

HOUSE BILL No. 4836

May 27, 1997, Introduced by Reps. Baird, Wallace, Schroer, Martinez, Vaughn, Willard, Anthony, Ciaramitaro, Brater, Gire, Hale and Hanley and referred to the Committee on Constitutional and Civil Rights.

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

4

based upon religion, race, color, national origin, age, sex,

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

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

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

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

26 Sec. 103. As used in this act:

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

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

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

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

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

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

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

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

26 (I) ~~-(g)-~~ "Person" means an individual, agent, association,
27 corporation, joint apprenticeship committee, joint stock company,

1 labor organization, legal representative, mutual company,
2 partnership, receiver, trust, trustee in bankruptcy, unincorpor-
3 ated organization, the state or a political subdivision of the
4 state or an agency of the state, or any other legal or commercial
5 entity.

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

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

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

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

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

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

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

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

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

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

21 (d) ~~Until~~ BEFORE January 1, 1994, require an employee of
22 an institution of higher education who is serving under a con-
23 tract of unlimited tenure, or similar arrangement providing for
24 unlimited tenure, to retire from employment on the basis of the
25 employee's age. As used in this subdivision, "institution of
26 higher education" means a public or private university, college,
27 community college, or junior college located in this state.

1 (E) REQUIRE AN INDIVIDUAL TO SUBMIT TO A GENETIC TEST AS A
2 CONDITION OF EMPLOYMENT OR PROMOTION.

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

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

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

17 Sec. 204. A labor organization shall not:

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

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

1 conditions, or otherwise adversely affect the status of an
2 employee or an applicant for employment, because of religion,
3 race, color, national origin, age, sex, GENETIC COMPOSITION,
4 height, weight, or marital status.

5 (c) Cause or attempt to cause an employer to violate this
6 article.

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

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

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

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

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

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

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

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

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

26 Sec. 209. A contract to which the state, a political
27 subdivision, or an agency ~~thereof~~ OF THE STATE OR A POLITICAL

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

9 Sec. 302. Except where permitted by law, a person shall
10 not:

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

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

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

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

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

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

25 Sec. 402. An educational institution shall not do any of
26 the following:

1 (a) Discriminate against an individual in the full
2 utilization of or benefit from the institution, or the services,
3 activities, or programs provided by the institution because of
4 religion, race, color, national origin, ~~or~~ sex, OR GENETIC
5 COMPOSITION.

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

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

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

23 (e) Announce or follow a policy of denial or limitation
24 through a quota or otherwise of educational opportunities of a
25 group or its members because of religion, race, color, national
26 origin, ~~or~~ sex, OR GENETIC COMPOSITION.

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

6 (a) Refuse to engage in a real estate transaction with a
7 person.

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

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

14 (d) Refuse to negotiate for a real estate transaction with a
15 person.

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

22 (f) Make, print, circulate, post, mail, or otherwise cause
23 to be made or published a statement, advertisement, notice, or
24 sign, or use a form of application for a real estate transaction,
25 or make a record of inquiry in connection with a prospective real
26 estate transaction, ~~which~~ THAT indicates, directly or
27 indirectly, an intent to make a preference, limitation,

1 specification, or discrimination with respect to the real estate
2 transaction.

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

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

10 (2) A person shall not deny a person access to, or member-
11 ship or participation in, a multiple listing service, real estate
12 brokers' organization or other service, organization, or facility
13 relating to the business of selling or renting real property or
14 to discriminate against him or her in the terms or conditions of
15 that access, membership, or participation because of religion,
16 race, color, national origin, age, sex, GENETIC COMPOSITION,
17 familial status, or marital status.

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

19 Sec. 504. (1) A person to whom application is made for
20 financial assistance or financing in connection with a real
21 estate transaction or in connection with the construction, reha-
22 bilitation, repair, maintenance, or improvement of real property,
23 or a representative of that person, shall not:

24 (a) Discriminate against the applicant because of the reli-
25 gion, race, color, national origin, age, sex, GENETIC
26 COMPOSITION, familial status, or marital status of the applicant
27 or a person residing with the applicant.

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

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

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

23 Sec. 505. (1) A condition, restriction, or prohibition,
24 including a right of entry or possibility of reverter, that
25 directly or indirectly limits the use or occupancy of real prop-
26 erty on the basis of religion, race, color, national origin, age,
27 sex, GENETIC COMPOSITION, familial status, or marital status is

1 void, except a limitation of use as provided in section 503(1)(c)
2 or on the basis of religion relating to real property held by a
3 religious institution or organization, or by a religious or char-
4 itable organization operated, supervised, or controlled by a
5 religious institution or organization, and used for religious or
6 charitable purposes.

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

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