

SENATE BILL No. 163

By Committee on Federal and State Affairs

1-24

9 AN ACT concerning discrimination; relating to sexual orientation;
10 amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1005, 44-1006, 44-
11 1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and repealing
12 the existing sections.
13

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

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

31 It is also declared to be the policy of this state to assure equal oppor-
32 tunities and encouragement to every citizen regardless of race, religion,
33 color, sex, disability, national origin ~~or~~, ancestry *or sexual orientation*, in
34 securing and holding, without discrimination, employment in any field of
35 work or labor for which a person is properly qualified, to assure equal
36 opportunities to all persons within this state to full and equal public ac-
37 commodation, and to assure equal opportunities in housing without dis-
38 tinction on account of race, religion, color, sex, disability, familial status,
39 national origin ~~or~~, ancestry *or sexual orientation*. It is further declared
40 that the opportunity to secure and to hold employment, the opportunity
41 for full and equal public accommodations as covered by this act and the
42 opportunity for full and equal housing are civil rights of every citizen.

43 To protect these rights, it is hereby declared to be the purpose of this

1 act to establish and to provide a state commission having power to elim-
2 inate and prevent segregation and discrimination, or separation in em-
3 ployment, in all places of public accommodations covered by this act, in
4 housing because of race, religion, color, sex, disability, national origin ~~or~~,
5 ancestry *or sexual orientation* and in housing because of familial status,
6 either by employers, labor organizations, employment agencies, realtors,
7 financial institutions or other persons as hereinafter provided.

8 Sec. 2. K.S.A. 44-1002 is hereby amended to read as follows: 44-
9 1002. When used in this act:

10 (a) "Person" includes one or more individuals, partnerships, associ-
11 ations, organizations, corporations, legal representatives, trustees, trus-
12 tees in bankruptcy or receivers.

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

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

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

26 (e) "Employment agency" includes any person or governmental
27 agency undertaking, with or without compensation, to procure opportu-
28 nities to work or to procure, recruit, refer or place employees.

29 (f) "Commission" means the Kansas human rights commission cre-
30 ated by this act.

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

34 (h) "Public accommodations" means any person who caters or offers
35 goods, services, facilities and accommodations to the public. Public ac-
36 commodatons include, but are not limited to, any lodging establishment
37 or food service establishment, as defined by K.S.A 36-501 and amend-
38 ments thereto; any bar, tavern, barbershop, beauty parlor, theater, skating
39 rink, bowling alley, billiard parlor, amusement park, recreation park,
40 swimming pool, lake, gymnasium, mortuary or cemetery which is open
41 to the public; or any public transportation facility. Public accommodations
42 do not include a religious or nonprofit fraternal or social association or
43 corporation.

- 1 (i) “Unlawful discriminatory practice” means: (1) Any discrimination
2 against persons, by reason of their race, religion, color, sex, disability,
3 national origin ~~or~~, ancestry *or sexual orientation*;
- 4 (A) In any place of public accommodations; or
5 (B) in the full and equal use and enjoyment of the services, facilities,
6 privileges and advantages of any institution, department or agency of the
7 state of Kansas or any political subdivision or municipality thereof; and
- 8 (2) any discrimination against persons in regard to membership in a
9 nonprofit recreational or social association or corporation by reason of
10 race, religion, sex, color, disability, national origin ~~or~~, ancestry *or sexual*
11 *orientation* if such association or corporation has 100 or more members
12 and: (A) Provides regular meal service; and (B) receives payment for dues,
13 fees, use of space, use of facility, services, meals or beverages, directly or
14 indirectly, from or on behalf of nonmembers.
- 15 This term shall not apply to a religious or private fraternal and benev-
16 olent association or corporation.
- 17 (j) “Disability” means, with respect to an individual:
- 18 (1) A physical or mental impairment that substantially limits one or
19 more of the major life activities of such individual;
- 20 (2) a record of such an impairment; or
21 (3) being regarded as having such an impairment by the person or
22 entity alleged to have committed the unlawful discriminatory practice
23 complained of.
- 24 Disability does not include current, illegal use of a controlled substance
25 as defined in section 102 of the federal controlled substance act (21
26 U.S.C. 802), in housing discrimination. In employment and public accom-
27 modation discrimination, “disability” does not include an individual who
28 is currently engaging in the illegal use of drugs where possession or dis-
29 tribution of such drugs is unlawful under the controlled substance act (21
30 U.S.C. 812), when the covered entity acts on the basis of such use.
- 31 (k) “Reasonable accommodation” means:
- 32 (1) Making existing facilities used by employees readily accessible to
33 and usable by individuals with disabilities; and
34 (2) job restructuring; part-time or modified work schedules; reassign-
35 ment to a vacant position; acquisition or modification of equipment or
36 devices; appropriate adjustment or modifications of examinations, train-
37 ing materials or policies; provision of qualified readers or interpreters;
38 and other similar accommodations for individuals with disabilities.
- 39 (l) “Regarded as having such an impairment” means the absence of
40 a physical or mental impairment but regarding or treating an individual
41 as though such an impairment exists.
- 42 (m) “Genetic screening or testing” means a laboratory test of a per-
43 son’s genes or chromosomes for abnormalities, defects or deficiencies,

1 including carrier status, that are linked to physical or mental disorders or
2 impairments, or that indicate a susceptibility to illness, disease or other
3 disorders, whether physical or mental, which test is a direct test for ab-
4 normalities, defects or deficiencies, and not an indirect manifestation of
5 genetic disorders.

6 (n) *“Sexual orientation” means male or female heterosexuality, ho-*
7 *mosexuality, or bisexuality by inclination, practice or expression; or hav-*
8 *ing a self image or identity not traditionally associated with one’s gender.*

9 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-
10 1004. The commission shall have the following functions, powers and
11 duties:

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

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

16 (3) To adopt, promulgate, amend and rescind suitable rules and reg-
17 ulations to carry out the provisions of this act, and the policies and prac-
18 tices of the commission in connection therewith.

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

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

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

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

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

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

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

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

43 (11) To accept contributions from any person to assist in the effec-

1 tuation of this section and to seek and enlist the cooperation of private,
2 charitable, religious, labor, civic and benevolent organizations for the pur-
3 poses of this section.

4 (12) To issue such publications and such results of investigation and
5 research as in its judgment will tend to promote good will and minimize
6 or eliminate discrimination because of race, religion, color, sex, disability,
7 national origin ~~or~~, ancestry *or sexual orientation*.

8 (13) To render each year to the governor and to the state legislature
9 a full written report of all of its activities and of its recommendations.

10 (14) To adopt an official seal.

11 (15) To receive and accept federal funds to effectuate the purposes
12 of the act and to enter into agreements with any federal agency for such
13 purpose.

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

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

36 (c) Whenever any problem of discrimination because of race, relig-
37 ion, color, sex, disability, national origin ~~or~~, ancestry *or sexual orientation*
38 arises, or whenever the commission has, in its own judgment, reason to
39 believe that any person has engaged in an unlawful employment practice
40 or an unlawful discriminatory practice in violation of this act, or has en-
41 gaged in a pattern or practice of discrimination, the commission may
42 conduct an investigation without filing a complaint and shall have the
43 same powers during such investigation as provided for the investigation

1 of complaints. The person to be investigated shall be advised of the nature
2 and scope of such investigation prior to its commencement. The purpose
3 of the investigation shall be to resolve any such problems promptly. In
4 the event such problems cannot be resolved within a reasonable time, the
5 commission may issue a complaint whenever the investigation has re-
6 vealed a violation of the Kansas act against discrimination has occurred.
7 The information gathered in the course of the first investigation may be
8 used in processing the complaint.

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

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

33 (f) In case of failure to eliminate such practices by conference and
34 conciliation, or in advance thereof, if in the judgment of the commissioner
35 or the commission circumstances so warrant, the commissioner or the
36 commission shall commence a hearing in accordance with the provisions
37 of the Kansas administrative procedure act naming as parties the com-
38 plainant and the person, employer, labor organization, employment
39 agency, realtor or financial institution named in such complaint, hereinafter
40 referred to as respondent. A copy of the complaint shall be served
41 on the respondent. At least four commissioners, a staff hearing examiner
42 or a contract hearing examiner shall be designated as the presiding officer.
43 The place of such hearing shall be in the county where respondent is

1 doing business and the acts complained of occurred.

2 (g) The complainant or respondent may apply to the presiding officer
3 for the issuance of a subpoena for the attendance of any person or the
4 production or examination of any books, records or documents pertinent
5 to the proceeding at the hearing. Upon such application the presiding
6 officer shall issue such subpoena.

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

13 (i) Any complaint filed pursuant to this act must be so filed within six
14 months after the alleged act of discrimination, unless the act complained
15 of constitutes a continuing pattern or practice of discrimination in which
16 event it will be from the last act of discrimination. Complaints filed with
17 the commission on or after July 1, 1996, may be dismissed by the com-
18 mission on its own initiative, and shall be dismissed by the commission
19 upon the written request of the complainant, if the commission has not
20 issued a finding of probable cause or no probable cause or taken other
21 administrative action dismissing the complaint within 300 days of the
22 filing of the complaint. The commission shall mail written notice to all
23 parties of dismissal of a complaint within five days of dismissal. Com-
24 plaints filed with the commission before July 1, 1996, shall be dismissed
25 by the commission upon the written request of the complainant, if the
26 commission has not issued a finding of probable cause or no probable
27 cause or taken other administrative action dismissing the complaint within
28 300 days of the filing of the complaint. Any such dismissal of a complaint
29 in accordance with this section shall constitute final action by the com-
30 mission which shall be deemed to exhaust all administrative remedies
31 under the Kansas act against discrimination for the purpose of allowing
32 subsequent filing of the matter in court by the complainant, without the
33 requirement of filing a petition for reconsideration pursuant to K.S.A. 44-
34 1010 and amendments thereto. Dismissal of a complaint in accordance
35 with this section shall not be subject to appeal or judicial review by any
36 court under the provisions of K.S.A. 44-1011 and amendments thereto.
37 The provisions of this section shall not apply to complaints alleging dis-
38 criminatory housing practices filed with the commission pursuant to
39 K.S.A. 44-1015 et seq. and 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 coun-
42 sel, and submit testimony. The complainant shall appear at such hearing
43 in 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
4 rules 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 em-
10 ployment practice or such unlawful discriminatory practice and to take
11 such affirmative action, including but not limited to the hiring, reinstatement,
12 or upgrading of employees, with or without back pay, and the admission
13 or restoration to membership in any respondent labor organizations; the admission
14 to and full and equal enjoyment of the goods, services, facilities, and accommodations
15 offered by any respondent place of public accommodation denied in violation of this
16 act, as, in the judgment of the presiding officer, will effectuate the purposes of
17 this act, and including a requirement for report of the manner of compliance. Such
18 order may also include an award of damages for pain, suffering and humiliation
19 which are incidental to the act of discrimination, except that an award for such
20 pain, suffering and humiliation shall in no event exceed the sum of \$2,000.

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

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

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

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

39 Sec. 5. K.S.A. 44-1006 is hereby amended to read as follows: 44-
40 1006. (a) The provisions of this act shall be construed liberally for the
41 accomplishment of the purposes thereof. Nothing contained in this act
42 shall be deemed to repeal any of the provisions of any other law of this
43 state relating to discrimination because of race, religion, color, sex, disa-

1 bility, national origin ~~or~~, ancestry *or sexual orientation*, unless the same
2 is specifically repealed by this act.

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

6 Sec. 6. K.S.A. 44-1009 is hereby amended to read as follows: 44-
7 1009. (a) It shall be an unlawful employment practice:

8 (1) For an employer, because of the race, religion, color, sex, disa-
9 bility, national origin ~~or~~, ancestry *or sexual orientation* of any person to
10 refuse to hire or employ such person to bar or discharge such person
11 from employment or to otherwise discriminate against such person in
12 compensation or in terms, conditions or privileges of employment; to
13 limit, segregate, separate, classify or make any distinction in regards to
14 employees; or to follow any employment procedure or practice which, in
15 fact, results in discrimination, segregation or separation without a valid
16 business necessity.

17 (2) For a labor organization, because of the race, religion, color, sex,
18 disability, national origin ~~or~~, ancestry *or sexual orientation* of any person,
19 to exclude or to expel from its membership such person or to discriminate
20 in any way against any of its members or against any employer or any
21 person employed by an employer.

22 (3) For any employer, employment agency or labor organization to
23 print or circulate or cause to be printed or circulated any statement,
24 advertisement or publication, or to use any form of application for em-
25 ployment or membership or to make any inquiry in connection with pro-
26 spective employment or membership, which expresses, directly or indi-
27 rectly, any limitation, specification or discrimination as to race, religion,
28 color, sex, disability, national origin ~~or~~, ancestry *or sexual orientation*, or
29 any intent to make any such limitation, specification or discrimination,
30 unless based on a bona fide occupational qualification.

31 (4) For any employer, employment agency or labor organization to
32 discharge, expel or otherwise discriminate against any person because
33 such person has opposed any practices or acts forbidden under this act
34 or because such person has filed a complaint, testified or assisted in any
35 proceeding under this act.

36 (5) For an employment agency to refuse to list and properly classify
37 for employment or to refuse to refer any person for employment or oth-
38 erwise discriminate against any person because of such person's race,
39 religion, color, sex, disability, national origin ~~or~~, ancestry *or sexual ori-*
40 *entation*; or to comply with a request from an employer for a referral of
41 applicants for employment if the request expresses, either directly or
42 indirectly, any limitation, specification or discrimination as to race, relig-
43 ion, color, sex, disability, national origin ~~or~~, ancestry *or sexual orientation*.

1 (6) For an employer, labor organization, employment agency, or
2 school which provides, coordinates or controls apprenticeship, on-the-job,
3 or other training or retraining program, to maintain a practice of discrim-
4 ination, segregation or separation because of race, religion, color, sex,
5 disability, national origin ~~or~~, ancestry *or sexual orientation*, in admission,
6 hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, ap-
7 prenticeship or other training or retraining program, or in any other
8 terms, conditions or privileges of employment, membership, apprentice-
9 ship or training; or to follow any policy or procedure which, in fact, results
10 in such practices without a valid business motive.

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

14 (8) For an employer, labor organization, employment agency or joint
15 labor-management committee to: (A) Limit, segregate or classify a job
16 applicant or employee in a way that adversely affects the opportunities or
17 status of such applicant or employee because of the disability of such
18 applicant or employee; (B) participate in a contractual or other arrange-
19 ment or relationship, including a relationship with an employment or
20 referral agency, labor union, an organization providing fringe benefits to
21 an employee or an organization providing training and apprenticeship
22 programs that has the effect of subjecting a qualified applicant or em-
23 ployee with a disability to the discrimination prohibited by this act; (C)
24 utilize standards criteria, or methods of administration that have the effect
25 of discrimination on the basis of disability or that perpetuate the discrim-
26 ination of others who are subject to common administrative control; (D)
27 exclude or otherwise deny equal jobs or benefits to a qualified individual
28 because of the known disability of an individual with whom the qualified
29 individual is known to have a relationship or association; (E) not make
30 reasonable accommodations to the known physical or mental limitations
31 of an otherwise qualified individual with a disability who is an applicant
32 or employee, unless such employer, labor organization, employment
33 agency or joint labor-management committee can demonstrate that the
34 accommodation would impose an undue hardship on the operation of the
35 business thereof; (F) deny employment opportunities to a job applicant
36 or employee who is an otherwise qualified individual with a disability, if
37 such denial is based on the need to make reasonable accommodation to
38 the physical or mental impairments of the employee or applicant; (G) use
39 qualification standards, employment tests or other selection criteria that
40 screen out or tend to screen out an individual with a disability or a class
41 of individuals with disabilities unless the standard, test or other selection
42 criteria, as used, is shown to be job-related for the position in question
43 and is consistent with business necessity; or (H) fail to select and admin-

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

9 (9) For any employer to:

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

14 (B) subject, directly or indirectly, any employee or prospective em-
 15 ployee to any genetic screening or test.

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

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

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

28 (2) For any person, whether or not specifically enjoined from dis-
 29 criminating 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 *or sexual ori-*
 35 *entation* of such persons in the full and equal use and enjoyment of the
 36 services, facilities, privileges and advantages of any institution, depart-
 37 ment or agency of the state of Kansas or any political subdivision or mu-
 38 nicipality thereof.

39 Sec. 7. 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 is occupied or designed or in-
2 tended for occupancy, or any building or structure having a portion
3 thereof which is occupied or designed or intended for occupancy.
- 4 (c) "Family" includes a single individual.
- 5 (d) "Person" means an individual, corporation, partnership, associa-
6 tion, labor organization, legal representative, mutual company, joint-stock
7 company, trust, unincorporated organization, trustee, trustee in bank-
8 ruptcy, 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 individual
22 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*" has the meaning provided by K.S.A. 44-1002,
26 and amendments thereto.
- 27 Sec. 8. K.S.A. 44-1016 is hereby amended to read as follows: 44-
28 1016. Subject to the provisions of K.S.A. 44-1018 and amendments
29 thereto, it shall be unlawful for any person:
- 30 (a) To refuse to sell or rent after the making of a bona fide offer, to
31 fail to transmit a bona fide offer or refuse to negotiate in good faith for
32 the sale or rental of, or otherwise make unavailable or deny, real property
33 to any person because of race, religion, color, sex, disability, familial
34 status, national origin ~~or~~, ancestry *or sexual orientation*.
- 35 (b) To discriminate against any person in the terms, conditions or
36 privileges of sale or rental of real property, or in the provision of services
37 or facilities in connection therewith, because of race, religion, color, sex,
38 disability, familial status, national origin ~~or~~, ancestry *or sexual orientation*.
- 39 (c) To make, print, publish, disseminate or use, or cause to be made,
40 printed, published, disseminated or used, any notice, statement, adver-
41 tisement or application, with respect to the sale or rental of real property
42 that indicates any preference, limitation, specification or discrimination
43 based on race, religion, color, sex, disability, familial status, national origin

- 1 ~~or~~, ancestry *or sexual orientation*, or an intention to make any such pref-
2 erence, limitation, specification or discrimination.
- 3 (d) To represent to any person because of race, religion, color, sex,
4 disability, familial status, national origin ~~or~~, ancestry *or sexual orientation*
5 that any real property is not available for inspection, sale or rental when
6 such real property is in fact so available.
- 7 (e) For profit, to induce or attempt to induce any person to sell or
8 rent any real property by representation regarding the entry or prospec-
9 tive entry into the neighborhood of a person or persons of a particular
10 race, religion, color, sex, disability, familial status, national origin ~~or~~, an-
11 cestry *or sexual orientation*.
- 12 (f) To deny any person access to or membership or participation in
13 any multiple-listing service, real estate brokers' organization or other serv-
14 ice, organization or facility relating to the business of selling or renting
15 real property, or to discriminate against such person in the terms or con-
16 ditions of such access, membership or participation, because of race, re-
17 ligion, color, sex, disability, familial status, national origin ~~or~~, ancestry *or*
18 *sexual orientation*.
- 19 (g) To discriminate against any person in such person's use or occu-
20 pancy of real property because of the race, religion, color, sex, disability,
21 familial status, national origin ~~or~~, ancestry *or sexual orientation* of the
22 people with whom such person associates.
- 23 (h) (1) To discriminate in the sale or rental, or to otherwise make
24 unavailable or deny, residential real property to any buyer or renter be-
25 cause of a disability of:
- 26 (A) That buyer or renter;
- 27 (B) a person residing in or intending to reside in such real property
28 after it is sold, rented or made available; or
- 29 (C) any person associated with that buyer or renter.
- 30 (2) To discriminate against any person in the terms, conditions or
31 privileges of sale or rental of residential real property or in the provision
32 of services or facilities in connection with such real property because of
33 a disability of:
- 34 (A) That person;
- 35 (B) a person residing in or intending to reside in that real property
36 after it is so sold, rented or made available; or
- 37 (C) any person associated with that person.
- 38 (3) For purposes of this subsection (h), discrimination includes:
- 39 (A) A refusal to permit, at the expense of the person with a disability,
40 reasonable modifications of existing premises occupied or to be occupied
41 by such person if such modifications may be necessary to afford such
42 person full enjoyment of the premises;
- 43 (B) a refusal to make reasonable accommodations in rules, policies,

1 practices or services, when such accommodations may be necessary to
2 afford such person equal opportunity to use and enjoy residential real
3 property; or
4 (C) in connection with the design and construction of covered mul-
5 tifamily residential real property for first occupancy on and after January
6 1, 1992, a failure to design and construct such residential real property
7 in such a manner that:
8 (i) The public use and common use portions of such residential real
9 property are readily accessible to and usable by persons with disabilities;
10 (ii) all the doors designed to allow passage into and within all premises
11 within such residential real property are sufficiently wide to allow passage
12 by persons with disabilities who are in wheelchairs; and
13 (iii) all premises within such residential real property contain the fol-
14 lowing features of adaptive design: An accessible route into and through
15 the residential real property; light switches, electrical outlets, thermostats
16 and other environmental controls in accessible locations; reinforcements
17 in bathroom walls to allow later installation of grab bars; and usable kitch-
18 ens and bathrooms such that an individual in a wheelchair can maneuver
19 about the space.
20 (4) Compliance with the appropriate requirements of the American
21 national standard for buildings and facilities providing accessibility and
22 usability for physically handicapped people, commonly cited as “ANSI A
23 117.1,” suffices to satisfy the requirements of subsection (h)(3)(C)(iii).
24 (5) As used in this subsection (h), “covered multifamily residential
25 real property” means:
26 (A) Buildings consisting of four or more units if such buildings have
27 one or more elevators; and
28 (B) ground floor units in other buildings consisting of four or more
29 units.
30 (6) Nothing in this act shall be construed to invalidate or limit any
31 state law or ordinance that requires residential real property to be de-
32 signed and constructed in a manner that affords persons with disabilities
33 greater access than is required by this act.
34 (7) Nothing in this subsection (h) requires that residential real prop-
35 erty be made available to an individual whose tenancy would constitute
36 a direct threat to the health or safety of other individuals or whose tenancy
37 would result in substantial physical damage to the property of others.
38 Sec. 9. K.S.A. 44-1017 is hereby amended to read as follows: 44-
39 1017. (a) It shall be unlawful for any person or other entity whose business
40 includes engaging in real estate related transactions to discriminate
41 against any person in making available such a transaction, or in the terms
42 or conditions of such a transaction, because of the race, religion, color,
43 sex, disability, familial status, national origin ~~or~~, ancestry *or sexual ori-*

1 *entation* of such person or of any person associated with such person in
2 connection with any real estate related transaction.

3 (b) As used in this section, “real estate related transaction” means
4 any of the following:

5 (1) The making or purchasing of loans or providing other financial
6 assistance:

7 (A) For purchasing, constructing, improving, repairing or maintaining
8 a dwelling; or

9 (B) secured by real property.

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

11 (c) Nothing in this section prohibits a person engaged in the business
12 of furnishing appraisals of real property to take into consideration factors
13 other than race, religion, color, sex, disability, familial status, national
14 origin ~~or~~, *ancestry or sexual orientation*.

15 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-
16 1027. (a) No person, whether or not acting under color of law, shall by
17 force or threat of force willfully injure, intimidate or interfere with, or
18 attempt to injure, intimidate or interfere with:

19 (1) Any person because of such person’s race, religion, color, sex,
20 disability, familial status, national origin ~~or~~, *ancestry or sexual orientation*
21 and because such person is or has been selling, purchasing, renting, fi-
22 nancing, occupying or contracting or negotiating for the sale, purchase,
23 rental, financing or occupation of any real property, or applying for or
24 participating in any service, organization or facility relating to the business
25 of selling or renting real property;

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

28 (A) Participating, without discrimination on account of race, religion,
29 color, sex, disability, familial status, national origin ~~or~~, *ancestry or sexual*
30 *orientation*, in any of the activities, services, organizations or facilities
31 described in subsection (a)(1); or

32 (B) affording another person or class of persons opportunity or pro-
33 tection so to participate; or

34 (3) any citizen because such citizen is or has been, or in order to
35 discourage such citizen or any other citizen from lawfully aiding or en-
36 couraging other persons to participate, without discrimination on account
37 of race, religion, color, sex, disability, familial status, national origin ~~or~~,
38 *ancestry or sexual orientation*, in any of the activities, services, organiza-
39 tions or facilities described in subsection (a)(1), or participating lawfully
40 in speech or peaceful assembly opposing any denial of the opportunity to
41 so participate.

42 (b) Violation of this section is punishable by a fine of not more than
43 \$1,000 or imprisonment for not more than one year, or both such fine

1 and imprisonment, except that:

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

5 (2) if death results, such violation shall be punishable by imprison-
6 ment for any term of years or for life.

7 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-
8 1030. (a) Except as provided by subsection (c), every contract for or on
9 behalf of the state or any county or municipality or other political sub-
10 division of the state, or any agency of or authority created by any of the
11 foregoing, for the construction, alteration or repair of any public building
12 or public work or for the acquisition of materials, equipment, supplies or
13 services shall contain provisions by which the contractor agrees that:

14 (1) The contractor shall observe the provisions of the Kansas act
15 against discrimination and shall not discriminate against any person in the
16 performance of work under the present contract because of race, religion,
17 color, sex, disability, national origin ~~or~~, ancestry *or sexual orientation*;

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

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

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

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

34 (b) The Kansas human rights commission shall not be prevented
35 hereby from requiring reports of contractors found to be not in compli-
36 ance with the Kansas act against discrimination.

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

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

41 (2) whose contracts with the governmental entity letting such con-
42 tract cumulatively total \$5,000 or less during the fiscal year of such gov-
43 ernmental entity.

1 Sec. 12. K.S.A. 44-1001, 44-1002, 44-1004, 44-1005, 44-1006, 44-
2 1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 are hereby
3 repealed.
4 Sec. 13. This act shall take effect and be in force from and after its
5 publication in the statute book.