HOUSE BILL No. 2123

By Committee on Federal and State Affairs

AN ACT concerning the Kansas act against discrimination and acts supplemental thereto; relating to sexual orientation and gender identity; amending K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2016 Supp. 44-1002, 44-1005 and 44-1006 and repealing the existing sections.

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

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

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

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

Sec. 2. K.S.A. 2016 Supp. 44-1002 is hereby amended to read as follows: 44-1002. When used in this act:

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

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

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

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

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

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

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

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

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

(A) In any place of public accommodations; or

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

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

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

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

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

(2) a record of such an impairment; or

(3) being regarded as having such an impairment.

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

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

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

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

(2) A reasonable accommodation or a reasonable modification to policies, practices or procedures need not be provided to an individual who meets the definition of disability in K.S.A. 44-1002(j)(3), and amendments thereto.
(l) "Regarded as having such an impairment" means the absence of a physical or mental impairment but regarding or treating an individual as though such an impairment exists. An individual meets the requirement of being regarded as having such an impairment" if the individual establishes that such individual has been subjected to an action prohibited under this act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. Subsection (j)(3) shall not apply to impairments that are transitory or minor. A transitory impairment is an impairment with an actual or expected duration of six months or less.

(m) "Major life activities" means:
(1) Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
(2) It also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.
(n) "Genetic screening or testing" means a laboratory test of a person's genes or chromosomes for abnormalities, defects or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a susceptibility to illness, disease or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects or deficiencies, and not an indirect manifestation of genetic disorders.
(o) "Sexual orientation" means actual, or perceived, male or female heterosexuality, homosexuality or bisexuality by inclination, practice or expression.
(p) "Gender identity" means having or expressing a self image or identity not traditionally associated with one's gender. This term shall not prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of federal, state or local law.

Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-1004. The commission shall have the following functions, powers and duties:
(1) (a) To establish and maintain its principal office in the city of Topeka, and such other offices elsewhere within the state as it may deem necessary.
(2) (b) To meet and function at any place within the state.
(3) (c) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this act, and the policies and
practices of the commission in connection therewith.

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

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

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

(7) (g) To apply to the district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.
(8) (h) To issue such final orders after a public hearing as may remedy any existing situation found to violate this act and prevent its recurrence.

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

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

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

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

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

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

(15) (o) To receive and accept federal funds to effectuate the purposes of the act and to enter into agreements with any federal agency for such
Sec. 4. K.S.A. 2016 Supp. 44-1005 is hereby amended to read as follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged unlawful employment practice or by an alleged unlawful discriminatory practice, and who can articulate a prima facie case pursuant to a recognized legal theory of discrimination, may, personally or by an attorney-at-law, make, sign and file with the commission a verified complaint in writing, articulating the prima facie case, which shall also state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of or the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

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

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

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

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

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

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

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

(i) Any complaint filed pursuant to this act must be so filed within six months after the alleged act of discrimination, unless the act complained of constitutes a continuing pattern or practice of discrimination in which event it will be from the last act of discrimination. Complaints filed with the commission may be dismissed by the commission on its own initiative, and shall be dismissed by the commission upon the written request of the complainant, if the commission has not issued a finding of probable cause or no probable cause or taken other administrative action dismissing the complaint within 300 days of the filing of the complaint. The commission shall mail written notice to all parties of dismissal of a complaint within five days of dismissal. Any such dismissal of a complaint in accordance with this section shall constitute final action by the commission which shall be deemed to exhaust all administrative remedies under the Kansas act against discrimination for the purpose of allowing subsequent filing of the matter in court by the complainant, without the requirement of filing a petition for reconsideration pursuant to K.S.A. 44-1010, and amendments thereto. Dismissal of a complaint in accordance with this section shall not be subject to appeal or judicial review by any court under the provisions of K.S.A. 44-1011, and amendments thereto. The provisions of this section shall not apply to complaints alleging discriminatory housing practices filed with the commission pursuant to K.S.A. 44-1015 et seq., and amendments thereto.

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

(k) If the presiding officer finds a respondent has engaged in or is engaging in any unlawful employment practice or unlawful discriminatory practice as defined in this act, the presiding officer shall render an order requiring such respondent to cease and desist from such unlawful employment practice or such unlawful discriminatory practice and to take such affirmative action, including but not limited to: (1) The hiring, reinstatement, or upgrading of employees, with or without back pay, and the admission or restoration to membership in any respondent labor organizations; (2) the admission to and full and equal enjoyment of the goods, services, facilities, and accommodations offered by any respondent place of public accommodation denied in violation of this act, as, that in
the judgment of the presiding officer, will effectuate the purposes of this act; and including (3) a requirement for report of the manner of compliance. Such order may also include an award of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of $2,000.

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

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

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

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

Sec. 5. K.S.A. 2016 Supp. 44-1006 is hereby amended to read as follows: 44-1006. (a) The provisions of this act shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this act shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, religion, color, sex, disability, national origin or ancestry, sexual orientation or gender identity, unless the same is specifically repealed by this act.

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

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

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

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

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

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

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

(ii) use of assistive technology;

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

(iv) learned behavioral or adaptive neurological modifications.

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

(C) As used in this paragraph:

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

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

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

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

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

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or, ancestry, sexual orientation or gender identity, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.
(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this act or because such person has filed a complaint, testified or assisted in any proceeding under this act.

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

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

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

(8) For an employer, labor organization, employment agency or joint labor-management committee to: (A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee; (B) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this act; (C) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control; (D) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the
qualified individual is known to have a relationship or association; (E) not
make reasonable accommodations to the known physical or mental
limitations of an otherwise qualified individual with a disability who is an
applicant or employee, unless such employer, labor organization,
employment agency or joint labor-management committee can
demonstrate that the accommodation would impose an undue hardship on
the operation of the business thereof; (F) deny employment opportunities
to a job applicant or employee who is an otherwise qualified individual
with a disability, if such denial is based on the need to make reasonable
accommodation to the physical or mental impairments of the employee or
applicant; (G) use qualification standards, employment tests or other
selection criteria that screen out or tend to screen out an individual with a
disability or a class of individuals with disabilities unless the standard, test
or other selection criteria, as used, is shown to be job-related for the
position in question and is consistent with business necessity; or (H) fail to
select and administer tests concerning employment in the most effective
manner to ensure that, when such test is administered to a job applicant or
employee who has a disability that impairs sensory, manual or speaking
skills, the test results accurately reflect the skills, aptitude or whatever
other factor of such applicant or employee that such test purports to
measure, rather than reflecting the impaired sensory, manual or speaking
skills of such employee or applicant (except where such skills are the
factors that the test purports to measure).

(9) For any employer to:

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

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

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

(c) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein being the owner, operator,
lessee, manager, agent or employee of any place of public accommodation
to refuse, deny or make a distinction, directly or indirectly, in offering its
goods, services, facilities, and accommodations to any person as covered
by this act because of race, religion, color, sex, disability, national origin
or, ancestry, sexual orientation or gender identity, except where a
distinction because of sex is necessary because of the intrinsic nature of
such accommodation.
(2) For any person, whether or not specifically enjoined from
discriminating under any provisions of this act, to aid, abet, incite, compel
or coerce the doing of any of the acts forbidden under this act, or to
attempt to do so.

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

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

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

(b) "Real property" means and includes:
   (1) All vacant or unimproved land; and
   (2) any building or structure which is occupied or designed or
   intended for occupancy, or any building or structure having a portion
   thereof which is occupied or designed or intended for occupancy.

(c) "Family" includes a single individual.

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

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

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

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

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

(i) "Familial status" means having one or more individuals less than
18 years of age domiciled with:
   (1) A parent or another person having legal custody of such
   individual or individuals; or
   (2) the designee of such parent or other person having such custody,
   with the written permission of such parent or other person.

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

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

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

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

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

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

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

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

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

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

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

(A) That buyer or renter;

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

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

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

(A) That person;

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

(C) any person associated with that person.

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

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

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

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

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

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

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

(4) Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).
(5) As used in this subsection (h), "covered multifamily residential real property" means:

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

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

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

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

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

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

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

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

(B) secured by real property.

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

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

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

(1) Any person because of such person's race, religion, color, sex, disability, familial status, national origin or, ancestry, sexual orientation or gender identity and because such person is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale,
purchase, rental, financing or occupation of any real property, or applying
for or participating in any service, organization or facility relating to the
business of selling or renting real property;
(2) any person because such person is or has been, or in order to
intimidate such person or any other person or any class of persons from:
(A) Participating, without discrimination on account of race, religion,
color, sex, disability, familial status, national origin or ancestry, sexual
orientation or gender identity, in any of the activities, services,
orGANizations or facilities described in subsection (a)(1); or
(B) affording another person or class of persons opportunity or
protection so to participate; or
(3) any citizen because such citizen is or has been, or in order to
discourage such citizen or any other citizen from lawfully aiding or
encouraging other persons to participate, without discrimination on
account of race, religion, color, sex, disability, familial status, national
origin or ancestry, sexual orientation or gender identity, in any of the
activities, services, organizations or facilities described in subsection (a)
(1), or participating lawfully in speech or peaceful assembly opposing any
denial of the opportunity to so participate.
(b) Violation of this section is punishable by a fine of not more than
$1,000 or imprisonment for not more than one year, or both such fine and
imprisonment, except that:
(1) If bodily injury results, such violation shall be punishable by a
fine of not more than $10,000 or imprisonment for not more than 10 years,
or both such fine and imprisonment; and
(2) if death results, such violation shall be punishable by
imprisonment for any term of years or for life.
Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-
1030. (a) Except as provided by subsection (c), every contract for or on
behalf of the state or any county or municipality or other political
subdivision of the state, or any agency of or authority created by any of the
foregoing, for the construction, alteration or repair of any public building
or public work or for the acquisition of materials, equipment, supplies or
services shall contain provisions by which the contractor agrees that:
(1) The contractor shall observe the provisions of the Kansas act
against discrimination and shall not discriminate against any person in the
performance of work under the present contract because of race, religion,
color, sex, disability, national origin or ancestry, sexual orientation or
gender identity;
(2) in all solicitations or advertisements for employees, the contractor
shall include the phrase, "equal opportunity employer," or a similar phrase
to be approved by the commission;
(3) if the contractor fails to comply with the manner in which the
contractor reports to the commission in accordance with the provisions of
K.S.A. 44-1031, and amendments thereto, the contractor shall be deemed
to have breached the present contract and it may be canceled, terminated
or suspended, in whole or in part, by the contracting agency;
(4) if the contractor is found guilty of a violation of the Kansas act
against discrimination under a decision or order of the commission which
has become final, the contractor shall be deemed to have breached the
present contract and it may be canceled, terminated or suspended, in whole
or in part, by the contracting agency; and
(5) the contractor shall include the provisions of subsections (a)(1)
through (4) in every subcontract or purchase order so that such provisions
will be binding upon such subcontractor or vendor.
(b) The Kansas human rights commission shall not be prevented
hereby from requiring reports of contractors found to be not in compliance
with the Kansas act against discrimination.
(c) The provisions of this section shall not apply to a contract entered
into by a contractor:
(1) Who employs fewer than four employees during the term of such
contract; or
(2) whose contracts with the governmental entity letting such contract
cumulatively total $5,000 or less during the fiscal year of such
governmental entity.

Sec. 12. K.S.A. 12-16,107 is hereby amended to read as follows: 12-
16,107. In case of the refusal of any person to comply with any subpoena
issued by a local human relations commission, or to testify to any matter
regarding which such person may be lawfully questioned the district court
of any county may, upon application of the local human relations
commission, order such person to comply with such subpoena and to
testify to the extent such person could be so compelled pursuant to the
provisions of subsection (5) of K.S.A. 44-1004(e), and amendments
thereto, of the Kansas act against discrimination. Failure to obey the
court's order shall be punishable by the court as contempt.

Sec. 13. K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-
1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2016 Supp. 44-1002, 44-
1005 and 44-1006 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its
publication in the statute book.