

HOUSE BILL No. 2299

By Committee on Education

Requested by Representative Estes

2-5

Proposed Amendments to House Bill No. 2299
House Committee on Education

Prepared by: Jason Long
Office of Revisor of Statutes

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

Strike in line 6

and

8
9 *Be it enacted by the Legislature of the State of Kansas:*

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

- 13 (A) Discriminate or cause prejudice on the basis of religion; or
14 (B) promote or tolerate antisemitism or antisemitic acts.

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

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

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

- 25 (A) Subpoena witnesses, evidence, records, documents or other
26 material related to the complaint;
27 (B) take testimony under oath;
28 (C) examine or cause to be examined any records or other material
29 that is relevant to the complaint;
30 (D) require a person to attend any proceeding and provide testimony
31 under oath regarding any material that is relevant to the complaint;

32 (E) serve interrogatories; and

33 (F) administer oaths and affirmations.

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

1 rules of practice to govern, expedite and effectuate the foregoing
2 procedure and its own actions thereunder. The rules of practice shall be
3 available, upon written request, within 30 days after the date of adoption.

4 Sec. 5. ~~K.S.A. 44-1009 is hereby amended to read as follows: 44-~~
5 ~~1009. (a) It shall be an unlawful employment practice:~~

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

14 ~~(2)(b) For a labor organization, because of the race, religion, color,~~
15 ~~sex, disability, national origin or ancestry of any person, to exclude or to~~
16 ~~expel from its membership such person or to discriminate in any way~~
17 ~~against any of its members or against any employer or any person~~
18 ~~employed by an employer.~~

19 ~~(3)(c) For any employer, employment agency or labor organization to~~
20 ~~print or circulate or cause to be printed or circulated any statement,~~
21 ~~advertisement or publication, or to use any form of application for~~
22 ~~employment or membership or to make any inquiry in connection with~~
23 ~~prospective employment or membership, which expresses, directly or~~
24 ~~indirectly, any limitation, specification or discrimination as to race,~~
25 ~~religion, color, sex, disability, national origin or ancestry, or any intent to~~
26 ~~make any such limitation, specification or discrimination, unless based on~~
27 ~~a bona fide occupational qualification.~~

28 ~~(4)(d) For any employer, employment agency or labor organization to~~
29 ~~discharge, expel or otherwise discriminate against any person because such~~
30 ~~person has opposed any practices or acts forbidden under this act or~~
31 ~~because such person has filed a complaint, testified or assisted in any~~
32 ~~proceeding under this act.~~

33 ~~(5)(e) For an employment agency to refuse to list and properly~~
34 ~~classify for employment or to refuse to refer any person for employment or~~
35 ~~otherwise discriminate against any person because of such person's race,~~
36 ~~religion, color, sex, disability, national origin or ancestry; or to comply~~
37 ~~with a request from an employer for a referral of applicants for~~
38 ~~employment if the request expresses, either directly or indirectly, any~~
39 ~~limitation, specification or discrimination as to race, religion, color, sex,~~
40 ~~disability, national origin or ancestry.~~

41 ~~(6)(f) For an employer, labor organization, employment agency, or~~
42 ~~school which provides, coordinates or controls apprenticeship, on-the-job,~~
43 ~~or other training or retraining program, to maintain a practice of~~

Strike all in lines 4-43

Strike all on page 11

1 discrimination, segregation or separation because of race, religion, color,
2 sex, disability, national origin or ancestry, in admission, hiring,
3 assignments, upgrading, transfers, promotion, layoff, dismissal,
4 apprenticeship or other training or retraining program, or in any other
5 terms, conditions or privileges of employment, membership,
6 apprenticeship or training; or to follow any policy or procedure which, in
7 fact, results in such practices without a valid business motive.

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

11 (8)(h) For an employer, labor organization, employment agency or
12 joint labor-management committee to: (A)(1) Limit, segregate or classify a
13 job applicant or employee in a way that adversely affects the opportunities
14 or status of such applicant or employee because of the disability of such
15 applicant or employee; (B)(2) participate in a contractual or other
16 arrangement or relationship, including a relationship with an employment
17 or referral agency, labor union, an organization providing fringe benefits to
18 an employee or an organization providing training and apprenticeship
19 programs that has the effect of subjecting a qualified applicant or
20 employee with a disability to the discrimination prohibited by this act; (C)
21 (3) utilize standards, criteria, or methods of administration that have the
22 effect of discrimination on the basis of disability or that perpetuate the
23 discrimination of others who are subject to common administrative
24 control; (D)(4) exclude or otherwise deny equal jobs or benefits to a
25 qualified individual because of the known disability of an individual with
26 whom the qualified individual is known to have a relationship or
27 association; (E)(5) not make reasonable accommodations to the known
28 physical or mental limitations of an otherwise qualified individual with a
29 disability who is an applicant or employee, unless such employer, labor
30 organization, employment agency or joint labor-management committee
31 can demonstrate that the accommodation would impose an undue hardship
32 on the operation of the business thereof; (F)(6) deny employment
33 opportunities to a job applicant or employee who is an otherwise qualified
34 individual with a disability, if such denial is based on the need to make
35 reasonable accommodation to the physical or mental impairments of the
36 employee or applicant; (G)(7) use qualification standards, employment
37 tests or other selection criteria that screen out or tend to screen out an
38 individual with a disability or a class of individuals with disabilities unless
39 the standard, test or other selection criteria, as used, is shown to be job-
40 related for the position in question and is consistent with business
41 necessity; or (H)(8) fail to select and administer tests concerning
42 employment in the most effective manner to ensure that, when such test is
43 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.

Strike all in lines 1-33

Strike in line 34

and

And by renumbering sections accordingly