

## HOUSE BILL No. 2123

By Committee on Federal and State Affairs

1-23

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1 AN ACT concerning the Kansas act against discrimination and acts  
2 supplemental thereto; relating to sexual orientation and gender identity;  
3 amending K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-  
4 1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2016 Supp. 44-1002,  
5 44-1005 and 44-1006 and repealing the existing sections.  
6

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

8 Section 1. K.S.A. 44-1001 is hereby amended to read as follows: 44-  
9 1001. This act shall be known as the Kansas act against discrimination. It  
10 shall be deemed an exercise of the police power of the state for the  
11 protection of the public welfare, safety, health and peace of the people of  
12 this state. The practice or policy of discrimination against individuals in  
13 employment relations, in relation to free and public accommodations, in  
14 housing by reason of race, religion, color, sex, disability, national origin  
15 ~~or~~, ancestry, *sexual orientation or gender identity* or in housing by reason  
16 of familial status is a matter of concern to the state, since such  
17 discrimination threatens not only the rights and privileges of the  
18 inhabitants of the state of Kansas but menaces the institutions and  
19 foundations of a free democratic state. It is hereby declared to be the  
20 policy of the state of Kansas to eliminate and prevent discrimination in all  
21 employment relations, to eliminate and prevent discrimination,  
22 segregation; or separation in all places of public accommodations covered  
23 by this act, and to eliminate and prevent discrimination, segregation or  
24 separation in housing.

25 It is also declared to be the policy of this state to assure equal  
26 opportunities and encouragement to every citizen regardless of race,  
27 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual*  
28 *orientation or gender identity*, in securing and holding, without  
29 discrimination, employment in any field of work or labor for which a  
30 person is properly qualified, to assure equal opportunities to all persons  
31 within this state to full and equal public accommodations, and to assure  
32 equal opportunities in housing without distinction on account of race,  
33 religion, color, sex, disability, familial status, national origin ~~or~~, ancestry,  
34 *sexual orientation or gender identity*. It is further declared that the  
35 opportunity to secure and to hold employment, the opportunity for full and  
36 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. 2. K.S.A. 2016 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 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-  
36 1004. The commission shall have the following functions, powers and  
37 duties:

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

41 (⊖) (b) To meet and function at any place within the state.

42 (⊗) (c) To adopt, promulgate, amend and rescind suitable rules and  
43 regulations to carry out the provisions of this act, and the policies and

1 practices of the commission in connection therewith.

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

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

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

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

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

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

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

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

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

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

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

42       ~~(15)~~ (o) To receive and accept federal funds to effectuate the purposes  
43 of the act and to enter into agreements with any federal agency for such

1 purpose.

2 Sec. 4. K.S.A. 2016 Supp. 44-1005 is hereby amended to read as  
3 follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged  
4 unlawful employment practice or by an alleged unlawful discriminatory  
5 practice, and who can articulate a prima facie case pursuant to a  
6 recognized legal theory of discrimination, may, personally or by an  
7 attorney-at-law, make, sign and file with the commission a verified  
8 complaint in writing, articulating the prima facie case, which shall also  
9 state the name and address of the person, employer, labor organization or  
10 employment agency alleged to have committed the unlawful employment  
11 practice complained of or the name and address of the person alleged to  
12 have committed the unlawful discriminatory practice complained of, and  
13 which shall set forth the particulars thereof and contain such other  
14 information as may be required by the commission.

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

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

41 (d) After the filing of any complaint by an aggrieved individual, by  
42 the commission; or by the attorney general, the commission shall, within  
43 seven days after the filing of the complaint, serve a copy on each of the

1 parties alleged to have violated this act, and shall designate one of the  
2 commissioners to make, with the assistance of the commission's staff,  
3 prompt investigation of the alleged act of discrimination. If the  
4 commissioner shall determine after such investigation that no probable  
5 cause exists for crediting the allegations of the complaint, such  
6 commissioner, within 10 business days from such determination, shall  
7 cause to be issued and served upon the complainant and respondent written  
8 notice of such determination.

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

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

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

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



1 received in evidence.

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

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

33 (k) If the presiding officer finds a respondent has engaged in or is  
34 engaging in any unlawful employment practice or unlawful discriminatory  
35 practice as defined in this act, the presiding officer shall render an order  
36 requiring such respondent to cease and desist from such unlawful  
37 employment practice or such unlawful discriminatory practice and to take  
38 such affirmative action, including but not limited to: (1) The hiring,  
39 reinstatement, or upgrading of employees, with or without back pay, and  
40 the admission or restoration to membership in any respondent labor  
41 organizations; (2) the admission to and full and equal enjoyment of the  
42 goods, services, facilities, and accommodations offered by any respondent  
43 place of public accommodation denied in violation of this act, as; that in

1 the judgment of the presiding officer, will effectuate the purposes of this  
2 act; and ~~including~~ (3) a requirement for report of the manner of  
3 compliance. Such order may also include an award of damages for pain,  
4 suffering and humiliation which are incidental to the act of discrimination,  
5 except that an award for such pain, suffering and humiliation shall in no  
6 event exceed the sum of \$2,000.

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

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

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

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

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

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

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

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

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

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

42 (4) (A) The determination of whether an impairment substantially  
43 limits a major life activity shall be made without regard to the ameliorative

1 effects of mitigating measures such as the following:

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

7 (ii) use of assistive technology;

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

9 (iv) learned behavioral or adaptive neurological modifications.

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

13 (C) As used in this ~~subparagraph~~ *paragraph*:

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

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

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

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

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

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

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

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

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

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

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

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

24 (9) For any employer to:

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

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

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

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

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

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

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

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

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

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

16 (1) All vacant or unimproved land; and

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

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

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

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

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

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

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

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

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

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

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

43 (k) "*Gender identity*" shall have the same meaning as that term is

1 *defined in K.S.A. 44-1002, and amendments thereto.*

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

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

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

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

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

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

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

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

43 (h) (1) To discriminate in the sale or rental, or to otherwise make

- 1 unavailable or deny, residential real property to any buyer or renter  
2 because of a disability of:
- 3 (A) That buyer or renter;
  - 4 (B) a person residing in or intending to reside in such real property  
5 after it is sold, rented or made available; or
  - 6 (C) any person associated with that buyer or renter.
- 7 (2) To discriminate against any person in the terms, conditions or  
8 privileges of sale or rental of residential real property or in the provision of  
9 services or facilities in connection with such real property because of a  
10 disability of:
- 11 (A) That person;
  - 12 (B) a person residing in or intending to reside in that real property  
13 after it is so sold, rented or made available; or
  - 14 (C) any person associated with that person.
- 15 (3) For purposes of this subsection (h), discrimination includes:
- 16 (A) A refusal to permit, at the expense of the person with a disability,  
17 reasonable modifications of existing premises occupied or to be occupied  
18 by such person if such modifications may be necessary to afford such  
19 person full enjoyment of the premises;
  - 20 (B) a refusal to make reasonable accommodations in rules, policies,  
21 practices or services, when such accommodations may be necessary to  
22 afford such person equal opportunity to use and enjoy residential real  
23 property; or
  - 24 (C) in connection with the design and construction of covered  
25 multifamily residential real property for first occupancy on and after  
26 January 1, 1992, a failure to design and construct such residential real  
27 property in such a manner that:
    - 28 (i) The public use and common use portions of such residential real  
29 property are readily accessible to and usable by persons with disabilities;
    - 30 (ii) all the doors designed to allow passage into and within all  
31 premises within such residential real property are sufficiently wide to  
32 allow passage by persons with disabilities who are in wheelchairs; and
    - 33 (iii) all premises within such residential real property contain the  
34 following features of adaptive design: An accessible route into and through  
35 the residential real property; light switches, electrical outlets, thermostats  
36 and other environmental controls in accessible locations; reinforcements in  
37 bathroom walls to allow later installation of grab bars; and usable kitchens  
38 and bathrooms such that an individual in a wheelchair can maneuver about  
39 the space.
- 40 (4) Compliance with the appropriate requirements of the American  
41 national standard for buildings and facilities providing accessibility and  
42 usability for physically handicapped people, commonly cited as "ANSI A  
43 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).



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

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

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

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

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

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

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

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

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

30 (B) secured by real property.

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

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

36 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-  
37 1027. (a) No person, whether or not acting under color of law, shall by  
38 force or threat of force ~~willfully~~ *intentionally* injure, intimidate or interfere  
39 with, or attempt to injure, intimidate or interfere with:

40 (1) Any person because of such person's race, religion, color, sex,  
41 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation or*  
42 *gender identity* and because such person is or has been selling, purchasing,  
43 renting, financing, occupying or contracting or negotiating for the sale,

1 purchase, rental, financing or occupation of any real property, or applying  
2 for or participating in any service, organization or facility relating to the  
3 business of selling or renting real property;

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

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

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

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

20 (b) Violation of this section is punishable by a fine of not more than  
21 \$1,000 or imprisonment for not more than one year, or both such fine and  
22 imprisonment, except that:

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

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

28 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-  
29 1030. (a) Except as provided by subsection (c), every contract for or on  
30 behalf of the state or any county or municipality or other political  
31 subdivision of the state, or any agency of or authority created by any of the  
32 foregoing, for the construction, alteration or repair of any public building  
33 or public work or for the acquisition of materials, equipment, supplies or  
34 services shall contain provisions by which the contractor agrees that:

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

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

43 (3) if the contractor fails to comply with the manner in which the

1 contractor reports to the commission in accordance with the provisions of  
 2 K.S.A. 44-1031, and amendments thereto, the contractor shall be deemed  
 3 to have breached the present contract and it may be canceled, terminated  
 4 or suspended, in whole or in part, by the contracting agency;

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

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

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

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

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

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

23 Sec. 12. K.S.A. 12-16,107 is hereby amended to read as follows: 12-  
 24 16,107. In case of the refusal of any person to comply with any subpoena  
 25 issued by a local human relations commission, or to testify to any matter  
 26 regarding which such person may be lawfully questioned the district court  
 27 of any county may, upon application of the local human relations  
 28 commission, order such person to comply with such subpoena and to  
 29 testify to the extent such person could be so compelled pursuant to the  
 30 provisions of ~~subsection (5) of~~ K.S.A. 44-1004(e), and amendments  
 31 thereto, of the Kansas act against discrimination. Failure to obey the  
 32 court's order shall be punishable by the court as contempt.

33 Sec. 13. K.S.A. 12-16,107, 44-1001, 44-1004, 44-1009, 44-1015, 44-  
 34 1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2016 Supp. 44-1002, 44-  
 35 1005 and 44-1006 are hereby repealed.

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