

SENATE BILL No. 84

By Senators Bollier, Berger, Doll, Faust-Goudeau, Francisco, Givens, Haley, Hardy, Hawk, Hensley, Holland, McGinn, Miller, Pettey, Skubal, Sykes, Taylor and Ware

2-4

1 AN ACT concerning the Kansas act against discrimination and acts
2 supplemental thereto; relating to sexual orientation and gender identity
3 or expression; amending K.S.A. 12-16,107, 44-1001, 44-1004, 44-
4 1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A.
5 2018 Supp. 44-1002, 44-1005 and 44-1006 and repealing the existing
6 sections.
7

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

9 Section 1. K.S.A. 44-1001 is hereby amended to read as follows: 44-
10 1001. This act shall be known as the Kansas act against discrimination. It
11 shall be deemed an exercise of the police power of the state for the
12 protection of the public welfare, safety, health and peace of the people of
13 this state. The practice or policy of discrimination against individuals in
14 employment relations, in relation to free and public accommodations, in
15 housing by reason of race, religion, color, sex, disability, national origin
16 ~~or~~, ancestry, *sexual orientation or gender identity or expression* or in
17 housing by reason of familial status is a matter of concern to the state,
18 since such discrimination threatens not only the rights and privileges of the
19 inhabitants of the state of Kansas but menaces the institutions and
20 foundations of a free democratic state. It is hereby declared to be the
21 policy of the state of Kansas to eliminate and prevent discrimination in all
22 employment relations, to eliminate and prevent discrimination,
23 segregation, or separation in all places of public accommodations covered
24 by this act, and to eliminate and prevent discrimination, segregation or
25 separation in housing.

26 It is also declared to be the policy of this state to assure equal
27 opportunities and encouragement to every citizen regardless of race,
28 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
29 *orientation or gender identity or expression*, in securing and holding,
30 without discrimination, employment in any field of work or labor for
31 which a person is properly qualified, to assure equal opportunities to all
32 persons within this state to full and equal public accommodations, and to
33 assure equal opportunities in housing without distinction on account of
34 race, religion, color, sex, disability, familial status, national origin—~~or~~,

1 ancestry, *sexual orientation or gender identity or expression*. It is further
2 declared that the opportunity to secure and to hold employment, the
3 opportunity for full and equal public accommodations as covered by this
4 act and the opportunity for full and equal housing are civil rights of every
5 citizen.

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

15 Sec. 2. K.S.A. 2018 Supp. 44-1002 is hereby amended to read as
16 follows: 44-1002. When used in this act:

17 (a) "Person" includes one or more individuals, partnerships,
18 associations, organizations, corporations, legal representatives, trustees,
19 trustees in bankruptcy or receivers.

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

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

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

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

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

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

41 (h) "Public accommodations" means any person who caters or offers
42 goods, services, facilities and accommodations to the public. Public
43 accommodations include, but are not limited to, any lodging establishment

1 or food service establishment, as defined by K.S.A. 36-501, and
2 amendments thereto; ~~any~~, bar, tavern, barbershop, beauty parlor, theater,
3 skating rink, bowling alley, billiard parlor, amusement park, recreation
4 park, swimming pool, lake, gymnasium, mortuary or cemetery which is
5 open to the public; or any public transportation facility. Public
6 accommodations do not include a religious or nonprofit fraternal or social
7 association or corporation.

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

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

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

16 (2) any discrimination against persons in regard to membership in a
17 nonprofit recreational or social association or corporation by reason of
18 race, religion, sex, color, disability, national origin ~~or~~, ancestry, *sexual*
19 *orientation or gender identity or expression* if such association or
20 corporation has 100 or more members and:

21 (A) Provides regular meal service; and

22 (B) receives payment for dues, fees, use of space, use of facility,
23 services, meals or beverages, directly or indirectly, from or on behalf of
24 nonmembers.

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

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

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

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

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

32 Disability does not include current, illegal use of a controlled substance
33 as defined in section 102 of the federal controlled substance act (21 U.S.C.
34 § 802), in housing discrimination. In employment and public
35 accommodation discrimination, "disability" does not include an individual
36 who is currently engaging in the illegal use of drugs where possession or
37 distribution of such drugs is unlawful under the controlled substance act
38 (21 U.S.C. § 812), when the covered entity acts on the basis of such use.

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

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

42 (B) job restructuring; part-time or modified work schedules;
43 reassignment to a vacant position; acquisition or modification of

1 equipment or devices; appropriate adjustment or modifications of
2 examinations, training materials or policies; provision of qualified readers
3 or interpreters; and other similar accommodations for individuals with
4 disabilities.

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

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

19 (m) "Major life activities" means:

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

24 (2) ~~This term~~ also includes the operation of a major bodily function,
25 including, but not limited to, functions of the immune system, normal cell
26 growth, digestive, bowel, bladder, neurological, brain, respiratory,
27 circulatory, endocrine and reproductive functions.

28 (n) "Genetic screening or testing" means a laboratory test of a
29 person's genes or chromosomes for abnormalities, defects or deficiencies,
30 including carrier status, that are linked to physical or mental disorders or
31 impairments, or that indicate a susceptibility to illness, disease or other
32 disorders, whether physical or mental, which test is a direct test for
33 abnormalities, defects or deficiencies, and not an indirect manifestation of
34 genetic disorders.

35 (o) "*Sexual orientation*" means actual, or perceived, male or female
36 heterosexuality, homosexuality or bisexuality by inclination, practice or
37 expression.

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

42 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-
43 1004. The commission shall have the following functions, powers and

1 duties:

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

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

6 ~~(3)~~(c) To adopt, promulgate, amend and rescind suitable rules and
7 regulations to carry out the provisions of this act, and the policies and
8 practices of the commission in connection therewith.

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

14 ~~(5)~~(e) To subpoena witnesses, compel their appearance and require
15 the production for examination of records, documents and other evidence
16 or possible sources of evidence and to examine, record and copy such
17 materials and take and record the testimony or statements of such persons.
18 The commission may issue subpoenas to compel access to or the
19 production of such materials, or the appearance of such persons, and may
20 issue interrogatories to a respondent to the same extent and subject to the
21 same limitations as would apply if the subpoena or interrogatories were
22 issued or served in aid of a civil action in the district court. The
23 commission shall have access at all reasonable times to premises and may
24 compel such access by application to a court of competent jurisdiction
25 provided that the commission first complies with the provisions of article
26 15 of the Kansas bill of rights and the fourth amendment to the United
27 States constitution relating to unreasonable searches and seizures. The
28 commission may administer oaths and take depositions to the same extent
29 and subject to the same limitations as would apply if the deposition was
30 taken in aid of a civil action in the district court. In case of the refusal of
31 any person to comply with any subpoena, interrogatory or search warrant
32 issued hereunder, or to testify to any matter regarding which such person
33 may be lawfully questioned, the district court of any county may, upon
34 application of the commission, order such person to comply with such
35 subpoena or interrogatory and to testify. Failure to obey the court's order
36 may be punished by the court as contempt. No person shall be prosecuted
37 or subjected to any penalty or forfeiture for or on account of any
38 transaction, matter or thing concerning which such person testifies or
39 produces evidence, except that such person so testifying shall not be
40 exempt from prosecution and punishment for perjury committed in so
41 testifying. The immunity herein provided shall extend only to natural
42 persons.

43 ~~(6)~~(f) To act in concert with other parties in interest in order to

1 eliminate and prevent discrimination and segregation, prohibited by this
2 act, by including any term in a conciliation agreement as could be included
3 in a final order under this act.

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

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

10 ~~(9)~~(i) To endeavor to eliminate prejudice among the various ethnic
11 groups and people with disabilities in this state and to further good will
12 among such groups. The commission in cooperation with the state
13 department of education shall prepare a comprehensive educational
14 program designed for the students of the public schools of this state and
15 for all other residents thereof, calculated to emphasize the origin of
16 prejudice against such groups, its harmful effects and its incompatibility
17 with American principles of equality and fair play.

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

35 ~~(11)~~(k) To accept contributions from any person to assist in the
36 effectuation of this section and to seek and enlist the cooperation of
37 private, charitable, religious, labor, civic and benevolent organizations for
38 the purposes of this section.

39 ~~(12)~~(l) To issue such publications and such results of investigation
40 and research as in its judgment will tend to promote good will and
41 minimize or eliminate discrimination because of race, religion, color, sex,
42 disability, national origin~~or~~, ancestry, *sexual orientation or gender identity*
43 *or expression*.

1 ~~(13)~~(m) To render each year to the governor and to the state
2 legislature a full written report of all of its activities and of its
3 recommendations.

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

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

8 Sec. 4. K.S.A. 2018 Supp. 44-1005 is hereby amended to read as
9 follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged
10 unlawful employment practice or by an alleged unlawful discriminatory
11 practice, and who can articulate a prima facie case pursuant to a
12 recognized legal theory of discrimination, may, personally or by an
13 attorney-at-law, make, sign and file with the commission a verified
14 complaint in writing, articulating the prima facie case, which shall also
15 state the name and address of the person, employer, labor organization or
16 employment agency alleged to have committed the unlawful employment
17 practice complained of or the name and address of the person alleged to
18 have committed the unlawful discriminatory practice complained of, and
19 which shall set forth the particulars thereof and contain such other
20 information as may be required by the commission.

21 (b) The commission upon its own initiative or the attorney general
22 may, in like manner, make, sign and file such complaint. Whenever the
23 attorney general has sufficient reason to believe that any person as herein
24 defined is engaged in a practice of discrimination, segregation or
25 separation in violation of this act, the attorney general may make, sign and
26 file a complaint. Any employer whose employees or some of whom, refuse
27 or threaten to refuse to cooperate with the provisions of this act, may file
28 with the commission a verified complaint asking for assistance by
29 conciliation or other remedial action.

30 (c) Whenever any problem of discrimination because of race,
31 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
32 *orientation or gender identity or expression* arises, or whenever the
33 commission has, in its own judgment, reason to believe that any person
34 has engaged in an unlawful employment practice or an unlawful
35 discriminatory practice in violation of this act, or has engaged in a pattern
36 or practice of discrimination, the commission may conduct an
37 investigation without filing a complaint and shall have the same powers
38 during such investigation as provided for the investigation of complaints.
39 The person to be investigated shall be advised of the nature and scope of
40 such investigation prior to its commencement. The purpose of the
41 investigation shall be to resolve any such problems promptly. In the event
42 such problems cannot be resolved within a reasonable time, the
43 commission may issue a complaint whenever the investigation has

1 revealed a violation of the Kansas act against discrimination has occurred.
2 The information gathered in the course of the first investigation may be
3 used in processing the complaint.

4 (d) After the filing of any complaint by an aggrieved individual, by
5 the commission; or by the attorney general, the commission shall, within
6 seven days after the filing of the complaint, serve a copy on each of the
7 parties alleged to have violated this act, and shall designate one of the
8 commissioners to make, with the assistance of the commission's staff,
9 prompt investigation of the alleged act of discrimination. If the
10 commissioner shall determine after such investigation that no probable
11 cause exists for crediting the allegations of the complaint, such
12 commissioner, within 10 business days from such determination, shall
13 cause to be issued and served upon the complainant and respondent written
14 notice of such determination.

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

28 (f) In case of failure to eliminate such practices by conference and
29 conciliation, or in advance thereof, if in the judgment of the commissioner
30 or the commission circumstances so warrant, the commissioner or the
31 commission shall commence a hearing in accordance with the provisions
32 of the Kansas administrative procedure act naming as parties the
33 complainant and the person, employer, labor organization, employment
34 agency, realtor or financial institution named in such complaint,
35 hereinafter referred to as respondent. A copy of the complaint shall be
36 served on the respondent. At least four commissioners or a presiding
37 officer from the office of administrative hearings shall be designated as the
38 presiding officer. The place of such hearing shall be in the county where
39 respondent is doing business and the acts complained of occurred.

40 (g) The complainant or respondent may apply to the presiding officer
41 for the issuance of a subpoena for the attendance of any person or the
42 production or examination of any books, records or documents pertinent to
43 the proceeding at the hearing. Upon such application the presiding officer

1 shall issue such subpoena.

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

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

30 (j) The respondent may file a written verified answer to the complaint
31 and appear at such hearing in person or otherwise, with or without counsel,
32 and submit testimony. The complainant shall appear at such hearing in
33 person, with or without counsel, and submit testimony. The presiding
34 officer or the complainant shall have the power reasonably and fairly to
35 amend any complaint, and the respondent shall have like power to amend
36 such respondent's answer. The presiding officer shall be bound by the rules
37 of evidence prevailing in courts of law or equity, and only relevant
38 evidence of reasonable probative value shall be received.

39 (k) If the presiding officer finds a respondent has engaged in or is
40 engaging in any unlawful employment practice or unlawful discriminatory
41 practice as defined in this act, the presiding officer shall render an order
42 requiring such respondent to cease and desist from such unlawful
43 employment practice or such unlawful discriminatory practice and to take

1 such affirmative action, including but not limited to:

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

5 (2) the admission to and full and equal enjoyment of the goods,
6 services, facilities, and accommodations offered by any respondent place
7 of public accommodation denied in violation of this act, ~~as that~~, in the
8 judgment of the presiding officer, will effectuate the purposes of this act;
9 ~~and including; and~~

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

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

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

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

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

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

31 Sec. 5. K.S.A. 2018 Supp. 44-1006 is hereby amended to read as
32 follows: 44-1006. (a) The provisions of this act shall be construed liberally
33 for the accomplishment of the purposes thereof. Nothing contained in this
34 act shall be deemed to repeal any of the provisions of any other law of this
35 state relating to discrimination because of race, religion, color, sex,
36 disability, national origin, ~~or~~ ancestry, *sexual orientation or gender identity*
37 *or expression*, unless the same is specifically repealed by this act.

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

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

43 (1) The definition of disability in this act shall be construed in favor

1 of broad coverage of individuals under this act, to the maximum extent
2 permitted by the terms of this act;

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

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

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

10 (i) Medication, medical supplies, equipment, or appliances, low-
11 vision devices (which do not include ordinary eye glasses or contact
12 lenses), prosthetics including limbs and devices, hearing aids and cochlear
13 implants or other implantable hearing devices, mobility devices, or oxygen
14 therapy equipment and supplies;

15 (ii) use of assistive technology;

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

17 (iv) learned behavioral or adaptive neurological modifications.

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

21 (C) As used in this ~~subparagraph~~ *paragraph*:

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

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

26 Sec. 6. K.S.A. 44-1009 is hereby amended to read as follows: 44-
27 1009. (a) It shall be an unlawful employment practice:

28 (1) For an employer, because of the race, religion, color, sex,
29 disability, national origin ~~or~~, ancestry, *sexual orientation or gender identity*
30 *or expression* of any person to refuse to hire or employ such person to bar
31 or discharge such person from employment or to otherwise discriminate
32 against such person in compensation or in terms, conditions or privileges
33 of employment; to limit, segregate, separate, classify or make any
34 distinction in regards to employees; or to follow any employment
35 procedure or practice which, in fact, results in discrimination, segregation
36 or separation without a valid business necessity.

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

42 (3) For any employer, employment agency or labor organization to
43 print or circulate or cause to be printed or circulated any statement,

1 advertisement or publication, or to use any form of application for
2 employment or membership or to make any inquiry in connection with
3 prospective employment or membership, which expresses, directly or
4 indirectly, any limitation, specification or discrimination as to race,
5 religion, color, sex, disability, national origin~~—or~~, ancestry, *sexual*
6 *orientation or gender identity or expression*, or any intent to make any
7 such limitation, specification or discrimination, unless based on a bona
8 fide occupational qualification.

9 (4) For any employer, employment agency or labor organization to
10 discharge, expel or otherwise discriminate against any person because such
11 person has opposed any practices or acts forbidden under this act or
12 because such person has filed a complaint, testified or assisted in any
13 proceeding under this act.

14 (5) For an employment agency to refuse to list and properly classify
15 for employment or to refuse to refer any person for employment or
16 otherwise discriminate against any person because of such person's race,
17 religion, color, sex, disability, national origin~~—or~~, ancestry, *sexual*
18 *orientation or gender identity or expression*; or to comply with a request
19 from an employer for a referral of applicants for employment if the request
20 expresses, either directly or indirectly, any limitation, specification or
21 discrimination as to race, religion, color, sex, disability, national origin~~—or~~,
22 ancestry, *sexual orientation or gender identity or expression*.

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

26 (A) Maintain a practice of discrimination, segregation or separation
27 because of race, religion, color, sex, disability, national origin~~—or~~, ancestry,
28 *sexual orientation or gender identity or expression*, in admission, hiring,
29 assignments, upgrading, transfers, promotion, layoff, dismissal,
30 apprenticeship or other training or retraining program, or in any other
31 terms, conditions or privileges of employment, membership,
32 apprenticeship or training; or ~~to~~

33 (B) follow any policy or procedure which, in fact, results in such
34 practices without a valid business motive.

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

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

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

43 (B) participate in a contractual or other arrangement or relationship,

1 including a relationship with an employment or referral agency, labor
2 union, an organization providing fringe benefits to an employee or an
3 organization providing training and apprenticeship programs that has the
4 effect of subjecting a qualified applicant or employee with a disability to
5 the discrimination prohibited by this act;

6 (C) utilize standards criteria, or methods of administration that have
7 the effect of discrimination on the basis of disability or that perpetuate the
8 discrimination of others who are subject to common administrative
9 control;

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

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

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

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

28 (H) fail to select and administer tests concerning employment in the
29 most effective manner to ensure that, when such test is administered to a
30 job applicant or employee who has a disability that impairs sensory,
31 manual or speaking skills, the test results accurately reflect the skills,
32 aptitude or whatever other factor of such applicant or employee that such
33 test purports to measure, rather than reflecting the impaired sensory,
34 manual or speaking skills of such employee or applicant (except where
35 such skills are the factors that the test purports to measure).

36 (9) For any employer to:

37 (A) Seek to obtain, to obtain or to use genetic screening or testing
38 information of an employee or a prospective employee to distinguish
39 between or discriminate against or restrict any right or benefit otherwise
40 due or available to an employee or a prospective employee; or

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

43 (b) It shall not be an unlawful employment practice to fill vacancies

1 in such way as to eliminate or reduce imbalance with respect to race,
2 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
3 *orientation or gender identity or expression*.

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

5 (1) For any person, as defined herein being the owner, operator,
6 lessee, manager, agent or employee of any place of public accommodation
7 to refuse, deny or make a distinction, directly or indirectly, in offering its
8 goods, services, facilities, and accommodations to any person as covered
9 by this act because of race, religion, color, sex, disability, national origin
10 ~~or~~, ancestry, *sexual orientation or gender identity or expression*, except
11 where a distinction because of sex is necessary because of the intrinsic
12 nature of such accommodation.

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

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

24 Sec. 7. K.S.A. 44-1015 is hereby amended to read as follows: 44-
25 1015. As used in this act, unless the context otherwise requires:

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

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

28 (1) All vacant or unimproved land; and

29 (2) any building or structure which is occupied or designed or
30 intended for occupancy, or any building or structure having a portion
31 thereof which is occupied or designed or intended for occupancy.

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

33 (d) "Person" means an individual, corporation, partnership,
34 association, labor organization, legal representative, mutual company,
35 joint-stock company, trust, unincorporated organization, trustee, trustee in
36 bankruptcy, receiver and fiduciary.

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

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

42 (g) "Person aggrieved" means any person who claims to have been
43 injured by a discriminatory housing practice or believes that such person

- 1 will be injured by a discriminatory housing practice that is about to occur.
- 2 (h) "Disability" has the meaning provided by K.S.A. 44-1002, and
3 amendments thereto.
- 4 (i) "Familial status" means having one or more individuals less than
5 18 years of age domiciled with:
- 6 (1) A parent or another person having legal custody of such
7 individual or individuals; or
- 8 (2) the designee of such parent or other person having such custody,
9 with the written permission of such parent or other person.
- 10 (j) "*Sexual orientation*" shall have the same meaning as that term is
11 defined in K.S.A. 44-1002, and amendments thereto.
- 12 (k) "*Gender identity or expression*" shall have the same meaning as
13 that term is defined in K.S.A. 44-1002, and amendments thereto.
- 14 Sec. 8. K.S.A. 44-1016 is hereby amended to read as follows: 44-
15 1016. Subject to the provisions of K.S.A. 44-1018, and amendments
16 thereto, it shall be unlawful for any person:
- 17 (a) To refuse to sell or rent after the making of a bona fide offer, to
18 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
19 sale or rental of, or otherwise make unavailable or deny, real property to
20 any person because of race, religion, color, sex, disability, familial status,
21 national origin-~~or~~, ancestry, *sexual orientation or gender identity or*
22 *expression*.
- 23 (b) To discriminate against any person in the terms, conditions or
24 privileges of sale or rental of real property, or in the provision of services
25 or facilities in connection therewith, because of race, religion, color, sex,
26 disability, familial status, national origin-~~or~~, ancestry, *sexual orientation or*
27 *gender identity or expression*.
- 28 (c) To make, print, publish, disseminate or use, or cause to be made,
29 printed, published, disseminated or used, any notice, statement,
30 advertisement or application, with respect to the sale or rental of real
31 property that indicates any preference, limitation, specification or
32 discrimination based on race, religion, color, sex, disability, familial status,
33 national origin-~~or~~, ancestry, *sexual orientation or gender identity or*
34 *expression*, or an intention to make any such preference, limitation,
35 specification or discrimination.
- 36 (d) To represent to any person because of race, religion, color, sex,
37 disability, familial status, national origin-~~or~~, ancestry, *sexual orientation or*
38 *gender identity or expression* that any real property is not available for
39 inspection, sale or rental when such real property is in fact so available.
- 40 (e) For profit, to induce or attempt to induce any person to sell or rent
41 any real property by representation regarding the entry or prospective
42 entry into the neighborhood of a person or persons of a particular race,
43 religion, color, sex, disability, familial status, national origin-~~or~~, ancestry,

1 *sexual orientation or gender identity or expression.*

2 (f) To deny any person access to or membership or participation in
3 any multiple-listing service, real estate brokers' organization or other
4 service, organization or facility relating to the business of selling or renting
5 real property, or to discriminate against such person in the terms or
6 conditions of such access, membership or participation, because of race,
7 religion, color, sex, disability, familial status, national origin~~or~~, ancestry,
8 *sexual orientation or gender identity or expression.*

9 (g) To discriminate against any person in such person's use or
10 occupancy of real property because of the race, religion, color, sex,
11 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*
12 *gender identity or expression* of the people with whom such person
13 associates.

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

17 (A) That buyer or renter;

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

20 (C) any person associated with that buyer or renter.

21 (2) To discriminate against any person in the terms, conditions or
22 privileges of sale or rental of residential real property or in the provision of
23 services or facilities in connection with such real property because of a
24 disability of:

25 (A) That person;

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

28 (C) any person associated with that person.

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

30 (A) A refusal to permit, at the expense of the person with a disability,
31 reasonable modifications of existing premises occupied or to be occupied
32 by such person if such modifications may be necessary to afford such
33 person full enjoyment of the premises;

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

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

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

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

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

11 (4) Compliance with the appropriate requirements of the American
12 national standard for buildings and facilities providing accessibility and
13 usability for physically handicapped people, commonly cited as "ANSI A
14 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

15 (5) As used in this subsection (h), "covered multifamily residential
16 real property" means:

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

19 (B) ground floor units in other buildings consisting of four or more
20 units.

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

25 (7) Nothing in this subsection (h) requires that residential real
26 property be made available to an individual whose tenancy would
27 constitute a direct threat to the health or safety of other individuals or
28 whose tenancy would result in substantial physical damage to the property
29 of others.

30 Sec. 9. K.S.A. 44-1017 is hereby amended to read as follows: 44-
31 1017. (a) It shall be unlawful for any person or other entity whose business
32 includes engaging in real estate related transactions to discriminate against
33 any person in making available such a transaction, or in the terms or
34 conditions of such a transaction, because of the race, religion, color, sex,
35 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation or*
36 *gender identity or expression* of such person or of any person associated
37 with such person in connection with any real estate related transaction.

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

40 (1) The making or purchasing of loans or providing other financial
41 assistance:

42 (A) For purchasing, constructing, improving, repairing or maintaining
43 a dwelling; or

1 (B) secured by real property.

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

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

7 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-
8 1027. (a) No person, whether or not acting under color of law, shall by
9 force or threat of force ~~willfully~~ *intentionally* injure, intimidate or interfere
10 with, or attempt to injure, intimidate or interfere with:

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

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

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

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

26 (3) any citizen because such citizen is or has been, or in order to
27 discourage such citizen or any other citizen from lawfully aiding or
28 encouraging other persons to participate, without discrimination on
29 account of race, religion, color, sex, disability, familial status, national
30 origin~~or~~, ancestry, *sexual orientation or gender identity or expression*, in
31 any of the activities, services, organizations or facilities described in
32 subsection (a)(1), or participating lawfully in speech or peaceful assembly
33 opposing any denial of the opportunity to so participate.

34 (b) Violation of this section is punishable by a fine of not more than
35 \$1,000 or imprisonment for not more than one year, or both such fine and
36 imprisonment, except that:

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

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

42 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-
43 1030. (a) Except as provided by subsection (c), every contract for or on

1 behalf of the state or any county or municipality or other political
2 subdivision of the state, or any agency of or authority created by any of the
3 foregoing, for the construction, alteration or repair of any public building
4 or public work or for the acquisition of materials, equipment, supplies or
5 services shall contain provisions by which the contractor agrees that:

6 (1) The contractor shall observe the provisions of the Kansas act
7 against discrimination and shall not discriminate against any person in the
8 performance of work under the present contract because of race, religion,
9 color, sex, disability, national origin~~—or~~, ancestry, *sexual orientation or*
10 *gender identity or expression*;

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

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

19 (4) if the contractor is found guilty of a violation of the Kansas act
20 against discrimination under a decision or order of the commission which
21 has become final, the contractor shall be deemed to have breached the
22 present contract and it may be canceled, terminated or suspended, in whole
23 or in part, by the contracting agency; and

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

27 (b) The Kansas human rights commission shall not be prevented
28 hereby from requiring reports of contractors found to be not in compliance
29 with the Kansas act against discrimination.

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

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

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

37 Sec. 12. K.S.A. 12-16,107 is hereby amended to read as follows: 12-
38 16,107. In case of the refusal of any person to comply with any subpoena
39 issued by a local human relations commission, or to testify to any matter
40 regarding which such person may be lawfully questioned the district court
41 of any county may, upon application of the local human relations
42 commission, order such person to comply with such subpoena and to
43 testify to the extent such person could be so compelled pursuant to the

1 provisions of ~~subsection (5) of~~ K.S.A. 44-1004(e), and amendments
2 thereto, of the Kansas act against discrimination. Failure to obey the
3 court's order shall be punishable by the court as contempt.

4 Sec. 13. K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-
5 1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2018 Supp. 44-1002, 44-
6 1005 and 44-1006 are hereby repealed.

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