

SENATE BILL No. 409

By Committee on Federal and State Affairs

1-29

1 AN ACT concerning discrimination; relating to the Kansas act against
2 discrimination; prohibiting county or city legislation that would modify
3 the established classes of individuals protected from discrimination
4 under such act; amending K.S.A. 44-1001, 44-1002 and 44-1015 and
5 repealing the existing sections.
6

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

8 New Section 1. (a) No city or county shall enact, adopt or enforce any
9 ordinance, resolution, rule, regulation or policy nor agent of any city or
10 county take any administrative action that provides rights to, protects,
11 prohibits, expands or otherwise modifies the classes or categories of
12 individuals against whom discrimination is prohibited under the Kansas
13 act against discrimination, K.S.A. 44-1001 et seq., and amendments
14 thereto. Such classes or categories are comprised of race, religion, color,
15 sex, disability, national origin or ancestry.

16 (b) Any ordinance, resolution, rule, regulation or policy prohibited by
17 subsection (a) that was adopted prior to July 1, 2024, shall be null and
18 void.

19 (c) This section shall be a part of and supplemental to the Kansas act
20 against discrimination.

21 Sec. 2. K.S.A. 44-1001 is hereby amended to read as follows: 44-
22 1001. This act shall be known as the Kansas act against discrimination. It
23 shall be deemed an exercise of the police power of the state for the
24 protection of the public welfare, safety, health and peace of the people of
25 this state. The practice or policy of discrimination against individuals in
26 employment relations, in relation to free and public accommodations, in
27 housing by reason of race, religion, color, sex, disability, national origin or
28 ancestry or in housing by reason of familial status is a matter of concern to
29 the state, since such discrimination threatens not only the rights and
30 privileges of the inhabitants of the state of Kansas but menaces the
31 institutions and foundations of a free democratic state. It is hereby
32 declared to be the policy of the state of Kansas to eliminate and prevent
33 discrimination in all employment relations, to eliminate and prevent
34 discrimination, segregation, or separation in all places of public
35 accommodations covered by this act, and to eliminate and prevent
36 discrimination, segregation or separation in housing.

1 It is also declared to be the policy of this state to assure equal
2 opportunities and encouragement to every citizen regardless of race,
3 religion, color, sex, disability, national origin or ancestry, in securing and
4 holding, without discrimination, employment in any field of work or labor
5 for which a person is properly qualified, to assure equal opportunities to all
6 persons within this state to full and equal public accommodations, and to
7 assure equal opportunities in housing without distinction on account of
8 race, religion, color, sex, disability, familial status, national origin or
9 ancestry. It is further declared that the opportunity to secure and to hold
10 employment, the opportunity for full and equal public accommodations as
11 covered by this act and the opportunity for full and equal housing are civil
12 rights of every citizen.

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

21 *To provide for statewide uniformity in the application of the Kansas act*
22 *against discrimination and its protections for the people of this state, it is*
23 *hereby declared to be the purpose of this act that only those classes or*
24 *categories of individuals expressly protected by this act may be protected*
25 *from unlawful discrimination and any local law or regulation that would*
26 *modify such classes or categories in any way is preempted by this act.*

27 Sec. 3. K.S.A. 44-1002 is hereby amended to read as follows: 44-
28 1002. When used in this act:

29 (a) "Person" includes one or more individuals, partnerships,
30 associations, organizations, corporations, legal representatives, trustees,
31 trustees in bankruptcy or receivers.

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

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

41 (d) "Labor organization" includes any organization which exists for
42 the purpose, in whole or in part, of collective bargaining, of dealing with
43 employers concerning grievances, terms or conditions of employment or

1 of other mutual aid or protection in relation to employment.

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

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

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

10 (h) "Public accommodations" means any person who caters or offers
11 goods, services, facilities and accommodations to the public. Public
12 accommodations include, but are not limited to, any lodging establishment
13 or food service establishment, as defined by K.S.A. 36-501, and
14 amendments thereto; any bar, tavern, barbershop, beauty parlor, theater,
15 skating rink, bowling alley, billiard parlor, amusement park, recreation
16 park, swimming pool, lake, gymnasium, mortuary or cemetery which is
17 open to the public; or any public transportation facility. Public
18 accommodations do not include a religious or nonprofit fraternal or social
19 association or corporation.

20 (i) "Unlawful discriminatory practice" means: (1) Any discrimination
21 against persons, by reason of their race, religion, color, sex, disability,
22 national origin or ancestry:

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

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

27 (2) any discrimination against persons in regard to membership in a
28 nonprofit recreational or social association or corporation by reason of
29 race, religion, sex, color, disability, national origin or ancestry if such
30 association or corporation has 100 or more members and: (A) Provides
31 regular meal service; and (B) receives payment for dues, fees, use of
32 space, use of facility, services, meals or beverages, directly or indirectly,
33 from or on behalf of nonmembers.

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

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

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

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

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

41 "Disability" does not include current, illegal use of a controlled
42 substance as defined in section 102 of the federal controlled substance act
43 (, 21 U.S.C. § 802), in housing discrimination. In employment and public

1 accommodation discrimination, "disability" does not include an individual
2 who is currently engaging in the illegal use of drugs where possession or
3 distribution of such drugs is unlawful under the controlled substance act-
4 21 U.S.C. § 812), when the covered entity acts on the basis of such use.

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

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

8 (B) job restructuring; part-time or modified work schedules;
9 reassignment to a vacant position; acquisition or modification of
10 equipment or devices; appropriate adjustment or modifications of
11 examinations, training materials or policies; provision of qualified readers
12 or interpreters; and other similar accommodations for individuals with
13 disabilities.

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

18 (l) "Regarded as having such an impairment" means the absence of a
19 physical or mental impairment but regarding or treating an individual as
20 though such an impairment exists. An individual meets the requirement of
21 "being regarded as having such an impairment" if the individual
22 establishes that such individual has been subjected to an action prohibited
23 under this act because of an actual or perceived physical or mental
24 impairment whether or not the impairment limits or is perceived to limit a
25 major life activity. Subsection (j)(3) shall not apply to impairments that are
26 transitory or minor. A transitory impairment is an impairment with an
27 actual or expected duration of six months or less.

28 (m) "Major life activities" means:

29 (1) "Major life activities" include, but are not limited to, caring for
30 oneself, performing manual tasks, seeing, hearing, eating, sleeping,
31 walking, standing, lifting, bending, speaking, breathing, learning, reading,
32 concentrating, thinking, communicating; and working.

33 (2) ~~It~~ "*Major life activities*" also includes the operation of a major
34 bodily function, including, but not limited to, functions of the immune
35 system, normal cell growth, digestive, bowel, bladder, neurological, brain,
36 respiratory, circulatory, endocrine and reproductive functions.

37 (n) "Genetic screening or testing" means a laboratory test of a
38 person's genes or chromosomes for abnormalities, defects or deficiencies,
39 including carrier status, that are linked to physical or mental disorders or
40 impairments, or that indicate a susceptibility to illness, disease or other
41 disorders, whether physical or mental, which test is a direct test for
42 abnormalities, defects or deficiencies, and not an indirect manifestation of
43 genetic disorders.

1 (o) *"Sex" means the biological indication of male and female in the*
2 *context of reproductive potential or capacity, such as sex chromosomes,*
3 *naturally occurring sex hormones, gonads and nonambiguous internal*
4 *and external genitalia present at birth, without regard to an individual's*
5 *psychological, chosen or subjective experience of gender.*

6 Sec. 4. K.S.A. 44-1015 is hereby amended to read as follows: 44-
7 1015. As used in this act, unless the context otherwise requires:

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

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

10 (1) All vacant or unimproved land; and

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

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

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

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

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

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

27 (h) "Disability" ~~has the meaning provided by~~ *means the same as*
28 *defined in K.S.A. 44-1002, and amendments thereto.*

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

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

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

35 (j) *"Sex" means the same as defined in K.S.A. 44-1002, and*
36 *amendments thereto.*

37 Sec. 5. K.S.A. 44-1001, 44-1002 and 44-1015 are hereby repealed.

38 Sec. 6. This act shall take effect and be in force from and after its
39 publication in the statute book.