

SENATE BILL No. 164

By Committee on Education

2-3

1 AN ACT concerning discrimination; relating to the attorney general;
2 prohibiting discriminatory practices at public educational institutions;
3 authorizing the attorney general to investigate and assess penalties;
4 authorizing the human rights commission to refer complaints to the
5 attorney general for investigation and initiation of legal proceedings;
6 amending K.S.A. 44-1001, 44-1004, 44-1005 and 44-1009 and
7 repealing the existing sections.
8

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

10 New Section 1. (a) (1) It is declared to be the policy of the state that
11 public educational institutions that receive and expend tax dollars are
12 prohibited from engaging in practices or implementing policies that:

- 13 (A) Discriminate or cause prejudice on the basis of religion; or
- 14 (B) promote or tolerate antisemitism or antisemitic acts.

15 (2) This section shall not be construed to prohibit any coursework
16 that is dedicated to the education and study of world religions or cultures
17 in public educational institutions.

18 (b) (1) A person aggrieved by a violation of subsection (a) may file a
19 complaint with the attorney general. If the person aggrieved is under the
20 age of 18, a parent or guardian may file a complaint on behalf of the
21 person.

22 (2) The attorney general may investigate any complaint received
23 under paragraph (1). During the course of such investigation, the attorney
24 general may:

- 25 (A) Subpoena witnesses, evidence, records, documents or other
26 material related to the complaint;
- 27 (B) take testimony under oath;
- 28 (C) examine or cause to be examined any records or other material
29 that is relevant to the complaint;
- 30 (D) require a person to attend any proceeding and provide testimony
31 under oath regarding any material that is relevant to the complaint;
- 32 (E) serve interrogatories; and
- 33 (F) administer oaths and affirmations.

34 (3) (A) If the attorney general issues a subpoena or interrogatory
35 under this section, service shall be made:

- 36 (i) By certified mail, return receipt requested, to the last known place

1 of business or residence; or

2 (ii) in the manner provided in article 3 of chapter 60 of the Kansas
3 Statutes Annotated, and amendments thereto.

4 (B) If a person intentionally refuses to respond to a subpoena,
5 interrogatory or any other request made by the attorney general that is
6 authorized by this section, the attorney general may, after notice, file a
7 petition with the appropriate district court for a hearing. If the court finds
8 that the person is required to respond to the subpoena, interrogatory or
9 request, the court may:

10 (i) Issue an order requiring such person to respond to the subpoena,
11 interrogatory or request; or

12 (ii) hold such person in contempt until such person responds to the
13 subpoena, interrogatory or request.

14 (4) (A) After investigating a complaint, if the attorney general finds
15 by a preponderance of the evidence that a public educational institution
16 violated the provisions of subsection (a), the attorney general shall assess a
17 civil penalty against the public educational institution in an amount not to
18 exceed \$10,000 for each violation. Any civil penalty recovered under this
19 paragraph shall be deposited into the state general fund.

20 (B) A public educational institution may appeal a penalty assessed
21 under subparagraph (A) in accordance with the Kansas judicial review act.

22 (c) As used in this section:

23 (1) "Antisemitism" or "antisemitic" means the same as defined by the
24 international Holocaust remembrance alliance's working definition of
25 antisemitism, including the contemporary examples, as in effect on May
26 26, 2016. "Antisemitism" or "antisemitic" includes:

27 (A) Encouraging, supporting, praising, participating in or threatening
28 violence or vandalism against Jewish people or property;

29 (B) wearing masks to conceal a person's identity with the intent to
30 harass or discriminate against Jewish students, faculty or employees on
31 school property; and

32 (C) incorporating or allowing funding of antisemitic curriculum or
33 activities in any domestic or study abroad programs or classes.

34 (2) "Public educational institutions" means any elementary or
35 secondary school operated by a unified public school district under the
36 laws of this state, a community college established in accordance with
37 chapter 71 of the Kansas Statutes Annotated, and amendments thereto,
38 Washburn university, Washburn institute of technology, a technical college
39 established under the laws of this state or a state educational institution as
40 defined in K.S.A. 76-711, and amendments thereto.

41 Sec. 2. K.S.A. 44-1001 is hereby amended to read as follows: 44-
42 1001. This act shall be known as the Kansas act against discrimination. It
43 shall be deemed an exercise of the police power of the state for the

1 protection of the public welfare, safety, health and peace of the people of
2 this state. The practice or policy of discrimination against individuals in
3 employment relations, in relation to free and public accommodations, in
4 housing by reason of race, religion, color, sex, disability, national origin or
5 ancestry or in housing by reason of familial status is a matter of concern to
6 the state, since such discrimination threatens not only the rights and
7 privileges of the inhabitants of the state of Kansas but menaces the
8 institutions and foundations of a free democratic state. It is hereby
9 declared to be the policy of the state of Kansas to eliminate and prevent
10 discrimination in all employment relations, to eliminate and prevent
11 discrimination, segregation, or separation in all places of public
12 accommodations covered by this act, and to eliminate and prevent
13 discrimination, segregation or separation in housing.

14 It is also declared to be the policy of this state to assure equal
15 opportunities and encouragement to every citizen regardless of race,
16 religion, color, sex, disability, national origin or ancestry, in securing and
17 holding, without discrimination, employment in any field of work or labor
18 for which a person is properly qualified, to assure equal opportunities to all
19 persons within this state to full and equal public accommodations, and to
20 assure equal opportunities in housing without distinction on account of
21 race, religion, color, sex, disability, familial status, national origin or
22 ancestry. It is further declared that the opportunity to secure and to hold
23 employment, the opportunity for full and equal public accommodations as
24 covered by this act and the opportunity for full and equal housing are civil
25 rights of every citizen.

26 *It is also declared to be the policy of this state that public institutions*
27 *that receive and expend tax dollars are prohibited from engaging in*
28 *practices or implementing policies that are antisemitic or otherwise*
29 *promote antisemitism. It is further declared to be the policy of the state*
30 *that no person shall be required to participate in programing or training*
31 *that promotes or degrades any one religion and that governmental entities*
32 *are prohibited from enacting policies that promote or degrade any one*
33 *religion.*

34 To protect these rights, it is hereby declared to be the purpose of this act
35 to establish and to provide a state commission having power to eliminate
36 and prevent segregation and discrimination, or separation in employment,
37 in all places of public accommodations covered by this act, in housing
38 because of race, religion, color, sex, disability, national origin or ancestry
39 and in housing because of familial status, either by employers, labor
40 organizations, employment agencies, realtors, financial institutions or
41 other persons as hereinafter provided.

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

1 duties:

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

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

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

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

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

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

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

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

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

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

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

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

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

43 ~~(13)~~(m) To render each year to the governor and to the state

1 legislature a full written report of all of its activities and of its
2 recommendations.

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

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

7 *(p) To refer complaints to the attorney general for review,*
8 *investigation and initiation of legal proceedings.*

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

22 (b) (1) The commission upon its own initiative or the attorney general
23 may, in like manner, make, sign and file such complaint. Whenever the
24 attorney general has sufficient reason to believe that any person as herein
25 defined is engaged in a practice of discrimination, segregation or
26 separation in violation of this act, the attorney general may make, sign and
27 file a complaint. Any employer whose employees or some of whom, refuse
28 or threaten to refuse to cooperate with the provisions of this act, may file
29 with the commission a verified complaint asking for assistance by
30 conciliation or other remedial action.

31 (2) (A) *In addition to making, signing and filing a complaint, the*
32 *attorney general may investigate the alleged unlawful employment*
33 *practice or alleged unlawful discriminatory practice. During the course of*
34 *such investigation, the attorney general may:*

35 (i) *Subpoena witnesses, evidence, records, documents or other*
36 *material related to the complaint;*

37 (ii) *take testimony under oath;*

38 (iii) *examine or cause to be examined any records or other material*
39 *that is relevant to the complaint;*

40 (iv) *require a person to attend any proceeding and provide testimony*
41 *under oath regarding any material that is relevant to the complaint;*

42 (v) *serve interrogatories; and*

43 (vi) *administer oaths and affirmations.*

1 (B) *The attorney general may file a petition in the district court*
2 *where the alleged unlawful employment practice or alleged unlawful*
3 *discriminatory practice occurred seeking damages in an amount not to*
4 *exceed \$10,000 for each violation.*

5 (c) Whenever any problem of discrimination because of race,
6 religion, color, sex, disability, national origin or ancestry arises, or
7 whenever the commission has, in its own judgment, reason to believe that
8 any person has engaged in an unlawful employment practice or an
9 unlawful discriminatory practice in violation of this act, or has engaged in
10 a pattern or practice of discrimination, the commission may conduct an
11 investigation without filing a complaint and shall have the same powers
12 during such investigation as provided for the investigation of complaints.
13 The person to be investigated shall be advised of the nature and scope of
14 such investigation prior to its commencement. The purpose of the
15 investigation shall be to resolve any such problems promptly. In the event
16 such problems cannot be resolved within a reasonable time, the
17 commission may issue a complaint whenever the investigation has
18 revealed a violation of the Kansas act against discrimination has occurred.
19 The information gathered in the course of the first investigation may be
20 used in processing the complaint.

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

32 (e) If such commissioner after such investigation, shall determine that
33 probable cause exists for crediting the allegations for the complaint, the
34 commissioner or such other commissioner as the commission may
35 designate, shall immediately endeavor to eliminate the unlawful
36 employment practice or the unlawful discriminatory practice complained
37 of by conference and conciliation. The complainant, respondent and
38 commission shall have 45 days from the date respondent is notified in
39 writing of a finding of probable cause to enter into a conciliation
40 agreement signed by all parties in interest. The parties may amend a
41 conciliation agreement at any time prior to the date of entering into such
42 agreement. Upon agreement by the parties the time for entering into such
43 agreement may be extended. The members of the commission and its staff

1 shall not disclose what has transpired in the course of such endeavors.

2 (f) In case of failure to eliminate such practices by conference and
3 conciliation, or in advance thereof, if in the judgment of the commissioner
4 or the commission circumstances so warrant, the commissioner or the
5 commission shall commence a hearing in accordance with the provisions
6 of the Kansas administrative procedure act naming as parties the
7 complainant and the person, employer, labor organization, employment
8 agency, realtor or financial institution named in such complaint,
9 hereinafter referred to as respondent. A copy of the complaint shall be
10 served on the respondent. At least four commissioners or a presiding
11 officer from the office of administrative hearings shall be designated as the
12 presiding officer. The place of such hearing shall be in the county where
13 respondent is doing business and the acts complained of occurred.

14 (g) The complainant or respondent may apply to the presiding officer
15 for the issuance of a subpoena for the attendance of any person or the
16 production or examination of any books, records or documents pertinent to
17 the proceeding at the hearing. Upon such application the presiding officer
18 shall issue such subpoena.

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

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

1 shall not apply to complaints alleging discriminatory housing practices
2 filed with the commission pursuant to K.S.A. 44-1015 et seq., and
3 amendments thereto.

4 (j) The respondent may file a written verified answer to the complaint
5 and appear at such hearing in person or otherwise, with or without counsel,
6 and submit testimony. The complainant shall appear at such hearing in
7 person, with or without counsel, and submit testimony. The presiding
8 officer or the complainant shall have the power reasonably and fairly to
9 amend any complaint, and the respondent shall have like power to amend
10 such respondent's answer. The presiding officer shall be bound by the rules
11 of evidence prevailing in courts of law or equity, and only relevant
12 evidence of reasonable probative value shall be received.

13 (k) If the presiding officer finds a respondent has engaged in or is
14 engaging in any unlawful employment practice or unlawful discriminatory
15 practice as defined in this act, the presiding officer shall render an order
16 requiring such respondent to cease and desist from such unlawful
17 employment practice or such unlawful discriminatory practice and to take
18 such affirmative action, including but not limited to the hiring,
19 reinstatement, or upgrading of employees, with or without back pay, and
20 the admission or restoration to membership in any respondent labor
21 organizations; the admission to and full and equal enjoyment of the goods,
22 services, facilities, and accommodations offered by any respondent place
23 of public accommodation denied in violation of this act, as, in the
24 judgment of the presiding officer, will effectuate the purposes of this act,
25 and including a requirement for report of the manner of compliance. Such
26 order may also include an award of damages for pain, suffering and
27 humiliation which are incidental to the act of discrimination, except that an
28 award for such pain, suffering and humiliation shall in no event exceed the
29 sum of ~~\$2,000~~ \$10,000.

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

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

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

42 (o) The commission shall, except as otherwise provided, establish
43 rules of practice to govern, expedite and effectuate the foregoing

1 procedure and its own actions thereunder. The rules of practice shall be
2 available, upon written request, within 30 days after the date of adoption.

3 Sec. 5. K.S.A. 44-1009 is hereby amended to read as follows: 44-
4 1009. ~~(a)~~ It shall be an unlawful employment practice:

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

13 ~~(2)~~(b) For a labor organization, because of the race, religion, color,
14 sex, disability, national origin or ancestry of any person, to exclude or to
15 expel from its membership such person or to discriminate in any way
16 against any of its members or against any employer or any person
17 employed by an employer.

18 ~~(3)~~(c) For any employer, employment agency or labor organization to
19 print or circulate or cause to be printed or circulated any statement,
20 advertisement or publication, or to use any form of application for
21 employment or membership or to make any inquiry in connection with
22 prospective employment or membership, which expresses, directly or
23 indirectly, any limitation, specification or discrimination as to race,
24 religion, color, sex, disability, national origin or ancestry, or any intent to
25 make any such limitation, specification or discrimination, unless based on
26 a bona fide occupational qualification.

27 ~~(4)~~(d) For any employer, employment agency or labor organization to
28 discharge, expel or otherwise discriminate against any person because such
29 person has opposed any practices or acts forbidden under this act or
30 because such person has filed a complaint, testified or assisted in any
31 proceeding under this act.

32 ~~(5)~~(e) For an employment agency to refuse to list and properly
33 classify for employment or to refuse to refer any person for employment or
34 otherwise discriminate against any person because of such person's race,
35 religion, color, sex, disability, national origin or ancestry; or to comply
36 with a request from an employer for a referral of applicants for
37 employment if the request expresses, either directly or indirectly, any
38 limitation, specification or discrimination as to race, religion, color, sex,
39 disability, national origin or ancestry.

40 ~~(6)~~(f) For an employer, labor organization, employment agency, or
41 school which provides, coordinates or controls apprenticeship, on-the-job,
42 or other training or retraining program, to maintain a practice of
43 discrimination, segregation or separation because of race, religion, color,

1 sex, disability, national origin or ancestry, in admission, hiring,
2 assignments, upgrading, transfers, promotion, layoff, dismissal,
3 apprenticeship or other training or retraining program, or in any other
4 terms, conditions or privileges of employment, membership,
5 apprenticeship or training; or to follow any policy or procedure which, in
6 fact, results in such practices without a valid business motive.

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

10 ~~(8)~~(h) For an employer, labor organization, employment agency or
11 joint labor-management committee to: ~~(A)~~(1) Limit, segregate or classify a
12 job applicant or employee in a way that adversely affects the opportunities
13 or status of such applicant or employee because of the disability of such
14 applicant or employee; ~~(B)~~(2) participate in a contractual or other
15 arrangement or relationship, including a relationship with an employment
16 or referral agency, labor union, an organization providing fringe benefits to
17 an employee or an organization providing training and apprenticeship
18 programs that has the effect of subjecting a qualified applicant or
19 employee with a disability to the discrimination prohibited by this act; ~~(C)~~
20 (3) utilize standards criteria, or methods of administration that have the
21 effect of discrimination on the basis of disability or that perpetuate the
22 discrimination of others who are subject to common administrative
23 control; ~~(D)~~(4) exclude or otherwise deny equal jobs or benefits to a
24 qualified individual because of the known disability of an individual with
25 whom the qualified individual is known to have a relationship or
26 association; ~~(E)~~(5) not make reasonable accommodations to the known
27 physical or mental limitations of an otherwise qualified individual with a
28 disability who is an applicant or employee, unless such employer, labor
29 organization, employment agency or joint labor-management committee
30 can demonstrate that the accommodation would impose an undue hardship
31 on the operation of the business thereof; ~~(F)~~(6) deny employment
32 opportunities to a job applicant or employee who is an otherwise qualified
33 individual with a disability, if such denial is based on the need to make
34 reasonable accommodation to the physical or mental impairments of the
35 employee or applicant; ~~(G)~~(7) use qualification standards, employment
36 tests or other selection criteria that screen out or tend to screen out an
37 individual with a disability or a class of individuals with disabilities unless
38 the standard, test or other selection criteria, as used, is shown to be job-
39 related for the position in question and is consistent with business
40 necessity; or ~~(H)~~(8) fail to select and administer tests concerning
41 employment in the most effective manner to ensure that, when such test is
42 administered to a job applicant or employee who has a disability that
43 impairs sensory, manual or speaking skills, the test results accurately

1 reflect the skills, aptitude or whatever other factor of such applicant or
2 employee that such test purports to measure, rather than reflecting the
3 impaired sensory, manual or speaking skills of such employee or applicant
4 (except where such skills are the factors that the test purports to measure).

5 ~~(9)(i)~~ For any employer to:

6 ~~(A)(1)~~ Seek to obtain, to obtain or to use genetic screening or testing
7 information of an employee or a prospective employee to distinguish
8 between or discriminate against or restrict any right or benefit otherwise
9 due or available to an employee or a prospective employee; or

10 ~~(B)(2)~~ subject, directly or indirectly, any employee or prospective
11 employee to any genetic screening or test.

12 ~~(b)~~ It shall not be an unlawful employment practice to fill vacancies
13 in such way as to eliminate or reduce imbalance with respect to race,
14 religion, color, sex, disability, national origin or ancestry.

15 ~~(c)~~ It shall be an unlawful discriminatory practice:

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

23 ~~(2)~~ For any person, whether or not specifically enjoined from
24 discriminating under any provisions of this act, to aid, abet, incite, compel
25 or coerce the doing of any of the acts forbidden under this act, or to
26 attempt to do so.

27 ~~(3)~~ For any person, to refuse, deny, make a distinction, directly or
28 indirectly, or discriminate in any way against persons because of the race,
29 religion, color, sex, disability, national origin or ancestry of such persons
30 in the full and equal use and enjoyment of the services, facilities,
31 privileges and advantages of any institution, department or agency of the
32 state of Kansas or any political subdivision or municipality thereof.

33 Sec. 6. K.S.A. 44-1001, 44-1004, 44-1005 and 44-1009 are hereby
34 repealed.

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