

HOUSE BILL No. 4497

April 1, 2003, Introduced by Reps. Whitmer, Law, O'Neil, Gielegem, Wojno, Accavitti, Paletko, Elkins, Murphy, Kolb, Brown, Williams, Hunter, Cheeks, Zelenko, Minore, Reeves, Waters, Byrum, Vander Veen, Dennis and Vagnozzi and referred to the Committee on Employment Relations, Training and Safety.

A bill to amend 1976 PA 453, entitled "Elliott-Larsen civil rights act," by amending sections 102, 103, and 202 (MCL 37.2102, 37.2103, and 37.2202), section 102 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, and section 202 as amended by 1991 PA 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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1 Sec. 102. (1) The opportunity to obtain employment, housing
2 and other real estate, and the full and equal utilization of
3 public accommodations, public service, and educational facilities
4 without discrimination because of religion, race, color, national
5 origin, age, sex, height, weight, familial status, or marital
6 status as prohibited by this act — is recognized and declared
7 to be a civil right.

8 (2) This section ~~shall not be construed to~~ **does not** prevent

1 an individual from bringing or continuing an action arising out
2 of sex discrimination before July 18, 1980 ~~which~~ **if the** action
3 is based on conduct similar to or identical to harassment.

4 (3) This section ~~shall not be construed to~~ **does not** prevent
5 an individual from bringing or continuing an action arising out
6 of discrimination based on familial status before ~~the effective~~
7 ~~date of the amendatory act that added this subsection~~ **June 29,**
8 **1992,** which action is based on conduct similar to or identical to
9 discrimination because of the age of persons residing with the
10 individual bringing or continuing the action.

11 (4) **This section does not prevent an individual from bringing**
12 **or continuing an action arising out of discrimination because of**
13 **religion, race, color, national origin, age, sex, height, weight,**
14 **or marital status before the effective date of the amendatory act**
15 **that added this subsection if the action is based on conduct**
16 **similar or identical to conduct prohibited in section 202(1)(d).**

17 Sec. 103. As used in this act:

18 (a) "Age" means chronological age except as otherwise
19 provided by law.

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

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

24 (d) "Compensation" means all earnings of an employee,
25 including wages and benefits, whether determined on the basis of
26 time, task, piece, commission, or other method of calculation for
27 labor, services, or work performed.

1 **(e)** ~~-(d)-~~ "Department" means the department of civil rights
2 or its employees.

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

11 **(g)** ~~-(f)-~~ "National origin" includes the national origin of
12 an ancestor.

13 **(h)** ~~-(g)-~~ "Person" means an individual, agent, association,
14 corporation, joint apprenticeship committee, joint stock company,
15 labor organization, legal representative, mutual company,
16 partnership, receiver, trust, trustee in bankruptcy,
17 unincorporated organization, the state or a political subdivision
18 of the state or an agency of the state, or any other legal or
19 commercial entity.

20 **(i)** ~~-(h)-~~ "Political subdivision" means a county, city,
21 village, township, school district, or special district or
22 authority of the state.

23 **(j)** ~~-(i)-~~ Discrimination because of sex includes sexual
24 harassment. Sexual harassment means unwelcome sexual advances,
25 requests for sexual favors, and other verbal or physical conduct
26 or communication of a sexual nature under the following
27 conditions:

1 (i) Submission to the conduct or communication is made a term
2 or condition either explicitly or implicitly to obtain
3 employment, public accommodations or public services, education,
4 or housing.

5 (ii) Submission to or rejection of the conduct or
6 communication by an individual is used as a factor in decisions
7 affecting the individual's employment, public accommodations or
8 public services, education, or housing.

9 (iii) The conduct or communication has the purpose or effect
10 of substantially interfering with an individual's employment,
11 public accommodations or public services, education, or housing,
12 or creating an intimidating, hostile, or offensive employment,
13 public accommodations, public services, educational, or housing
14 environment.

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

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

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

1 (c) Segregate, classify, or otherwise discriminate against ~~a~~
2 ~~person~~ **an individual** on the basis of sex with respect to a term,
3 condition, or privilege of employment, including, but not limited
4 to, a benefit 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~~
7 ~~of unlimited tenure, or similar arrangement providing for~~
8 ~~unlimited tenure, to retire from employment on the basis of the~~
9 ~~employee's age. As used in this subdivision, "institution of~~
10 ~~higher education" means a public or private university, college,~~
11 ~~community college, or junior college located in this state. **Fail**~~
12 **or refuse to provide compensation equally for work of comparable**
13 **value in terms of the composite skill, responsibility, effort,**
14 **education or training, and working conditions because of**
15 **religion, race, color, national origin, age, sex, height, weight,**
16 **or marital status.**

17 (2) This section ~~shall not be construed to~~ **does not**
18 prohibit the establishment or implementation of a bona fide
19 retirement policy or system that is not a subterfuge to evade the
20 purposes of this section.

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