

## HOUSE BILL No. 2407

By Committee on Federal and State Affairs

Requested by Representative Woodard

3-11

1 AN ACT concerning the Kansas act against discrimination; adding sexual  
2 orientation, gender identity or expression and status as a veteran as  
3 protected classes under the act; amending K.S.A. 12-16,107, 44-1001,  
4 44-1002, 44-1004, 44-1005, 44-1006, 44-1009, 44-1015, 44-1016, 44-  
5 1017, 44-1027 and 44-1030 and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 12-16,107 is hereby amended to read as follows:  
9 12-16,107. In case of the refusal of any person to comply with any  
10 subpoena issued by a local human relations commission, or to testify to  
11 any matter regarding which such person may be lawfully questioned, the  
12 district court of any county may, upon application of the local human  
13 relations commission, order such person to comply with such subpoena  
14 and to testify to the extent such person could be so compelled pursuant to  
15 the provisions of ~~subsection (5) of~~ K.S.A. 44-1004(e), and amendments  
16 thereto, of the Kansas act against discrimination. Failure to obey the  
17 court's order shall be punishable by the court as contempt.

18 Sec. 2. K.S.A. 44-1001 is hereby amended to read as follows: 44-  
19 1001. (a) This act shall be known as the Kansas act against discrimination.

20 (b) It shall be deemed an exercise of the police power of the state for  
21 the protection of the public welfare, safety, health and peace of the people  
22 of this state. The practice or policy of discrimination against individuals in  
23 employment relations, in relation to free and public accommodations, in  
24 housing by reason of race, religion, color, sex, disability, national origin  
25 ~~or~~, ancestry, *sexual orientation, gender identity or expression or status as*  
26 *a veteran* or in housing by reason of familial status is a matter of concern  
27 to the state, since such discrimination threatens not only the rights and  
28 privileges of the inhabitants of the state of Kansas but menaces the  
29 institutions and foundations of a free democratic state. It is hereby  
30 declared to be the policy of the state of Kansas to eliminate and prevent  
31 discrimination in all employment relations, to eliminate and prevent  
32 discrimination, segregation, or separation in all places of public  
33 accommodations covered by this act, and to eliminate and prevent  
34 discrimination, segregation or separation in housing.

35 (c) It is also declared to be the policy of this state to assure equal

1 opportunities and encouragement to every citizen regardless of race,  
2 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*  
3 *orientation, gender identity or expression or status as a veteran* in  
4 securing and holding, without discrimination, employment in any field of  
5 work or labor for which a person is properly qualified, to assure equal  
6 opportunities to all persons within this state to full and equal public  
7 accommodations, and to assure equal opportunities in housing without  
8 distinction on account of race, religion, color, sex, disability, familial  
9 status, national origin—~~or~~, ancestry, *sexual orientation, gender identity or*  
10 *expression or status as a veteran*. It is further declared that the opportunity  
11 to secure and to hold employment, the opportunity for full and equal  
12 public accommodations as covered by this act and the opportunity for full  
13 and equal housing are civil rights of every citizen.

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

23 Sec. 3. K.S.A. 44-1002 is hereby amended to read as follows: 44-  
24 1002. When used in ~~this act~~ *the Kansas act against discrimination*:

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

28 (b) (1) "Employer" includes any person in this state employing four  
29 or more persons and any person acting directly or indirectly for an  
30 employer, labor organizations, nonsectarian corporations, organizations  
31 engaged in social service work and the state of Kansas and all political and  
32 municipal subdivisions thereof; ~~but shall~~.

33 (2) "Employer" *does* not include a nonprofit fraternal or social  
34 association or corporation.

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

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

42 (e) "Employment agency" includes any person or governmental  
43 agency undertaking, with or without compensation, to procure

1 opportunities to work or to procure, recruit, refer or place employees.

2 (f) "Commission" means the Kansas human rights commission  
3 created by ~~this act~~ *K.S.A. 44-1003, and amendments thereto.*

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

7 (h) (1) "Public accommodations" means any person who caters or  
8 offers goods, services, facilities and accommodations to the public.

9 (2) "Public accommodations" include, but are not limited to, any  
10 lodging establishment or food service establishment, as defined by K.S.A.  
11 36-501, and amendments thereto; ~~any~~, bar, tavern, barbershop, beauty  
12 parlor, theater, skating rink, bowling alley, billiard parlor, amusement park,  
13 recreation park, swimming pool, lake, gymnasium, mortuary or cemetery  
14 ~~which~~ *that* is open to the public; or any public transportation facility.

15 (3) "Public accommodations" ~~does~~ does not include a religious or  
16 nonprofit fraternal or social association or corporation.

17 (i) "Unlawful discriminatory practice" means:

18 (1) Any discrimination against persons, by reason of their race,  
19 religion, color, sex, disability, national origin or ancestry:

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

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

24 (2) any discrimination against persons in regard to membership in a  
25 nonprofit recreational or social association or corporation by reason of  
26 race, religion, ~~sex~~, color, *sex*, disability, national origin or ancestry if such  
27 association or corporation has 100 or more members and:

28 (A) Provides regular meal service; and

29 (B) receives payment for dues, fees, use of space, use of facility,  
30 services, meals or beverages, directly or indirectly, from or on behalf of  
31 nonmembers.

32 ~~This term~~ "Unlawful discriminatory practice" shall not apply to a  
33 religious or private fraternal and benevolent association or corporation.

34 (j) (1) "Disability" means, with respect to an individual:

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

37 ~~(B)~~ (B) a record of such an impairment; or

38 ~~(C)~~ (C) being regarded as having such an impairment.

39 (2) "Disability" does not include current, illegal use of a controlled  
40 substance as defined in section 102 of the federal controlled-~~substance~~  
41 ~~substances~~ act ~~(, 21 U.S.C. § 802)~~, in housing discrimination. In  
42 employment and public accommodation discrimination, "disability" does  
43 not include an individual who is currently engaging in the illegal use of

1 drugs where possession or distribution of such drugs is unlawful under the  
2 controlled-substance substances act-(, 21 U.S.C. § 812), when the covered  
3 entity acts on the basis of such use.

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

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

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

13 (2) A reasonable accommodation or a reasonable modification to  
14 policies, practices or procedures need not be provided to an individual who  
15 meets the definition of disability in K.S.A. 44-1002(j)(3), and amendments  
16 thereto subsection (j)(1)(C).

17 (l) "Regarded as having such an impairment" means the absence of a  
18 physical or mental impairment but regarding or treating an individual as  
19 though such an impairment exists. An individual meets the requirement of  
20 "being regarded as having such an impairment" if the individual  
21 establishes that such individual has been subjected to an action prohibited  
22 under this act because of an actual or perceived physical or mental  
23 impairment whether or not the impairment limits or is perceived to limit a  
24 major life activity. Subsection-(j)(3) (j)(1)(C) shall not apply to  
25 impairments that are transitory or minor. A transitory impairment is an  
26 impairment with an actual or expected duration of six months or less.

27 (m)(1) "Major life activities"-means:

28 ~~(1) Major life activities include~~ includes, but ~~are~~ is not limited to,  
29 caring for oneself, performing manual tasks, seeing, hearing, eating,  
30 sleeping, walking, standing, lifting, bending, speaking, breathing, learning,  
31 reading, concentrating, thinking, communicating; and working.

32 (2) ~~It~~ "Major life activities" also includes the operation of a major  
33 bodily function, including, but not limited to, functions of the immune  
34 system, normal cell growth, digestive, bowel, bladder, neurological, brain,  
35 respiratory, circulatory, endocrine and reproductive functions.

36 (n) "Genetic screening or testing" means a laboratory test of a  
37 person's genes or chromosomes for abnormalities, defects or deficiencies,  
38 including carrier status, that are linked to physical or mental disorders or  
39 impairments, or that indicate a susceptibility to illness, disease or other  
40 disorders, whether physical or mental, which test is a direct test for  
41 abnormalities, defects or deficiencies, and not an indirect manifestation of  
42 genetic disorders.

43 (o) "Sexual orientation" means actual, or perceived, male or female

1 *heterosexuality, homosexuality or bisexuality by inclination, practice or*  
2 *expression.*

3 (p) *"Gender identity or expression" means the gender-related*  
4 *identity, appearance, mannerisms or other gender-related characteristics*  
5 *of an individual, without regard to such individual's designated sex at*  
6 *birth.*

7 (q) *"Veteran" means a person who served in the active military,*  
8 *naval, air or space service and who was discharged or released therefrom*  
9 *under conditions other than dishonorable.*

10 Sec. 4. K.S.A. 44-1004 is hereby amended to read as follows: 44-  
11 1004. The commission shall have the following functions, powers and  
12 duties:

13 (1)(a) To establish and maintain its principal office in the city of  
14 Topeka; and such other offices elsewhere within the state as it may deem  
15 necessary.

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

17 (3)(c) To adopt, promulgate, amend and rescind suitable rules and  
18 regulations to carry out the provisions of this act, and the policies and  
19 practices of the commission ~~in connection therewith~~ *conducted in*  
20 *accordance with this act.*

21 (4)(d) To receive, initiate, investigate and pass upon complaints  
22 alleging discrimination in employment, public accommodations and  
23 housing because of race, religion, color, sex, disability, national origin ~~or,~~  
24 *ancestry, sexual orientation, gender identity or expression or status as a*  
25 *veteran* and complaints alleging discrimination in housing because of  
26 familial status.

27 (5)(e) To subpoena witnesses, compel their appearance and require  
28 the production for examination of records, documents and other evidence  
29 or possible sources of evidence and to examine, record and copy such  
30 materials and take and record the testimony or statements of such persons.  
31 The commission may issue subpoenas to compel access to or the  
32 production of such materials, or the appearance of such persons, and may  
33 issue interrogatories to a respondent to the same extent and subject to the  
34 same limitations as would apply if the subpoena or interrogatories were  
35 issued or served in aid of a civil action in the district court. The  
36 commission shall have access at all reasonable times to premises and may  
37 compel such access by application to a court of competent jurisdiction  
38 provided that the commission first complies with the provisions of ~~article~~  
39 *section 15 of the Kansas bill of rights and the fourth amendment to the*  
40 *United States constitution relating to unreasonable searches and seizures.*  
41 The commission may administer oaths and take depositions to the same  
42 extent and subject to the same limitations as would apply if the deposition  
43 was taken in aid of a civil action in the district court. In case of the refusal

1 of any person to comply with any subpoena, interrogatory or search  
2 warrant issued hereunder, or to testify to any matter regarding which such  
3 person may be lawfully questioned, the district court of any county may,  
4 upon application of the commission, order such person to comply with  
5 such subpoena or interrogatory and to testify. Failure to obey the court's  
6 order may be punished by the court as contempt. No person shall be  
7 prosecuted or subjected to any penalty or forfeiture for or on account of  
8 any transaction, matter or thing concerning which such person testifies or  
9 produces evidence, except that such person so testifying shall not be  
10 exempt from prosecution and punishment for perjury committed in so  
11 testifying. The immunity herein provided shall extend only to natural  
12 persons.

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

17 ~~(7)~~(g) To apply to the district court of the county where the  
18 respondent resides or transacts business for enforcement of any  
19 conciliation agreement by seeking specific performance of such  
20 agreement.

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

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

31 ~~(10)~~(j) To create such advisory agencies and conciliation councils,  
32 local, regional or statewide, as in its judgment will aid in effectuating the  
33 purposes of this act; to study the problem of discrimination in all or  
34 specific fields or instances of discrimination because of race, religion,  
35 color, sex, disability, national origin—~~or~~, ancestry, *sexual orientation*,  
36 *gender identity or expression or status as a veteran*; to foster, through  
37 community effort or otherwise, good will, cooperation and conciliation  
38 among the groups and elements of the population of this state; and to make  
39 recommendations to the commission for the development of policies and  
40 procedures, and for programs of formal and informal education, ~~which~~  
41 *that* the commission may recommend to the appropriate state agency. Such  
42 advisory agencies and conciliation councils shall be composed of  
43 representative citizens serving without pay. The commission may ~~itself~~

1 make the studies and perform the acts authorized by this paragraph. ~~¶ The~~  
2 *commission* may, by voluntary conferences with parties in interest,  
3 endeavor by conciliation and persuasion to eliminate discrimination in all  
4 the stated fields and to foster good will and cooperation among all  
5 elements of the population of the state.

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

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

15 ~~(J)~~(m) To render each year to the governor and to the state  
16 legislature a full written report of all of its activities and of ~~its~~ *the*  
17 *commission's* recommendations.

18 ~~(K)~~(n) To adopt an official seal.

19 ~~(L)~~(o) 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. 5. K.S.A. 44-1005 is hereby amended to read as follows: 44-  
23 1005. (a) Any person claiming to be aggrieved by an alleged unlawful  
24 employment practice or by an alleged unlawful discriminatory practice,  
25 and who can articulate a prima facie case pursuant to a recognized legal  
26 theory of discrimination, may, personally or by an attorney-at-law, make,  
27 sign and file with the commission a verified complaint in writing,  
28 articulating the prima facie case, which shall also state the name and  
29 address of the person, employer, labor organization or employment agency  
30 alleged to have committed the unlawful employment practice complained  
31 of or the name and address of the person alleged to have committed the  
32 unlawful discriminatory practice complained of, and which shall set forth  
33 the particulars thereof and contain such other information as may be  
34 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  
39 separation 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  
43 conciliation or other remedial action.

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

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

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

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



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

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

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

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

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

10 (k) If the presiding officer finds a respondent has engaged in or is  
11 engaging in any unlawful employment practice or unlawful discriminatory  
12 practice as defined in this act, the presiding officer shall render an order  
13 requiring such respondent to cease and desist from such unlawful  
14 employment practice or such unlawful discriminatory practice and to take  
15 such affirmative action, including, but not limited to:

16 (1) The hiring, reinstatement, or upgrading of employees, with or  
17 without back pay, and the admission or restoration to membership in any  
18 respondent labor organizations;

19 (2) the admission to and full and equal enjoyment of the goods,  
20 services, facilities, and accommodations offered by any respondent place  
21 of public accommodation denied in violation of this act, as, in the  
22 judgment of the presiding officer, will effectuate the purposes of this act;  
23 ~~and including; and~~

24 (3) a requirement for report of the manner of compliance. Such order  
25 may also include an award of damages for pain, suffering and humiliation  
26 which are incidental to the act of discrimination, except that an award for  
27 such pain, suffering and humiliation shall in no event exceed the sum of  
28 \$2,000.

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

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

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

41 (o) The commission shall, except as otherwise provided, establish  
42 rules of practice to govern, expedite and effectuate the foregoing  
43 procedure and its own actions thereunder. The rules of practice shall be

1 available, upon written request, within 30 days after the date of adoption.

2 Sec. 6. K.S.A. 44-1006 is hereby amended to read as follows: 44-  
3 1006. (a) The provisions of this act shall be construed liberally for the  
4 accomplishment of the purposes thereof. Nothing contained in this act  
5 shall be deemed to repeal any of the provisions of any other law of this  
6 state relating to discrimination because of race, religion, color, sex,  
7 disability, national origin ~~or~~, ancestry *sexual orientation, gender identity*  
8 *or expression or status as a veteran*, unless the same is specifically  
9 repealed by this act.

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

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

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

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

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

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

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

30 (ii) use of assistive technology;

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

32 (iv) learned behavioral or adaptive neurological modifications.

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

36 (C) As used in this subparagraph:

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

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

41 Sec. 7. K.S.A. 44-1009 is hereby amended to read as follows: 44-  
42 1009. (a) It shall be an unlawful employment practice:

43 (1) For an employer, because of the race, religion, color, sex,

1 disability, national origin~~—or~~, ancestry, *sexual orientation, gender identity*  
2 *or expression or status as a veteran* of any person to:

3 (A) Refuse to hire or employ such person~~—to~~;

4 (B) bar or discharge such person from employment or to otherwise  
5 discriminate against such person in compensation or in terms, conditions  
6 or privileges of employment;~~to~~

7 (C) limit, segregate, separate, classify or make any distinction in  
8 regards to employees; or~~to~~

9 (D) follow any employment procedure or practice~~—which, in fact, that~~  
10 results in discrimination, segregation or separation without a valid  
11 business necessity.

12 (2) For a labor organization, because of the race, religion, color, sex,  
13 disability, national origin~~—or~~, ancestry, *sexual orientation, gender identity*  
14 *or expression or status as a veteran* of any person, to exclude or~~to~~ expel  
15 from its membership such person or to discriminate in any way against any  
16 of its members or against any employer or any person employed by an  
17 employer.

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

28 (4) 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) For an employment agency to:

34 (A) Refuse to list and properly classify for employment or to refuse to  
35 refer any person for employment or otherwise discriminate against any  
36 person because of such person's race, religion, color, sex, disability,  
37 national origin~~—or~~, ancestry, *sexual orientation, gender identity or*  
38 *expression or status as a veteran*; or~~to~~

39 (B) comply with a request from an employer for a referral of  
40 applicants for employment if the request expresses, either directly or  
41 indirectly, any limitation, specification or discrimination as to race,  
42 religion, color, sex, disability, national origin~~—or~~, ancestry, *sexual*  
43 *orientation, gender identity or expression or status as a veteran*.

1 (6) For an employer, labor organization, employment agency, or  
2 school ~~which~~ *that* provides, coordinates or controls apprenticeship, on-the-  
3 job, or other training or retraining program, to:

4 (A) Maintain a practice of discrimination, segregation or separation  
5 because of race, religion, color, sex, disability, national origin ~~or~~, ancestry,  
6 *sexual orientation, gender identity or expression or status as a veteran*, in  
7 admission, hiring, assignments, upgrading, transfers, promotion, layoff,  
8 dismissal, apprenticeship or other training or retraining program, or in any  
9 other terms, conditions or privileges of employment, membership,  
10 apprenticeship or training; or ~~to~~

11 (B) follow any policy or procedure ~~which, in fact,~~ *that* results in such  
12 practices without a valid business motive.

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

16 (8) For an employer, labor organization, employment agency or joint  
17 labor-management committee to:

18 (A) Limit, segregate or classify a job applicant or employee in a way  
19 that adversely affects the opportunities or status of such applicant or  
20 employee because of the disability of such applicant or employee;

21 (B) participate in a contractual or other arrangement or relationship,  
22 including a relationship with an employment or referral agency, labor  
23 union, an organization providing fringe benefits to an employee or an  
24 organization providing training and apprenticeship programs that has the  
25 effect of subjecting a qualified applicant or employee with a disability to  
26 the discrimination prohibited by this act;

27 (C) utilize standards criteria, or methods of administration that have  
28 the effect of discrimination on the basis of disability or that perpetuate the  
29 discrimination of others who are subject to common administrative  
30 control;

31 (D) exclude or otherwise deny equal jobs or benefits to a qualified  
32 individual because of the known disability of an individual with whom the  
33 qualified individual is known to have a relationship or association;

34 (E) not make reasonable accommodations to the known physical or  
35 mental limitations of an otherwise qualified individual with a disability  
36 who is an applicant or employee, unless such employer, labor organization,  
37 employment agency or joint labor-management committee can  
38 demonstrate that the accommodation would impose an undue hardship on  
39 the operation of the business thereof;

40 (F) deny employment opportunities to a job applicant or employee  
41 who is an otherwise qualified individual with a disability, if such denial is  
42 based on the need to make reasonable accommodation to the physical or  
43 mental impairments of the employee or applicant;

1 (G) use qualification standards, employment tests or other selection  
2 criteria that screen out or tend to screen out an individual with a disability  
3 or a class of individuals with disabilities unless the standard, test or other  
4 selection criteria, as used, is shown to be job-related for the position in  
5 question and is consistent with business necessity; or

6 (H) fail to select and administer tests concerning employment in the  
7 most effective manner to ensure that, when such test is administered to a  
8 job applicant or employee who has a disability that impairs sensory,  
9 manual or speaking skills, the test results accurately reflect the skills,  
10 aptitude or whatever other factor of such applicant or employee that such  
11 test purports to measure, rather than reflecting the impaired sensory,  
12 manual or speaking skills of such employee or applicant-~~(, except where~~  
13 such skills are the factors that the test purports to measure).

14 (9) For any employer to:

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

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

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

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

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

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

38 (3) For any person, to refuse, deny, make a distinction, directly or  
39 indirectly, or discriminate in any way against persons because of the race,  
40 religion, color, sex, disability, national origin-~~or~~, ancestry, *sexual*  
41 *orientation, gender identity or expression or status as a veteran* of such  
42 persons in the full and equal use and enjoyment of the services, facilities,  
43 privileges and advantages of any institution, department or agency of the

1 state of Kansas or any political subdivision or municipality thereof.

2 Sec. 8. K.S.A. 44-1015 is hereby amended to read as follows: 44-  
3 1015. As used in this act, unless the context otherwise requires:

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

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

6 (1) All vacant or unimproved land; and

7 (2) any building or structure ~~which~~ *that* is occupied or designed or  
8 intended for occupancy; or any building or structure having a portion  
9 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

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

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

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

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

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

23 (h) "Disability" ~~has the meaning provided by~~ *means the same as*  
24 *defined in* K.S.A. 44-1002 and amendments thereto.

25 (i) "Familial status" means having one or more individuals less than  
26 18 years of age domiciled with:

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

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

31 (j) *"Sexual orientation" means actual, or perceived, male or female*  
32 *heterosexuality, homosexuality or bisexuality by inclination, practice or*  
33 *expression.*

34 (k) *"Gender identity or expression" means the gender-related identity,*  
35 *appearance, mannerisms or other gender-related characteristics of an*  
36 *individual, without regard to such individual's designated sex at birth.*

37 (l) *"Veteran" means a person who served in the active military, naval,*  
38 *air or space service and who was discharged or released therefrom under*  
39 *conditions other than dishonorable.*

40 Sec. 9. K.S.A. 44-1016 is hereby amended to read as follows: 44-  
41 1016. Subject to the provisions of K.S.A. 44-1018 and amendments  
42 thereto, it shall be unlawful for any person:

43 (a) To refuse to sell or rent after the making of a bona fide offer, to

1 fail to transmit a bona fide offer or refuse to negotiate in good faith for the  
2 sale or rental of, or otherwise make unavailable or deny, real property to  
3 any person because of race, religion, color, sex, disability, familial status,  
4 national origin—~~or~~, ancestry, *sexual orientation, gender identity or*  
5 *expression or status as a veteran*.

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

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

18 (d) To represent to any person because of race, religion, color, sex,  
19 disability, familial status, national origin—~~or~~, ancestry, *sexual orientation,*  
20 *gender identity or expression or status as a veteran* that any real property  
21 is not available for inspection, sale or rental when such real property is in  
22 fact so available.

23 (e) For profit, to induce or attempt to induce any person to sell or rent  
24 any real property by representation regarding the entry or prospective  
25 entry into the neighborhood of a person or persons of a particular race,  
26 religion, color, sex, disability, familial status, national origin—~~or~~, ancestry,  
27 *sexual orientation, gender identity or expression or status as a veteran*.

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

35 (g) To discriminate against any person in such person's use or  
36 occupancy of real property because of the race, religion, color, sex,  
37 disability, familial status, national origin—~~or~~, ancestry, *sexual orientation,*  
38 *gender identity or expression or status as a veteran* of the people with  
39 whom such person associates.

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

43 (A) ~~That~~Such buyer or renter;



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

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

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

8 (A) ~~That~~Such person;

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

11 (C) any person associated with that person.

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

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

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

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

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

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

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

37 (4) Compliance with the appropriate requirements of the American  
38 national standard for buildings and facilities providing accessibility and  
39 usability for physically handicapped people, commonly cited as "ANSI A  
40 117.1," suffices to satisfy the requirements of subsection (h)(3)(C)(iii).

41 (5) As used in this subsection-~~(h)~~, "covered multifamily residential  
42 real property" means:

43 (A) Buildings consisting of four or more units if such buildings have

1 one or more elevators; and

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

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

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

13 Sec. 10. K.S.A. 44-1017 is hereby amended to read as follows: 44-  
14 1017. (a) It shall be unlawful for any person or other entity whose business  
15 includes engaging in real estate related transactions to discriminate against  
16 any person in making available such a transaction, or in the terms or  
17 conditions of such a transaction, because of the race, religion, color, sex,  
18 disability, familial status, national origin~~-or~~, ancestry, *sexual orientation*,  
19 *gender identity or expression or status as a veteran* of such person or of  
20 any person associated with such person in connection with any real estate  
21 related transaction.

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

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

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

28 (B) secured by real property.

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

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

35 Sec. 11. K.S.A. 44-1027 is hereby amended to read as follows: 44-  
36 1027. (a) No person, whether or not acting under color of law, shall by  
37 force or threat of force~~-willfully~~ *intentionally* injure, intimidate or interfere  
38 with, or attempt to injure, intimidate or interfere with:

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

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

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

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

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

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

22 (b) Violation of this section is punishable by a fine of not more than  
23 \$1,000 or imprisonment for not more than one year, or both such fine and  
24 imprisonment, except that:

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

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

30 Sec. 12. K.S.A. 44-1030 is hereby amended to read as follows: 44-  
31 1030. (a) Except as provided by subsection (c), every contract for or on  
32 behalf of the state or any county or municipality or other political  
33 subdivision of the state, or any agency of or authority created by any of the  
34 foregoing, for the construction, alteration or repair of any public building  
35 or public work or for the acquisition of materials, equipment, supplies or  
36 services shall contain provisions by which the contractor agrees that:

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

42 (2) in all solicitations or advertisements for employees, the contractor  
43 shall include the phrase, "equal opportunity employer," or a similar phrase

1 to be approved by the commission;

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

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

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

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

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

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

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

25 Sec. 13. K.S.A. 12-16,107, 44-1001, 44-1002, 44-1004, 44-1005, 44-  
26 1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1027 and 44-1030 are  
27 hereby repealed.

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