

preferential treatment; discrimination; prohibited acts

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HOUSE CONCURRENT RESOLUTION 2044

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE II,
SECTION 36, CONSTITUTION OF ARIZONA; RELATING TO THE PROHIBITION OF
PREFERENTIAL TREATMENT AND DISCRIMINATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Article II, section 36, Constitution of Arizona, is proposed to
4 be amended as follows if approved by the voters and on proclamation of the
5 Governor:

6 36. Preferential treatment or discrimination
7 prohibited; exceptions; definition

8 Section 36. A. This state shall not DO ANY OF THE
9 FOLLOWING:

10 1. Grant preferential treatment to or discriminate
11 against any individual or group on the basis of race, sex,
12 color, ethnicity or national origin in the operation of public
13 employment, public education or public contracting.

14 2. COMPEL AN APPLICANT, EMPLOYEE, STUDENT OR CONTRACTOR
15 TO ENDORSE OR SUPPORT GIVING PREFERENTIAL TREATMENT TO OR
16 DISCRIMINATING AGAINST ANY INDIVIDUAL ON THE BASIS OF RACE OR
17 ETHNICITY AS A CONDITION OF ANY ADMISSION, GRADUATION, HIRING,
18 PROMOTION, CERTIFICATION OR CONTRACTING DECISION OR OTHER
19 EMPLOYMENT FUNCTION OR SCHOLARSHIP OPPORTUNITY.

20 3. SPEND PUBLIC MONIES TO OPERATE OR CONTRACT FOR ANY
21 OFFICE OR POSITION IN AN INSTITUTION OF PUBLIC EDUCATION THAT
22 IS RESPONSIBLE FOR PROMOTING PREFERENTIAL TREATMENT TOWARD OR
23 DISCRIMINATION AGAINST AN INDIVIDUAL OR GROUP ON THE BASIS OF
24 RACE OR ETHNICITY.

25 4. IMPLEMENT ANY DISCIPLINARY POLICY OR PRACTICE THAT
26 TREATS AN INDIVIDUAL STUDENT OR EMPLOYEE OR GROUP OF STUDENTS
27 OR EMPLOYEES DIFFERENTLY ON THE BASIS OF RACE OR ETHNICITY.

28 B. THE PROHIBITION IN SUBSECTION A, PARAGRAPH 2 OF THIS
29 SECTION REGARDING COMPELLING AN APPLICANT, EMPLOYEE, STUDENT OR
30 CONTRACTOR TO ENDORSE OR SUPPORT GIVING PREFERENTIAL TREATMENT
31 TO OR DISCRIMINATING AGAINST ANY INDIVIDUAL ON THE BASIS OF RACE
32 OR ETHNICITY INCLUDES ALL OF THE FOLLOWING:

33 1. REQUIRING OR SOLICITING A WRITTEN OR ORAL STATEMENT
34 IN SUPPORT OF ANY OF THE FOLLOWING:

35 (a) A THEORY OR PRACTICE THAT ADVOCATES FOR THE
36 DIFFERENTIAL TREATMENT OF ANY INDIVIDUAL OR GROUP OF INDIVIDUALS
37 ON THE BASIS OF RACE OR ETHNICITY.

38 (b) ANY FORMULATION OF RACE-BASED DIVERSITY, EQUITY AND
39 INCLUSION OR INTERSECTIONALITY IN CONTEMPORARY AMERICAN SOCIETY
40 BEYOND UPHOLDING THE EQUAL PROTECTION OF THE LAWS GUARANTEED BY
41 THE FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED
42 STATES.

43 (c) THE BELIEF THAT A RACIALLY NEUTRAL OR COLORBLIND LAW,
44 POLICY OR INSTITUTION PERPETUATES RACIAL OPPRESSION OR INJUSTICE
45 OR RACE-BASED PRIVILEGE IN CONTEMPORARY AMERICAN SOCIETY.

1 2. REQUIRING OR SOLICITING AN INDIVIDUAL TO CONFESS RACE-
2 BASED PRIVILEGE OR DISCUSS THE INDIVIDUAL'S RACE OR ETHNICITY
3 OR VIEWS ON OR EXPERIENCE WITH THE RACE OR ETHNICITY OF OTHERS.

4 3. GIVING PREFERABLE CONSIDERATION TO AN INDIVIDUAL FOR
5 AN OPINION EXPRESSED OR AN ACT TAKEN IN SUPPORT OF ANOTHER
6 INDIVIDUAL OR A GROUP OF INDIVIDUALS IF THE CONSIDERATION IS
7 BASED ON THE RACE OR ETHNICITY OF THOSE INDIVIDUALS.

8 4. REQUIRING ENROLLMENT IN, OR COMPLETION OF, ANY
9 TRAINING OR COURSE THAT PROMOTES ANY OF THE TENETS PRESCRIBED
10 IN PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION AND AS MAY BE
11 PRESCRIBED BY THE LEGISLATURE.

12 C. THE PROHIBITION IN SUBSECTION A, PARAGRAPH 3 OF THIS
13 SECTION REGARDING SPENDING PUBLIC MONIES TO OPERATE OR CONTRACT
14 FOR ANY OFFICE OR POSITION IN AN INSTITUTION OF PUBLIC EDUCATION
15 THAT IS RESPONSIBLE FOR PROMOTING PREFERENTIAL TREATMENT TOWARD
16 OR DISCRIMINATION AGAINST AN INDIVIDUAL OR GROUP ON THE BASIS
17 OF RACE OR ETHNICITY:

18 1. INCLUDES USING ANY APPROPRIATED MONIES OR ANY REVENUE
19 THAT IS DERIVED FROM ANY TAX, FEE, GRANT, TUITION, ENDOWMENT OR
20 DONATION OR ANY OTHER SOURCE THAT IS UNDER THE CONTROL OF THE
21 INSTITUTION OR THE INSTITUTION'S COMPONENT UNITS TO PROMOTE OR
22 PROMULGATE ANY OF THE FOLLOWING:

23 (a) AN EFFORT TO MANIPULATE OR OTHERWISE INFLUENCE THE
24 COMPOSITION OF THE FACULTY OR STUDENT BODY WITH REFERENCE TO
25 RACE, SEX OR ETHNICITY, APART FROM ENSURING COLORBLIND AND SEX-
26 NEUTRAL ADMISSIONS AND HIRING IN ACCORDANCE WITH STATE AND
27 FEDERAL ANTIDISCRIMINATION LAWS.

28 (b) THE DIFFERENTIAL TREATMENT OF OR THE PROVISION OF
29 SPECIAL BENEFITS TO INDIVIDUALS ON THE BASIS OF RACE OR
30 ETHNICITY.

31 (c) POLICIES OR PROCEDURES THAT ARE DESIGNED OR
32 IMPLEMENTED IN REFERENCE TO RACE OR ETHNICITY.

33 (d) TRAINING, PROGRAMMING OR ACTIVITIES THAT ARE
34 DESIGNED OR IMPLEMENTED WITH REFERENCE TO RACE, ETHNICITY,
35 INTERSECTIONALITY, GENDER IDENTITY OR SEXUAL ORIENTATION.

36 (e) RELATED PRACTICES OR CONCEPTS AS MAY BE PRESCRIBED
37 BY THE LEGISLATURE.

38 2. DOES NOT INCLUDE ANY OF THE FOLLOWING:

39 (a) ACADEMIC COURSE INSTRUCTION, RESEARCH OR CREATIVE
40 WORKS BY THE INSTITUTION'S STUDENTS, FACULTY OR OTHER RESEARCH
41 PERSONNEL AND THE DISSEMINATION OF THOSE ITEMS.

42 (b) ACTIVITIES OF REGISTERED STUDENT ORGANIZATIONS OR
43 ARRANGEMENTS FOR GUEST SPEAKERS AND PERFORMERS WITH SHORT-TERM
44 ENGAGEMENTS.

1 (c) MENTAL OR PHYSICAL HEALTH SERVICES THAT ARE PROVIDED
2 BY A LICENSED PROFESSIONAL.

3 ~~B.~~ D. This section does not:

4 1. Prohibit bona fide qualifications based on sex,
5 INCLUDING SEX-SPECIFIC SPACES OR DESIGNATIONS, that are
6 reasonably necessary to the normal operation of public
7 employment, public education or public contracting.

8 2. Prohibit action that must be taken to establish or
9 maintain eligibility for any federal program, if BOTH OF THE
10 FOLLOWING APPLY:

11 (a) Ineligibility would result in a loss of federal
12 monies to this state.

13 (b) THE ACTION THAT WOULD OTHERWISE BE PROHIBITED IS
14 LIMITED TO OUTREACH, ADVERTISING OR COMMUNICATION EFFORTS THAT
15 DO NOT MODIFY ANY APPLICATION CRITERION OR THE EVALUATION OF
16 ANY STUDENT, EMPLOYEE OR CANDIDATE.

17 3. Invalidate any court order or consent decree that is
18 in force as of ~~the effective date of this section~~ DECEMBER 14,
19 2010.

20 4. PROHIBIT A QUALIFICATION THAT IS BASED ON TRIBAL
21 MEMBERSHIP AS PART OF A PROGRAM ESTABLISHED TO SERVE MEMBERS OF
22 INDIAN TRIBES.

23 5. PROHIBIT DATA COLLECTION, ADVERTISING OR OUTREACH, AS
24 REQUIRED BY FEDERAL LAW.

25 6. PROHIBIT MENTAL OR PHYSICAL HEALTH SERVICES THAT ARE
26 PROVIDED BY A LICENSED PROFESSIONAL.

27 7. INCLUDE A TRAINING, PROGRAM OR ACTIVITY THAT IS
28 DEVELOPED BY AN ATTORNEY AND APPROVED IN WRITING BY THE
29 INSTITUTION'S GENERAL COUNSEL AND GOVERNING BOARD FOR THE SOLE
30 PURPOSE OF ENSURING COMPLIANCE WITH ANY APPLICABLE COURT ORDER
31 OR STATE OR FEDERAL ANTIDISCRIMINATION LAW.

32 8. PROHIBIT IDENTIFYING AND DISCUSSING HISTORICAL
33 MOVEMENTS, IDEOLOGIES OR INSTANCES OF RACIAL HATRED OR
34 DISCRIMINATION, INCLUDING SLAVERY, INDIAN REMOVAL, THE
35 HOLOCAUST OR JAPANESE-AMERICAN INTERNMENT.

36 9. PREVENT THIS STATE FROM EITHER DOING OR REQUIRING AN
37 APPLICANT, EMPLOYEE OR CONTRACTOR TO DO ANY OF THE FOLLOWING:

38 (a) DISCLOSE OR DISCUSS THE CONTENT OF THE INDIVIDUAL'S
39 SCHOLARLY RESEARCH OR CREATIVE WORKS.

40 (b) CERTIFY COMPLIANCE WITH STATE AND FEDERAL
41 ANTIDISCRIMINATION LAWS.

42 (c) IF EXPRESSLY REQUIRED BY FEDERAL LAW, CERTIFY THE
43 EXISTENCE OF AN AFFIRMATIVE ACTION PLAN THAT DOES NOT INCLUDE
44 PREFERENTIAL TREATMENT OF INDIVIDUALS ON THE BASIS OF RACE OR
45 ETHNICITY.

1 ~~E.~~ E. The remedies available for a violation of this
2 section are the same, regardless of the injured party's race,
3 sex, color, ethnicity or national origin, as are otherwise
4 available for a violation of the existing antidiscrimination
5 laws of this state.

6 ~~D.~~ F. This section applies only to actions that are
7 taken after ~~the effective date of this section~~ DECEMBER 14,
8 2010.

9 ~~E.~~ G. This section is self-executing.

10 ~~F.~~ H. For the purposes of this section, "state" includes
11 this state, a city, town or county, a public university,
12 including the university of Arizona, Arizona state university
13 and northern Arizona university, a community college district,
14 a school district, a special district or any other political
15 subdivision in this state.

16 2. The Secretary of State shall submit this proposition to the voters
17 at the next general election as provided by article XXI, Constitution of
18 Arizona.

PASSED BY THE HOUSE FEBRUARY 23, 2026.

PASSED BY THE SENATE JUNE 12, 2026.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 12, 2026.