

1999 ASSEMBLY BILL 640

1 **AN ACT** *to renumber* 47.02 (3) (intro.), 47.02 (3) (a), 47.02 (3) (b), 47.02 (3) (c),
2 47.02 (3) (e), 47.02 (3) (f), 47.02 (3) (g), 47.02 (3) (h), 47.02 (3) (i), 47.02 (3) (k),
3 47.02 (3) (L), 47.02 (3) (m), 47.02 (3) (n), 47.02 (3) (o), 47.02 (4), 106.04 (1), 106.04
4 (1m) (intro.), 106.04 (1m) (ad), 106.04 (1m) (am), 106.04 (1m) (b), 106.04 (1m)
5 (d), 106.04 (1m) (e), 106.04 (1m) (f), 106.04 (1m) (g), 106.04 (1m) (h), 106.04 (1m)
6 (i), 106.04 (1m) (j), 106.04 (1m) (k), 106.04 (1m) (km), 106.04 (1m) (L), 106.04
7 (1m) (m), 106.04 (1m) (mm), 106.04 (1m) (n), 106.04 (1m) (nm), 106.04 (1m)
8 (om), 106.04 (1m) (p), 106.04 (1m) (q), 106.04 (1m) (r), 106.04 (1m) (t), 106.04
9 (1s), 106.04 (2), 106.04 (2m), 106.04 (2r), 106.04 (5m), 106.04 (6), 106.04 (6m),
10 106.04 (8) (title), 106.04 (8) (b), 106.04 (9), 106.04 (10) (title), 106.04 (10) (a)
11 (title), 106.04 (10) (b), 106.04 (10) (d) (title), 106.04 (10) (d) 3., 106.04 (10) (e)
12 (title), 106.04 (10) (e) 2., 106.04 (10) (e) 3., 106.06, 106.07 (title), 106.07 (1),
13 106.07 (2), 106.07 (3), 106.07 (4) (b) and 106.08; *to renumber and amend*
14 47.02 (3) (d), 47.02 (3) (j), 106.04 (title), 106.04 (1m) (c), 106.04 (1m) (s), 106.04

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1 (8) (a), 106.04 (10) (a) 1., 106.04 (10) (a) 2., 106.04 (10) (a) 3., 106.04 (10) (a) 4.,
2 106.04 (10) (a) 5., 106.04 (10) (c), 106.04 (10) (d) 1., 106.04 (10) (d) 2., 106.04 (10)
3 (e) 1. and 106.07 (4) (a); **to amend** 15.157 (3), 16.009 (5) (d), 46.90 (4) (b) 2. b.,
4 47.035 (1), 50.07 (3) (b), 66.432 (1), 66.432 (1m) (a), 66.432 (1m) (b), 66.432 (1m)
5 (c), 66.432 (1m) (d), 66.432 (2), 77.265 (4), 101.055 (8) (ag), 101.132 (1) (e),
6 101.132 (1) (f), 101.132 (1) (g), 101.132 (2) (a) (intro.), 101.62, 103.04 (1), chapter
7 106 (title), 108.02 (13) (k), 224.77 (5) (b), 227.03 (3m), 227.40 (2) (e), 452.17 (4)
8 (b), 452.23 (1), 703.10 (2m), 814.04 (intro.) and 895.437 (1) (c); and **to create**
9 subchapter III (title) of chapter 106 [precedes 106.50], 106.52 (title), 106.52 (1),
10 106.52 (2) and 106.52 (5) of the statutes; **relating to:** the location in the
11 statutes of the equal rights programs administered by the department of
12 workforce development and reorganizing certain statutes concerning
13 vocational rehabilitation (suggested as remedial legislation by the department
14 of workforce development).

Analysis by the Legislative Reference Bureau

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of workforce development and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

15 **SECTION 1.** 15.157 (3) of the statutes is amended to read:

16 15.157 (3) DWELLING CODE COUNCIL. There is created in the department of
17 commerce, a dwelling code council, consisting of 17 members appointed for staggered
18 3-year terms. Four members shall be representatives of building trade labor

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1 organizations; 4 members shall be certified building inspectors employed by local
2 units of government; 2 members shall be representatives of building contractors
3 actively engaged in on-site construction of one- and 2-family housing; 2 members
4 shall be representatives of manufacturers or installers of manufactured one- and
5 2-family housing; one member shall be an architect, engineer or designer actively
6 engaged in the design or evaluation of one- and 2-family housing; 2 members shall
7 represent the construction material supply industry; and 2 members shall represent
8 the public, one of whom shall represent persons with disabilities, as defined in s.
9 ~~106.04~~ 106.50 (1m) (g). An employe of the department designated by the secretary
10 of commerce shall serve as nonvoting secretary of the council. The council shall meet
11 at least twice a year. Eleven members of the council shall constitute a quorum. For
12 the purpose of conducting business a majority vote of the council is required.

13 **SECTION 2.** 16.009 (5) (d) of the statutes is amended to read:

14 16.009 (5) (d) Any employe of an employer not described in par. (c) and who is
15 discharged or otherwise retaliated or discriminated against in violation of par. (a)
16 may file a complaint with the department of workforce development under s. ~~106.06~~
17 106.54 (5).

18 **SECTION 3.** 46.90 (4) (b) 2. b. of the statutes is amended to read:

19 46.90 (4) (b) 2. b. Any employe of an employer not described in subd. 2. a. who
20 is discharged or otherwise discriminated against may file a complaint with the
21 department of workforce development under s. ~~106.06~~ 106.54 (5).

22 **SECTION 4.** 47.02 (3) (intro.) of the statutes is renumbered 47.02 (3m) (intro.).

23 **SECTION 5.** 47.02 (3) (a) of the statutes is renumbered 47.02 (3m) (c).

24 **SECTION 6.** 47.02 (3) (b) of the statutes is renumbered 47.02 (3m) (L).

25 **SECTION 7.** 47.02 (3) (c) of the statutes is renumbered 47.02 (3m) (e).

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1 **SECTION 8.** 47.02 (3) (d) of the statutes is renumbered 47.02 (3m) (g) and
2 amended to read:

3 47.02 **(3m)** (g) Aid persons with disabilities in securing the services needed to
4 make them more employable, place persons with disabilities in suitable occupations
5 and provide postemployment services, as defined in the rehabilitation program
6 developed under par. ~~(e)~~ (e) of a person with a disability, necessary to maintain
7 employment.

8 **SECTION 9.** 47.02 (3) (e) of the statutes is renumbered 47.02 (3m) (d).

9 **SECTION 10.** 47.02 (3) (f) of the statutes is renumbered 47.02 (3m) (a).

10 **SECTION 11.** 47.02 (3) (g) of the statutes is renumbered 47.02 (3m) (o).

11 **SECTION 12.** 47.02 (3) (h) of the statutes is renumbered 47.02 (3m) (b).

12 **SECTION 13.** 47.02 (3) (i) of the statutes is renumbered 47.02 (3m) (h).

13 **SECTION 14.** 47.02 (3) (j) of the statutes is renumbered 47.02 (3m) (m) and
14 amended to read:

15 47.02 **(3m)** (m) Except as provided in par. ~~(o)~~ (n), determine the financial need
16 of persons with disabilities based upon a uniform fee schedule as provided under s.
17 46.03 (18) for the provision or purchase of vocational rehabilitation services specified
18 in the rehabilitation program developed under par. ~~(e)~~ (e) of the person with a
19 disability.

20 **SECTION 15.** 47.02 (3) (k) of the statutes is renumbered 47.02 (3m) (i).

21 **SECTION 16.** 47.02 (3) (L) of the statutes is renumbered 47.02 (3m) (j).

22 **SECTION 17.** 47.02 (3) (m) of the statutes is renumbered 47.02 (3m) (k) .

23 **SECTION 18.** 47.02 (3) (n) of the statutes is renumbered 47.02 (3m) (f).

24 **SECTION 19.** 47.02 (3) (o) of the statutes is renumbered 47.02 (3m) (n).

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NOTE: SECTIONS 4 to 19 place the statutory responsibilities of the department of workforce development with respect to vocational rehabilitation services in a new sequence to reflect the order in which those responsibilities are typically applied. No substantive changes are made in the provisions.

1 **SECTION 20.** 47.02 (4) of the statutes is renumbered 47.02 (6).

NOTE: SECTION 20 places a provision containing the authority of the department of workforce development to provide financial assistance to persons with disabilities, accept gifts, grants and donations for purposes of ch. 47, stats., and provide personal assistance to persons with disabilities in a more logical sequence in the statutes.

2 **SECTION 21.** 47.035 (1) of the statutes is amended to read:

3 47.035 (1) Except as authorized in sub. (2) if an individual receives direct
4 funding for personal assistance services that are provided to the individual under s.
5 47.02 (4) ~~(6)~~ (c), and the services are provided through a county department of human
6 services or social services or an aging unit, the county department or aging unit
7 through which the services are provided shall serve directly as a fiscal agent or
8 contract with a fiscal intermediary to serve as a fiscal agent for that individual for
9 the purposes of performing the responsibilities and protecting the interests of the
10 individual under the unemployment insurance law. The fiscal agent under this
11 subsection is responsible for remitting any federal unemployment compensation
12 taxes or state unemployment insurance contributions owed by the individual,
13 including any interest and penalties which are owed by the individual; for serving
14 as the representative of the individual in any investigation, meeting, hearing or
15 appeal involving ch. 108 or the federal unemployment tax act (26 USC 3301 to 3311)
16 in which the individual is a party; and for receiving, reviewing, completing and
17 returning all forms, reports and other documents required under ch. 108 or the
18 federal unemployment tax act on behalf of the individual.

19 **SECTION 22.** 50.07 (3) (b) of the statutes is amended to read:

20 50.07 (3) (b) Any employe of an employer not described in par. (a) who is
21 discharged or otherwise retaliated or discriminated against in violation of sub. (1)

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1 (e) or (em) may file a complaint with the department of workforce development under
2 s. ~~106.06~~ 106.54 (5).

3 **SECTION 23.** 66.432 (1) of the statutes is amended to read:

4 66.432 (1) DECLARATION OF POLICY. The right of all persons to have equal
5 opportunities for housing regardless of their sex, race, color, physical condition,
6 disability as defined in s. ~~106.04~~ 106.50 (1m) (g), sexual orientation as defined in s.
7 111.32 (13m), religion, national origin, marital status, family status as defined in s.
8 ~~106.04~~ 106.50 (1m) (k), lawful source of income, age or ancestry is a matter both of
9 statewide concern under ss. 101.132 and ~~106.04~~ 106.50 and also of local interest
10 under this section and s. 66.433. The enactment of ss. 101.132 and ~~106.04~~ 106.50 by
11 the legislature shall not preempt the subject matter of equal opportunities in housing
12 from consideration by political subdivisions, and shall not exempt political
13 subdivisions from their duty, nor deprive them of their right, to enact ordinances
14 which prohibit discrimination in any type of housing solely on the basis of an
15 individual being a member of a protected class.

16 **SECTION 24.** 66.432 (1m) (a) of the statutes is amended to read:

17 66.432 (1m) (a) “Aggrieved person” has the meaning given in s. ~~106.04~~ 106.50
18 (1m) (b).

19 **SECTION 25.** 66.432 (1m) (b) of the statutes is amended to read:

20 66.432 (1m) (b) “Complainant” has the meaning given in s. ~~106.04~~ 106.50 (1m)
21 (c).

22 **SECTION 26.** 66.432 (1m) (c) of the statutes is amended to read:

23 66.432 (1m) (c) “Discriminate” has the meaning given in s. ~~106.04~~ 106.50 (1m)
24 (h).

25 **SECTION 27.** 66.432 (1m) (d) of the statutes is amended to read:

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1 66.432 **(1m)** (d) “Member of a protected class” has the meaning given in s.
2 ~~106.04~~ 106.50 (1m) (nm).

3 **SECTION 28.** 66.432 (2) of the statutes is amended to read:

4 66.432 **(2)** ANTIDISCRIMINATION HOUSING ORDINANCES. Political subdivisions may
5 enact ordinances prohibiting discrimination in housing within their respective
6 boundaries solely on the basis of an individual being a member of a protected class.
7 Such an ordinance may be similar to ss. 101.132 and ~~106.04 (1) to (8)~~ 106.50 or may
8 be more inclusive in its terms or in respect to the different types of housing subject
9 to its provisions, but any such ordinance establishing a forfeiture as a penalty for
10 violation shall not be for an amount that is less than the statutory forfeitures under
11 s. ~~106.04~~ 106.50 (6) (h). Such an ordinance may permit a complainant, aggrieved
12 person or respondent to elect to remove the action to circuit court after a finding has
13 been made that there is reasonable cause to believe that a violation of the ordinance
14 has occurred. Such an ordinance may also authorize the political subdivision, at any
15 time after a complaint has been filed alleging an ordinance violation, to file a
16 complaint in circuit court seeking a temporary injunction or restraining order
17 pending final disposition of the complaint.

18 **SECTION 29.** 77.265 (4) of the statutes is amended to read:

19 77.265 **(4)** The department of workforce development may use the returns
20 under s. ~~106.04~~ 106.50.

21 **SECTION 30.** 101.055 (8) (ag) of the statutes is amended to read:

22 101.055 **(8)** (ag) In this subsection, “division of equal rights” means the division
23 of equal rights in the department of workforce development acting under the
24 authority provided in s. ~~106.06~~ 106.54 (4).

25 **SECTION 31.** 101.132 (1) (e) of the statutes is amended to read:

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1 101.132 (1) (e) “Disability” has the meaning given in s. ~~106.04~~ 106.50 (1m) (g).

2 **SECTION 32.** 101.132 (1) (f) of the statutes is amended to read:

3 101.132 (1) (f) “Dwelling unit” has the meaning given in s. ~~106.04~~ 106.50 (1m)

4 (i).

5 **SECTION 33.** 101.132 (1) (g) of the statutes is amended to read:

6 101.132 (1) (g) “Housing” has the meaning given in s. ~~106.04~~ 106.50 (1m) (L).

7 **SECTION 34.** 101.132 (2) (a) (intro.) of the statutes is amended to read:

8 101.132 (2) (a) (intro.) In addition to discrimination prohibited under s. ~~106.04~~
9 106.50 (2), (2m) and (2r) (b) and (bm), no person may design or construct covered
10 multifamily housing unless it meets all of the following standards:

11 **SECTION 35.** 101.62 of the statutes is amended to read:

12 **101.62 Dwelling code council; power.** The dwelling code council shall
13 review the standards and rules for one- and 2-family dwelling construction and
14 recommend a uniform dwelling code for adoption by the department which shall
15 include rules providing for the conservation of energy in the construction and
16 maintenance of dwellings and for costs of specific code provisions to home buyers to
17 be related to the benefits derived from such provisions. The council shall study the
18 need for and availability of one-family and 2-family dwellings that are accessible to
19 persons with disabilities, as defined in s. ~~106.04~~ 106.50 (1m) (g), and shall make
20 recommendations to the department for any changes to the uniform dwelling code
21 that may be needed to ensure an adequate supply of one-family and 2-family
22 dwellings. Upon its own initiative or at the request of the department, the council
23 shall consider and make recommendations to the department pertaining to rules and
24 any other matters related to this subchapter. The council shall recommend variances
25 for different climate and soil conditions throughout the state.

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1 **SECTION 45.** 106.04 (1m) (d) of the statutes is renumbered 106.50 (1m) (d).

2 **SECTION 46.** 106.04 (1m) (e) of the statutes is renumbered 106.50 (1m) (e).

3 **SECTION 47.** 106.04 (1m) (f) of the statutes is renumbered 106.50 (1m) (f).

4 **SECTION 48.** 106.04 (1m) (g) of the statutes is renumbered 106.50 (1m) (g).

5 **SECTION 49.** 106.04 (1m) (h) of the statutes is renumbered 106.50 (1m) (h).

6 **SECTION 50.** 106.04 (1m) (i) of the statutes is renumbered 106.50 (1m) (i).

7 **SECTION 51.** 106.04 (1m) (j) of the statutes is renumbered 106.50 (1m) (j).

8 **SECTION 52.** 106.04 (1m) (k) of the statutes is renumbered 106.50 (1m) (k).

9 **SECTION 53.** 106.04 (1m) (km) of the statutes is renumbered 106.50 (1m) (km).

10 **SECTION 54.** 106.04 (1m) (L) of the statutes is renumbered 106.50 (1m) (L).

11 **SECTION 55.** 106.04 (1m) (m) of the statutes is renumbered 106.50 (1m) (m).

12 **SECTION 56.** 106.04 (1m) (mm) of the statutes is renumbered 106.50 (1m) (mm).

NOTE: SECTIONS 39 to 56 place provisions of current s. 106.04, stats., relating to open housing in new s. 106.50 stats., created by this bill.

13 **SECTION 57.** 106.04 (1m) (n) of the statutes is renumbered 106.52 (1) (d).

NOTE: This SECTION moves the definition of “lodging establishment”, which is used only in the provisions relating to discrimination in public places of accommodation or amusement, to new s. 106.52, stats., created by this bill.

14 **SECTION 58.** 106.04 (1m) (nm) of the statutes is renumbered 106.50 (1m) (nm).

15 **SECTION 59.** 106.04 (1m) (om) of the statutes is renumbered 106.50 (1m) (om).

NOTE: SECTIONS 58 and 59 place definitions in current s. 106.04, stats., relating to open housing in new s. 106.50, stats., created by this bill.

16 **SECTION 60.** 106.04 (1m) (p) of the statutes is renumbered 106.52 (1) (e).

NOTE: This SECTION places the definition of “public place of accommodation or amusement” in new s. 106.52, stats., created by this bill, relating to discrimination in public places of accommodation or amusement created by this bill.

17 **SECTION 61.** 106.04 (1m) (q) of the statutes is renumbered 106.50 (1m) (q).

18 **SECTION 62.** 106.04 (1m) (r) of the statutes is renumbered 106.50 (1m) (r).

19 **SECTION 63.** 106.04 (1m) (s) of the statutes is renumbered 106.50 (1m) (s) and

20 amended to read:

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1 106.50 **(1m)** (s) “Respondent” means the person accused in a complaint or
2 amended complaint of discrimination in housing and any other person identified in
3 the course of an investigation as allegedly having discriminated in housing ~~or in~~
4 ~~providing a public place of accommodation or amusement.~~

5 **SECTION 64.** 106.04 (1m) (t) of the statutes is renumbered 106.50 (1m) (t).

NOTE: SECTIONS 61 to 64 move definitions that are used in the open housing law to
new s. 106.50, stats., created by this bill.

6 **SECTION 65.** 106.04 (1s) of the statutes is renumbered 106.50 (1s).

7 **SECTION 66.** 106.04 (2) of the statutes is renumbered 106.50 (2).

8 **SECTION 67.** 106.04 (2m) of the statutes is renumbered 106.50 (2m).

9 **SECTION 68.** 106.04 (2r) of the statutes is renumbered 106.50 (2r).

10 **SECTION 69.** 106.04 (5m) of the statutes is renumbered 106.50 (5m).

11 **SECTION 70.** 106.04 (6) of the statutes is renumbered 106.50 (6).

12 **SECTION 71.** 106.04 (6m) of the statutes is renumbered 106.50 (6m).

NOTE: SECTIONS 65 to 71 move provisions relating to administration of the open
housing law, discrimination in housing, representations designed to induce panic sales,
discrimination in housing against persons with disabilities, exemptions and exclusions,
fair housing enforcement and civil actions for discrimination in housing to the new s.
106.50, stats., created by this bill, relating to open housing.

13 **SECTION 72.** 106.04 (8) (title) of the statutes is renumbered 106.50 (8) (title).

14 **SECTION 73.** 106.04 (8) (a) of the statutes is renumbered 106.50 (8) (a) and
15 amended to read:

16 106.50 **(8)** (a) If the department finds reasonable cause to believe that an act
17 of discrimination has been or is being committed in violation of this section by a
18 person taking an action prohibited under sub. (2), (2m) or (2r), ~~or probable cause to~~
19 ~~believe that an act has been or is being committed in violation of sub. (9), and that~~
20 the person is licensed or chartered under state law, the department shall notify the
21 licensing or chartering agency of its findings, and may file a complaint with such

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1 agency together with a request that the agency initiate proceedings to suspend or
2 revoke the license or charter of such person or take other less restrictive disciplinary
3 action.

4 **SECTION 74.** 106.04 (8) (b) of the statutes is renumbered 106.50 (8) (b).

NOTE: SECTIONS 72 to 74 place provisions relating to discrimination in housing by
licensed or chartered persons in new s. 106.50, stats., created by this bill, relating to open
housing.

5 **SECTION 75.** 106.04 (9) of the statutes is renumbered 106.52 (3).

NOTE: This SECTION renumbers a statutory provision relating to discrimination in
public places of accommodation or amusement to place it in new s. 106.52, stats., created
by this bill.

6 **SECTION 76.** 106.04 (10) (title) of the statutes is renumbered 106.52 (4) (title).

7 **SECTION 77.** 106.04 (10) (a) (title) of the statutes is renumbered 106.52 (4) (a)
8 (title).

9 **SECTION 78.** 106.04 (10) (a) 1. of the statutes is renumbered 106.52 (4) (a) 1. and
10 amended to read:

11 106.52 (4) (a) 1. The department may receive and investigate a complaint
12 charging a violation of sub. ~~(9)~~ (3) if the complaint is filed with the department no
13 more than 300 days after the alleged act prohibited under sub. ~~(9)~~ (3) occurred. A
14 complaint shall be a written statement of the essential facts constituting the act
15 prohibited under sub. ~~(9)~~ (3) charged, and shall be verified.

16 **SECTION 79.** 106.04 (10) (a) 2. of the statutes is renumbered 106.52 (4) (a) 2. and
17 amended to read:

18 106.52 (4) (a) 2. In carrying out this subsection, the department and its duly
19 authorized agents may hold hearings, subpoena witnesses, take testimony and make
20 investigations as provided in this chapter. The department, upon its own motion,
21 may test and investigate for the purpose of establishing violations of sub. ~~(9)~~ (3), and
22 may make, sign and file complaints alleging violations of sub. ~~(9)~~ (3), and initiate

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1 investigations and studies to carry out the purposes of sub. (9) and this subsection
2 and sub. (3).

3 **SECTION 80.** 106.04 (10) (a) 3. of the statutes is renumbered 106.52 (4) (a) 3. and
4 amended to read:

5 106.52 (4) (a) 3. The department shall employ such examiners as are necessary
6 to hear and decide complaints of acts prohibited under sub. (9) (3) and to assist in the
7 effective administration of this subsection. The examiners may make findings and
8 orders under this subsection.

9 **SECTION 81.** 106.04 (10) (a) 4. of the statutes is renumbered 106.52 (4) (a) 4. and
10 amended to read:

11 106.52 (4) (a) 4. If the department finds probable cause to believe that any act
12 prohibited under sub. (9) (3) has been or is being committed, it the department may
13 endeavor to eliminate the ~~discrimination or other~~ act by conference, conciliation and
14 persuasion. If the department determines that such conference, conciliation and
15 persuasion has not eliminated the alleged act prohibited under sub. (9) (3), the
16 department shall issue and serve a written notice of hearing, specifying the nature
17 and acts prohibited under sub. (9) (3) which appear to have been committed, and
18 requiring the person named, in this subsection called the “respondent”, to answer the
19 complaint at a hearing before an examiner. The notice shall specify a time of hearing,
20 not less than 10 days after service of the complaint, and a place of hearing within the
21 county in which the violation of sub. (9) (3) is alleged to have occurred. ~~A party's~~ The
22 attorney of record for any party may issue a subpoena to compel the attendance of
23 a witness or the production of evidence. A subpoena issued by an attorney must be
24 in substantially the same form as provided in s. 805.07 (4) and must be served in the
25 manner provided in s. 805.07 (5). The attorney shall, at the time of issuance, send

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1 a copy of the subpoena to the appeal tribunal or other representative of the
2 department responsible for conducting the proceeding. The testimony at the hearing
3 shall be recorded by the department. In all hearings before an examiner, except those
4 for determining probable cause, the burden of proof is on the party alleging an act
5 prohibited under sub. (9) (3). If, after the hearing, the examiner finds by a fair
6 preponderance of the evidence that the respondent has violated sub. (9) (3), the
7 examiner shall make written findings and order such action by the respondent as
8 will effectuate the purpose of sub. (9) and this subsection and sub. (3). The
9 department shall serve a certified copy of the examiner's findings and order on the
10 respondent and complainant, ~~the~~. The order to shall have the same force as other
11 orders of the department and shall be enforced as provided in this subsection, except
12 that the enforcement of the order is automatically stayed upon the filing of a petition
13 for review with the commission. If the examiner finds that the respondent has not
14 engaged in an act prohibited under sub. (9) (3) as alleged in the complaint, the
15 department shall serve a certified copy of the examiner's findings on the complainant
16 and the respondent together with an order dismissing the complaint. If the
17 complaint is dismissed, costs in an amount not to exceed \$100 plus actual
18 disbursements for the attendance of witnesses may be assessed against the
19 department in the discretion of the department.

20 **SECTION 82.** 106.04 (10) (a) 5. of the statutes is renumbered 106.52 (4) (a) 5. and
21 amended to read:

22 106.52 (4) (a) 5. At any time after a complaint is filed, the department may file
23 a petition in the circuit court for the county in which the act prohibited under sub.
24 (9) (3) allegedly occurred, or for the county in which a respondent resides or transacts
25 business, seeking appropriate temporary relief against the respondent, pending

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1 final determination of proceedings under this subsection, including an order or
2 decree restraining the respondent from performing an act tending to render
3 ineffectual an order the department may enter with respect to the complaint. The
4 court may grant such temporary relief or restraining order as ~~it~~ the court deems just
5 and proper.

6 **SECTION 83.** 106.04 (10) (b) of the statutes is renumbered 106.52 (4) (b).

7 **SECTION 84.** 106.04 (10) (c) of the statutes is renumbered 106.52 (4) (c) and
8 amended to read:

9 106.52 (4) (c) *Judicial review.* Within 30 days after service upon all parties of
10 an order of the commission under par. (b), the respondent or complainant may appeal
11 the order to the circuit court for the county in which the alleged act prohibited under
12 sub. (9) (3) took place by the filing of a petition for review. The respondent or
13 complainant shall receive a new trial on all issues relating to any alleged act
14 prohibited under sub. (9) (3) and a further right to a trial by jury, if so desired. The
15 department of justice shall represent the commission. In any such trial the burden
16 shall be to prove an act prohibited under sub. (9) (3) by a fair preponderance of the
17 evidence. Costs in an amount not to exceed \$100 plus actual disbursements for the
18 attendance of witnesses may be taxed to the prevailing party on the appeal.

19 **SECTION 85.** 106.04 (10) (d) (title) of the statutes is renumbered 106.52 (10) (d)
20 (title).

21 **SECTION 86.** 106.04 (10) (d) 1. of the statutes is renumbered 106.52 (4) (d) 1. and
22 amended to read:

23 106.52 (4) (d) 1. A person who wilfully violates sub. (9) (3) or any lawful order
24 issued under this subsection shall, for the first violation, forfeit not less than \$100
25 nor more than \$1,000.

ASSEMBLY BILL 640**SECTION 87**

1 **SECTION 87.** 106.04 (10) (d) 2. of the statutes is renumbered 106.52 (4) (d) 2. and
2 amended to read:

3 106.52 **(4)** (d) 2. A person adjudged to have violated sub. ~~(9)~~ (3) within 5 years
4 after having been adjudged to have violated sub. ~~(9)~~ (3), for every violation committed
5 within the 5 years, shall forfeit not less than \$1,000 nor more than \$10,000.

6 **SECTION 88.** 106.04 (10) (d) 3. of the statutes is renumbered 106.52 (4) (d) 3.

7 **SECTION 89.** 106.04 (10) (e) (title) of the statutes is renumbered 106.52 (4) (e)
8 (title).

9 **SECTION 90.** 106.04 (10) (e) 1. of the statutes is renumbered 106.52 (4) (e) 1. and
10 amended to read:

11 106.52 **(4)** (e) 1. A person, including the state, alleging a violation of sub. ~~(9)~~ (3)
12 may bring a civil action for appropriate injunctive relief, for damages including
13 punitive damages, and, in the case of a prevailing plaintiff, for court costs and
14 reasonable attorney fees. The attorney general shall represent the department in
15 an action to which the department is a party.

16 **SECTION 91.** 106.04 (10) (e) 2. of the statutes is renumbered 106.52 (4) (e) 2.

17 **SECTION 92.** 106.04 (10) (e) 3. of the statutes is renumbered 106.52 (4) (e) 3.

NOTE: SECTIONS 76 through 92 place various provisions of current s. 106.04 (10),
stats., relating to investigation and review of claims charging discrimination in public
places of accommodation or amusement in the new s. 106.52, stats., created by this bill,
relating to discrimination in public places of accommodation or amusement.

18 **SECTION 93.** 106.06 of the statutes is renumbered 106.54.

NOTE: This SECTION places the current statutory duties of the division of equal
rights in the department of workforce development in new s. 106.54, stats., created by this
bill. This provision will be in new subch. III of ch. 106, stats., relating to equal rights
programs, created by the bill.

19 **SECTION 94.** 106.07 (title) of the statutes is renumbered 106.56 (title).

20 **SECTION 95.** 106.07 (1) of the statutes is renumbered 106.56 (1).

21 **SECTION 96.** 106.07 (2) of the statutes is renumbered 106.56 (2).

ASSEMBLY BILL 640

1 **SECTION 97.** 106.07 (3) of the statutes is renumbered 106.56 (3).

2 **SECTION 98.** 106.07 (4) (a) of the statutes is renumbered 106.56 (4) (a) and
3 amended to read:

4 106.56 (4) (a) The department shall receive and investigate complaints
5 charging discrimination or discriminatory practices in particular cases, and
6 publicize its findings with respect thereto. The department has all powers provided
7 under s. 111.39 with respect to the disposition of such complaints. The findings and
8 orders of examiners may be reviewed as provided under s. ~~106.04 (10)~~ 106.52 (4) (b).

9 **SECTION 99.** 106.07 (4) (b) of the statutes is renumbered 106.56 (4) (b).

NOTE: SECTIONS 94 to 99 renumber provisions relating to prohibitions on
discrimination on the basis of physical condition or developmental disability in
postsecondary education to place them into the new subch. III of ch. 106, stats., relating
to equal rights programs created by this bill.

10 **SECTION 100.** 106.08 of the statutes is renumbered 106.58.

NOTE: This SECTION renumbers s. 106.08, stats., relating to discrimination in public
education on account of sex, race, religion or national origin to place them in the new
subch. III of ch. 106, stats., relating to equal rights programs created by this bill.

11 **SECTION 101.** Subchapter III (title) of chapter 106 [precedes 106.50] of the
12 statutes is created to read:

13 **CHAPTER 106**

14 **SUBCHAPTER III**

15 **EQUAL RIGHTS PROGRAMS**

NOTE: This SECTION creates a title for the new subch. III of ch. 106, stats., under
which statutes relating to discrimination in housing, public places of accommodation or
amusement and education are being placed by this bill.

16 **SECTION 102.** 106.52 (title) of the statutes is created to read:

NOTE: This SECTION creates a title for new s. 106.52, stats., created by this bill,
relating to discrimination in public places of accommodation or amusement.

17 **106.52 (title) Public places of accommodation or amusement.**

18 **SECTION 103.** 106.52 (1) of the statutes is created to read:

19 106.52 (1) DEFINITIONS. In this section:

ASSEMBLY BILL 640**SECTION 103**

1 (a) “Complainant” means a person who files a complaint alleging a violation of
2 sub. (3).

3 (b) “Conciliation” has the meaning given in s. 106.50 (1m) (d).

4 (c) “Disability” has the meaning given in s. 106.50 (1m) (g).

5 (f) “Respondent” means the person accused in a complaint or amended
6 complaint of committing a violation of sub. (3).

7 (g) “Sexual orientation” has the meaning given in s. 111.32 (13m).

NOTE: This SECTION creates the definitions required for new s. 106.52, stats.,
created by this bill, relating to discrimination in public places of accommodation or
amusement.

8 **SECTION 104.** 106.52 (2) of the statutes is created to read:

9 106.52 (2) DEPARTMENT TO ADMINISTER. The department shall administer this
10 section through its division of equal rights. The department may promulgate such
11 rules as are necessary to carry out this section. No rule may prohibit the processing
12 of any class action complaint or the ordering of any class-based remedy, and no rule
13 may provide that complaints may be consolidated for administrative convenience
14 only.

NOTE: This SECTION requires the department of workforce development to
administer the statutes relating to discrimination in public places of accommodation or
amusement through its division of equal rights. The SECTION also grants the department
rule-making authority to carry out those statutes and prohibits the rules from
prohibiting the processing of class action complaints or the ordering of any class-based
remedy and from providing that complaints may be consolidated for administrative
convenience only.

15 **SECTION 105.** 106.52 (5) of the statutes is created to read:

16 106.52 (5) DISCRIMINATION BY LICENSED OR CHARTERED PERSONS. (a) If the
17 department finds probable cause to believe that an act has been or is being
18 committed in violation of sub. (3) and that the person who committed or is
19 committing the act is licensed or chartered under state law, the department shall
20 notify the licensing or chartering agency of its findings and may file a complaint with

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1 such agency together with a request that the agency initiate proceedings to suspend
2 or revoke the license or charter of such person or take other less restrictive
3 disciplinary action.

4 (b) Upon filing a complaint under par. (a), the department shall make available
5 to the appropriate licensing or chartering agency all pertinent documents and files
6 in its custody, and shall cooperate fully with such agency in the agency's proceedings.

NOTE: This SECTION creates a new statute relating to discrimination by licensed or chartered persons in public places of accommodation or amusement, similar to current s. 106.04 (8), stats., to reflect the fact that the statutes relating to discrimination in housing and in public places of accommodation or amusement are separated by this bill into two separate statutes.

7 **SECTION 106.** 108.02 (13) (k) of the statutes is amended to read:

8 108.02 (13) (k) "Employer" does not include a county department or aging unit
9 that serves as a fiscal agent or contracts with a fiscal intermediary to serve as a fiscal
10 agent under s. 46.27 (5) (i) or 47.035 as to any individual performing services for a
11 person receiving long-term support services under s. 46.27 (5) (b), 46.275, 46.277,
12 46.278, 46.495, 51.42 or 51.437 or personal assistance services under s. 47.02 (4) (6)
13 (c).

NOTE: SECTIONS 14, 21 and 106 insert new cross-references to reflect the renumbering done in this bill.

14 **SECTION 107.** 224.77 (5) (b) of the statutes is amended to read:

15 224.77 (5) (b) *Other penalties.* The penalty under par. (a) may be imposed in
16 addition to any penalty imposed under s. 66.432, ~~106.04~~ 106.50 or 224.80.

17 **SECTION 108.** 227.03 (3m) of the statutes is amended to read:

18 227.03 (3m) (a) This chapter does not apply to proceedings before the
19 department of workforce development relating to housing discrimination under s.
20 ~~106.04 (1) to (8)~~ 106.50, except as provided in s. ~~106.04~~ 106.50 (6).

ASSEMBLY BILL 640**SECTION 108**

1 (b) Only the provisions of this chapter relating to rules are applicable to matters
2 arising out of protection against discrimination in a public place of accommodation
3 or amusement under s. ~~106.04 (9) and (10)~~ 106.52.

4 **SECTION 109.** 227.40 (2) (e) of the statutes is amended to read:

5 227.40 (2) (e) Proceedings under s. 66.191, 1981 stats., or s. 40.65 (2), ~~106.04~~
6 106.50, 106.52, 303.07 (7) or 303.21 or ss. 227.52 to 227.58 or under ch. 102, 108 or
7 949 for review of decisions and orders of administrative agencies if the validity of the
8 rule involved was duly challenged in the proceeding before the agency in which the
9 order or decision sought to be reviewed was made or entered.

10 **SECTION 110.** 452.17 (4) (b) of the statutes is amended to read:

11 452.17 (4) (b) This penalty may be imposed in addition to any penalty imposed
12 under this chapter or s. 66.432 or ~~106.04~~ 106.50.

13 **SECTION 111.** 452.23 (1) of the statutes is amended to read:

14 452.23 (1) A broker or salesperson may not disclose to any person in connection
15 with the sale, exchange, purchase or rental of real property information, the
16 disclosure of which constitutes unlawful discrimination in housing under s. ~~106.04~~
17 106.50 or unlawful discrimination based on handicap under 42 USC 3604, 3605,
18 3606 or 3617.

19 **SECTION 112.** 703.10 (2m) of the statutes is amended to read:

20 703.10 (2m) LIMITATION ON ENFORCEMENT OF CERTAIN PROVISIONS. No bylaw or
21 rule adopted under a bylaw and no covenant, condition or restriction set forth in a
22 declaration or deed to a unit may be applied to discriminate against an individual
23 in a manner described in s. ~~106.04~~ 106.50.

24 **SECTION 113.** 814.04 (intro.) of the statutes is amended to read:

ASSEMBLY BILL 640

1 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
2 ~~106.04~~ 106.50 (6) (i) and (6m) (a), 115.80 (9), 769.313, 814.025, 814.245, 895.035 (4),
3 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212 (2) (b), 943.245 (2) (d) and 943.51
4 (2) (b), when allowed costs shall be as follows:

5 **SECTION 114.** 895.437 (1) (c) of the statutes is amended to read:

6 895.437 **(1)** (c) “Lodging establishment” has the meaning given in s. ~~106.04~~
7 ~~(1m) (n)~~ 106.52 (1) (d).

NOTE: SECTIONS 107 to 114 change cross-references to reflect the new numbering
of ch. 106, stats., by this bill.

8

(END)