

REFERENCE TITLE: **employment; housing; public accommodations; antidiscrimination**

State of Arizona
Senate
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Second Regular Session
2016

SB 1199

Introduced by

Senators Sherwood, Farley, Hobbs, McGuire, Meza, Miranda; Representatives Andrade, Benally, Bolding, Cardenas, Saldate, Velasquez; Senators Bradley, Contreras, Dalessandro, Pancrazi, Quezada; Representatives Clark, Friese, Gabaldón, Otondo, Rios

AN ACT

AMENDING SECTIONS 41-1441, 41-1442, 41-1461, 41-1463, 41-1464, 41-1481, 41-1491, 41-1491.05, 41-1491.14, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.20 AND 41-1491.21, ARIZONA REVISED STATUTES; RELATING TO CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1441, Arizona Revised Statutes, is amended to
3 read:

4 41-1441. Definitions

5 In this article, unless the context otherwise requires:

6 1. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY, APPEARANCE OR
7 MANNERISMS OR OTHER GENDER-RELATED CHARACTERISTICS OF AN INDIVIDUAL,
8 REGARDLESS OF THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH.

9 ~~1.~~ 2. "Person" means an individual, corporation, partnership,
10 unincorporated association, or other organization, and includes the owner,
11 lessee, operator, proprietor, manager, superintendent, agent, or employee of
12 any place of public accommodation.

13 ~~2.~~ 3. "Places of public accommodation" means all public places of
14 entertainment, amusement or recreation, all public places where food or
15 beverages are sold for consumption on the premises, all public places which
16 are conducted for the lodging of transients or for the benefit, use or
17 accommodation of those seeking health or recreation and all establishments
18 which cater or offer their services, facilities or goods to or solicit
19 patronage from the members of the general public. Any dwelling as defined in
20 section 41-1491, or any private club, or any place which is in its nature
21 distinctly private is not a place of public accommodation.

22 4. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
23 BISEXUALITY.

24 5. "VETERAN STATUS" MEANS HAVING SERVED ON ACTIVE DUTY IN THE ARMED
25 FORCES OF THE UNITED STATES.

26 Sec. 2. Section 41-1442, Arizona Revised Statutes, is amended to read:

27 41-1442. Discrimination in places of public accommodation:
28 exceptions

29 A. Discrimination in places of public accommodation against any person
30 because of race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY,
31 VETERAN STATUS, national origin or ancestry is contrary to the policy of this
32 state and shall be deemed unlawful.

33 B. No person, directly or indirectly, shall refuse to, withhold from
34 or deny to any person, nor aid in or incite the refusal to deny or withhold,
35 accommodations, advantages, facilities or privileges thereof because of race,
36 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS,
37 national origin or ancestry, nor shall distinction be made with respect to
38 any person based on race, color, religion, sex, SEXUAL ORIENTATION, GENDER
39 IDENTITY, VETERAN STATUS, national origin or ancestry in connection with the
40 price or quality of any item, goods or services offered by or at any place of
41 public accommodation.

42 C. Any person who is under the influence of alcohol or narcotics, who
43 is guilty of boisterous conduct, who is of lewd or immoral character, who is
44 physically violent or who violates any regulation of any place of public
45 accommodation that applies to all persons regardless of race, color,
46 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS, national

1 origin or ancestry may be excluded from any place of public accommodation and
2 nothing in this article shall be considered to limit the right of such
3 exclusion.

4 D. Notwithstanding any other provision of this article and except as
5 required by federal law, it is not an unlawful practice if a person fails to
6 provide a trained and competent bilingual person who is skilled in
7 interpreting a language other than English to assist a person who is seeking
8 services at a place of public accommodation. Notwithstanding any other
9 provision of this article and except as required by federal law, a person who
10 offers a service at a place of public accommodation is not required to
11 provide a person who is seeking the service any form or other documentation
12 in that person's native language.

13 E. It is not an unlawful practice pursuant to this section for a
14 person to fail to provide service at a place of public accommodation if by
15 providing the service the person offering the service would violate a state
16 or federal law or a rule that is adopted by a state or federal board,
17 commission or agency that has jurisdiction over the person offering the
18 service.

19 Sec. 3. Section 41-1461, Arizona Revised Statutes, is amended to read:
20 41-1461. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Auxiliary aids and services" includes:

23 (a) Qualified interpreters or other effective methods of making
24 aurally delivered materials available to individuals with hearing
25 impairments.

26 (b) Qualified readers, taped texts or other effective methods of
27 making visually delivered materials available to individuals with visual
28 impairments.

29 (c) Acquisition or modification of equipment or devices.

30 (d) Other similar services and actions.

31 2. "Being regarded as having such a physical or mental impairment":

32 (a) Means an individual who establishes that the individual has been
33 subjected to an action prohibited under this article because of an actual or
34 perceived physical or mental impairment whether or not the impairment limits
35 or is perceived to limit a major life activity.

36 (b) Does not mean an impairment that is transitory and minor. For the
37 purposes of this subdivision, "transitory impairment" means an impairment
38 with an actual or expected duration of six months or less.

39 3. "Covered entity" means an employer, employment agency, labor
40 organization or joint labor-management committee.

41 4. "Disability" means, with respect to an individual, except any
42 impairment caused by current use of illegal drugs, any of the following:

43 (a) A physical or mental impairment that substantially limits one or
44 more of the major life activities of the individual.

45 (b) A record of such a physical or mental impairment.

46 (c) Being regarded as having such a physical or mental impairment.

1 5. "Employee":

2 (a) Means an individual employed by an employer.

3 (b) Does not include an elected public official of this state or any
4 political subdivision of this state, any person chosen by an elected official
5 to be on the elected official's personal staff, an appointee on the
6 policymaking level or an immediate adviser with respect to the exercise of
7 the constitutional or legal powers of the office, unless the person or
8 appointee is subject to the civil service laws of this state or any political
9 subdivision of this state.

10 6. "Employer":

11 (a) Means a person who has fifteen or more employees for each working
12 day in each of twenty or more calendar weeks in the current or preceding
13 calendar year, and any agent of that person, except that to the extent that
14 any person is alleged to have committed any act of sexual harassment,
15 employer means, for purposes of administrative and civil actions regarding
16 those allegations of sexual harassment, a person who has one or more
17 employees in the current or preceding calendar year.

18 (b) Does not include either:

19 (i) The United States or any department or agency of the United
20 States, a corporation wholly owned by the government of the United States or
21 an Indian tribe.

22 (ii) A bona fide private membership club, other than a labor
23 organization, that is exempt from taxation under section 501(c) of the
24 internal revenue code of 1954.

25 7. "Employment agency" means any person regularly undertaking with or
26 without compensation to procure employees for an employer or to procure for
27 employees opportunities to work for an employer and includes an agent of that
28 person.

29 8. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY, APPEARANCE OR
30 MANNERISMS OR OTHER GENDER-RELATED CHARACTERISTICS OF AN INDIVIDUAL,
31 REGARDLESS OF THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH.

32 ~~8-~~ 9. "Labor organization":

33 (a) Means a labor organization and any agent of a labor organization.

34 (b) Includes:

35 (i) Any organization of any kind, any agency or employee
36 representation committee, group, association or plan in which fifteen or more
37 employees participate and that exists for the purpose, in whole or in part,
38 of dealing with employers concerning grievances, labor disputes, wages, rates
39 of pay, hours or other terms or conditions of employment.

40 (ii) Any conference, general committee, joint or system board or joint
41 council that is subordinate to a national or international labor
42 organization.

43 ~~9-~~ 10. "Major life activities" includes:

44 (a) Caring for oneself, performing manual tasks, seeing, hearing,
45 eating, sleeping, walking, standing, lifting, bending, speaking, breathing,
46 learning, reading, concentrating, thinking, communicating and working.

1 (b) The operation of a major bodily function, including functions of
2 the immune system, normal cell growth and digestive, bowel, bladder,
3 neurological, brain, respiratory, circulatory, endocrine and reproductive
4 functions.

5 ~~10-~~ 11. "Person" means one or more individuals, governmental
6 agencies, political subdivisions, labor unions, partnerships, associations,
7 corporations, legal representatives, mutual companies, joint-stock companies,
8 trusts, unincorporated organizations, trustees, trustees in bankruptcy or
9 receivers.

10 ~~11-~~ 12. "Qualified individual" means a person with a disability who,
11 with or without reasonable accommodation, is capable of performing the
12 essential functions of the employment position that the individual holds or
13 desires.

14 ~~12-~~ 13. "Reasonable accommodation" includes:

15 (a) Making existing facilities used by employees readily accessible to
16 and usable by individuals with disabilities.

17 (b) Job restructuring, part-time or modified work schedules,
18 reassignment to a vacant position, acquisition or modification of equipment
19 or devices, appropriate adjustment or modification of examinations, training
20 materials or policies, the provision of qualified readers, taped texts or
21 other effective methods of making visually delivered materials available to
22 individuals with visual impairments, the provision of auxiliary aids and
23 services or interpreters and other similar services and actions for
24 individuals with disabilities.

25 ~~13-~~ 14. "Religion" means all aspects of religious observance and
26 practice, as well as belief. Unlawful practices as prohibited by this
27 article include practices with respect to religion unless an employer
28 demonstrates that the employer is unable to reasonably accommodate ~~to~~ an
29 employee's or prospective employee's religious observance or practice without
30 undue hardship on the conduct of the employer's business.

31 15. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
32 BISEXUALITY.

33 ~~14-~~ 16. "Undue hardship":

34 (a) Means an action requiring significant difficulty or expense when
35 considered in light of the factors set forth in subdivision (b) of this
36 paragraph.

37 (b) When determining whether an accommodation would impose an undue
38 hardship on a covered entity, factors to be considered include:

39 (i) The nature and cost of the accommodations needed under this
40 article.

41 (ii) The overall financial resources of the facility or facilities
42 involved in the provision of the reasonable accommodation, the number of
43 persons employed at the facility, the effect on expenses and resources of the
44 facility and any other impact of the accommodation on the operation of the
45 facility.

1 (iii) The overall financial resources of the covered entity, the
2 overall size of the business of the covered entity with respect to the number
3 of its employees and the number, type and location of its facilities.

4 (iv) The type of operation or operations of the covered entity,
5 including the composition, structure and functions of the workforce of the
6 covered entity.

7 (v) The geographic separateness and the administrative or fiscal
8 relationship of the facility to the covered entity.

9 17. "VETERAN STATUS" MEANS HAVING SERVED ON ACTIVE DUTY IN THE ARMED
10 FORCES OF THE UNITED STATES.

11 Sec. 4. Section 41-1463, Arizona Revised Statutes, is amended to read:
12 41-1463. Discrimination; unlawful practices; definition

13 A. Nothing contained in this article shall be interpreted to require
14 that the less qualified be preferred over the better qualified simply because
15 of race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or
16 national origin or on the basis of disability OR VETERAN STATUS.

17 B. It is an unlawful employment practice for an employer:

18 1. To fail or refuse to hire or to discharge any individual or
19 otherwise to discriminate against any individual with respect to the
20 individual's compensation, terms, conditions or privileges of employment
21 because of the individual's race, color, religion, sex, SEXUAL ORIENTATION,
22 GENDER IDENTITY, age or national origin or on the basis of disability OR
23 VETERAN STATUS.

24 2. To limit, segregate or classify employees or applicants for
25 employment in any way ~~which~~ THAT would deprive or tend to deprive any
26 individual of employment opportunities or otherwise adversely affect the
27 individual's status as an employee, because of the individual's race, color,
28 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin or
29 on the basis of disability OR VETERAN STATUS.

30 3. To fail or refuse to hire, to discharge, or to otherwise
31 discriminate against any individual based on the results of a genetic test
32 received by the employer, notwithstanding subsection I, paragraph 2 of this
33 section.

34 C. It is an unlawful employment practice for an employment agency to
35 fail or refuse to refer for employment or otherwise to discriminate against
36 any individual because of the individual's race, color, religion, sex, SEXUAL
37 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
38 disability OR VETERAN STATUS or to classify or refer for employment any
39 individual on the basis of the individual's race, color, religion, sex,
40 SEXUAL ORIENTATION, age or national origin or on the basis of disability OR
41 VETERAN STATUS.

42 D. It is an unlawful employment practice for a labor organization:

43 1. To exclude or to expel from its membership or otherwise to
44 discriminate against any individual because of the individual's race, color,
45 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin or
46 on the basis of disability OR VETERAN STATUS.

1 2. To limit, segregate or classify its membership or applicants for
2 membership or to classify or fail or refuse to refer for employment any
3 individual in any way ~~which~~ THAT would deprive or tend to deprive the
4 individual of employment opportunities or would limit those employment
5 opportunities or otherwise adversely affect the individual's status as an
6 employee or as an applicant for employment because of the individual's race,
7 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national
8 origin or on the basis of disability OR VETERAN STATUS.

9 3. To cause or attempt to cause an employer to discriminate against an
10 individual in violation of this section.

11 E. It is an unlawful employment practice for any employer, labor
12 organization or joint labor-management committee controlling apprenticeship
13 or other training or retraining programs, including on-the-job training
14 programs, to discriminate against any individual because of the individual's
15 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or
16 national origin or on the basis of disability OR VETERAN STATUS in admission
17 to or employment in any program established to provide apprenticeship or
18 other training and, if the individual is an otherwise qualified individual,
19 to fail or refuse to reasonably accommodate the individual's disability.

20 F. With respect to a qualified individual, it is an unlawful
21 employment practice for a covered entity to:

22 1. Participate in any contractual or other arrangement or relationship
23 that has the effect of subjecting a qualified individual who applies with or
24 who is employed by the covered entity to unlawful employment discrimination
25 on the basis of disability.

26 2. Use standards, criteria or methods of administration that have the
27 effect of discriminating on the basis of disability or that perpetuate the
28 discrimination of others who are subject to common administrative control.

29 3. Exclude or otherwise deny equal jobs or benefits to an individual
30 qualified for the job or benefits because of the known disability of an
31 individual with whom the individual qualified for the job or benefits is
32 known to have a relationship or association.

33 4. Not make reasonable accommodations to the known physical or mental
34 limitations of an otherwise qualified individual who is an applicant or
35 employee unless the covered entity can demonstrate that the accommodation
36 would impose an undue hardship on the operation of the business of the
37 covered entity or the individual only meets the definition of disability as
38 prescribed in section 41-1461, paragraph 4, subdivision (c).

39 5. Deny employment opportunities to a job applicant or employee who is
40 an otherwise qualified individual if the denial is based on the need of the
41 covered entity to make reasonable accommodation to the physical or mental
42 impairment of the applicant or employee.

43 6. Use qualification standards, employment tests or other selection
44 criteria, including those based on an individual's uncorrected vision, that
45 screen out or tend to screen out an individual with a disability or a class
46 of individuals with disabilities, unless the standard, test or other

1 selection criteria, as used by the covered entity, is shown to be job related
2 for the position in question and is consistent with business necessity.

3 7. Fail to select and administer tests relating to employment in the
4 most effective manner to ensure that, when the test is administered to a job
5 applicant or employee who has a disability that impairs sensory, manual or
6 speaking skills, the test results accurately reflect the skills or aptitude
7 or whatever other factor of the applicant or employee that the test purports
8 to measure, rather than reflecting the impaired sensory, manual or speaking
9 skills of the applicant or employee, except if the skills are the factors
10 that the test purports to measure.

11 G. Notwithstanding any other provision of this article, it is not an
12 unlawful employment practice:

13 1. For an employer to hire and employ employees, for an employment
14 agency to classify or refer for employment any individual, for a labor
15 organization to classify its membership or classify or refer for employment
16 any individual, ~~or~~ or for an employer, labor organization or joint
17 labor-management committee controlling apprenticeship or other training or
18 retraining programs to admit or employ any individual in any such program, on
19 the basis of the individual's religion, sex or national origin in those
20 certain instances when religion, sex or national origin is a bona fide
21 occupational qualification reasonably necessary to the normal operation of
22 that particular business or enterprise, **PROVIDED THAT IF SEX IS A BONA FIDE
23 OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS QUALIFIED BASED ON
24 THEIR GENDER IDENTITY.**

25 2. For any school, college, university or other educational
26 institution or institution of learning to hire and employ employees of a
27 particular religion if the school, college, university or other educational
28 institution or institution of learning is in whole or in substantial part
29 owned, supported, controlled or managed by a particular religion or religious
30 corporation, association or society, or if the curriculum of the school,
31 college, university or other educational institution or institution of
32 learning is directed toward the propagation of a particular religion.

33 3. For an employer to fail or refuse to hire or employ any individual
34 for any position, for an employment agency to fail or refuse to refer any
35 individual for employment in any position or for a labor organization to fail
36 or refuse to refer any individual for employment in any position, if both of
37 the following apply:

38 (a) The occupancy of the position or access to the premises in or upon
39 which any part of the duties of the position are performed or are to be
40 performed is subject to any requirement imposed in the interest of the
41 national security of the United States under any security program in effect
42 pursuant to or administered under any statute of the United States or any
43 executive order of the president of the United States.

44 (b) The individual has not fulfilled or has ceased to fulfill that
45 requirement.

1 4. With respect to age, for an employer, employment agency or labor
2 organization:

3 (a) To take any action otherwise prohibited under subsection B, C or D
4 of this section if age is a bona fide occupational qualification reasonably
5 necessary to the normal operation of the particular business or if the
6 differentiation is based on reasonable factors other than age.

7 (b) To observe the terms of a bona fide seniority system or any bona
8 fide employee benefit plan such as a retirement, pension, deferred
9 compensation or insurance plan, which is not a subterfuge to evade the
10 purposes of the age discrimination provisions of this article, except that no
11 employee benefit plan may excuse the failure to hire any individual and no
12 seniority system or employee benefit plan may require or permit the
13 involuntary retirement of any individual specified by section 41-1465 because
14 of the individual's age.

15 (c) To discharge or otherwise discipline an individual for good cause.

16 H. As used in this article, unlawful employment practice does not
17 include any action or measure taken by an employer, labor organization, joint
18 labor-management committee or employment agency with respect to an individual
19 who is a member of the communist party of the United States or of any other
20 organization required to register as a communist-action or communist-front
21 organization by final order of the subversive activities control board
22 pursuant to the subversive activities control act of 1950.

23 I. Notwithstanding any other provision of this article, it is not an
24 unlawful employment practice:

25 1. For an employer to apply different standards of compensation or
26 different terms, conditions or privileges of employment pursuant to a bona
27 fide seniority or merit system or a system ~~which~~ THAT measures earnings by
28 quantity or quality of production or to employees who work in different
29 locations, provided that these differences are not the result of an intention
30 to discriminate because of race, color, religion, sex, **SEXUAL ORIENTATION,**
31 **GENDER IDENTITY, VETERAN STATUS** or national origin.

32 2. For an employer to give and act ~~upon~~ **ON** the results of any
33 professionally developed ability test provided that the test, its
34 administration or action upon the results is not designed, intended or used
35 to discriminate because of race, color, religion, sex, **SEXUAL ORIENTATION,**
36 **GENDER IDENTITY, VETERAN STATUS** or national origin.

37 3. For any employer to differentiate ~~upon~~ **ON** the basis of sex or
38 disability in determining the amount of the wages or compensation paid or to
39 be paid to employees of the employer if the differentiation is authorized by
40 the provisions of section 6(d) or section 14 of the fair labor standards act
41 of 1938, as amended (29 United States Code section 206(d)).

42 J. Nothing contained in this chapter applies to any business or
43 enterprise on or near an Indian reservation with respect to any publicly
44 announced employment practice of the business or enterprise under which a
45 preferential treatment is given to any individual because the individual is
46 an Indian living on or near a reservation.

1 K. Nothing contained in this article or article 6 of this chapter
2 requires any employer, employment agency, labor organization or joint
3 labor-management committee subject to this article to grant preferential
4 treatment to any individual or group because of the race, color, religion,
5 sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS or national origin
6 of the individual or group on account of an imbalance ~~which~~ THAT may exist
7 with respect to the total number or percentage of persons of any race, color,
8 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS or
9 national origin employed by any employer, referred or classified for
10 employment by any employment agency or labor organization, admitted to
11 membership or classified by any labor organization or admitted to or employed
12 in any apprenticeship or other training program, in comparison with the total
13 number or percentage of persons of that race, color, religion, sex, SEXUAL
14 ORIENTATION, GENDER IDENTITY, VETERAN STATUS or national origin in any
15 community, state, section or other area, or in the available ~~work-force~~
16 WORKFORCE in any community, state, section or other area.

17 L. Nothing in the age discrimination prohibitions of this article may
18 be construed to prohibit compulsory retirement of any employee who has
19 attained sixty-five years of age and who, for the two-year period immediately
20 before retirement, is employed in a bona fide executive or high policymaking
21 position, if the employee is entitled to an immediate nonforfeitable annual
22 retirement benefit from a pension, profit sharing, savings or deferred
23 compensation plan or any combination of plans of the employer for the
24 employee, ~~which~~ THAT equals, in the aggregate, at least forty-four thousand
25 dollars. In applying the retirement benefit test of this subsection, if any
26 retirement benefit is in a form other than a straight life annuity, with no
27 ancillary benefits, or if employees contribute to the plan or make rollover
28 contributions, the benefit shall be adjusted in accordance with rules adopted
29 by the division so the benefit is the equivalent of a straight life annuity,
30 with no ancillary benefits, under a plan to which employees do not contribute
31 and under which no rollover contributions are made.

32 M. A covered entity may require that an individual with a disability
33 shall not pose a direct threat to the health or safety of other individuals
34 in the workplace. For the purposes of this subsection, "direct threat" means
35 a significant risk to the health or safety of others that cannot be
36 eliminated by reasonable accommodation.

37 N. This article does not alter the standards for determining
38 eligibility for benefits under this state's workers' compensation laws or
39 under state and federal disability benefit programs.

40 O. For the purposes of this section and section 41-1481, with respect
41 to employers or employment practices involving a disability, "individual"
42 means a qualified individual.

1 Sec. 5. Section 41-1464, Arizona Revised Statutes, is amended to read:
 2 41-1464. Other unlawful employment practices: opposition to
 3 unlawful practices; filing of charges; participation
 4 in proceedings; notices and advertisements for
 5 employment

6 A. It is an unlawful employment practice for an employer to
 7 discriminate against any ~~of his~~ employees or applicants for employment, for
 8 an employment agency or joint labor-management committee controlling
 9 apprenticeship or other training or retraining programs, including on-the-job
 10 training programs, to discriminate against any individual or for a labor
 11 organization to discriminate against any member or applicant for membership
 12 because the member or applicant has opposed any practice ~~which~~ THAT is an
 13 unlawful employment practice under this article or has made a charge,
 14 testified, assisted or participated in any manner in an investigation,
 15 proceeding or hearing under article 6 of this chapter.

16 B. It is AN unlawful employment practice for an employer, labor
 17 organization, employment agency or joint labor-management committee
 18 controlling apprenticeship or other training or retraining programs,
 19 including on-the-job training programs, to print or publish or cause to be
 20 printed or published any notice or advertisement relating to employment by
 21 ~~such~~ an employer or membership in or any classification or referral for
 22 employment by ~~such~~ a labor organization, ~~or relating to~~ any classification or
 23 referral for employment by ~~such~~ an employment agency or ~~relating to~~ admission
 24 or ~~to~~ employment in any program established to provide apprenticeship or
 25 other training by ~~such~~ a joint labor-management committee indicating any
 26 preference, limitation, specification or discrimination based on race, color,
 27 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS or
 28 national origin, except that such a notice or advertisement may indicate a
 29 preference, limitation, specification or discrimination based on religion,
 30 sex or national origin when religion, sex or national origin is a bona fide
 31 occupational qualification for employment, PROVIDED THAT IF SEX IS A BONA
 32 FIDE OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS QUALIFIED BASED
 33 ON THEIR GENDER IDENTITY.

34 C. It is unlawful for an employer, labor organization or employment
 35 agency to print or publish or cause to be printed or published any notice or
 36 advertisement relating to employment by an employer or membership in or any
 37 classification or referral for employment by a labor organization ~~or relating~~
 38 ~~to any classification or referral for employment by a labor organization~~ or
 39 relating to any classification or referral for employment by an employment
 40 agency, indicating any preference, limitation, specification or
 41 discrimination based on age, except ~~such a~~ THAT THE notice or advertisement
 42 may indicate a preference, limitation, specification or discrimination based
 43 on age when age is a bona fide occupational qualification for employment.

1 Sec. 6. Section 41-1481, Arizona Revised Statutes, is amended to read:
2 41-1481. Filing charges; investigation; findings; conciliation;
3 compliance proceedings; appeals; attorney fees;
4 violation; classification

5 A. A charge under this section shall be filed within one hundred
6 eighty days after the alleged unlawful employment practice occurred. A
7 charge is deemed filed upon receipt by the division from or on behalf of a
8 person claiming to be aggrieved or, if filed by a member of the division,
9 when executed by such member upon oath or affirmation. A charge is deemed
10 filed by or on behalf of a person claiming to be aggrieved if received from
11 the United States equal employment opportunity commission. A charge shall be
12 in writing upon oath or affirmation and shall contain such information,
13 including the date, place and circumstances of the alleged unlawful
14 employment practice, and be in such form as the division requires. Charges
15 shall not be made public by the division.

16 B. Whenever a charge is filed by or on behalf of a person claiming to
17 be aggrieved or by a member of the division, referred to as the charging
18 party, alleging that an employer, employment agency, labor organization or
19 joint labor-management committee controlling apprenticeship or other training
20 or retraining programs, including on-the-job training programs, has engaged
21 in an unlawful employment practice, the division shall serve notice of and a
22 copy of the charge on such employer, employment agency, labor organization or
23 joint labor-management committee, referred to as the respondent, within ten
24 days and shall make an investigation of the charge. If the division
25 determines after such investigation that there is not reasonable cause to
26 believe that the charge is true, it shall enter an order determining the same
27 and dismissing the charge and shall notify the charging party and the
28 respondent of its action. If the division determines after such
29 investigation that there is reasonable cause to believe that the charge is
30 true, it shall enter an order containing its findings of fact and shall
31 endeavor to eliminate the alleged unlawful employment practice by informal
32 methods of conference, conciliation and persuasion. Any party to such
33 informal proceeding may be represented by counsel. Counsel need not be a
34 member of the state bar if he is licensed to practice law in any other state
35 or territory of the United States. Nothing said or done during and as a part
36 of such informal endeavors may be made public by the division or its officers
37 or employees or used as evidence in a subsequent proceeding without the
38 written consent of the persons concerned. If a civil action resulting from a
39 charge is commenced in any federal or state court, evidence collected by or
40 submitted to the division during the investigation of the charge and the
41 source of the evidence shall be subject to discovery by the parties to the
42 civil action. Any person who makes public information in violation of this
43 subsection is guilty of a class 1 misdemeanor. The division shall make its
44 determination on reasonable cause as promptly as possible and as far as
45 practicable not later than sixty days from the filing of the charge. If more
46 than two years have elapsed after the alleged unlawful employment practice

1 occurred, and if the charging party has received a notice of right to sue,
2 the division may cease investigation of a charge without reaching a
3 determination.

4 C. All conciliation agreements shall provide that the charging party
5 waives, releases and covenants not to sue the respondent or claim against the
6 respondent in any forum with respect to the matters which were alleged as
7 charges filed with the division, subject to performance by the respondent of
8 the promises and representations contained in the conciliation agreement.
9 The charging party or the respondent may prepare a conciliation agreement
10 which the division shall submit to the other party and which, if accepted by
11 the other party, shall be accepted by the division.

12 D. If within thirty days after the division has made a determination
13 that reasonable cause exists to believe that the charge is true the division
14 has not accepted a conciliation agreement to which the charging party and the
15 respondent are parties, the division may bring a civil action against the
16 respondent, other than the state, named in the charge. The charging party
17 shall have the right to intervene in a civil action brought by the
18 division. If a charge filed with the division pursuant to subsection A of
19 this section is dismissed by the division or if within ninety days from the
20 filing of such charge the division has not filed a civil action under this
21 section or has not entered into a conciliation agreement with the charging
22 party, the division shall so notify the charging party. Within ninety days
23 after the giving of such notice a civil action may be brought against the
24 respondent named in the charge by the charging party or, if such charge was
25 filed by a member of the division, by any person whom the charge alleges was
26 aggrieved by the alleged unlawful employment practice. In no event shall any
27 action be brought pursuant to this article more than one year after the
28 charge to which the action relates has been filed. Upon application by the
29 complainant and in such circumstances as the court may deem just, the court
30 may appoint an attorney for such complainant and may authorize the
31 commencement of the action without the payment of fees, costs or security.
32 Upon timely application, the court may in its discretion permit the division
33 to intervene in civil actions in which the state is not a defendant upon
34 certification that the case is of general public importance. Upon request
35 the court may stay further proceedings for not more than sixty days pending
36 the further efforts of the parties or the division to obtain voluntary
37 compliance.

38 E. Whenever a charge is filed with the division and the division
39 concludes on the basis of a preliminary investigation that prompt judicial
40 action is necessary to carry out the purposes of this article or article 4 of
41 this chapter, the division may bring an action for appropriate temporary or
42 preliminary relief pending final disposition of such charge. Any temporary
43 restraining order or other order granting preliminary or temporary relief
44 shall be issued in accordance with the supreme court rules of civil
45 procedure. The court having jurisdiction over such proceedings shall assign

1 such action for hearing at the earliest practicable date and cause the action
2 to be expedited in every way.

3 F. The court shall assign any action brought under this article for
4 hearing at the earliest practicable date and cause the action to be in every
5 way expedited. If the action has not been scheduled for trial within one
6 hundred twenty days after issue has been joined, the judge may appoint a
7 master pursuant to rule 53 of the supreme court rules of civil procedure.

8 G. If the court finds that the defendant has intentionally engaged in
9 or is intentionally engaging in an unlawful employment practice alleged in
10 the complaint, the court may enjoin the defendant from engaging in such
11 unlawful employment practice and order such affirmative action as may be
12 appropriate. Affirmative action may include, but is not limited to,
13 reinstatement or hiring of employees with or without back pay payable by the
14 employer, employment agency or labor organization responsible for the
15 unlawful employment practice or any other equitable relief as the court deems
16 appropriate. Back pay liability shall not accrue from a date more than two
17 years prior to the filing of the charge with the division. Interim earnings
18 or amounts earnable with reasonable diligence by the person or persons
19 discriminated against shall reduce the back pay otherwise allowable. No
20 order of the court shall require the admission or reinstatement of an
21 individual as a member of a union or the hiring, reinstatement or promotion
22 of an individual as an employee or the payment to him of any back pay if such
23 individual was refused admission, suspended or expelled or was refused
24 employment or advancement or was suspended or discharged for any reason other
25 than discrimination on account of race, color, religion, sex, **SEXUAL**
26 **ORIENTATION, GENDER IDENTITY**, age, disability, **VETERAN STATUS** or national
27 origin or a violation of section 41-1464.

28 H. In any case in which an employer, employment agency or labor
29 organization fails to comply with an order of a court issued in a civil
30 action brought under this section, a party to the action or the division upon
31 the written request of a person aggrieved by such failure may commence
32 proceedings to compel compliance with such order.

33 I. Any civil action brought under this section and any proceedings
34 brought under subsection H of this section are subject to appeal as provided
35 in sections 12-120.21, 12-120.22 and 12-120.24.

36 J. In any action or proceeding under this section the court may allow
37 the prevailing party, other than the division, a reasonable attorney's fee as
38 part of the costs.

39 Sec. 7. Section 41-1491, Arizona Revised Statutes, is amended to read:
40 **41-1491. Definitions**

41 In this article, unless the context otherwise requires:

42 1. "Aggrieved person" includes any person who either:

43 (a) Claims to have been injured by a discriminatory housing practice.

44 (b) Believes that he will be injured by a discriminatory housing
45 practice that is about to occur.

1 2. "Complainant" means a person, including the attorney general, who
2 files a complaint under section 41-1491.22.

3 3. "Conciliation" means the attempted resolution of issues raised by a
4 complaint or by the investigation of the complaint through informal
5 negotiations involving the aggrieved person, the respondent and the attorney
6 general.

7 4. "Conciliation agreement" means a written agreement setting forth
8 the resolution of the issues in conciliation.

9 5. "Disability" means a mental or physical impairment that
10 substantially limits at least one major life activity, a record of such an
11 impairment or being regarded as having such an impairment. Disability does
12 not include current illegal use of or addiction to any drug or illegal or
13 federally controlled substance. Disability shall be defined and construed as
14 the term is defined and construed by the Americans with disabilities act of
15 1990 (P.L. 101-336) and the ADA amendments act of 2008 (P.L. 110-325; 122
16 Stat. 3553).

17 6. "Discriminatory housing practice" means an act prohibited by
18 sections 41-1491.14 through 41-1491.21.

19 7. "Dwelling" means either:

20 (a) Any building, structure or part of a building or structure that is
21 occupied as, or designed or intended for occupancy as, a residence by one or
22 more families.

23 (b) Any vacant land that is offered for sale or lease for the
24 construction or location of a building, structure or part of a building or
25 structure described by subdivision (a) of this paragraph.

26 8. "Family" includes a single individual.

27 9. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY, APPEARANCE OR
28 MANNERISMS OR OTHER GENDER-RELATED CHARACTERISTICS OF AN INDIVIDUAL,
29 REGARDLESS OF THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH.

30 ~~9.~~ 10. "Person" means one or more individuals, corporations,
31 partnerships, associations, labor organizations, legal representatives,
32 mutual companies, joint stock companies, trusts, unincorporated
33 organizations, trustees, receivers, fiduciaries, banks, credit unions and
34 financial institutions.

35 ~~10.~~ 11. "Respondent" means either:

36 (a) The person accused of a violation of this article in a complaint
37 of a discriminatory housing practice.

38 (b) Any person identified as an additional or substitute respondent
39 under section 41-1491.25 or an agent of an additional or substitute
40 respondent.

41 12. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
42 BISEXUALITY.

43 ~~11.~~ 13. "To rent" includes to lease, to sublease, to let or to
44 otherwise grant for a consideration the right to occupy premises not owned by
45 the occupant.

1 14. "VETERAN STATUS" MEANS HAVING SERVED ON ACTIVE DUTY IN THE ARMED
2 FORCES OF THE UNITED STATES.

3 Sec. 8. Section 41-1491.05, Arizona Revised Statutes, is amended to
4 read:

5 41-1491.05. Appraisal exemption

6 This article does not prohibit a person engaged in the business of
7 furnishing appraisals of real property from taking into consideration factors
8 other than race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY,
9 disability, familial status, VETERAN STATUS or national origin.

10 Sec. 9. Section 41-1491.14, Arizona Revised Statutes, is amended to
11 read:

12 41-1491.14. Discrimination in sale or rental

13 A. A person may not refuse to sell or rent after a bona fide offer has
14 been made or refuse to negotiate for the sale or rental of or otherwise make
15 unavailable or deny a dwelling to any person because of race, color,
16 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, familial status, VETERAN
17 STATUS or national origin.

18 B. A person may not discriminate against any person in the terms,
19 conditions or privileges of sale or rental of a dwelling, or in providing
20 services or facilities in connection with the sale or rental, because of
21 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, familial
22 status, VETERAN STATUS or national origin.

23 C. This section does not prohibit discrimination against a person
24 because the person has been convicted under federal law or the law of any
25 state of the illegal manufacture or distribution of a controlled substance.

26 Sec. 10. Section 41-1491.15, Arizona Revised Statutes, is amended to
27 read:

28 41-1491.15. Publication of sales or rentals

29 A person may not make, print or publish or cause to be made, printed or
30 published any notice, statement or advertisement with respect to the sale or
31 rental of a dwelling that indicates any preference, limitation or
32 discrimination based on race, color, religion, sex, SEXUAL ORIENTATION,
33 GENDER IDENTITY, disability, familial status, VETERAN STATUS or national
34 origin or an intention to make such a preference, limitation or
35 discrimination.

36 Sec. 11. Section 41-1491.16, Arizona Revised Statutes, is amended to
37 read:

38 41-1491.16. Inspection of dwelling

39 A person may not represent to any person because of race, color,
40 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial
41 status, VETERAN STATUS or national origin that a dwelling is not available
42 for inspection for sale or rental if the dwelling is available for
43 inspection.

1 Sec. 12. Section 41-1491.17, Arizona Revised Statutes, is amended to
2 read:

3 41-1491.17. Entry into neighborhood

4 A person, for profit, may not induce or attempt to induce a person to
5 sell or rent a dwelling by representations regarding the entry or prospective
6 entry into a neighborhood of a person of a particular race, color, religion,
7 sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial status,
8 **VETERAN STATUS** or national origin.

9 Sec. 13. Section 41-1491.20, Arizona Revised Statutes, is amended to
10 read:

11 41-1491.20. Residential real estate related transaction:
12 definition

13 A. A person whose business includes engaging in residential real
14 estate related transactions may not discriminate against a person in making a
15 real estate related transaction available or in the terms or conditions of a
16 real estate related transaction because of race, color, religion, sex, **SEXUAL**
17 **ORIENTATION, GENDER IDENTITY**, disability, familial status, **VETERAN STATUS** or
18 national origin.

19 B. ~~It~~ **FOR THE PURPOSES OF** this section, "residential real estate
20 related transaction" means:

21 1. Making or purchasing loans or providing other financial assistance
22 either:

23 (a) To purchase, construct, improve, repair or maintain a dwelling.

24 (b) To secure residential real estate.

25 2. Selling, brokering or appraising residential real property.

26 Sec. 14. Section 41-1491.21, Arizona Revised Statutes, is amended to
27 read:

28 41-1491.21. Brokerage services

29 A person may not deny any person access to, or membership or
30 participation in, a multiple listing service, real estate brokers'
31 organization or other service, organization or facility relating to the
32 business of selling or renting dwellings or may not discriminate against a
33 person in the terms or conditions of access, membership or participation in
34 such an organization, service or facility because of race, color, religion,
35 sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial status,
36 **VETERAN STATUS** or national origin.