

**As Reported by the House Economic Development, Commerce, and Labor
Committee**

132nd General Assembly

**Regular Session
2017-2018**

Sub. H. B. No. 2

Representative Seitz

A BILL

To amend sections 2315.18, 2315.21, 4112.01, 1
4112.02, 4112.04, 4112.05, 4112.08, 4112.14, and 2
4112.99; to amend, for the purpose of adopting 3
new section numbers as indicated in parentheses, 4
sections 4112.051 (4112.055) and 4112.052 5
(4112.056); and to enact new sections 4112.051 6
and 4112.052 and section 4112.054 of the Revised 7
Code to modify Ohio civil rights laws related to 8
employment. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2315.18, 2315.21, 4112.01, 10
4112.02, 4112.04, 4112.05, 4112.08, 4112.14, and 4112.99 be 11
amended; sections 4112.051 (4112.055) and 4112.052 (4112.056) be 12
amended for the purpose of adopting new section numbers as 13
indicated in parentheses; and new sections 4112.051 and 4112.052 14
and section 4112.054 of the Revised Code be enacted to read as 15
follows: 16

Sec. 2315.18. (A) As used in this section and in section 17
2315.19 of the Revised Code: 18

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| (1) "Asbestos claim" has the same meaning as in section | 19 |
| 2307.91 of the Revised Code. | 20 |
| (2) "Economic loss" means any of the following types of | 21 |
| pecuniary harm: | 22 |
| (a) All wages, salaries, or other compensation lost as a | 23 |
| result of an injury or loss to person or property that is a | 24 |
| subject of a tort action; | 25 |
| (b) All expenditures for medical care or treatment, | 26 |
| rehabilitation services, or other care, treatment, services, | 27 |
| products, or accommodations as a result of an injury or loss to | 28 |
| person or property that is a subject of a tort action; | 29 |
| (c) Any other expenditures incurred as a result of an | 30 |
| injury or loss to person or property that is a subject of a tort | 31 |
| action, other than attorney's fees incurred in connection with | 32 |
| that action. | 33 |
| (3) "Medical claim," "dental claim," "optometric claim," | 34 |
| and "chiropractic claim" have the same meanings as in section | 35 |
| 2305.113 of the Revised Code. | 36 |
| (4) "Noneconomic loss" means nonpecuniary harm that | 37 |
| results from an injury or loss to person or property that is a | 38 |
| subject of a tort action, including, but not limited to, pain | 39 |
| and suffering, loss of society, consortium, companionship, care, | 40 |
| assistance, attention, protection, advice, guidance, counsel, | 41 |
| instruction, training, or education, disfigurement, mental | 42 |
| anguish, and any other intangible loss. | 43 |
| (5) "Occurrence" means all claims resulting from or | 44 |
| arising out of any one person's bodily injury. | 45 |
| (6) "Product liability claim" has the same meaning as in | 46 |

section 2307.71 of the Revised Code. 47

(7) "Tort action" means a civil action for damages for 48
injury or loss to person or property. "Tort action" includes a 49
civil action upon a product liability claim or an asbestos 50
claim, a civil action based on an unlawful discriminatory 51
practice relating to employment brought under section 4112.052 52
of the Revised Code, and a civil action brought under section 53
4112.14 of the Revised Code. "Tort action" does not include a 54
civil action upon a medical claim, dental claim, optometric 55
claim, or chiropractic claim or a civil action for damages for a 56
breach of contract or another agreement between persons. 57

(8) "Trier of fact" means the jury or, in a nonjury 58
action, the court. 59

(B) In a tort action to recover damages for injury or loss 60
to person or property, all of the following apply: 61

(1) There shall not be any limitation on the amount of 62
compensatory damages that represents the economic loss of the 63
person who is awarded the damages in the tort action. 64

(2) Except as otherwise provided in division (B)(3) of 65
this section, the amount of compensatory damages that represents 66
damages for noneconomic loss that is recoverable in a tort 67
action under this section to recover damages for injury or loss 68
to person or property shall not exceed the greater of two 69
hundred fifty thousand dollars or an amount that is equal to 70
three times the economic loss, as determined by the trier of 71
fact, of the plaintiff in that tort action to a maximum of three 72
hundred fifty thousand dollars for each plaintiff in that tort 73
action or a maximum of five hundred thousand dollars for each 74
occurrence that is the basis of that tort action. 75

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| (3) There shall not be any limitation on the amount of | 76 |
| compensatory damages that represents damages for noneconomic | 77 |
| loss that is recoverable in a tort action to recover damages for | 78 |
| injury or loss to person or property if the noneconomic losses | 79 |
| of the plaintiff are for either of the following: | 80 |
| (a) Permanent and substantial physical deformity, loss of | 81 |
| use of a limb, or loss of a bodily organ system; | 82 |
| (b) Permanent physical functional injury that permanently | 83 |
| prevents the injured person from being able to independently | 84 |
| care for self and perform life-sustaining activities. | 85 |
| (C) In determining an award of compensatory damages for | 86 |
| noneconomic loss in a tort action, the trier of fact shall not | 87 |
| consider any of the following: | 88 |
| (1) Evidence of a defendant's alleged wrongdoing, | 89 |
| misconduct, or guilt; | 90 |
| (2) Evidence of the defendant's wealth or financial | 91 |
| resources; | 92 |
| (3) All other evidence that is offered for the purpose of | 93 |
| punishing the defendant, rather than offered for a compensatory | 94 |
| purpose. | 95 |
| (D) If a trial is conducted in a tort action to recover | 96 |
| damages for injury or loss to person or property and a plaintiff | 97 |
| prevails in that action, the court in a nonjury trial shall make | 98 |
| findings of fact, and the jury in a jury trial shall return a | 99 |
| general verdict accompanied by answers to interrogatories, that | 100 |
| shall specify all of the following: | 101 |
| (1) The total compensatory damages recoverable by the | 102 |
| plaintiff; | 103 |

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| (2) The portion of the total compensatory damages that | 104 |
| represents damages for economic loss; | 105 |
| (3) The portion of the total compensatory damages that | 106 |
| represents damages for noneconomic loss. | 107 |
| (E) (1) After the trier of fact in a tort action to recover | 108 |
| damages for injury or loss to person or property complies with | 109 |
| division (D) of this section, the court shall enter a judgment | 110 |
| in favor of the plaintiff for compensatory damages for economic | 111 |
| loss in the amount determined pursuant to division (D) (2) of | 112 |
| this section, and, subject to division (F) (1) of this section, | 113 |
| the court shall enter a judgment in favor of the plaintiff for | 114 |
| compensatory damages for noneconomic loss. Except as provided in | 115 |
| division (B) (3) of this section, in no event shall a judgment | 116 |
| for compensatory damages for noneconomic loss exceed the maximum | 117 |
| recoverable amount that represents damages for noneconomic loss | 118 |
| as provided in division (B) (2) of this section. Division (B) of | 119 |
| this section shall be applied in a jury trial only after the | 120 |
| jury has made its factual findings and determination as to the | 121 |
| damages. | 122 |
| (2) Prior to the trial in the tort action described in | 123 |
| division (D) of this section, any party may seek summary | 124 |
| judgment with respect to the nature of the alleged injury or | 125 |
| loss to person or property, seeking a determination of the | 126 |
| damages as described in division (B) (2) of this section. | 127 |
| (F) (1) A court of common pleas has no jurisdiction to | 128 |
| enter judgment on an award of compensatory damages for | 129 |
| noneconomic loss in excess of the limits set forth in this | 130 |
| section. | 131 |
| (2) If the trier of fact is a jury, the court shall not | 132 |

instruct the jury with respect to the limit on compensatory 133
damages for noneconomic loss described in division (B) (2) of 134
this section, and neither counsel for any party nor a witness 135
shall inform the jury or potential jurors of that limit. 136

(G) With respect to a tort action to which division (B) (2) 137
of this section applies, any excess amount of compensatory 138
damages for noneconomic loss that is greater than the applicable 139
amount specified in division (B) (2) of this section shall not be 140
reallocated to any other tortfeasor beyond the amount of 141
compensatory damages that the tortfeasor would otherwise be 142
responsible for under the laws of this state. 143

(H) This section does not apply to any of the following: 144

(1) Tort actions that are brought against the state in the 145
court of claims, including, but not limited to, those actions in 146
which a state university or college is a defendant and to which 147
division (B) (3) of section 3345.40 of the Revised Code applies; 148

(2) Tort actions that are brought against political 149
subdivisions of this state and that are commenced under or are 150
subject to Chapter 2744. of the Revised Code. Division (C) of 151
section 2744.05 of the Revised Code applies to recoverable 152
damages in those actions. 153

(3) Wrongful death actions brought pursuant to Chapter 154
2125. of the Revised Code. 155

(I) If the provisions regarding the limits on compensatory 156
damages for noneconomic loss set forth in division (B) (2) of 157
this section have been determined to be unconstitutional, then 158
division (C) of this section and section 2315.19 of the Revised 159
Code shall govern the determination of an award of compensatory 160
damages for noneconomic loss in a tort action. 161

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| Sec. 2315.21. (A) As used in this section: | 162 |
| (1) "Tort action" means a civil action for damages for injury or loss to person or property. | 163 164 |
| <u>(a) "Tort action" includes a all of the following:</u> | 165 |
| <u>(i) A product liability claim for damages for injury or loss to person or property that is subject to sections 2307.71 to 2307.80 of the Revised Code, but;</u> | 166 167 168 |
| <u>(ii) A civil action based on an unlawful discriminatory practice relating to employment brought under section 4112.052 of the Revised Code;</u> | 169 170 171 |
| <u>(iii) A civil action brought under section 4112.14 of the Revised Code.</u> | 172 173 |
| <u>(b) "Tort action" does not include a civil action for damages for a breach of contract or another agreement between persons.</u> | 174 175 176 |
| (2) "Trier of fact" means the jury or, in a nonjury action, the court. | 177 178 |
| (3) "Home" has the same meaning as in section 3721.10 of the Revised Code. | 179 180 |
| (4) "Employer" includes, but is not limited to, a parent, subsidiary, affiliate, division, or department of the employer. If the employer is an individual, the individual shall be considered an employer under this section only if the subject of the tort action is related to the individual's capacity as an employer. | 181 182 183 184 185 186 |
| (5) "Small employer" means an employer who employs not more than one hundred persons on a full-time permanent basis, | 187 188 |

or, if the employer is classified as being in the manufacturing 189
sector by the North American industrial classification system, 190
"small employer" means an employer who employs not more than 191
five hundred persons on a full-time permanent basis. 192

(B) (1) In a tort action that is tried to a jury and in 193
which a plaintiff makes a claim for compensatory damages and a 194
claim for punitive or exemplary damages, upon the motion of any 195
party, the trial of the tort action shall be bifurcated as 196
follows: 197

(a) The initial stage of the trial shall relate only to 198
the presentation of evidence, and a determination by the jury, 199
with respect to whether the plaintiff is entitled to recover 200
compensatory damages for the injury or loss to person or 201
property from the defendant. During this stage, no party to the 202
tort action shall present, and the court shall not permit a 203
party to present, evidence that relates solely to the issue of 204
whether the plaintiff is entitled to recover punitive or 205
exemplary damages for the injury or loss to person or property 206
from the defendant. 207

(b) If the jury determines in the initial stage of the 208
trial that the plaintiff is entitled to recover compensatory 209
damages for the injury or loss to person or property from the 210
defendant, evidence may be presented in the second stage of the 211
trial, and a determination by that jury shall be made, with 212
respect to whether the plaintiff additionally is entitled to 213
recover punitive or exemplary damages for the injury or loss to 214
person or property from the defendant. 215

(2) In a tort action that is tried to a jury and in which 216
a plaintiff makes a claim for both compensatory damages and 217
punitive or exemplary damages, the court shall instruct the jury 218

to return, and the jury shall return, a general verdict and, if 219
that verdict is in favor of the plaintiff, answers to an 220
interrogatory that specifies the total compensatory damages 221
recoverable by the plaintiff from each defendant. 222

(3) In a tort action that is tried to a court and in which 223
a plaintiff makes a claim for both compensatory damages and 224
punitive or exemplary damages, the court shall make its 225
determination with respect to whether the plaintiff is entitled 226
to recover compensatory damages for the injury or loss to person 227
or property from the defendant and, if that determination is in 228
favor of the plaintiff, shall make findings of fact that specify 229
the total compensatory damages recoverable by the plaintiff from 230
the defendant. 231

(C) Subject to division (E) of this section, punitive or 232
exemplary damages are not recoverable from a defendant in 233
question in a tort action unless both of the following apply: 234

(1) The actions or omissions of that defendant demonstrate 235
malice or aggravated or egregious fraud, or that defendant as 236
principal or master knowingly authorized, participated in, or 237
ratified actions or omissions of an agent or servant that so 238
demonstrate. 239

(2) The trier of fact has returned a verdict or has made a 240
determination pursuant to division (B) (2) or (3) of this section 241
of the total compensatory damages recoverable by the plaintiff 242
from that defendant. 243

(D) (1) In a tort action, the trier of fact shall determine 244
the liability of any defendant for punitive or exemplary damages 245
and the amount of those damages. 246

(2) Except as provided in division (D) (6) of this section, 247

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| all of the following apply regarding any award of punitive or | 248 |
| exemplary damages in a tort action: | 249 |
| (a) The court shall not enter judgment for punitive or | 250 |
| exemplary damages in excess of two times the amount of the | 251 |
| compensatory damages awarded to the plaintiff from that | 252 |
| defendant, as determined pursuant to division (B) (2) or (3) of | 253 |
| this section. | 254 |
| (b) If the defendant is a small employer or individual, | 255 |
| the court shall not enter judgment for punitive or exemplary | 256 |
| damages in excess of the lesser of two times the amount of the | 257 |
| compensatory damages awarded to the plaintiff from the defendant | 258 |
| or ten percent <u>per cent</u> of the employer's or individual's net | 259 |
| worth when the tort was committed up to a maximum of three | 260 |
| hundred fifty thousand dollars, as determined pursuant to | 261 |
| division (B) (2) or (3) of this section. | 262 |
| (c) Any attorneys <u>attorney's</u> fees awarded as a result of a | 263 |
| claim for punitive or exemplary damages shall not be considered | 264 |
| for purposes of determining the cap on punitive damages. | 265 |
| (3) No award of prejudgment interest under division (C) (1) | 266 |
| of section 1343.03 of the Revised Code shall include any | 267 |
| prejudgment interest on punitive or exemplary damages found by | 268 |
| the trier of fact. | 269 |
| (4) In a tort action, the burden of proof shall be upon a | 270 |
| plaintiff in question, by clear and convincing evidence, to | 271 |
| establish that the plaintiff is entitled to recover punitive or | 272 |
| exemplary damages. | 273 |
| (5) (a) In any tort action, except as provided in division | 274 |
| (D) (5) (b) or (6) of this section, punitive or exemplary damages | 275 |
| shall not be awarded against a defendant if that defendant files | 276 |

with the court a certified judgment, judgment entries, or other 277
evidence showing that punitive or exemplary damages have already 278
been awarded and have been collected, in any state or federal 279
court, against that defendant based on the same act or course of 280
conduct that is alleged to have caused the injury or loss to 281
person or property for which the plaintiff seeks compensatory 282
damages and that the aggregate of those previous punitive or 283
exemplary damage awards exceeds the maximum amount of punitive 284
or exemplary damages that may be awarded under division (D) (2) 285
of this section against that defendant in the tort action. 286

(b) Notwithstanding division (D) (5) (a) of this section and 287
except as provided in division (D) (6) of this section, punitive 288
or exemplary damages may be awarded against a defendant in 289
either of the following types of tort actions: 290

(i) In subsequent tort actions involving the same act or 291
course of conduct for which punitive or exemplary damages have 292
already been awarded, if the court determines by clear and 293
convincing evidence that the plaintiff will offer new and 294
substantial evidence of previously undiscovered, additional 295
behavior of a type described in division (C) of this section on 296
the part of that defendant, other than the injury or loss for 297
which the plaintiff seeks compensatory damages. In that case, 298
the court shall make specific findings of fact in the record to 299
support its conclusion. The court shall reduce the amount of any 300
punitive or exemplary damages otherwise awardable pursuant to 301
this section by the sum of the punitive or exemplary damages 302
awards previously rendered against that defendant in any state 303
or federal court. The court shall not inform the jury about the 304
court's determination and action under division (D) (5) (b) (i) of 305
this section. 306

(ii) In subsequent tort actions involving the same act or course of conduct for which punitive or exemplary damages have already been awarded, if the court determines by clear and convincing evidence that the total amount of prior punitive or exemplary damages awards was totally insufficient to punish that defendant's behavior of a type described in division (C) of this section and to deter that defendant and others from similar behavior in the future. In that case, the court shall make specific findings of fact in the record to support its conclusion. The court shall reduce the amount of any punitive or exemplary damages otherwise awardable pursuant to this section by the sum of the punitive or exemplary damages awards previously rendered against that defendant in any state or federal court. The court shall not inform the jury about the court's determination and action under division (D) (5) (b) (ii) of this section.

(6) Division (D) (2) of this section does not apply to a tort action where the alleged injury, death, or loss to person or property resulted from the defendant acting with one or more of the culpable mental states of purposely and knowingly as described in section 2901.22 of the Revised Code and when the defendant has been convicted of or pleaded guilty to a criminal offense that is a felony, that had as an element of the offense one or more of the culpable mental states of purposely and knowingly as described in that section, and that is the basis of the tort action.

(E) This section does not apply to tort actions against the state in the court of claims, including, but not limited to, tort actions against a state university or college that are subject to division (B) (1) of section 3345.40 of the Revised Code, to tort actions against political subdivisions of this

state that are commenced under or are subject to Chapter 2744. 338
of the Revised Code, or to the extent that another section of 339
the Revised Code expressly provides any of the following: 340

(1) Punitive or exemplary damages are recoverable from a 341
defendant in question in a tort action on a basis other than 342
that the actions or omissions of that defendant demonstrate 343
malice or aggravated or egregious fraud or on a basis other than 344
that the defendant in question as principal or master knowingly 345
authorized, participated in, or ratified actions or omissions of 346
an agent or servant that so demonstrate. 347

(2) Punitive or exemplary damages are recoverable from a 348
defendant in question in a tort action irrespective of whether 349
the plaintiff in question has adduced proof of actual damages. 350

(3) The burden of proof upon a plaintiff in question to 351
recover punitive or exemplary damages from a defendant in 352
question in a tort action is one other than clear and convincing 353
evidence. 354

(4) Punitive or exemplary damages are not recoverable from 355
a defendant in question in a tort action. 356

(F) If the trier of fact is a jury, the court shall not 357
instruct the jury with respect to the limits on punitive or 358
exemplary damages pursuant to division (D) of this section, and 359
neither counsel for any party or a witness shall inform the jury 360
or potential jurors of those limits. 361

(G) When determining the amount of an award of punitive or 362
exemplary damages against either a home or a residential 363
facility licensed under section 5123.19 of the Revised Code, the 364
trier of fact shall consider all of the following: 365

(1) The ability of the home or residential facility to pay 366

the award of punitive or exemplary damages based on the home's 367
or residential facility's assets, income, and net worth; 368

(2) Whether the amount of punitive or exemplary damages is 369
sufficient to deter future tortious conduct; 370

(3) The financial ability of the home or residential 371
facility, both currently and in the future, to provide 372
accommodations, personal care services, and skilled nursing 373
care. 374

Sec. 4112.01. (A) As used in this chapter: 375

(1) "Person" includes one or more individuals, 376
partnerships, associations, organizations, corporations, legal 377
representatives, trustees, trustees in bankruptcy, receivers, 378
and other organized groups of persons. "Person" also includes, 379
but is not limited to, any owner, lessor, assignor, builder, 380
manager, broker, salesperson, appraiser, agent, employee, 381
lending institution, and the state and all political 382
subdivisions, authorities, agencies, boards, and commissions of 383
the state. 384

(2) "Employer" ~~includes means~~ the state, any political 385
subdivision of the state, ~~any or a person~~ employing four or more 386
persons within the state, and ~~any person acting directly or~~ 387
~~indirectly in the interest of an employer agent of the state,~~ 388
political subdivision, or person. 389

(3) "Employee" means an individual employed by any 390
employer but does not include any individual employed in the 391
domestic service of any person. 392

(4) "Labor organization" includes any organization that 393
exists, in whole or in part, for the purpose of collective 394
bargaining or of dealing with employers concerning grievances, 395

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| terms or conditions of employment, or other mutual aid or | 396 |
| protection in relation to employment. | 397 |
| (5) "Employment agency" includes any person regularly | 398 |
| undertaking, with or without compensation, to procure | 399 |
| opportunities to work or to procure, recruit, refer, or place | 400 |
| employees. | 401 |
| (6) "Commission" means the Ohio civil rights commission | 402 |
| created by section 4112.03 of the Revised Code. | 403 |
| (7) "Discriminate" includes segregate or separate. | 404 |
| (8) "Unlawful discriminatory practice" means any act | 405 |
| prohibited by section 4112.02, 4112.021, or 4112.022 of the | 406 |
| Revised Code. | 407 |
| (9) "Place of public accommodation" means any inn, | 408 |
| restaurant, eating house, barbershop, public conveyance by air, | 409 |
| land, or water, theater, store, other place for the sale of | 410 |
| merchandise, or any other place of public accommodation or | 411 |
| amusement of which the accommodations, advantages, facilities, | 412 |
| or privileges are available to the public. | 413 |
| (10) "Housing accommodations" includes any building or | 414 |
| structure, or portion of a building or structure, that is used | 415 |
| or occupied or is intended, arranged, or designed to be used or | 416 |
| occupied as the home residence, dwelling, dwelling unit, or | 417 |
| sleeping place of one or more individuals, groups, or families | 418 |
| whether or not living independently of each other; and any | 419 |
| vacant land offered for sale or lease. "Housing accommodations" | 420 |
| also includes any housing accommodations held or offered for | 421 |
| sale or rent by a real estate broker, salesperson, or agent, by | 422 |
| any other person pursuant to authorization of the owner, by the | 423 |
| owner, or by the owner's legal representative. | 424 |

(11) "Restrictive covenant" means any specification 425
limiting the transfer, rental, lease, or other use of any 426
housing accommodations because of race, color, religion, sex, 427
military status, familial status, national origin, disability, 428
or ancestry, or any limitation based upon affiliation with or 429
approval by any person, directly or indirectly, employing race, 430
color, religion, sex, military status, familial status, national 431
origin, disability, or ancestry as a condition of affiliation or 432
approval. 433

(12) "Burial lot" means any lot for the burial of deceased 434
persons within any public burial ground or cemetery, including, 435
but not limited to, cemeteries owned and operated by municipal 436
corporations, townships, or companies or associations 437
incorporated for cemetery purposes. 438

(13) "Disability" means a physical or mental impairment 439
that substantially limits one or more major life activities, 440
including the functions of caring for one's self, performing 441
manual tasks, walking, seeing, hearing, speaking, breathing, 442
learning, and working; a record of a physical or mental 443
impairment; or being regarded as having a physical or mental 444
impairment. 445

(14) Except as otherwise provided in section 4112.021 of 446
the Revised Code, "age" means ~~at least an individual aged forty~~ 447
~~years old or older.~~ 448

(15) "Familial status" means either of the following: 449

(a) One or more individuals who are under eighteen years 450
of age and who are domiciled with a parent or guardian having 451
legal custody of the individual or domiciled, with the written 452
permission of the parent or guardian having legal custody, with 453

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| a designee of the parent or guardian; | 454 |
| (b) Any person who is pregnant or in the process of | 455 |
| securing legal custody of any individual who is under eighteen | 456 |
| years of age. | 457 |
| (16) (a) Except as provided in division (A) (16) (b) of this | 458 |
| section, "physical or mental impairment" includes any of the | 459 |
| following: | 460 |
| (i) Any physiological disorder or condition, cosmetic | 461 |
| disfigurement, or anatomical loss affecting one or more of the | 462 |
| following body systems: neurological; musculoskeletal; special | 463 |
| sense organs; respiratory, including speech organs; | 464 |
| cardiovascular; reproductive; digestive; genito-urinary; hemic | 465 |
| and lymphatic; skin; and endocrine; | 466 |
| (ii) Any mental or psychological disorder, including, but | 467 |
| not limited to, intellectual disability, organic brain syndrome, | 468 |
| emotional or mental illness, and specific learning disabilities; | 469 |
| (iii) Diseases and conditions, including, but not limited | 470 |
| to, orthopedic, visual, speech, and hearing impairments, | 471 |
| cerebral palsy, autism, epilepsy, muscular dystrophy, multiple | 472 |
| sclerosis, cancer, heart disease, diabetes, human | 473 |
| immunodeficiency virus infection, intellectual disability, | 474 |
| emotional illness, drug addiction, and alcoholism. | 475 |
| (b) "Physical or mental impairment" does not include any | 476 |
| of the following: | 477 |
| (i) Homosexuality and bisexuality; | 478 |
| (ii) Transvestism, transsexualism, pedophilia, | 479 |
| exhibitionism, voyeurism, gender identity disorders not | 480 |
| resulting from physical impairments, or other sexual behavior | 481 |

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| disorders; | 482 |
| (iii) Compulsive gambling, kleptomania, or pyromania; | 483 |
| (iv) Psychoactive substance use disorders resulting from | 484 |
| the current illegal use of a controlled substance or the current | 485 |
| use of alcoholic beverages. | 486 |
| (17) "Dwelling unit" means a single unit of residence for | 487 |
| a family of one or more persons. | 488 |
| (18) "Common use areas" means rooms, spaces, or elements | 489 |
| inside or outside a building that are made available for the use | 490 |
| of residents of the building or their guests, and includes, but | 491 |
| is not limited to, hallways, lounges, lobbies, laundry rooms, | 492 |
| refuse rooms, mail rooms, recreational areas, and passageways | 493 |
| among and between buildings. | 494 |
| (19) "Public use areas" means interior or exterior rooms | 495 |
| or spaces of a privately or publicly owned building that are | 496 |
| made available to the general public. | 497 |
| (20) "Controlled substance" has the same meaning as in | 498 |
| section 3719.01 of the Revised Code. | 499 |
| (21) "Disabled tenant" means a tenant or prospective | 500 |
| tenant who is a person with a disability. | 501 |
| (22) "Military status" means a person's status in "service | 502 |
| in the uniformed services" as defined in section 5923.05 of the | 503 |
| Revised Code. | 504 |
| (23) "Aggrieved person" includes both of the following: | 505 |
| (a) Any person who claims to have been injured by any | 506 |
| unlawful discriminatory practice described in division (H) of | 507 |
| section 4112.02 of the Revised Code; | 508 |

(b) Any person who believes that the person will be 509
injured by any unlawful discriminatory practice described in 510
division (H) of section 4112.02 of the Revised Code that is 511
about to occur. 512

(24) "Unlawful discriminatory practice relating to 513
employment" means both of the following: 514

(a) An unlawful discriminatory practice that is prohibited 515
by division (A), (B), (C), (D), (E), or (F) of section 4112.02 516
of the Revised Code; 517

(b) An unlawful discriminatory practice that is prohibited 518
by division (I) or (J) of section 4112.02 of the Revised Code 519
that is related to employment. 520

(25) "Notice of right to sue" means a notice sent by the 521
commission to a person who files a charge under section 4112.051 522
of the Revised Code that states that the person who filed the 523
charge may bring a civil action related to the charge pursuant 524
to section 4112.052 or 4112.14 of the Revised Code, in 525
accordance with section 4112.052 of the Revised Code. 526

(B) For the purposes of divisions (A) to (F) of section 527
4112.02 of the Revised Code, the terms "because of sex" and "on 528
the basis of sex" include, but are not limited to, because of or 529
on the basis of pregnancy, any illness arising out of and 530
occurring during the course of a pregnancy, childbirth, or 531
related medical conditions. Women affected by pregnancy, 532
childbirth, or related medical conditions shall be treated the 533
same for all employment-related purposes, including receipt of 534
benefits under fringe benefit programs, as other persons not so 535
affected but similar in their ability or inability to work, and 536
nothing in division (B) of section 4111.17 of the Revised Code 537

shall be interpreted to permit otherwise. This division shall 538
not be construed to require an employer to pay for health 539
insurance benefits for abortion, except where the life of the 540
mother would be endangered if the fetus were carried to term or 541
except where medical complications have arisen from the 542
abortion, provided that nothing in this division precludes an 543
employer from providing abortion benefits or otherwise affects 544
bargaining agreements in regard to abortion. 545

Sec. 4112.02. It shall be an unlawful discriminatory 546
practice: 547

(A) For any employer, because of the race, color, 548
religion, sex, military status, national origin, disability, 549
age, or ancestry of any person, to discharge without just cause, 550
to refuse to hire, or otherwise to discriminate against that 551
person with respect to hire, tenure, terms, conditions, or 552
privileges of employment, or any matter directly or indirectly 553
related to employment. 554

(B) For an employment agency or personnel placement 555
service, because of race, color, religion, sex, military status, 556
national origin, disability, age, or ancestry, to do any of the 557
following: 558

(1) Refuse or fail to accept, register, classify properly, 559
or refer for employment, or otherwise discriminate against any 560
person; 561

(2) Comply with a request from an employer for referral of 562
applicants for employment if the request directly or indirectly 563
indicates that the employer fails to comply with the provisions 564
of sections 4112.01 to 4112.07 of the Revised Code. 565

(C) For any labor organization to do any of the following: 566

| | |
|--|-----|
| (1) Limit or classify its membership on the basis of race, | 567 |
| color, religion, sex, military status, national origin, | 568 |
| disability, age, or ancestry; | 569 |
| (2) Discriminate against, limit the employment | 570 |
| opportunities of, or otherwise adversely affect the employment | 571 |
| status, wages, hours, or employment conditions of any person as | 572 |
| an employee because of race, color, religion, sex, military | 573 |
| status, national origin, disability, age, or ancestry. | 574 |
| (D) For any employer, labor organization, or joint labor- | 575 |
| management committee controlling apprentice training programs to | 576 |
| discriminate against any person because of race, color, | 577 |
| religion, sex, military status, national origin, disability, or | 578 |
| ancestry in admission to, or employment in, any program | 579 |
| established to provide apprentice training. | 580 |
| (E) Except where based on a bona fide occupational | 581 |
| qualification certified in advance by the commission, for any | 582 |
| employer, employment agency, personnel placement service, or | 583 |
| labor organization, prior to employment or admission to | 584 |
| membership, to do any of the following: | 585 |
| (1) Elicit or attempt to elicit any information concerning | 586 |
| the race, color, religion, sex, military status, national | 587 |
| origin, disability, age, or ancestry of an applicant for | 588 |
| employment or membership; | 589 |
| (2) Make or keep a record of the race, color, religion, | 590 |
| sex, military status, national origin, disability, age, or | 591 |
| ancestry of any applicant for employment or membership; | 592 |
| (3) Use any form of application for employment, or | 593 |
| personnel or membership blank, seeking to elicit information | 594 |
| regarding race, color, religion, sex, military status, national | 595 |

origin, disability, age, or ancestry; but an employer holding a 596
contract containing a nondiscrimination clause with the 597
government of the United States, or any department or agency of 598
that government, may require an employee or applicant for 599
employment to furnish documentary proof of United States 600
citizenship and may retain that proof in the employer's 601
personnel records and may use photographic or fingerprint 602
identification for security purposes; 603

(4) Print or publish or cause to be printed or published 604
any notice or advertisement relating to employment or membership 605
indicating any preference, limitation, specification, or 606
discrimination, based upon race, color, religion, sex, military 607
status, national origin, disability, age, or ancestry; 608

(5) Announce or follow a policy of denying or limiting, 609
through a quota system or otherwise, employment or membership 610
opportunities of any group because of the race, color, religion, 611
sex, military status, national origin, disability, age, or 612
ancestry of that group; 613

(6) Utilize in the recruitment or hiring of persons any 614
employment agency, personnel placement service, training school 615
or center, labor organization, or any other employee-referring 616
source known to discriminate against persons because of their 617
race, color, religion, sex, military status, national origin, 618
disability, age, or ancestry. 619

(F) For any person seeking employment to publish or cause 620
to be published any advertisement that specifies or in any 621
manner indicates that person's race, color, religion, sex, 622
military status, national origin, disability, age, or ancestry, 623
or expresses a limitation or preference as to the race, color, 624
religion, sex, military status, national origin, disability, 625

age, or ancestry of any prospective employer. 626

(G) For any proprietor or any employee, keeper, or manager 627
of a place of public accommodation to deny to any person, except 628
for reasons applicable alike to all persons regardless of race, 629
color, religion, sex, military status, national origin, 630
disability, age, or ancestry, the full enjoyment of the 631
accommodations, advantages, facilities, or privileges of the 632
place of public accommodation. 633

(H) Subject to section 4112.024 of the Revised Code, for 634
any person to do any of the following: 635

(1) Refuse to sell, transfer, assign, rent, lease, 636
sublease, or finance housing accommodations, refuse to negotiate 637
for the sale or rental of housing accommodations, or otherwise 638
deny or make unavailable housing accommodations because of race, 639
color, religion, sex, military status, familial status, 640
ancestry, disability, or national origin; 641

(2) Represent to any person that housing accommodations 642
are not available for inspection, sale, or rental, when in fact 643
they are available, because of race, color, religion, sex, 644
military status, familial status, ancestry, disability, or 645
national origin; 646

(3) Discriminate against any person in the making or 647
purchasing of loans or the provision of other financial 648
assistance for the acquisition, construction, rehabilitation, 649
repair, or maintenance of housing accommodations, or any person 650
in the making or purchasing of loans or the provision of other 651
financial assistance that is secured by residential real estate, 652
because of race, color, religion, sex, military status, familial 653
status, ancestry, disability, or national origin or because of 654

the racial composition of the neighborhood in which the housing accommodations are located, provided that the person, whether an individual, corporation, or association of any type, lends money as one of the principal aspects or incident to the person's principal business and not only as a part of the purchase price of an owner-occupied residence the person is selling nor merely casually or occasionally to a relative or friend;

(4) Discriminate against any person in the terms or conditions of selling, transferring, assigning, renting, leasing, or subleasing any housing accommodations or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(5) Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of housing accommodations because of race, color, religion, sex, military status, familial status, ancestry, disability, or national origin or because of the racial composition of the neighborhood in which the housing accommodations are located;

(6) Refuse to consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit to a married couple or either member of a married couple;

(7) Print, publish, or circulate any statement or

advertisement, or make or cause to be made any statement or 685
advertisement, relating to the sale, transfer, assignment, 686
rental, lease, sublease, or acquisition of any housing 687
accommodations, or relating to the loan of money, whether or not 688
secured by mortgage or otherwise, for the acquisition, 689
construction, rehabilitation, repair, or maintenance of housing 690
accommodations, that indicates any preference, limitation, 691
specification, or discrimination based upon race, color, 692
religion, sex, military status, familial status, ancestry, 693
disability, or national origin, or an intention to make any such 694
preference, limitation, specification, or discrimination; 695

(8) Except as otherwise provided in division (H) (8) or 696
(17) of this section, make any inquiry, elicit any information, 697
make or keep any record, or use any form of application 698
containing questions or entries concerning race, color, 699
religion, sex, military status, familial status, ancestry, 700
disability, or national origin in connection with the sale or 701
lease of any housing accommodations or the loan of any money, 702
whether or not secured by mortgage or otherwise, for the 703
acquisition, construction, rehabilitation, repair, or 704
maintenance of housing accommodations. Any person may make 705
inquiries, and make and keep records, concerning race, color, 706
religion, sex, military status, familial status, ancestry, 707
disability, or national origin for the purpose of monitoring 708
compliance with this chapter. 709

(9) Include in any transfer, rental, or lease of housing 710
accommodations any restrictive covenant, or honor or exercise, 711
or attempt to honor or exercise, any restrictive covenant; 712

(10) Induce or solicit, or attempt to induce or solicit, a 713
housing accommodations listing, sale, or transaction by 714

representing that a change has occurred or may occur with 715
respect to the racial, religious, sexual, military status, 716
familial status, or ethnic composition of the block, 717
neighborhood, or other area in which the housing accommodations 718
are located, or induce or solicit, or attempt to induce or 719
solicit, a housing accommodations listing, sale, or transaction 720
by representing that the presence or anticipated presence of 721
persons of any race, color, religion, sex, military status, 722
familial status, ancestry, disability, or national origin, in 723
the block, neighborhood, or other area will or may have results 724
including, but not limited to, the following: 725

(a) The lowering of property values; 726

(b) A change in the racial, religious, sexual, military 727
status, familial status, or ethnic composition of the block, 728
neighborhood, or other area; 729

(c) An increase in criminal or antisocial behavior in the 730
block, neighborhood, or other area; 731

(d) A decline in the quality of the schools serving the 732
block, neighborhood, or other area. 733

(11) Deny any person access to or membership or 734
participation in any multiple-listing service, real estate 735
brokers' organization, or other service, organization, or 736
facility relating to the business of selling or renting housing 737
accommodations, or discriminate against any person in the terms 738
or conditions of that access, membership, or participation, on 739
account of race, color, religion, sex, military status, familial 740
status, national origin, disability, or ancestry; 741

(12) Coerce, intimidate, threaten, or interfere with any 742
person in the exercise or enjoyment of, or on account of that 743

person's having exercised or enjoyed or having aided or 744
encouraged any other person in the exercise or enjoyment of, any 745
right granted or protected by division (H) of this section; 746

(13) Discourage or attempt to discourage the purchase by a 747
prospective purchaser of housing accommodations, by representing 748
that any block, neighborhood, or other area has undergone or 749
might undergo a change with respect to its religious, racial, 750
sexual, military status, familial status, or ethnic composition; 751

(14) Refuse to sell, transfer, assign, rent, lease, 752
sublease, or finance, or otherwise deny or withhold, a burial 753
lot from any person because of the race, color, sex, military 754
status, familial status, age, ancestry, disability, or national 755
origin of any prospective owner or user of the lot; 756

(15) Discriminate in the sale or rental of, or otherwise 757
make unavailable or deny, housing accommodations to any buyer or 758
renter because of a disability of any of the following: 759

(a) The buyer or renter; 760

(b) A person residing in or intending to reside in the 761
housing accommodations after they are sold, rented, or made 762
available; 763

(c) Any individual associated with the person described in 764
division (H) (15) (b) of this section. 765

(16) Discriminate in the terms, conditions, or privileges 766
of the sale or rental of housing accommodations to any person or 767
in the provision of services or facilities to any person in 768
connection with the housing accommodations because of a 769
disability of any of the following: 770

(a) That person; 771

| | |
|---|---|
| (b) A person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available; | 772 773 774 |
| (c) Any individual associated with the person described in division (H) (16) (b) of this section. | 775 776 |
| (17) Except as otherwise provided in division (H) (17) of this section, make an inquiry to determine whether an applicant for the sale or rental of housing accommodations, a person residing in or intending to reside in the housing accommodations after they are sold, rented, or made available, or any individual associated with that person has a disability, or make an inquiry to determine the nature or severity of a disability of the applicant or such a person or individual. The following inquiries may be made of all applicants for the sale or rental of housing accommodations, regardless of whether they have disabilities: | 777 778 779 780 781 782 783 784 785 786 787 |
| (a) An inquiry into an applicant's ability to meet the requirements of ownership or tenancy; | 788 789 |
| (b) An inquiry to determine whether an applicant is qualified for housing accommodations available only to persons with disabilities or persons with a particular type of disability; | 790 791 792 793 |
| (c) An inquiry to determine whether an applicant is qualified for a priority available to persons with disabilities or persons with a particular type of disability; | 794 795 796 |
| (d) An inquiry to determine whether an applicant currently uses a controlled substance in violation of section 2925.11 of the Revised Code or a substantively comparable municipal ordinance; | 797 798 799 800 |

(e) An inquiry to determine whether an applicant at any 801
time has been convicted of or pleaded guilty to any offense, an 802
element of which is the illegal sale, offer to sell, 803
cultivation, manufacture, other production, shipment, 804
transportation, delivery, or other distribution of a controlled 805
substance. 806

(18) (a) Refuse to permit, at the expense of a person with 807
a disability, reasonable modifications of existing housing 808
accommodations that are occupied or to be occupied by the person 809
with a disability, if the modifications may be necessary to 810
afford the person with a disability full enjoyment of the 811
housing accommodations. This division does not preclude a 812
landlord of housing accommodations that are rented or to be 813
rented to a disabled tenant from conditioning permission for a 814
proposed modification upon the disabled tenant's doing one or 815
more of the following: 816

(i) Providing a reasonable description of the proposed 817
modification and reasonable assurances that the proposed 818
modification will be made in a workerlike manner and that any 819
required building permits will be obtained prior to the 820
commencement of the proposed modification; 821

(ii) Agreeing to restore at the end of the tenancy the 822
interior of the housing accommodations to the condition they 823
were in prior to the proposed modification, but subject to 824
reasonable wear and tear during the period of occupancy, if it 825
is reasonable for the landlord to condition permission for the 826
proposed modification upon the agreement; 827

(iii) Paying into an interest-bearing escrow account that 828
is in the landlord's name, over a reasonable period of time, a 829
reasonable amount of money not to exceed the projected costs at 830

the end of the tenancy of the restoration of the interior of the 831
housing accommodations to the condition they were in prior to 832
the proposed modification, but subject to reasonable wear and 833
tear during the period of occupancy, if the landlord finds the 834
account reasonably necessary to ensure the availability of funds 835
for the restoration work. The interest earned in connection with 836
an escrow account described in this division shall accrue to the 837
benefit of the disabled tenant who makes payments into the 838
account. 839

(b) A landlord shall not condition permission for a 840
proposed modification upon a disabled tenant's payment of a 841
security deposit that exceeds the customarily required security 842
deposit of all tenants of the particular housing accommodations. 843

(19) Refuse to make reasonable accommodations in rules, 844
policies, practices, or services when necessary to afford a 845
person with a disability equal opportunity to use and enjoy a 846
dwelling unit, including associated public and common use areas; 847

(20) Fail to comply with the standards and rules adopted 848
under division (A) of section 3781.111 of the Revised Code; 849

(21) Discriminate against any person in the selling, 850
brokering, or appraising of real property because of race, 851
color, religion, sex, military status, familial status, 852
ancestry, disability, or national origin; 853

(22) Fail to design and construct covered multifamily 854
dwellings for first occupancy on or after June 30, 1992, in 855
accordance with the following conditions: 856

(a) The dwellings shall have at least one building 857
entrance on an accessible route, unless it is impractical to do 858
so because of the terrain or unusual characteristics of the 859

site. 860

(b) With respect to dwellings that have a building 861
entrance on an accessible route, all of the following apply: 862

(i) The public use areas and common use areas of the 863
dwellings shall be readily accessible to and usable by persons 864
with a disability. 865

(ii) All the doors designed to allow passage into and 866
within all premises shall be sufficiently wide to allow passage 867
by persons with a disability who are in wheelchairs. 868

(iii) All premises within covered multifamily dwelling 869
units shall contain an accessible route into and through the 870
dwelling; all light switches, electrical outlets, thermostats, 871
and other environmental controls within such units shall be in 872
accessible locations; the bathroom walls within such units shall 873
contain reinforcements to allow later installation of grab bars; 874
and the kitchens and bathrooms within such units shall be 875
designed and constructed in a manner that enables an individual 876
in a wheelchair to maneuver about such rooms. 877

For purposes of division (H) (22) of this section, "covered 878
multifamily dwellings" means buildings consisting of four or 879
more units if such buildings have one or more elevators and 880
ground floor units in other buildings consisting of four or more 881
units. 882

(I) For any person to discriminate in any manner against 883
any other person because that person has opposed any unlawful 884
discriminatory practice defined in this section or because that 885
person has made a charge, testified, assisted, or participated 886
in any manner in any investigation, proceeding, or hearing under 887
sections 4112.01 to 4112.07 of the Revised Code. 888

(J) For any person to aid, abet, incite, compel, or coerce 889
the doing of any act declared by this section to be an unlawful 890
discriminatory practice, to obstruct or prevent any person from 891
complying with this chapter or any order issued under it, or to 892
attempt directly or indirectly to commit any act declared by 893
this section to be an unlawful discriminatory practice. 894

(K) Nothing in divisions (A) to (E) of this section shall 895
be construed to require a person with a disability to be 896
employed or trained under circumstances that would significantly 897
increase the occupational hazards affecting either the person 898
with a disability, other employees, the general public, or the 899
facilities in which the work is to be performed, or to require 900
the employment or training of a person with a disability in a 901
job that requires the person with a disability routinely to 902
undertake any task, the performance of which is substantially 903
and inherently impaired by the person's disability. 904

~~(L) An aggrieved individual may enforce the individual's 905
rights relative to discrimination on the basis of age as 906
provided for in this section by instituting a civil action, 907
within one hundred eighty days after the alleged unlawful 908
discriminatory practice occurred, in any court with jurisdiction 909
for any legal or equitable relief that will effectuate the 910
individual's rights. 911~~

~~A person who files a civil action under this division is 912
barred, with respect to the practices complained of, from 913
instituting a civil action under section 4112.14 of the Revised 914
Code and from filing a charge with the commission under section 915
4112.05 of the Revised Code. 916~~

~~(M) With regard to age, it shall not be an unlawful 917
discriminatory practice and it shall not constitute a violation 918~~

of division (A) of section 4112.14 of the Revised Code for any 919
employer, employment agency, joint labor-management committee 920
controlling apprenticeship training programs, or labor 921
organization to do any of the following: 922

(1) Establish bona fide employment qualifications 923
reasonably related to the particular business or occupation that 924
may include standards for skill, aptitude, physical capability, 925
intelligence, education, maturation, and experience; 926

(2) Observe the terms of a bona fide seniority system or 927
any bona fide employee benefit plan, including, but not limited 928
to, a retirement, pension, or insurance plan, that is not a 929
subterfuge to evade the purposes of this section. However, no 930
such employee benefit plan shall excuse the failure to hire any 931
individual, and no such seniority system or employee benefit 932
plan shall require or permit the involuntary retirement of any 933
individual, because of the individual's age except as provided 934
for in the "Age Discrimination in Employment Act Amendment of 935
1978," 92 Stat. 189, 29 U.S.C.A. 623, as amended by the "Age 936
Discrimination in Employment Act Amendments of 1986," 100 Stat. 937
3342, 29 U.S.C.A. 623, as amended. 938

(3) Retire an employee who has attained sixty-five years 939
of age who, for the two-year period immediately before 940
retirement, is employed in a bona fide executive or a high 941
policymaking position, if the employee is entitled to an 942
immediate nonforfeitable annual retirement benefit from a 943
pension, profit-sharing, savings, or deferred compensation plan, 944
or any combination of those plans, of the employer of the 945
employee, which equals, in the aggregate, at least forty-four 946
thousand dollars, in accordance with the conditions of the "Age 947
Discrimination in Employment Act Amendment of 1978," 92 Stat. 948

189, 29 U.S.C.A. 631, as amended by the "Age Discrimination in 949
Employment Act Amendments of 1986," 100 Stat. 3342, 29 U.S.C.A. 950
631, as amended; 951

(4) Observe the terms of any bona fide apprenticeship 952
program if the program is registered with the Ohio 953
apprenticeship council pursuant to sections 4139.01 to 4139.06 954
of the Revised Code and is approved by the federal committee on 955
apprenticeship of the United States department of labor. 956

~~(N)~~ (M) Nothing in this chapter prohibiting age 957
discrimination and nothing in division (A) of section 4112.14 of 958
the Revised Code shall be construed to prohibit the following: 959

(1) The designation of uniform age the attainment of which 960
is necessary for public employees to receive pension or other 961
retirement benefits pursuant to Chapter 145., 742., 3307., 962
3309., or 5505. of the Revised Code; 963

(2) The mandatory retirement of uniformed patrol officers 964
of the state highway patrol as provided in section 5505.16 of 965
the Revised Code; 966

(3) The maximum age requirements for appointment as a 967
patrol officer in the state highway patrol established by 968
section 5503.01 of the Revised Code; 969

(4) The maximum age requirements established for original 970
appointment to a police department or fire department in 971
sections 124.41 and 124.42 of the Revised Code; 972

(5) Any maximum age not in conflict with federal law that 973
may be established by a municipal charter, municipal ordinance, 974
or resolution of a board of township trustees for original 975
appointment as a police officer or firefighter; 976

| | |
|--|------|
| (6) Any mandatory retirement provision not in conflict | 977 |
| with federal law of a municipal charter, municipal ordinance, or | 978 |
| resolution of a board of township trustees pertaining to police | 979 |
| officers and firefighters; | 980 |
| (7) Until January 1, 1994, the mandatory retirement of any | 981 |
| employee who has attained seventy years of age and who is | 982 |
| serving under a contract of unlimited tenure, or similar | 983 |
| arrangement providing for unlimited tenure, at an institution of | 984 |
| higher education as defined in the "Education Amendments of | 985 |
| 1980," 94 Stat. 1503, 20 U.S.C.A. 1141(a). | 986 |
| (N) (1) (a) Except as provided in division (N) (1) (b) | 987 |
| of this section, for purposes of divisions (A) to (E) of this | 988 |
| section, a disability does not include any physiological | 989 |
| disorder or condition, mental or psychological disorder, or | 990 |
| disease or condition caused by an illegal use of any controlled | 991 |
| substance by an employee, applicant, or other person, if an | 992 |
| employer, employment agency, personnel placement service, labor | 993 |
| organization, or joint labor-management committee acts on the | 994 |
| basis of that illegal use. | 995 |
| (b) Division (N) (1) (a) of this section does not apply | 996 |
| to an employee, applicant, or other person who satisfies any of | 997 |
| the following: | 998 |
| (i) The employee, applicant, or other person has | 999 |
| successfully completed a supervised drug rehabilitation program | 1000 |
| and no longer is engaging in the illegal use of any controlled | 1001 |
| substance, or the employee, applicant, or other person otherwise | 1002 |
| successfully has been rehabilitated and no longer is engaging in | 1003 |
| that illegal use. | 1004 |
| (ii) The employee, applicant, or other person is | 1005 |

participating in a supervised drug rehabilitation program and no 1006
longer is engaging in the illegal use of any controlled 1007
substance. 1008

(iii) The employee, applicant, or other person is 1009
erroneously regarded as engaging in the illegal use of any 1010
controlled substance, but the employee, applicant, or other 1011
person is not engaging in that illegal use. 1012

(2) Divisions (A) to (E) of this section do not prohibit 1013
an employer, employment agency, personnel placement service, 1014
labor organization, or joint labor-management committee from 1015
doing any of the following: 1016

(a) Adopting or administering reasonable policies or 1017
procedures, including, but not limited to, testing for the 1018
illegal use of any controlled substance, that are designed to 1019
ensure that an individual described in division ~~(O)~~ (N) (1) (b) (i) 1020
or (ii) of this section no longer is engaging in the illegal use 1021
of any controlled substance; 1022

(b) Prohibiting the illegal use of controlled substances 1023
and the use of alcohol at the workplace by all employees; 1024

(c) Requiring that employees not be under the influence of 1025
alcohol or not be engaged in the illegal use of any controlled 1026
substance at the workplace; 1027

(d) Requiring that employees behave in conformance with 1028
the requirements established under "The Drug-Free Workplace Act 1029
of 1988," 102 Stat. 4304, 41 U.S.C.A. 701, as amended; 1030

(e) Holding an employee who engages in the illegal use of 1031
any controlled substance or who is an alcoholic to the same 1032
qualification standards for employment or job performance, and 1033
the same behavior, to which the employer, employment agency, 1034

personnel placement service, labor organization, or joint labor- 1035
management committee holds other employees, even if any 1036
unsatisfactory performance or behavior is related to an 1037
employee's illegal use of a controlled substance or alcoholism; 1038

(f) Exercising other authority recognized in the 1039
"Americans with Disabilities Act of 1990," 104 Stat. 327, 42 1040
U.S.C.A. 12101, as amended, including, but not limited to, 1041
requiring employees to comply with any applicable federal 1042
standards. 1043

(3) For purposes of this chapter, a test to determine the 1044
illegal use of any controlled substance does not include a 1045
medical examination. 1046

(4) Division ~~(O)~~ (N) of this section does not encourage, 1047
prohibit, or authorize, and shall not be construed as 1048
encouraging, prohibiting, or authorizing, the conduct of testing 1049
for the illegal use of any controlled substance by employees, 1050
applicants, or other persons, or the making of employment 1051
decisions based on the results of that type of testing. 1052

~~(P)~~ (O) This section does not apply to a religious 1053
corporation, association, educational institution, or society 1054
with respect to the employment of an individual of a particular 1055
religion to perform work connected with the carrying on by that 1056
religious corporation, association, educational institution, or 1057
society of its activities. 1058

The unlawful discriminatory practices defined in this 1059
section do not make it unlawful for a person or an appointing 1060
authority administering an examination under section 124.23 of 1061
the Revised Code to obtain information about an applicant's 1062
military status for the purpose of determining if the applicant 1063

is eligible for the additional credit that is available under 1064
that section. 1065

Sec. 4112.04. (A) The commission shall do all of the 1066
following: 1067

(1) Establish and maintain a principal office in the city 1068
of Columbus and any other offices within the state that it 1069
considers necessary; 1070

(2) Appoint an executive director who shall serve at the 1071
pleasure of the commission and be its principal administrative 1072
officer. The executive director shall be paid a salary fixed 1073
pursuant to Chapter 124. of the Revised Code. 1074

(3) Appoint hearing examiners and other employees and 1075
agents who it considers necessary and prescribe their duties 1076
subject to Chapter 124. of the Revised Code; 1077

(4) Adopt, promulgate, amend, and rescind rules to 1078
effectuate the provisions of this chapter and the policies and 1079
practice of the commission in connection with this chapter; 1080

(5) Formulate policies to effectuate the purposes of this 1081
chapter and make recommendations to agencies and officers of the 1082
state or political subdivisions to effectuate the policies; 1083

(6) Receive, investigate, and pass upon written charges 1084
made under oath of unlawful discriminatory practices; 1085

(7) Make periodic surveys of the existence and effect of 1086
discrimination because of race, color, religion, sex, military 1087
status, familial status, national origin, disability, age, or 1088
ancestry on the enjoyment of civil rights by persons within the 1089
state; 1090

(8) Report, from time to time, but not less than once a 1091

year, to the general assembly and the governor, describing in 1092
detail the investigations, proceedings, and hearings it has 1093
conducted and their outcome, the decisions it has rendered, and 1094
the other work performed by it, which report shall include a 1095
copy of any surveys prepared pursuant to division (A) (7) of this 1096
section and shall include the recommendations of the commission 1097
as to legislative or other remedial action; 1098

(9) Prepare a comprehensive educational program, in 1099
cooperation with the department of education, for the students 1100
of the public schools of this state and for all other residents 1101
of this state that is designed to eliminate prejudice on the 1102
basis of race, color, religion, sex, military status, familial 1103
status, national origin, disability, age, or ancestry in this 1104
state, to further good will among those groups, and to emphasize 1105
the origin of prejudice against those groups, its harmful 1106
effects, and its incompatibility with American principles of 1107
equality and fair play; 1108

(10) Receive progress reports from agencies, 1109
instrumentalities, institutions, boards, commissions, and other 1110
entities of this state or any of its political subdivisions and 1111
their agencies, instrumentalities, institutions, boards, 1112
commissions, and other entities regarding affirmative action 1113
programs for the employment of persons against whom 1114
discrimination is prohibited by this chapter, or regarding any 1115
affirmative housing accommodations programs developed to 1116
eliminate or reduce an imbalance of race, color, religion, sex, 1117
military status, familial status, national origin, disability, 1118
or ancestry. All agencies, instrumentalities, institutions, 1119
boards, commissions, and other entities of this state or its 1120
political subdivisions, and all political subdivisions, that 1121
have undertaken affirmative action programs pursuant to a 1122

conciliation agreement with the commission, an executive order 1123
of the governor, any federal statute or rule, or an executive 1124
order of the president of the United States shall file progress 1125
reports with the commission annually on or before the first day 1126
of November. The commission shall analyze and evaluate the 1127
progress reports and report its findings annually to the general 1128
assembly on or before the thirtieth day of January of the year 1129
immediately following the receipt of the reports. 1130

(11) Notify a person who files a charge pursuant to 1131
section 4112.051 of the Revised Code that under division (A) of 1132
section 4112.052 of the Revised Code, the person is prohibited 1133
from bringing a civil action under this chapter unless one of 1134
the following applies: 1135

(a) The conditions stated in division (B)(1) of section 1136
4112.052 of the Revised Code are satisfied; 1137

(b) An exception specified in division (B)(2) of section 1138
4112.052 of the Revised Code applies. 1139

(B) The commission may do any of the following: 1140

(1) Meet and function at any place within the state; 1141

(2) Initiate and undertake on its own motion 1142
investigations of problems of employment or housing 1143
accommodations discrimination; 1144

(3) Hold hearings, subpoena witnesses, compel their 1145
attendance, administer oaths, take the testimony of any person 1146
under oath, require the production for examination of any books 1147
and papers relating to any matter under investigation or in 1148
question before the commission, and make rules as to the 1149
issuance of subpoenas by individual commissioners. 1150

(a) In conducting a hearing or investigation, the 1151
commission shall have access at all reasonable times to 1152
premises, records, documents, individuals, and other evidence or 1153
possible sources of evidence and may examine, record, and copy 1154
the premises, records, documents, and other evidence or possible 1155
sources of evidence and take and record the testimony or 1156
statements of the individuals as reasonably necessary for the 1157
furtherance of the hearing or investigation. In investigations, 1158
the commission shall comply with the fourth amendment to the 1159
United States Constitution relating to unreasonable searches and 1160
seizures. The commission or a member of the commission may issue 1161
subpoenas to compel access to or the production of premises, 1162
records, documents, and other evidence or possible sources of 1163
evidence or the appearance of individuals, and may issue 1164
interrogatories to a respondent, to the same extent and subject 1165
to the same limitations as would apply if the subpoenas or 1166
interrogatories were issued or served in aid of a civil action 1167
in a court of common pleas. 1168

(b) Upon written application by a party to a hearing under 1169
division (B) of section 4112.05 or division (G) of section 1170
4112.051 of the Revised Code, the commission shall issue 1171
subpoenas in its name to the same extent and subject to the same 1172
limitations as subpoenas issued by the commission. Subpoenas 1173
issued at the request of a party shall show on their face the 1174
name and address of the party and shall state that they were 1175
issued at the party's request. 1176

(c) Witnesses summoned by subpoena of the commission are 1177
entitled to the witness and mileage fees provided for under 1178
section 119.094 of the Revised Code. 1179

(d) Within five days after service of a subpoena upon any 1180

person, the person may petition the commission to revoke or 1181
modify the subpoena. The commission shall grant the petition if 1182
it finds that the subpoena requires an appearance or attendance 1183
at an unreasonable time or place, that it requires production of 1184
evidence that does not relate to any matter before the 1185
commission, that it does not describe with sufficient 1186
particularity the evidence to be produced, that compliance would 1187
be unduly onerous, or for other good reason. 1188

(e) In case of contumacy or refusal to obey a subpoena, 1189
the commission or person at whose request it was issued may 1190
petition for its enforcement in the court of common pleas in the 1191
county in which the person to whom the subpoena was addressed 1192
resides, was served, or transacts business. 1193

(4) Create local or statewide advisory agencies and 1194
conciliation councils to aid in effectuating the purposes of 1195
this chapter. The commission may itself, or it may empower these 1196
agencies and councils to, do either or both of the following: 1197

(a) Study the problems of discrimination in all or 1198
specific fields of human relationships when based on race, 1199
color, religion, sex, military status, familial status, national 1200
origin, disability, age, or ancestry; 1201

(b) Foster through community effort, or otherwise, good 1202
will among the groups and elements of the population of the 1203
state. 1204

The agencies and councils may make recommendations to the 1205
commission for the development of policies and procedures in 1206
general. They shall be composed of representative citizens who 1207
shall serve without pay, except that reimbursement for actual 1208
and necessary traveling expenses shall be made to citizens who 1209

serve on a statewide agency or council. 1210

(5) Issue any publications and the results of 1211
investigations and research that in its judgment will tend to 1212
promote good will and minimize or eliminate discrimination 1213
because of race, color, religion, sex, military status, familial 1214
status, national origin, disability, age, or ancestry. 1215

Sec. 4112.05. (A) (1) ~~The~~ With the exception of unlawful 1216
discriminatory practices relating to employment, the commission, 1217
as provided in this section, shall prevent any person from 1218
engaging in unlawful discriminatory practices. 1219

(2) The commission may at any time attempt to resolve 1220
allegations of unlawful discriminatory practices other than 1221
allegations concerning unlawful discriminatory practices 1222
relating to employment by the use of alternative dispute 1223
resolution, provided that, before instituting the formal hearing 1224
authorized by division (B) of this section, it shall attempt, by 1225
informal methods of conference, conciliation, and persuasion, to 1226
induce compliance with this chapter. 1227

(B) (1) Any person may file a charge with the commission 1228
alleging that another person has engaged or is engaging in an 1229
unlawful discriminatory practice. In the case of a charge 1230
alleging an unlawful discriminatory practice that is not an 1231
unlawful discriminatory practice relating to employment and that 1232
is described in division (A), (B), (C), (D), (E), (F), (G), (I), 1233
or (J) of section 4112.02 or in section 4112.021 or 4112.022 of 1234
the Revised Code, the charge shall be in writing and under oath 1235
and shall be filed with the commission within six months after 1236
the alleged unlawful discriminatory practice was committed. In 1237
the case of a charge alleging an unlawful discriminatory 1238
practice described in division (H) of section 4112.02 of the 1239

Revised Code, the charge shall be in writing and under oath and 1240
shall be filed with the commission within one year after the 1241
alleged unlawful discriminatory practice was committed. 1242

(a) An oath under this ~~chapter~~section may be made in any 1243
form of affirmation the person deems binding on the person's 1244
conscience. Acceptable forms include, but are not limited to, 1245
declarations made under penalty of perjury. 1246

(b) Any charge timely received, via facsimile, postal 1247
mail, electronic mail, or otherwise, may be signed under oath 1248
after the limitations period for filing set forth under division 1249
(B) (1) of this section and will relate back to the original 1250
filing date. 1251

(2) Upon receiving a charge other than a charge concerning 1252
unlawful discriminatory practices relating to employment, the 1253
commission may initiate a preliminary investigation to determine 1254
whether it is probable that an unlawful discriminatory practice 1255
has been or is being engaged in. The commission also may 1256
conduct, upon its own initiative and independent of the filing 1257
of any charges, a preliminary investigation relating to any of 1258
the unlawful discriminatory practices that are not unlawful 1259
discriminatory practices relating to employment and that are 1260
described in division ~~(A), (B), (C), (D), (E), (F), (I),~~ or (J) 1261
of section 4112.02 or in section 4112.021 or 4112.022 of the 1262
Revised Code. Prior to a notification of a complainant under 1263
division (B) (4) of this section or prior to the commencement of 1264
informal methods of conference, conciliation, and persuasion, or 1265
alternative dispute resolution, under that division, the members 1266
of the commission and the officers and employees of the 1267
commission shall not make public in any manner and shall retain 1268
as confidential all information that was obtained as a result of 1269

or that otherwise pertains to a preliminary investigation other 1270
than one described in division (B) (3) of this section. 1271

(3) (a) Unless it is impracticable to do so and subject to 1272
its authority under division (B) (3) (d) of this section, the 1273
commission shall complete a preliminary investigation of a 1274
charge filed pursuant to division (B) (1) of this section that 1275
alleges an unlawful discriminatory practice described in 1276
division (H) of section 4112.02 of the Revised Code, and shall 1277
take one of the following actions, within one hundred days after 1278
the filing of the charge: 1279

(i) Notify the complainant and the respondent that it is 1280
not probable that an unlawful discriminatory practice described 1281
in division (H) of section 4112.02 of the Revised Code has been 1282
or is being engaged in and that the commission will not issue a 1283
complaint in the matter; 1284

(ii) Initiate a complaint and schedule it for informal 1285
methods of conference, conciliation, and persuasion, or 1286
alternative dispute resolution; 1287

(iii) Initiate a complaint and refer it to the attorney 1288
general with a recommendation to seek a temporary or permanent 1289
injunction or a temporary restraining order. If this action is 1290
taken, the attorney general shall apply, as expeditiously as 1291
possible after receipt of the complaint, to the court of common 1292
pleas of the county in which the unlawful discriminatory 1293
practice allegedly occurred for the appropriate injunction or 1294
order, and the court shall hear and determine the application as 1295
expeditiously as possible. 1296

(b) If it is not practicable to comply with the 1297
requirements of division (B) (3) (a) of this section within the 1298

one-hundred-day period described in that division, the 1299
commission shall notify the complainant and the respondent in 1300
writing of the reasons for the noncompliance. 1301

(c) Prior to the issuance of a complaint under division 1302
(B) (3) (a) (ii) or (iii) of this section or prior to a 1303
notification of the complainant and the respondent under 1304
division (B) (3) (a) (i) of this section, the members of the 1305
commission and the officers and employees of the commission 1306
shall not make public in any manner and shall retain as 1307
confidential all information that was obtained as a result of or 1308
that otherwise pertains to a preliminary investigation of a 1309
charge filed pursuant to division (B) (1) of this section that 1310
alleges an unlawful discriminatory practice described in 1311
division (H) of section 4112.02 of the Revised Code. 1312

(d) Notwithstanding the types of action described in 1313
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 1314
issuance of a complaint or the referral of a complaint to the 1315
attorney general and prior to endeavoring to eliminate an 1316
unlawful discriminatory practice described in division (H) of 1317
section 4112.02 of the Revised Code by informal methods of 1318
conference, conciliation, and persuasion, or by alternative 1319
dispute resolution, the commission may seek a temporary or 1320
permanent injunction or a temporary restraining order in the 1321
court of common pleas of the county in which the unlawful 1322
discriminatory practice allegedly occurred. 1323

(4) If the commission determines after a preliminary 1324
investigation other than one concerning an alleged unlawful 1325
discriminatory practice relating to employment or one described 1326
in division (B) (3) of this section that it is not probable that 1327
an unlawful discriminatory practice has been or is being engaged 1328

in, it shall notify any complainant under division (B)(1) of 1329
this section that it has so determined and that it will not 1330
issue a complaint in the matter. If the commission determines 1331
after a preliminary investigation other than the one concerning 1332
an alleged unlawful discriminatory practice relating to 1333
employment or one described in division (B)(3) of this section 1334
that it is probable that an unlawful discriminatory practice has 1335
been or is being engaged in, it shall endeavor to eliminate the 1336
practice by informal methods of conference, conciliation, and 1337
persuasion, or by alternative dispute resolution. 1338

(5) Nothing said or done during informal methods of 1339
conference, conciliation, and persuasion, or during alternative 1340
dispute resolution, under this section shall be disclosed by any 1341
member of the commission or its staff or be used as evidence in 1342
any subsequent hearing or other proceeding. If, after a 1343
preliminary investigation and the use of informal methods of 1344
conference, conciliation, and persuasion, or alternative dispute 1345
resolution, under this section, the commission is satisfied that 1346
any unlawful discriminatory practice will be eliminated, it may 1347
treat the charge involved as being conciliated and enter that 1348
disposition on the records of the commission. If the commission 1349
fails to effect the elimination of an unlawful discriminatory 1350
practice by informal methods of conference, conciliation, and 1351
persuasion, or by alternative dispute resolution under this 1352
section and to obtain voluntary compliance with this chapter, 1353
the commission shall issue and cause to be served upon any 1354
person, including the respondent against whom a complainant has 1355
filed a charge pursuant to division (B)(1) of this section, a 1356
complaint stating the charges involved and containing a notice 1357
of an opportunity for a hearing before the commission, a member 1358
of the commission, or a hearing examiner at a place that is 1359

stated in the notice and that is located within the county in 1360
which the alleged unlawful discriminatory practice has occurred 1361
or is occurring or in which the respondent resides or transacts 1362
business. The hearing shall be held not less than thirty days 1363
after the service of the complaint upon the complainant, the 1364
aggrieved persons other than the complainant on whose behalf the 1365
complaint is issued, and the respondent, unless the complainant, 1366
an aggrieved person, or the respondent elects to proceed under 1367
division (A) (2) of section ~~4112.051~~4112.055 of the Revised Code 1368
when that division is applicable. If a complaint pertains to an 1369
alleged unlawful discriminatory practice described in division 1370
(H) of section 4112.02 of the Revised Code, the complaint shall 1371
notify the complainant, an aggrieved person, and the respondent 1372
of the right of the complainant, an aggrieved person, or the 1373
respondent to elect to proceed with the administrative hearing 1374
process under this section or to proceed under division (A) (2) 1375
of section ~~4112.051~~4112.055 of the Revised Code. 1376

(6) The attorney general shall represent the commission at 1377
any hearing held pursuant to division (B) (5) of this section and 1378
shall present the evidence in support of the complaint. 1379

(7) Any complaint issued pursuant to division (B) (5) of 1380
this section after the filing of a charge under division (B) (1) 1381
of this section shall be so issued within one year after the 1382
complainant filed the charge with respect to an alleged unlawful 1383
discriminatory practice. 1384

(C) (1) Any complaint issued pursuant to division (B) of 1385
this section may be amended by the commission, a member of the 1386
commission, or the hearing examiner conducting a hearing under 1387
division (B) of this section. 1388

(a) Except as provided in division (C) (1) (b) of this 1389

section, a complaint issued pursuant to division (B) of this 1390
section may be amended at any time prior to or during the 1391
hearing. 1392

(b) If a complaint issued pursuant to division (B) of this 1393
section alleges an unlawful discriminatory practice described in 1394
division (H) of section 4112.02 of the Revised Code, the 1395
complaint may be amended at any time up to seven days prior to 1396
the hearing and not thereafter. 1397

(2) The respondent has the right to file an answer or an 1398
amended answer to the original and amended complaints and to 1399
appear at the hearing in person, by attorney, or otherwise to 1400
examine and cross-examine witnesses. 1401

(D) The complainant shall be a party to a hearing under 1402
division (B) of this section, and any person who is an 1403
indispensable party to a complete determination or settlement of 1404
a question involved in the hearing shall be joined. Any 1405
aggrieved person who has or claims an interest in the subject of 1406
the hearing and in obtaining or preventing relief against the 1407
unlawful discriminatory practices complained of shall be 1408
permitted to appear only for the presentation of oral or written 1409
arguments, to present evidence, perform direct and cross- 1410
examination, and be represented by counsel. The commission shall 1411
adopt rules, in accordance with Chapter 119. of the Revised Code 1412
governing the authority granted under this division. 1413

(E) In any hearing under division (B) of this section, the 1414
commission, a member of the commission, or the hearing examiner 1415
shall not be bound by the Rules of Evidence but, in ascertaining 1416
the practices followed by the respondent, shall take into 1417
account all reliable, probative, and substantial statistical or 1418
other evidence produced at the hearing that may tend to prove 1419

the existence of a predetermined pattern of employment or 1420
membership, provided that nothing contained in this section 1421
shall be construed to authorize or require any person to observe 1422
the proportion that persons of any race, color, religion, sex, 1423
military status, familial status, national origin, disability, 1424
age, or ancestry bear to the total population or in accordance 1425
with any criterion other than the individual qualifications of 1426
the applicant. 1427

(F) The testimony taken at a hearing under division (B) of 1428
this section shall be under oath and shall be reduced to writing 1429
and filed with the commission. Thereafter, in its discretion, 1430
the commission, upon the service of a notice upon the 1431
complainant and the respondent that indicates an opportunity to 1432
be present, may take further testimony or hear argument. 1433

(G) (1) (a) If, upon all reliable, probative, and 1434
substantial evidence presented at a hearing under division (B) 1435
of this section, the commission determines that the respondent 1436
has engaged in, or is engaging in, any unlawful discriminatory 1437
practice, whether against the complainant or others, the 1438
commission shall state its findings of fact and conclusions of 1439
law and shall issue and, subject to the provisions of Chapter 1440
119. of the Revised Code, cause to be served on the respondent 1441
an order requiring the respondent to do all of the following: 1442

~~(1)~~(i) Cease and desist from the unlawful discriminatory 1443
practice; 1444

(ii) Take any further affirmative or other action that 1445
will effectuate the purposes of this chapter, including, but not 1446
limited to, hiring, reinstatement, or upgrading of employees 1447
with or without back pay, or admission or restoration to union 1448
membership; 1449

| | |
|--|------|
| (iii) Report to the commission the manner of compliance. | 1450 |
| If the commission directs payment of back pay, it shall | 1451 |
| make allowance for interim earnings. | 1452 |
| (b) If the commission finds a violation of division (H) of | 1453 |
| section 4112.02 of the Revised Code, in addition to the action | 1454 |
| described in division (G) (1) (a) of this section, the commission | 1455 |
| additionally may require the respondent to undergo | 1456 |
| recommendation <u>remediation</u> in the form of a class, seminar, or | 1457 |
| any other type of remediation approved by the commission, may | 1458 |
| require the responded <u>respondent</u> to pay actual damages and | 1459 |
| reasonable attorney's fees, and may, <u>to</u> vindicate the public | 1460 |
| interest, assess a civil penalty against the respondent as | 1461 |
| follows: | 1462 |
| (i) If division (G) (1) (b) (ii) or (iii) of this section | 1463 |
| does not apply, a civil penalty in an amount not to exceed ten | 1464 |
| thousand dollars; | 1465 |
| (ii) If division (G) (1) (b) (iii) of this section does not | 1466 |
| apply and if the respondent has been determined by a final order | 1467 |
| of the commission or by a final judgment of a court to have | 1468 |
| committed one violation of division (H) of section 4112.02 of | 1469 |
| the Revised Code during the five-year period immediately | 1470 |
| preceding the date on which a complaint was issued pursuant to | 1471 |
| division (B) of this section, a civil penalty in an amount not | 1472 |
| to exceed twenty-five thousand dollars; | 1473 |
| (iii) If the respondent has been determined by a final | 1474 |
| order of the commission or by a final judgment of a court to | 1475 |
| have committed two or more violations of division (H) of section | 1476 |
| 4112.02 of the Revised Code during the seven-year period | 1477 |
| immediately preceding the date on which a complaint was issued | 1478 |

pursuant to division (B) of this section, a civil penalty 1479
damages in an amount not to exceed fifty thousand dollars. 1480

(2) Upon the submission of reports of compliance, the 1481
commission may issue a declaratory order stating that the 1482
respondent has ceased to engage in particular unlawful 1483
discriminatory practices. 1484

(H) If the commission finds that no probable cause exists 1485
for crediting charges of unlawful discriminatory practices or 1486
if, upon all the evidence presented at a hearing under division 1487
(B) of this section on a charge, the commission finds that a 1488
respondent has not engaged in any unlawful discriminatory 1489
practice against the complainant or others, it shall state its 1490
findings of fact and shall issue and cause to be served on the 1491
complainant an order dismissing the complaint as to the 1492
respondent. A copy of the order shall be delivered in all cases 1493
to the attorney general and any other public officers whom the 1494
commission considers proper. 1495

If, upon all the evidence presented at a hearing under 1496
division (B) of this section on a charge, the commission finds 1497
that a respondent has not engaged in any unlawful discriminatory 1498
practice against the complainant or others, it may award to the 1499
respondent reasonable attorney's fees to the extent provided in 1500
5 U.S.C. 504 and accompanying regulations. 1501

(I) Until the time period for appeal set forth in division 1502
(H) of section 4112.06 of the Revised Code expires, the 1503
commission, subject to the provisions of Chapter 119. of the 1504
Revised Code, at any time, upon reasonable notice, and in the 1505
manner it considers proper, may modify or set aside, in whole or 1506
in part, any finding or order made by it under this section. 1507

Sec. 4112.051. (A) As used in this section: 1508

(1) "Complainant" means a person who files a charge under 1509
this section. 1510

(2) "Respondent" means a person who is the subject of a 1511
charge filed under this section. 1512

(B) The Ohio civil rights commission, as provided in this 1513
section, shall prevent any person from engaging in unlawful 1514
discriminatory practices relating to employment. The commission 1515
may at any time attempt to resolve allegations of unlawful 1516
discriminatory practices relating to employment by the use of 1517
alternative dispute resolution, provided that, before 1518
instituting the formal hearing authorized by this section, it 1519
shall attempt, by informal methods of conference, conciliation, 1520
and persuasion, to induce compliance with this chapter. 1521

(C) (1) Any person who believes that a person has been the 1522
subject of an unlawful discriminatory practice relating to 1523
employment may file a charge with the commission alleging either 1524
or both of the following: 1525

(a) That an employer, employment agency, personnel 1526
placement service, or labor organization has engaged or is 1527
engaging in an unlawful discriminatory practice relating to 1528
employment; 1529

(b) That a person has engaged in an unlawful 1530
discriminatory practice relating to employment described in 1531
division (A) (24) (b) of section 4112.01 of the Revised Code. 1532

(2) A charge under this section shall be in writing, under 1533
oath, and shall be filed with the commission within two years 1534
after the alleged unlawful discriminatory practice was 1535
committed. 1536

(3) An oath under this section may be made in any form of 1537
affirmation the person considers binding on the person's 1538
conscience. Acceptable forms include, but are not limited to, 1539
declarations made under penalty of perjury. 1540

(4) Any charge timely received, via facsimile, postal 1541
mail, electronic mail, or otherwise, may be signed under oath 1542
after the limitations period for filing set forth under division 1543
(C) of this section and will relate back to the original filing 1544
date. 1545

(D) (1) Upon receiving a charge under this section, the 1546
commission may initiate a preliminary investigation to determine 1547
whether it is probable that an alleged unlawful discriminatory 1548
practice relating to employment has occurred or is occurring. 1549
The commission also may conduct, on its own initiative and 1550
independent of the filing of any charge, a preliminary 1551
investigation relating to any alleged unlawful discriminatory 1552
practice relating to employment. Before a notification of a 1553
complainant under division (E) of this section or before the 1554
commencement of informal methods of conference, conciliation, 1555
and persuasion, or alternative dispute resolution, under 1556
division (F) of this section, the members of the commission and 1557
the officers and employees of the commission shall not make 1558
public in any manner and shall retain as confidential all 1559
information that was obtained as a result of or that otherwise 1560
pertains to a preliminary investigation. 1561

(2) With respect to a charge filed under division (C) of 1562
this section that alleges an unlawful discriminatory practice 1563
relating to employment, the complainant may request in writing 1564
that the commission cease its preliminary investigation and 1565
issue a notice of right to sue to the complainant. If the 1566

commission ceases its preliminary investigation, it shall issue 1567
a notice of right to sue to the complainant. The complainant is 1568
prohibited from refiling the charge with the commission. 1569

(E) If, after a preliminary investigation, the commission 1570
determines that it is not probable that an unlawful 1571
discriminatory practice relating to employment has occurred or 1572
is occurring, the commission shall notify the complainant of its 1573
determination and that it will not issue a complaint in the 1574
matter. The commission shall include a notice of right to sue in 1575
the notice. 1576

(F) (1) If, after a preliminary investigation, the 1577
commission determines that it is probable that an unlawful 1578
discriminatory practice relating to employment has occurred or 1579
is occurring, the commission shall notify the complainant and 1580
the respondent of its determination and, in the notice the 1581
commission issues to the complainant, inform the complainant 1582
that the complainant may withdraw the charge and file a civil 1583
action under this chapter. If the complainant does not withdraw 1584
the charge, the commission shall endeavor to eliminate the 1585
alleged unlawful discriminatory practice relating to employment 1586
by informal methods of conference, conciliation, and persuasion, 1587
or by alternative dispute resolution. 1588

(2) If, after the use of the informal methods of 1589
conference, conciliation, and persuasion, or alternative dispute 1590
resolution, the commission is satisfied that the unlawful 1591
discriminatory practice in question will be eliminated, the 1592
commission may treat the charge as being conciliated and enter 1593
that disposition on the records of the commission. 1594

(3) Nothing said or done during informal methods of 1595
conference, conciliation, or persuasion, or during alternative 1596

dispute resolution, under this section shall be disclosed by any 1597
member of the commission or its staff or be used as evidence in 1598
any subsequent hearing or other proceeding. 1599

(G) If the commission fails to effect the elimination of 1600
the alleged unlawful discriminatory practice relating to 1601
employment and is unable to obtain voluntary compliance with 1602
this chapter through informal methods of conference, 1603
conciliation, and persuasion, or by alternative dispute 1604
resolution under this section, the commission shall issue and 1605
cause to be served upon any person, including the respondent, a 1606
complaint. 1607

(1) The complaint shall state the charges involved and 1608
shall contain a notice of a hearing before the commission, a 1609
member of the commission, or a hearing examiner, as well as the 1610
hearing's location. Any such hearing shall be held in the county 1611
in which the alleged unlawful discriminatory practice occurred 1612
or is occurring or in which the respondent transacts business, 1613
and shall be held not less than thirty days after service of the 1614
complaint. After issuing a complaint, the commission may do any 1615
of the following: 1616

(a) Upon the request of a complainant that the commission 1617
receives not later than thirty days before the date of the 1618
hearing, dismiss the complaint; 1619

(b) Eliminate the alleged unlawful discriminatory practice 1620
relating to employment by the informal methods described in 1621
division (F) (1) of this section and treat the charge as being 1622
conciliated as provided in division (F) (2) of this section; 1623

(c) Continue with the hearing process as provided in this 1624
section. 1625

(2) The attorney general shall represent the commission at any such hearing and shall present the evidence in support of the complaint. 1626
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(3) Any complaint issued pursuant to this division after the filing of a charge under this section shall be issued within one year after the complainant filed the charge with respect to an alleged unlawful discriminatory practice relating to employment. 1629
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(4) Any such complaint may be amended by the commission, a member of the commission, or the commission's legal counsel at any time prior to the hearing if the respondent is given sufficient and reasonable notice. The respondent shall have the right to file an answer or an amended answer to the original, and any amended, complaints. 1634
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(5) The respondent shall have the right to appear at the hearing in person, by attorney, or otherwise to examine and cross-examine witnesses. 1640
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(6) The complainant shall be a party to a hearing under this section. Any person who is an indispensable party to a complete determination or settlement of the complaint central to the hearing shall be joined. 1643
1644
1645
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(7) For any hearing initiated under this section, the commission, a member of the commission, or a hearing officer is not bound by the Rules of Evidence, but shall take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may prove the existence of a predetermined pattern of employment or membership. 1647
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(8) (a) The testimony provided during a hearing under this section shall be under oath and shall be transcribed in writing 1653
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and filed with the commission. 1655

(b) The commission, at its discretion, may hear further 1656
testimony or argument after the initial hearing if notice, that 1657
indicates an opportunity to be present, is provided to the 1658
complainant and the respondent. 1659

(H) If, after a hearing carried out under division (G) of 1660
this section, the commission determines that the respondent has 1661
engaged in, or is engaging in, any unlawful discriminatory 1662
practice relating to employment, whether against the complainant 1663
or others adversely affected by the allegations in the 1664
complaint, the commission shall state its findings of fact and 1665
conclusions of law and shall issue and cause to be served to the 1666
respondent, subject to the provisions of Chapter 119. of the 1667
Revised Code, an order to cease and desist from the unlawful 1668
discriminatory practice. 1669

(1) The order shall require the respondent to take 1670
affirmative or other action necessary to effectuate the purposes 1671
of this chapter, including hiring, reinstating, or promoting the 1672
complainant or others adversely affected by the unlawful 1673
discriminatory practice and shall require the respondent to 1674
report to the commission the manner of compliance. 1675

(2) (a) The order may require back pay or admission or 1676
restoration to union membership. 1677

(b) If the order requires back pay, the commission shall 1678
take into account earnings collected during the resolution of 1679
the complaint. 1680

(3) Upon receipt of the report of compliance required 1681
under this division, the commission may issue a declaratory 1682
order stating that the respondent has ceased to engage in the 1683

unlawful discriminatory practices that were the subject of the 1684
complaint. 1685

(I) If, after a hearing carried out under division (G) of 1686
this section, the commission finds that a respondent has not 1687
engaged in any unlawful discriminatory practice relating to 1688
employment against the complainant or others, it shall issue an 1689
order stating its findings of fact and dismissing the complaint 1690
to the complainant, respondent, and any other affected party. A 1691
copy of the order shall also be delivered to the attorney 1692
general and any other public officer the commission considers 1693
appropriate. 1694

(J) The commission, subject to Chapter 119. of the Revised 1695
Code, upon reasonable notice to the respondent and claimant and 1696
in the manner it considers proper, may modify or set aside, in 1697
whole or in part, any finding or order made under this section 1698
until the time period for appeal set forth in section 4112.06 of 1699
the Revised Code has passed. 1700

(K) The commission shall adopt rules, in accordance with 1701
Chapter 119. of the Revised Code, to carry out this section. 1702

(L) Nothing in this section requires any person to observe 1703
in hiring the proportion that persons of any race, color, 1704
religion, sex, military status, familial status, national 1705
origin, disability, age, or ancestry bear to the total 1706
population or in accordance with any other criteria than the 1707
qualifications of applicants. 1708

(M) The issuance of a notice of right to sue by the 1709
commission under this section does not prohibit the commission 1710
from offering assistance to the person to whom the notice was 1711
issued. 1712

(N) If a complainant requests a notice of right to sue 1713
under this section less than sixty days after filing a charge 1714
pursuant to division (C) of this section, the commission shall 1715
not grant the request until at least sixty days after the 1716
complainant filed the charge. If a complainant requests a notice 1717
of right to sue under this section sixty or more days after 1718
filing a charge, the commission may immediately grant the 1719
request. 1720

Sec. 4112.052. (A) Subject to division (B) of this 1721
section, and except as provided in division (D) (2) of section 1722
4112.14 of the Revised Code, a person alleging an unlawful 1723
discriminatory practice relating to employment in violation of 1724
section 4112.02 of the Revised Code may bring a civil action in 1725
a court of competent jurisdiction. 1726

(B) (1) Except as otherwise provided in division (B) (2) of 1727
this section, a person may file a civil action under this 1728
section alleging an unlawful discriminatory practice relating to 1729
employment or a violation of division (A) of section 4112.14 of 1730
the Revised Code only if the person satisfies both of the 1731
following conditions: 1732

(a) The person has first filed a charge with the Ohio 1733
civil rights commission under section 4112.051 of the Revised 1734
Code with respect to the practice complained of in the complaint 1735
for the civil action within the time period required under that 1736
section. 1737

(b) One of the following occurs: 1738

(i) The person receives a notice of right to sue from the 1739
Ohio civil rights commission pursuant to section 4112.051 of the 1740
Revised Code. 1741

(ii) The person has requested a notice of right to sue from the Ohio civil rights commission, and the commission fails to issue the notice of right to sue within forty-five days after the date the commission is permitted to grant the request under division (N) of section 4112.051 of the Revised Code. 1742
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(iii) The Ohio civil rights commission, after a preliminary investigation conducted pursuant to a charge filed under section 4112.051 of the Revised Code, determines that it is probable that an unlawful discriminatory practice relating to employment has occurred or is occurring and the complainant, after being informed by the commission of the right to file a civil action under this chapter, elects to file a civil action and notifies the commission of that fact. 1747
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(2) A person may file a civil action under this section alleging an unlawful discriminatory practice relating to employment or a violation of division (A) of section 4112.14 of the Revised Code without satisfying the conditions of division (B)(1) of this section if either of the following apply: 1755
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(a) The person seeks only injunctive relief. 1760

(b) All of the following occur: 1761

(i) The person has filed a charge with the Ohio civil rights commission under section 4112.051 of the Revised Code with respect to the practice complained of in the complaint for the civil action within the time period required under that section. 1762
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(ii) The person has filed a charge with the equal employment opportunity commission or its successor organization with respect to the practice complained of in the complaint for the civil action within the time period required under federal 1767
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law. 1771

(iii) The person has received a notice from the equal 1772
employment opportunity commission or its successor organization 1773
that states that the person may bring a civil action against the 1774
employer and the notice was sent in connection with the charge 1775
filed with the equal employment opportunity commission or its 1776
successor organization. 1777

(3) With respect to an action described in division (B)(2) 1778
(a) of this section, the person may amend the complaint to 1779
include damages, but the amendment will relate back to the 1780
original filing date of the complaint in the action only after 1781
one of the following occurs: 1782

(a) The person receives a notice of right to sue from the 1783
Ohio civil rights commission pursuant to section 4112.051 of the 1784
Revised Code. 1785

(b) The person has requested a notice of right to sue from 1786
the Ohio civil rights commission, and the commission fails to 1787
issue the notice of right to sue within forty-five days after 1788
the date the commission is permitted to grant the request under 1789
division (N) of section 4112.051 of the Revised Code. 1790

(c) The Ohio civil rights commission, after a preliminary 1791
investigation conducted pursuant to a charge filed under section 1792
4112.051 of the Revised Code, determines that it is probable 1793
that an unlawful discriminatory practice relating to employment 1794
has occurred or is occurring and the complainant, after being 1795
informed by the commission of the right to file a civil action 1796
under this chapter, elects to file a civil action and notifies 1797
the commission of that fact. 1798

(4) With respect to an unlawful discriminatory practice 1799

relating to employment described in division (A) (24) (b) of 1800
section 4112.01 of the Revised Code, a charge filed with the 1801
Ohio civil rights commission or the equal employment opportunity 1802
commission satisfies division (B) (1) (a) or divisions (B) (2) (b) 1803
(i) and (ii) of this section if both of the following apply: 1804

(a) The charge is related to the conduct alleged in the 1805
complaint for the civil action; 1806

(b) The charge is filed against the person who committed 1807
the unlawful discriminatory practice, the employer of the person 1808
who committed the unlawful discriminatory practice, or both the 1809
person who committed the unlawful discriminatory practice and 1810
the person's employer. 1811

(C) A civil action brought under this section shall be 1812
filed within two years after the alleged unlawful discriminatory 1813
practice was committed, except that the time period to file a 1814
civil action is tolled for sixty days after the filing of a 1815
charge under section 4112.051 of the Revised Code that is based, 1816
in whole or in part, on the same allegations and practices. 1817

(D) A civil action based on 42 U.S.C. 1981a, 42 U.S.C. 1818
1983, and 42 U.S.C. 1985 shall be brought within two years after 1819
the cause of action accrues. The period of limitations set forth 1820
in this division does not apply to causes of action based on 42 1821
U.S.C. 1981 as amended by the "Civil Rights Act of 1991," Pub. 1822
L. No. 102-166. 1823

(E) The Ohio civil rights commission may intervene in a 1824
civil action if the commission determines that the case is of 1825
public importance. 1826

Sec. 4112.054. (A) As used in this section: 1827

(1) "Tangible employment action" means an action resulting 1828

in a significant change in employment status, such as hiring, 1829
firing, failing to promote, reassignment with significantly 1830
different responsibilities, or a decision causing a significant 1831
change in benefits. 1832

(2) "Hostile work environment sexual harassment claim" 1833
means a charge filed pursuant to section 4112.051 of the Revised 1834
Code or a civil action filed pursuant to section 4112.052 of the 1835
Revised Code that alleges an unlawful discriminatory practice 1836
relating to employment because of sex on the basis of sexually 1837
harassing behavior that did not result in a tangible employment 1838
action. 1839

(B) An employer may raise an affirmative defense to 1840
vicarious liability to an employee resulting from a hostile work 1841
environment sexual harassment claim in which the hostile work 1842
environment was created by a supervisor with immediate or 1843
successively higher authority over the employee, if the employer 1844
proves both of the following by a preponderance of the evidence: 1845

(1) The employer exercised reasonable care to prevent or 1846
promptly correct any sexually harassing behavior. 1847

(2) The employee alleging the hostile work environment 1848
unreasonably failed to take advantage of any preventive or 1849
corrective opportunities provided by the employer or to avoid 1850
harm otherwise. 1851

(C) The affirmative defense set forth in this section is 1852
not available to an employer if the supervisor's harassment 1853
resulted in a tangible employment action against the employee. 1854

Sec. ~~4112.051~~ 4112.055. (A) (1) Aggrieved persons may 1855
enforce the rights granted by division (H) of section 4112.02 of 1856
the Revised Code by filing a civil action in the court of common 1857

pleas of the county in which the alleged unlawful discriminatory 1858
practice occurred within one year after it allegedly occurred. 1859
Upon application by an aggrieved person, upon a proper showing, 1860
and under circumstances that it considers just, a court of 1861
common pleas may appoint an attorney for the aggrieved person 1862
and authorize the commencement of a civil action under this 1863
division without the payment of costs. 1864

Each party to a civil action under this division has the 1865
right to a jury trial of the action. To assert the right, a 1866
party shall demand a jury trial in the manner prescribed in the 1867
Rules of Civil Procedure. If a party demands a jury trial in 1868
that manner, the civil action shall be tried to a jury. 1869

(2) (a) If a complaint is issued by the commission under 1870
division (B) (5) of section 4112.05 of the Revised Code for one 1871
or more alleged unlawful discriminatory practices described in 1872
division (H) of section 4112.02 of the Revised Code, the 1873
complainant, any aggrieved person on whose behalf the complaint 1874
is issued, or the respondent may elect, following receipt of the 1875
relevant notice described in division (B) (5) of section 4112.05 1876
of the Revised Code, to proceed with the administrative hearing 1877
process under that section or to have the alleged unlawful 1878
discriminatory practices covered by the complaint addressed in a 1879
civil action commenced in accordance with divisions (A) (1) and 1880
(2) (b) of this section. An election to have the alleged unlawful 1881
discriminatory practices so addressed shall be made in a writing 1882
that is sent by certified mail, return receipt requested, to the 1883
commission, to the civil rights section of the office of the 1884
attorney general, and to the other parties to the pending 1885
administrative process within thirty days after the electing 1886
complainant, aggrieved person, or respondent received the 1887
relevant notice described in division (B) (5) of section 4112.05 1888

of the Revised Code. 1889

(b) Upon receipt of a timely mailed election to have the 1890
alleged unlawful discriminatory practices addressed in a civil 1891
action, the commission shall authorize the office of the 1892
attorney general to commence and maintain the civil action in 1893
the court of common pleas of the county in which the alleged 1894
unlawful discriminatory practices occurred. Notwithstanding the 1895
period of limitations specified in division (A)(1) of this 1896
section, the office of the attorney general shall commence the 1897
civil action within thirty days after the receipt of the 1898
commission's authorization to commence the civil action. 1899

(c) Upon commencement of the civil action in accordance 1900
with division (A)(2)(b) of this section, the commission shall 1901
prepare an order dismissing the complaint in the pending 1902
administrative matter and serve a copy of the order upon the 1903
complainant, each aggrieved person on whose behalf the complaint 1904
was issued, and the respondent. 1905

(d) If an election to have the alleged unlawful 1906
discriminatory practices addressed in a civil action is not 1907
filed in accordance with division (A)(2)(a) of this section, the 1908
commission shall continue with the administrative hearing 1909
process described in section 4112.05 of the Revised Code. 1910

(e) With respect to the issues to be determined in a civil 1911
action commenced in accordance with division (A)(2)(b) of this 1912
section, any aggrieved person may intervene as a matter of right 1913
in that civil action. 1914

(B) If the court or the jury in a civil action under this 1915
section finds that a violation of division (H) of section 1916
4112.02 of the Revised Code is about to occur, the court may 1917

order any affirmative action it considers appropriate, including 1918
a permanent or temporary injunction or temporary restraining 1919
order. 1920

(C) Any sale, encumbrance, or rental consummated prior to 1921
the issuance of any court order under the authority of this 1922
section and involving a bona fide purchaser, encumbrancer, or 1923
tenant without actual notice of the existence of a charge under 1924
division (H) of section 4112.02 of the Revised Code or a civil 1925
action under this section is not affected by the court order. 1926

(D) If the court or the jury in a civil action under this 1927
section finds that a violation of division (H) of section 1928
4112.02 of the Revised Code has occurred, the court shall award 1929
to the plaintiff or to the complainant or aggrieved person on 1930
whose behalf the office of the attorney general commenced or 1931
maintained the civil action, whichever is applicable, actual 1932
damages, reasonable attorney's fees, court costs incurred in the 1933
prosecution of the action, expert witness fees, and other 1934
litigation expenses, and may grant other relief that it 1935
considers appropriate, including a permanent or temporary 1936
injunction, a temporary restraining order, or other order and 1937
punitive damages. 1938

(E) Any civil action brought under this section shall be 1939
heard and determined as expeditiously as possible. 1940

(F) The court in a civil action under this section shall 1941
notify the commission of any finding pertaining to 1942
discriminatory housing practices within fifteen days after the 1943
entry of the finding. 1944

Sec. —~~4112.052~~ 4112.056. Whenever the Ohio civil rights 1945
commission has reasonable cause to believe that any person or 1946

persons are engaged in a pattern or practice of resistance to a 1947
person or persons' full enjoyment of the rights granted by 1948
division (H) of section 4112.02 of the Revised Code, or that any 1949
group of persons has been denied any of the rights granted by 1950
that division and the denial raises an issue of public 1951
importance, the commission may refer the matter to the attorney 1952
general for commencement of a civil action in a court of common 1953
pleas. The attorney general may seek any preventive relief 1954
considered necessary to ensure the full enjoyment of the rights 1955
granted by that division, including a permanent or temporary 1956
injunction or temporary restraining order. 1957

Sec. 4112.08. (A) This chapter shall be construed 1958
liberally for the accomplishment of its purposes, and any law 1959
inconsistent with any provision of this chapter shall not apply. 1960
Nothing contained in this chapter shall be considered to repeal 1961
any of the provisions of any law of this state relating to 1962
discrimination because of race, color, religion, sex, military 1963
status, familial status, disability, national origin, age, or 1964
ancestry, ~~except that any person filing a charge under division~~ 1965
~~(B) (1) of section 4112.05 of the Revised Code, with respect to~~ 1966
~~the unlawful discriminatory practices complained of, is barred~~ 1967
~~from instituting a civil action under section 4112.14 or~~ 1968
~~division (L) of section 4112.02 of the Revised Code.~~ 1969

However, no person has a cause of action or claim based on 1970
an unlawful discriminatory practice relating to employment 1971
described in division (A) (24) (a) of section 4112.01 of the 1972
Revised Code against a supervisor, manager, or other employee of 1973
an employer unless that supervisor, manager, or other employee 1974
is the employer. Nothing in this division abrogates statutory 1975
claims outside this chapter or any claims of liability that 1976
exist against an individual at common law. 1977

(B) The procedures and remedies for unlawful 1978
discriminatory practices relating to employment in this chapter 1979
are the sole and exclusive procedures and remedies available to 1980
a person who alleges such discrimination actionable under this 1981
chapter. 1982

Sec. 4112.14. (A) No employer shall discriminate in any 1983
job opening against any applicant or discharge without just 1984
cause any employee aged forty or older who is physically able to 1985
perform the duties and otherwise meets the established 1986
requirements of the job and laws pertaining to the relationship 1987
between employer and employee. 1988

(B) ~~Any Except as otherwise provided in section 4112.052~~ 1989
~~of the Revised Code and this section, a person aged forty or~~ 1990
~~older who is discriminated against in any job opening or~~ 1991
~~discharged without just cause by an employer in violation of~~ 1992
~~division (A) of this section may institute a civil action~~ 1993
~~against the employer in a court of competent jurisdiction. If~~ 1994
~~the court finds that an employer has discriminated on the basis~~ 1995
~~of age, the court shall order an appropriate remedy which shall~~ 1996
~~include reimbursement to the applicant or employee for the~~ 1997
~~costs, including reasonable attorney's fees, of the action, or~~ 1998
~~to reinstate the employee in the employee's former position with~~ 1999
~~compensation for lost wages and any lost fringe benefits from~~ 2000
~~the date of the illegal discharge and to reimburse the employee~~ 2001
~~for the costs, including reasonable attorney's fees, of the~~ 2002
~~action. ~~The Except as otherwise provided in this section, the~~~~ 2003
~~remedies available under this section are coexistent with~~ 2004
~~remedies available pursuant to sections 4112.01 to 4112.11 of~~ 2005
~~the Revised Code; except that any person instituting a civil~~ 2006
~~action under this section is, with respect to the practices~~ 2007
~~complained of, thereby barred from instituting a civil action~~ 2008

~~under division (L) of section 4112.02 of the Revised Code or~~ 2009
~~from filing a charge with the Ohio civil rights commission under~~ 2010
~~section 4112.05 of the Revised Code.~~ 2011

(C) The cause of action described in division (B) of this 2012
section and any remedies available pursuant to sections 4112.01- 2013
to 4112.11 of the Revised Code shall not be available in the 2014
case of discharges where the employee has available to the 2015
employee the opportunity to arbitrate the discharge or where a 2016
discharge has been arbitrated and has been found to be for just 2017
cause. 2018

(D) (1) A person is prohibited from bringing a civil action 2019
under division (B) of this section if the person brought a civil 2020
action under section 4112.052 of the Revised Code that is based, 2021
in whole or in part, on the same allegations and practices. 2022

(2) A person is prohibited from bringing a civil action 2023
under section 4112.052 of the Revised Code if the person brought 2024
a civil action under division (B) of this section that is based, 2025
in whole or in part, on the same allegations and practices. 2026

(E) A civil action brought under division (B) of this 2027
section shall be filed within two years after the alleged 2028
discrimination occurred, except that the time period to file a 2029
civil action is tolled for sixty days after the filing of a 2030
charge under section 4112.051 of the Revised Code that is based, 2031
in whole or in part, on the same allegations and practices. 2032

Sec. 4112.99. (A) Whoever violates this chapter is subject 2033
to a civil action for damages, injunctive relief, or any other 2034
appropriate relief. Except as otherwise provided in division (B) 2035
of this section, a person may bring such a civil action in a 2036
court of competent jurisdiction. 2037

(B) A person is prohibited from bringing a civil action 2038
for employment discrimination under this section. 2039

Section 2. That existing sections 2315.18, 2315.21, 2040
4112.01, 4112.02, 4112.04, 4112.05, 4112.051, 4112.052, 4112.08, 2041
4112.14, and 4112.99 of the Revised Code are hereby repealed. 2042

Section 3. The General Assembly, in amending section 2043
4112.01 and division (A) of section 4112.08 of the Revised Code 2044
pursuant to this act, hereby declares its intent to supersede 2045
the effect of the holding of the Ohio Supreme Court in *Genaro* 2046
v. Central Transport, Inc., 84 Ohio St.3d 293 (1999) and to 2047
follow the holding in *Wathen v. General Electric Co.*, 115 F.3d 2048
400 (1997) regarding the definition of "employer" for purposes 2049
of Chapter 4112. of the Revised Code. The General Assembly 2050
further declares its intent that individual supervisors, 2051
managers, or employees not be held liable under Chapter 4112. of 2052
the Revised Code for unlawful discriminatory practices relating 2053
to employment that are described in division (A) (24) (a) of 2054
section 4112.01 of the Revised Code, as amended by this act. The 2055
General Assembly does not intend this act to abrogate the 2056
imposition at common law of vicarious liability on employers for 2057
the unlawful discriminatory practices of their employees or 2058
agents or to abrogate any other statutory claims that exist 2059
outside of Chapter 4112. of the Revised Code or claims existing 2060
at common law that may be made against an individual. 2061

It is the intent of the General Assembly that common law 2062
claims for wrongful discharge are not available for actions 2063
maintainable under Chapter 4112. of the Revised Code and that 2064
the procedures and remedies set forth in Chapter 4112. of the 2065
Revised Code are the sole and exclusive procedures and remedies 2066
available under state law for claims of unlawful discriminatory 2067

practice relating to employment that are governed by that 2068
chapter. The General Assembly declares its intent in amending 2069
division (B) of section 4112.08 of the Revised Code to conform 2070
to, and not to overturn, the holding of the Ohio Supreme Court 2071
in *Collins v. Rizkana*, 73 Ohio St.3d 65, 73 (1995). 2072

The General Assembly declares its intent in enacting 2073
section 4112.054 of the Revised Code pursuant to this act that 2074
employers will be encouraged to implement meaningful anti- 2075
discrimination policies and foster a work environment that is 2076
fair and tolerant. The General Assembly further declares its 2077
intent that human resource professionals should have the first 2078
opportunity to resolve personnel complaints and rectify 2079
detrimental workplace behavior before such issues result in 2080
costly litigation. 2081

Section 4. Section 4112.04 of the Revised Code is 2082
presented in this act as a composite of the section as amended 2083
by both Am. Sub. H.B. 525 of the 127th General Assembly and Am. 2084
Sub. H.B. 1 of the 128th General Assembly. The General Assembly, 2085
applying the principle stated in division (B) of section 1.52 of 2086
the Revised Code that amendments are to be harmonized if 2087
reasonably capable of simultaneous operation, finds that the 2088
composite is the resulting version of the section in effect 2089
prior to the effective date of the section as presented in this 2090
act. 2091