

HOUSE BILL No. 2761

By Committee on Federal and State Affairs

3-12

1 AN ACT concerning the Kansas act against discrimination; relating to
2 sexual orientation and gender identity; amending K.S.A. 44-1001, 44-
3 1004, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and
4 K.S.A. 2013 Supp. 44-1002, 44-1005 and 44-1006 and repealing the
5 existing sections.
6

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

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

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

1 for full and equal housing are civil rights of every citizen.

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

10 Sec. 2. K.S.A. 2013 Supp. 44-1002 is hereby amended to read as
11 follows: 44-1002. When used in this act:

12 (a) "Person" includes one or more individuals, partnerships,
13 associations, organizations, corporations, legal representatives, trustees,
14 trustees in bankruptcy or receivers.

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

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

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

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

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

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

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

1 accommodations do not include a religious or nonprofit fraternal or social
2 association or corporation.

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

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

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

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

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

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

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

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

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

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 U.S.C.
26 § 802), in housing discrimination. In employment and public
27 accommodation discrimination, "disability" does not include an individual
28 who is currently engaging in the illegal use of drugs where possession or
29 distribution of such drugs is unlawful under the controlled substance act
30 (21 U.S.C. § 812), when the covered entity acts on the basis of such use.

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

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

34 (B) job restructuring; part-time or modified work schedules;
35 reassignment to a vacant position; acquisition or modification of
36 equipment or devices; appropriate adjustment or modifications of
37 examinations, training materials or policies; provision of qualified readers
38 or interpreters; and other similar accommodations for individuals with
39 disabilities.

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

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

11 (m) "Major life activities" means:

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

16 (2) It also includes the operation of a major bodily function,
17 including, but not limited to, functions of the immune system, normal cell
18 growth, digestive, bowel, bladder, neurological, brain, respiratory,
19 circulatory, endocrine and reproductive functions.

20 (n) "Genetic screening or testing" means a laboratory test of a
21 person's genes or chromosomes for abnormalities, defects or deficiencies,
22 including carrier status, that are linked to physical or mental disorders or
23 impairments, or that indicate a susceptibility to illness, disease or other
24 disorders, whether physical or mental, which test is a direct test for
25 abnormalities, defects or deficiencies, and not an indirect manifestation of
26 genetic disorders.

27 (o) *"Sexual orientation" means actual or perceived male or female
28 heterosexuality, homosexuality or bisexuality by inclination, practice or
29 expression.*

30 (p) *"Gender identity" means having or expressing a self image or
31 identity not traditionally associated with one's gender. This term shall not
32 prohibit an employer from requiring an employee during the employee's
33 hours at work, to adhere to reasonable dress or grooming standards not
34 prohibited by other provisions of federal, state or local law.*

35 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-
36 1004. The commission shall have the following functions, powers and
37 duties:

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

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

41 (3) To adopt, promulgate, amend and rescind suitable rules and
42 regulations to carry out the provisions of this act, and the policies and
43 practices of the commission in connection therewith.

1 (4) To receive, initiate, investigate and pass upon complaints alleging
2 discrimination in employment, public accommodations and housing
3 because of race, religion, color, sex, disability, national origin~~or~~, ancestry,
4 *sexual orientation or gender identity* and complaints alleging
5 discrimination in housing because of familial status.

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

35 (6) To act in concert with other parties in interest in order to eliminate
36 and prevent discrimination and segregation, prohibited by this act, by
37 including any term in a conciliation agreement as could be included in a
38 final order under this act.

39 (7) To apply to the district court of the county where the respondent
40 resides or transacts business for enforcement of any conciliation agreement
41 by seeking specific performance of such agreement.

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

1 (9) To endeavor to eliminate prejudice among the various ethnic
2 groups and people with disabilities in this state and to further good will
3 among such groups. The commission in cooperation with the state
4 department of education shall prepare a comprehensive educational
5 program designed for the students of the public schools of this state and
6 for all other residents thereof, calculated to emphasize the origin of
7 prejudice against such groups, its harmful effects and its incompatibility
8 with American principles of equality and fair play.

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

26 (11) To accept contributions from any person to assist in the
27 effectuation of this section and to seek and enlist the cooperation of
28 private, charitable, religious, labor, civic and benevolent organizations for
29 the purposes of this section.

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

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

36 (14) To adopt an official seal.

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

40 Sec. 4. K.S.A. 2013 Supp. 44-1005 is hereby amended to read as
41 follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged
42 unlawful employment practice or by an alleged unlawful discriminatory
43 practice, and who can articulate a prima facie case pursuant to a

1 recognized legal theory of discrimination, may, personally or by an
2 attorney-at-law, make, sign and file with the commission a verified
3 complaint in writing, articulating the prima facie case, which shall also
4 state the name and address of the person, employer, labor organization or
5 employment agency alleged to have committed the unlawful employment
6 practice complained of or the name and address of the person alleged to
7 have committed the unlawful discriminatory practice complained of, and
8 which shall set forth the particulars thereof and contain such other
9 information as may be required by the commission.

10 (b) The commission upon its own initiative or the attorney general
11 may, in like manner, make, sign and file such complaint. Whenever the
12 attorney general has sufficient reason to believe that any person as herein
13 defined is engaged in a practice of discrimination, segregation or
14 separation in violation of this act, the attorney general may make, sign and
15 file a complaint. Any employer whose employees or some of whom, refuse
16 or threaten to refuse to cooperate with the provisions of this act, may file
17 with the commission a verified complaint asking for assistance by
18 conciliation or other remedial action.

19 (c) Whenever any problem of discrimination because of race,
20 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
21 *orientation or gender identity* arises, or whenever the commission has, in
22 its own judgment, reason to believe that any person has engaged in an
23 unlawful employment practice or an unlawful discriminatory practice in
24 violation of this act, or has engaged in a pattern or practice of
25 discrimination, the commission may conduct an investigation without
26 filing a complaint and shall have the same powers during such
27 investigation as provided for the investigation of complaints. The person to
28 be investigated shall be advised of the nature and scope of such
29 investigation prior to its commencement. The purpose of the investigation
30 shall be to resolve any such problems promptly. In the event such
31 problems cannot be resolved within a reasonable time, the commission
32 may issue a complaint whenever the investigation has revealed a violation
33 of the Kansas act against discrimination has occurred. The information
34 gathered in the course of the first investigation may be used in processing
35 the complaint.

36 (d) After the filing of any complaint by an aggrieved individual, by
37 the commission, or by the attorney general, the commission shall, within
38 seven days after the filing of the complaint, serve a copy on each of the
39 parties alleged to have violated this act, and shall designate one of the
40 commissioners to make, with the assistance of the commission's staff,
41 prompt investigation of the alleged act of discrimination. If the
42 commissioner shall determine after such investigation that no probable
43 cause exists for crediting the allegations of the complaint, such

1 commissioner, within 10 business days from such determination, shall
2 cause to be issued and served upon the complainant and respondent written
3 notice of such determination.

4 (e) If such commissioner after such investigation, shall determine that
5 probable cause exists for crediting the allegations for the complaint, the
6 commissioner or such other commissioner as the commission may
7 designate, shall immediately endeavor to eliminate the unlawful
8 employment practice or the unlawful discriminatory practice complained
9 of by conference and conciliation. The complainant, respondent and
10 commission shall have 45 days from the date respondent is notified in
11 writing of a finding of probable cause to enter into a conciliation
12 agreement signed by all parties in interest. The parties may amend a
13 conciliation agreement at any time prior to the date of entering into such
14 agreement. Upon agreement by the parties the time for entering into such
15 agreement may be extended. The members of the commission and its staff
16 shall not disclose what has transpired in the course of such endeavors.

17 (f) In case of failure to eliminate such practices by conference and
18 conciliation, or in advance thereof, if in the judgment of the commissioner
19 or the commission circumstances so warrant, the commissioner or the
20 commission shall commence a hearing in accordance with the provisions
21 of the Kansas administrative procedure act naming as parties the
22 complainant and the person, employer, labor organization, employment
23 agency, realtor or financial institution named in such complaint,
24 hereinafter referred to as respondent. A copy of the complaint shall be
25 served on the respondent. At least four commissioners or a presiding
26 officer from the office of administrative hearings shall be designated as the
27 presiding officer. The place of such hearing shall be in the county where
28 respondent is doing business and the acts complained of occurred.

29 (g) The complainant or respondent may apply to the presiding officer
30 for the issuance of a subpoena for the attendance of any person or the
31 production or examination of any books, records or documents pertinent to
32 the proceeding at the hearing. Upon such application the presiding officer
33 shall issue such subpoena.

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

40 (i) Any complaint filed pursuant to this act must be so filed within six
41 months after the alleged act of discrimination, unless the act complained of
42 constitutes a continuing pattern or practice of discrimination in which
43 event it will be from the last act of discrimination. Complaints filed with

1 the commission may be dismissed by the commission on its own initiative,
2 and shall be dismissed by the commission upon the written request of the
3 complainant, if the commission has not issued a finding of probable cause
4 or no probable cause or taken other administrative action dismissing the
5 complaint within 300 days of the filing of the complaint. The commission
6 shall mail written notice to all parties of dismissal of a complaint within
7 five days of dismissal. Any such dismissal of a complaint in accordance
8 with this section shall constitute final action by the commission which
9 shall be deemed to exhaust all administrative remedies under the Kansas
10 act against discrimination for the purpose of allowing subsequent filing of
11 the matter in court by the complainant, without the requirement of filing a
12 petition for reconsideration pursuant to K.S.A. 44-1010, and amendments
13 thereto. Dismissal of a complaint in accordance with this section shall not
14 be subject to appeal or judicial review by any court under the provisions of
15 K.S.A. 44-1011, and amendments thereto. The provisions of this section
16 shall not apply to complaints alleging discriminatory housing practices
17 filed with the commission pursuant to K.S.A. 44-1015 et seq., and
18 amendments thereto.

19 (j) The respondent may file a written verified answer to the complaint
20 and appear at such hearing in person or otherwise, with or without counsel,
21 and submit testimony. The complainant shall appear at such hearing in
22 person, with or without counsel, and submit testimony. The presiding
23 officer or the complainant shall have the power reasonably and fairly to
24 amend any complaint, and the respondent shall have like power to amend
25 such respondent's answer. The presiding officer shall be bound by the rules
26 of evidence prevailing in courts of law or equity, and only relevant
27 evidence of reasonable probative value shall be received.

28 (k) If the presiding officer finds a respondent has engaged in or is
29 engaging in any unlawful employment practice or unlawful discriminatory
30 practice as defined in this act, the presiding officer shall render an order
31 requiring such respondent to cease and desist from such unlawful
32 employment practice or such unlawful discriminatory practice and to take
33 such affirmative action, including but not limited to the hiring,
34 reinstatement, or upgrading of employees, with or without back pay, and
35 the admission or restoration to membership in any respondent labor
36 organizations; the admission to and full and equal enjoyment of the goods,
37 services, facilities, and accommodations offered by any respondent place
38 of public accommodation denied in violation of this act, as, in the
39 judgment of the presiding officer, will effectuate the purposes of this act,
40 and including a requirement for report of the manner of compliance. Such
41 order may also include an award of damages for pain, suffering and
42 humiliation which are incidental to the act of discrimination, except that an
43 award for such pain, suffering and humiliation shall in no event exceed the

1 sum of \$2,000.

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

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

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

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

18 Sec. 5. K.S.A. 2013 Supp. 44-1006 is hereby amended to read as
19 follows: 44-1006. (a) The provisions of this act shall be construed liberally
20 for the accomplishment of the purposes thereof. Nothing contained in this
21 act shall be deemed to repeal any of the provisions of any other law of this
22 state relating to discrimination because of race, religion, color, sex,
23 disability, national origin—~~or~~, ancestry, *sexual orientation or gender*
24 *identity*, unless the same is specifically repealed by this act.

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

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

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

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

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

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

40 (i) Medication, medical supplies, equipment, or appliances, low-
41 vision devices—~~(~~, which do not include ordinary eye glasses or contact
42 lenses), prosthetics including limbs and devices, hearing aids and cochlear
43 implants or other implantable hearing devices, mobility devices, or oxygen

1 therapy equipment and supplies;

2 (ii) use of assistive technology;

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

4 (iv) learned behavioral or adaptive neurological modifications.

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

8 (C) As used in this subparagraph:

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

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

13 Sec. 6. K.S.A. 44-1009 is hereby amended to read as follows: 44-
14 1009. (a) It shall be an unlawful employment practice:

15 (1) For an employer, because of the race, religion, color, sex,
16 disability, national origin~~or~~, ancestry, *sexual orientation or gender identity*
17 of any person to refuse to hire or employ such person to bar or discharge
18 such person from employment or to otherwise discriminate against such
19 person in compensation or in terms, conditions or privileges of
20 employment; to limit, segregate, separate, classify or make any distinction
21 in regards to employees; or to follow any employment procedure or
22 practice which, in fact, results in discrimination, segregation or separation
23 without a valid business necessity.

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

29 (3) For any employer, employment agency or labor organization to
30 print or circulate or cause to be printed or circulated any statement,
31 advertisement or publication, or to use any form of application for
32 employment or membership or to make any inquiry in connection with
33 prospective employment or membership, which expresses, directly or
34 indirectly, any limitation, specification or discrimination as to race,
35 religion, color, sex, disability, national origin~~or~~, ancestry, *sexual*
36 *orientation or gender identity*, or any intent to make any such limitation,
37 specification or discrimination, unless based on a bona fide occupational
38 qualification.

39 (4) For any employer, employment agency or labor organization to
40 discharge, expel or otherwise discriminate against any person because such
41 person has opposed any practices or acts forbidden under this act or
42 because such person has filed a complaint, testified or assisted in any
43 proceeding under this act.

1 (5) For an employment agency to refuse to list and properly classify
2 for employment or to refuse to refer any person for employment or
3 otherwise discriminate against any person because of such person's race,
4 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
5 *orientation or gender identity*; or to comply with a request from an
6 employer for a referral of applicants for employment if the request
7 expresses, either directly or indirectly, any limitation, specification or
8 discrimination as to race, religion, color, sex, disability, national origin—~~or~~,
9 ancestry, *sexual orientation or gender identity*.

10 (6) For an employer, labor organization, employment agency, or
11 school which provides, coordinates or controls apprenticeship, on-the-job,
12 or other training or retraining program, to maintain a practice of
13 discrimination, segregation or separation because of race, religion, color,
14 sex, disability, national origin—~~or~~, ancestry, *sexual orientation or gender*
15 *identity*, in admission, hiring, assignments, upgrading, transfers,
16 promotion, layoff, dismissal, apprenticeship or other training or retraining
17 program, or in any other terms, conditions or privileges of employment,
18 membership, apprenticeship or training; or to follow any policy or
19 procedure which, in fact, results in such practices without a valid business
20 motive.

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

24 (8) For an employer, labor organization, employment agency or joint
25 labor-management committee to: (A) Limit, segregate or classify a job
26 applicant or employee in a way that adversely affects the opportunities or
27 status of such applicant or employee because of the disability of such
28 applicant or employee; (B) participate in a contractual or other
29 arrangement or relationship, including a relationship with an employment
30 or referral agency, labor union, an organization providing fringe benefits to
31 an employee or an organization providing training and apprenticeship
32 programs that has the effect of subjecting a qualified applicant or
33 employee with a disability to the discrimination prohibited by this act; (C)
34 utilize standards criteria, or methods of administration that have the effect
35 of discrimination on the basis of disability or that perpetuate the
36 discrimination of others who are subject to common administrative
37 control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
38 individual because of the known disability of an individual with whom the
39 qualified individual is known to have a relationship or association; (E) not
40 make reasonable accommodations to the known physical or mental
41 limitations of an otherwise qualified individual with a disability who is an
42 applicant or employee, unless such employer, labor organization,
43 employment agency or joint labor-management committee can

1 demonstrate that the accommodation would impose an undue hardship on
2 the operation of the business thereof; (F) deny employment opportunities
3 to a job applicant or employee who is an otherwise qualified individual
4 with a disability, if such denial is based on the need to make reasonable
5 accommodation to the physical or mental impairments of the employee or
6 applicant; (G) use qualification standards, employment tests or other
7 selection criteria that screen out or tend to screen out an individual with a
8 disability or a class of individuals with disabilities unless the standard, test
9 or other selection criteria, as used, is shown to be job-related for the
10 position in question and is consistent with business necessity; or (H) fail to
11 select and administer tests concerning employment in the most effective
12 manner to ensure that, when such test is administered to a job applicant or
13 employee who has a disability that impairs sensory, manual or speaking
14 skills, the test results accurately reflect the skills, aptitude or whatever
15 other factor of such applicant or employee that such test purports to
16 measure, rather than reflecting the impaired sensory, manual or speaking
17 skills of such employee or applicant—(, except where such skills are the
18 factors that the test purports to measure).

19 (9) For any employer to:

20 (A) Seek to obtain, to obtain or to use genetic screening or testing
21 information of an employee or a prospective employee to distinguish
22 between or discriminate against or restrict any right or benefit otherwise
23 due or available to an employee or a prospective employee; or

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

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

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

31 (1) For any person, as defined herein being the owner, operator,
32 lessee, manager, agent or employee of any place of public accommodation
33 to refuse, deny or make a distinction, directly or indirectly, in offering its
34 goods, services, facilities, and accommodations to any person as covered
35 by this act because of race, religion, color, sex, disability, national origin
36 ~~or~~, ancestry, *sexual orientation or gender identity*, except where a
37 distinction because of sex is necessary because of the intrinsic nature of
38 such accommodation.

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

43 (3) For any person, to refuse, deny, make a distinction, directly or

1 indirectly, or discriminate in any way against persons because of the race,
2 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
3 *orientation or gender identity* of such persons in the full and equal use and
4 enjoyment of the services, facilities, privileges and advantages of any
5 institution, department or agency of the state of Kansas or any political
6 subdivision or municipality thereof.

7 Sec. 7. K.S.A. 44-1015 is hereby amended to read as follows: 44-
8 1015. As used in this act, unless the context otherwise requires:

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

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

11 (1) All vacant or unimproved land; and

12 (2) any building or structure which is occupied or designed or
13 intended for occupancy, or any building or structure having a portion
14 thereof which is occupied or designed or intended for occupancy.

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

16 (d) "Person" means an individual, corporation, partnership,
17 association, labor organization, legal representative, mutual company,
18 joint-stock company, trust, unincorporated organization, trustee, trustee in
19 bankruptcy, receiver and fiduciary.

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

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

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

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

30 (i) "Familial status" means having one or more individuals less than
31 18 years of age domiciled with:

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

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

36 (j) "*Sexual orientation*" has the same meaning ascribed thereto in
37 K.S.A. 44-1002, and amendments thereto.

38 (k) "*Gender identity*" has the same meaning ascribed thereto in
39 K.S.A. 44-1002, and amendments thereto.

40 Sec. 8. K.S.A. 44-1016 is hereby amended to read as follows: 44-
41 1016. Subject to the provisions of K.S.A. 44-1018, and amendments
42 thereto, it shall be unlawful for any person:

43 (a) To refuse to sell or rent after the making of a bona fide offer, to

1 fail to transmit a bona fide offer or refuse to negotiate in good faith for the
2 sale or rental of, or otherwise make unavailable or deny, real property to
3 any person because of race, religion, color, sex, disability, familial status,
4 national origin~~or~~, ancestry, *sexual orientation or gender identity*.

5 (b) To discriminate against any person in the terms, conditions or
6 privileges of sale or rental of real property, or in the provision of services
7 or facilities in connection therewith, because of race, religion, color, sex,
8 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*
9 *gender identity*.

10 (c) To make, print, publish, disseminate or use, or cause to be made,
11 printed, published, disseminated or used, any notice, statement,
12 advertisement or application, with respect to the sale or rental of real
13 property that indicates any preference, limitation, specification or
14 discrimination based on race, religion, color, sex, disability, familial status,
15 national origin~~or~~, ancestry, *sexual orientation or gender identity*, or an
16 intention to make any such preference, limitation, specification or
17 discrimination.

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

22 (e) For profit, to induce or attempt to induce any person to sell or rent
23 any real property by representation regarding the entry or prospective
24 entry into the neighborhood of a person or persons of a particular race,
25 religion, color, sex, disability, familial status, national origin~~or~~, ancestry,
26 *sexual orientation or gender identity*.

27 (f) To deny any person access to or membership or participation in
28 any multiple-listing service, real estate brokers' organization or other
29 service, organization or facility relating to the business of selling or renting
30 real property, or to discriminate against such person in the terms or
31 conditions of such access, membership or participation, because of race,
32 religion, color, sex, disability, familial status, national origin~~or~~, ancestry,
33 *sexual orientation or gender identity*.

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

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

41 (A) That buyer or renter;

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

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

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

6 (A) That person;

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

9 (C) any person associated with that person.

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

11 (A) A refusal to permit, at the expense of the person with a disability,
12 reasonable modifications of existing premises occupied or to be occupied
13 by such person if such modifications may be necessary to afford such
14 person full enjoyment of the premises;

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

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

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

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

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

35 (4) Compliance with the appropriate requirements of the American
36 national standard for buildings and facilities providing accessibility and
37 usability for physically handicapped people, commonly cited as "ANSI A
38 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

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

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

43 (B) ground floor units in other buildings consisting of four or more

1 units.

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

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

11 Sec. 9. K.S.A. 44-1017 is hereby amended to read as follows: 44-
12 1017. (a) It shall be unlawful for any person or other entity whose business
13 includes engaging in real estate related transactions to discriminate against
14 any person in making available such a transaction, or in the terms or
15 conditions of such a transaction, because of the race, religion, color, sex,
16 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*
17 *gender identity* of such person or of any person associated with such
18 person in connection with any real estate related transaction.

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

21 (1) The making or purchasing of loans or providing other financial
22 assistance:

23 (A) For purchasing, constructing, improving, repairing or maintaining
24 a dwelling; or

25 (B) secured by real property.

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

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

31 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-
32 1027. (a) No person, whether or not acting under color of law, shall by
33 force or threat of force willfully injure, intimidate or interfere with, or
34 attempt to injure, intimidate or interfere with:

35 (1) Any person because of such person's race, religion, color, sex,
36 disability, familial status, national origin~~or~~, ancestry, *sexual orientation or*
37 *gender identity* and because such person is or has been selling, purchasing,
38 renting, financing, occupying or contracting or negotiating for the sale,
39 purchase, rental, financing or occupation of any real property, or applying
40 for or participating in any service, organization or facility relating to the
41 business of selling or renting real property;

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

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

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

7 (3) any citizen because such citizen is or has been, or in order to
8 discourage such citizen or any other citizen from lawfully aiding or
9 encouraging other persons to participate, without discrimination on
10 account of race, religion, color, sex, disability, familial status, national
11 origin~~or~~, ancestry, *sexual orientation or gender identity*, in any of the
12 activities, services, organizations or facilities described in subsection (a)
13 (1), or participating lawfully in speech or peaceful assembly opposing any
14 denial of the opportunity to so participate.

15 (b) Violation of this section is punishable by a fine of not more than
16 \$1,000 or imprisonment for not more than one year, or both such fine and
17 imprisonment, except that:

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

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

23 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-
24 1030. (a) Except as provided by subsection (c), every contract for or on
25 behalf of the state or any county or municipality or other political
26 subdivision of the state, or any agency of or authority created by any of the
27 foregoing, for the construction, alteration or repair of any public building
28 or public work or for the acquisition of materials, equipment, supplies or
29 services shall contain provisions by which the contractor agrees that:

30 (1) The contractor shall observe the provisions of the Kansas act
31 against discrimination and shall not discriminate against any person in the
32 performance of work under the present contract because of race, religion,
33 color, sex, disability, national origin~~or~~, ancestry, *sexual orientation or*
34 *gender identity*;

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

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

43 (4) if the contractor is found guilty of a violation of the Kansas act

1 against discrimination under a decision or order of the commission which
2 has become final, the contractor shall be deemed to have breached the
3 present contract and it may be canceled, terminated or suspended, in whole
4 or in part, by the contracting agency; and

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

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

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

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

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

18 Sec. 12. K.S.A. 44-1001, 44-1004, 44-1009, 44-1015, 44-1016, 44-
19 1017, 44-1027 and 44-1030 and K.S.A. 2013 Supp. 44-1002, 44-1005 and
20 44-1006 are hereby repealed.

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