

SENATE BILL No. 53

By Committee on Federal and State Affairs

1-25

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 1002, 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-
4 1027 and 44-1030 and K.S.A. 2010 Supp. 44-1005 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
36 and equal public accommodations as covered by this act and the

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

11 Sec. 2. K.S.A. 44-1002 is hereby amended to read as follows: 44-
12 1002. When used in this act:

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

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

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

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

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

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

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

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

1 which is open to the public; or any public transportation facility. Public
2 accommodations do not include a religious or nonprofit fraternal or social
3 association or corporation.

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

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

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

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

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

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

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

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

26 (3) being regarded as having such an impairment by the person or
27 entity alleged to have committed the unlawful discriminatory practice
28 complained of.

29 Disability does not include current, illegal use of a controlled
30 substance as defined in section 102 of the federal controlled substance act
31 (21 U.S.C. § 802), in housing discrimination. In employment and public
32 accommodation discrimination, "disability" does not include an
33 individual who is currently engaging in the illegal use of drugs where
34 possession or distribution of such drugs is unlawful under the controlled
35 substance act (21 U.S.C. § 812), when the covered entity acts on the basis
36 of such use.

37 (k) "Reasonable accommodation" means:

38 (1) Making existing facilities used by employees readily accessible
39 to and usable by individuals with disabilities; and

40 (2) job restructuring; part-time or modified work schedules;
41 reassignment to a vacant position; acquisition or modification of
42 equipment or devices; appropriate adjustment or modifications of
43 examinations, training materials or policies; provision of qualified readers

1 or interpreters; and other similar accommodations for individuals with
2 disabilities.

3 (l) "Regarded as having such an impairment" means the absence of a
4 physical or mental impairment but regarding or treating an individual as
5 though such an impairment exists.

6 (m) "Genetic screening or testing" means a laboratory test of a
7 person's genes or chromosomes for abnormalities, defects or deficiencies,
8 including carrier status, that are linked to physical or mental disorders or
9 impairments, or that indicate a susceptibility to illness, disease or other
10 disorders, whether physical or mental, which test is a direct test for
11 abnormalities, defects or deficiencies, and not an indirect manifestation of
12 genetic disorders.

13 (n) "*Sexual orientation*" means actual, or perceived, male or female
14 heterosexuality, homosexuality or bisexuality by inclination, practice or
15 expression.

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

21 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-
22 1004. The commission shall have the following functions, powers and
23 duties:

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

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

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

31 (4) To receive, initiate, investigate and pass upon complaints
32 alleging discrimination in employment, public accommodations and
33 housing because of race, religion, color, sex, disability, national origin or
34 ancestry, *sexual orientation or gender identity*, and complaints alleging
35 discrimination in housing because of familial status.

36 (5) To subpoena witnesses, compel their appearance and require the
37 production for examination of records, documents and other evidence or
38 possible sources of evidence and to examine, record and copy such
39 materials and take and record the testimony or statements of such
40 persons. The commission may issue subpoenas to compel access to or the
41 production of such materials, or the appearance of such persons, and may
42 issue interrogatories to a respondent to the same extent and subject to the
43 same limitations as would apply if the subpoena or interrogatories were

1 issued or served in aid of a civil action in the district court. The
2 commission shall have access at all reasonable times to premises and may
3 compel such access by application to a court of competent jurisdiction
4 provided that the commission first complies with the provisions of article
5 15 of the Kansas bill of rights and the fourth amendment to the United
6 States constitution relating to unreasonable searches and seizures. The
7 commission may administer oaths and take depositions to the same extent
8 and subject to the same limitations as would apply if the deposition was
9 taken in aid of a civil action in the district court. In case of the refusal of
10 any person to comply with any subpoena, interrogatory or search warrant
11 issued hereunder, or to testify to any matter regarding which such person
12 may be lawfully questioned, the district court of any county may, upon
13 application of the commission, order such person to comply with such
14 subpoena or interrogatory and to testify. Failure to obey the court's order
15 may be punished by the court as contempt. No person shall be prosecuted
16 or subjected to any penalty or forfeiture for or on account of any
17 transaction, matter or thing concerning which such person testifies or
18 produces evidence, except that such person so testifying shall not be
19 exempt from prosecution and punishment for perjury committed in so
20 testifying. The immunity herein provided shall extend only to natural
21 persons.

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

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

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

31 (9) To endeavor to eliminate prejudice among the various ethnic
32 groups and people with disabilities in this state and to further good will
33 among such groups. The commission in cooperation with the state
34 department of education shall prepare a comprehensive educational
35 program designed for the students of the public schools of this state and
36 for all other residents thereof, calculated to emphasize the origin of
37 prejudice against such groups, its harmful effects and its incompatibility
38 with American principles of equality and fair play.

39 (10) To create such advisory agencies and conciliation councils,
40 local, regional or statewide, as in its judgment will aid in effectuating the
41 purposes of this act; to study the problem of discrimination in all or
42 specific fields or instances of discrimination because of race, religion,
43 color, sex, disability, national origin or ancestry, *sexual orientation or*

1 *gender identity*; to foster, through community effort or otherwise, good
2 will, cooperation and conciliation among the groups and elements of the
3 population of this state; and to make recommendations to the commission
4 for the development of policies and procedures, and for programs of
5 formal and informal education, which the commission may recommend to
6 the appropriate state agency. Such advisory agencies and conciliation
7 councils shall be composed of representative citizens serving without pay.
8 The commission may itself make the studies and perform the acts
9 authorized by this paragraph. It may, by voluntary conferences with
10 parties in interest, endeavor by conciliation and persuasion to eliminate
11 discrimination in all the stated fields and to foster good will and
12 cooperation among all elements of the population of the state.

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

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

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

23 (14) To adopt an official seal.

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

27 Sec. 4. K.S.A. 2010 Supp. 44-1005 is hereby amended to read as
28 follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged
29 unlawful employment practice or by an alleged unlawful discriminatory
30 practice, and who can articulate a prima facie case pursuant to a
31 recognized legal theory of discrimination, may, personally or by an
32 attorney-at-law, make, sign and file with the commission a verified
33 complaint in writing, articulating the prima facie case, which shall also
34 state the name and address of the person, employer, labor organization or
35 employment agency alleged to have committed the unlawful employment
36 practice complained of or the name and address of the person alleged to
37 have committed the unlawful discriminatory practice complained of, and
38 which shall set forth the particulars thereof and contain such other
39 information as may be required by the commission.

40 (b) The commission upon its own initiative or the attorney general
41 may, in like manner, make, sign and file such complaint. Whenever the
42 attorney general has sufficient reason to believe that any person as herein
43 defined is engaged in a practice of discrimination, segregation or

1 separation in violation of this act, the attorney general may make, sign
2 and file a complaint. Any employer whose employees or some of whom,
3 refuse or threaten to refuse to cooperate with the provisions of this act,
4 may file with the commission a verified complaint asking for assistance
5 by conciliation or other remedial action.

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

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

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

1 agreement. Upon agreement by the parties the time for entering into such
2 agreement may be extended. The members of the commission and its
3 staff shall not disclose what has transpired in the course of such
4 endeavors.

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

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

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

29 (i) Any complaint filed pursuant to this act must be so filed within
30 six months after the alleged act of discrimination, unless the act
31 complained of constitutes a continuing pattern or practice of
32 discrimination in which event it will be from the last act of
33 discrimination. Complaints filed with the commission may be dismissed
34 by the commission on its own initiative, and shall be dismissed by the
35 commission upon the written request of the complainant, if the
36 commission has not issued a finding of probable cause or no probable
37 cause or taken other administrative action dismissing the complaint
38 within 300 days of the filing of the complaint. The commission shall mail
39 written notice to all parties of dismissal of a complaint within five days of
40 dismissal. Any such dismissal of a complaint in accordance with this
41 section shall constitute final action by the commission which shall be
42 deemed to exhaust all administrative remedies under the Kansas act
43 against discrimination for the purpose of allowing subsequent filing of

1 the matter in court by the complainant, without the requirement of filing a
2 petition for reconsideration pursuant to K.S.A. 44-1010, and amendments
3 thereto. Dismissal of a complaint in accordance with this section shall not
4 be subject to appeal or judicial review by any court under the provisions
5 of K.S.A. 44-1011, and amendments thereto. The provisions of this
6 section shall not apply to complaints alleging discriminatory housing
7 practices filed with the commission pursuant to K.S.A. 44-1015 et seq.,
8 and amendments thereto.

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

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

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

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

43 (n) The commission shall review an initial order rendered under

1 subsection (k) or (m). In addition to the parties, a copy of any final order
2 shall be served on the attorney general and such other public officers as
3 the commission may deem proper.

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

8 Sec. 5. K.S.A. 44-1006 is hereby amended to read as follows: 44-
9 1006. (a) The provisions of this act shall be construed liberally for the
10 accomplishment of the purposes thereof. Nothing contained in this act
11 shall be deemed to repeal any of the provisions of any other law of this
12 state relating to discrimination because of race, religion, color, sex,
13 disability, national origin ~~or~~, ancestry, *sexual orientation or gender*
14 *identity*, unless the same is specifically repealed by this act.

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

18 Sec. 6. K.S.A. 44-1009 is hereby amended to read as follows: 44-
19 1009. (a) It shall be an unlawful employment practice:

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

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

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

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

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

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

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

29 (8) For an employer, labor organization, employment agency or joint
30 labor-management committee to: (A) Limit, segregate or classify a job
31 applicant or employee in a way that adversely affects the opportunities or
32 status of such applicant or employee because of the disability of such
33 applicant or employee; (B) participate in a contractual or other
34 arrangement or relationship, including a relationship with an employment
35 or referral agency, labor union, an organization providing fringe benefits
36 to an employee or an organization providing training and apprenticeship
37 programs that has the effect of subjecting a qualified applicant or
38 employee with a disability to the discrimination prohibited by this act;
39 (C) utilize standards criteria, or methods of administration that have the
40 effect of discrimination on the basis of disability or that perpetuate the
41 discrimination of others who are subject to common administrative
42 control; (D) exclude or otherwise deny equal jobs or benefits to a
43 qualified individual because of the known disability of an individual with

1 whom the qualified individual is known to have a relationship or
2 association; (E) not make reasonable accommodations to the known
3 physical or mental limitations of an otherwise qualified individual with a
4 disability who is an applicant or employee, unless such employer, labor
5 organization, employment agency or joint labor-management committee
6 can demonstrate that the accommodation would impose an undue
7 hardship on the operation of the business thereof; (F) deny employment
8 opportunities to a job applicant or employee who is an otherwise
9 qualified individual with a disability, if such denial is based on the need
10 to make reasonable accommodation to the physical or mental
11 impairments of the employee or applicant; (G) use qualification
12 standards, employment tests or other selection criteria that screen out or
13 tend to screen out an individual with a disability or a class of individuals
14 with disabilities unless the standard, test or other selection criteria, as
15 used, is shown to be job-related for the position in question and is
16 consistent with business necessity; or (H) fail to select and administer
17 tests concerning employment in the most effective manner to ensure that,
18 when such test is administered to a job applicant or employee who has a
19 disability that impairs sensory, manual or speaking skills, the test results
20 accurately reflect the skills, aptitude or whatever other factor of such
21 applicant or employee that such test purports to measure, rather than
22 reflecting the impaired sensory, manual or speaking skills of such
23 employee or applicant (except where such skills are the factors that the
24 test purports to measure).

25 (9) For any employer to:

26 (A) Seek to obtain, to obtain or to use genetic screening or testing
27 information of an employee or a prospective employee to distinguish
28 between or discriminate against or restrict any right or benefit otherwise
29 due or available to an employee or a prospective employee; or

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

32 (b) It shall not be an unlawful employment practice to fill vacancies
33 in such way as to eliminate or reduce imbalance with respect to race,
34 religion, color, sex, disability, national origin or ancestry, *sexual*
35 *orientation or gender identity*.

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

37 (1) For any person, as defined herein being the owner, operator,
38 lessee, manager, agent or employee of any place of public
39 accommodation to refuse, deny or make a distinction, directly or
40 indirectly, in offering its goods, services, facilities, and accommodations
41 to any person as covered by this act because of race, religion, color, sex,
42 disability, national origin or ancestry, *sexual orientation or gender*
43 *identity*, except where a distinction because of sex is necessary because of

1 the intrinsic nature of such accommodation.

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

6 (3) For any person, to refuse, deny, make a distinction, directly or
7 indirectly, or discriminate in any way against persons because of the race,
8 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual*
9 *orientation or gender identity* of such persons in the full and equal use
10 and enjoyment of the services, facilities, privileges and advantages of any
11 institution, department or agency of the state of Kansas or any political
12 subdivision or municipality thereof.

13 Sec. 7. K.S.A. 44-1015 is hereby amended to read as follows: 44-
14 1015. As used in this act, unless the context otherwise requires:

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

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

17 (1) All vacant or unimproved land; and

18 (2) any building or structure which is occupied or designed or
19 intended for occupancy, or any building or structure having a portion
20 thereof which is occupied or designed or intended for occupancy.

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

22 (d) "Person" means an individual, corporation, partnership,
23 association, labor organization, legal representative, mutual company,
24 joint-stock company, trust, unincorporated organization, trustee, trustee in
25 bankruptcy, receiver and fiduciary.

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

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

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

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

36 (i) "Familial status" means having one or more individuals less than
37 18 years of age domiciled with:

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

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

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

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

3 Sec. 8. K.S.A. 44-1016 is hereby amended to read as follows: 44-
4 1016. Subject to the provisions of K.S.A. 44-1018 and amendments
5 thereto, it shall be unlawful for any person:

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

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

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

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

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

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

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

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

4 (A) That buyer or renter;

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

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

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

12 (A) That person;

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

15 (C) any person associated with that person.

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

17 (A) A refusal to permit, at the expense of the person with a
18 disability, reasonable modifications of existing premises occupied or to be
19 occupied by such person if such modifications may be necessary to afford
20 such person full enjoyment of the premises;

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

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

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

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

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

41 (4) Compliance with the appropriate requirements of the American
42 national standard for buildings and facilities providing accessibility and
43 usability for physically handicapped people, commonly cited as "ANSI A

1 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

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

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

6 (B) ground floor units in other buildings consisting of four or more
7 units.

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

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

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

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

28 (1) The making or purchasing of loans or providing other financial
29 assistance:

30 (A) For purchasing, constructing, improving, repairing or
31 maintaining a dwelling; or

32 (B) secured by real property.

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

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

38 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-
39 1027. (a) No person, whether or not acting under color of law, shall by
40 force or threat of force ~~willfully~~ *intentionally* injure, intimidate or
41 interfere with, or attempt to injure, intimidate or interfere with:

42 (1) Any person because of such person's race, religion, color, sex,
43 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation*

1 *or gender identity* and because such person is or has been selling,
 2 purchasing, renting, financing, occupying or contracting or negotiating
 3 for the sale, purchase, rental, financing or occupation of any real property,
 4 or applying for or participating in any service, organization or facility
 5 relating to the business of selling or renting real property;

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

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

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

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

22 (b) Violation of this section is punishable by a fine of not more than
 23 \$1,000 or imprisonment for not more than one year, or both such fine and
 24 imprisonment, except that:

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

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

30 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-
 31 1030. (a) Except as provided by subsection (c), every contract for or on
 32 behalf of the state or any county or municipality or other political
 33 subdivision of the state, or any agency of or authority created by any of
 34 the foregoing, for the construction, alteration or repair of any public
 35 building or public work or for the acquisition of materials, equipment,
 36 supplies or services shall contain provisions by which the contractor
 37 agrees that:

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

43 (2) in all solicitations or advertisements for employees, the

1 contractor shall include the phrase, "equal opportunity employer," or a
2 similar phrase to be approved by the commission;

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

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

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

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

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

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

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

26 Sec. 12. K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-
27 1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2010 Supp.
28 44-1005 are hereby repealed.

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