

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

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1249

Introduced by
Senators Brophy McGee: Bowie, Carter, Navarrete; Representative Hernandez
D

AN ACT

AMENDING SECTIONS 41-1402, 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 41-1402, Arizona Revised Statutes, is amended to
3 read:

4 41-1402. Powers and duties of the division

5 A. The division may:

6 1. Employ an executive director for the board and other necessary
7 personnel whose compensation shall be as determined pursuant to section
8 38-611.

9 2. Subject to the provisions and restrictions of this chapter,
10 cooperate with and enter into agreements with the United States equal
11 employment opportunity commission, the United States department of housing
12 and urban development and other United States agencies interested in
13 practices governed by this chapter, accept monies from those agencies and
14 carry out and perform the covenants and conditions of any written
15 agreement with those agencies not inconsistent with or beyond this
16 chapter.

17 3. Cooperate with and enter into agreements with state and local
18 agencies not inconsistent with or beyond this chapter.

19 4. Intervene in a civil action brought under section 41-1481 by a
20 complainant against a defendant other than the state.

21 5. After studying recommendations of the board, issue, amend or
22 rescind procedural rules to carry out this chapter.

23 6. Make periodic surveys of the existence and effect of
24 discrimination because of race, color, religion, sex, **SEXUAL ORIENTATION,**
25 **GENDER IDENTITY,** age, disability, familial status or national origin in
26 the enjoyment of civil rights by any person within this state as
27 prescribed by this chapter.

28 7. Foster, through community effort, in cooperation with both
29 public and private groups, the elimination of discrimination based on
30 race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY,** age,
31 disability, familial status or national origin.

32 8. Issue publications of results of studies, investigations and
33 research as in its judgment will tend to promote goodwill and the
34 elimination of discrimination between persons because of race, color,
35 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY,** age, disability,
36 familial status or national origin.

37 9. Furnish persons subject to this chapter with such assistance as
38 may be reasonably necessary to further compliance with this chapter.

39 B. The division shall:

40 1. Administer this chapter.

41 2. Report from time to time, but not less than once a year in
42 December, to the legislature and the governor, describing its activities
43 and accomplishments during the year, and file with each report a copy of
44 all recommendations of the division as to additional remedial action by
45 legislative enactment or otherwise.

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

3 41-1441. Definitions

4 In this article, unless the context otherwise requires:

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

8 ~~1.~~ 2. "Person" means an individual, corporation, partnership,
9 unincorporated association, or other organization, and includes the owner,
10 lessee, operator, proprietor, manager, superintendent, agent, ~~or~~ or employee
11 of any place of public accommodation.

12 ~~2.~~ 3. "Places of public accommodation" means all public places of
13 entertainment, amusement or recreation, all public places where food or
14 beverages are sold for consumption on the premises, all public places
15 ~~which~~ THAT are conducted for the lodging of transients or for the benefit,
16 use or accommodation of those seeking health or recreation and all
17 establishments ~~which~~ THAT cater or offer their services, facilities or
18 goods to or solicit patronage from the members of the general public. Any
19 dwelling as defined in section 41-1491, or any private club, or any place
20 ~~which~~ THAT is in its nature distinctly private is not a place of public
21 accommodation.

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

24 Sec. 3. Section 41-1442, Arizona Revised Statutes, is amended to
25 read:

26 41-1442. Discrimination in places of public accommodation;
27 exceptions

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

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

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

1 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
5 as required by federal law, it is not an unlawful practice if a person
6 fails to provide a trained and competent bilingual person who is skilled
7 in interpreting a language other than English to assist a person who is
8 seeking services at a place of public accommodation. Notwithstanding any
9 other provision of this article and except as required by federal law, a
10 person who offers a service at a place of public accommodation is not
11 required to provide a person who is seeking the service any form or other
12 documentation 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
16 state or federal law or a rule that is adopted by a state or federal
17 board, commission or agency that has jurisdiction over the person offering
18 the service.

19 Sec. 4. Section 41-1461, Arizona Revised Statutes, is amended to
20 read:

21 41-1461. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Auxiliary aids and services" includes:

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

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

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

31 (d) Other similar services and actions.

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

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

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

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

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

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

- 1 (b) A record of such a physical or mental impairment.
- 2 (c) Being regarded as having such a physical or mental impairment.
- 3 5. "Employee":
- 4 (a) Means an individual employed by an employer.
- 5 (b) Does not include an elected public official of this state or
- 6 any political subdivision of this state, any person chosen by an elected
- 7 official to be on the elected official's personal staff, an appointee on
- 8 the policymaking level or an immediate adviser with respect to the
- 9 exercise of the constitutional or legal powers of the office, unless the
- 10 person or appointee is subject to the civil service laws of this state or
- 11 any political subdivision of this state.
- 12 6. "Employer":
- 13 (a) Means a person who has fifteen or more employees for each
- 14 working day in each of twenty or more calendar weeks in the current or
- 15 preceding calendar year, and any agent of that person, except that to the
- 16 extent that any person is alleged to have committed any act of sexual
- 17 harassment, employer means, for purposes of administrative and civil
- 18 actions regarding those allegations of sexual harassment, a person who has
- 19 one or more employees in the current or preceding calendar year.
- 20 (b) Does not include either:
- 21 (i) The United States or any department or agency of the United
- 22 States, a corporation wholly owned by the government of the United States
- 23 or an Indian tribe.
- 24 (ii) A bona fide private membership club, other than a labor
- 25 organization, that is exempt from taxation under section 501(c) of the
- 26 internal revenue code of 1954.
- 27 7. "Employment agency" means any person regularly undertaking with
- 28 or without compensation to procure employees for an employer or to procure
- 29 for employees opportunities to work for an employer and includes an agent
- 30 of that person.
- 31 8. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY, APPEARANCE
- 32 OR MANNERISMS OR OTHER GENDER-RELATED CHARACTERISTICS OF AN INDIVIDUAL,
- 33 REGARDLESS OF THE INDIVIDUAL'S DESIGNATED SEX AT BIRTH.
- 34 ~~8.~~ 9. "Labor organization":
- 35 (a) Means a labor organization and any agent of a labor
- 36 organization.
- 37 (b) Includes:
- 38 (i) Any organization of any kind, any agency or employee
- 39 representation committee, group, association or plan in which fifteen or
- 40 more employees participate and that exists for the purpose, in whole or in
- 41 part, of dealing with employers concerning grievances, labor disputes,
- 42 wages, rates of pay, hours or other terms or conditions of employment.
- 43 (ii) Any conference, general committee, joint or system board or
- 44 joint council that is subordinate to a national or international labor
- 45 organization.

1 ~~9.~~ 10. "Major life activities" includes:

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

6 (b) The operation of a major bodily function, including functions
7 of the immune system, normal cell growth and digestive, bowel, bladder,
8 neurological, brain, respiratory, circulatory, endocrine and reproductive
9 functions.

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

15 ~~11.~~ 12. "Qualified individual" means a person with a disability
16 who, with or without reasonable accommodation, is capable of performing
17 the essential functions of the employment position that the individual
18 holds or desires.

19 ~~12.~~ 13. "Reasonable accommodation" includes:

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

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

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

36 15. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
37 BISEXUALITY.

38 ~~14.~~ 16. "Undue hardship":

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

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

44 (i) The nature and cost of the accommodations needed under this
45 article.

1 (ii) The overall financial resources of the facility or facilities
2 involved in the provision of the reasonable accommodation, the number of
3 persons employed at the facility, the effect on expenses and resources of
4 the facility and any other impact of the accommodation on the operation of
5 the facility.

6 (iii) The overall financial resources of the covered entity, the
7 overall size of the business of the covered entity with respect to the
8 number of its employees and the number, type and location of its
9 facilities.

10 (iv) The type of operation or operations of the covered entity,
11 including the composition, structure and functions of the workforce of the
12 covered entity.

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

15 Sec. 5. Section 41-1463, Arizona Revised Statutes, is amended to
16 read:

17 41-1463. Discrimination; unlawful practices; definition

18 A. Nothing contained in this article shall be interpreted to
19 require that the less qualified be preferred over the better qualified
20 simply because of race, color, religion, sex, SEXUAL ORIENTATION, GENDER
21 IDENTITY, age or national origin or on the basis of disability.

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

23 1. To fail or refuse to hire or to discharge any individual or
24 otherwise to discriminate against any individual with respect to the
25 individual's compensation, terms, conditions or privileges of employment
26 because of the individual's race, color, religion, sex, SEXUAL
27 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
28 disability.

29 2. To limit, segregate or classify employees or applicants for
30 employment in any way ~~which~~ THAT would deprive or tend to deprive any
31 individual of employment opportunities or otherwise adversely affect the
32 individual's status as an employee, because of the individual's race,
33 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national
34 origin or on the basis of disability.

35 3. To fail or refuse to hire, to discharge, ~~or~~ or to otherwise
36 discriminate against any individual based on the results of a genetic test
37 received by the employer, notwithstanding subsection I, paragraph 2 of
38 this section.

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

1 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
2 disability.

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

4 1. To exclude or to expel from its membership or otherwise to
5 discriminate against any individual because of the individual's race,
6 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national
7 origin or on the basis of disability.

8 2. To limit, segregate or classify its membership or applicants for
9 membership or to classify or fail or refuse to refer for employment any
10 individual in any way ~~which~~ THAT would deprive or tend to deprive the
11 individual of employment opportunities or would limit those employment
12 opportunities or otherwise adversely affect the individual's status as an
13 employee or as an applicant for employment because of the individual's
14 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or
15 national origin or on the basis of disability.

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

18 E. It is an unlawful employment practice for any employer, labor
19 organization or joint labor-management committee controlling
20 apprenticeship or other training or retraining programs, including
21 on-the-job training programs, to discriminate against any individual
22 because of the individual's race, color, religion, sex, SEXUAL
23 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
24 disability in admission to or employment in any program established to
25 provide apprenticeship or other training and, if the individual is an
26 otherwise qualified individual, to fail or refuse to reasonably
27 accommodate the individual's disability.

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

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

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

38 3. Exclude or otherwise deny equal jobs or benefits to an
39 individual qualified for the job or benefits because of the known
40 disability of an individual with whom the individual qualified for the job
41 or benefits is known to have a relationship or association.

42 4. Not make reasonable accommodations to the known physical or
43 mental limitations of an otherwise qualified individual who is an
44 applicant or employee unless the covered entity can demonstrate that the
45 accommodation would impose an undue hardship on the operation of the

1 business of the covered entity or the individual only meets the definition
2 of disability as prescribed in section 41-1461, paragraph 4,
3 subdivision (c).

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

8 6. Use qualification standards, employment tests or other selection
9 criteria, including those based on an individual's uncorrected vision,
10 that screen out or tend to screen out an individual with a disability or a
11 class of individuals with disabilities, unless the standard, test or other
12 selection criteria, as used by the covered entity, is shown to be job
13 related for the position in question and is consistent with business
14 necessity.

15 7. Fail to select and administer tests relating to employment in
16 the most effective manner to ensure that, when the test is administered to
17 a job applicant or employee who has a disability that impairs sensory,
18 manual or speaking skills, the test results accurately reflect the skills
19 or aptitude or whatever other factor of the applicant or employee that the
20 test purports to measure, rather than reflecting the impaired sensory,
21 manual or speaking skills of the applicant or employee, except if the
22 skills are the factors that the test purports to measure.

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

25 1. For an employer to hire and employ employees, for an employment
26 agency to classify or refer for employment any individual, for a labor
27 organization to classify its membership or classify or refer for
28 employment any individual, ~~or~~ or for an employer, labor organization or
29 joint labor-management committee controlling apprenticeship or other
30 training or retraining programs to admit or employ any individual in any
31 such program, on the basis of the individual's religion, sex or national
32 origin in those certain instances when religion, sex or national origin is
33 a bona fide occupational qualification reasonably necessary to the normal
34 operation of that particular business or enterprise, **PROVIDED THAT IF SEX
35 IS A BONA FIDE OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS
36 QUALIFIED BASED ON THEIR GENDER IDENTITY.**

37 2. For any school, college, university or other educational
38 institution or institution of learning to hire and employ employees of a
39 particular religion if the school, college, university or other
40 educational institution or institution of learning is in whole or in
41 substantial part owned, supported, controlled or managed by a particular
42 religion or religious corporation, association or society, or if the
43 curriculum of the school, college, university or other educational
44 institution or institution of learning is directed toward the propagation
45 of a particular religion.

1 3. For an employer to fail or refuse to hire or employ any
2 individual for any position, for an employment agency to fail or refuse to
3 refer any individual for employment in any position or for a labor
4 organization to fail or refuse to refer any individual for employment in
5 any position, if both of the following apply:

6 (a) The occupancy of the position or access to the premises in or
7 ~~upon~~ ON which any part of the duties of the position are performed or are
8 to be performed is subject to any requirement imposed in the interest of
9 the national security of the United States under any security program in
10 effect pursuant to or administered under any statute of the United States
11 or any executive order of the president of the United States.

12 (b) The individual has not fulfilled or has ceased to fulfill that
13 requirement.

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

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

20 (b) To observe the terms of a bona fide seniority system or any
21 bona fide employee benefit plan such as a retirement, pension, deferred
22 compensation or insurance plan, which is not a subterfuge to evade the
23 purposes of the age discrimination provisions of this article, except that
24 no employee benefit plan may excuse the failure to hire any individual and
25 no seniority system or employee benefit plan may require or permit the
26 involuntary retirement of any individual specified by section 41-1465
27 because of the individual's age.

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

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

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

39 1. For an employer to apply different standards of compensation or
40 different terms, conditions or privileges of employment pursuant to a bona
41 fide seniority or merit system or a system ~~which~~ THAT measures earnings by
42 quantity or quality of production or to employees who work in different
43 locations, provided that these differences are not the result of an
44 intention to discriminate because of race, color, religion, sex, **SEXUAL**
45 **ORIENTATION, GENDER IDENTITY** or national origin.

1 2. For an employer to give and act ~~upon~~ ON the results of any
2 professionally developed ability test provided that the test, its
3 administration or action ~~upon~~ ON the results is not designed, intended or
4 used to discriminate because of race, color, religion, sex, SEXUAL
5 ORIENTATION, GENDER IDENTITY or national origin.

6 3. For any employer to differentiate ~~upon~~ ON the basis of sex or
7 disability in determining the amount of the wages or compensation paid or
8 to be paid to employees of the employer if the differentiation is
9 authorized by the provisions of section 6(d) or section 14 of the fair
10 labor standards act of 1938, as amended (29 United States Code section
11 206(d)).

12 J. Nothing contained in this chapter applies to any business or
13 enterprise on or near an Indian reservation with respect to any publicly
14 announced employment practice of the business or enterprise under which a
15 preferential treatment is given to any individual because the individual
16 is an Indian living on or near a reservation.

17 K. Nothing contained in this article or article 6 of this chapter
18 requires any employer, employment agency, labor organization or joint
19 labor-management committee subject to this article to grant preferential
20 treatment to any individual or group because of the race, color, religion,
21 sex, SEXUAL ORIENTATION, GENDER IDENTITY or national origin of the
22 individual or group on account of an imbalance ~~which~~ THAT may exist with
23 respect to the total number or percentage of persons of any race, color,
24 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or national origin
25 employed by any employer, referred or classified for employment by any
26 employment agency or labor organization, admitted to membership or
27 classified by any labor organization or admitted to or employed in any
28 apprenticeship or other training program, in comparison with the total
29 number or percentage of persons of that race, color, religion, sex, SEXUAL
30 ORIENTATION, GENDER IDENTITY or national origin in any community, state,
31 section or other area, or in the available ~~work force~~ WORKFORCE in any
32 community, state, section or other area.

33 L. Nothing in the age discrimination prohibitions of this article
34 may be construed to prohibit compulsory retirement of any employee who has
35 attained sixty-five years of age and who, for the two-year period
36 immediately before retirement, is employed in a bona fide executive or
37 high policymaking position, if the employee is entitled to an immediate
38 nonforfeitable annual retirement benefit from a pension, profit sharing,
39 savings or deferred compensation plan or any combination of plans of the
40 employer for the employee, ~~which~~ THAT equals, in the aggregate, at least
41 ~~forty-four thousand dollars~~ \$44,000. In applying the retirement benefit
42 test of this subsection, if any retirement benefit is in a form other than
43 a straight life annuity, with no ancillary benefits, or if employees
44 contribute to the plan or make rollover contributions, the benefit shall
45 be adjusted in accordance with rules adopted by the division so the

1 benefit is the equivalent of a straight life annuity, with no ancillary
2 benefits, under a plan to which employees do not contribute and under
3 which no rollover contributions are made.

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

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

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

15 Sec. 6. Section 41-1464, Arizona Revised Statutes, is amended to
16 read:

17 41-1464. Other unlawful employment practices; opposition to
18 unlawful practices; filing of charges;
19 participation in proceedings; notices and
20 advertisements for employment

21 A. It is an unlawful employment practice for an employer to
22 discriminate against any ~~of his~~ employees or applicants for employment,
23 for an employment agency or joint labor-management committee controlling
24 apprenticeship or other training or retraining programs, including
25 on-the-job training programs, to discriminate against any individual or
26 for a labor organization to discriminate against any member or applicant
27 for membership because the member or applicant has opposed any practice
28 ~~which~~ THAT is an unlawful employment practice under this article or has
29 made a charge, testified, assisted or participated in any manner in an
30 investigation, proceeding or hearing under article 6 of this chapter.

31 B. It is AN unlawful employment practice for an employer, labor
32 organization, employment agency or joint labor-management committee
33 controlling apprenticeship or other training or retraining programs,
34 including on-the-job training programs, to print or publish or cause to be
35 printed or published any notice or advertisement relating to employment by
36 ~~such~~ an employer or membership in or any classification or referral for
37 employment by ~~such~~ a labor organization, ~~or relating to~~ any classification
38 or referral for employment by ~~such~~ an employment agency or ~~relating to~~
39 admission or ~~to~~ employment in any program established to provide
40 apprenticeship or other training by ~~such~~ a joint labor-management
41 committee indicating any preference, limitation, specification or
42 discrimination based on race, color, religion, sex, SEXUAL ORIENTATION,
43 GENDER IDENTITY or national origin, except that such a notice or
44 advertisement may indicate a preference, limitation, specification or
45 discrimination based on religion, sex or national origin when religion,

1 sex or national origin is a bona fide occupational qualification for
2 employment, PROVIDED THAT IF SEX IS A BONA FIDE OCCUPATIONAL QUALIFICATION
3 INDIVIDUALS ARE RECOGNIZED AS QUALIFIED BASED ON THEIR GENDER IDENTITY.

4 C. It is unlawful for an employer, labor organization or employment
5 agency to print or publish or cause to be printed or published any notice
6 or advertisement relating to employment by an employer or membership in or
7 any classification or referral for employment by a labor organization ~~or~~
8 ~~relating to any classification or referral for employment by a labor~~
9 ~~organization~~ or relating to any classification or referral for employment
10 by an employment agency, indicating any preference, limitation,
11 specification or discrimination based on age, except ~~such a~~ THAT THE
12 notice or advertisement may indicate a preference, limitation,
13 specification or discrimination based on age when age is a bona fide
14 occupational qualification for employment.

15 Sec. 7. Section 41-1481, Arizona Revised Statutes, is amended to
16 read:

17 41-1481. Filing charges; investigation; findings;
18 conciliation; compliance proceedings; appeals;
19 attorney fees; violation; classification

20 A. A charge under this section shall be filed within one hundred
21 eighty days after the alleged unlawful employment practice occurred. A
22 charge is deemed filed ~~upon~~ ON receipt by the division from or on behalf
23 of a person claiming to be aggrieved or, if filed by a member of the
24 division, when executed by such member ~~upon~~ ON oath or affirmation. A
25 charge is deemed filed by or on behalf of a person claiming to be
26 aggrieved if received from the United States equal employment opportunity
27 commission. A charge shall be in writing ~~upon~~ ON oath or affirmation and
28 shall contain such information, including the date, place and
29 circumstances of the alleged unlawful employment practice, and be in such
30 form as the division requires. Charges shall not be made public by the
31 division.

32 B. Whenever a charge is filed by or on behalf of a person claiming
33 to be aggrieved or by a member of the division, referred to as the
34 charging party, alleging that an employer, employment agency, labor
35 organization or joint labor-management committee controlling
36 apprenticeship or other training or retraining programs, including
37 on-the-job training programs, has engaged in an unlawful employment
38 practice, the division shall serve notice of and a copy of the charge on
39 such employer, employment agency, labor organization or joint
40 labor-management committee, referred to as the respondent, within ten days
41 and shall make an investigation of the charge. If the division determines
42 after such investigation that there is not reasonable cause to believe
43 that the charge is true, it shall enter an order determining the same and
44 dismissing the charge and shall notify the charging party and the
45 respondent of its action. If the division determines after such

1 investigation that there is reasonable cause to believe that the charge is
2 true, it shall enter an order containing its findings of fact and shall
3 endeavor to eliminate the alleged unlawful employment practice by informal
4 methods of conference, conciliation and persuasion. Any party to such
5 informal proceeding may be represented by counsel. Counsel need not be a
6 member of the state bar if he is licensed to practice law in any other
7 state or territory of the United States. Nothing said or done during and
8 as a part of such informal endeavors may be made public by the division or
9 its officers or employees or used as evidence in a subsequent proceeding
10 without the written consent of the persons concerned. If a civil action
11 resulting from a charge is commenced in any federal or state court,
12 evidence collected by or submitted to the division during the
13 investigation of the charge and the source of the evidence shall be
14 subject to discovery by the parties to the civil action. Any person who
15 makes public information in violation of this subsection is guilty of a
16 class 1 misdemeanor. The division shall make its determination on
17 reasonable cause as promptly as possible and as far as practicable not
18 later than sixty days ~~from~~ AFTER the filing of the charge. If more than
19 two years have elapsed after the alleged unlawful employment practice
20 occurred, and if the charging party has received a notice of right to sue,
21 the division may cease investigation of a charge without reaching a
22 determination.

23 C. All conciliation agreements shall provide that the charging
24 party waives, releases and covenants not to sue the respondent or claim
25 against the respondent in any forum with respect to the matters ~~which~~ THAT
26 were alleged as charges filed with the division, subject to performance by
27 the respondent of the promises and representations contained in the
28 conciliation agreement. The charging party or the respondent may prepare
29 a conciliation agreement ~~which~~ THAT the division shall submit to the other
30 party and ~~which~~ THAT, if accepted by the other party, shall be accepted by
31 the division.

32 D. If within thirty days after the division has made a
33 determination that reasonable cause exists to believe that the charge is
34 true the division has not accepted a conciliation agreement to which the
35 charging party and the respondent are parties, the division may bring a
36 civil action against the respondent, other than the state, named in the
37 charge. The charging party shall have the right to intervene in a civil
38 action brought by the division. If a charge filed with the division
39 pursuant to subsection A of this section is dismissed by the division or
40 if within ninety days ~~from~~ AFTER the filing of such charge the division
41 has not filed a civil action under this section or has not entered into a
42 conciliation agreement with the charging party, the division shall so
43 notify the charging party. Within ninety days after the giving of such
44 notice a civil action may be brought against the respondent named in the
45 charge by the charging party or, if such charge was filed by a member of

1 the division, by any person whom the charge alleges was aggrieved by the
2 alleged unlawful employment practice. In no event shall any action be
3 brought pursuant to this article more than one year after the charge to
4 which the action relates has been filed. ~~Upon~~ ON application by the
5 complainant and in such circumstances as the court may deem just, the
6 court may appoint an attorney for such complainant and may authorize the
7 commencement of the action without the payment of fees, costs or security.
8 ~~Upon~~ ON timely application, the court may in its discretion permit the
9 division to intervene in civil actions in which the state is not a
10 defendant ~~upon~~ ON certification that the case is of general public
11 importance. ~~Upon~~ ON request the court may stay further proceedings for
12 not more than sixty days pending the further efforts of the parties or the
13 division to obtain voluntary compliance.

14 E. Whenever a charge is filed with the division and the division
15 concludes on the basis of a preliminary investigation that prompt judicial
16 action is necessary to carry out the purposes of this article or article 4
17 of this chapter, the division may bring an action for appropriate
18 temporary or preliminary relief pending final disposition of such charge.
19 Any temporary restraining order or other order granting preliminary or
20 temporary relief shall be issued in accordance with the ~~supreme court~~
21 ARIZONA rules of civil procedure. The court having jurisdiction over such
22 proceedings shall assign such action for hearing at the earliest
23 practicable date and cause the action to be expedited in every way.

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

30 G. If the court finds that the defendant has intentionally engaged
31 in or is intentionally engaging in an unlawful employment practice alleged
32 in the complaint, the court may enjoin the defendant from engaging in such
33 unlawful employment practice and order such affirmative action as may be
34 appropriate. Affirmative action may include, but is not limited to,
35 reinstatement or hiring of employees with or without back pay payable by
36 the employer, employment agency or labor organization responsible for the
37 unlawful employment practice or any other equitable relief as the court
38 deems appropriate. Back pay liability shall not accrue from a date more
39 than two years ~~prior to~~ BEFORE the filing of the charge with the
40 division. Interim earnings or amounts earnable with reasonable diligence
41 by the person or persons discriminated against shall reduce the back pay
42 otherwise allowable. No order of the court shall require the admission or
43 reinstatement of an individual as a member of a union or the hiring,
44 reinstatement or promotion of an individual as an employee or the payment
45 to him of any back pay if such individual was refused admission, suspended

1 or expelled or was refused employment or advancement or was suspended or
2 discharged for any reason other than discrimination on account of race,
3 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age, disability
4 or national origin or a violation of section 41-1464.

5 H. In any case in which an employer, employment agency or labor
6 organization fails to comply with an order of a court issued in a civil
7 action brought under this section, a party to the action or the division
8 ~~upon~~ ON the written request of a person aggrieved by such failure may
9 commence proceedings to compel compliance with such order.

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

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

16 Sec. 8. Section 41-1491, Arizona Revised Statutes, is amended to
17 read:

18 **41-1491. Definitions**

19 In this article, unless the context otherwise requires:

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

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

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

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

27 3. "Conciliation" means the attempted resolution of issues raised
28 by a complaint or by the investigation of the complaint through informal
29 negotiations involving the aggrieved person, the respondent and the
30 attorney general.

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

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

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

1 7. "Dwelling" means either:

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

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

8 8. "Family" includes a single individual.

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

12 ~~9.~~ 10. "Person" means one or more individuals, corporations,
13 partnerships, associations, labor organizations, legal representatives,
14 mutual companies, joint stock companies, trusts, unincorporated
15 organizations, trustees, receivers, fiduciaries, banks, credit unions and
16 financial institutions.

17 ~~10.~~ 11. "Respondent" means either:

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

20 (b) Any person identified as an additional or substitute respondent
21 under section 41-1491.25 or an agent of an additional or substitute
22 respondent.

23 12. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
24 BISEXUALITY.

25 ~~11.~~ 13. "To rent" includes to lease, to sublease, to let or to
26 otherwise grant for a consideration the right to occupy premises not owned
27 by the occupant.

28 Sec. 9. Section 41-1491.05, Arizona Revised Statutes, is amended to
29 read:

30 41-1491.05. Appraisal exemption

31 This article does not prohibit a person engaged in the business of
32 furnishing appraisals of real property from taking into consideration
33 factors other than race, color, religion, sex, SEXUAL ORIENTATION, GENDER
34 IDENTITY, disability, familial status or national origin.

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

37 41-1491.14. Discrimination in sale or rental

38 A. A person may not refuse to sell or rent after a bona fide offer
39 has been made or refuse to negotiate for the sale or rental of or
40 otherwise make unavailable or deny a dwelling to any person because of
41 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, familial
42 status or national origin.

43 B. A person may not discriminate against any person in the terms,
44 conditions or privileges of sale or rental of a dwelling, or in providing
45 services or facilities in connection with the sale or rental, because of

1 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, familial
2 status or national origin.

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

7 Sec. 11. Section 41-1491.15, Arizona Revised Statutes, is amended
8 to read:

9 41-1491.15. Publication of sales or rentals

10 A person may not make, print or publish or cause to be made, printed
11 or published any notice, statement or advertisement with respect to the
12 sale or rental of a dwelling that indicates any preference, limitation or
13 discrimination based on race, color, religion, sex, SEXUAL ORIENTATION,
14 GENDER IDENTITY, disability, familial status or national origin or an
15 intention to make such a preference, limitation or discrimination.

16 Sec. 12. Section 41-1491.16, Arizona Revised Statutes, is amended
17 to read:

18 41-1491.16. Inspection of dwelling

19 A person may not represent to any person because of race, color,
20 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial
21 status or national origin that a dwelling is not available for inspection
22 for sale or rental if the dwelling is available for inspection.

23 Sec. 13. Section 41-1491.17, Arizona Revised Statutes, is amended
24 to read:

25 41-1491.17. Entry into neighborhood

26 A person, for profit, may not induce or attempt to induce a person
27 to sell or rent a dwelling by representations regarding the entry or
28 prospective entry into a neighborhood of a person of a particular race,
29 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability,
30 familial status or national origin.

31 Sec. 14. Section 41-1491.20, Arizona Revised Statutes, is amended
32 to read:

33 41-1491.20. Residential real estate related transaction;
34 definition

35 A. A person whose business includes engaging in residential real
36 estate related transactions may not discriminate against a person in
37 making a real estate related transaction available or in the terms or
38 conditions of a real estate related transaction because of race, color,
39 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial
40 status or national origin.

41 B. ~~It~~ FOR THE PURPOSES OF this section, "residential real estate
42 related transaction" means:

43 1. Making or purchasing loans or providing other financial
44 assistance either:

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

1 (b) To secure residential real estate.

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

3 Sec. 15. Section 41-1491.21, Arizona Revised Statutes, is amended
4 to read:

5 41-1491.21. Brokerage services

6 A person may not deny any person access to, or membership or
7 participation in, a multiple listing service, real estate brokers'
8 organization or other service, organization or facility relating to the
9 business of selling or renting dwellings or may not discriminate against a
10 person in the terms or conditions of access, membership or participation
11 in such an organization, service or facility because of race, color,
12 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial
13 status or national origin.