

SENATE BILL No. 100

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-16-4; IC 22-9-1; IC 22-9.5.

Synopsis: Civil rights. Prohibits discriminatory practices in acquisition or sale of real estate, housing, education, public accommodations, employment, the extending of credit, and public contracts based on military active duty status, sexual orientation, or gender identity. Provides protections for religious liberty and conscience. Preempts local civil rights ordinances that conflict with the state civil rights law. Provides that the provisions of this act are nonseverable. Repeals a provision that indicates that local entities may adopt civil rights ordinances that differ from state law.

Effective: Upon passage.

Holdman

January 5, 2016, read first time and referred to Committee on Rules & Legislative Procedure.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 100

A BILL FOR AN ACT to amend the Indiana Code concerning civil rights.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-2-16-4 IS REPEALED [EFFECTIVE UPON
2 PASSAGE]. ~~Sec. 4. Nothing in this chapter shall be construed to~~
3 ~~prohibit a city, town, or county from adopting an ordinance under~~
4 ~~IC 22-9-1-12.1 relating to a category or class in addition to the~~
5 ~~categories and classes described in IC 22-9-1-2.~~

6 SECTION 2. IC 22-9-1-0.2 IS ADDED TO THE INDIANA CODE
7 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
8 **UPON PASSAGE]: Sec. 0.2. The provisions in this chapter and**
9 **IC 22-9.5 enacted in SEA 100-2016 and the repeal of IC 22-2-16-4**
10 **by SEA 100-2016 are the result of the general assembly's balancing**
11 **of differing religious values and matters of conscience so that**
12 **individuals of good faith can live and work together without undue**
13 **litigation or burden. The exemptions to this chapter and IC 22-9.5**
14 **related to or affecting sexual orientation and gender identity are to**
15 **be liberally construed. For the purposes of IC 1-1-1-8 and any**
16 **other purpose, if any amendment or addition to the Indiana Code**
17 **made to this chapter or IC 22-9.5 by SEA 100-2016, the repeal of**



1 IC 22-2-16-4 by SEA 100-2016, or any part of any amendment or
 2 addition to the Indiana Code made to this chapter or IC 22-9.5 is
 3 held invalid, all of the additions and amendments to the Indiana
 4 Code made by SEA 100-2016 to this chapter and IC 22-9.5 and the
 5 repeal of IC 22-2-16-4 by SEA 100-2016 are void.

6 SECTION 3. IC 22-9-1-1.2 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 1.2. (a) As used in this section,
 9 "discriminatory action" means any action taken by the state or a
 10 political subdivision, including the following:

11 (1) Negatively altering the tax treatment of any person,
 12 causing any tax, penalty, or payment to be assessed against
 13 any person, or delaying, revoking, or otherwise making
 14 unavailable or denying to any person an exemption from
 15 taxation.

16 (2) Disallowing or otherwise making unavailable or denying
 17 a deduction for state or political subdivision tax purposes of
 18 any charitable contribution made to or by any person.

19 (3) Withholding, reducing, excluding, terminating, materially
 20 altering the terms or conditions of, or otherwise making
 21 unavailable or denying any state grant, contract, subcontract,
 22 cooperative agreement, or loan from or to any person.

23 (4) Withholding, reducing, excluding, terminating, materially
 24 altering the terms or conditions of, or otherwise making
 25 unavailable or denying any accreditation, licensing, custody
 26 award or agreement, recognition, or certification from or to
 27 any person.

28 (b) As used in this chapter, "political subdivision" means a
 29 political subdivision (as defined in IC 36-1-2-13) or other local
 30 governmental entity. The term includes the whole or any part of a
 31 branch, department, agency, or instrumentality of a political
 32 subdivision or other local governmental body, including a body
 33 politic, a body corporate and politic, or any other similar entity
 34 established by law.

35 (c) As used in this chapter, "state" includes the whole or any
 36 part of a branch, department, agency, or instrumentality of state
 37 government, including a state educational institution, a body
 38 politic, a body corporate and politic, or any other similar entity
 39 established by law.

40 (d) As used in this chapter, "religious or religious affiliated
 41 organization" means a church or other religious organization,
 42 association, or society, a nonprofit institution or other nonprofit



1 organization operated, supervised, or controlled by or in
 2 conjunction with a church or other religious organization,
 3 association, or society, or an interdenominational, a
 4 nondenominational, or other educational nonprofit organization
 5 that is independent from the operation, supervision, or control by
 6 a church or other religious organization, association, or society but
 7 is predominately organized to encourage students to incorporate
 8 a religious point of view in the academic and practical activities of
 9 students and graduates. The term includes the following if the
 10 entities meet the definition of religious or religious affiliated
 11 organization provided in this subsection:

12 (1) An adoption agency.

13 (2) A nonprofit school (including a higher education
 14 institution).

15 (3) A nonprofit day care facility or service.

16 (e) The following are exempt from the provisions of this chapter
 17 and IC 22-9.5 concerning sexual orientation or gender identity:

18 (1) A religious or religious affiliated organization.

19 (2) A rabbi, priest, preacher, minister, pastor, or designee of
 20 a religious or religious affiliated organization when the
 21 individual is engaged in a religious or religious affiliated
 22 educational function of the religious or religious affiliated
 23 organization.

24 (f) It is against the public policy of the state for the state or any
 25 political subdivision to take any action inconsistent with the
 26 restrictions placed upon the state or its political subdivisions, or
 27 both, by the Constitution of the United States, the Constitution of
 28 the State of Indiana, or IC 34-13-9 against any individual clergy,
 29 religious leader, or religious or religious affiliated organization on
 30 the basis that the person believes or sincerely acts in accordance
 31 with a religious belief or matters of conscience regarding marriage.
 32 The actions prohibited by this section include the following:

33 (1) The state and its political subdivisions may not take any
 34 discriminatory action against any individual clergy or
 35 religious leader on the basis that the individual declines or
 36 will decline to perform, solemnize, or facilitate any marriage
 37 based upon the individual's sincerely held religious belief.

38 (2) The state and its political subdivisions may not take any
 39 discriminatory action against a religious or religious affiliated
 40 organization, including those providing social services, wholly
 41 or partially on the basis that the organization declines or will
 42 decline to solemnize any marriage or to provide



1 accommodations or other facilities, goods or other property,
 2 privileges, or services for a purpose related to the
 3 solemnization, formation, celebration, or recognition of any
 4 marriage, based upon a sincerely held religious belief.

5 (3) The state and its political subdivisions may not take any
 6 discriminatory action against a religious or religious affiliated
 7 organization that provides social services or charitable
 8 services, if the organization acts or intends to act upon a
 9 sincerely held religious belief.

10 (g) Acts and omissions by a person (or its employees or owners)
 11 related to providing accommodations or other facilities, goods or
 12 other property, privileges, or services for any solemnization,
 13 rehearsal, reception, celebration, or social event for a marriage
 14 ceremony, renewal of marriage vows, or marriage anniversary are
 15 exempt from the provisions of this chapter concerning sexual
 16 orientation or gender identity if the person had fewer than any
 17 combination of four (4) employees, contracted employees,
 18 shareholders, partners, members, or other owners of the provider
 19 who were engaged in the activities of the provider for at least thirty
 20 (30) hours each week in the month or in the month preceding the
 21 month in which the acts or omissions occurred.

22 (h) Acts and omissions by a person (or its employees or owners)
 23 to provide marriage counseling, courses, retreats, and other similar
 24 activities are exempt from the provisions of this chapter
 25 concerning sexual orientation or gender identity, if the person had
 26 fewer than any combination of four (4) employees, contracted
 27 employees, shareholders, partners, members, or other owners of
 28 the provider who were engaged in the activities of the provider for
 29 at least thirty (30) hours each week in the month or in the month
 30 preceding the month in which the acts or omissions occurred.

31 (i) It is not a discriminatory practice or unlawful separation or
 32 segregation under this chapter for a person to:

33 (1) maintain separate restrooms, shower facilities, dressing
 34 facilities, and other similar facilities;

35 (2) establish, use, and enforce rules and policies related to the
 36 use of restrooms, shower facilities, dressing facilities, and
 37 other similar facilities; or

38 (3) establish, use, and enforce dress code rules and policies;
 39 based on sex, sexual orientation, or gender identity.
 40 Accommodation of individuals based on sex, sexual orientation, or
 41 gender identity does not require the building of new facilities or the
 42 renovation or other alteration of existing facilities.



1 (j) The attorney general shall defend a political subdivision,
 2 including a school board, or charter school (as defined in
 3 IC 20-24-1-4), including an organizer (as defined in IC 20-24-1-7),
 4 if the political subdivision or charter school is accused of
 5 maintaining a discriminatory practice or unlawful separation or
 6 segregation concerning any facility or policy described in
 7 subsection (i).

8 SECTION 4. IC 22-9-1-2, AS AMENDED BY P.L.136-2014,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 2. (a) It is the public policy of the state to
 11 provide all of its citizens equal opportunity for education, employment,
 12 access to public conveniences and accommodations, and acquisition
 13 through purchase or rental of real property, including but not limited to
 14 housing, and to eliminate segregation or separation based solely on
 15 race, religion, color, sex, disability, national origin, **sexual orientation,**
 16 **gender identity, active duty status, veteran status,** or ancestry, since
 17 such segregation is an impediment to equal opportunity. Equal
 18 education and employment opportunities and equal access to and use
 19 of public accommodations and equal opportunity for acquisition of real
 20 property are hereby declared to be civil rights.

21 (b) The practice of denying these rights to properly qualified
 22 persons by reason of the race, religion, color, sex, disability, national
 23 origin, **sexual orientation, gender identity, active duty status,**
 24 **veteran status,** or ancestry of such person is contrary to the principles
 25 of freedom and equality of opportunity and is a burden to the objectives
 26 of the public policy of this state and shall be considered as
 27 discriminatory practices. The promotion of equal opportunity without
 28 regard to race, religion, color, sex, **sexual orientation, gender**
 29 **identity, active duty status, veteran status,** disability, national origin,
 30 or ancestry through reasonable methods is the purpose of this chapter.

31 (c) It is also the public policy of this state to protect employers,
 32 labor organizations, employment agencies, property owners, real estate
 33 brokers, builders, ~~and~~ lending institutions, **and other persons** from
 34 unfounded charges of discrimination.

35 (d) It is hereby declared to be contrary to the public policy of the
 36 state and an unlawful practice for any person, for profit, to induce or
 37 attempt to induce any person to sell or rent any dwelling by
 38 representations regarding the entry or prospective entry into the
 39 neighborhood of a person or persons of a particular race, religion,
 40 color, sex, disability, national origin, **sexual orientation, gender**
 41 **identity, active duty status, veteran status,** or ancestry.

42 (e) The general assembly recognizes that on February 16, 1972,



1 there are institutions of learning in Indiana presently and traditionally
 2 following the practice of limiting admission of students to males or to
 3 females. It is further recognized that it would be unreasonable to
 4 impose upon these institutions the expense of remodeling facilities to
 5 accommodate students of both sexes, and that educational facilities of
 6 similar quality and type are available in coeducational institutions for
 7 those students desiring such facilities. It is further recognized that this
 8 chapter is susceptible of interpretation to prevent these institutions
 9 from continuing their traditional policies, a result not intended by the
 10 general assembly. Therefore, the amendment effected by Acts 1972,
 11 P.L.176, is desirable to permit the continuation of the policies
 12 described.

13 (f) It is against the public policy of the state and a discriminatory
 14 practice for an employer to discriminate against a prospective
 15 employee on the basis of status as a veteran by:

16 (1) refusing to employ an applicant for employment on the basis
 17 that the applicant is a veteran of the armed forces of the United
 18 States; or

19 (2) refusing to employ an applicant for employment on the basis
 20 that the applicant is a member of the Indiana National Guard or
 21 member of a reserve component.

22 (g) This chapter shall be construed broadly to effectuate its purpose.

23 SECTION 5. IC 22-9-1-3, AS AMENDED BY P.L.136-2014,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 3. As used in this chapter:

26 (a) "Person" means one (1) or more individuals, partnerships,
 27 associations, organizations, limited liability companies, corporations,
 28 labor organizations, cooperatives, legal representatives, trustees,
 29 trustees in bankruptcy, receivers, and other organized groups of
 30 persons.

31 (b) "Commission" means the civil rights commission created under
 32 section 4 of this chapter.

33 (c) "Director" means the director of the civil rights commission.

34 (d) "Deputy director" means the deputy director of the civil rights
 35 commission.

36 (e) "Commission attorney" means the deputy attorney general, such
 37 assistants of the attorney general as may be assigned to the
 38 commission, or such other attorney as may be engaged by the
 39 commission.

40 (f) "Consent agreement" means a formal agreement entered into in
 41 lieu of adjudication.

42 (g) "Affirmative action" means those acts that the commission



- 1 determines necessary to assure compliance with the Indiana civil rights
2 law.
- 3 (h) "Employer" means the state or any political or civil subdivision
4 thereof and any person employing six (6) or more persons within the
5 state, except that the term "employer" does not include:
- 6 (1) any nonprofit corporation or association organized exclusively
7 for fraternal or religious purposes;
- 8 (2) any school, educational, or charitable religious institution
9 owned or conducted by or affiliated with a church or religious
10 institution; or
- 11 (3) any exclusively social club, corporation, or association that is
12 not organized for profit.
- 13 (i) "Employee" means any person employed by another for wages or
14 salary. However, the term does not include any individual employed:
- 15 (1) by the individual's parents, spouse, or child; or
16 (2) in the domestic service of any person.
- 17 (j) "Labor organization" means any organization that exists for the
18 purpose in whole or in part of collective bargaining or of dealing with
19 employers concerning grievances, terms, or conditions of employment
20 or for other mutual aid or protection in relation to employment.
- 21 (k) "Employment agency" means any person undertaking with or
22 without compensation to procure, recruit, refer, or place employees.
- 23 (l) "Discriminatory practice" means:
- 24 (1) the exclusion of a person from equal opportunities because of
25 race, religion, color, sex, **sexual orientation, gender identity,**
26 disability, national origin, ancestry, **active duty status,** or **status**
27 **as a veteran status;**
- 28 (2) a system that excludes persons from equal opportunities
29 because of race, religion, color, sex, **sexual orientation, gender**
30 **identity,** disability, national origin, ancestry, **active duty status,**
31 or **status as a veteran status;**
- 32 (3) the promotion of racial segregation or separation in any
33 manner, including but not limited to the inducing of or the
34 attempting to induce for profit any person to sell or rent any
35 dwelling by representations regarding the entry or prospective
36 entry in the neighborhood of a person or persons of a particular
37 race, religion, color, sex, **sexual orientation, gender identity,**
38 disability, national origin, **or** ancestry, **active duty status, or**
39 **veteran status;** or
- 40 (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is
41 committed by a covered entity (as defined in IC 22-9-5-4).
42 Every discriminatory practice relating to the acquisition or sale of real



1 estate, education, public accommodations, employment, or the
 2 extending of credit (as defined in IC 24-4.5-1-301.5) shall be
 3 considered unlawful unless it is specifically exempted by this chapter.

4 (m) "Public accommodation" means any establishment that caters
 5 or offers its services or facilities or goods to the general public.

6 (n) "Complainant" means:

7 (1) any individual charging on the individual's own behalf to have
 8 been personally aggrieved by a discriminatory practice; or

9 (2) the director or deputy director of the commission charging that
 10 a discriminatory practice was committed against a person (other
 11 than the director or deputy director) or a class of people, in order
 12 to vindicate the public policy of the state (as defined in section 2
 13 of this chapter).

14 (o) "Complaint" means any written grievance that is:

15 (1) sufficiently complete and filed by a complainant with the
 16 commission; or

17 (2) filed by a complainant as a civil action in the circuit or
 18 superior court having jurisdiction in the county in which the
 19 alleged discriminatory practice occurred.

20 The original of any complaint filed under subdivision (1) shall be
 21 signed and verified by the complainant.

22 (p) "Sufficiently complete" refers to a complaint that includes:

23 (1) the full name and address of the complainant;

24 (2) the name and address of the respondent against whom the
 25 complaint is made;

26 (3) the alleged discriminatory practice and a statement of
 27 particulars thereof;

28 (4) the date or dates and places of the alleged discriminatory
 29 practice and if the alleged discriminatory practice is of a
 30 continuing nature the dates between which continuing acts of
 31 discrimination are alleged to have occurred; and

32 (5) a statement as to any other action, civil or criminal, instituted
 33 in any other form based upon the same grievance alleged in the
 34 complaint, together with a statement as to the status or disposition
 35 of the other action.

36 No complaint shall be valid unless filed within one hundred eighty
 37 (180) days from the date of the occurrence of the alleged
 38 discriminatory practice.

39 (q) "Sex" as it applies to segregation or separation in this chapter
 40 applies to all types of employment, education, public accommodations,
 41 and housing. However:

42 (1) it shall not be a discriminatory practice to maintain separate



- 1 restrooms;
- 2 (2) it shall not be an unlawful employment practice for an
- 3 employer to hire and employ employees, for an employment
- 4 agency to classify or refer for employment any individual, for a
- 5 labor organization to classify its membership or to classify or refer
- 6 for employment any individual, or for an employer, labor
- 7 organization, or joint labor management committee controlling
- 8 apprenticeship or other training or retraining programs to admit
- 9 or employ any other individual in any program on the basis of sex
- 10 in those certain instances where sex is a bona fide occupational
- 11 qualification reasonably necessary to the normal operation of that
- 12 particular business or enterprise; and
- 13 (3) it shall not be a discriminatory practice for a private or
- 14 religious educational institution to continue to maintain and
- 15 enforce a policy of admitting students of one (1) sex only.
- 16 (r) "Disabled" or "disability" means the physical or mental condition
- 17 of a person that constitutes a substantial disability. In reference to
- 18 employment under this chapter, "disabled or disability" also means the
- 19 physical or mental condition of a person that constitutes a substantial
- 20 disability unrelated to the person's ability to engage in a particular
- 21 occupation.
- 22 (s) "Veteran" means:
- 23 (1) a veteran of the armed forces of the United States;
- 24 (2) a member of the Indiana National Guard; or
- 25 (3) a member of a reserve component.
- 26 (t) "Active duty" has the meaning set forth in IC 22-9-9-1.
- 27 (u) "Gender identity" means a person's gender-related identity,
- 28 appearance, or behavior:
- 29 (1) whether or not that gender-related identity, appearance,
- 30 or behavior is different from that traditionally associated with
- 31 the person's physiology or assigned sex at birth; and
- 32 (2) that can be shown by providing:
- 33 (A) medical history, care, or treatment of the
- 34 gender-related identity occurring in the period of twelve
- 35 (12) months preceding the act or omission that is the
- 36 subject of a complaint under this chapter; or
- 37 (B) consistent and uniform assertion of the gender-related
- 38 identity in the period of twelve (12) months preceding the
- 39 act or omission that is the subject of a complaint under this
- 40 chapter, if the assertion is sincerely held, part of the
- 41 individual's core identity, and not being asserted for an
- 42 improper purpose.



1 **(v) "Sexual orientation" means actual or perceived bisexuality,**
 2 **heterosexuality, or homosexuality.**

3 SECTION 6. IC 22-9-1-6, AS AMENDED BY P.L.136-2014,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 6. (a) The commission shall establish and
 6 maintain a permanent office in the city of Indianapolis.

7 (b) Except as it concerns judicial review, the commission may adopt
 8 rules under IC 4-22-2 to implement this chapter.

9 (c) The commission shall formulate policies to effectuate the
 10 purposes of this chapter and make recommendations to agencies and
 11 officers of the state or local subdivisions thereof to effectuate such
 12 policies. The several departments, commissions, divisions, authorities,
 13 boards, bureaus, agencies, and officers of the state or any political
 14 subdivision or agency thereof shall furnish the commission, upon its
 15 request, all records, papers, and information in their possession relating
 16 to any matter before the commission.

17 (d) The commission shall receive and investigate complaints
 18 alleging discriminatory practices. The commission shall not hold
 19 hearings in the absence of a complaint. All investigations of complaints
 20 shall be conducted by staff members of the civil rights commission or
 21 their agents.

22 (e) The commission may create such advisory agencies and
 23 conciliation councils, local or statewide, as will aid in effectuating the
 24 purposes of this chapter. The commission may itself, or it may
 25 empower these agencies and councils to:

26 (1) study the problems of discrimination in the areas covered by
 27 section 2 of this chapter when based on race, religion, color, sex,
 28 ~~handicap~~, **sexual orientation, gender identity, disability,**
 29 national origin, **active duty status, veteran status,** or ancestry;
 30 and

31 (2) foster through community effort, or otherwise, good will
 32 among the groups and elements of the population of the state.

33 These agencies and councils may make ~~recommendation~~
 34 **recommendations** to the commission for the development of policies
 35 and procedures in general. Advisory agencies and conciliation councils
 36 created by the commission shall be composed of representative citizens
 37 serving without pay, but with reimbursement for reasonable and
 38 necessary actual expenses.

39 (f) The commission may issue such publications and such results of
 40 investigations and research as in its judgment will tend to promote
 41 good will and minimize or eliminate discrimination because of race,
 42 religion, color, sex, ~~handicap~~, **sexual orientation, gender identity,**



1 **disability**, national origin, **active duty status**, **veteran status**, or
2 ancestry.

3 (g) The commission shall prevent any person from discharging,
4 expelling, or otherwise discriminating against any other person because
5 the person filed a complaint, testified in any hearing before this
6 commission, or in any way assisted the commission in any matter under
7 its investigation. **The commission shall establish policies and**
8 **procedures to protect employers, labor organizations, employment**
9 **agencies, property owners, real estate brokers, builders, lending**
10 **institutions, and other persons from unfounded charges of**
11 **discrimination. The commission shall enforce sections 1.2(f), 10(b),**
12 **and 19 of this chapter to protect the rights of individuals to**
13 **religious belief and conscience.**

14 (h) The commission may hold hearings, subpoena witnesses, compel
15 their attendance, administer oaths, take the testimony of any person
16 under oath, and require the production for examination of any books
17 and papers relating to any matter under investigation or in question
18 before the commission. The commission may make rules as to the
19 issuance of subpoenas by individual commissioners. Contumacy or
20 refusal to obey a subpoena issued under this section shall constitute a
21 contempt. All hearings shall be held within Indiana at a location
22 determined by the commission. A citation of contempt may be issued
23 upon application by the commission to the circuit or superior court in
24 the county in which the hearing is held or in which the witness resides
25 or transacts business.

26 (i) The commission may appoint administrative law judges other
27 than commissioners, when an appointment is deemed necessary by a
28 majority of the commission. The administrative law judges shall be
29 members in good standing before the bar of Indiana and shall be
30 appointed by the chairman of the commission. An administrative law
31 judge appointed under this subsection shall have the same powers and
32 duties as a commissioner sitting as an administrative law judge.
33 However, the administrative law judge may not issue subpoenas.

34 (j) The commission shall state its findings of fact after a hearing
35 and, if the commission finds a person has engaged in an unlawful
36 discriminatory practice, shall cause to be served on this person an order
37 requiring the person to cease and desist from the unlawful
38 discriminatory practice and requiring the person to take further
39 affirmative action as will effectuate the purposes of this chapter,
40 including but not limited to the power:

41 (1) to restore complainant's **actual** losses incurred as a result of
42 discriminatory treatment, as the commission may deem necessary



1 to assure justice, however, except in discriminatory practices
 2 involving **active duty status or** veterans, this specific provision
 3 when applied to orders pertaining to employment shall include
 4 only wages, salary, or commissions;

5 (2) to require the posting of notice setting forth the public policy
 6 of Indiana concerning civil rights and respondent's compliance
 7 with the policy in places of public accommodations;

8 (3) to require proof of compliance to be filed by respondent at
 9 periodic intervals; and

10 (4) to require a person who has been found to be in violation of
 11 this chapter and who is licensed by a state agency authorized to
 12 grant a license to show cause to the licensing agency why the
 13 person's license should not be revoked or suspended.

14 When an employer has been found to have committed a discriminatory
 15 practice in employment by failing to employ an applicant on the basis
 16 that the applicant is a veteran, the order to restore the veteran's losses
 17 may include placing the veteran in the employment position with the
 18 employer for which the veteran applied. **Otherwise, damages to be**
 19 **paid as a result of discriminatory practices relating to employment**
 20 **are limited to lost wages, salaries, commissions, or fringe benefits.**

21 (k) Judicial review of a cease and desist order or other affirmative
 22 action as referred to in this chapter may be obtained under IC 22-9-8.
 23 If no proceeding to obtain judicial review is instituted within thirty (30)
 24 days from receipt of notice by a person that an order has been made by
 25 the commission, the commission, if it determines that the person upon
 26 whom the cease and desist order has been served is not complying or
 27 is making no effort to comply, may obtain a decree of a court for the
 28 enforcement of the order in circuit or superior court upon showing that
 29 the person is subject to the commission's jurisdiction and resides or
 30 transacts business within the county in which the petition for
 31 enforcement is brought.

32 (l) If, upon all the evidence, the commission shall find that a person
 33 has not engaged in any unlawful practice or violation of this chapter,
 34 the commission shall state its findings of facts and shall issue and
 35 cause to be served on the complainant an order dismissing the
 36 complaint as to the person.

37 (m) The commission may furnish technical assistance requested by
 38 persons subject to this chapter to further compliance with this chapter
 39 or with an order issued thereunder.

40 (n) The commission shall promote the creation of local civil rights
 41 agencies to cooperate with individuals, neighborhood associations, and
 42 state, local, and other agencies, both public and private, including



1 agencies of the federal government and of other states.

2 (o) The commission may reduce the terms of conciliation agreed to
 3 by the parties to writing (to be called a consent agreement) that the
 4 parties and a majority of the commissioners shall sign. When signed,
 5 the consent agreement shall have the same effect as a cease and desist
 6 order issued under subsection (j). If the commission determines that a
 7 party to the consent agreement is not complying with it, the
 8 commission may obtain enforcement of the consent agreement in a
 9 circuit or superior court upon showing that the party is not complying
 10 with the consent agreement and the party is subject to the commission's
 11 jurisdiction and resides or transacts business within the county in
 12 which the petition for enforcement is brought.

13 (p) In lieu of investigating a complaint and holding a hearing under
 14 this section, the commission may issue an order based on findings and
 15 determinations by the federal Department of Housing and Urban
 16 Development or the federal Equal Employment Opportunity
 17 Commission concerning a complaint that has been filed with one (1) of
 18 these federal agencies and with the commission. The commission shall
 19 adopt by rule standards under which the commission may issue such an
 20 order.

21 (q) Upon notice that a complaint is the subject of an action in a
 22 federal court, the commission shall immediately cease investigation of
 23 the complaint and may not conduct hearings or issue findings of fact or
 24 orders concerning that complaint.

25 SECTION 7. IC 22-9-1-9.7 IS ADDED TO THE INDIANA CODE
 26 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 27 **UPON PASSAGE]: Sec. 9.7. (a) The commission may impose a civil**
 28 **penalty on a person, not to exceed one thousand dollars (\$1,000),**
 29 **if the person files a complaint with the commission under this**
 30 **article or IC 22-9.5 that the commission determines is:**

31 (1) frivolous; and

32 (2) intended to harm the subject of the complaint.

33 (b) **A civil penalty collected by the commission under this**
 34 **section shall be transferred to the treasurer of state and deposited**
 35 **in the state general fund.**

36 SECTION 8. IC 22-9-1-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) **Subject to**
 38 **subsection (b), every contract to which the state or any of its political**
 39 **or civil subdivisions is a party, including franchises granted to public**
 40 **utilities, shall contain a provision requiring the contractor and his the**
 41 **contractor's** subcontractors not to discriminate against any employee
 42 or applicant for employment to be employed in the performance of such



1 contract, with respect to ~~his~~ **the employee's or applicant's** hire, tenure,
 2 terms, conditions or privileges of employment or any matter directly or
 3 indirectly related to employment, because of ~~his~~ **the employee's or**
 4 **applicant's** race, religion, color, sex, **sexual orientation (for**
 5 **contracts with an employer entered into, modified, or renewed**
 6 **after March 31, 2016), gender identity (for contracts with an**
 7 **employer entered into, modified, or renewed after March 31,**
 8 **2016), disability, national origin, active duty status (for contracts**
 9 **with an employer entered into, modified, or renewed after March**
 10 **31, 2016), veteran status (for contracts with an employer entered**
 11 **into, modified, or renewed after March 31, 2016), or ancestry.**
 12 Breach of this covenant may be regarded as a material breach of the
 13 contract.

14 **(b) This subsection applies to a contract entered into, modified,**
 15 **or renewed by the state or any of its political subdivisions after**
 16 **March 31, 2016, with a religious or religious affiliated**
 17 **organization. The contract must include a modification to the**
 18 **provision required under subsection (a) that neither the entity nor**
 19 **its subcontractors are prohibited from:**

- 20 (1) giving a preference in employment to individuals of a
 21 particular religion; or
 22 (2) requiring that all employees and applicants conform to the
 23 religious tenets of the organization;

24 to the extent permitted under Executive Order 13279 or Title VII
 25 of the federal Civil Rights Act of 1964, as amended (42 U.S.C.
 26 2000e et seq.).

27 SECTION 9. IC 22-9-1-11 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. In addition to
 29 its power to investigate the discriminatory practices referred to in this
 30 chapter, the commission may receive written complaints of violation of
 31 this chapter or other discriminatory practices based upon race, religion,
 32 color, sex, **sexual orientation, gender identity, disability,** national
 33 origin, **active duty status, veteran status,** or ancestry and to
 34 investigate such complaints as it deems meritorious, or to conduct such
 35 investigation in the absence of complaints whenever it deems it in the
 36 public interest. ~~It~~ **The commission** may transmit to the general
 37 assembly its recommendations for legislation designed to aid in the
 38 removing of such discrimination.

39 SECTION 10. IC 22-9-1-12.1, AS AMENDED BY P.L.2-2007,
 40 SECTION 307, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE UPON PASSAGE]: Sec. 12.1. (a) As used in this
 42 section, the term "state agency" means:



1 (1) every office, officer, board, commission, department, division,
2 bureau, committee, fund, **or** agency; and

3 (2) without limitation by reason of any enumeration in this
4 section:

5 (A) every other instrumentality of the state, every hospital,
6 every penal institution, and every other institutional enterprise
7 and activity of the state, wherever located;

8 (B) the state educational institutions; and

9 (C) the judicial department of the state.

10 "State agency" does not mean counties, county offices of family and
11 children, cities, towns, townships, school corporations (as defined in
12 IC 20-18-2-16), or other municipal corporations, political subdivisions,
13 or units of local government.

14 (b) Any city, town, or county is hereby authorized to **may** adopt an
15 ordinance or ordinances ~~which may include establishment or~~
16 ~~designation of to establish or designate~~ an appropriate local
17 commission, office, or agency to ~~effectuate~~ **require compliance** within
18 its territorial jurisdiction. ~~the public policy of the state as declared in~~
19 ~~section 2, of this chapter. without~~ **An ordinance may not establish**
20 **requirements that are more stringent or otherwise are in** conflict
21 with any of the provisions of this ~~chapter~~ **article and IC 22-9.5. A**
22 **political subdivision does not have any other home rule powers to**
23 **establish requirements related to equal opportunity for education,**
24 **employment, access to public conveniences and accommodations,**
25 **or acquisition through purchase or rental of real property,**
26 **including housing, or to eliminate segregation or separation, based**
27 **solely based on race, religion, color, sex, disability, national origin,**
28 **sexual orientation, gender identity, active duty status, veteran**
29 **status, or ancestry that are more stringent or otherwise are in**
30 **conflict with this article and IC 22-9.5. Any ordinance, resolution,**
31 **regulation, standard, or other legal action by a county, city, town,**
32 **or other political subdivision is preempted to the extent that it is**
33 **more stringent or otherwise conflicts with this article and**
34 **IC 22-9.5.** Any city or town may adopt such an ordinance or ordinances
35 jointly with any other city or town located in the same county or jointly
36 with that county. A city ordinance that establishes a local commission
37 may provide that the members of the commission are to be appointed
38 solely by the city executive or solely by the city legislative body or may
39 provide for a combination of appointments by the city executive and
40 the city legislative body. The board of commissioners of each county
41 is also authorized to adopt ordinances in accordance with this section.
42 An agency established or designated under this section has no



1 jurisdiction over the state or any of its agencies.
 2 (c) An ordinance adopted under this section may grant to the local
 3 agency the power to:
 4 (1) investigate, conciliate, and hear complaints;
 5 (2) subpoena and compel the attendance of witnesses or
 6 production of pertinent documents and records;
 7 (3) administer oaths;
 8 (4) examine witnesses;
 9 (5) appoint hearing examiners or panels;
 10 (6) make findings and recommendations;
 11 (7) issue cease and desist orders or orders requiring remedial
 12 action;
 13 (8) order payment of actual damages, except **in discriminatory**
 14 **practices involving active duty status or veterans**, that damages
 15 to be paid as a result of discriminatory practices relating to
 16 employment shall be limited to lost wages, salaries, commissions,
 17 or fringe benefits;
 18 (9) institute actions for appropriate legal or equitable relief in a
 19 circuit or superior court;
 20 (10) employ an executive director and other staff personnel;
 21 (11) adopt rules and regulations;
 22 (12) initiate complaints, except that no person who initiates a
 23 complaint may participate as a member of the agency in the
 24 hearing or disposition of the complaint; and
 25 (13) conduct programs and activities to carry out the public policy
 26 of the state, as provided in section 2 of this chapter, within the
 27 territorial boundaries of a local agency.
 28 **A political subdivision, including a local agency, may not impose an**
 29 **infraction, a fine, or a civil penalty other than an infraction, a fine,**
 30 **or a civil penalty specifically authorized by statute for a violation**
 31 **of this article or IC 22-9.5.**
 32 (d) Any person who files a complaint with any local agency may not
 33 also file a complaint with the civil rights commission concerning any
 34 of the matters alleged in such complaint, and any person who files a
 35 complaint with the civil rights commission may not also file a
 36 complaint with any local agency concerning any of the matters alleged
 37 in such complaint. Any complaint filed with the commission may be
 38 transferred by the commission to any local agency having jurisdiction.
 39 The local agency shall proceed to act on the complaint as if it had been
 40 originally filed with the local agency as of the date that the complaint
 41 was filed with the commission. Any complaint filed with a local agency
 42 may be transferred by the local agency to the commission if the



1 commission has jurisdiction. The commission shall proceed to act on
 2 the complaint as if it had been originally filed with the commission as
 3 of the date that the complaint was filed with the local agency. Nothing
 4 in this subsection shall affect such person's right to pursue any and all
 5 other rights and remedies available in any other state or federal forum.

6 (e) A decision of the local agency may be appealed under the terms
 7 of IC 4-21.5 the same as if it was a decision of a state agency.

8 **(f) The ordinance establishing a local agency and each local**
 9 **agency must establish policies and procedures to:**

10 **(1) protect employers, labor organizations, employment**
 11 **agencies, property owners, real estate brokers, builders,**
 12 **lending institutions, and other persons from unfounded**
 13 **charges of discrimination; and**

14 **(2) enforce sections 1.2(f), 10(b), and 19 of this chapter to**
 15 **protect the rights of individuals to religious belief and**
 16 **conscience.**

17 SECTION 11. IC 22-9-1-19 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 19 UPON PASSAGE]: **Sec. 19. (a) The state and a political subdivision**
 20 **may not:**

21 **(1) fail or refuse to issue or renew a permit, registration,**
 22 **certificate, or other license that the state or political**
 23 **subdivision is authorized to issue;**

24 **(2) suspend or revoke a permit, registration, certificate, or**
 25 **other license that the state or political subdivision is**
 26 **authorized to issue; or**

27 **(3) otherwise impose a disciplinary action on the holder of a**
 28 **permit, registration, certificate, or other license that the state**
 29 **or political subdivision is authorized to regulate;**

30 **based solely on a person's lawful expression or lawful activity**
 31 **regarding marriage, sexual orientation, or gender identity or the**
 32 **lawful expression or lawful activity of the person's employees,**
 33 **owners, or agents (if any) regarding marriage, sexual orientation,**
 34 **or gender identity.**

35 **(b) The licenses that may not be denied under this section**
 36 **include marriage licenses under IC 31-11 for persons who**
 37 **otherwise qualify in Indiana for a marriage license.**

38 **(c) Lawful expression or lawful activity under this section does**
 39 **not include a violation of this article or IC 22-9.5 that may be the**
 40 **basis under a state statute, rule, or ordinance for denial,**
 41 **suspension, revocation, or other disciplinary action related to a**
 42 **permit, registration, certificate, or other license.**



1 SECTION 12. IC 22-9.5-2-1.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. "Active duty" has the**
 4 **meaning set forth in IC 22-9-9-1.**

5 SECTION 13. IC 22-9.5-2-14 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE UPON PASSAGE]: **Sec. 14. "Veteran" has the**
 8 **meaning set forth in IC 22-9-1-3.**

9 SECTION 14. IC 22-9.5-3-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. This article does
 11 not prohibit a person engaged in the business of furnishing appraisals
 12 of real property from taking into consideration factors other than race,
 13 color, religion, sex, **sexual orientation, gender identity, active duty**
 14 **status, veteran status,** disability, familial status, or national origin.

15 SECTION 15. IC 22-9.5-5-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person
 17 may not refuse to sell or to rent after the making of a bona fide offer,
 18 refuse to negotiate for the sale or rental of, or otherwise make
 19 unavailable or deny a dwelling to any person because of race, color,
 20 religion, sex, **sexual orientation, gender identity, active duty status,**
 21 **veteran status,** familial status, disability, or national origin.

22 (b) A person may not discriminate against any person in the terms,
 23 conditions, or privileges of sale or rental of a dwelling, or in providing
 24 services or facilities in connection with the sale or rental of a dwelling,
 25 because of race, color, religion, sex, **sexual orientation, gender**
 26 **identity, active duty status, veteran status,** familial status, disability,
 27 or national origin.

28 (c) This section does not prohibit discrimination against a person
 29 because the person has been convicted under federal law or the law of
 30 any state of the illegal manufacture or distribution of a controlled
 31 substance.

32 SECTION 16. IC 22-9.5-5-2 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person may
 34 not make, print, or publish or cause to be made, printed, or published
 35 any notice, statement, or advertisement with respect to the sale or rental
 36 of a dwelling that indicates any preference, limitation, or discrimination
 37 based on race, color, religion, sex, **sexual orientation, gender**
 38 **identity, active duty status, veteran status,** disability, familial status,
 39 or national origin, or an intention to make such a preference, limitation,
 40 or discrimination.

41 SECTION 17. IC 22-9.5-5-3 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person may



1 not represent to any person because of race, color, religion, sex, **sexual**
 2 **orientation, gender identity, active duty status, veteran status,**
 3 disability, familial status, or national origin that a dwelling is not
 4 available for inspection for sale or rental when the dwelling is available
 5 for inspection.

6 SECTION 18. IC 22-9.5-5-4 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A person may
 8 not, for profit, induce or attempt to induce a person to sell or rent a
 9 dwelling by representations regarding the entry or prospective entry
 10 into a neighborhood of a person of a particular race, color, religion, sex,
 11 **sexual orientation, gender identity, active duty status, veteran**
 12 **status,** disability, familial status, or national origin.

13 SECTION 19. IC 22-9.5-5-6 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in
 15 this section, "residential real estate related transaction" means the
 16 following:

17 (1) Making or purchasing loans or providing other financial
 18 assistance:

19 (A) to purchase, construct, improve, repair, or maintain a
 20 dwelling; or

21 (B) to secure residential real estate.

22 (2) Selling, brokering, or appraising residential real property.

23 (b) A person whose business includes engaging in residential real
 24 estate related transactions may not discriminate against a person in
 25 making a real estate related transaction available or in the terms or
 26 conditions of a real estate related transaction because of race, color,
 27 religion, sex, **sexual orientation, gender identity, active duty status,**
 28 **veteran status,** disability, familial status, or national origin.

29 SECTION 20. IC 22-9.5-5-7 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A person may
 31 not deny any person access to, or membership or participation in, a
 32 multiple listing service, real estate brokers' organization or other
 33 service, organization, or facility relating to the business of selling or
 34 renting dwellings, or discriminate against a person in the terms or
 35 conditions of access, membership, or participation in such an
 36 organization, service, or facility because of race, color, religion, sex,
 37 **sexual orientation, gender identity, active duty status, veteran**
 38 **status,** disability, familial status, or national origin.

39 SECTION 21. IC 22-9.5-8.1-2 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. In an action filed
 41 under section 1 of this chapter, the court may do the following:

42 (1) Award preventive relief, including a permanent or temporary



1 injunction, restraining order, or other order against the person
 2 responsible for a violation of this article as necessary to assure the
 3 full enjoyment of the rights granted by this article.
 4 (2) Award other appropriate relief, including monetary damages,
 5 reasonable attorney's fees, and court costs. **However, monetary**
 6 **damages may not exceed actual damages for losses related to**
 7 **the violation under this article.**
 8 (3) To vindicate the public interest, assess a civil penalty against
 9 the respondent in an amount that does not exceed the following:
 10 (A) Fifty thousand dollars (\$50,000) for a first violation.
 11 (B) One hundred thousand dollars (\$100,000) for a second or
 12 subsequent violation.
 13 SECTION 22. IC 22-9.5-10-1 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person
 15 commits a Class A misdemeanor if the person, whether or not acting
 16 under color of law, by force or threat of force intentionally intimidates
 17 or interferes with or attempts to intimidate or interfere with a person:
 18 (1) because of the person's race, color, religion, sex, **sexual**
 19 **orientation, gender identity, active duty status, veteran status,**
 20 disability, familial status, or national origin and because the
 21 person is or has been selling, purchasing, renting, financing,
 22 occupying, or contracting or negotiating for the sale, purchase,
 23 rental, financing, or occupation of any dwelling, or applying for
 24 or participating in a service, organization, or facility relating to
 25 the business of selling or renting dwellings; or
 26 (2) because the person is or has been, or to intimidate the person
 27 from:
 28 (A) participating, without discrimination because of race,
 29 color, religion, sex, **sexual orientation, gender identity,**
 30 **active duty status, veteran status,** disability, familial status,
 31 or national origin, in an activity, a service, an organization, or
 32 a facility described in subdivision (1);
 33 (B) affording another person opportunity or protection to
 34 participate in an activity, a service, an organization, or a
 35 facility described in subdivision (1); or
 36 (C) lawfully aiding or encouraging other persons to participate,
 37 without discrimination because of race, color, religion, sex,
 38 **sexual orientation, gender identity, active duty status,**
 39 **veteran status,** disability, familial status, or national origin, in
 40 an activity, a service, an organization, or a facility described in
 41 subdivision (1).
 42 SECTION 23. **An emergency is declared for this act.**

