

*As Amended by Senate Committee*

Session of 2009

**SENATE BILL No. 169**

By Committee on Federal and State Affairs

2-2

10 AN ACT concerning the Kansas act against discrimination; relating to  
11 sexual orientation; gender identity; amending K.S.A. 44-1001, 44-1002,  
12 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and  
13 44-1030 and K.S.A. ~~2008~~ **2009** Supp. 44-1005 and repealing the ex-  
14 isting sections.  
15

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

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

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

1 as covered by this act and the opportunity for full and equal housing are  
2 civil rights of every citizen.

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

12 Sec. 2. K.S.A. 44-1002 is hereby amended to read as follows: 44-  
13 1002. When used in this act:

14 (a) “Person” includes one or more individuals, partnerships, associ-  
15 ations, organizations, corporations, legal representatives, trustees, trus-  
16 tees in bankruptcy or receivers.

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

23 (c) “Employee” does not include any individual employed by such  
24 individual’s parents, spouse or child or in the domestic service of any  
25 person.

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

30 (e) “Employment agency” includes any person or governmental  
31 agency undertaking, with or without compensation, to procure opportu-  
32 nities to work or to procure, recruit, refer or place employees.

33 (f) “Commission” means the Kansas human rights commission cre-  
34 ated by this act.

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

38 (h) “Public accommodations” means any person who caters or offers  
39 goods, services, facilities and accommodations to the public. Public ac-  
40 commodatons include, but are not limited to, any lodging establishment  
41 or food service establishment, as defined by K.S.A 36-501, and amend-  
42 ments thereto; any bar, tavern, barbershop, beauty parlor, theater, skating  
43 rink, bowling alley, billiard parlor, amusement park, recreation park,

1 swimming pool, lake, gymnasium, mortuary or cemetery which is open  
2 to the public; or any public transportation facility. Public accommodations  
3 do not include a religious or nonprofit fraternal or social association or  
4 corporation.

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

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

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

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

19 This term shall not apply to a religious or private fraternal and benev-  
20 olent association or corporation.

21 (j) “Disability” means, with respect to an individual:

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

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

25 (3) being regarded as having such an impairment by the person or  
26 entity alleged to have committed the unlawful discriminatory practice  
27 complained of.

28 Disability does not include current, illegal use of a controlled substance  
29 as defined in section 102 of the federal controlled substance act (21  
30 U.S.C. 802), in housing discrimination. In employment and public accom-  
31 modation discrimination, “disability” does not include an individual who  
32 is currently engaging in the illegal use of drugs where possession or dis-  
33 tribution of such drugs is unlawful under the controlled substance act (21  
34 U.S.C. 812), when the covered entity acts on the basis of such use.

35 (k) “Reasonable accommodation” means:

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

38 (2) job restructuring; part-time or modified work schedules; reassign-  
39 ment to a vacant position; acquisition or modification of equipment or  
40 devices; appropriate adjustment or modifications of examinations, train-  
41 ing materials or policies; provision of qualified readers or interpreters;  
42 and other similar accommodations for individuals with disabilities.

43 (l) “Regarded as having such an impairment” means the absence of

1 a physical or mental impairment but regarding or treating an individual  
2 as though such an impairment exists.

3 (m) “Genetic screening or testing” means a laboratory test of a per-  
4 son’s genes or chromosomes for abnormalities, defects or deficiencies,  
5 including carrier status, that are linked to physical or mental disorders or  
6 impairments, or that indicate a susceptibility to illness, disease or other  
7 disorders, whether physical or mental, which test is a direct test for ab-  
8 normalities, defects or deficiencies, and not an indirect manifestation of  
9 genetic disorders.

10 (n) “Sexual orientation” means male or female heterosexuality, ho-  
11 mosexuality or bisexuality by inclination, practice or expression.

12 (o) “Gender identity” means having or expressing a self image or  
13 identity not traditionally associated with one’s gender. This term shall not  
14 prohibit an employer from requiring an employee, during the employee’s  
15 hours at work, to adhere to reasonable dress or grooming standards not  
16 prohibited by other provisions of federal, state or local law.

17 Sec. 3. K.S.A. 44-1004 is hereby amended to read as follows: 44-  
18 1004. The commission shall have the following functions, powers and  
19 duties:

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

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

24 (3) To adopt, promulgate, amend and rescind suitable rules and reg-  
25 ulations to carry out the provisions of this act, and the policies and prac-  
26 tices of the commission in connection therewith.

27 (4) To receive, initiate, investigate and pass upon complaints alleging  
28 discrimination in employment, public accommodations and housing be-  
29 cause of race, religion, color, sex, disability, national origin ~~or~~, ancestry,  
30 *sexual orientation or gender identity*, and complaints alleging discrimi-  
31 nation in housing because of familial status.

32 (5) To subpoena witnesses, compel their appearance and require the  
33 production for examination of records, documents and other evidence or  
34 possible sources of evidence and to examine, record and copy such ma-  
35 terials and take and record the testimony or statements of such persons.  
36 The commission may issue subpoenas to compel access to or the pro-  
37 duction of such materials, or the appearance of such persons, and may  
38 issue interrogatories to a respondent to the same extent and subject to  
39 the same limitations as would apply if the subpoena or interrogatories  
40 were issued or served in aid of a civil action in the district court. The  
41 commission shall have access at all reasonable times to premises and may  
42 compel such access by application to a court of competent jurisdiction  
43 provided that the commission first complies with the provisions of article

1 15 of the Kansas bill of rights and the fourth amendment to the United  
2 States constitution relating to unreasonable searches and seizures. The  
3 commission may administer oaths and take depositions to the same extent  
4 and subject to the same limitations as would apply if the deposition was  
5 taken in aid of a civil action in the district court. In case of the refusal of  
6 any person to comply with any subpoena, interrogatory or search warrant  
7 issued hereunder, or to testify to any matter regarding which such person  
8 may be lawfully questioned, the district court of any county may, upon  
9 application of the commission, order such person to comply with such  
10 subpoena or interrogatory and to testify. Failure to obey the court's order  
11 may be punished by the court as contempt. No person shall be prosecuted  
12 or subjected to any penalty or forfeiture for or on account of any trans-  
13 action, matter or thing concerning which such person testifies or produces  
14 evidence, except that such person so testifying shall not be exempt from  
15 prosecution and punishment for perjury committed in so testifying. The  
16 immunity herein provided shall extend only to natural persons.

17 (6) To act in concert with other parties in interest in order to elimi-  
18 nate and prevent discrimination and segregation, prohibited by this act,  
19 by including any term in a conciliation agreement as could be included  
20 in a final order under this act.

21 (7) To apply to the district court of the county where the respondent  
22 resides or transacts business for enforcement of any conciliation agree-  
23 ment by seeking specific performance of such agreement.

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

26 (9) To endeavor to eliminate prejudice among the various ethnic  
27 groups and people with disabilities in this state and to further good will  
28 among such groups. The commission in cooperation with the state de-  
29 partment of education shall prepare a comprehensive educational pro-  
30 gram designed for the students of the public schools of this state and for  
31 all other residents thereof, calculated to emphasize the origin of prejudice  
32 against such groups, its harmful effects and its incompatibility with Amer-  
33 ican principles of equality and fair play.

34 (10) To create such advisory agencies and conciliation councils, local,  
35 regional or statewide, as in its judgment will aid in effectuating the pur-  
36 poses of this act; to study the problem of discrimination in all or specific  
37 fields or instances of discrimination because of race, religion, color, sex,  
38 disability, national origin ~~or~~, ancestry, *sexual orientation or gender iden-*  
39 *tity*; to foster, through community effort or otherwise, good will, coop-  
40 eration and conciliation among the groups and elements of the population  
41 of this state; and to make recommendations to the commission for the  
42 development of policies and procedures, and for programs of formal and  
43 informal education, which the commission may recommend to the ap-

1 appropriate state agency. Such advisory agencies and conciliation councils  
2 shall be composed of representative citizens serving without pay. The  
3 commission may itself make the studies and perform the acts authorized  
4 by this paragraph. It may, by voluntary conferences with parties in inter-  
5 est, endeavor by conciliation and persuasion to eliminate discrimination  
6 in all the stated fields and to foster good will and cooperation among all  
7 elements of the population of the state.

8 (11) To accept contributions from any person to assist in the effec-  
9 tuation of this section and to seek and enlist the cooperation of private,  
10 charitable, religious, labor, civic and benevolent organizations for the pur-  
11 poses of this section.

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

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

18 (14) To adopt an official seal.

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

22 Sec. 4. K.S.A. ~~2008~~ **2009** Supp. 44-1005 is hereby amended to read  
23 as follows: 44-1005. (a) Any person claiming to be aggrieved by an alleged  
24 unlawful employment practice or by an alleged unlawful discriminatory  
25 practice, and who can articulate a prima facie case pursuant to a recog-  
26 nized legal theory of discrimination, may, personally or by an attorney-  
27 at-law, make, sign and file with the commission a verified complaint in  
28 writing, articulating the prima facie case, which shall also state the name  
29 and address of the person, employer, labor organization or employment  
30 agency alleged to have committed the unlawful employment practice  
31 complained of or the name and address of the person alleged to have  
32 committed the unlawful discriminatory practice complained of, and which  
33 shall set forth the particulars thereof and contain such other information  
34 as may be required by the commission.

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

1 (c) Whenever any problem of discrimination because of race, relig-  
2 ion, color, sex, disability, national origin ~~or~~, ancestry, *sexual orientation*  
3 *or gender identity* arises, or whenever the commission has, in its own  
4 judgment, reason to believe that any person has engaged in an unlawful  
5 employment practice or an unlawful discriminatory practice in violation  
6 of this act, or has engaged in a pattern or practice of discrimination, the  
7 commission may conduct an investigation without filing a complaint and  
8 shall have the same powers during such investigation as provided for the  
9 investigation of complaints. The person to be investigated shall be advised  
10 of the nature and scope of such investigation prior to its commencement.  
11 The purpose of the investigation shall be to resolve any such problems  
12 promptly. In the event such problems cannot be resolved within a reason-  
13 able time, the commission may issue a complaint whenever the in-  
14 vestigation has revealed a violation of the Kansas act against discrimina-  
15 tion has occurred. The information gathered in the course of the first  
16 investigation may be used in processing the complaint.

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

28 (e) If such commissioner after such investigation, shall determine that  
29 probable cause exists for crediting the allegations for the complaint, the  
30 commissioner or such other commissioner as the commission may des-  
31 ignate, shall immediately endeavor to eliminate the unlawful employment  
32 practice or the unlawful discriminatory practice complained of by con-  
33 ference and conciliation. The complainant, respondent and commission  
34 shall have 45 days from the date respondent is notified in writing of a  
35 finding of probable cause to enter into a conciliation agreement signed  
36 by all parties in interest. The parties may amend a conciliation agreement  
37 at any time prior to the date of entering into such agreement. Upon  
38 agreement by the parties the time for entering into such agreement may  
39 be extended. The members of the commission and its staff shall not dis-  
40 close what has transpired in the course of such endeavors.

41 (f) In case of failure to eliminate such practices by conference and  
42 conciliation, or in advance thereof, if in the judgment of the commissioner  
43 or the commission circumstances so warrant, the commissioner or the

1 commission shall commence a hearing in accordance with the provisions  
2 of the Kansas administrative procedure act naming as parties the com-  
3 plainant and the person, employer, labor organization, employment  
4 agency, realtor or financial institution named in such complaint, herein-  
5 after referred to as respondent. A copy of the complaint shall be served  
6 on the respondent. At least four commissioners or a presiding officer from  
7 the office of administrative hearings shall be designated as the presiding  
8 officer. The place of such hearing shall be in the county where respondent  
9 is doing business and the acts complained of occurred.

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

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

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

43 (j) The respondent may file a written verified answer to the complaint

1 and appear at such hearing in person or otherwise, with or without coun-  
2 sel, and submit testimony. The complainant shall appear at such hearing  
3 in person, with or without counsel, and submit testimony. The presiding  
4 officer or the complainant shall have the power reasonably and fairly to  
5 amend any complaint, and the respondent shall have like power to amend  
6 such respondent's answer. The presiding officer shall be bound by the  
7 rules of evidence prevailing in courts of law or equity, and only relevant  
8 evidence of reasonable probative value shall be received.

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

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

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

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

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

42 Sec. 5. K.S.A. 44-1006 is hereby amended to read as follows: 44-  
43 1006. (a) The provisions of this act shall be construed liberally for the

1 accomplishment of the purposes thereof. Nothing contained in this act  
2 shall be deemed to repeal any of the provisions of any other law of this  
3 state relating to discrimination because of race, religion, color, sex, disa-  
4 bility, national origin ~~or~~, ancestry, *sexual orientation or gender identity*,  
5 unless the same is specifically repealed by this act.

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

9 Sec. 6. K.S.A. 44-1009 is hereby amended to read as follows: 44-  
10 1009. (a) It shall be an unlawful employment practice:

11 (1) For an employer, because of the race, religion, color, sex, disa-  
12 bility, national origin ~~or~~, ancestry, *sexual orientation or gender iden-*  
13 *tity* of any person to refuse to hire or employ such person to bar or discharge  
14 such person from employment or to otherwise discriminate against such  
15 person in compensation or in terms, conditions or privileges of employ-  
16 ment; to limit, segregate, separate, classify or make any distinction in  
17 regards to employees; or to follow any employment procedure or practice  
18 which, in fact, results in discrimination, segregation or separation without  
19 a valid business necessity.

20 (2) For a labor organization, because of the race, religion, color, sex,  
21 disability, national origin ~~or~~, ancestry, *sexual orientation or gender iden-*  
22 *tity* of any person, to exclude or to expel from its membership such person  
23 or to discriminate in any way against any of its members or against any  
24 employer or any person employed by an employer.

25 (3) For any employer, employment agency or labor organization to  
26 print or circulate or cause to be printed or circulated any statement,  
27 advertisement or publication, or to use any form of application for em-  
28 ployment or membership or to make any inquiry in connection with pro-  
29 spective employment or membership, which expresses, directly or indi-  
30 rectly, any limitation, specification or discrimination as to race, religion,  
31 color, sex, disability, national origin ~~or~~, ancestry, *sexual orientation or*  
32 *gender identity*, or any intent to make any such limitation, specification  
33 or discrimination, unless based on a bona fide occupational qualification.

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

39 (5) For an employment agency to refuse to list and properly classify  
40 for employment or to refuse to refer any person for employment or oth-  
41 erwise discriminate against any person because of such person's race,  
42 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual orienta-*  
43 *tion or gender identity*; or to comply with a request from an employer for

1 a referral of applicants for employment if the request expresses, either  
2 directly or indirectly, any limitation, specification or discrimination as to  
3 race, religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual*  
4 *orientation or gender identity*.

5 (6) For an employer, labor organization, employment agency, or  
6 school which provides, coordinates or controls apprenticeship, on-the-job,  
7 or other training or retraining program, to maintain a practice of discrim-  
8 ination, segregation or separation because of race, religion, color, sex,  
9 disability, national origin ~~or~~, ancestry, *sexual orientation or gender iden-*  
10 *tity*, in admission, hiring, assignments, upgrading, transfers, promotion,  
11 layoff, dismissal, apprenticeship or other training or retraining program,  
12 or in any other terms, conditions or privileges of employment, member-  
13 ship, apprenticeship or training; or to follow any policy or procedure  
14 which, in fact, results in such practices without a valid business motive.

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

18 (8) For an employer, labor organization, employment agency or joint  
19 labor-management committee to: (A) Limit, segregate or classify a job  
20 applicant or employee in a way that adversely affects the opportunities or  
21 status of such applicant or employee because of the disability of such  
22 applicant or employee; (B) participate in a contractual or other arrange-  
23 ment or relationship, including a relationship with an employment or  
24 referral agency, labor union, an organization providing fringe benefits to  
25 an employee or an organization providing training and apprenticeship  
26 programs that has the effect of subjecting a qualified applicant or em-  
27 ployee with a disability to the discrimination prohibited by this act; (C)  
28 utilize standards criteria, or methods of administration that have the effect  
29 of discrimination on the basis of disability or that perpetuate the discrim-  
30 ination of others who are subject to common administrative control; (D)  
31 exclude or otherwise deny equal jobs or benefits to a qualified individual  
32 because of the known disability of an individual with whom the qualified  
33 individual is known to have a relationship or association; (E) not make  
34 reasonable accommodations to the known physical or mental limitations  
35 of an otherwise qualified individual with a disability who is an applicant  
36 or employee, unless such employer, labor organization, employment  
37 agency or joint labor-management committee can demonstrate that the  
38 accommodation would impose an undue hardship on the operation of the  
39 business thereof; (F) deny employment opportunities to a job applicant  
40 or employee who is an otherwise qualified individual with a disability, if  
41 such denial is based on the need to make reasonable accommodation to  
42 the physical or mental impairments of the employee or applicant; (G) use  
43 qualification standards, employment tests or other selection criteria that

1 screen out or tend to screen out an individual with a disability or a class  
2 of individuals with disabilities unless the standard, test or other selection  
3 criteria, as used, is shown to be job-related for the position in question  
4 and is consistent with business necessity; or (H) fail to select and admin-  
5 ister tests concerning employment in the most effective manner to ensure  
6 that, when such test is administered to a job applicant or employee who  
7 has a disability that impairs sensory, manual or speaking skills, the test  
8 results accurately reflect the skills, aptitude or whatever other factor of  
9 such applicant or employee that such test purports to measure, rather  
10 than reflecting the impaired sensory, manual or speaking skills of such  
11 employee or applicant (except where such skills are the factors that the  
12 test purports to measure).

13 (9) For any employer to:

14 (A) Seek to obtain, to obtain or to use genetic screening or testing  
15 information of an employee or a prospective employee to distinguish be-  
16 tween or discriminate against or restrict any right or benefit otherwise  
17 due or available to an employee or a prospective employee; or

18 (B) subject, directly or indirectly, any employee or prospective em-  
19 ployee to any genetic screening or test.

20 (b) It shall not be an unlawful employment practice to fill vacancies  
21 in such way as to eliminate or reduce imbalance with respect to race,  
22 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual orienta-*  
23 *tion or gender identity*.

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

25 (1) For any person, as defined herein being the owner, operator, les-  
26 see, manager, agent or employee of any place of public accommodation  
27 to refuse, deny or make a distinction, directly or indirectly, in offering its  
28 goods, services, facilities, and accommodations to any person as covered  
29 by this act because of race, religion, color, sex, disability, national origin  
30 ~~or~~, ancestry, *sexual orientation or gender identity*, except where a dis-  
31 tinction because of sex is necessary because of the intrinsic nature of such  
32 accommodation.

33 (2) For any person, whether or not specifically enjoined from dis-  
34 criminating under any provisions of this act, to aid, abet, incite, compel  
35 or coerce the doing of any of the acts forbidden under this act, or to  
36 attempt to do so.

37 (3) For any person, to refuse, deny, make a distinction, directly or  
38 indirectly, or discriminate in any way against persons because of the race,  
39 religion, color, sex, disability, national origin ~~or~~, ancestry, *sexual orienta-*  
40 *tion or gender identity* of such persons in the full and equal use and  
41 enjoyment of the services, facilities, privileges and advantages of any in-  
42 stitution, department or agency of the state of Kansas or any political  
43 subdivision or municipality thereof.

- 1     Sec. 7. K.S.A. 44-1015 is hereby amended to read as follows: 44-  
2 1015. As used in this act, unless the context otherwise requires:
- 3     (a) “Commission” means the Kansas human rights commission.
  - 4     (b) “Real property” means and includes:
    - 5       (1) All vacant or unimproved land; and
    - 6       (2) any building or structure which is occupied or designed or in-  
7 tended for occupancy, or any building or structure having a portion  
8 thereof which is occupied or designed or intended for occupancy.
  - 9     (c) “Family” includes a single individual.
  - 10    (d) “Person” means an individual, corporation, partnership, associa-  
11 tion, labor organization, legal representative, mutual company, joint-stock  
12 company, trust, unincorporated organization, trustee, trustee in bank-  
13 ruptcy, receiver and fiduciary.
  - 14    (e) “To rent” means to lease, to sublease, to let and otherwise to grant  
15 for a consideration the right to occupy premises not owned by the  
16 occupant.
  - 17    (f) “Discriminatory housing practice” means any act that is unlawful  
18 under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto.
  - 19    (g) “Person aggrieved” means any person who claims to have been  
20 injured by a discriminatory housing practice or believes that such person  
21 will be injured by a discriminatory housing practice that is about to occur.
  - 22    (h) “Disability” has the meaning provided by K.S.A. 44-1002, and  
23 amendments thereto.
  - 24    (i) “Familial status” means having one or more individuals less than  
25 18 years of age domiciled with:
    - 26       (1) A parent or another person having legal custody of such individual  
27 or individuals; or
    - 28       (2) the designee of such parent or other person having such custody,  
29 with the written permission of such parent or other person.
  - 30    (j) “*Sexual orientation*” has the meaning provided in K.S.A. 44-1002,  
31 and amendments thereto.
  - 32    (k) “*Gender identity*” has the meaning provided in K.S.A. 44-1002,  
33 and amendments thereto.
- 34     Sec. 8. K.S.A. 44-1016 is hereby amended to read as follows: 44-  
35 1016. Subject to the provisions of K.S.A. 44-1018, and amendments  
36 thereto, it shall be unlawful for any person:
- 37    (a) To refuse to sell or rent after the making of a bona fide offer, to  
38 fail to transmit a bona fide offer or refuse to negotiate in good faith for  
39 the sale or rental of, or otherwise make unavailable or deny, real property  
40 to any person because of race, religion, color, sex, disability, familial  
41 status, national origin ~~or~~, ancestry, *sexual orientation or gender identity*.
  - 42    (b) To discriminate against any person in the terms, conditions or  
43 privileges of sale or rental of real property, or in the provision of services

1 or facilities in connection therewith, because of race, religion, color, sex,  
2 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation*  
3 *or gender identity*.

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

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

15 (e) For profit, to induce or attempt to induce any person to sell or  
16 rent any real property by representation regarding the entry or prospec-  
17 tive entry into the neighborhood of a person or persons of a particular  
18 race, religion, color, sex, disability, familial status, national origin ~~or~~, an-  
19 cestry, *sexual orientation or gender identity*.

20 (f) To deny any person access to or membership or participation in  
21 any multiple-listing service, real estate brokers' organization or other serv-  
22 ice, organization or facility relating to the business of selling or renting  
23 real property, or to discriminate against such person in the terms or con-  
24 ditions of such access, membership or participation, because of race, re-  
25 ligion, color, sex, disability, familial status, national origin ~~or~~, ancestry,  
26 *sexual orientation or gender identity*.

27 (g) To discriminate against any person in such person's use or occu-  
28 pancy of real property because of the race, religion, color, sex, disability,  
29 familial status, national origin ~~or~~, ancestry, *sexual orientation or gender*  
30 *identity* of the people with whom such person associates.

31 (h) (1) To discriminate in the sale or rental, or to otherwise make  
32 unavailable or deny, residential real property to any buyer or renter be-  
33 cause of a disability of:

34 (A) That buyer or renter;

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

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

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

42 (A) That person;

43 (B) a person residing in or intending to reside in that real property

- 1 after it is so sold, rented or made available; or  
2 (C) any person associated with that person.
- 3 (3) For purposes of this subsection (h), discrimination includes:  
4 (A) A refusal to permit, at the expense of the person with a disability,  
5 reasonable modifications of existing premises occupied or to be occupied  
6 by such person if such modifications may be necessary to afford such  
7 person full enjoyment of the premises;  
8 (B) a refusal to make reasonable accommodations in rules, policies,  
9 practices or services, when such accommodations may be necessary to  
10 afford such person equal opportunity to use and enjoy residential real  
11 property; or  
12 (C) in connection with the design and construction of covered mul-  
13 tifamily residential real property for first occupancy on and after January  
14 1, 1992, a failure to design and construct such residential real property  
15 in such a manner that:  
16 (i) The public use and common use portions of such residential real  
17 property are readily accessible to and usable by persons with disabilities;  
18 (ii) all the doors designed to allow passage into and within all premises  
19 within such residential real property are sufficiently wide to allow passage  
20 by persons with disabilities who are in wheelchairs; and  
21 (iii) all premises within such residential real property contain the fol-  
22 lowing features of adaptive design: An accessible route into and through  
23 the residential real property; light switches, electrical outlets, thermostats  
24 and other environmental controls in accessible locations; reinforcements  
25 in bathroom walls to allow later installation of grab bars; and usable kitch-  
26 ens and bathrooms such that an individual in a wheelchair can maneuver  
27 about the space.
- 28 (4) Compliance with the appropriate requirements of the American  
29 national standard for buildings and facilities providing accessibility and  
30 usability for physically handicapped people, commonly cited as “ANSI A  
31 117.1,” suffices to satisfy the requirements of subsection (h)(3)(C)(iii).
- 32 (5) As used in this subsection (h), “covered multifamily residential  
33 real property” means:  
34 (A) Buildings consisting of four or more units if such buildings have  
35 one or more elevators; and  
36 (B) ground floor units in other buildings consisting of four or more  
37 units.
- 38 (6) Nothing in this act shall be construed to invalidate or limit any  
39 state law or ordinance that requires residential real property to be de-  
40 signed and constructed in a manner that affords persons with disabilities  
41 greater access than is required by this act.
- 42 (7) Nothing in this subsection (h) requires that residential real prop-  
43 erty be made available to an individual whose tenancy would constitute

1 a direct threat to the health or safety of other individuals or whose tenancy  
2 would result in substantial physical damage to the property of others.

3 Sec. 9. K.S.A. 44-1017 is hereby amended to read as follows: 44-  
4 1017. (a) It shall be unlawful for any person or other entity whose business  
5 includes engaging in real estate related transactions to discriminate  
6 against any person in making available such a transaction, or in the terms  
7 or conditions of such a transaction, because of the race, religion, color,  
8 sex, disability, familial status, national origin ~~or~~, ancestry, *sexual orienta-*  
9 *tion or gender identity* of such person or of any person associated with  
10 such person in connection with any real estate related transaction.

11 (b) As used in this section, “real estate related transaction” means  
12 any of the following:

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

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

17 (B) secured by real property.

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

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

23 Sec. 10. K.S.A. 44-1027 is hereby amended to read as follows: 44-  
24 1027. (a) No person, whether or not acting under color of law, shall by  
25 force or threat of force willfully injure, intimidate or interfere with, or  
26 attempt to injure, intimidate or interfere with:

27 (1) Any person because of such person’s race, religion, color, sex,  
28 disability, familial status, national origin ~~or~~, ancestry, *sexual orientation*  
29 *or gender identity* and because such person is or has been selling, pur-  
30 chasing, renting, financing, occupying or contracting or negotiating for  
31 the sale, purchase, rental, financing or occupation of any real property,  
32 or applying for or participating in any service, organization or facility re-  
33 lating to the business of selling or renting real property;

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

36 (A) Participating, without discrimination on account of race, religion,  
37 color, sex, disability, familial status, national origin ~~or~~, ancestry, *sexual*  
38 *orientation or gender identity*, in any of the activities, services, organi-  
39 zations or facilities described in subsection (a)(1); or

40 (B) affording another person or class of persons opportunity or pro-  
41 tection so to participate; or

42 (3) any citizen because such citizen is or has been, or in order to  
43 discourage such citizen or any other citizen from lawfully aiding or en-

1 couraging other persons to participate, without discrimination on account  
2 of race, religion, color, sex, disability, familial status, national origin ~~or~~,  
3 ancestry, *sexual orientation or gender identity*, in any of the activities,  
4 services, organizations or facilities described in subsection (a)(1), or par-  
5 ticipating lawfully in speech or peaceful assembly opposing any denial of  
6 the opportunity to so participate.

7 (b) Violation of this section is punishable by a fine of not more than  
8 \$1,000 or imprisonment for not more than one year, or both such fine  
9 and imprisonment, except that:

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

13 (2) if death results, such violation shall be punishable by imprison-  
14 ment for any term of years or for life.

15 Sec. 11. K.S.A. 44-1030 is hereby amended to read as follows: 44-  
16 1030. (a) Except as provided by subsection (c), every contract for or on  
17 behalf of the state or any county or municipality or other political sub-  
18 division of the state, or any agency of or authority created by any of the  
19 foregoing, for the construction, alteration or repair of any public building  
20 or public work or for the acquisition of materials, equipment, supplies or  
21 services shall contain provisions by which the contractor agrees that:

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

27 (2) in all solicitations or advertisements for employees, the contractor  
28 shall include the phrase, “equal opportunity employer,” or a similar  
29 phrase to be approved by the commission;

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

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

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

43 (b) The Kansas human rights commission shall not be prevented

1 hereby from requiring reports of contractors found to be not in compli-  
2 ance with the Kansas act against discrimination.

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

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

7 (2) whose contracts with the governmental entity letting such con-  
8 tract cumulatively total \$5,000 or less during the fiscal year of such gov-  
9 ernmental entity.

10 Sec. 12. K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-  
11 1015, 44-1016, 44-1017, 44-1027 and 44-1030 and K.S.A. 2008 Supp. 44-  
12 1005 are hereby repealed.

13 Sec. 13. This act shall take effect and be in force from and after its  
14 publication in the statute book.