

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

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

SB 1389

Introduced by
Senators Alston: Bowie, Bradley, Contreras, Dalessandro, Gonzales, Mendez,
Navarrete, Otondo, Peshlakai, Quezada, Rios, Steele

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, VETERAN STATUS,** age, disability, familial status or
26 national origin in the enjoyment of civil rights by any person within this
27 state as 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, VETERAN**
31 **STATUS,** age, 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, VETERAN STATUS,** age,
36 disability, 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 5. "VETERAN STATUS" MEANS HAVING SERVED ON ACTIVE DUTY IN THE ARMED
25 FORCES OF THE UNITED STATES.

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

28 41-1442. Discrimination in places of public accommodation;
29 exceptions

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

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

44 C. Any person who is under the influence of alcohol or narcotics,
45 who is guilty of boisterous conduct, who is of lewd or immoral character,

1 who is physically violent or who violates any regulation of any place of
2 public accommodation that applies to all persons regardless of race,
3 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS,**
4 national origin or ancestry may be excluded from any place of public
5 accommodation and nothing in this article shall be considered to limit the
6 right of such exclusion.

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

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

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

24 **41-1461. Definitions**

25 In this article, unless the context otherwise requires:

26 1. "Auxiliary aids and services" includes:

27 (a) Qualified interpreters or other effective methods of making
28 aurally delivered materials available to individuals with hearing
29 impairments.

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

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

34 (d) Other similar services and actions.

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

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

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

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

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

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

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

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

7 5. "Employee":

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

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

16 6. "Employer":

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

24 (b) Does not include either:

25 (i) The United States or any department or agency of the United
26 States, a corporation wholly owned by the government of the United States
27 or an Indian tribe.

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

31 7. "Employment agency" means any person regularly undertaking with
32 or without compensation to procure employees for an employer or to procure
33 for employees opportunities to work for an employer and includes an agent
34 of that person.

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

38 ~~8.~~ 9. "Labor organization":

39 (a) Means a labor organization and any agent of a labor
40 organization.

41 (b) Includes:

42 (i) Any organization of any kind, any agency or employee
43 representation committee, group, association or plan in which fifteen or
44 more employees participate and that exists for the purpose, in whole or in

1 part, of dealing with employers concerning grievances, labor disputes,
2 wages, rates of pay, hours or other terms or conditions of employment.

3 (ii) Any conference, general committee, joint or system board or
4 joint council that is subordinate to a national or international labor
5 organization.

6 ~~9.~~ 10. "Major life activities" includes:

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

11 (b) The operation of a major bodily function, including functions
12 of the immune system, normal cell growth and digestive, bowel, bladder,
13 neurological, brain, respiratory, circulatory, endocrine and reproductive
14 functions.

15 ~~10.~~ 11. "Person" means one or more individuals, governmental
16 agencies, political subdivisions, labor unions, partnerships,
17 associations, corporations, legal representatives, mutual companies,
18 joint-stock companies, trusts, unincorporated organizations, trustees,
19 trustees in bankruptcy or receivers.

20 ~~11.~~ 12. "Qualified individual" means a person with a disability
21 who, with or without reasonable accommodation, is capable of performing
22 the essential functions of the employment position that the individual
23 holds or desires.

24 ~~12.~~ 13. "Reasonable accommodation" includes:

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

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

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

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

1 ~~14.~~ 16. "Undue hardship":

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

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

7 (i) The nature and cost of the accommodations needed under this
8 article.

9 (ii) The overall financial resources of the facility or facilities
10 involved in the provision of the reasonable accommodation, the number of
11 persons employed at the facility, the effect on expenses and resources of
12 the facility and any other impact of the accommodation on the operation of
13 the facility.

14 (iii) The overall financial resources of the covered entity, the
15 overall size of the business of the covered entity with respect to the
16 number of its employees and the number, type and location of its
17 facilities.

18 (iv) The type of operation or operations of the covered entity,
19 including the composition, structure and functions of the workforce of the
20 covered entity.

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

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

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

27 41-1463. Discrimination; unlawful practices; definition

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

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

34 1. To fail or refuse to hire or to discharge any individual or
35 otherwise to discriminate against any individual with respect to the
36 individual's compensation, terms, conditions or privileges of employment
37 because of the individual's race, color, religion, sex, SEXUAL
38 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
39 disability OR VETERAN STATUS.

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

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

5 C. It is an unlawful employment practice for an employment agency
6 to fail or refuse to refer for employment or otherwise to discriminate
7 against any individual because of the individual's race, color, religion,
8 sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin or on the
9 basis of disability OR VETERAN STATUS or to classify or refer for
10 employment any individual on the basis of the individual's race, color,
11 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin
12 or on the basis of disability OR VETERAN STATUS.

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

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

18 2. To limit, segregate or classify its membership or applicants for
19 membership or to classify or fail or refuse to refer for employment any
20 individual in any way which THAT would deprive or tend to deprive the
21 individual of employment opportunities or would limit those employment
22 opportunities or otherwise adversely affect the individual's status as an
23 employee or as an applicant for employment because of the individual's
24 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or
25 national origin or on the basis of disability OR VETERAN STATUS.

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

28 E. It is an unlawful employment practice for any employer, labor
29 organization or joint labor-management committee controlling
30 apprenticeship or other training or retraining programs, including
31 on-the-job training programs, to discriminate against any individual
32 because of the individual's race, color, religion, sex, SEXUAL
33 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
34 disability OR VETERAN STATUS in admission to or employment in any program
35 established to provide apprenticeship or other training and, if the
36 individual is an otherwise qualified individual, to fail or refuse to
37 reasonably accommodate the individual's disability.

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

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

44 2. Use standards, criteria or methods of administration that have
45 the effect of discriminating on the basis of disability or that perpetuate

1 the discrimination of others who are subject to common administrative
2 control.

3 3. Exclude or otherwise deny equal jobs or benefits to an
4 individual qualified for the job or benefits because of the known
5 disability of an individual with whom the individual qualified for the job
6 or benefits is known to have a relationship or association.

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

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

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

25 7. Fail to select and administer tests relating to employment in
26 the most effective manner to ensure that, when the test is administered to
27 a job applicant or employee who has a disability that impairs sensory,
28 manual or speaking skills, the test results accurately reflect the skills
29 or aptitude or whatever other factor of the applicant or employee that the
30 test purports to measure, rather than reflecting the impaired sensory,
31 manual or speaking skills of the applicant or employee, except if the
32 skills are the factors that the test purports to measure.

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

35 1. For an employer to hire and employ employees, for an employment
36 agency to classify or refer for employment any individual, for a labor
37 organization to classify its membership or classify or refer for
38 employment any individual, or for an employer, labor organization or
39 joint labor-management committee controlling apprenticeship or other
40 training or retraining programs to admit or employ any individual in any
41 such program, on the basis of the individual's religion, sex or national
42 origin in those certain instances when religion, sex or national origin is
43 a bona fide occupational qualification reasonably necessary to the normal
44 operation of that particular business or enterprise, PROVIDED THAT IF SEX

1 IS A BONA FIDE OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS
2 QUALIFIED BASED ON THEIR GENDER IDENTITY.

3 2. For any school, college, university or other educational
4 institution or institution of learning to hire and employ employees of a
5 particular religion if the school, college, university or other
6 educational institution or institution of learning is in whole or in
7 substantial part owned, supported, controlled or managed by a particular
8 religion or religious corporation, association or society, or if the
9 curriculum of the school, college, university or other educational
10 institution or institution of learning is directed toward the propagation
11 of a particular religion.

12 3. For an employer to fail or refuse to hire or employ any
13 individual for any position, for an employment agency to fail or refuse to
14 refer any individual for employment in any position or for a labor
15 organization to fail or refuse to refer any individual for employment in
16 any position, if both of the following apply:

17 (a) The occupancy of the position or access to the premises in or
18 ~~upon~~ ON which any part of the duties of the position are performed or are
19 to be performed is subject to any requirement imposed in the interest of
20 the national security of the United States under any security program in
21 effect pursuant to or administered under any statute of the United States
22 or any executive order of the president of the United States.

23 (b) The individual has not fulfilled or has ceased to fulfill that
24 requirement.

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

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

31 (b) To observe the terms of a bona fide seniority system or any
32 bona fide employee benefit plan such as a retirement, pension, deferred
33 compensation or insurance plan, which is not a subterfuge to evade the
34 purposes of the age discrimination provisions of this article, except that
35 no employee benefit plan may excuse the failure to hire any individual and
36 no seniority system or employee benefit plan may require or permit the
37 involuntary retirement of any individual specified by section 41-1465
38 because of the individual's age.

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

41 H. As used in this article, unlawful employment practice does not
42 include any action or measure taken by an employer, labor organization,
43 joint labor-management committee or employment agency with respect to an
44 individual who is a member of the communist party of the United States or
45 of any other organization required to register as a communist-action or

1 communist-front organization by final order of the subversive activities
2 control board pursuant to the subversive activities control act of 1950.

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

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

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

17 3. For any employer to differentiate ~~upon~~ ON the basis of sex or
18 disability in determining the amount of the wages or compensation paid or
19 to be paid to employees of the employer if the differentiation is
20 authorized by the provisions of section 6(d) or section 14 of the fair
21 labor standards act of 1938, as amended (29 United States Code section
22 206(d)).

23 J. Nothing contained in this chapter applies to any business or
24 enterprise on or near an Indian reservation with respect to any publicly
25 announced employment practice of the business or enterprise under which a
26 preferential treatment is given to any individual because the individual
27 is an Indian living on or near a reservation.

28 K. Nothing contained in this article or article 6 of this chapter
29 requires any employer, employment agency, labor organization or joint
30 labor-management committee subject to this article to grant preferential
31 treatment to any individual or group because of the race, color, religion,
32 sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS or national
33 origin of the individual or group on account of an imbalance ~~which~~ THAT
34 may exist with respect to the total number or percentage of persons of any
35 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN
36 STATUS or national origin employed by any employer, referred or classified
37 for employment by any employment agency or labor organization, admitted to
38 membership or classified by any labor organization or admitted to or
39 employed in any apprenticeship or other training program, in comparison
40 with the total number or percentage of persons of that race, color,
41 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, VETERAN STATUS or
42 national origin in any community, state, section or other area, or in the
43 available ~~work force~~ WORKFORCE in any community, state, section or other
44 area.

1 L. Nothing in the age discrimination prohibitions of this article
2 may be construed to prohibit compulsory retirement of any employee who has
3 attained sixty-five years of age and who, for the two-year period
4 immediately before retirement, is employed in a bona fide executive or
5 high policymaking position, if the employee is entitled to an immediate
6 nonforfeitable annual retirement benefit from a pension, profit sharing,
7 savings or deferred compensation plan or any combination of plans of the
8 employer for the employee, ~~which~~ THAT equals, in the aggregate, at least
9 ~~forty-four thousand dollars~~ \$44,000. In applying the retirement benefit
10 test of this subsection, if any retirement benefit is in a form other than
11 a straight life annuity, with no ancillary benefits, or if employees
12 contribute to the plan or make rollover contributions, the benefit shall
13 be adjusted in accordance with rules adopted by the division so the
14 benefit is the equivalent of a straight life annuity, with no ancillary
15 benefits, under a plan to which employees do not contribute and under
16 which no rollover contributions are made.

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

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

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

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

30 41-1464. Other unlawful employment practices; opposition to
31 unlawful practices; filing of charges;
32 participation in proceedings; notices and
33 advertisements for employment

34 A. It is an unlawful employment practice for an employer to
35 discriminate against any ~~of his~~ employees or applicants for employment,
36 for an employment agency or joint labor-management committee controlling
37 apprenticeship or other training or retraining programs, including
38 on-the-job training programs, to discriminate against any individual or
39 for a labor organization to discriminate against any member or applicant
40 for membership because the member or applicant has opposed any practice
41 ~~which~~ THAT is an unlawful employment practice under this article or has
42 made a charge, testified, assisted or participated in any manner in an
43 investigation, proceeding or hearing under article 6 of this chapter.

44 B. It is AN unlawful employment practice for an employer, labor
45 organization, employment agency or joint labor-management committee

1 controlling apprenticeship or other training or retraining programs,
2 including on-the-job training programs, to print or publish or cause to be
3 printed or published any notice or advertisement relating to employment by
4 ~~such~~ an employer or membership in or any classification or referral for
5 employment by ~~such~~ a labor organization, ~~or relating to~~ any classification
6 or referral for employment by ~~such~~ an employment agency or ~~relating to~~
7 admission or ~~to~~ employment in any program established to provide
8 apprenticeship or other training by ~~such~~ a joint labor-management
9 committee indicating any preference, limitation, specification or
10 discrimination based on race, color, religion, sex, SEXUAL ORIENTATION,
11 GENDER IDENTITY, VETERAN STATUS or national origin, except that such a
12 notice or advertisement may indicate a preference, limitation,
13 specification or discrimination based on religion, sex or national origin
14 when religion, sex or national origin is a bona fide occupational
15 qualification for employment, PROVIDED THAT IF SEX IS A BONA FIDE
16 OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS QUALIFIED BASED
17 ON THEIR GENDER IDENTITY.

18 C. It is unlawful for an employer, labor organization or employment
19 agency to print or publish or cause to be printed or published any notice
20 or advertisement relating to employment by an employer or membership in or
21 any classification or referral for employment by a labor organization ~~or~~
22 ~~relating to any classification or referral for employment by a labor~~
23 ~~organization~~ or relating to any classification or referral for employment
24 by an employment agency, indicating any preference, limitation,
25 specification or discrimination based on age, except ~~such a~~ THAT THE
26 notice or advertisement may indicate a preference, limitation,
27 specification or discrimination based on age when age is a bona fide
28 occupational qualification for employment.

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

31 41-1481. Filing charges; investigation; findings;
32 conciliation; compliance proceedings; appeals;
33 attorney fees; violation; classification

34 A. A charge under this section shall be filed within one hundred
35 eighty days after the alleged unlawful employment practice occurred. A
36 charge is deemed filed ~~upon~~ ON receipt by the division from or on behalf
37 of a person claiming to be aggrieved or, if filed by a member of the
38 division, when executed by such member ~~upon~~ ON oath or affirmation. A
39 charge is deemed filed by or on behalf of a person claiming to be
40 aggrieved if received from the United States equal employment opportunity
41 commission. A charge shall be in writing ~~upon~~ ON oath or affirmation and
42 shall contain such information, including the date, place and
43 circumstances of the alleged unlawful employment practice, and be in such
44 form as the division requires. Charges shall not be made public by the
45 division.

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

37 C. All conciliation agreements shall provide that the charging
38 party waives, releases and covenants not to sue the respondent or claim
39 against the respondent in any forum with respect to the matters ~~which~~ THAT
40 were alleged as charges filed with the division, subject to performance by
41 the respondent of the promises and representations contained in the
42 conciliation agreement. The charging party or the respondent may prepare
43 a conciliation agreement ~~which~~ THAT the division shall submit to the other
44 party and ~~which~~ THAT, if accepted by the other party, shall be accepted by
45 the division.

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

28 E. Whenever a charge is filed with the division and the division
 29 concludes on the basis of a preliminary investigation that prompt judicial
 30 action is necessary to carry out the purposes of this article or article 4
 31 of this chapter, the division may bring an action for appropriate
 32 temporary or preliminary relief pending final disposition of such charge.
 33 Any temporary restraining order or other order granting preliminary or
 34 temporary relief shall be issued in accordance with the ~~supreme court~~
 35 ARIZONA rules of civil procedure. The court having jurisdiction over such
 36 proceedings shall assign such action for hearing at the earliest
 37 practicable date and cause the action to be expedited in every way.

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

44 G. If the court finds that the defendant has intentionally engaged
 45 in or is intentionally engaging in an unlawful employment practice alleged

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

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

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

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

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

33 41-1491. Definitions

34 In this article, unless the context otherwise requires:

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

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

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

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

42 3. "Conciliation" means the attempted resolution of issues raised
43 by a complaint or by the investigation of the complaint through informal
44 negotiations involving the aggrieved person, the respondent and the
45 attorney general.

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

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

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

13 7. "Dwelling" means either:

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

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

20 8. "Family" includes a single individual.

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

24 ~~9.~~ 10. "Person" means one or more individuals, corporations,
25 partnerships, associations, labor organizations, legal representatives,
26 mutual companies, joint stock companies, trusts, unincorporated
27 organizations, trustees, receivers, fiduciaries, banks, credit unions and
28 financial institutions.

29 ~~10.~~ 11. "Respondent" means either:

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

32 (b) Any person identified as an additional or substitute respondent
33 under section 41-1491.25 or an agent of an additional or substitute
34 respondent.

35 12. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
36 BISEXUALITY.

37 ~~11.~~ 13. "To rent" includes to lease, to sublease, to let or to
38 otherwise grant for a consideration the right to occupy premises not owned
39 by the occupant.

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

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

3 41-1491.05. Appraisal exemption

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

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

10 41-1491.14. Discrimination in sale or rental

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

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

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

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

27 41-1491.15. Publication of sales or rentals

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

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

37 41-1491.16. Inspection of dwelling

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

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

3 41-1491.17. Entry into neighborhood

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

9 Sec. 14. Section 41-1491.20, Arizona Revised Statutes, is amended
10 to 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
15 making a real estate related transaction available or in the terms or
16 conditions of a real estate related transaction because of race, color,
17 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial
18 status, **VETERAN STATUS** or 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
22 assistance 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. 15. Section 41-1491.21, Arizona Revised Statutes, is amended
27 to 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
34 in such an organization, service or facility because of race, color,
35 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial
36 status, **VETERAN STATUS** or national origin.