

**As Introduced**

**134th General Assembly**

**Regular Session**

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**S. B. No. 119**

**Senators Antonio, Rulli**

**Cosponsors: Senators Craig, Dolan, Fedor, Maharath, Manning, Sykes, Thomas,  
Williams, Yuko**

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**A BILL**

To amend sections 4112.01 and 4112.05 of the 1  
Revised Code to enact the Ohio Fairness Act to 2  
prohibit discrimination on the basis of sexual 3  
orientation or gender identity or expression, to 4  
add mediation as an informal method that the 5  
Ohio Civil Rights Commission may use, and to 6  
uphold existing religious exemptions under 7  
Ohio's Civil Rights Law. 8

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

**Section 1.** That sections 4112.01 and 4112.05 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 4112.01.** (A) As used in this chapter: 11

(1) "Person" includes one or more individuals, 12  
partnerships, associations, organizations, corporations, legal 13  
representatives, trustees, trustees in bankruptcy, receivers, 14  
and other organized groups of persons. "Person" also includes, 15  
but is not limited to, any owner, lessor, assignor, builder, 16  
manager, broker, salesperson, appraiser, agent, employee, 17

lending institution, and the state and all political subdivisions, authorities, agencies, boards, and commissions of the state.

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

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

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

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

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

(7) "Discriminate" includes segregate or separate.

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

(9) "Place of public accommodation" means any inn, restaurant, eating house, barbershop, public conveyance by air, land, or water, theater, store, other place for the sale of

merchandise, or any other place of public accommodation or 46  
amusement of which the accommodations, advantages, facilities, 47  
or privileges are available to the public. 48

(10) "Housing accommodations" includes any building or 49  
structure, or portion of a building or structure, that is used 50  
or occupied or is intended, arranged, or designed to be used or 51  
occupied as the home residence, dwelling, dwelling unit, or 52  
sleeping place of one or more individuals, groups, or families 53  
whether or not living independently of each other; and any 54  
vacant land offered for sale or lease. "Housing accommodations" 55  
also includes any housing accommodations held or offered for 56  
sale or rent by a real estate broker, salesperson, or agent, by 57  
any other person pursuant to authorization of the owner, by the 58  
owner, or by the owner's legal representative. 59

(11) "Restrictive covenant" means any specification 60  
limiting the transfer, rental, lease, or other use of any 61  
housing accommodations because of race, color, religion, sex, 62  
military status, familial status, national origin, disability, 63  
or ancestry, or any limitation based upon affiliation with or 64  
approval by any person, directly or indirectly, employing race, 65  
color, religion, sex, military status, familial status, national 66  
origin, disability, or ancestry as a condition of affiliation or 67  
approval. 68

(12) "Burial lot" means any lot for the burial of deceased 69  
persons within any public burial ground or cemetery, including, 70  
but not limited to, cemeteries owned and operated by municipal 71  
corporations, townships, or companies or associations 72  
incorporated for cemetery purposes. 73

(13) "Disability" means a physical or mental impairment 74  
that substantially limits one or more major life activities, 75

including the functions of caring for one's self, performing 76  
manual tasks, walking, seeing, hearing, speaking, breathing, 77  
learning, and working; a record of a physical or mental 78  
impairment; or being regarded as having a physical or mental 79  
impairment. 80

(14) Except as otherwise provided in section 4112.021 of 81  
the Revised Code, "age" means an individual aged forty years or 82  
older. 83

(15) "Familial status" means either of the following: 84

(a) One or more individuals who are under eighteen years 85  
of age and who are domiciled with a parent or guardian having 86  
legal custody of the individual or domiciled, with the written 87  
permission of the parent or guardian having legal custody, with 88  
a designee of the parent or guardian; 89

(b) Any person who is pregnant or in the process of 90  
securing legal custody of any individual who is under eighteen 91  
years of age. 92

(16) (a) Except as provided in division (A) (16) (b) of this 93  
section, "physical or mental impairment" includes any of the 94  
following: 95

(i) Any physiological disorder or condition, cosmetic 96  
disfigurement, or anatomical loss affecting one or more of the 97  
following body systems: neurological; musculoskeletal; special 98  
sense organs; respiratory, including speech organs; 99  
cardiovascular; reproductive; digestive; genito-urinary; hemic 100  
and lymphatic; skin; and endocrine; 101

(ii) Any mental or psychological disorder, including, but 102  
not limited to, intellectual disability, organic brain syndrome, 103  
emotional or mental illness, and specific learning disabilities; 104

(iii) Diseases and conditions, including, but not limited	105
to, orthopedic, visual, speech, and hearing impairments,	106
cerebral palsy, autism, epilepsy, muscular dystrophy, multiple	107
sclerosis, cancer, heart disease, diabetes, human	108
immunodeficiency virus infection, intellectual disability,	109
emotional illness, drug addiction, and alcoholism.	110
(b) "Physical or mental impairment" does not include any	111
of the following:	112
(i) Homosexuality and bisexuality;	113
(ii) Transvestism, transsexualism, pedophilia,	114
exhibitionism, voyeurism, gender identity disorders not	115
resulting from physical impairments, or other sexual behavior	116
disorders;	117
(iii) Compulsive gambling, kleptomania, or pyromania;	118
(iv) Psychoactive substance use disorders resulting from	119
the current illegal use of a controlled substance or the current	120
use of alcoholic beverages.	121
(17) "Dwelling unit" means a single unit of residence for	122
a family of one or more persons.	123
(18) "Common use areas" means rooms, spaces, or elements	124
inside or outside a building that are made available for the use	125
of residents of the building or their guests, and includes, but	126
is not limited to, hallways, lounges, lobbies, laundry rooms,	127
refuse rooms, mail rooms, recreational areas, and passageways	128
among and between buildings.	129
(19) "Public use areas" means interior or exterior rooms	130
or spaces of a privately or publicly owned building that are	131
made available to the general public.	132

(20) "Controlled substance" has the same meaning as in	133
section 3719.01 of the Revised Code.	134
(21) "Disabled tenant" means a tenant or prospective	135
tenant who is a person with a disability.	136
(22) "Military status" means a person's status in "service	137
in the uniformed services" as defined in section 5923.05 of the	138
Revised Code.	139
(23) "Aggrieved person" includes both of the following:	140
(a) Any person who claims to have been injured by any	141
unlawful discriminatory practice described in division (H) of	142
section 4112.02 of the Revised Code;	143
(b) Any person who believes that the person will be	144
injured by any unlawful discriminatory practice described in	145
division (H) of section 4112.02 of the Revised Code that is	146
about to occur.	147
(24) "Unlawful discriminatory practice relating to	148
employment" means both of the following:	149
(a) An unlawful discriminatory practice that is prohibited	150
by division (A), (B), (C), (D), (E), or (F) of section 4112.02	151
of the Revised Code;	152
(b) An unlawful discriminatory practice that is prohibited	153
by division (I) or (J) of section 4112.02 of the Revised Code	154
that is related to employment.	155
(25) "Notice of right to sue" means a notice sent by the	156
commission to a person who files a charge under section 4112.051	157
of the Revised Code that states that the person who filed the	158
charge may bring a civil action related to the charge pursuant	159
to section 4112.052 or 4112.14 of the Revised Code, in	160

accordance with section 4112.052 of the Revised Code. 161

(B) For the purposes of divisions (A) to (F) of section 162  
4112.02 of the Revised Code, the terms "because of sex" and "on 163  
the basis of sex" include, but are not limited to, because of or 164  
on the basis of pregnancy, any illness arising out of and 165  
occurring during the course of a pregnancy, childbirth, or 166  
related medical conditions. Women affected by pregnancy, 167  
childbirth, or related medical conditions shall be treated the 168  
same for all employment-related purposes, including receipt of 169  
benefits under fringe benefit programs, as other persons not so 170  
affected but similar in their ability or inability to work, and 171  
nothing in division (B) of section 4111.17 of the Revised Code 172  
shall be interpreted to permit otherwise. This division shall 173  
not be construed to require an employer to pay for health 174  
insurance benefits for abortion, except where the life of the 175  
mother would be endangered if the fetus were carried to term or 176  
except where medical complications have arisen from the 177  
abortion, provided that nothing in this division precludes an 178  
employer from providing abortion benefits or otherwise affects 179  
bargaining agreements in regard to abortion. 180

(C) For purposes of the Revised Code, any provision 181  
respecting sex discrimination includes discrimination because of 182  
a person's sexual orientation or gender identity or expression. 183

**Sec. 4112.05.** (A) (1) With the exception of unlawful 184  
discriminatory practices relating to employment, the commission, 185  
as provided in this section, shall prevent any person from 186  
engaging in unlawful discriminatory practices. 187

(2) The commission may at any time attempt to resolve 188  
allegations of unlawful discriminatory practices other than 189  
allegations concerning unlawful discriminatory practices 190

relating to employment by the use of alternative dispute 191  
resolution, provided that, before instituting the formal hearing 192  
authorized by division (B) of this section, it shall attempt, by 193  
informal methods of conference, conciliation, mediation, and 194  
persuasion, to induce compliance with this chapter. 195

(B) (1) Any person may file a charge with the commission 196  
alleging that another person has engaged or is engaging in an 197  
unlawful discriminatory practice. In the case of a charge 198  
alleging an unlawful discriminatory practice that is not an 199  
unlawful discriminatory practice relating to employment and that 200  
is described in division (G), (I), or (J) of section 4112.02 or 201  
in section 4112.021 or 4112.022 of the Revised Code, the charge 202  
shall be in writing and under oath and shall be filed with the 203  
commission within six months after the alleged unlawful 204  
discriminatory practice was committed. In the case of a charge 205  
alleging an unlawful discriminatory practice described in 206  
division (H) of section 4112.02 of the Revised Code, the charge 207  
shall be in writing and under oath and shall be filed with the 208  
commission within one year after the alleged unlawful 209  
discriminatory practice was committed. 210

(a) An oath under this section may be made in any form of 211  
affirmation the person deems binding on the person's conscience. 212  
Acceptable forms include, but are not limited to, declarations 213  
made under penalty of perjury. 214

(b) Any charge timely received, via facsimile, postal 215  
mail, electronic mail, or otherwise, may be signed under oath 216  
after the limitations period for filing set forth under division 217  
(B) (1) of this section and will relate back to the original 218  
filing date. 219

(2) Upon receiving a charge other than a charge concerning 220



unlawful discriminatory practices relating to employment, the 221  
commission may initiate a preliminary investigation to determine 222  
whether it is probable that an unlawful discriminatory practice 223  
has been or is being engaged in. The commission also may 224  
conduct, upon its own initiative and independent of the filing 225  
of any charges, a preliminary investigation relating to any of 226  
the unlawful discriminatory practices that are not unlawful 227  
discriminatory practices relating to employment and that are 228  
described in division (I) or (J) of section 4112.02 or in 229  
section 4112.021 or 4112.022 of the Revised Code. Prior to a 230  
notification of a complainant under division (B) (4) of this 231  
section or prior to the commencement of informal methods of 232  
conference, conciliation, mediation, and persuasion, or 233  
alternative dispute resolution, under that division, the members 234  
of the commission and the officers and employees of the 235  
commission shall not make public in any manner and shall retain 236  
as confidential all information that was obtained as a result of 237  
or that otherwise pertains to a preliminary investigation other 238  
than one described in division (B) (3) of this section. 239

(3) (a) Unless it is impracticable to do so and subject to 240  
its authority under division (B) (3) (d) of this section, the 241  
commission shall complete a preliminary investigation of a 242  
charge filed pursuant to division (B) (1) of this section that 243  
alleges an unlawful discriminatory practice described in 244  
division (H) of section 4112.02 of the Revised Code, and shall 245  
take one of the following actions, within one hundred days after 246  
the filing of the charge: 247

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

complaint in the matter;	252
(ii) Initiate a complaint and schedule it for informal	253
methods of conference, conciliation, <u>mediation</u> , and persuasion,	254
or alternative dispute resolution;	255
(iii) Initiate a complaint and refer it to the attorney	256
general with a recommendation to seek a temporary or permanent	257
injunction or a temporary restraining order. If this action is	258
taken, the attorney general shall apply, as expeditiously as	259
possible after receipt of the complaint, to the court of common	260
pleas of the county in which the unlawful discriminatory	261
practice allegedly occurred for the appropriate injunction or	262
order, and the court shall hear and determine the application as	263
expeditiously as possible.	264
(b) If it is not practicable to comply with the	265
requirements of division (B) (3) (a) of this section within the	266
one-hundred-day period described in that division, the	267
commission shall notify the complainant and the respondent in	268
writing of the reasons for the noncompliance.	269
(c) Prior to the issuance of a complaint under division	270
(B) (3) (a) (ii) or (iii) of this section or prior to a	271
notification of the complainant and the respondent under	272
division (B) (3) (a) (i) of this section, the members of the	273
commission and the officers and employees of the commission	274
shall not make public in any manner and shall retain as	275
confidential all information that was obtained as a result of or	276
that otherwise pertains to a preliminary investigation of a	277
charge filed pursuant to division (B) (1) of this section that	278
alleges an unlawful discriminatory practice described in	279
division (H) of section 4112.02 of the Revised Code.	280

(d) Notwithstanding the types of action described in 281  
divisions (B) (3) (a) (ii) and (iii) of this section, prior to the 282  
issuance of a complaint or the referral of a complaint to the 283  
attorney general and prior to endeavoring to eliminate an 284  
unlawful discriminatory practice described in division (H) of 285  
section 4112.02 of the Revised Code by informal methods of 286  
conference, conciliation, mediation, and persuasion, or by 287  
alternative dispute resolution, the commission may seek a 288  
temporary or permanent injunction or a temporary restraining 289  
order in the court of common pleas of the county in which the 290  
unlawful discriminatory practice allegedly occurred. 291

(4) If the commission determines after a preliminary 292  
investigation other than one concerning an alleged unlawful 293  
discriminatory practice relating to employment or one described 294  
in division (B) (3) of this section that it is not probable that 295  
an unlawful discriminatory practice has been or is being engaged 296  
in, it shall notify any complainant under division (B) (1) of 297  
this section that it has so determined and that it will not 298  
issue a complaint in the matter. If the commission determines 299  
after a preliminary investigation other than one concerning an 300  
alleged unlawful discriminatory practice relating to employment 301  
or one described in division (B) (3) of this section that it is 302  
probable that an unlawful discriminatory practice has been or is 303  
being engaged in, it shall endeavor to eliminate the practice by 304  
informal methods of conference, conciliation, mediation, and 305  
persuasion, or by alternative dispute resolution. 306

(5) Nothing said or done during informal methods of 307  
conference, conciliation, mediation, and persuasion, or during 308  
alternative dispute resolution, under this section shall be 309  
disclosed by any member of the commission or its staff or be 310  
used as evidence in any subsequent hearing or other proceeding. 311

If, after a preliminary investigation and the use of informal 312  
methods of conference, conciliation, mediation, and persuasion, 313  
or alternative dispute resolution, under this section, the 314  
commission is satisfied that any unlawful discriminatory 315  
practice will be eliminated, it may treat the charge involved as 316  
being conciliated and enter that disposition on the records of 317  
the commission. If the commission fails to effect the 318  
elimination of an unlawful discriminatory practice by informal 319  
methods of conference, conciliation, mediation, and persuasion, 320  
or by alternative dispute resolution under this section and to 321  
obtain voluntary compliance with this chapter, the commission 322  
shall issue and cause to be served upon any person, including 323  
the respondent against whom a complainant has filed a charge 324  
pursuant to division (B)(1) of this section, a complaint stating 325  
the charges involved and containing a notice of an opportunity 326  
for a hearing before the commission, a member of the commission, 327  
or a hearing examiner at a place that is stated in the notice 328  
and that is located within the county in which the alleged 329  
unlawful discriminatory practice has occurred or is occurring or 330  
in which the respondent resides or transacts business. The 331  
hearing shall be held not less than thirty days after the 332  
service of the complaint upon the complainant, the aggrieved 333  
persons other than the complainant on whose behalf the complaint 334  
is issued, and the respondent, unless the complainant, an 335  
aggrieved person, or the respondent elects to proceed under 336  
division (A)(2) of section 4112.055 of the Revised Code when 337  
that division is applicable. If a complaint pertains to an 338  
alleged unlawful discriminatory practice described in division 339  
(H) of section 4112.02 of the Revised Code, the complaint shall 340  
notify the complainant, an aggrieved person, and the respondent 341  
of the right of the complainant, an aggrieved person, or the 342  
respondent to elect to proceed with the administrative hearing 343

process under this section or to proceed under division (A) (2) 344  
of section 4112.055 of the Revised Code. 345

(6) The attorney general shall represent the commission at 346  
any hearing held pursuant to division (B) (5) of this section and 347  
shall present the evidence in support of the complaint. 348

(7) Any complaint issued pursuant to division (B) (5) of 349  
this section after the filing of a charge under division (B) (1) 350  
of this section shall be so issued within one year after the 351  
complainant filed the charge with respect to an alleged unlawful 352  
discriminatory practice. 353

(C) (1) Any complaint issued pursuant to division (B) of 354  
this section may be amended by the commission, a member of the 355  
commission, or the hearing examiner conducting a hearing under 356  
division (B) of this section. 357

(a) Except as provided in division (C) (1) (b) of this 358  
section, a complaint issued pursuant to division (B) of this 359  
section may be amended at any time prior to or during the 360  
hearing. 361

(b) If a complaint issued pursuant to division (B) of this 362  
section alleges an unlawful discriminatory practice described in 363  
division (H) of section 4112.02 of the Revised Code, the 364  
complaint may be amended at any time up to seven days prior to 365  
the hearing and not thereafter. 366

(2) The respondent has the right to file an answer or an 367  
amended answer to the original and amended complaints and to 368  
appear at the hearing in person, by attorney, or otherwise to 369  
examine and cross-examine witnesses. 370

(D) The complainant shall be a party to a hearing under 371  
division (B) of this section, and any person who is an 372

indispensable party to a complete determination or settlement of 373  
a question involved in the hearing shall be joined. Any 374  
aggrieved person who has or claims an interest in the subject of 375  
the hearing and in obtaining or preventing relief against the 376  
unlawful discriminatory practices complained of shall be 377  
permitted to appear only for the presentation of oral or written 378  
arguments, to present evidence, perform direct and cross- 379  
examination, and be represented by counsel. The commission shall 380  
adopt rules, in accordance with Chapter 119. of the Revised Code 381  
governing the authority granted under this division. 382

(E) In any hearing under division (B) of this section, the 383  
commission, a member of the commission, or the hearing examiner 384  
shall not be bound by the Rules of Evidence but, in ascertaining 385  
the practices followed by the respondent, shall take into 386  
account all reliable, probative, and substantial statistical or 387  
other evidence produced at the hearing that may tend to prove 388  
the existence of a predetermined pattern of employment or 389  
membership, provided that nothing contained in this section 390  
shall be construed to authorize or require any person to observe 391  
the proportion that persons of any race, color, religion, sex, 392  
military status, familial status, national origin, disability, 393  
age, or ancestry bear to the total population or in accordance 394  
with any criterion other than the individual qualifications of 395  
the applicant. 396

(F) The testimony taken at a hearing under division (B) of 397  
this section shall be under oath and shall be reduced to writing 398  
and filed with the commission. Thereafter, in its discretion, 399  
the commission, upon the service of a notice upon the 400  
complainant and the respondent that indicates an opportunity to 401  
be present, may take further testimony or hear argument. 402

(G) (1) (a) If, upon all reliable, probative, and 403  
substantial evidence presented at a hearing under division (B) 404  
of this section, the commission determines that the respondent 405  
has engaged in, or is engaging in, any unlawful discriminatory 406  
practice, whether against the complainant or others, the 407  
commission shall state its findings of fact and conclusions of 408  
law and shall issue and, subject to the provisions of Chapter 409  
119. of the Revised Code, cause to be served on the respondent 410  
an order requiring the respondent to do all of the following: 411

(i) Cease and desist from the unlawful discriminatory 412  
practice; 413

(ii) Take any further affirmative or other action that 414  
will effectuate the purposes of this chapter, including, but not 415  
limited to, hiring, reinstatement, or upgrading of employees 416  
with or without back pay, or admission or restoration to union 417  
membership; 418

(iii) Report to the commission the manner of compliance. 419

If the commission directs payment of back pay, it shall 420  
make allowance for interim earnings. 421

(b) If the commission finds a violation of division (H) of 422  
section 4112.02 of the Revised Code, in addition to the action 423  
described in division (G) (1) (a) of this section, the commission 424  
additionally may require the respondent to undergo remediation 425  
in the form of a class, seminar, or any other type of 426  
remediation approved by the commission, may require the 427  
respondent to pay actual damages and reasonable attorney's fees, 428  
and may, to vindicate the public interest, assess a civil 429  
penalty against the respondent as follows: 430

(i) If division (G) (1) (b) (ii) or (iii) of this section 431

does not apply, a civil penalty in an amount not to exceed ten 432  
thousand dollars; 433

(ii) If division (G) (1) (b) (iii) of this section does not 434  
apply and if the respondent has been determined by a final order 435  
of the commission or by a final judgment of a court to have 436  
committed one violation of division (H) of section 4112.02 of 437  
the Revised Code during the five-year period immediately 438  
preceding the date on which a complaint was issued pursuant to 439  
division (B) of this section, a civil penalty in an amount not 440  
to exceed twenty-five thousand dollars; 441

(iii) If the respondent has been determined by a final 442  
order of the commission or by a final judgment of a court to 443  
have committed two or more violations of division (H) of section 444  
4112.02 of the Revised Code during the seven-year period 445  
immediately preceding the date on which a complaint was issued 446  
pursuant to division (B) of this section, a civil penalty 447  
damages in an amount not to exceed fifty thousand dollars. 448

(2) Upon the submission of reports of compliance, the 449  
commission may issue a declaratory order stating that the 450  
respondent has ceased to engage in particular unlawful 451  
discriminatory practices. 452

(H) If the commission finds that no probable cause exists 453  
for crediting charges of unlawful discriminatory practices or 454  
if, upon all the evidence presented at a hearing under division 455  
(B) of this section on a charge, the commission finds that a 456  
respondent has not engaged in any unlawful discriminatory 457  
practice against the complainant or others, it shall state its 458  
findings of fact and shall issue and cause to be served on the 459  
complainant an order dismissing the complaint as to the 460  
respondent. A copy of the order shall be delivered in all cases 461



to the attorney general and any other public officers whom the 462  
commission considers proper. 463

If, upon all the evidence presented at a hearing under 464  
division (B) of this section on a charge, the commission finds 465  
that a respondent has not engaged in any unlawful discriminatory 466  
practice against the complainant or others, it may award to the 467  
respondent reasonable attorney's fees to the extent provided in 468  
5 U.S.C. 504 and accompanying regulations. 469

(I) Until the time period for appeal set forth in division 470  
(H) of section 4112.06 of the Revised Code expires, the 471  
commission, subject to the provisions of Chapter 119. of the 472  
Revised Code, at any time, upon reasonable notice, and in the 473  
manner it considers proper, may modify or set aside, in whole or 474  
in part, any finding or order made by it under this section. 475

**Section 2.** That existing sections 4112.01 and 4112.05 of 476  
the Revised Code are hereby repealed. 477

**Section 3.** This act upholds existing religious exemptions 478  
currently in Ohio law. 479