

# SENATE BILL No. 609

July 3, 2003, Introduced by Senators BRATER, JACOBS, EMERSON, CLARKE, SCOTT, LELAND, CLARK-COLEMAN, BERNERO and THOMAS 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, 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, 502, 504, 505, and 506 as amended by 1992 PA 124, section 103 as amended by 1999 PA 202, 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:**

TITLE

An act to define civil rights; to prohibit discriminatory practices, policies, and customs in the exercise of those rights

1 based upon religion, race, color, national origin, age, sex,  
2 **sexual orientation**, 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, **sexual orientation, gender identity or**  
14 **expression**, height, weight, familial status, or marital status as  
15 prohibited by this act, is recognized and declared to be a civil  
16 right.

17       (2) This section ~~shall~~ **does** not ~~be construed to~~ prevent  
18 an individual from bringing or continuing an action arising out  
19 of sex discrimination before July 18, 1980 ~~which~~ **for an** action  
20 **that** is based on conduct similar to or identical to harassment.

21       (3) This section ~~shall~~ **does** not ~~be construed to~~ prevent  
22 an individual from bringing or continuing an action arising out  
23 of discrimination based on familial status before the effective  
24 date of the amendatory act that added this subsection ~~which~~ **for**  
25 **an** action **that** is based on conduct similar to or identical to  
26 discrimination because of the age of persons residing with the  
27 individual 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  
5 established by section 29 of article 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) "Gender identity or expression" means having or being**  
18 **perceived as having a gender-related self-identity or expression**  
19 **whether or not associated with an individual's assigned sex at**  
20 **birth.**

21          (g) ~~(f)~~ "National origin" includes the national origin of  
22 an ancestor.

23          (h) ~~(g)~~ "Person" means an individual, agent, association,  
24 corporation, joint apprenticeship committee, joint stock company,  
25 labor organization, legal representative, mutual company,  
26 partnership, receiver, trust, trustee in bankruptcy,  
27 unincorporated organization, the state or a political subdivision

1 of the state or an agency of the state, or any other legal or  
2 commercial entity.

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

6       **(j)** ~~-(i)-~~ Discrimination because of sex includes sexual  
7 harassment. Sexual harassment means unwelcome sexual advances,  
8 requests for sexual favors, and other verbal or physical conduct  
9 or communication of a sexual nature under the following  
10 conditions:

11       *(i)* Submission to the conduct or communication is made a term  
12 or condition either explicitly or implicitly to obtain  
13 employment, public accommodations or public services, education,  
14 or housing.

15       *(ii)* Submission to or rejection of the conduct or  
16 communication by an individual is used as a factor in decisions  
17 affecting the individual's employment, public accommodations or  
18 public services, education, or housing.

19       *(iii)* The conduct or communication has the purpose or effect  
20 of substantially interfering with an individual's employment,  
21 public accommodations or public services, education, or housing,  
22 or creating an intimidating, hostile, or offensive employment,  
23 public accommodations, public services, educational, or housing  
24 environment.

25       **(k)** "Sexual orientation" means having an orientation for  
26 heterosexuality, homosexuality, or bisexuality or having a  
27 history of such an orientation or being identified with such an

1 **orientation.**

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

4       (a) Fail or refuse to hire or recruit, discharge, or  
5 otherwise discriminate against an individual with respect to  
6 employment, compensation, or a term, condition, or privilege of  
7 employment, because of religion, race, color, national origin,  
8 age, sex, **sexual orientation, gender identity or expression,**  
9 height, weight, or marital status.

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

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

21       ~~(d) Until January 1, 1994, require an employee of an~~  
22 ~~institution of higher education who is serving under a contract~~  
23 ~~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           (2) This section ~~shall~~ **does** not ~~be construed to~~ prohibit  
2 the establishment or implementation of a bona fide retirement  
3 policy or system that is not a subterfuge to evade the purposes  
4 of this section.

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

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

16           Sec. 204. A labor organization shall not **do any of the**  
17 **following**:

18           (a) Exclude or expel from membership, or otherwise  
19 discriminate against, a member or applicant for membership  
20 because of religion, race, color, national origin, age, sex,  
21 **sexual orientation, gender identity or expression**, height,  
22 weight, or marital status.

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

1 **that** would adversely affect wages, hours, or employment  
2 conditions, or otherwise adversely affect the status of an  
3 employee or an applicant for employment, because of religion,  
4 race, color, national origin, age, sex, **sexual orientation,**  
5 **gender identity or expression,** height, weight, or marital  
6 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, **sexual orientation, gender identity or**  
12 **expression,** height, weight, or marital 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  
16 discriminate against an individual because of religion, race,  
17 color, national origin, age, sex, **sexual orientation, gender**  
18 **identity or expression,** height, weight, or marital status, in  
19 admission to, or employment or continuation in, a program  
20 established to provide apprenticeship on the job, or other  
21 training or retraining.

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

1 classification or referral for employment by the employment  
2 agency, ~~which~~ **that** indicates a preference, limitation,  
3 specification, or discrimination, based on religion, race, color,  
4 national origin, age, sex, **sexual orientation, gender identity or**  
5 **expression**, height, weight, or marital status.

6 (2) Except as permitted by rules promulgated by the  
7 commission or by applicable federal law, an employer or  
8 employment agency shall not **do any of the following**:

9 (a) Make or use a written or oral inquiry or form of  
10 application that elicits or attempts to elicit information  
11 concerning the religion, race, color, national origin, age, sex,  
12 **sexual orientation, gender identity or expression**, height,  
13 weight, or marital status of a prospective employee.

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

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

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



1 the religion, race, color, national origin, age, height, weight,  
 2 sex, **sexual orientation, gender identity or expression**, or  
 3 marital status of a prospective 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 an  
 8 employee or applicant for employment with respect to hire,  
 9 tenure, terms, conditions, or privileges of employment, or a  
 10 matter directly or indirectly related to employment, because of  
 11 race, color, religion, national origin, age, sex, **sexual**  
 12 **orientation, gender identity or expression**, height, weight, or  
 13 marital status. Breach of this covenant may be regarded as a  
 14 material breach of the contract.

15 Sec. 302. Except where permitted by law, a person shall not  
 16 **do any of the following:**

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

23 (b) Print, circulate, post, mail, or otherwise ~~cause to be~~  
 24 ~~published~~ **publish** a statement, advertisement, notice, or sign  
 25 ~~which~~ **that** indicates that the full and equal enjoyment of the  
 26 goods, services, facilities, privileges, advantages, or  
 27 accommodations of a place of public accommodation or public

1 service will be refused, withheld from, or denied an individual  
2 because of religion, race, color, national origin, age, sex,  
3 **sexual orientation, gender identity or expression**, or marital  
4 status, or that an individual's patronage of or presence at a  
5 place of public accommodation is objectionable, unwelcome,  
6 unacceptable, or undesirable because of religion, race, color,  
7 national origin, age, sex, **sexual orientation, gender identity or**  
8 **expression**, or marital status.

9       Sec. 302a. (1) This section applies to a private club that  
10 is defined as a place of public accommodation ~~pursuant to~~ **under**  
11 section 301(a).

12       (2) If a private club allows use of its facilities by 1 or  
13 more adults per membership, the use must be equally available to  
14 all adults entitled to use the facilities under the membership.  
15 All classes of membership shall be available without regard to  
16 race, color, gender, **sexual orientation, gender identity or**  
17 **expression**, religion, marital status, or national origin.  
18 Memberships that permit use during restricted times may be  
19 allowed only if the restricted times apply to all adults using  
20 that membership.

21       (3) A private club that has food or beverage facilities or  
22 services shall allow equal access to those facilities and  
23 services for all adults in all membership categories at all  
24 times. This subsection shall not require service or access to  
25 facilities to persons that would violate any law or ordinance  
26 regarding sale, consumption, or regulation of alcoholic  
27 beverages.

1 (4) This section does not prohibit a private club from  
2 sponsoring or permitting sports schools or leagues for children  
3 less than 18 years of age that are limited by age or to members  
4 of 1 sex, if comparable and equally convenient access to the  
5 club's facilities is made available to both sexes and if these  
6 activities are not used as a subterfuge to evade the purposes of  
7 this article.

8 Sec. 402. An educational institution shall not do any of  
9 the following:

10 (a) Discriminate against an individual in the full  
11 utilization of or benefit from the institution, or the services,  
12 activities, or programs provided by the institution because of  
13 religion, race, color, national origin, ~~or~~ **sexual**  
14 **orientation, or gender identity or expression.**

15 (b) Exclude, expel, limit, or otherwise discriminate against  
16 an individual seeking admission as a student or an individual  
17 enrolled as a student in the terms, conditions, or privileges of  
18 the institution, because of religion, race, color, national  
19 origin, ~~or~~ **sexual orientation, or gender identity or**  
20 **expression.**

21 (c) For purposes of admission only, make or use a written or  
22 oral inquiry or form of application that elicits or attempts to  
23 elicit information concerning the religion, race, color, national  
24 origin, age, sex, **sexual orientation, gender identity or**  
25 **expression,** or marital status of a person, except as permitted by  
26 rule of the commission or as required by federal law, rule, or  
27 regulation, or pursuant to an affirmative action program.

1 (d) Print or publish or cause to be printed or published a  
2 catalog, notice, or advertisement indicating a preference,  
3 limitation, specification, or discrimination based on the  
4 religion, race, color, national origin, ~~or~~ sex, **sexual**  
5 **orientation, or gender identity or expression,** of an applicant  
6 for admission to the educational institution.

7 (e) Announce or follow a policy of denial or limitation  
8 through a quota or otherwise of educational opportunities of a  
9 group or its members because of religion, race, color, national  
10 origin, ~~or~~ sex, **sexual orientation, or gender identity or**  
11 **expression.**

12 Sec. 502. (1) A person engaging in a real estate  
13 transaction, or a real estate broker or salesman, shall not on  
14 the basis of religion, race, color, national origin, age, sex,  
15 **sexual orientation, gender identity or expression,** familial  
16 status, or marital status of a person or a person residing with  
17 that person **do any of the following:**

18 (a) Refuse to engage in a real estate transaction with a  
19 person.

20 (b) Discriminate against a person in the terms, conditions,  
21 or privileges of a real estate transaction or in the furnishing  
22 of facilities or services in connection with a real estate  
23 transaction.

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

26 (d) Refuse to negotiate for a real estate transaction with a  
27 person.

1 (e) Represent to a person that real property is not available  
2 for inspection, sale, rental, or lease when in fact it is so  
3 available, or knowingly fail to bring a property listing to a  
4 person's attention, or refuse to permit a person to inspect real  
5 property, or otherwise make unavailable or deny real property to  
6 a person.

7 (f) ~~Make, print~~ **Print**, circulate, post, mail, or otherwise  
8 ~~cause to be made or published~~ **make or publish** a statement,  
9 advertisement, notice, or sign, or use a form of application for  
10 a real estate transaction, or make a record of inquiry in  
11 connection with a prospective real estate transaction, ~~which~~  
12 **that** indicates, directly or indirectly, an intent to make a  
13 preference, limitation, specification, or discrimination with  
14 respect to the real estate transaction.

15 (g) Offer, solicit, accept, use, or retain a listing of real  
16 property with the understanding that a person may be  
17 discriminated against in a real estate transaction or in the  
18 furnishing of facilities or services in connection ~~therewith~~  
19 **with a real estate transaction.**

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

22 (2) A person shall not deny a person access to, or membership  
23 or participation in, a multiple listing service, real estate  
24 brokers' organization or other service, organization, or facility  
25 relating to the business of selling or renting real property or  
26 to discriminate against him or her in the terms or conditions of  
27 that access, membership, or participation because of religion,

1 race, color, national origin, age, sex, **sexual orientation,**  
2 **gender identity or expression,** familial status, or marital  
3 status.

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

5 Sec. 504. (1) A person to whom application is made for  
6 financial assistance or financing in connection with a real  
7 estate transaction or in connection with the construction,  
8 rehabilitation, repair, maintenance, or improvement of real  
9 property, or a representative of that person, shall not **do any of**  
10 **the following:**

11 (a) Discriminate against the applicant because of the  
12 religion, race, color, national origin, age, sex, **sexual**  
13 **orientation, gender identity or expression,** familial status, or  
14 marital status of the applicant or a person residing with the  
15 applicant.

16 (b) Use a form of application for financial assistance or  
17 financing or make or keep a record or inquiry in connection with  
18 an application for financial assistance or financing ~~which~~ **that**  
19 indicates, directly or indirectly, a preference, limitation,  
20 specification, or discrimination as to the religion, race, color,  
21 national origin, age, sex, **sexual orientation, gender identity or**  
22 **expression,** familial status, or marital status of the applicant  
23 or a person residing with the applicant.

24 (2) A person whose business includes engaging in real estate  
25 transactions shall not discriminate against a person because of  
26 religion, race, color, national origin, age, sex, **sexual**  
27 **orientation, gender identity or expression,** familial status, or

1 marital status, in the purchasing of loans for acquiring,  
2 constructing, improving, repairing, or maintaining a dwelling or  
3 the making or purchasing of loans or the provision of other  
4 financial assistance secured by residential real estate.

5 (3) Subsection (1)(b) does not apply to a form of application  
6 for financial assistance prescribed for the use of a lender  
7 regulated as a mortgagee under the national housing act,  
8 chapter 847, 48 Stat. 1246, or by a regulatory board or officer  
9 acting under the statutory authority of this state or the United  
10 States.

11 Sec. 505. (1) A condition, restriction, or prohibition,  
12 including a right of entry or possibility of reverter, that  
13 directly or indirectly limits the use or occupancy of real  
14 property on the basis of religion, race, color, national origin,  
15 age, sex, **sexual orientation, gender identity or expression,**  
16 familial status, or marital status is void, except a limitation  
17 of use as provided in section 503(1)(c) or on the basis of  
18 religion relating to real property held by a religious  
19 institution or organization, or by a religious or charitable  
20 organization operated, supervised, or controlled by a religious  
21 institution or organization, and used for religious or charitable  
22 purposes.

23 (2) A person shall not insert in a written instrument  
24 relating to real property a provision that is void under this  
25 section or honor such a provision in the chain of title.

26 Sec. 506. A person shall not represent, for the purpose of  
27 inducing a real estate transaction from which the person may

1 benefit financially, that a change has occurred or will or may  
2 occur in the composition with respect to religion, race, color,  
3 national origin, age, sex, **sexual orientation, gender identity or**  
4 **expression,** familial status, or marital status of the owners or  
5 occupants in the block, neighborhood, or area in which the real  
6 property is located, or represent that this change will or may  
7 result in the lowering of property values, an increase in  
8 criminal or antisocial behavior, or a decline in the quality of  
9 schools in the block, neighborhood, or area in which the real  
10 property is located.