

HOUSE BILL No. 2178

By Representatives Woodard, Meyer and S. Ruiz

1-25

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
36 opportunities and encouragement to every citizen regardless of race,

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

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

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

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

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

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

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

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

41 (e) "Employment agency" includes any person or governmental
42 agency undertaking, with or without compensation, to procure
43 opportunities to work or to procure, recruit, refer or place employees.

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

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

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

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

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

16 (i) "Unlawful discriminatory practice" means:

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

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

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

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

27 (A) Provides regular meal service; and

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

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

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

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

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

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

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

1 controlled-substance *substances* act-(, 21 U.S.C. § 812), when the covered
2 entity acts on the basis of such use.

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

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

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

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

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

26 (m) (1) "Major life activities" ~~means:~~

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

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

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

42 (o) "*Sexual orientation*" means *actual, or perceived, male or female*
43 *heterosexuality, homosexuality or bisexuality by inclination, practice or*

1 *expression.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 *commission* may, by voluntary conferences with parties in interest,
 2 endeavor by conciliation and persuasion to eliminate discrimination in all
 3 the stated fields and to foster good will and cooperation among all
 4 elements of the population of the state.

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

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

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

17 ~~(N)~~(n) To adopt an official seal.

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

21 Sec. 5. K.S.A. 44-1005 is hereby amended to read as follows: 44-
 22 1005. (a) Any person claiming to be aggrieved by an alleged unlawful
 23 employment practice or by an alleged unlawful discriminatory practice,
 24 and who can articulate a prima facie case pursuant to a recognized legal
 25 theory of discrimination, may, personally or by an attorney-at-law, make,
 26 sign and file with the commission a verified complaint in writing,
 27 articulating the prima facie case, which shall also state the name and
 28 address of the person, employer, labor organization or employment agency
 29 alleged to have committed the unlawful employment practice complained
 30 of or the name and address of the person alleged to have committed the
 31 unlawful discriminatory practice complained of, and which shall set forth
 32 the particulars thereof and contain such other information as may be
 33 required by the commission.

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

43 (c) Whenever any problem of discrimination because of race,

1 religion, color, sex, disability, national origin—~~or~~, ancestry, *sexual*
2 *orientation, gender identity or expression or status as a veteran* arises, or
3 whenever the commission has, ~~in its own~~ *the judgment of the commission*,
4 reason to believe that any person has engaged in an unlawful employment
5 practice or an unlawful discriminatory practice in violation of this act, or
6 has engaged in a pattern or practice of discrimination, the commission may
7 conduct an investigation without filing a complaint and shall have the
8 same powers during such investigation as provided for the investigation of
9 complaints. The person to be investigated shall be advised of the nature
10 and scope of such investigation prior to its commencement. The purpose of
11 the investigation shall be to resolve any such problems promptly. In the
12 event such problems cannot be resolved within a reasonable time, the
13 commission may issue a complaint whenever the investigation has
14 revealed a violation of the Kansas act against discrimination has occurred.
15 The information gathered in the course of the first investigation may be
16 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
23 commissioner shall determine after such investigation that no probable
24 cause exists for crediting the allegations of the complaint, such
25 commissioner, within 10 business days from such determination, shall
26 cause to be issued and served upon the complainant and respondent written
27 notice of such 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
31 designate, shall immediately endeavor to eliminate the unlawful
32 employment practice or the unlawful discriminatory practice complained
33 of by conference and conciliation. The complainant, respondent and
34 commission shall have 45 days from the date respondent is notified in
35 writing of a finding of probable cause to enter into a conciliation
36 agreement signed by all parties in interest. The parties may amend a
37 conciliation agreement at any time prior to the date of entering into such
38 agreement. Upon agreement by the parties the time for entering into such
39 agreement may be extended. The members of the commission and its staff
40 shall not disclose 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
3 complainant and the person, employer, labor organization, employment
4 agency, realtor or financial institution named in such complaint,
5 hereinafter referred to as respondent. A copy of the complaint shall be
6 served on the respondent. At least four commissioners or a presiding
7 officer from the office of administrative hearings shall be designated as the
8 presiding officer. The place of such hearing shall be in the county where
9 respondent 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 to
13 the proceeding at the hearing. Upon such application the presiding officer
14 shall issue such subpoena.

15 (h) The case in support of the complaint shall be presented before the
16 presiding officer by one of the commission's attorneys or agents, or by
17 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 of
23 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 the
27 complainant, if the commission has not issued a finding of probable cause
28 or no probable cause or taken other administrative action dismissing the
29 complaint within 300 days of the filing of the complaint. The commission
30 shall mail written notice to all parties of dismissal of a complaint within
31 five days of dismissal. Any such dismissal of a complaint in accordance
32 with this section shall constitute final action by the commission which
33 shall be deemed to exhaust all administrative remedies under the Kansas
34 act against discrimination for the purpose of allowing subsequent filing of
35 the matter in court by the complainant, without the requirement of filing a
36 petition for reconsideration pursuant to K.S.A. 44-1010, and amendments
37 thereto. Dismissal of a complaint in accordance with this section shall not
38 be subject to appeal or judicial review by any court under the provisions of
39 K.S.A. 44-1011, and amendments thereto. The provisions of this section
40 shall not apply to complaints alleging discriminatory housing practices
41 filed with the commission pursuant to K.S.A. 44-1015 et seq., and
42 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 counsel,
2 and submit testimony. The complainant shall appear at such hearing in
3 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 rules
7 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
13 employment practice or such unlawful discriminatory practice and to take
14 such affirmative action, including, but not limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) use of assistive technology;

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

31 (iv) learned behavioral or adaptive neurological modifications.

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

35 (C) As used in this subparagraph:

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

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

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

42 (1) For an employer, because of the race, religion, color, sex,
43 disability, national origin~~or~~, ancestry, *sexual orientation, gender identity*

1 *or expression or status as a veteran* of any person to:

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

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

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

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

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

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

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

32 (5) For an employment agency to:

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

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

43 (6) For an employer, labor organization, employment agency; or

1 school ~~which~~ *that* provides, coordinates or controls apprenticeship, on-the-
 2 job, or other training or retraining program, to:

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

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

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

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

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

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

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

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

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

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

43 (G) use qualification standards, employment tests or other selection

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

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

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

25 (1) For any person, as defined herein being the owner, operator,
26 lessee, 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, gender identity or expression or status as*
31 *a veteran*, except where a distinction because of sex is necessary because
32 of the intrinsic nature of such accommodation.

33 (2) For any person, whether or not specifically enjoined from
34 discriminating 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*
40 *orientation, gender identity or expression or status as a veteran* of such
41 persons in the full and equal use and enjoyment of the services, facilities,
42 privileges and advantages of any institution, department or agency of the
43 state of Kansas or any political subdivision or municipality thereof.

1 Sec. 8. 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~~ *that* is occupied or designed or
7 intended for occupancy; or any building or structure having a portion
8 thereof ~~which~~ *that* is occupied or designed or intended for occupancy.

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

10 (d) "Person" means an individual, corporation, partnership,
11 association, labor organization, legal representative, mutual company,
12 joint-stock company, trust, unincorporated organization, trustee, trustee in
13 bankruptcy, 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~~ *means the same as*
23 *defined in* K.S.A. 44-1002 and 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
27 individual 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*" means *actual, or perceived, male or female*
31 *heterosexuality, homosexuality or bisexuality by inclination, practice or*
32 *expression.*

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

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

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

42 (a) To refuse to sell or rent after the making of a bona fide offer, to
43 fail to transmit a bona fide offer or refuse to negotiate in good faith for the

1 sale or rental of, or otherwise make unavailable or deny, real property to
2 any person because of race, religion, color, sex, disability, familial status,
3 national origin—~~or~~, ancestry, *sexual orientation, gender identity or*
4 *expression or status as a veteran.*

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

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

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

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

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

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

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

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

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

1 after it is sold, rented or made available; or

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

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

7 (A) ~~That~~ *Such* person;

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

10 (C) any person associated with that person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (B) secured by real property.

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

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

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

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

1 service, organization or facility relating to the business of selling or renting
2 real property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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