

## HOUSE BILL No. 2665

By Representatives Woodard, Byers, Meyer and S. Ruiz

2-9

1 AN ACT concerning the Kansas act against discrimination and acts  
2 supplemental thereto; relating to the inclusion of sexual orientation and  
3 gender identity or expression as protected classes under the act;  
4 amending K.S.A. 12-16,107, 44-1001, 44-1002, 44-1004, 44-1005, 44-  
5 1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and  
6 repealing the existing sections.

7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 12-16,107 is hereby amended to read as follows:  
10 12-16,107. In case of the refusal of any person to comply with any  
11 subpoena issued by a local human relations commission, or to testify to  
12 any matter regarding which such person may be lawfully questioned the  
13 district court of any county may, upon application of the local human  
14 relations commission, order such person to comply with such subpoena  
15 and to testify to the extent such person could be so compelled pursuant to  
16 the provisions of ~~subsection (5)~~ of K.S.A. 44-1004(e), and amendments  
17 thereto, of the Kansas act against discrimination. Failure to obey the  
18 court's order shall be punishable by the court as contempt.

19 Sec. 2. K.S.A. 44-1001 is hereby amended to read as follows: 44-  
20 1001. This act shall be known as the Kansas act against discrimination. It  
21 shall be deemed an exercise of the police power of the state for the  
22 protection of the public welfare, safety, health and peace of the people of  
23 this state. The practice or policy of discrimination against individuals in  
24 employment relations, in relation to free and public accommodations, in  
25 housing by reason of race, religion, color, sex, disability, national origin  
26 ~~or~~, ancestry, *sexual orientation or gender identity or expression* or in  
27 housing by reason of familial status is a matter of concern to the state,  
28 since such discrimination threatens not only the rights and privileges of the  
29 inhabitants of the state of Kansas but menaces the institutions and  
30 foundations of a free democratic state. It is hereby declared to be the  
31 policy of the state of Kansas to eliminate and prevent discrimination in all  
32 employment relations, to eliminate and prevent discrimination,  
33 segregation, or separation in all places of public accommodations covered  
34 by this act, and to eliminate and prevent discrimination, segregation or  
35 separation in housing.

36 It is also declared to be the policy of this state to assure equal

1 opportunities and encouragement to every citizen regardless of race,  
2 religion, color, sex, disability, national origin~~—or~~, ancestry, *sexual*  
3 *orientation or gender identity or expression*, in securing and holding,  
4 without discrimination, employment in any field of work or labor for  
5 which a person is properly qualified, to assure equal opportunities to all  
6 persons within this state to full and equal public accommodations, and to  
7 assure equal opportunities in housing without distinction on account of  
8 race, religion, color, sex, disability, familial status, national origin~~—or~~,  
9 ancestry, *sexual orientation or gender identity or expression*. It is further  
10 declared that the opportunity to secure and to hold employment, the  
11 opportunity for full and equal public accommodations as covered by this  
12 act and the opportunity for full and equal housing are civil rights of every  
13 citizen.

14 To protect these rights, it is hereby declared to be the purpose of this act  
15 to establish and to provide a state commission having power to eliminate  
16 and prevent segregation and discrimination, or separation in employment,  
17 in all places of public accommodations covered by this act, in housing  
18 because of race, religion, color, sex, disability, national origin~~—or~~, ancestry,  
19 *sexual orientation or gender identity or expression* and in housing because  
20 of familial status, either by employers, labor organizations, employment  
21 agencies, realtors, financial institutions or other persons as hereinafter  
22 provided.

23 Sec. 3. K.S.A. 44-1002 is hereby amended to read as follows: 44-  
24 1002. When used in this act:

25 (a) "Person" includes one or more individuals, partnerships,  
26 associations, organizations, corporations, legal representatives, trustees,  
27 trustees in bankruptcy or receivers.

28 (b) "Employer" includes any person in this state employing four or  
29 more persons and any person acting directly or indirectly for an employer,  
30 labor organizations, nonsectarian corporations, organizations engaged in  
31 social service work and the state of Kansas and all political and municipal  
32 subdivisions thereof, but shall not include a nonprofit fraternal or social  
33 association or corporation.

34 (c) "Employee" does not include any individual employed by such  
35 individual's parents, spouse or child or in the domestic service of any  
36 person.

37 (d) "Labor organization" includes any organization~~—which~~ *that* exists  
38 for the purpose, in whole or in part, of collective bargaining, of dealing  
39 with employers concerning grievances, terms or conditions of employment  
40 or of other mutual aid or protection in relation to employment.

41 (e) "Employment agency" includes any person or governmental  
42 agency undertaking, with or without compensation, to procure  
43 opportunities to work or to procure, recruit, refer or place employees.

1 (f) "Commission" means the Kansas human rights commission  
 2 created by this act.

3 (g) "Unlawful employment practice" includes only those unlawful  
 4 practices and acts specified in K.S.A. 44-1009, and amendments thereto,  
 5 and includes segregate or separate.

6 (h) "Public accommodations" means any person who caters or offers  
 7 goods, services, facilities and accommodations to the public. Public  
 8 accommodations include, but are not limited to, any lodging establishment  
 9 or food service establishment, as defined by K.S.A. 36-501, and  
 10 amendments thereto; ~~any~~, bar, tavern, barbershop, beauty parlor, theater,  
 11 skating rink, bowling alley, billiard parlor, amusement park, recreation  
 12 park, swimming pool, lake, gymnasium, mortuary or cemetery ~~which that~~  
 13 is open to the public; or any public transportation facility. Public  
 14 accommodations do not include a religious or nonprofit fraternal or social  
 15 association or corporation.

16 (i) "Unlawful discriminatory practice" means: (1) Any discrimination  
 17 against persons, by reason of their race, religion, color, sex, disability,  
 18 national origin ~~or~~, ancestry, *sexual orientation or gender identity or*  
 19 *expression*:

20 (A) In any place of public accommodations; or

21 (B) in the full and equal use and enjoyment of the services, facilities,  
 22 privileges and advantages of any institution, department or agency of the  
 23 state of Kansas or any political subdivision or municipality thereof; and

24 (2) any discrimination against persons in regard to membership in a  
 25 nonprofit recreational or social association or corporation by reason of  
 26 race, religion, sex, color, disability, national origin ~~or~~, ancestry, *sexual*  
 27 *orientation or gender identity or expression* if such association or  
 28 corporation has 100 or more members and: (A) Provides regular meal  
 29 service; and (B) receives payment for dues, fees, use of space, use of  
 30 facility, services, meals or beverages, directly or indirectly, from or on  
 31 behalf of nonmembers.

32 This term shall not apply to a religious or private fraternal and  
 33 benevolent association or corporation.

34 (j) "Disability" means, with respect to an individual:

35 (1) A physical or mental impairment that substantially limits one or  
 36 more of the major life activities of such individual;

37 (2) a record of such an impairment; or

38 (3) being regarded as having such an impairment.

39 Disability does not include current, illegal use of a controlled substance  
 40 as defined in section 102 of the federal controlled substance act ~~(~~, 21  
 41 U.S.C. § 802), in housing discrimination. In employment and public  
 42 accommodation discrimination, "disability" does not include an individual  
 43 who is currently engaging in the illegal use of drugs where possession or

1 distribution of such drugs is unlawful under the controlled substance act-(,  
2 21 U.S.C. § 812), when the covered entity acts on the basis of such use.

3 (k) (1) "Reasonable accommodation" means:

4 (A) Making existing facilities used by employees readily accessible  
5 to and usable by individuals with disabilities; and

6 (B) job restructuring; part-time or modified work schedules;  
7 reassignment to a vacant position; acquisition or modification of  
8 equipment or devices; appropriate adjustment or modifications of  
9 examinations, training materials or policies; provision of qualified readers  
10 or interpreters; and other similar accommodations for individuals with  
11 disabilities.

12 (2) A reasonable accommodation or a reasonable modification to  
13 policies, practices or procedures need not be provided to an individual who  
14 meets the definition of disability in K.S.A. 44-1002(j)(3), and amendments  
15 thereto.

16 (l) "Regarded as having such an impairment" means the absence of a  
17 physical or mental impairment but regarding or treating an individual as  
18 though such an impairment exists. An individual meets the requirement of  
19 "being regarded as having such an impairment" if the individual  
20 establishes that such individual has been subjected to an action prohibited  
21 under this act because of an actual or perceived physical or mental  
22 impairment whether or not the impairment limits or is perceived to limit a  
23 major life activity. Subsection (j)(3) shall not apply to impairments that are  
24 transitory or minor. A transitory impairment is an impairment with an  
25 actual or expected duration of six months or less.

26 (m) "Major life activities" means:

27 (1) "Major life activities" include, but are not limited to, caring for  
28 oneself, performing manual tasks, seeing, hearing, eating, sleeping,  
29 walking, standing, lifting, bending, speaking, breathing, learning, reading,  
30 concentrating, thinking, communicating, and working.

31 (2) ~~It~~ "Major life activities" also ~~includes~~ include the operation of a  
32 major bodily function, including, but not limited to, functions of the  
33 immune system, normal cell growth, digestive, bowel, bladder,  
34 neurological, brain, respiratory, circulatory, endocrine and reproductive  
35 functions.

36 (n) "Genetic screening or testing" means a laboratory test of a  
37 person's genes or chromosomes for abnormalities, defects or deficiencies,  
38 including carrier status, that are linked to physical or mental disorders or  
39 impairments, or that indicate a susceptibility to illness, disease or other  
40 disorders, whether physical or mental, which test is a direct test for  
41 abnormalities, defects or deficiencies, and not an indirect manifestation of  
42 genetic disorders.

43 (o) "Sexual orientation" means actual, or perceived, male or female

1 *heterosexuality, homosexuality or bisexuality by inclination, practice or*  
2 *expression.*

3 (p) "*Gender identity or expression*" means the gender-related  
4 *identity, appearance, mannerisms or other gender-related characteristics*  
5 *of an individual, without regard to such individual's designated sex at*  
6 *birth.*

7 Sec. 4. K.S.A. 44-1004 is hereby amended to read as follows: 44-  
8 1004. The commission shall have the following functions, powers and  
9 duties:

10 (1)(a) To establish and maintain its principal office in the city of  
11 Topeka, and such other offices elsewhere within the state as it may deem  
12 necessary.

13 (2)(b) To meet and function at any place within the state.

14 (3)(c) To adopt, promulgate, amend and rescind suitable rules and  
15 regulations to carry out the provisions of this act, and the policies and  
16 practices of the commission ~~in connection therewith~~ *conducted in*  
17 *accordance with this act.*

18 (4)(d) To receive, initiate, investigate and pass upon complaints  
19 alleging discrimination in employment, public accommodations and  
20 housing because of race, religion, color, sex, disability, national origin ~~or~~,  
21 ancestry, *sexual orientation or gender identity or expression* and  
22 complaints alleging discrimination in housing because of familial status.

23 (5)(e) To subpoena witnesses, compel their appearance and require  
24 the production for examination of records, documents and other evidence  
25 or possible sources of evidence and to examine, record and copy such  
26 materials and take and record the testimony or statements of such persons.  
27 The commission may issue subpoenas to compel access to or the  
28 production of such materials, or the appearance of such persons, and may  
29 issue interrogatories to a respondent to the same extent and subject to the  
30 same limitations as would apply if the subpoena or interrogatories were  
31 issued or served in aid of a civil action in the district court. The  
32 commission shall have access at all reasonable times to premises and may  
33 compel such access by application to a court of competent jurisdiction  
34 provided that the commission first complies with the provisions of article  
35 15 of the Kansas bill of rights and the fourth amendment to the United  
36 States constitution relating to unreasonable searches and seizures. The  
37 commission may administer oaths and take depositions to the same extent  
38 and subject to the same limitations as would apply if the deposition was  
39 taken in aid of a civil action in the district court. In case of the refusal of  
40 any person to comply with any subpoena, interrogatory or search warrant  
41 issued hereunder, or to testify to any matter regarding which such person  
42 may be lawfully questioned, the district court of any county may, upon  
43 application of the commission, order such person to comply with such

1 subpoena or interrogatory and to testify. Failure to obey the court's order  
2 may be punished by the court as contempt. No person shall be prosecuted  
3 or subjected to any penalty or forfeiture for or on account of any  
4 transaction, matter or thing concerning which such person testifies or  
5 produces evidence, except that such person so testifying shall not be  
6 exempt from prosecution and punishment for perjury committed in so  
7 testifying. The immunity herein provided shall extend only to natural  
8 persons.

9 ~~(6)~~(f) To act in concert with other parties in interest in order to  
10 eliminate and prevent discrimination and segregation, prohibited by this  
11 act, by including any term in a conciliation agreement as could be included  
12 in a final order under this act.

13 ~~(7)~~(g) To apply to the district court of the county where the  
14 respondent resides or transacts business for enforcement of any  
15 conciliation agreement by seeking specific performance of such  
16 agreement.

17 ~~(8)~~(h) To issue such final orders after a public hearing as may remedy  
18 any existing situation found to violate this act and prevent its recurrence.

19 ~~(9)~~(i) To endeavor to eliminate prejudice among the various ethnic  
20 groups and people with disabilities in this state and to further good will  
21 among such groups. The commission in cooperation with the state  
22 department of education shall prepare a comprehensive educational  
23 program designed for the students of the public schools of this state and  
24 for all other residents thereof, calculated to emphasize the origin of  
25 prejudice against such groups, its harmful effects and its incompatibility  
26 with American principles of equality and fair play.

27 ~~(10)~~(j) To create such advisory agencies and conciliation councils,  
28 local, regional or statewide, as in its judgment will aid in effectuating the  
29 purposes of this act; to study the problem of discrimination in all or  
30 specific fields or instances of discrimination because of race, religion,  
31 color, sex, disability, national origin~~or~~, ancestry, *sexual orientation or*  
32 *gender identity or expression*; to foster, through community effort or  
33 otherwise, good will, cooperation and conciliation among the groups and  
34 elements of the population of this state; and to make recommendations to  
35 the commission for the development of policies and procedures, and for  
36 programs of formal and informal education, ~~which~~ *that* the commission  
37 may recommend to the appropriate state agency. Such advisory agencies  
38 and conciliation councils shall be composed of representative citizens  
39 serving without pay. The commission may ~~itself~~ make the studies and  
40 perform the acts authorized by this paragraph. ~~It~~ *The commission* may, by  
41 voluntary conferences with parties in interest, endeavor by conciliation  
42 and persuasion to eliminate discrimination in all the stated fields and to  
43 foster good will and cooperation among all elements of the population of

1 the state.

2 (~~H~~)(k) To accept contributions from any person to assist in the  
3 effectuation of this section and to seek and enlist the cooperation of  
4 private, charitable, religious, labor, civic and benevolent organizations for  
5 the purposes of this section.

6 (~~I~~)(l) To issue such publications and such results of investigation  
7 and research as in its judgment will tend to promote good will and  
8 minimize or eliminate discrimination because of race, religion, color, sex,  
9 disability, national origin~~or~~, ancestry, *sexual orientation or gender identity*  
10 *or expression*.

11 (~~J~~)(m) To render each year to the governor and to the state  
12 legislature a full written report of all of ~~its~~ *the commission's* activities and  
13 ~~of its~~ recommendations.

14 (~~K~~)(n) To adopt an official seal.

15 (~~L~~)(o) To receive and accept federal funds to effectuate the purposes  
16 of the act and to enter into agreements with any federal agency for such  
17 purpose.

18 Sec. 5. K.S.A. 44-1005 is hereby amended to read as follows: 44-  
19 1005. (a) Any person claiming to be aggrieved by an alleged unlawful  
20 employment practice or by an alleged unlawful discriminatory practice,  
21 and who can articulate a prima facie case pursuant to a recognized legal  
22 theory of discrimination, may, personally or by an attorney-at-law, make,  
23 sign and file with the commission a verified complaint in writing,  
24 articulating the prima facie case, which shall also state the name and  
25 address of the person, employer, labor organization or employment agency  
26 alleged to have committed the unlawful employment practice complained  
27 of or the name and address of the person alleged to have committed the  
28 unlawful discriminatory practice complained of, and which shall set forth  
29 the particulars thereof and contain such other information as may be  
30 required by the commission.

31 (b) The commission upon its own initiative or the attorney general  
32 may, in like manner, make, sign and file such complaint. Whenever the  
33 attorney general has sufficient reason to believe that any person as herein  
34 defined is engaged in a practice of discrimination, segregation or  
35 separation in violation of this act, the attorney general may make, sign and  
36 file a complaint. Any employer whose employees or some of whom, refuse  
37 or threaten to refuse to cooperate with the provisions of this act, may file  
38 with the commission a verified complaint asking for assistance by  
39 conciliation or other remedial action.

40 (c) Whenever any problem of discrimination because of race,  
41 religion, color, sex, disability, national origin~~or~~, ancestry, *sexual*  
42 *orientation or gender identity or expression* arises, or whenever the  
43 commission has, in ~~its own~~ *the judgment of the commission*, reason to

1 believe that any person has engaged in an unlawful employment practice  
2 or an unlawful discriminatory practice in violation of this act, or has  
3 engaged in a pattern or practice of discrimination, the commission may  
4 conduct an investigation without filing a complaint and shall have the  
5 same powers during such investigation as provided for the investigation of  
6 complaints. The person to be investigated shall be advised of the nature  
7 and scope of such investigation prior to its commencement. The purpose of  
8 the investigation shall be to resolve any such problems promptly. In the  
9 event such problems cannot be resolved within a reasonable time, the  
10 commission may issue a complaint whenever the investigation has  
11 revealed a violation of the Kansas act against discrimination has occurred.  
12 The information gathered in the course of the first investigation may be  
13 used in processing the complaint.

14 (d) After the filing of any complaint by an aggrieved individual, by  
15 the commission, or by the attorney general, the commission shall, within  
16 seven days after the filing of the complaint, serve a copy on each of the  
17 parties alleged to have violated this act, and shall designate one of the  
18 commissioners to make, with the assistance of the commission's staff,  
19 prompt investigation of the alleged act of discrimination. If the  
20 commissioner shall determine after such investigation that no probable  
21 cause exists for crediting the allegations of the complaint, such  
22 commissioner, within 10 business days from such determination, shall  
23 cause to be issued and served upon the complainant and respondent written  
24 notice of such determination.

25 (e) If such commissioner after such investigation, shall determine that  
26 probable cause exists for crediting the allegations for the complaint, the  
27 commissioner or such other commissioner as the commission may  
28 designate, shall immediately endeavor to eliminate the unlawful  
29 employment practice or the unlawful discriminatory practice complained  
30 of by conference and conciliation. The complainant, respondent and  
31 commission shall have 45 days from the date respondent is notified in  
32 writing of a finding of probable cause to enter into a conciliation  
33 agreement signed by all parties in interest. The parties may amend a  
34 conciliation agreement at any time prior to the date of entering into such  
35 agreement. Upon agreement by the parties the time for entering into such  
36 agreement may be extended. The members of the commission and its staff  
37 shall not disclose what has transpired in the course of such endeavors.

38 (f) In case of failure to eliminate such practices by conference and  
39 conciliation, or in advance thereof, if in the judgment of the commissioner  
40 or the commission circumstances so warrant, the commissioner or the  
41 commission shall commence a hearing in accordance with the provisions  
42 of the Kansas administrative procedure act naming as parties the  
43 complainant and the person, employer, labor organization, employment

1 agency, realtor or financial institution named in such complaint,  
2 hereinafter referred to as respondent. A copy of the complaint shall be  
3 served on the respondent. At least four commissioners or a presiding  
4 officer from the office of administrative hearings shall be designated as the  
5 presiding officer. The place of such hearing shall be in the county where  
6 respondent is doing business and the acts complained of occurred.

7 (g) The complainant or respondent may apply to the presiding officer  
8 for the issuance of a subpoena for the attendance of any person or the  
9 production or examination of any books, records or documents pertinent to  
10 the proceeding at the hearing. Upon such application the presiding officer  
11 shall issue such subpoena.

12 (h) The case in support of the complaint shall be presented before the  
13 presiding officer by one of the commission's attorneys or agents, or by  
14 private counsel, if any, of the complainant, and the commissioner who  
15 shall have previously made the investigation shall not participate in the  
16 hearing except as a witness. Any endeavors at conciliation shall not be  
17 received in evidence.

18 (i) Any complaint filed pursuant to this act must be so filed within six  
19 months after the alleged act of discrimination, unless the act complained of  
20 constitutes a continuing pattern or practice of discrimination in which  
21 event it will be from the last act of discrimination. Complaints filed with  
22 the commission may be dismissed by the commission on its own initiative,  
23 and shall be dismissed by the commission upon the written request of the  
24 complainant, if the commission has not issued a finding of probable cause  
25 or no probable cause or taken other administrative action dismissing the  
26 complaint within 300 days of the filing of the complaint. The commission  
27 shall mail written notice to all parties of dismissal of a complaint within  
28 five days of dismissal. Any such dismissal of a complaint in accordance  
29 with this section shall constitute final action by the commission which  
30 shall be deemed to exhaust all administrative remedies under the Kansas  
31 act against discrimination for the purpose of allowing subsequent filing of  
32 the matter in court by the complainant, without the requirement of filing a  
33 petition for reconsideration pursuant to K.S.A. 44-1010, and amendments  
34 thereto. Dismissal of a complaint in accordance with this section shall not  
35 be subject to appeal or judicial review by any court under the provisions of  
36 K.S.A. 44-1011, and amendments thereto. The provisions of this section  
37 shall not apply to complaints alleging discriminatory housing practices  
38 filed with the commission pursuant to K.S.A. 44-1015 et seq., and  
39 amendments thereto.

40 (j) The respondent may file a written verified answer to the complaint  
41 and appear at such hearing in person or otherwise, with or without counsel,  
42 and submit testimony. The complainant shall appear at such hearing in  
43 person, with or without counsel, and submit testimony. The presiding

1 officer or the complainant shall have the power reasonably and fairly to  
2 amend any complaint, and the respondent shall have like power to amend  
3 such respondent's answer. The presiding officer shall be bound by the rules  
4 of evidence prevailing in courts of law or equity, and only relevant  
5 evidence of reasonable probative value shall be received.

6 (k) If the presiding officer finds a respondent has engaged in or is  
7 engaging in any unlawful employment practice or unlawful discriminatory  
8 practice as defined in this act, the presiding officer shall render an order  
9 requiring such respondent to cease and desist from such unlawful  
10 employment practice or such unlawful discriminatory practice and to take  
11 such affirmative action, including but not limited to:

12 (1) The hiring, reinstatement, or upgrading of employees, with or  
13 without back pay, and the admission or restoration to membership in any  
14 respondent labor organizations;

15 (2) the admission to and full and equal enjoyment of the goods,  
16 services, facilities, and accommodations offered by any respondent place  
17 of public accommodation denied in violation of this act, as, in the  
18 judgment of the presiding officer, will effectuate the purposes of this act;  
19 ~~and including; and~~

20 (3) a requirement for a report of the manner of compliance.

21 Such order may also include an award of damages for pain, suffering  
22 and humiliation ~~which~~ that are incidental to the act of discrimination,  
23 except that an award for such pain, suffering and humiliation shall in no  
24 event exceed the sum of \$2,000.

25 (l) Any state, county or municipal agency may pay a complainant  
26 back pay if it has entered into a conciliation agreement for such purposes  
27 with the commission, and may pay such back pay if it is ordered to do so  
28 by the commission.

29 (m) If the presiding officer finds that a respondent has not engaged in  
30 any such unlawful employment practice, or any such unlawful  
31 discriminatory practice, the presiding officer shall render an order  
32 dismissing the complaint as to such respondent.

33 (n) The commission shall review an initial order rendered under  
34 subsection (k) or (m). In addition to the parties, a copy of any final order  
35 shall be served on the attorney general and such other public officers as the  
36 commission may deem proper.

37 (o) The commission shall, except as otherwise provided, establish  
38 rules of practice to govern, expedite and effectuate the foregoing  
39 procedure and its own actions thereunder. The rules of practice shall be  
40 available, upon written request, within 30 days after the date of adoption.

41 Sec. 6. K.S.A. 44-1006 is hereby amended to read as follows: 44-  
42 1006. (a) The provisions of this act shall be construed liberally for the  
43 accomplishment of the purposes thereof. Nothing contained in this act

1 shall be deemed to repeal any of the provisions of any other law of this  
 2 state relating to discrimination because of race, religion, color, sex,  
 3 disability, national origin~~or~~, ancestry, *sexual orientation or gender identity*  
 4 *or expression*, unless the same is specifically repealed by this act.

5 (b) Nothing in this act shall be construed to mean that an employer  
 6 shall be forced to hire unqualified or incompetent personnel, or discharge  
 7 qualified or competent personnel.

8 (c) The definition of "disability" in K.S.A. 44-1002(j), and  
 9 amendments thereto, shall be construed in accordance with the following:

10 (1) The definition of disability in this act shall be construed in favor  
 11 of broad coverage of individuals under this act, to the maximum extent  
 12 permitted by the terms of this act;

13 (2) an impairment that substantially limits one major life activity need  
 14 not limit other major life activities in order to be considered a disability;

15 (3) an impairment that is episodic or in remission is a disability if it  
 16 would substantially limit a major life activity when active; and

17 (4) (A) The determination of whether an impairment substantially  
 18 limits a major life activity shall be made without regard to the ameliorative  
 19 effects of mitigating measures such as the following:

20 (i) Medication, medical supplies, equipment, or appliances, low-  
 21 vision devices ~~(which do not include~~ *not including* ordinary eye glasses or  
 22 contact lenses), prosthetics, including limbs and devices, hearing aids ~~and~~,  
 23 cochlear implants or other implantable hearing devices, mobility devices,  
 24 or oxygen therapy equipment and supplies;

25 (ii) use of assistive technology;

26 (iii) reasonable accommodations or auxiliary aides or services; or

27 (iv) learned behavioral or adaptive neurological modifications.

28 (B) The ameliorative effects of the mitigating measures of ordinary  
 29 eyeglasses or contact lenses shall be considered in determining whether an  
 30 impairment substantially limits a major life activity.

31 (C) As used in this subparagraph:

32 (i) "Ordinary eyeglasses or contact lenses" means lenses that are  
 33 intended to fully correct visual acuity or eliminate refractive error; and

34 (ii) "low-vision devices" means devices that magnify, enhance, or  
 35 otherwise augment a visual image.

36 Sec. 7. K.S.A. 44-1009 is hereby amended to read as follows: 44-  
 37 1009. (a) It shall be an unlawful employment practice:

38 (1) For an employer, because of the race, religion, color, sex,  
 39 disability, national origin~~or~~, ancestry, *sexual orientation or gender identity*  
 40 *or expression* of any person to:

41 (A) Refuse to hire or employ such person~~to~~;

42 (B) bar or discharge such person from employment or to otherwise  
 43 discriminate against such person in compensation or in terms, conditions

1 or privileges of employment; ~~to~~

2 (C) limit, segregate, separate, classify or make any distinction in  
3 regards to employees; or ~~to~~

4 (D) follow any employment procedure or practice ~~which, in fact,~~ *that*  
5 results in discrimination, segregation or separation without a valid  
6 business necessity.

7 (2) For a labor organization, because of the race, religion, color, sex,  
8 disability, national origin ~~or~~, ancestry, *sexual orientation or gender identity*  
9 *or expression* of any person, to exclude or ~~to~~ expel from its membership  
10 such person or to discriminate in any way against any of its members or  
11 against any employer or any person employed by an employer.

12 (3) For any employer, employment agency or labor organization to  
13 print or circulate or cause to be printed or circulated any statement,  
14 advertisement or publication, or to use any form of application for  
15 employment or membership or to make any inquiry in connection with  
16 prospective employment or membership, ~~which~~ *that* expresses, directly or  
17 indirectly, any limitation, specification or discrimination as to race,  
18 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual*  
19 *orientation or gender identity or expression*, or any intent to make any  
20 such limitation, specification or discrimination, unless based on a bona  
21 fide occupational qualification.

22 (4) For any employer, employment agency or labor organization to  
23 discharge, expel or otherwise discriminate against any person because such  
24 person has opposed any practices or acts forbidden under this act or  
25 because such person has filed a complaint, testified or assisted in any  
26 proceeding under this act.

27 (5) For an employment agency to:

28 (A) Refuse to list and properly classify for employment or to refuse to  
29 refer any person for employment or otherwise discriminate against any  
30 person because of such person's race, religion, color, sex, disability,  
31 national origin ~~or~~, ancestry, *sexual orientation or gender identity or*  
32 *expression*; or ~~to~~

33 (B) comply with a request from an employer for a referral of  
34 applicants for employment if the request expresses, either directly or  
35 indirectly, any limitation, specification or discrimination as to race,  
36 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual*  
37 *orientation or gender identity or expression*.

38 (6) For an employer, labor organization, employment agency; or  
39 school ~~which~~ *that* provides, coordinates or controls apprenticeship, on-the-  
40 job, or other training or retraining program, to:

41 (A) Maintain a practice of discrimination, segregation or separation  
42 because of race, religion, color, sex, disability, national origin ~~or~~, ancestry,  
43 *sexual orientation or gender identity or expression*, in admission, hiring,

1 assignments, upgrading, transfers, promotion, layoff, dismissal,  
2 apprenticeship or other training or retraining program, or in any other  
3 terms, conditions or privileges of employment, membership,  
4 apprenticeship or training; or to

5 (B) follow any policy or procedure ~~which, in fact,~~ that results in such  
6 practices without a valid business motive.

7 (7) For any person, whether an employer or an employee or not, to  
8 aid, abet, incite, compel or coerce the doing of any of the acts forbidden  
9 under this act, or attempt to do so.

10 (8) For an employer, labor organization, employment agency or joint  
11 labor-management committee to:

12 (A) Limit, segregate or classify a job applicant or employee in a way  
13 that adversely affects the opportunities or status of such applicant or  
14 employee because of the disability of such applicant or employee;

15 (B) participate in a contractual or other arrangement or relationship,  
16 including a relationship with an employment or referral agency, labor  
17 union, an organization providing fringe benefits to an employee or an  
18 organization providing training and apprenticeship programs that has the  
19 effect of subjecting a qualified applicant or employee with a disability to  
20 the discrimination prohibited by this act;

21 (C) utilize standards criteria, or methods of administration that have  
22 the effect of discrimination on the basis of disability or that perpetuate the  
23 discrimination of others who are subject to common administrative  
24 control;

25 (D) exclude or otherwise deny equal jobs or benefits to a qualified  
26 individual because of the known disability of an individual with whom the  
27 qualified individual is known to have a relationship or association;

28 (E) not make reasonable accommodations to the known physical or  
29 mental limitations of an otherwise qualified individual with a disability  
30 who is an applicant or employee, unless such employer, labor organization,  
31 employment agency or joint labor-management committee can  
32 demonstrate that the accommodation would impose an undue hardship on  
33 the operation of the business thereof;

34 (F) deny employment opportunities to a job applicant or employee  
35 who is an otherwise qualified individual with a disability, if such denial is  
36 based on the need to make reasonable accommodation to the physical or  
37 mental impairments of the employee or applicant;

38 (G) use qualification standards, employment tests or other selection  
39 criteria that screen out or tend to screen out an individual with a disability  
40 or a class of individuals with disabilities unless the standard, test or other  
41 selection criteria, as used, is shown to be job-related for the position in  
42 question and is consistent with business necessity; or

43 (H) fail to select and administer tests concerning employment in the

1 most effective manner to ensure that, when such test is administered to a  
 2 job applicant or employee who has a disability that impairs sensory,  
 3 manual or speaking skills, the test results accurately reflect the skills,  
 4 aptitude or whatever other factor of such applicant or employee that such  
 5 test purports to measure, rather than reflecting the impaired sensory,  
 6 manual or speaking skills of such employee or applicant—(, except where  
 7 such skills are the factors that the test purports to measure).

8 (9) For any employer to:

9 (A) Seek to obtain, to obtain or to use genetic screening or testing  
 10 information of an employee or a prospective employee to distinguish  
 11 between or discriminate against or restrict any right or benefit otherwise  
 12 due or available to an employee or a prospective employee; or

13 (B) subject, directly or indirectly, any employee or prospective  
 14 employee to any genetic screening or test.

15 (b) It shall not be an unlawful employment practice to fill vacancies  
 16 in such way as to eliminate or reduce imbalance with respect to race,  
 17 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*  
 18 *orientation or gender identity or expression*.

19 (c) It shall be an unlawful discriminatory practice:

20 (1) For any person, as defined herein being the owner, operator,  
 21 lessee, manager, agent or employee of any place of public accommodation  
 22 to refuse, deny or make a distinction, directly or indirectly, in offering its  
 23 goods, services, facilities; and accommodations to any person as covered  
 24 by this act because of race, religion, color, sex, disability, national origin  
 25 ~~or~~, ancestry, *sexual orientation or gender identity or expression*, except  
 26 where a distinction because of sex is necessary because of the intrinsic  
 27 nature of such accommodation.

28 (2) For any person, whether or not specifically enjoined from  
 29 discriminating under any provisions of this act, to aid, abet, incite, compel  
 30 or coerce the doing of any of the acts forbidden under this act, or to  
 31 attempt to do so.

32 (3) For any person, to refuse, deny, make a distinction, directly or  
 33 indirectly, or discriminate in any way against persons because of the race,  
 34 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*  
 35 *orientation or gender identity or expression* of such persons in the full and  
 36 equal use and enjoyment of the services, facilities, privileges and  
 37 advantages of any institution, department or agency of the state of Kansas  
 38 or any political subdivision or municipality thereof.

39 Sec. 8. K.S.A. 44-1015 is hereby amended to read as follows: 44-  
 40 1015. As used in this act, unless the context otherwise requires:

41 (a) "Commission" means the Kansas human rights commission.

42 (b) "Real property" means and includes:

43 (1) All vacant or unimproved land; and

1 (2) any building or structure ~~which~~ *that* is occupied or designed or  
 2 intended for occupancy, or any building or structure having a portion  
 3 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

4 (c) "Family" includes a single individual.

5 (d) "Person" means an individual, corporation, partnership,  
 6 association, labor organization, legal representative, mutual company,  
 7 joint-stock company, trust, unincorporated organization, trustee, trustee in  
 8 bankruptcy, receiver and fiduciary.

9 (e) "To rent" means to lease, to sublease, to let and otherwise to grant  
 10 for a consideration the right to occupy premises not owned by the  
 11 occupant.

12 (f) "Discriminatory housing practice" means any act that is unlawful  
 13 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto.

14 (g) "Person aggrieved" means any person who claims to have been  
 15 injured by a discriminatory housing practice or believes that such person  
 16 will be injured by a discriminatory housing practice that is about to occur.

17 (h) "Disability" has the meaning provided by K.S.A. 44-1002, and  
 18 amendments thereto.

19 (i) "Familial status" means having one or more individuals less than  
 20 18 years of age domiciled with:

21 (1) A parent or another person having legal custody of such  
 22 individual or individuals; or

23 (2) the designee of such parent or other person having such custody,  
 24 with the written permission of such parent or other person.

25 (j) *"Sexual orientation" means the same as in K.S.A. 44-1002, and*  
 26 *amendments thereto.*

27 (k) *"Gender identity or expression" means the same as in K.S.A. 44-*  
 28 *1002, and amendments thereto.*

29 Sec. 9. K.S.A. 44-1016 is hereby amended to read as follows: 44-  
 30 1016. Subject to the provisions of K.S.A. 44-1018, and amendments  
 31 thereto, it shall be unlawful for any person:

32 (a) To refuse to sell or rent after the making of a bona fide offer, to  
 33 fail to transmit a bona fide offer or refuse to negotiate in good faith for the  
 34 sale or rental of, or otherwise make unavailable or deny, real property to  
 35 any person because of race, religion, color, sex, disability, familial status,  
 36 national origin ~~or~~, ancestry, *sexual orientation or gender identity or*  
 37 *expression.*

38 (b) To discriminate against any person in the terms, conditions or  
 39 privileges of sale or rental of real property, or in the provision of services  
 40 or facilities in connection therewith, because of race, religion, color, sex,  
 41 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation or*  
 42 *gender identity or expression.*

43 (c) To make, print, publish, disseminate or use, or cause to be made,

1 printed, published, disseminated or used, any notice, statement,  
 2 advertisement or application, with respect to the sale or rental of real  
 3 property that indicates any preference, limitation, specification or  
 4 discrimination based on race, religion, color, sex, disability, familial status,  
 5 national origin—~~or~~, ancestry, *sexual orientation or gender identity or*  
 6 *expression*, or an intention to make any such preference, limitation,  
 7 specification or discrimination.

8 (d) To represent to any person because of race, religion, color, sex,  
 9 disability, familial status, national origin—~~or~~, ancestry, *sexual orientation or*  
 10 *gender identity or expression* that any real property is not available for  
 11 inspection, sale or rental when such real property is in fact so available.

12 (e) For profit, to induce or attempt to induce any person to sell or rent  
 13 any real property by representation regarding the entry or prospective  
 14 entry into the neighborhood of a person or persons of a particular race,  
 15 religion, color, sex, disability, familial status, national origin—~~or~~, ancestry,  
 16 *sexual orientation or gender identity or expression*.

17 (f) To deny any person access to or membership or participation in  
 18 any multiple-listing service, real estate brokers' organization or other  
 19 service, organization or facility relating to the business of selling or renting  
 20 real property, or to discriminate against such person in the terms or  
 21 conditions of such access, membership or participation, because of race,  
 22 religion, color, sex, disability, familial status, national origin—~~or~~, ancestry,  
 23 *sexual orientation or gender identity or expression*.

24 (g) To discriminate against any person in such person's use or  
 25 occupancy of real property because of the race, religion, color, sex,  
 26 disability, familial status, national origin—~~or~~, ancestry, *sexual orientation or*  
 27 *gender identity or expression* of the people with whom such person  
 28 associates.

29 (h) (1) To discriminate in the sale or rental, or to otherwise make  
 30 unavailable or deny, residential real property to any buyer or renter  
 31 because of a disability of:

32 (A) ~~That~~ *Such* buyer or renter;

33 (B) a person residing in or intending to reside in such real property  
 34 after it is sold, rented or made available; or

35 (C) any person associated with ~~that~~ *such* buyer or renter.

36 (2) To discriminate against any person in the terms, conditions or  
 37 privileges of sale or rental of residential real property or in the provision of  
 38 services or facilities in connection with such real property because of a  
 39 disability of:

40 (A) ~~That~~ *Such* person;

41 (B) a person residing in or intending to reside in that real property  
 42 after it is so sold, rented or made available; or

43 (C) any person associated with ~~that~~ *such* person.

1 (3) For purposes of this subsection (h), discrimination includes:

2 (A) A refusal to permit, at the expense of the person with a disability,  
3 reasonable modifications of existing premises occupied or to be occupied  
4 by such person if such modifications may be necessary to afford such  
5 person full enjoyment of the premises;

6 (B) a refusal to make reasonable accommodations in rules, policies,  
7 practices or services, when such accommodations may be necessary to  
8 afford such person equal opportunity to use and enjoy residential real  
9 property; or

10 (C) in connection with the design and construction of covered  
11 multifamily residential real property for first occupancy on and after  
12 January 1, 1992, a failure to design and construct such residential real  
13 property in such a manner that:

14 (i) The public use and common use portions of such residential real  
15 property are readily accessible to and usable by persons with disabilities;

16 (ii) all the doors designed to allow passage into and within all  
17 premises within such residential real property are sufficiently wide to  
18 allow passage by persons with disabilities who are in wheelchairs; and

19 (iii) all premises within such residential real property contain the  
20 following features of adaptive design: An accessible route into and through  
21 the residential real property; light switches, electrical outlets, thermostats  
22 and other environmental controls in accessible locations; reinforcements in  
23 bathroom walls to allow later installation of grab bars; and usable kitchens  
24 and bathrooms such that an individual in a wheelchair can maneuver about  
25 the space.

26 (4) Compliance with the appropriate requirements of the American  
27 national standard for buildings and facilities providing accessibility and  
28 usability for physically handicapped people, commonly cited as "ANSI A  
29 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

30 (5) As used in this subsection—~~(h)~~, "covered multifamily residential  
31 real property" means:

32 (A) Buildings consisting of four or more units if such buildings have  
33 one or more elevators; and

34 (B) ground floor units in other buildings consisting of four or more  
35 units.

36 (6) Nothing in this act shall be construed to invalidate or limit any  
37 state law or ordinance that requires residential real property to be designed  
38 and constructed in a manner that affords persons with disabilities greater  
39 access than is required by this act.

40 (7) Nothing in this subsection—~~(h)~~ requires that residential real  
41 property be made available to an individual whose tenancy would  
42 constitute a direct threat to the health or safety of other individuals or  
43 whose tenancy would result in substantial physical damage to the property

1 of others.

2 Sec. 10. K.S.A. 44-1017 is hereby amended to read as follows: 44-  
3 1017. (a) It shall be unlawful for any person or other entity whose business  
4 includes engaging in real estate related transactions to discriminate against  
5 any person in making available such a transaction, or in the terms or  
6 conditions of such a transaction, because of the race, religion, color, sex,  
7 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*  
8 *gender identity or expression* of such person or of any person associated  
9 with such person in connection with any real estate related transaction.

10 (b) As used in this section, "real estate related transaction" means any  
11 of the following:

12 (1) The making or purchasing of loans or providing other financial  
13 assistance:

14 (A) For purchasing, constructing, improving, repairing or maintaining  
15 a dwelling; or

16 (B) secured by real property.

17 (2) The selling, brokering or appraising of real property.

18 (c) Nothing in this section prohibits a person engaged in the business  
19 of furnishing appraisals of real property to take into consideration factors  
20 other than race, religion, color, sex, disability, familial status, national  
21 origin~~or~~, ancestry, *sexual orientation or gender identity or expression*.

22 Sec. 11. K.S.A. 44-1027 is hereby amended to read as follows: 44-  
23 1027. (a) No person, whether or not acting under color of law, shall by  
24 force or threat of force ~~willfully~~ *intentionally* injure, intimidate or interfere  
25 with, or attempt to injure, intimidate or interfere with:

26 (1) Any person because of such person's race, religion, color, sex,  
27 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*  
28 *gender identity or expression* and because such person is or has been  
29 selling, purchasing, renting, financing, occupying or contracting or  
30 negotiating for the sale, purchase, rental, financing or occupation of any  
31 real property, or applying for or participating in any service, organization  
32 or facility relating to the business of selling or renting real property;

33 (2) any person because such person is or has been, or in order to  
34 intimidate such person or any other person or any class of persons from:

35 (A) Participating, without discrimination on account of race, religion,  
36 color, sex, disability, familial status, national origin~~or~~, ancestry, *sexual*  
37 *orientation or gender identity or expression*, in any of the activities,  
38 services, organizations or facilities described in subsection (a)(1); or

39 (B) affording another person or class of persons opportunity or  
40 protection so to participate; or

41 (3) any citizen because such citizen is or has been, or in order to  
42 discourage such citizen or any other citizen from lawfully aiding or  
43 encouraging other persons to participate, without discrimination on

1 account of race, religion, color, sex, disability, familial status, national  
2 origin-~~or~~, ancestry, *sexual orientation or gender identity or expression*, in  
3 any of the activities, services, organizations or facilities described in  
4 subsection (a)(1), or participating lawfully in speech or peaceful assembly  
5 opposing any denial of the opportunity to so participate.

6 (b) Violation of this section is punishable by a fine of not more than  
7 \$1,000 or imprisonment for not more than one year, or both such fine and  
8 imprisonment, except that:

9 (1) If bodily injury results, such violation shall be punishable by a  
10 fine of not more than \$10,000 or imprisonment for not more than 10 years,  
11 or both such fine and imprisonment; and

12 (2) if death results, such violation shall be punishable by  
13 imprisonment for any term of years or for life.

14 Sec. 12. K.S.A. 44-1030 is hereby amended to read as follows: 44-  
15 1030. (a) Except as provided by subsection (c), every contract for or on  
16 behalf of the state or any county or municipality or other political  
17 subdivision of the state, or any agency of or authority created by any of the  
18 foregoing, for the construction, alteration or repair of any public building  
19 or public work or for the acquisition of materials, equipment, supplies or  
20 services shall contain provisions by which the contractor agrees that:

21 (1) The contractor shall observe the provisions of the Kansas act  
22 against discrimination and shall not discriminate against any person in the  
23 performance of work under the present contract because of race, religion,  
24 color, sex, disability, national origin-~~or~~, ancestry, *sexual orientation or*  
25 *gender identity or expression*;

26 (2) in all solicitations or advertisements for employees, the contractor  
27 shall include the phrase, "equal opportunity employer," or a similar phrase  
28 to be approved by the commission;

29 (3) if the contractor fails to comply with the manner in which the  
30 contractor reports to the commission in accordance with the provisions of  
31 K.S.A. 44-1031, and amendments thereto, the contractor shall be deemed  
32 to have breached the present contract and it may be canceled, terminated  
33 or suspended, in whole or in part, by the contracting agency;

34 (4) if the contractor is found guilty of a violation of the Kansas act  
35 against discrimination under a decision or order of the commission-~~which~~  
36 *that* has become final, the contractor shall be deemed to have breached the  
37 present contract and it may be canceled, terminated or suspended, in whole  
38 or in part, by the contracting agency; and

39 (5) the contractor shall include the provisions of subsections (a)(1)  
40 through (4) in every subcontract or purchase order so that such provisions  
41 will be binding upon such subcontractor or vendor.

42 (b) The Kansas human rights commission shall not be prevented  
43 hereby from requiring reports of contractors found to be not in compliance

1 with the Kansas act against discrimination.

2 (c) The provisions of this section shall not apply to a contract entered  
3 into by a contractor:

4 (1) Who employs fewer than four employees during the term of such  
5 contract; or

6 (2) whose contracts with the governmental entity letting such contract  
7 cumulatively total \$5,000 or less during the fiscal year of such  
8 governmental entity.

9 Sec. 13. K.S.A. 12-16,107, 44-1001, 44-1002, 44-1004, 44-1005, 44-  
10 1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 are  
11 hereby repealed.

12 Sec. 14. This act shall take effect and be in force from and after its  
13 publication in the statute book.