

As Introduced

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Representatives Rader, Lett

Cosponsors: Representatives Brownlee, Grim, Jarrells, Miller, J., Somani, Sweeney, Brent, Synenberg, Russo, Piccolantonio, Baker, Abdullahi, Humphrey, Troy, White, E., Sigrist, Glassburn, Sims, Robinson, Brewer, Tims, Brennan, McNally, Cockley, Isaacsohn, Upchurch, Denson, Lawson-Rowe, Thomas, C., Mohamed, Hall, D.

A BILL

To amend sections 4112.01 and 4112.05 of the
Revised Code to prohibit discrimination on the
basis of sexual orientation or gender identity
or expression, to add mediation as an informal
method that the Ohio Civil Rights Commission may
use, and to uphold existing religious exemptions
under Ohio's Civil Rights Law.

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

Section 1. That sections 4112.01 and 4112.05 of the
Revised Code be amended to read as follows:

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

(1) "Person" includes one or more individuals,
partnerships, associations, organizations, corporations, legal
representatives, trustees, trustees in bankruptcy, receivers,
and other organized groups of persons. "Person" also includes,
but is not limited to, any owner, lessor, assignor, builder,

manager, broker, salesperson, appraiser, agent, employee, 16
lending institution, and the state and all political 17
subdivisions, authorities, agencies, boards, and commissions of 18
the state. 19

(2) "Employer" means the state, any political subdivision 20
of the state, or a person employing four or more persons within 21
the state, and any agent of the state, political subdivision, or 22
person. 23

(3) "Employee" means an individual employed by any 24
employer but does not include any individual employed in the 25
domestic service of any person. 26

(4) "Labor organization" includes any organization that 27
exists, in whole or in part, for the purpose of collective 28
bargaining or of dealing with employers concerning grievances, 29
terms or conditions of employment, or other mutual aid or 30
protection in relation to employment. 31

(5) "Employment agency" includes any person regularly 32
undertaking, with or without compensation, to procure 33
opportunities to work or to procure, recruit, refer, or place 34
employees. 35

(6) "Commission" means the Ohio civil rights commission 36
created by section 4112.03 of the Revised Code. 37

(7) "Discriminate" includes segregate or separate. 38

(8) "Unlawful discriminatory practice" means any act 39
prohibited by section 4112.02, 4112.021, or 4112.022 of the 40
Revised Code. 41

(9) "Place of public accommodation" means any inn, 42
restaurant, eating house, barbershop, public conveyance by air, 43

land, or water, theater, store, other place for the sale of 44
merchandise, or any other place of public accommodation or 45
amusement of which the accommodations, advantages, facilities, 46
or privileges are available to the public. 47

(10) "Housing accommodations" includes any building or 48
structure, or portion of a building or structure, that is used 49
or occupied or is intended, arranged, or designed to be used or 50
occupied as the home residence, dwelling, dwelling unit, or 51
sleeping place of one or more individuals, groups, or families 52
whether or not living independently of each other; and any 53
vacant land offered for sale or lease. "Housing accommodations" 54
also includes any housing accommodations held or offered for 55
sale or rent by a real estate broker, salesperson, or agent, by 56
any other person pursuant to authorization of the owner, by the 57
owner, or by the owner's legal representative. 58

(11) "Restrictive covenant" means any specification 59
limiting the transfer, rental, lease, or other use of any 60
housing accommodations because of race, color, religion, sex, 61
military status, familial status, national origin, disability, 62
or ancestry, or any limitation based upon affiliation with or 63
approval by any person, directly or indirectly, employing race, 64
color, religion, sex, military status, familial status, national 65
origin, disability, or ancestry as a condition of affiliation or 66
approval. 67

(12) "Burial lot" means any lot for the burial of deceased 68
persons within any public burial ground or cemetery, including, 69
but not limited to, cemeteries owned and operated by municipal 70
corporations, townships, or companies or associations 71
incorporated for cemetery purposes. 72

(13) "Disability" means a physical or mental impairment 73

that substantially limits one or more major life activities, 74
including the functions of caring for one's self, performing 75
manual tasks, walking, seeing, hearing, speaking, breathing, 76
learning, and working; a record of a physical or mental 77
impairment; or being regarded as having a physical or mental 78
impairment. 79

(14) Except as otherwise provided in section 4112.021 of 80
the Revised Code, "age" means an individual aged forty years or 81
older. 82

(15) "Familial status" means either of the following: 83

(a) One or more individuals who are under eighteen years 84
of age and who are domiciled with a parent or guardian having 85
legal custody of the individual or domiciled, with the written 86
permission of the parent or guardian having legal custody, with 87
a designee of the parent or guardian; 88

(b) Any person who is pregnant or in the process of 89
securing legal custody of any individual who is under eighteen 90
years of age. 91

(16) (a) Except as provided in division (A) (16) (b) of this 92
section, "physical or mental impairment" includes any of the 93
following: 94

(i) Any physiological disorder or condition, cosmetic 95
disfigurement, or anatomical loss affecting one or more of the 96
following body systems: neurological; musculoskeletal; special 97
sense organs; respiratory, including speech organs; 98
cardiovascular; reproductive; digestive; genito-urinary; hemic 99
and lymphatic; skin; and endocrine; 100

(ii) Any mental or psychological disorder, including, but 101
not limited to, intellectual disability, organic brain syndrome, 102

emotional or mental illness, and specific learning disabilities;	103
(iii) Diseases and conditions, including, but not limited	104
to, orthopedic, visual, speech, and hearing impairments,	105
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple	106
sclerosis, cancer, heart disease, diabetes, human	107
immunodeficiency virus infection, intellectual disability,	108
emotional illness, drug addiction, and alcoholism.	109
(b) "Physical or mental impairment" does not include any	110
of the following:	111
(i) Homosexuality and bisexuality;	112
(ii) Transvestism, transsexualism, pedophilia,	113
exhibitionism, voyeurism, gender identity disorders not	114
resulting from physical impairments, or other sexual behavior	115
disorders;	116
(iii) Compulsive gambling, kleptomania, or pyromania;	117
(iv) Psychoactive substance use disorders resulting from	118
the current illegal use of a controlled substance or the current	119
use of alcoholic beverages.	120
(17) "Dwelling unit" means a single unit of residence for	121
a family of one or more persons.	122
(18) "Common use areas" means rooms, spaces, or elements	123
inside or outside a building that are made available for the use	124
of residents of the building or their guests, and includes, but	125
is not limited to, hallways, lounges, lobbies, laundry rooms,	126
refuse rooms, mail rooms, recreational areas, and passageways	127
among and between buildings.	128
(19) "Public use areas" means interior or exterior rooms	129
or spaces of a privately or publicly owned building that are	130

made available to the general public.	131
(20) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	132 133
(21) "Disabled tenant" means a tenant or prospective tenant who is a person with a disability.	134 135
(22) "Military status" means a person's status in "service in the uniformed services" as defined in section 5923.05 of the Revised Code.	136 137 138
(23) "Aggrieved person" includes both of the following:	139
(a) Any person who claims to have been injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code;	140 141 142
(b) Any person who believes that the person will be injured by any unlawful discriminatory practice described in division (H) of section 4112.02 of the Revised Code that is about to occur.	143 144 145 146
(24) "Unlawful discriminatory practice relating to employment" means both of the following:	147 148
(a) An unlawful discriminatory practice that is prohibited by division (A), (B), (C), (D), (E), or (F) of section 4112.02 of the Revised Code;	149 150 151
(b) An unlawful discriminatory practice that is prohibited by division (I) or (J) of section 4112.02 of the Revised Code that is related to employment.	152 153 154
(25) "Notice of right to sue" means a notice sent by the commission to a person who files a charge under section 4112.051 of the Revised Code that states that the person who filed the	155 156 157

charge may bring a civil action related to the charge pursuant 158
to section 4112.052 or 4112.14 of the Revised Code, in 159
accordance with section 4112.052 of the Revised Code. 160

(B) For the purposes of divisions (A) to (F) of section 161
4112.02 of the Revised Code, the terms "because of sex" and "on 162
the basis of sex" include, but are not limited to, because of or 163
on the basis of pregnancy, any illness arising out of and 164
occurring during the course of a pregnancy, childbirth, or 165
related medical conditions. Women affected by pregnancy, 166
childbirth, or related medical conditions shall be treated the 167
same for all employment-related purposes, including receipt of 168
benefits under fringe benefit programs, as other persons not so 169
affected but similar in their ability or inability to work, and 170
nothing in division (B) of section 4111.17 of the Revised Code 171
shall be interpreted to permit otherwise. This division shall 172
not be construed to require an employer to pay for health 173
insurance benefits for abortion, except where the life of the 174
mother would be endangered if the fetus were carried to term or 175
except where medical complications have arisen from the 176
abortion, provided that nothing in this division precludes an 177
employer from providing abortion benefits or otherwise affects 178
bargaining agreements in regard to abortion. 179

(C) For purposes of the Revised Code, any provision 180
respecting sex discrimination includes discrimination because of 181
a person's sexual orientation or gender identity or expression. 182

Sec. 4112.05. (A) (1) With the exception of unlawful 183
discriminatory practices relating to employment, the commission, 184
as provided in this section, shall prevent any person from 185
engaging in unlawful discriminatory practices. 186

(2) The commission may at any time attempt to resolve 187

allegations of unlawful discriminatory practices other than 188
allegations concerning unlawful discriminatory practices 189
relating to employment by the use of alternative dispute 190
resolution, provided that, before instituting the formal hearing 191
authorized by division (B) of this section, it shall attempt, by 192
informal methods of conference, conciliation, mediation, and 193
persuasion, to induce compliance with this chapter. 194

(B) (1) Any person may file a charge with the commission 195
alleging that another person has engaged or is engaging in an 196
unlawful discriminatory practice. In the case of a charge 197
alleging an unlawful discriminatory practice that is not an 198
unlawful discriminatory practice relating to employment and that 199
is described in division (G), (I), or (J) of section 4112.02 or 200
in section 4112.021 or 4112.022 of the Revised Code, the charge 201
shall be in writing and under oath and shall be filed with the 202
commission within six months after the alleged unlawful 203
discriminatory practice was committed. In the case of a charge 204
alleging an unlawful discriminatory practice described in 205
division (H) of section 4112.02 of the Revised Code, the charge 206
shall be in writing and under oath and shall be filed with the 207
commission within one year after the alleged unlawful 208
discriminatory practice was committed. 209

(a) An oath under this section may be made in any form of 210
affirmation the person deems binding on the person's conscience. 211
Acceptable forms include, but are not limited to, declarations 212
made under penalty of perjury. 213

(b) Any charge timely received, via facsimile, postal 214
mail, electronic mail, or otherwise, may be signed under oath 215
after the limitations period for filing set forth under division 216
(B) (1) of this section and will relate back to the original 217

filing date. 218

(2) Upon receiving a charge other than a charge concerning 219
unlawful discriminatory practices relating to employment, the 220
commission may initiate a preliminary investigation to determine 221
whether it is probable that an unlawful discriminatory practice 222
has been or is being engaged in. The commission also may 223
conduct, upon its own initiative and independent of the filing 224
of any charges, a preliminary investigation relating to any of 225
the unlawful discriminatory practices that are not unlawful 226
discriminatory practices relating to employment and that are 227
described in division (I) or (J) of section 4112.02 or in 228
section 4112.021 or 4112.022 of the Revised Code. Prior to a 229
notification of a complainant under division (B)(4) of this 230
section or prior to the commencement of informal methods of 231
conference, conciliation, mediation, and persuasion, or 232
alternative dispute resolution, under that division, the members 233
of the commission and the officers and employees of the 234
commission shall not make public in any manner and shall retain 235
as confidential all information that was obtained as a result of 236
or that otherwise pertains to a preliminary investigation other 237
than one described in division (B)(3) of this section. 238

(3)(a) Unless it is impracticable to do so and subject to 239
its authority under division (B)(3)(d) of this section, the 240
commission shall complete a preliminary investigation of a 241
charge filed pursuant to division (B)(1) of this section that 242
alleges an unlawful discriminatory practice described in 243
division (H) of section 4112.02 of the Revised Code, and shall 244
take one of the following actions, within one hundred days after 245
the filing of the charge: 246

(i) Notify the complainant and the respondent that it is 247

not probable that an unlawful discriminatory practice described 248
in division (H) of section 4112.02 of the Revised Code has been 249
or is being engaged in and that the commission will not issue a 250
complaint in the matter; 251

(ii) Initiate a complaint and schedule it for informal 252
methods of conference, conciliation, mediation, and persuasion, 253
or alternative dispute resolution; 254

(iii) Initiate a complaint and refer it to the attorney 255
general with a recommendation to seek a temporary or permanent 256
injunction or a temporary restraining order. If this action is 257
taken, the attorney general shall apply, as expeditiously as 258
possible after receipt of the complaint, to the court of common 259
pleas of the county in which the unlawful discriminatory 260
practice allegedly occurred for the appropriate injunction or 261
order, and the court shall hear and determine the application as 262
expeditiously as possible. 263

(b) If it is not practicable to comply with the 264
requirements of division (B) (3) (a) of this section within the 265
one-hundred-day period described in that division, the 266
commission shall notify the complainant and the respondent in 267
writing of the reasons for the noncompliance. 268

(c) Prior to the issuance of a complaint under division 269
(B) (3) (a) (ii) or (iii) of this section or prior to a 270
notification of the complainant and the respondent under 271
division (B) (3) (a) (i) of this section, the members of the 272
commission and the officers and employees of the commission 273
shall not make public in any manner and shall retain as 274
confidential all information that was obtained as a result of or 275
that otherwise pertains to a preliminary investigation of a 276
charge filed pursuant to division (B) (1) of this section that 277

alleges an unlawful discriminatory practice described in 278
division (H) of section 4112.02 of the Revised Code. 279

(d) Notwithstanding the types of action described in 280
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 281
issuance of a complaint or the referral of a complaint to the 282
attorney general and prior to endeavoring to eliminate an 283
unlawful discriminatory practice described in division (H) of 284
section 4112.02 of the Revised Code by informal methods of 285
conference, conciliation, mediation, and persuasion, or by 286
alternative dispute resolution, the commission may seek a 287
temporary or permanent injunction or a temporary restraining 288
order in the court of common pleas of the county in which the 289
unlawful discriminatory practice allegedly occurred. 290

(4) If the commission determines after a preliminary 291
investigation other than one concerning an alleged unlawful 292
discriminatory practice relating to employment or one described 293
in division (B) (3) of this section that it is not probable that 294
an unlawful discriminatory practice has been or is being engaged 295
in, it shall notify any complainant under division (B) (1) of 296
this section that it has so determined and that it will not 297
issue a complaint in the matter. If the commission determines 298
after a preliminary investigation other than one concerning an 299
alleged unlawful discriminatory practice relating to employment 300
or one described in division (B) (3) of this section that it is 301
probable that an unlawful discriminatory practice has been or is 302
being engaged in, it shall endeavor to eliminate the practice by 303
informal methods of conference, conciliation, mediation, and 304
persuasion, or by alternative dispute resolution. 305

(5) Nothing said or done during informal methods of 306
conference, conciliation, mediation, and persuasion, or during 307

alternative dispute resolution, under this section shall be 308
disclosed by any member of the commission or its staff or be 309
used as evidence in any subsequent hearing or other proceeding. 310
If, after a preliminary investigation and the use of informal 311
methods of conference, conciliation, mediation, and persuasion, 312
or alternative dispute resolution, under this section, the 313
commission is satisfied that any unlawful discriminatory 314
practice will be eliminated, it may treat the charge involved as 315
being conciliated and enter that disposition on the records of 316
the commission. If the commission fails to effect the 317
elimination of an unlawful discriminatory practice by informal 318
methods of conference, conciliation, mediation, and persuasion, 319
or by alternative dispute resolution under this section and to 320
obtain voluntary compliance with this chapter, the commission 321
shall issue and cause to be served upon any person, including 322
the respondent against whom a complainant has filed a charge 323
pursuant to division (B)(1) of this section, a complaint stating 324
the charges involved and containing a notice of an opportunity 325
for a hearing before the commission, a member of the commission, 326
or a hearing examiner at a place that is stated in the notice 327
and that is located within the county in which the alleged 328
unlawful discriminatory practice has occurred or is occurring or 329
in which the respondent resides or transacts business. The 330
hearing shall be held not less than thirty days after the 331
service of the complaint upon the complainant, the aggrieved 332
persons other than the complainant on whose behalf the complaint 333
is issued, and the respondent, unless the complainant, an 334
aggrieved person, or the respondent elects to proceed under 335
division (A)(2) of section 4112.055 of the Revised Code when 336
that division is applicable. If a complaint pertains to an 337
alleged unlawful discriminatory practice described in division 338
(H) of section 4112.02 of the Revised Code, the complaint shall 339

notify the complainant, an aggrieved person, and the respondent 340
of the right of the complainant, an aggrieved person, or the 341
respondent to elect to proceed with the administrative hearing 342
process under this section or to proceed under division (A) (2) 343
of section 4112.055 of the Revised Code. 344

(6) The attorney general shall represent the commission at 345
any hearing held pursuant to division (B) (5) of this section and 346
shall present the evidence in support of the complaint. 347

(7) Any complaint issued pursuant to division (B) (5) of 348
this section after the filing of a charge under division (B) (1) 349
of this section shall be so issued within one year after the 350
complainant filed the charge with respect to an alleged unlawful 351
discriminatory practice. 352

(C) (1) Any complaint issued pursuant to division (B) of 353
this section may be amended by the commission, a member of the 354
commission, or the hearing examiner conducting a hearing under 355
division (B) of this section. 356

(a) Except as provided in division (C) (1) (b) of this 357
section, a complaint issued pursuant to division (B) of this 358
section may be amended at any time prior to or during the 359
hearing. 360

(b) If a complaint issued pursuant to division (B) of this 361
section alleges an unlawful discriminatory practice described in 362
division (H) of section 4112.02 of the Revised Code, the 363
complaint may be amended at any time up to seven days prior to 364
the hearing and not thereafter. 365

(2) The respondent has the right to file an answer or an 366
amended answer to the original and amended complaints and to 367
appear at the hearing in person, by attorney, or otherwise to 368

examine and cross-examine witnesses. 369

(D) The complainant shall be a party to a hearing under 370
division (B) of this section, and any person who is an 371
indispensable party to a complete determination or settlement of 372
a question involved in the hearing shall be joined. Any 373
aggrieved person who has or claims an interest in the subject of 374
the hearing and in obtaining or preventing relief against the 375
unlawful discriminatory practices complained of shall be 376
permitted to appear only for the presentation of oral or written 377
arguments, to present evidence, perform direct and cross- 378
examination, and be represented by counsel. The commission shall 379
adopt rules, in accordance with Chapter 119. of the Revised Code 380
governing the authority granted under this division. 381

(E) In any hearing under division (B) of this section, the 382
commission, a member of the commission, or the hearing examiner 383
shall not be bound by the Rules of Evidence but, in ascertaining 384
the practices followed by the respondent, shall take into 385
account all reliable, probative, and substantial statistical or 386
other evidence produced at the hearing that may tend to prove 387
the existence of a predetermined pattern of employment or 388
membership, provided that nothing contained in this section 389
shall be construed to authorize or require any person to observe 390
the proportion that persons of any race, color, religion, sex, 391
military status, familial status, national origin, disability, 392
age, or ancestry bear to the total population or in accordance 393
with any criterion other than the individual qualifications of 394
the applicant. 395

(F) The testimony taken at a hearing under division (B) of 396
this section shall be under oath and shall be reduced to writing 397
and filed with the commission. Thereafter, in its discretion, 398

the commission, upon the service of a notice upon the 399
complainant and the respondent that indicates an opportunity to 400
be present, may take further testimony or hear argument. 401

(G) (1) (a) If, upon all reliable, probative, and 402
substantial evidence presented at a hearing under division (B) 403
of this section, the commission determines that the respondent 404
has engaged in, or is engaging in, any unlawful discriminatory 405
practice, whether against the complainant or others, the 406
commission shall state its findings of fact and conclusions of 407
law and shall issue and, subject to the provisions of Chapter 408
119. of the Revised Code, cause to be served on the respondent 409
an order requiring the respondent to do all of the following: 410

(i) Cease and desist from the unlawful discriminatory 411
practice; 412

(ii) Take any further affirmative or other action that 413
will effectuate the purposes of this chapter, including, but not 414
limited to, hiring, reinstatement, or upgrading of employees 415
with or without back pay, or admission or restoration to union 416
membership; 417

(iii) Report to the commission the manner of compliance. 418

If the commission directs payment of back pay, it shall 419
make allowance for interim earnings. 420

(b) If the commission finds a violation of division (H) of 421
section 4112.02 of the Revised Code, in addition to the action 422
described in division (G) (1) (a) of this section, the commission 423
additionally may require the respondent to undergo remediation 424
in the form of a class, seminar, or any other type of 425
remediation approved by the commission, may require the 426
respondent to pay actual damages and reasonable attorney's fees, 427

and may, to vindicate the public interest, assess a civil 428
penalty against the respondent as follows: 429

(i) If division (G) (1) (b) (ii) or (iii) of this section 430
does not apply, a civil penalty in an amount not to exceed ten 431
thousand dollars; 432

(ii) If division (G) (1) (b) (iii) of this section does not 433
apply and if the respondent has been determined by a final order 434
of the commission or by a final judgment of a court to have 435
committed one violation of division (H) of section 4112.02 of 436
the Revised Code during the five-year period immediately 437
preceding the date on which a complaint was issued pursuant to 438
division (B) of this section, a civil penalty in an amount not 439
to exceed twenty-five thousand dollars; 440

(iii) If the respondent has been determined by a final 441
order of the commission or by a final judgment of a court to 442
have committed two or more violations of division (H) of section 443
4112.02 of the Revised Code during the seven-year period 444
immediately preceding the date on which a complaint was issued 445
pursuant to division (B) of this section, a civil penalty 446
damages in an amount not to exceed fifty thousand dollars. 447

(2) Upon the submission of reports of compliance, the 448
commission may issue a declaratory order stating that the 449
respondent has ceased to engage in particular unlawful 450
discriminatory practices. 451

(H) If the commission finds that no probable cause exists 452
for crediting charges of unlawful discriminatory practices or 453
if, upon all the evidence presented at a hearing under division 454
(B) of this section on a charge, the commission finds that a 455
respondent has not engaged in any unlawful discriminatory 456

practice against the complainant or others, it shall state its 457
findings of fact and shall issue and cause to be served on the 458
complainant an order dismissing the complaint as to the 459
respondent. A copy of the order shall be delivered in all cases 460
to the attorney general and any other public officers whom the 461
commission considers proper. 462

If, upon all the evidence presented at a hearing under 463
division (B) of this section on a charge, the commission finds 464
that a respondent has not engaged in any unlawful discriminatory 465
practice against the complainant or others, it may award to the 466
respondent reasonable attorney's fees to the extent provided in 467
5 U.S.C. 504 and accompanying regulations. 468

(I) Until the time period for appeal set forth in division 469
(H) of section 4112.06 of the Revised Code expires, the 470
commission, subject to the provisions of Chapter 119. of the 471
Revised Code, at any time, upon reasonable notice, and in the 472
manner it considers proper, may modify or set aside, in whole or 473
in part, any finding or order made by it under this section. 474

Section 2. That existing sections 4112.01 and 4112.05 of 475
the Revised Code are hereby repealed. 476

Section 3. This act upholds existing religious exemptions 477
currently in Ohio law. 478