

SENATE BILL NO. 251

February 3, 1999, Introduced by Senator BYRUM and referred to the Committee on Health Policy.

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, 302a, 402, 502, 504, 505, and 506 (MCL 37.2102, 37.2103, 37.2202, 37.2203, 37.2204, 37.2205, 37.2206, 37.2207, 37.2209, 37.2302, 37.2302a, 37.2402, 37.2502, 37.2504, 37.2505, and 37.2506), the title as amended by 1992 PA 258, sections 102, 103, 502, 504, 505, and 506 as amended by 1992 PA 124, section 202 as amended by 1991 PA 11, 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

1 based upon religion, race, color, national origin, age, sex,
2 GENETIC COMPOSITION, height, weight, familial status, or marital
3 status; to preserve the confidentiality of records regarding
4 arrest, detention, or other disposition in which a conviction
5 does not result; to prescribe the powers and duties of the civil
6 rights commission and the department of civil rights; to provide
7 remedies and penalties; and to repeal ~~certain~~ acts and parts of
8 acts.

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

16 (2) This section shall not be construed to prevent an indi-
17 vidual from bringing or continuing an action arising out of sex
18 discrimination before July 18, 1980 which action is based on con-
19 duct similar to or identical to harassment.

20 (3) This section shall not be construed to prevent an indi-
21 vidual from bringing or continuing an action arising out of dis-
22 crimination based on familial status before ~~the effective date~~
23 ~~of the amendatory act that added this subsection~~ JUNE 29, 1992
24 which action is based on conduct similar to or identical to dis-
25 crimination because of the age of persons residing with the indi-
26 vidual bringing or continuing the action.

1 Sec. 103. As used in this act:

2 (a) "Age" means chronological age except as otherwise
3 provided by law.

4 (b) "Commission" means the civil rights commission estab-
5 lished by section 29 of article ~~5~~ V of the state constitution
6 of 1963.

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

8 (d) "Department" means the department of civil rights or its
9 employees.

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

17 (F) "GENETIC COMPOSITION" MEANS THE BIOCHEMICAL ELEMENTS
18 EXISTING IN AN INDIVIDUAL THAT EVIDENCE, AND SERVE TO CONTROL THE
19 TRANSMISSION OF, A HEREDITARY CHARACTER OR TRAIT.

20 (G) "GENETIC TEST" MEANS A PROCEDURE FOR DETERMINING THE
21 PRESENCE OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN
22 INDIVIDUAL, AND INCLUDES BUT IS NOT LIMITED TO A TEST OF CHROMO-
23 SOMES, PROTEINS, OR NUCLEIC ACIDS SUCH AS DNA, RNA, OR MITOCHON-
24 DRIAL DNA TO IDENTIFY A PREDISPOSING GENETIC CHARACTERISTIC.

25 (H) ~~(f)~~ "National origin" includes the national origin of
26 an ancestor.

1 (I) ~~(g)~~ "Person" means an individual, agent, association,
2 corporation, joint apprenticeship committee, joint stock company,
3 labor organization, legal representative, mutual company, part-
4 nership, receiver, trust, trustee in bankruptcy, unincorporated
5 organization, the state or a political subdivision of the state
6 or an agency of the state, or any other legal or commercial
7 entity.

8 (J) ~~(h)~~ "Political subdivision" means a county, city, vil-
9 lage, township, school district, or special district or authority
10 of the state.

11 (K) ~~(i)~~ Discrimination because of sex includes sexual
12 harassment which means unwelcome sexual advances, requests for
13 sexual favors, and other verbal or physical conduct or communica-
14 tion of a sexual nature when:

15 (i) Submission to ~~such~~ THE conduct or communication is
16 made a term or condition either explicitly or implicitly to
17 obtain employment, public accommodations or public services, edu-
18 cation, or housing.

19 (ii) Submission to or rejection of ~~such~~ THE conduct or
20 communication by an individual is used as a factor in decisions
21 affecting ~~such~~ THE individual's employment, public accommo-
22 dations or public services, education, or housing.

23 (iii) ~~Such~~ THE conduct or communication has the purpose or
24 effect of substantially interfering with an individual's employ-
25 ment, public accommodations or public services, education, or
26 housing, or creating an intimidating, hostile, or offensive

1 employment, public accommodations, public services, educational,
2 or housing environment.

3 (1) "RNA" MEANS NUCLEIC ACIDS THAT CONTAIN RIBOSE AND URACIL
4 AS STRUCTURAL COMPONENTS AND ARE ASSOCIATED WITH THE CONTROL OF
5 CELLULAR CHEMICAL ACTIVITIES.

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

8 (a) Fail or refuse to hire or recruit, discharge, or other-
9 wise discriminate against an individual with respect to employ-
10 ment, compensation, or a term, condition, or privilege of employ-
11 ment, because of religion, race, color, national origin, age,
12 sex, GENETIC COMPOSITION, height, weight, or marital status.

13 (b) Limit, segregate, or classify an employee or applicant
14 for employment in a way that deprives or tends to deprive the
15 employee or applicant of an employment opportunity, or otherwise
16 adversely affects the status of an employee or applicant because
17 of religion, race, color, national origin, age, sex, GENETIC
18 COMPOSITION, height, weight, or marital status.

19 (c) Segregate, classify, or otherwise discriminate against a
20 person on the basis of sex OR GENETIC COMPOSITION with respect to
21 a term, condition, or privilege of employment, including, but not
22 limited to, a benefit plan or system.

23 ~~(d) Until January 1, 1994, require an employee of an insti-~~
24 ~~tution of higher education who is serving under a contract of~~
25 ~~unlimited tenure, or similar arrangement providing for unlimited~~
26 ~~tenure, to retire from employment on the basis of the employee's~~
27 ~~age. As used in this subdivision, "institution of higher~~

1 education" ~~means a public or private university, college,~~
2 ~~community college, or junior college located in this state.~~

3 (D) REQUIRE AN INDIVIDUAL TO SUBMIT TO A GENETIC TEST AS A
4 CONDITION OF EMPLOYMENT OR PROMOTION.

5 (2) This section shall not be construed to prohibit the
6 establishment or implementation of a bona fide retirement policy
7 or system that is not a subterfuge to evade the purposes of this
8 section.

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

11 Sec. 203. An employment agency shall not fail or refuse to
12 procure, refer, recruit, or place for employment, or otherwise
13 discriminate against, an individual because of religion, race,
14 color, national origin, age, sex, GENETIC COMPOSITION, height,
15 weight, or marital status; or classify or refer for employment an
16 individual on the basis of religion, race, color, national
17 origin, age, sex, GENETIC COMPOSITION, height, weight, or marital
18 status.

19 Sec. 204. A labor organization shall not:

20 (a) Exclude or expel from membership, or otherwise discrimi-
21 nate against, a member or applicant for membership because of
22 religion, race, color, national origin, age, sex, GENETIC
23 COMPOSITION, height, weight, or marital status.

24 (b) Limit, segregate, or classify membership or applicants
25 for membership, or classify or fail or refuse to refer for
26 employment an individual in a way ~~which~~ THAT would deprive or
27 tend to deprive that individual of an employment opportunity, or

1 ~~which~~ THAT would limit an employment opportunity, or ~~which~~
2 THAT would adversely affect wages, hours, or employment condi-
3 tions, or otherwise adversely affect the status of an employee or
4 an applicant for employment, because of religion, race, color,
5 national origin, age, sex, GENETIC COMPOSITION, height, weight,
6 or marital status.

7 (c) Cause or attempt to cause an employer to violate this
8 article.

9 (d) Fail to fairly and adequately represent a member in a
10 grievance process because of religion, race, color, national
11 origin, age, sex, GENETIC COMPOSITION, height, weight, or marital
12 status.

13 Sec. 205. An employer, labor organization, or joint
14 labor-management committee controlling an apprenticeship, on the
15 job, or other training or retraining program, shall not discrimi-
16 nate against an individual because of religion, race, color,
17 national origin, age, sex, GENETIC COMPOSITION, height, weight,
18 or marital status, in admission to, or employment or continuation
19 in, a program established to provide apprenticeship on the job,
20 or other training or retraining.

21 Sec. 206. (1) An employer, labor organization, or employ-
22 ment agency shall not print, circulate, post, mail, or otherwise
23 cause to be published a statement, advertisement, notice, or sign
24 relating to employment by the employer, or relating to membership
25 in or a classification or referral for employment by the labor
26 organization, or relating to a classification or referral for
27 employment by the employment agency, ~~which~~ THAT indicates a

1 preference, limitation, specification, or discrimination, based
2 on religion, race, color, national origin, age, sex, GENETIC
3 COMPOSITION, height, weight, or marital status.

4 (2) Except as permitted by rules promulgated by the commis-
5 sion or by applicable federal law, an employer or employment
6 agency shall not:

7 (a) Make or use a written or oral inquiry or form of appli-
8 cation that elicits or attempts to elicit information concerning
9 the religion, race, color, national origin, age, sex, GENETIC
10 COMPOSITION, height, weight, or marital status of a prospective
11 employee.

12 (b) Make or keep a record of information described in subdi-
13 vision (a) or to disclose that information.

14 (c) Make or use a written or oral inquiry or form of appli-
15 cation that expresses a preference, limitation, specification, or
16 discrimination based on religion, race, color, national origin,
17 age, sex, GENETIC COMPOSITION, height, weight, or marital status
18 of a prospective employee.

19 Sec. 207. An individual seeking employment shall not pub-
20 lish or cause to be published a notice or advertisement that
21 specifies or indicates the individual's religion, race, color,
22 national origin, age, sex, GENETIC COMPOSITION, height, weight,
23 or marital status, or expresses a preference, specification, lim-
24 itation, or discrimination as to the religion, race, color,
25 national origin, age, height, weight, sex, GENETIC COMPOSITION,
26 or marital status of a prospective employer.

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

11 Sec. 302. Except where permitted by law, a person shall
12 not:

13 (a) Deny an individual the full and equal enjoyment of the
14 goods, services, facilities, privileges, advantages, or accommo-
15 dations of a place of public accommodation or public service
16 because of religion, race, color, national origin, age, sex,
17 GENETIC COMPOSITION, or marital status.

18 (b) Print, circulate, post, mail, or otherwise cause to be
19 published a statement, advertisement, notice, or sign ~~which~~
20 THAT indicates that the full and equal enjoyment of the goods,
21 services, facilities, privileges, advantages, or accommodations
22 of a place of public accommodation or public service will be
23 refused, withheld from, or denied an individual because of reli-
24 gion, race, color, national origin, age, sex, GENETIC
25 COMPOSITION, or marital status, or that an individual's patronage
26 of or presence at a place of public accommodation is
27 objectionable, unwelcome, unacceptable, or undesirable because of

1 religion, race, color, national origin, age, sex, GENETIC
2 COMPOSITION, or marital status.

3 Sec. 302a. (1) This section applies to a private club that
4 is defined as a place of public accommodation pursuant to
5 section 301(a).

6 (2) If a private club allows use of its facilities by 1 or
7 more adults per membership, the use must be equally available to
8 all adults entitled to use the facilities under the membership.
9 All classes of membership shall be available without regard to
10 race, color, gender, GENETIC COMPOSITION, religion, marital
11 status, or national origin. Memberships that permit use during
12 restricted times may be allowed only if the restricted times
13 apply to all adults using that membership.

14 (3) A private club that has food or beverage facilities or
15 services shall allow equal access to those facilities and serv-
16 ices for all adults in all membership categories at all times.
17 This subsection shall not require service or access to facilities
18 to persons that would violate any law or ordinance regarding
19 sale, consumption, or regulation of alcoholic beverages.

20 (4) This section does not prohibit a private club from spon-
21 soring or permitting sports schools or leagues for children less
22 than 18 years of age that are limited by age or to members of 1
23 sex, if comparable and equally convenient access to the club's
24 facilities is made available to both sexes and if these activi-
25 ties are not used as a subterfuge to evade the purposes of this
26 article.

1 Sec. 402. An educational institution shall not do any of
2 the following:

3 (a) Discriminate against an individual in the full utiliza-
4 tion of or benefit from the institution, or the services, activi-
5 ties, or programs provided by the institution because of reli-
6 gion, race, color, national origin, ~~or~~ sex, OR GENETIC
7 COMPOSITION.

8 (b) Exclude, expel, limit, or otherwise discriminate against
9 an individual seeking admission as a student or an individual
10 enrolled as a student in the terms, conditions, or privileges of
11 the institution, because of religion, race, color, national
12 origin, ~~or~~ sex, OR GENETIC COMPOSITION.

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

20 (d) Print or publish or cause to be printed or published a
21 catalog, notice, or advertisement indicating a preference, limi-
22 tation, specification, or discrimination based on the religion,
23 race, color, national origin, ~~or~~ sex, OR GENETIC COMPOSITION of
24 an applicant for admission to the educational institution.

25 (e) Announce or follow a policy of denial or limitation
26 through a quota or otherwise of educational opportunities of a

1 group or its members because of religion, race, color, national
2 origin, ~~or~~ sex, OR GENETIC COMPOSITION.

3 Sec. 502. (1) A person engaging in a real estate transac-
4 tion, or a real estate broker or salesman, shall not on the basis
5 of religion, race, color, national origin, age, sex, GENETIC
6 COMPOSITION, familial status, or marital status of a person or a
7 person residing with that person:

8 (a) Refuse to engage in a real estate transaction with a
9 person.

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

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

16 (d) Refuse to negotiate for a real estate transaction with a
17 person.

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

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

1 estate transaction, ~~which~~ THAT indicates, directly or
2 indirectly, an intent to make a preference, limitation, specifi-
3 cation, or discrimination with respect to the real estate
4 transaction.

5 (g) Offer, solicit, accept, use, or retain a listing of real
6 property with the understanding that a person may be discrimi-
7 nated against in a real estate transaction or in the furnishing
8 of facilities or services in connection ~~therewith~~ WITH A REAL
9 ESTATE TRANSACTION.

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

12 (2) A person shall not deny a person access to, or member-
13 ship or participation in, a multiple listing service, real estate
14 brokers' organization or other service, organization, or facility
15 relating to the business of selling or renting real property or
16 to discriminate against him or her in the terms or conditions of
17 that access, membership, or participation because of religion,
18 race, color, national origin, age, sex, GENETIC COMPOSITION,
19 familial status, or 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
23 estate transaction or in connection with the construction, reha-
24 bilitation, repair, maintenance, or improvement of real property,
25 or a representative of that person, shall not:

26 (a) Discriminate against the applicant because of the
27 religion, race, color, national origin, age, sex, GENETIC

1 COMPOSITION, familial status, or marital status of the applicant
2 or a person residing with the applicant.

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

11 (2) A person whose business includes engaging in real estate
12 transactions shall not discriminate against a person because of
13 religion, race, color, national origin, age, sex, GENETIC
14 COMPOSITION, familial status, or marital status, in the purchas-
15 ing of loans for acquiring, constructing, improving, repairing,
16 or maintaining a dwelling or the making or purchasing of loans or
17 the provision of other financial assistance secured by residen-
18 tial real estate.

19 (3) Subsection (1)(b) does not apply to a form of applica-
20 tion for financial assistance prescribed for the use of a lender
21 regulated as a mortgagee under the national housing act,
22 chapter 847, 48 Stat. 1246, or by a regulatory board or officer
23 acting under the statutory authority of this state or the United
24 States.

25 Sec. 505. (1) A condition, restriction, or prohibition,
26 including a right of entry or possibility of reverter, that
27 directly or indirectly limits the use or occupancy of real

1 property on the basis of religion, race, color, national origin,
2 age, sex, GENETIC COMPOSITION, familial status, or marital status
3 is void, except a limitation of use as provided in section
4 503(1)(c) or on the basis of religion relating to real property
5 held by a religious institution or organization, or by a reli-
6 gious or charitable organization operated, supervised, or con-
7 trolled by a religious institution or organization, and used for
8 religious or charitable purposes.

9 (2) A person shall not insert in a written instrument relat-
10 ing to real property a provision that is void under this section
11 or honor such a provision in the chain of title.

12 Sec. 506. A person shall not represent, for the purpose of
13 inducing a real estate transaction from which the person may ben-
14 efit financially, that a change has occurred or will or may occur
15 in the composition with respect to religion, race, color,
16 national origin, age, sex, GENETIC COMPOSITION, familial status,
17 or marital status of the owners or occupants in the block, neigh-
18 borhood, or area in which the real property is located, or repre-
19 sent that this change will or may result in the lowering of prop-
20 erty values, an increase in criminal or antisocial behavior, or a
21 decline in the quality of schools in the block, neighborhood, or
22 area in which the real property is located.