and
13 declared to be a civil right.

14 (2) This section ~~shall~~ **DOES** not ~~be construed to~~ prevent an
15 individual from bringing or continuing an action arising out of sex
16 discrimination before July 18, 1980 ~~which~~ **FOR AN** action **THAT** is
17 based on conduct similar to or identical to harassment.

18 (3) This section ~~shall~~ **DOES** not ~~be construed to~~ prevent an
19 individual from bringing or continuing an action arising out of
20 discrimination based on familial status before ~~the effective date~~
21 ~~of the amendatory act that added this subsection which~~ **JUNE 29,**
22 **1992 FOR AN** action **THAT** is based on conduct similar to or identical
23 to discrimination because of the age of persons residing with the
24 individual bringing or continuing the action.

25 Sec. 103. As used in this act:

26 (a) "Age" means chronological age except as otherwise provided
27 by law.

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

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

4 (d) "Department" means the department of civil rights or its
5 employees.

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

13 (F) "HARASS" MEANS ANY OF THE FOLLOWING, AS APPLICABLE:

14 (i) TO DIRECT UNWELCOME VERBAL OR PHYSICAL CONDUCT OR
15 COMMUNICATION TO AN INDIVIDUAL BASED ON OR RELATED TO THE
16 INDIVIDUAL'S RELIGION, RACE, COLOR, NATIONAL ORIGIN, AGE, SEX,
17 HEIGHT, WEIGHT, FAMILIAL STATUS, OR MARITAL STATUS IF THE CONDUCT
18 OR COMMUNICATION VIOLATES THIS ACT AND HAS THE PURPOSE OR EFFECT OF
19 SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EMPLOYMENT, PUBLIC
20 ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING, OR OF
21 CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE EMPLOYMENT, PUBLIC
22 ACCOMMODATIONS, PUBLIC SERVICES, EDUCATIONAL, OR HOUSING
23 ENVIRONMENT.

24 (ii) TO DIRECT UNWELCOME SEXUAL ADVANCES, REQUESTS FOR SEXUAL
25 FAVORS, OR OTHER VERBAL OR PHYSICAL CONDUCT OR COMMUNICATION OF A
26 SEXUAL NATURE OR BASED ON OR RELATED TO AN INDIVIDUAL'S SEX TO AN
27 INDIVIDUAL IF ANY OF THE FOLLOWING CONDITIONS ARE MET:

1 (A) SUBMISSION TO THE CONDUCT OR COMMUNICATION IS MADE A TERM
2 OR CONDITION EITHER EXPLICITLY OR IMPLICITLY TO OBTAIN EMPLOYMENT,
3 PUBLIC ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING.

4 (B) SUBMISSION TO OR REJECTION OF THE CONDUCT OR COMMUNICATION
5 BY AN INDIVIDUAL IS USED AS A FACTOR IN DECISIONS AFFECTING THE
6 INDIVIDUAL'S EMPLOYMENT, PUBLIC ACCOMMODATIONS OR PUBLIC SERVICES,
7 EDUCATION, OR HOUSING.

8 (C) THE CONDUCT OR COMMUNICATION HAS THE PURPOSE OR EFFECT OF
9 SUBSTANTIALLY INTERFERING WITH AN INDIVIDUAL'S EMPLOYMENT, PUBLIC
10 ACCOMMODATIONS OR PUBLIC SERVICES, EDUCATION, OR HOUSING OR OF
11 CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE EMPLOYMENT, PUBLIC
12 ACCOMMODATIONS, PUBLIC SERVICES, EDUCATIONAL, OR HOUSING
13 ENVIRONMENT.

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

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

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

26 ~~———(i) Discrimination because of sex includes sexual harassment.~~
27 ~~Sexual harassment means unwelcome sexual advances, requests for~~

1 ~~sexual favors, and other verbal or physical conduct or~~
2 ~~communication of a sexual nature under the following conditions:~~
3 ~~—— (i) Submission to the conduct or communication is made a term~~
4 ~~or condition either explicitly or implicitly to obtain employment,~~
5 ~~public accommodations or public services, education, or housing.~~
6 ~~—— (ii) Submission to or rejection of the conduct or communication~~
7 ~~by an individual is used as a factor in decisions affecting the~~
8 ~~individual's employment, public accommodations or public services,~~
9 ~~education, or housing.~~
10 ~~—— (iii) The conduct or communication has the purpose or effect of~~
11 ~~substantially interfering with an individual's employment, public~~
12 ~~accommodations or public services, education, or housing, or~~
13 ~~creating an intimidating, hostile, or offensive employment, public~~
14 ~~accommodations, public services, educational, or housing~~
15 ~~environment.~~

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

17 (a) Fail or refuse to hire or recruit, discharge, or otherwise
18 discriminate against an individual with respect to employment,
19 compensation, or a term, condition, or privilege of employment,
20 because of religion, race, color, national origin, age, sex,
21 height, weight, or marital status.

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

1 (c) Segregate, classify, or otherwise discriminate against a
2 person on the basis of sex with respect to a term, condition, or
3 privilege of employment, including, but not limited to, a benefit
4 plan or system.

5 ~~———— (d) Until January 1, 1994, require an employee of an~~
6 ~~institution of higher education who is serving under a contract of~~
7 ~~unlimited tenure, or similar arrangement providing for unlimited~~
8 ~~tenure, to retire from employment on the basis of the employee's~~
9 ~~age. As used in this subdivision, "institution of higher education"~~
10 ~~means a public or private university, college, community college,~~
11 ~~or junior college located in this state.~~

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

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

18 Sec. 203. An employment agency shall not fail or refuse to
19 procure, refer, recruit, or place for employment, ~~or~~ otherwise
20 discriminate against, **OR HARASS** an individual because of religion,
21 race, color, national origin, age, sex, height, weight, or marital
22 status; or classify or refer for employment an individual on the
23 basis of religion, race, color, national origin, age, sex, height,
24 weight, or marital status.

25 Sec. 204. A labor organization shall not **DO ANY OF THE**
26 **FOLLOWING:**

27 (a) Exclude or expel from membership, ~~or~~ otherwise

1 discriminate against, **OR HARASS** a member or applicant for
2 membership because of religion, race, color, national origin, age,
3 sex, height, weight, or marital status.

4 (b) Limit, segregate, or classify membership or applicants for
5 membership, or classify or fail or refuse to refer for employment
6 an individual in a way ~~which~~**THAT** would deprive or tend to deprive
7 that individual of an employment opportunity, or ~~which~~**THAT** would
8 limit an employment opportunity, or ~~which~~**THAT** would adversely
9 affect wages, hours, or employment conditions, or otherwise
10 adversely affect the status of an employee or an applicant for
11 employment, because of religion, race, color, national origin, age,
12 sex, height, weight, or marital status.

13 (c) Cause or attempt to cause an employer to violate this
14 article.

15 (d) Fail to fairly and adequately represent a member in a
16 grievance process because of religion, race, color, national
17 origin, age, sex, height, weight, or marital status.

18 Sec. 205. An employer, labor organization, or joint labor-
19 management committee controlling an apprenticeship, on the job, or
20 other training or retraining program ~~,~~shall not discriminate
21 against **OR HARASS** an individual because of religion, race, color,
22 national origin, age, sex, height, weight, or marital status, in
23 admission to, or employment or continuation in, a program
24 established to provide apprenticeship on the job, or other training
25 or retraining.

26 Sec. 206. (1) An employer, labor organization, or employment
27 agency shall not print, circulate, post, mail, or otherwise cause

1 to be published a statement, advertisement, notice, or sign
2 relating to employment by the employer, or relating to membership
3 in or a classification or referral for employment by the labor
4 organization, or relating to a classification or referral for
5 employment by the employment agency, ~~which~~ **THAT HARASSES OR**
6 indicates a preference, limitation, specification, or
7 discrimination, based on religion, race, color, national origin,
8 age, sex, height, weight, or marital status.

9 (2) Except as permitted by rules promulgated by the commission
10 or by applicable federal law, an employer or employment agency
11 shall not **DO ANY OF THE FOLLOWING:**

12 (a) Make or use a written or oral inquiry or form of
13 application that elicits or attempts to elicit information
14 concerning the religion, race, color, national origin, age, sex,
15 height, weight, or marital status of a prospective employee.

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

18 (c) Make or use a written or oral inquiry or form of
19 application that **HARASSES OR** expresses a preference, limitation,
20 specification, or discrimination based on religion, race, color,
21 national origin, age, sex, height, weight, or marital status of a
22 prospective employee.

23 Sec. 207. An individual seeking employment shall not publish
24 or cause to be published a notice or advertisement that specifies
25 or indicates the individual's religion, race, color, national
26 origin, age, sex, height, weight, or marital status, or **HARASSES OR**
27 expresses a preference, specification, limitation, or

1 discrimination as to the religion, race, color, national origin,
2 age, height, weight, sex, or marital status of a prospective
3 employer.

4 Sec. 209. A contract to which ~~the~~**THIS** state, a political
5 subdivision, or an agency ~~thereof~~**OF THIS STATE OR A POLITICAL**
6 **SUBDIVISION** is a party shall contain a covenant by the contractor
7 and his **OR HER** subcontractors not to discriminate against **OR HARASS**
8 an employee or applicant for employment with respect to hire,
9 tenure, terms, conditions, or privileges of employment, or a matter
10 directly or indirectly related to employment, because of race,
11 color, religion, national origin, age, sex, height, weight, or
12 marital status. Breach of this covenant may be regarded as a
13 material breach of the contract.

14 Sec. 302. Except where permitted by law, a person shall not **DO**
15 **ANY OF THE FOLLOWING:**

16 (a) Deny an individual the full and equal enjoyment of the
17 goods, services, facilities, privileges, advantages, or
18 accommodations of a place of public accommodation or public service
19 because of religion, race, color, national origin, age, sex, or
20 marital status.

21 (b) Print, circulate, post, mail, or otherwise ~~cause to be~~
22 ~~published~~**PUBLISH** a statement, advertisement, notice, or sign ~~which~~
23 **THAT HARASSES OR** indicates that the full and equal enjoyment of the
24 goods, services, facilities, privileges, advantages, or
25 accommodations of a place of public accommodation or public service
26 will be refused, withheld from, or denied an individual because of
27 religion, race, color, national origin, age, sex, or marital

1 status, or that an individual's patronage of or presence at a place
2 of public accommodation is objectionable, unwelcome, unacceptable,
3 or undesirable because of religion, race, color, national origin,
4 age, sex, or marital status.

5 Sec. 402. An educational institution shall not do any of the
6 following:

7 (a) Discriminate against **OR HARASS** an individual in the full
8 utilization of or benefit from the institution, or the services,
9 activities, or programs provided by the institution because of
10 religion, race, color, national origin, or sex.

11 (b) Exclude, expel, limit, or otherwise discriminate against
12 **OR HARASS** an individual seeking admission as a student or an
13 individual enrolled as a student in the terms, conditions, or
14 privileges of the institution, because of religion, race, color,
15 national origin, or sex.

16 (c) For purposes of admission only, make or use a written or
17 oral inquiry or form of application that elicits or attempts to
18 elicit information concerning, **OR HARASSES BASED ON**, the religion,
19 race, color, national origin, age, sex, or marital status of a
20 person, except as permitted by rule of the commission or as
21 required by federal law, rule, or regulation, or pursuant to an
22 affirmative action program.

23 (d) Print or publish or cause to be printed or published a
24 catalog, notice, or advertisement ~~indicating~~ **THAT HARASSES OR**
25 **INDICATES** a preference, limitation, specification, or
26 discrimination based on the religion, race, color, national origin,
27 or sex of an applicant for admission to the educational

1 institution.

2 (e) Announce or follow a policy of denial or limitation
3 through a quota or otherwise of educational opportunities of a
4 group or its members because of religion, race, color, national
5 origin, or sex.

6 Sec. 502. (1) A person engaging in a real estate transaction,
7 or a real estate broker or salesman, shall not on the basis of
8 religion, race, color, national origin, age, sex, familial status,
9 or marital status of a person or a person residing with that person

10 **DO ANY OF THE FOLLOWING:**

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

13 (b) Discriminate against ~~a person~~ **OR HARASS AN INDIVIDUAL** in
14 the terms, conditions, or privileges of a real estate transaction
15 or in the furnishing of facilities or services in connection with a
16 real estate transaction.

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

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

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

27 (f) ~~Make, print~~ **PRINT**, circulate, post, mail, or otherwise

1 ~~cause to be made or published~~ **MAKE OR PUBLISH** a statement,
2 advertisement, notice, or sign, or use a form of application for a
3 real estate transaction, or make a record of inquiry in connection
4 with a prospective real estate transaction, ~~which~~ **THAT HARASSES OR**
5 indicates, directly or indirectly, an intent to make a preference,
6 limitation, specification, or discrimination with respect to the
7 real estate transaction.

8 (g) Offer, solicit, accept, use, or retain a listing of real
9 property with the understanding that a person may be discriminated
10 against **OR HARASSED** in a real estate transaction or in the
11 furnishing of facilities or services in connection ~~therewith~~ **WITH A**
12 **REAL ESTATE TRANSACTION.**

13 (h) Discriminate against **OR HARASS** a person in the brokering
14 or appraising of real property.

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

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

24 Sec. 504. (1) A person to whom application is made for
25 financial assistance or financing in connection with a real estate
26 transaction or in connection with the construction, rehabilitation,
27 repair, maintenance, or improvement of real property, or a

1 representative of that person, shall not **DO ANY OF THE FOLLOWING:**

2 (a) Discriminate against **OR HARASS** the applicant because of
3 the religion, race, color, national origin, age, sex, familial
4 status, or marital status of the applicant or a person residing
5 with the applicant.

6 (b) Use a form of application for financial assistance or
7 financing or make or keep a record or inquiry in connection with an
8 application for financial assistance or financing ~~which~~ **THAT**
9 **HARASSES OR** indicates, directly or indirectly, a preference,
10 limitation, specification, or discrimination as to the religion,
11 race, color, national origin, age, sex, familial status, or marital
12 status of the applicant or ~~a person~~ **AN INDIVIDUAL** residing with the
13 applicant.

14 (2) A person whose business includes engaging in real estate
15 transactions shall not discriminate against ~~a person~~ **OR HARASS AN**
16 **INDIVIDUAL** because of religion, race, color, national origin, age,
17 sex, familial status, or marital status, in the purchasing of loans
18 for acquiring, constructing, improving, repairing, or maintaining a
19 dwelling or the making or purchasing of loans or the provision of
20 other financial assistance secured by residential real estate.

21 (3) Subsection (1)(b) does not apply to a form of application
22 for financial assistance prescribed for the use of a lender
23 regulated as a mortgagee under the national housing act, ~~chapter~~
24 ~~847, 48 Stat. 1246~~ **12 USC 1701 TO 1750G**, or by a regulatory board
25 or officer acting under the statutory authority of this state or
26 the United States.