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*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 77**

125th General Assembly  
(As Introduced)

**Sens. Brady, Hagan, Dann, Prentiss, Fingerhut, DiDonato, Herington, Fedor**

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### **BILL SUMMARY**

- Prohibits an individual, person, employer, employment agency, personnel placement service, labor organization, joint labor-management committee controlling apprentice training program, any person seeking employment, any proprietor or any employee, keeper, or manager of a place of public accommodation, creditor, or credit reporting agency from engaging in certain unlawful discriminatory practices on the basis of sexual orientation.
- Includes "sexual orientation" within the categories of discrimination that the Ohio Civil Rights Commission considers within its' powers and duties.

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### **CONTENT AND OPERATION**

#### **Unlawful discriminatory practice**

Current law prohibits an individual, person, employer, employment agency, personnel placement service, labor organization, joint labor-management committee controlling apprentice training program, any person seeking employment, any proprietor or any employee, keeper, or manager of a place of public accommodation from engaging in certain unlawful discriminatory practices on the basis of race, color, religion, sex, national origin, disability, age, or ancestry of any person. The bill includes "sexual orientation" within the list of categories that can form the basis of an unlawful discriminatory practice. (R.C. 4112.02.)

#### **Unlawful discriminatory practice of creditor or credit reporting agency**

Current law prohibits any creditor from engaging in certain unlawful discriminatory practices on the basis of race, color, religion, age, sex, marital

status, national origin, disability, or ancestry, including discriminating against any applicant for credit, using or making any inquiry on that basis for the purpose of limiting or specifying to whom credit will be granted, refusing to consider the sources of income of an applicant for credit, imposing any special requirements or conditions, failing or refusing to maintain, upon the request of the individual, a separate account for each individual to whom credit is extended, or failing or refusing to maintain records on any account established after November 1, 1978, to furnish on the accounts to credit report agencies in a manner that clearly designates the contractual liability for repayment as indicated on the application for the account, and, if more than one individual is contractually liable for repayment, to maintain records and furnish information in the name of each individual. The bill includes "sexual orientation" within the list of categories that can form the basis of the above-described types of unlawful discriminatory practice. (R.C. 4112.021(B)(1).)

Current law also provides that it is an unlawful discriminatory practice for a credit reporting agency to fail or refuse to maintain, upon the request of an individual, a separate file on each individual about whom information is assembled or evaluated, or fail or refuse to clearly note, maintain, and report any information furnished to the credit reporting agency on the basis of race, color, religion, age, sex, marital status, national origin, disability, or ancestry. The bill includes "sexual orientation" within the list of categories that can form the basis of these types of unlawful discriminatory practice by a credit reporting agency. (R.C. 4112.021(B)(2).)

### **Powers and duties of the Ohio Civil Rights Commission**

Among the many powers and duties of the Ohio Civil Rights Commission, current law requires the Commission to make periodic surveys of the existence and effect of discrimination because of race, color, religion, sex, familial status, national origin, disability, age, or ancestry on the enjoyment of civil rights by persons within the state, and prepare a comprehensive educational program, in cooperation with the Department of Education, for the students of the public schools of this state and for all other residents of this state that is designed to eliminate prejudice on the basis of race, color, religion, sex, familial status, national origin, disability, age, or ancestry in this state, to further good will among those groups, and to emphasize the origin of prejudice against those groups, its harmful effects, and its incompatibility with American principles of equality and fair play. The bill includes "sexual orientation" within those categories of discrimination. (R.C. 4112.04(A)(7) and (9).)

Current law allows the Commission to create local or statewide advisory agencies and conciliation councils to aid in effectuating the purposes of R.C. Chapter 4112. The Commission may itself, or it may empower these agencies and

councils, to study the problems of discrimination in all or specific fields of human relationships when based on race, color, religion, sex, familial status, national origin, disability, age, or ancestry. The Commission may also issue any publications and the results of investigations and research that in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religion, sex, familial status, national origin, disability, age, or ancestry. The bill includes "sexual orientation" within those categories of discrimination. (R.C. 4112.04(B)(4)(a) and (5).)

### **Hearing in response to charge of discrimination**

Under current law, in any formal hearing instituted by the Commission in response to an allegation of another person engaging in an unlawful discriminatory practice, the Commission, a member of the Commission, or the hearing examiner is not bound by the Rules of Evidence, but, in ascertaining the practices followed by the respondent, must take into account all reliable, probative, and substantial statistical or other evidence produced at the hearing that may tend to prove the existence of a predetermined pattern of employment or membership, provided that nothing in the provision regarding the filing a charge of discrimination is construed to authorize or require any person to observe the proportion that persons of any race, color, religion, sex, familial status, national origin, disability, age, or ancestry bear to the total population or in accordance with any criterion other than the individual qualifications of the applicant. The bill includes "sexual orientation" within the list of criteria described above. (R.C. 4112.05(E).)

### **Construction of R.C. Chapter 4112. (Civil Rights Commission)**

Current law requires R.C. Chapter 4112. be construed liberally for the accomplishment of its purposes, and any law that is inconsistent with any provision of R.C. Chapter 4112. does not apply. Nothing contained in R.C. Chapter 4112. is considered to repeal any provisions of any law of this state relating to discrimination because of race, color, religion, sex, familial status, disability, national origin, age, or ancestry, except that any person filing a charge of unlawful discriminatory practice under R.C. 4112.05 is barred from instituting a civil action under R.C. 4112.04 or R.C. 4112.04(N). The bill includes "sexual orientation" within those categories of discrimination. (R.C. 4112.08.)

### **Definitions**

The bill defines "sexual orientation," for the purposes of unlawful discriminatory practice and the laws regarding the Ohio Civil Rights Commission, as "homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived (R.C. 4112.01(A)(22)).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-29-03	p. 303

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