



2009 SENATE BILL 204

May 14, 2009 – Introduced by Senators COGGS, TAYLOR, CARPENTER, RISSER, HANSEN, HOLPERIN, ERPENBACH, PLALE, SULLIVAN and LEHMAN, cosponsored by Representatives PARISI, SUDER, SEIDEL, A. OTT, POCAN, VAN ROY, YOUNG, TAUCHEN, SHERMAN, PETROWSKI, GRIGSBY, WOOD, ROYS, SPANBAUER, BERCEAU, HEBL, NYGREN, PASCH, POPE-ROBERTS, ZEPNICK, SHILLING, MILROY, SINICKI, TOLES and DEXTER. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to renumber and amend* 66.0125 (1); *to amend* 66.0125 (3) (a), 66.0125
2 (3) (c) 1. b., 66.0125 (9), 66.1011 (1), 66.1201 (2m), 66.1213 (3), 66.1301 (2m),
3 66.1331 (2m), 66.1333 (3) (e) 2., 106.50 (1), 106.50 (1m) (h), 106.50 (1m) (nm),
4 106.50 (5m) (d), 106.50 (5m) (f) 1., 224.77 (1) (o), 234.29 and 452.14 (3) (n); **to**
5 *repeal and recreate* 224.77 (1) (o); and **to create** 66.0125 (1) (a) and 106.50
6 (1m) (u) of the statutes; **relating to:** prohibiting discrimination in housing
7 because of domestic abuse victim status and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits discrimination in housing on the basis of sex, race, color, sexual orientation, disability, religion, national origin, marital status, family status, lawful source of income, age, or ancestry (protected class). A person who engages in an act of housing discrimination may be required to provide such relief as may be appropriate, including economic and noneconomic damages and injunctive or other equitable relief, and to pay a forfeiture of not more than \$10,000, except that a person who is not a natural person may be required to pay a forfeiture of not more than \$25,000 if the person has committed a previous act of housing discrimination within the preceding five years or a forfeiture of not more than \$50,000 if the person has committed two or more previous acts of housing discrimination within the preceding seven years.

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Current law also prohibits a mortgage banker, loan originator, or mortgage broker from treating a person unequally based on the person’s membership in a protected class. In addition, current law prohibits a real estate broker, real estate salesperson, or time-share salesperson from treating a person unequally based on the person’s sex, race, color, handicap, national origin, ancestry, marital status, or lawful source of income.

Current law, however, does not prohibit an owner of housing from requiring that a person who is seeking to buy or rent housing supply information concerning the person’s family status, marital status, and financial and business status, but does prohibit an owner from requiring information concerning a person’s race, color, disability, sexual orientation, ancestry, national origin, religion, creed, or, subject to an exception for housing for older persons, age.

This bill prohibits discrimination in housing on the basis of a person’s status as a victim of domestic abuse, sexual assault, or stalking, which is defined in the bill as the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person’s household having been, or being believed by the lessor or seller of housing to be, a victim of domestic abuse, sexual assault, sexual assault of a child, repeated sexual assault of a child, or stalking. The bill also prohibits an owner of housing from requiring that a person seeking to buy or rent housing supply information concerning the person’s status as a victim of domestic abuse, sexual assault, or stalking.

“Domestic abuse” is defined under current law as the intentional infliction of physical pain, physical injury, or illness, the intentional impairment of physical condition, sexual assault, criminal damage to property, or a threat to engage in any of that conduct, by an adult family member or household member against another adult family member or household member, by an adult caregiver against an adult who is under the caregiver’s care, or by an adult against his or her former spouse, an adult with whom he or she has or has had a dating relationship, or an adult with whom he or she has a child in common.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0125 (1) of the statutes is renumbered 66.0125 (1) (intro.) and
2 amended to read:

3 66.0125 (1) ~~DEFINITION.~~ DEFINITIONS. (intro.) In this section, ~~“local:~~

4 (b) “Local governmental unit” means a city, village, town, school district, or
5 county.

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1 **SECTION 2.** 66.0125 (1) (a) of the statutes is created to read:

2 66.0125 (1) (a) “Status as a victim of domestic abuse, sexual assault, or
3 stalking,” for purposes of discrimination in housing, has the meaning given in s.
4 106.50 (1m) (u).

5 **SECTION 3.** 66.0125 (3) (a) of the statutes is amended to read:

6 66.0125 (3) (a) The purpose of the commission is to study, analyze, and
7 recommend solutions for the major social, economic, and cultural problems ~~which~~
8 that affect people residing or working within the local governmental unit, including,
9 ~~without restriction because of enumeration,~~ problems of the family, youth,
10 education, the aging, juvenile delinquency, health and zoning standards, ~~and~~
11 discrimination in housing, employment and public accommodations and facilities on
12 the basis of sex, class, race, religion, sexual orientation, or ethnic or minority status
13 and discrimination in housing on the basis of sex, class, race, religion, sexual
14 orientation, ethnic or minority status, or status as a victim of domestic abuse, sexual
15 assault, or stalking.

16 **SECTION 4.** 66.0125 (3) (c) 1. b. of the statutes is amended to read:

17 66.0125 (3) (c) 1. b. To ensure to all residents of a local governmental unit,
18 regardless of sex, race, sexual orientation, or color, the ~~rights to possess equal~~
19 ~~housing accommodations and right~~ to enjoy equal employment opportunities and to
20 ensure to those residents, regardless of sex, race, sexual orientation, color, or status
21 as a victim of domestic abuse, sexual assault, or stalking, the right to possess equal
22 housing opportunities.

23 **SECTION 5.** 66.0125 (9) of the statutes is amended to read:

24 66.0125 (9) INTENT. It is the intent of this section to promote fair and friendly
25 relations among all the people in this state, and to that end race, creed, sexual

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1 orientation, or color ought not to be made tests in the matter of the right of any person
2 to sell, lease, occupy or use real estate or to earn a livelihood or to enjoy the equal use
3 of public accommodations and facilities and race, creed, sexual orientation, color, or
4 status as a victim of domestic abuse, sexual assault, or stalking ought not to be made
5 tests in the matter of the right of any person to sell, lease, occupy, or use real estate.

6 **SECTION 6.** 66.1011 (1) of the statutes is amended to read:

7 66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal
8 opportunities for housing regardless of their sex, race, color, ~~physical condition,~~
9 disability, as defined in s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32
10 (13m), religion, national origin, marital status, family status, as defined in s. 106.50
11 (1m) (k), status as a victim of domestic abuse, sexual assault, or stalking, as defined
12 in s. 106.50 (1m) (u), lawful source of income, age, or ancestry is a matter both of
13 statewide concern under ss. 101.132 and 106.50 and also of local interest under this
14 section and s. 66.0125. The enactment of ss. 101.132 and 106.50 by the legislature
15 does not preempt the subject matter of equal opportunities in housing from
16 consideration by political subdivisions, and does not exempt political subdivisions
17 from their duty, nor deprive them of their right, to enact ordinances ~~which~~ that
18 prohibit discrimination in any type of housing solely on the basis of an individual
19 being a member of a protected class.

20 **SECTION 7.** 66.1201 (2m) of the statutes is amended to read:

21 66.1201 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
22 facility, or privilege under ss. 66.1201 to 66.1211 ~~shall~~ may not be denied ~~them~~ the
23 right, benefit, facility, or privilege in any manner for any purpose nor be
24 discriminated against because of sex, race, color, creed, sexual orientation, status as

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1 a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m)
2 (u), or national origin.

3 **SECTION 8.** 66.1213 (3) of the statutes is amended to read:

4 66.1213 (3) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
5 facility, or privilege under this section ~~shall~~ may not be denied ~~them~~ the right,
6 benefit, facility, or privilege in any manner for any purpose nor be discriminated
7 against because of sex, race, color, creed, sexual orientation, status as a victim of
8 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
9 national origin.

10 **SECTION 9.** 66.1301 (2m) of the statutes is amended to read:

11 66.1301 (2m) DISCRIMINATION. Persons entitled to any right, benefit, facility,
12 or privilege under ss. 66.1301 to 66.1329 ~~shall~~ may not be denied ~~them~~ the right,
13 benefit, facility, or privilege in any manner for any purpose nor be discriminated
14 against because of sex, race, color, creed, sexual orientation, status as a victim of
15 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
16 national origin.

17 **SECTION 10.** 66.1331 (2m) of the statutes is amended to read:

18 66.1331 (2m) DISCRIMINATION. Persons otherwise entitled to any right, benefit,
19 facility, or privilege under this section ~~shall~~ may not be denied ~~them~~ the right,
20 benefit, facility, or privilege in any manner for any purpose nor be discriminated
21 against because of sex, race, color, creed, sexual orientation, status as a victim of
22 domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or
23 national origin.

24 **SECTION 11.** 66.1333 (3) (e) 2. of the statutes is amended to read:

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1 66.1333 **(3)** (e) 2. Persons otherwise entitled to any right, benefit, facility, or
2 privilege under this section may not be denied the right, benefit, facility, or privilege
3 in any manner for any purpose nor be discriminated against because of sex, race,
4 color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault,
5 or stalking, as defined in s. 106.50 (1m) (u), or national origin.

6 **SECTION 12.** 106.50 (1) of the statutes is amended to read:

7 106.50 **(1)** INTENT. It is the intent of this section to render unlawful
8 discrimination in housing. It is the declared policy of this state that all persons shall
9 have an equal opportunity for housing regardless of sex, race, color, sexual
10 orientation, disability, religion, national origin, marital status, family status, status
11 as a victim of domestic abuse, sexual assault, or stalking, lawful source of income,
12 age, or ancestry and it is the duty of the political subdivisions to assist in the orderly
13 prevention or removal of all discrimination in housing through the powers granted
14 under ss. 66.0125 and 66.1011. The legislature hereby extends the state law
15 governing equal housing opportunities to cover single-family residences ~~which~~ that
16 are owner-occupied. The legislature finds that the sale and rental of single-family
17 residences constitute a significant portion of the housing business in this state and
18 should be regulated. This section shall be ~~deemed~~ considered an exercise of the police
19 powers of the state for the protection of the welfare, health, peace, dignity, and
20 human rights of the people of this state.

21 **SECTION 13.** 106.50 (1m) (h) of the statutes is amended to read:

22 106.50 **(1m)** (h) “Discriminate” means to segregate, separate, exclude, or treat
23 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
24 because of sex, race, color, sexual orientation, disability, religion, national origin,

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1 marital status, family status, status as a victim of domestic abuse, sexual assault,
2 or stalking, lawful source of income, age, or ancestry.

3 **SECTION 14.** 106.50 (1m) (nm) of the statutes is amended to read:

4 106.50 (1m) (nm) “Member of a protected class” means a group of natural
5 persons, or a natural person, who may be categorized based on one or more of the
6 following characteristics: because of sex, race, color, disability, sexual orientation as
7 defined in s. 111.32 (13m), religion, national origin, marital status, family status,
8 status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of
9 income, age, or ancestry.

10 **SECTION 15.** 106.50 (1m) (u) of the statutes is created to read:

11 106.50 (1m) (u) “Status as a victim of domestic abuse, sexual assault, or
12 stalking” means the status of a person who is seeking to rent or purchase housing
13 or of a member or prospective member of the person’s household having been, or
14 being believed by the lessor or seller of housing to be, a victim of domestic abuse, as
15 defined in s. 813.12 (1) (am), sexual assault under s. 940.225, 948.02, or 948.025, or
16 stalking under s. 940.32.

17 **SECTION 16.** 106.50 (5m) (d) of the statutes is amended to read:

18 106.50 (5m) (d) Nothing in this section requires that housing be made available
19 to an individual whose tenancy would constitute a direct threat to the safety of other
20 tenants or persons employed on the property or whose tenancy would result in
21 substantial physical damage to the property of others, if the risk of direct threat or
22 damage cannot be eliminated or sufficiently reduced through reasonable
23 accommodations. A claim that an individual’s tenancy poses a direct threat or a
24 substantial risk of harm or damage must be evidenced by behavior by the individual
25 that caused harm or damage, that directly threatened harm or damage, or that

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1 caused a reasonable fear of harm or damage to other tenants, persons employed on
2 the property, or the property. No claim that an individual's tenancy would constitute
3 a direct threat to the safety of other persons or would result in substantial damage
4 to property may be based on the fact that a tenant has been or may be the victim of
5 domestic abuse, as defined in s. 813.12 (1) (am) tenant's status as a victim of domestic
6 abuse, sexual assault, or stalking.

7 **SECTION 17.** 106.50 (5m) (f) 1. of the statutes is amended to read:

8 106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from
9 requiring that a person who seeks to buy or rent housing supply information
10 concerning family status, and marital, financial, and business status but not
11 concerning race, color, ~~physical condition~~, disability, sexual orientation, ancestry,
12 national origin, religion, creed, status as a victim of domestic abuse, sexual assault,
13 or stalking, or, subject to subd. 2., age.

14 **SECTION 18.** 224.77 (1) (o) of the statutes is amended to read:

15 224.77 (1) (o) In the course of practice as a mortgage banker, loan originator,
16 or mortgage broker, except in relation to housing designed to meet the needs of
17 elderly individuals, treated a person unequally solely because of sex, race, color,
18 handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin,
19 age, or ancestry, the person's lawful source of income, or the sex ~~or~~, marital status,
20 or status as a victim of domestic abuse, sexual assault, or stalking, as defined in s.
21 106.50 (1) (u), of the person maintaining a household.

22 **SECTION 19.** 224.77 (1) (o) of the statutes, as affected by 2009 Wisconsin Acts
23 2 and (this act), is repealed and recreated to read:

24 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan
25 originator, or mortgage broker, except in relation to housing designed to meet the

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1 needs of elderly individuals, treat a person unequally solely because of sex, race,
2 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national
3 origin, age, or ancestry, the person's lawful source of income, or the sex, marital
4 status, or status as a victim of domestic abuse, sexual assault, or stalking, as defined
5 in s. 106.50 (1) (u), of the person maintaining a household.

6 **SECTION 20.** 234.29 of the statutes is amended to read:

7 **234.29 Equality of occupancy and employment.** The authority shall
8 require that occupancy of housing projects assisted under this chapter be open to all
9 regardless of sex, race, religion, sexual orientation, status as a victim of domestic
10 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or creed, and that
11 contractors and subcontractors engaged in the construction of economic
12 development or housing projects, shall provide an equal opportunity for
13 employment, without discrimination as to sex, race, religion, sexual orientation, or
14 creed.

15 **SECTION 21.** 452.14 (3) (n) of the statutes is amended to read:

16 452.14 (3) (n) Treated any person unequally solely because of sex, race, color,
17 handicap, national origin, ancestry, marital status ~~or~~, lawful source of income, or
18 status as a victim of domestic abuse, sexual assault, or stalking, as defined in s.
19 106.50 (1m) (u).

20 **SECTION 22. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) DISCRIMINATION BASED ON STATUS AS A VICTIM OF DOMESTIC ABUSE, SEXUAL
23 ASSAULT, OR STALKING. The repeal and recreation of section 224.77 (1) (o) of the

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SECTION 22

1 statutes takes effect on January 1, 2010, or on the day after publication, whichever
2 is later.

3 (END)