

HOUSE BILL No. 2323

By Committee on Judiciary

2-12

1 AN ACT concerning the Kansas act against discrimination; relating to
2 sexual orientation and gender identity; amending K.S.A. 44-1001, 44-
3 1004, 44-1009, 44-1015, 44-1016, 44-1017, 44-1018, 44-1027 and 44-
4 1030 and K.S.A. 2014 Supp. 44-1002, 44-1005 and 44-1006 and
5 repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) It shall not be an unlawful discriminatory practice
9 under K.S.A. 44-1009, and amendments thereto, for an employer to fail to
10 reasonably accommodate the religious practices of an employee or
11 prospective employee if the employer demonstrates that accommodation
12 would result in undue hardship on the conduct of its business.

13 (b) After an employee or prospective employee notifies the employer
14 or labor organization of the need for a religious accommodation, the
15 employer or labor organization has an obligation to reasonably
16 accommodate the individual's religious practices. A refusal to
17 accommodate is justified only when an employer or labor organization can
18 demonstrate that an undue hardship would in fact result from each
19 available alternative method of accommodation. A mere assumption that
20 many more people, with the same religious practices as the person being
21 accommodated, may also need accommodation is not evidence of undue
22 hardship. When there is more than one means of accommodation which
23 would not cause undue hardship, the employer or labor organization must
24 offer the alternative which least disadvantages the individual with respect
25 to such individual's employment opportunities.

26 (c) When there is more than one method of accommodation available
27 which would not cause undue hardship, the commission will determine
28 whether the accommodation offered is reasonable by examining:

29 (1) The alternatives for accommodation considered by the employer
30 or labor organization; and

31 (2) the alternatives for accommodation, if any, actually offered to the
32 individual requiring accommodation.

33 (d) An employer may assert undue hardship to justify a refusal to
34 accommodate a religious practice if the employer can demonstrate that:

35 (1) The accommodation would require more than a de minimis cost.
36 In determining whether an accommodation requires more than a de

1 minimus cost, the commission shall consider the identifiable cost in
2 relation to the size and operating cost of the employer and the number of
3 individuals who will in fact need the particular accommodation.

4 (2) a variance from a bona fide seniority system is necessary in order
5 to accommodate a religious practice when doing so would deny another
6 employee the job or shift preference guaranteed by that system to such
7 employee. Arrangements for voluntary substitutes and swaps do not
8 constitute an undue hardship to the extent such arrangements do not
9 violate a bona fide seniority system.

10 (e) Nothing in this section shall be construed to limit any additional
11 obligations to accommodate religious practices which may exist pursuant
12 to constitutional or other statutory provisions.

13 (f) This section shall be part of and supplemental to the Kansas act
14 against discrimination.

15 Sec. 2. K.S.A. 44-1001 is hereby amended to read as follows: 44-
16 1001. This act shall be known as the Kansas act against discrimination. It
17 shall be deemed an exercise of the police power of the state for the
18 protection of the public welfare, safety, health and peace of the people of
19 this state. The practice or policy of discrimination against individuals in
20 employment relations, in relation to free and public accommodations, in
21 housing by reason of race, religion, color, sex, disability, national origin
22 ~~or~~, ancestry, *sexual orientation or gender identity*, or in housing by reason
23 of familial status is a matter of concern to the state, since such
24 discrimination threatens not only the rights and privileges of the
25 inhabitants of the state of Kansas but menaces the institutions and
26 foundations of a free democratic state. It is hereby declared to be the
27 policy of the state of Kansas to eliminate and prevent discrimination in all
28 employment relations, to eliminate and prevent discrimination,
29 segregation, or separation in all places of public accommodations covered
30 by this act, and to eliminate and prevent discrimination, segregation or
31 separation in housing.

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

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

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

10 Sec. 3. K.S.A. 2014 Supp. 44-1002 is hereby amended to read as
11 follows: 44-1002. When used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (m) "Major life activities" means:

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

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

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

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

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

35 (q) *"Religion" shall include all aspects of religious observance and
36 practice, including any sincerely held belief.*

37 Sec. 4. K.S.A. 44-1004 is hereby amended to read as follows: 44-
38 1004. The commission shall have the following functions, powers and
39 duties:

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

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

43 (3) To adopt, promulgate, amend and rescind suitable rules and

1 regulations to carry out the provisions of this act, and the policies and
2 practices of the commission in connection therewith.

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

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

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

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

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

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

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

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

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

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

38 (14) To adopt an official seal.

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

42 Sec. 5. K.S.A. 2014 Supp. 44-1005 is hereby amended to read as
43 follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged

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

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

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

38 (d) After the filing of any complaint by an aggrieved individual, by
39 the commission, or by the attorney general, the commission shall, within
40 seven days after the filing of the complaint, serve a copy on each of the
41 parties alleged to have violated this act, and shall designate one of the
42 commissioners to make, with the assistance of the commission's staff,
43 prompt investigation of the alleged act of discrimination. If the

1 commissioner shall determine after such investigation that no probable
2 cause exists for crediting the allegations of the complaint, such
3 commissioner, within 10 business days from such determination, shall
4 cause to be issued and served upon the complainant and respondent written
5 notice of such determination.

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

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

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

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

42 (i) Any complaint filed pursuant to this act must be so filed within six
43 months after the alleged act of discrimination, unless the act complained of

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

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

30 (k) If the presiding officer finds a respondent has engaged in or is
31 engaging in any unlawful employment practice or unlawful discriminatory
32 practice as defined in this act, the presiding officer shall render an order
33 requiring such respondent to cease and desist from such unlawful
34 employment practice or such unlawful discriminatory practice and to take
35 such affirmative action, including but not limited to the hiring,
36 reinstatement, or upgrading of employees, with or without back pay, and
37 the admission or restoration to membership in any respondent labor
38 organizations; the admission to and full and equal enjoyment of the goods,
39 services, facilities, and accommodations offered by any respondent place
40 of public accommodation denied in violation of this act, as, in the
41 judgment of the presiding officer, will effectuate the purposes of this act,
42 and including a requirement for report of the manner of compliance. Such
43 order may also include an award of damages for pain, suffering and

1 humiliation which are incidental to the act of discrimination, except that an
2 award for such pain, suffering and humiliation shall in no event exceed the
3 sum of \$2,000.

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

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

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

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

20 Sec. 6. K.S.A. 2014 Supp. 44-1006 is hereby amended to read as
21 follows: 44-1006. (a) The provisions of this act shall be construed liberally
22 for the accomplishment of the purposes thereof. Nothing contained in this
23 act shall be deemed to repeal any of the provisions of any other law of this
24 state relating to discrimination because of race, religion, color, sex,
25 disability, national origin or ancestry, *sexual orientation or gender*
26 *identity*, unless the same is specifically repealed by this act.

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

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

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

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

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

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

42 (i) Medication, medical supplies, equipment, or appliances, low-
43 vision devices (which do not include ordinary eye glasses or contact

1 lenses), prosthetics including limbs and devices, hearing aids and cochlear
2 implants or other implantable hearing devices, mobility devices, or oxygen
3 therapy equipment and supplies;

4 (ii) use of assistive technology;

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

6 (iv) learned behavioral or adaptive neurological modifications.

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

10 (C) As used in this subparagraph:

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

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

15 Sec. 7. K.S.A. 44-1009 is hereby amended to read as follows: 44-
16 1009. (a) It shall be an unlawful employment practice:

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

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

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

41 (4) For any employer, employment agency or labor organization to
42 discharge, expel or otherwise discriminate against any person because such
43 person has opposed any practices or acts forbidden under this act or

1 because such person has filed a complaint, testified or assisted in any
2 proceeding under this act.

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

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

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

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

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

21 (9) For any employer to:

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

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

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

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

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

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

1 attempt to do so.

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

9 Sec. 8. K.S.A. 44-1015 is hereby amended to read as follows: 44-
10 1015. As used in this act, unless the context otherwise requires:

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

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

13 (1) All vacant or unimproved land; and

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

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

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

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

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

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

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

32 (i) "Familial status" means having one or more individuals less than
33 18 years of age domiciled with:

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

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

38 (j) "*Sexual orientation*" has the same meaning as that term is defined
39 in K.S.A. 44-1002, and amendments thereto.

40 (k) "*Gender identity*" has the same meaning as that term is defined in
41 K.S.A. 44-1002, and amendments thereto.

42 Sec. 9. K.S.A. 44-1016 is hereby amended to read as follows: 44-
43 1016. Subject to the provisions of K.S.A. 44-1018, and amendments

1 thereto, it shall be unlawful for any person:

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

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

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

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

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

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

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

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

43 (A) That buyer or renter;

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

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

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

8 (A) That person;

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

11 (C) any person associated with that person.

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

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

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

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

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

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

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

37 (4) Compliance with the appropriate requirements of the American
38 national standard for buildings and facilities providing accessibility and
39 usability for physically handicapped people, commonly cited as "ANSI A
40 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

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

43 (A) Buildings consisting of four or more units if such buildings have

1 one or more elevators; and

2 (B) ground floor units in other buildings consisting of four or more
3 units.

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

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

13 Sec. 10. K.S.A. 44-1017 is hereby amended to read as follows: 44-
14 1017. (a) It shall be unlawful for any person or other entity whose business
15 includes engaging in real estate related transactions to discriminate against
16 any person in making available such a transaction, or in the terms or
17 conditions of such a transaction, because of the race, religion, color, sex,
18 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation or*
19 *gender identity* of such person or of any person associated with such
20 person in connection with any real estate related transaction.

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

23 (1) The making or purchasing of loans or providing other financial
24 assistance:

25 (A) For purchasing, constructing, improving, repairing or maintaining
26 a dwelling; or

27 (B) secured by real property.

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

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

33 Sec. 11. K.S.A. 44-1018 is hereby amended to read as follows: 44-
34 1018. (a) Nothing in this act shall prohibit a religious organization,
35 association or society, or any nonprofit institution or organization
36 operated, supervised or controlled by or in conjunction with a religious
37 organization, association or society, from limiting the sale, rental or
38 occupancy of real property which it owns or operates for other than a
39 commercial purpose to persons of the same religion, or from giving
40 preference to such persons, unless membership in such religion is
41 restricted on account of race, color, national origin ~~or~~, ancestry, *sexual*
42 *orientation or gender identity*. Nor shall anything in this act prohibit a
43 nonprofit private club in fact not open to the public, which as an incident

1 to its primary purpose or purposes provides lodgings which it owns or
2 operates for other than a commercial purpose, from limiting the rental or
3 occupancy of such lodgings to its members or from giving preference to its
4 members.

5 (b) Nothing in this act, other than the prohibitions against
6 discriminatory advertising as provided in ~~subsection (c) of~~ K.S.A. 44-
7 1016(c), and amendments thereto, shall apply to:

8 (1) The sale or rental of any single family house by an owner,
9 provided the following conditions are met:

10 (A) The owner does not own or have any interest in more than three
11 single family houses at any one time; and

12 (B) the house is sold or rented without the use of a real estate broker,
13 agent or salesperson or the facilities of any person in the business of
14 selling or renting dwellings. If the owner selling the house does not reside
15 in it at the time of the sale or was not the most recent resident of the house
16 prior to such sale, the exemption in this subsection applies to only one
17 such sale in any 24-month period; or

18 (2) rooms or units in buildings containing living quarters occupied or
19 intended to be occupied by no more than four families living
20 independently of each other, if the owner actually maintains and occupies
21 one of such living quarters as the owner's residence.

22 (c) (1) Nothing in this act limits the applicability of any reasonable
23 local, state or federal restrictions regarding the maximum number of
24 occupants permitted to occupy a dwelling. Nor does any provision in this
25 act regarding familial status apply with respect to dwellings provided
26 under any state or federal program specifically designed and operated to
27 assist elderly persons, as defined in the state or federal program, or to
28 housing for older persons.

29 (2) As used in this subsection (c), "housing for older persons" means
30 housing communities:

31 (A) Intended for, and at least 80% occupied by, at least one person 55
32 years of age or older per unit and providing significant facilities and
33 services specifically designed to meet the physical or social needs of such
34 persons; or

35 (B) intended for and occupied solely by persons 62 years of age or
36 older.

37 (d) Nothing in this act prohibits conduct against a person because
38 such person has been convicted two or more times by any court of
39 competent jurisdiction of the illegal manufacture or distribution of a
40 controlled substance as defined in section 102 of the federal controlled
41 substances act (21 U.S.C. § 802).

42 Sec. 12. K.S.A. 44-1027 is hereby amended to read as follows: 44-
43 1027. (a) No person, whether or not acting under color of law, shall by

1 force or threat of force ~~willfully~~ *intentionally* injure, intimidate or interfere
2 with, or attempt to injure, intimidate or interfere with:

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

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

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

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

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

26 (b) Violation of this section is punishable by a fine of not more than
27 \$1,000 or imprisonment for not more than one year, or both such fine and
28 imprisonment, except that:

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

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

34 Sec. 13. K.S.A. 44-1030 is hereby amended to read as follows: 44-
35 1030. (a) Except as provided by subsection (c), every contract for or on
36 behalf of the state or any county or municipality or other political
37 subdivision of the state, or any agency of or authority created by any of the
38 foregoing, for the construction, alteration or repair of any public building
39 or public work or for the acquisition of materials, equipment, supplies or
40 services shall contain provisions by which the contractor agrees that:

41 (1) The contractor shall observe the provisions of the Kansas act
42 against discrimination and shall not discriminate against any person in the
43 performance of work under the present contract because of race, religion,

1 color, sex, disability, national origin or ancestry, *sexual orientation or*
2 *gender identity*;

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

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

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

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

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

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

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

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

29 Sec. 14. K.S.A. 44-1001, 44-1004, 44-1009, 44-1015, 44-1016, 44-
30 1017, 44-1018, 44-1027 and 44-1030 and K.S.A. 2014 Supp. 44-1002, 44-
31 1005 and 44-1006 are hereby repealed.

32 Sec. 15. This act shall take effect and be in force from and after its
33 publication in the statute book.