

# The Elliott-Larsen Civil Rights Act

## Celebrating the Progress of Michigan's Civil Rights Laws

By Aaron K. Bowron

As lumbermen hewed the last remnants of Michigan's old-growth white pine forests that once blanketed a primitive and untamed wilderness, the state legislature and judiciary were felling barriers to equality by pioneering the advance of early civil rights laws. Those laws formed the historical underpinnings of our present-day civil rights laws, including the 37th Michigan Legal Milestone: the Elliott-Larsen Civil Rights Act, Public Act 453 of 1976.

Although many early civil rights laws were less than vigorously enforced, the state's promotion of civil rights by prohibiting discrimination is deeply rooted in Michigan's legislative and judicial history. Public Act 130 of 1885, otherwise known as the Civil Rights Act, entitled "all persons" to full and equal access to "inns, restaurants, eating-houses, barber shops, public conveyances on land and water, theatres, and all other places of public accommodation and amusement" and criminalized the denial of such access if made on account of race or color.<sup>1</sup> The Michigan Supreme Court in *Ferguson v Gies*<sup>2</sup> relied on the Civil Rights Act in holding the "separate but equal" doctrine unconstitutional under Michigan law, some 64 years before the landmark United States Supreme Court case of *Brown v Board of Education*,<sup>3</sup> which held the doctrine unconstitutional un-

der the equal protection clause of the Fourteenth Amendment. The Civil Rights Act survived constitutional challenge in *Bolden v Grand Rapids Operating Corp.*,<sup>4</sup> the case celebrated in the 22nd Michigan Legal Milestone dedicated in 1995.

In the following years, Michigan passed civil rights laws prohibiting discrimination in public accommodations, housing, and employment. The progression of the state's laws reached new heights in the 1960s when civil rights were given constitutional status:

No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin.<sup>5</sup>

The state's constitutional declaration of civil rights was not simply aspirational; it was buttressed by the authority of the Michigan Civil Rights Commission, itself a product of the Michigan Constitution of 1963.<sup>6</sup> The commission, comprised of eight people appointed by the governor, with the advice and consent of the Michigan Senate, was charged with the responsibility of investigating incidents of alleged discrimination on the basis of religion, race, color, or national origin. By 1965, the Michigan

Department of Civil Rights was organized to supplement the efforts of the Michigan Civil Rights Commission.

The advance of Michigan's civil rights laws, however, has not been without cost. In 1970, Burton I. Gordin, the executive director of the Michigan Civil Rights Commission, was killed in a Detroit parking garage by an unknown assailant, his life extinguished by a single bullet to his chest. His wallet and belongings in his nearby car were untouched. Many suspect his death was precipitated by his involvement with civil rights.<sup>7</sup> James Watts, then president of the Michigan chapter of the NAACP, called the murder "a political assassination."<sup>8</sup> Remarking on Gordin's passing, Governor William Milliken said, "The tragic death of Burton Gordin stills a major voice in the civil rights struggle. He served a great cause with great dedication. His death is a profound loss to that cause and to the public whom he served so well."<sup>9</sup>

Gordin's death failed to check the steady march of the state's civil rights laws; more likely, it emboldened and galvanized support for their cause. In 1976, the same year Michigan's Persons with Disabilities Civil Rights Act passed, the state legislature approved Public Act 453—the Elliott-Larsen Civil Rights Act.

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Sponsored by state representatives Daisy Elliott, a Democrat from Detroit, and Mel Larsen, a Republican from Oxford, and signed into law by Governor Milliken on January 13, 1977, the Elliott-Larsen Civil Rights Act distilled into a singular, landmark piece of legislation the most comprehensive and inclusive civil rights law to date:

The opportunity to obtain employment, housing and other real estate, and the full and equal utilization of public accommodations, public service, and educational facilities without discrimination because of religion, race, color, national origin, age, sex, or marital status as prohibited by this act is recognized and declared to be a civil right.<sup>10</sup>

The act was modeled on prior state civil rights laws prohibiting discrimination in public accommodations, employment, and housing but considerably extended the reach of their application and broadened the forms of discrimination prohibited.

In the years since its passage and subsequent amendments, the Elliott-Larsen Civil Rights Act has served as a worthy springboard to expand the categories of personal or physical characteristics that are protected from discrimination to include height, weight, and familial status as additional declared

civil rights.<sup>11</sup> As recently as 2009, the act was further amended to broaden existing anti-discrimination protections in the workplace for pregnancy, childbirth, or a related medical condition.<sup>12</sup>

The evolution of Michigan's civil rights laws, while presently far more expansive and inclusive than ever before, is not complete. Emerging civil rights frontiers, including sexual orientation and gender identity, continue to crest along the political and cultural horizon. The state's longstanding policy of promoting civil rights and the bedrock on which today's laws rest suggest that those laws, including the Elliott-Larsen Civil Rights Act, will meet the challenges of the future. ■



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#### FOOTNOTES

- 1885 PA 130.
- Ferguson v Gies*, 82 Mich 358; 9 LRA 589 (1890).
- Brown v Board of Education*, 347 US 483; 74 S Ct 686; 98 L Ed 873 (1954).
- Bolden v Grand Rapids Operating Corp*, 239 Mich 318; 214 NW 241 (1927).
- Const 1963, art 1, § 2.
- Const 1963, art 5, § 29.
- Civil rights chief slain in garage*, Detroit News, March 21, 1970, p 1A.
- Serrin, *Gordin Quiz Called Lagging*, Detroit Free Press, March 26, 1970, p 5A.
- Civil rights chief slain in garage*, n 7 *supra* at 2A.
- 1976 PA 453, as amended by 1992 PA 124, MCL 37.2102.
- MCL 37.2102(1).
- 2009 PA 190.

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