Session of 2025

SENATE BILL No. 164

By Committee on Education

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AN ACT concerning discrimination; relating to the attorney general; prohibiting discriminatory practices at public educational institutions; authorizing the attorney general to investigate and assess penalties; authorizing the human rights commission to refer complaints to the attorney general for investigation and initiation of legal proceedings; amending K.S.A. 44-1001, 44-1004, 44-1005 and 44-1009 and repealing the existing sections.

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

New Section 1. (a) (1) It is declared to be the policy of the state that public educational institutions that receive and expend tax dollars are prohibited from engaging in practices or implementing policies that:

(A) Discriminate or cause prejudice on the basis of religion; or

(B) promote or tolerate antisemitism or antisemitic acts.

(2) This section shall not be construed to prohibit any coursework that is dedicated to the education and study of world religions or cultures in public educational institutions.

(b) (1) A person aggrieved by a violation of subsection (a) may file a complaint with the attorney general. If the person aggrieved is under the age of 18, a parent or guardian may file a complaint on behalf of the person.

(2) The attorney general may investigate any complaint received under paragraph (1). During the course of such investigation, the attorney general may:

(A) Subpoena witnesses, evidence, records, documents or other material related to the complaint;

(B) take testimony under oath;

(C) examine or cause to be examined any records or other material that is relevant to the complaint;

(D) require a person to attend any proceeding and provide testimony under oath regarding any material that is relevant to the complaint;

(E) serve interrogatories; and

(F) administer oaths and affirmations.

(3) (A) If the attorney general issues a subpoena or interrogatory under this section, service shall be made:

(i) By certified mail, return receipt requested, to the last known place

of business or residence; or

(ii) in the manner provided in article 3 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto.

(B) If a person intentionally refuses to respond to a subpoena, interrogatory or any other request made by the attorney general that is authorized by this section, the attorney general may, after notice, file a petition with the appropriate district court for a hearing. If the court finds that the person is required to respond to the subpoena, interrogatory or request, the court may:

(i) Issue an order requiring such person to respond to the subpoena, interrogatory or request; or

(ii) hold such person in contempt until such person responds to the subpoena, interrogatory or request.

(4) (A) After investigating a complaint, if the attorney general finds by a preponderance of the evidence that a public educational institution violated the provisions of subsection (a), the attorney general shall assess a civil penalty against the public educational institution in an amount not to exceed $10,000 for each violation. Any civil penalty recovered under this paragraph shall be deposited into the state general fund.

(B) A public educational institution may appeal a penalty assessed under subparagraph (A) in accordance with the Kansas judicial review act.

(c) As used in this section:

(1) "Antisemitism" or "antisemitic" means the same as defined by the international Holocaust rememberance alliance's working definition of antisemitism, including the contemporary examples, as in effect on May 26, 2016. "Antisemitism" or "antisemitic" includes:

(A) Encouraging, supporting, praising, participating in or threatening violence or vandalism against Jewish people or property;

(B) wearing masks to conceal a person's identity with the intent to harass or discriminate against Jewish students, faculty or employees on school property; and

(C) incorporating or allowing funding of antisemitic curriculum or activities in any domestic or study abroad programs or classes.

(2) "Public educational institutions" means any elementary or secondary school operated by a unified public school district under the laws of this state, a community college established in accordance with chapter 71 of the Kansas Statutes Annotated, and amendments thereto, Washburn university, Washburn institute of technology, a technical college established under the laws of this state or a state educational institution as defined in K.S.A. 76-711, and amendments thereto.

Sec. 2. 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 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, 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. 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.

It is also declared to be the policy of this state that public institutions that receive and expend tax dollars are prohibited from engaging in practices or implementing policies that are antisemitic or otherwise promote antisemitism. It is further declared to be the policy of the state that no person shall be required to participate in programing or training that promotes or degrades any one religion and that governmental entities are prohibited from enacting policies that promote or degrade any one religion.

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 and in housing because of familial status, either by employers, labor organizations, employment agencies, realtors, financial institutions or other persons as hereinafter provided.

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 or ancestry 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; 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.

~~(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 purpose.

(p) To refer complaints to the attorney general for review, investigation and initiation of legal proceedings.

Sec. 4. K.S.A. 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) *(1)* 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.

(2) (A) In addition to making, signing and filing a complaint, the attorney general may investigate the alleged unlawful employment practice or alleged unlawful discriminatory practice. During the course of such investigation, the attorney general may:

(i) Subpoena witnesses, evidence, records, documents or other material related to the complaint;

(ii) take testimony under oath;

(iii) examine or cause to be examined any records or other material that is relevant to the complaint;

(iv) require a person to attend any proceeding and provide testimony under oath regarding any material that is relevant to the complaint;

(v) serve interrogatories; and

(vi) administer oaths and affirmations.

(B) The attorney general may file a petition in the district court where the alleged unlawful employment practice or alleged unlawful discriminatory practice occurred seeking damages in an amount not to exceed $10,000 for each violation.

(c) Whenever any problem of discrimination because of race, religion, color, sex, disability, national origin or ancestry 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 the hiring, reinstatement, or upgrading of employees, with or without back pay, and the admission or restoration to membership in any respondent labor organizations; 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, in the judgment of the presiding officer, will effectuate the purposes of this act, and including 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~~ *$10,000*.

(l) 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. 44-1009 is hereby amended to read as follows: 44-1009. ~~(a)~~ It shall be an unlawful employment practice:

~~(1)~~*(a)* For an employer, because of the race, religion, color, sex, disability, national origin or ancestry 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)~~*(b)* For a labor organization, because of the race, religion, color, sex, disability, national origin or ancestry 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)~~*(c)* 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, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

~~(4)~~*(d)* 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)~~*(e)* 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; 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.

~~(6)~~*(f)* 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 maintain a practice of discrimination, segregation or separation because of race, religion, color,

sex, disability, national origin or ancestry, 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 to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

~~(7)~~*(g)* 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)~~*(h)* For an employer, labor organization, employment agency or joint labor-management committee to: ~~(A)~~*(1)* 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)~~*(2)* 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)~~*(3)* 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)~~*(4)* 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)~~*(5)* 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)~~*(6)* 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)~~*(7)* 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)~~*(8)* 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)~~*(i)* For any employer to:

~~(A)~~*(1)* 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)~~*(2)* 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.~~

~~(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, 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 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. 6. K.S.A. 44-1001, 44-1004, 44-1005 and 44-1009 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.