

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

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## **HB 2703**

Introduced by  
Representative Cano

### **AN ACT**

AMENDING SECTIONS 41-1402, 41-1441, 41-1442, 41-1444, 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 AND  
6 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED  
7 CHARACTERISTICS, OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S  
8 DESIGNATED SEX AT BIRTH.

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

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

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

25           41-1442. Discrimination in places of public accommodation;  
26 exceptions

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

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

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

1 nothing in this article shall be considered to limit the right of such  
2 exclusion.

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

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

18 Sec. 4. Section 41-1444, Arizona Revised Statutes, is amended to  
19 read:

20 41-1444. Changing stations; public buildings; definitions

21 A. A public entity that constructs a new restroom that is  
22 accessible to the public in a public building or that totally renovates an  
23 existing restroom ~~that is accessible to both men and women and to the~~  
24 ~~public in a public building~~ shall:

25 1. DESIGNATE ALL SINGLE-OCCUPANCY RESTROOM FACILITIES AS  
26 GENDER-NEUTRAL RESTROOMS.

27 ~~1.~~ 2. Include in EACH BUILDING at least one restroom ~~in each~~  
28 ~~building at least one~~ THAT IS ACCESSIBLE TO ANY PERSON REGARDLESS OF  
29 GENDER AND THAT CONTAINS A changing station that is capable of serving  
30 both a baby and an adult ~~and that is accessible to both men and women.~~

31 ~~2.~~ 3. Provide signage at or near the entrance to the changing  
32 station indicating the location of the changing station.

33 ~~3.~~ 4. Indicate the location of the changing station in the central  
34 building directory, if such a directory exists.

35 B. The responsible authority may grant an exemption from the  
36 requirements of this section if the responsible authority determines that:

37 1. Any of the following would apply to the installation of a  
38 changing station that is capable of serving both a baby and an adult:

39 (a) The installation would not be feasible.

40 (b) The installation would result in a failure to comply with the  
41 Americans with disabilities act standards for access for persons with  
42 disabilities.

43 (c) The installation would threaten or destroy the historic  
44 significance of a historic property.

45 2. The public building is not frequented by the public.

1 C. The installation of a changing station under this section must  
2 provide sufficient clear floor space to comply with the requirements of  
3 the 2010 Americans with disabilities act standards for accessible design.

4 D. This section does not establish a private right of action.

5 E. For the purposes of this section:

6 1. "Public building" means a building or appurtenance to a building  
7 that is built in whole or in part with public monies.

8 2. "Public entity" means any:

9 (a) State or local government.

10 (b) Department, agency, special purpose district or other  
11 instrumentality of a state or local government, including the legislature.

12 3. "Responsible authority" means an organization, office or  
13 individual responsible for enforcing the requirements of a code or  
14 standard or for approving equipment, materials, an installation or a  
15 procedure.

16 4. "Totally renovates" means to perform construction that is at  
17 least \$50,000 and that totally removes all nonstructural interior walls,  
18 floor and ceiling finishes, mechanical systems, electrical systems and  
19 plumbing fixtures and supply and waste lines.

20 5. "2010 Americans with disabilities act standards for accessible  
21 design" means the 2010 standards for state and local government facilities  
22 prescribed in 28 Code of Federal Regulations section 35.151 and 36 Code of  
23 Federal Regulations part 1191, appendices B and D.

24 Sec. 5. Section 41-1461, Arizona Revised Statutes, is amended to  
25 read:

26 41-1461. Definitions

27 In this article, unless the context otherwise requires:

28 1. "Auxiliary aids and services" includes:

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

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

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

36 (d) Other similar services and actions.

37 2. "Because of sex" and "on the basis of sex" includes because of  
38 or on the basis of pregnancy or childbirth or related medical conditions.

39 3. "Being regarded as having such a physical or mental impairment":

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

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

4 4. "Covered entity" means an employer, employment agency, labor  
5 organization or joint labor-management committee.

6 5. "Disability" means, with respect to an individual, except any  
7 impairment caused by current use of illegal drugs, any of the following:

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

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

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

12 6. "Employee":

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

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

21 7. "Employer":

22 (a) Means a person who has fifteen or more employees for each  
23 working day in each of twenty or more calendar weeks in the current or  
24 preceding calendar year and any agent of that person or a person who has  
25 one or more employees in the current or preceding calendar year and any  
26 agent of that person, to the extent that the person is alleged to have:

27 (i) Committed any act of sexual harassment.

28 (ii) Discriminated against anyone for opposing sexual harassment or  
29 making a charge, testifying, assisting or participating in any manner in  
30 an investigation, proceeding or hearing arising from sexual harassment.

31 (b) Does not include either:

32 (i) The United States or any department or agency of the United  
33 States, a corporation wholly owned by the government of the United States  
34 or an Indian tribe.

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

38 8. "Employment agency" means any person regularly undertaking with  
39 or without compensation to procure employees for an employer or to procure  
40 for employees opportunities to work for an employer and includes an agent  
41 of that person.

42 9. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY AND  
43 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED  
44 CHARACTERISTICS, OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S  
45 DESIGNATED SEX AT BIRTH.

1           ~~9.~~ 10. "Labor organization":  
2           (a) Means a labor organization and any agent of a labor  
3 organization.  
4           (b) Includes:  
5           (i) Any organization of any kind, any agency or employee  
6 representation committee, group, association or plan in which fifteen or  
7 more employees participate and that exists for the purpose, in whole or in  
8 part, of dealing with employers concerning grievances, labor disputes,  
9 wages, rates of pay, hours or other terms or conditions of employment.  
10          (ii) Any conference, general committee, joint or system board or  
11 joint council that is subordinate to a national or international labor  
12 organization.  
13          ~~10.~~ 11. "Major life activities" includes:  
14          (a) Caring for oneself, performing manual tasks, seeing, hearing,  
15 eating, sleeping, walking, standing, lifting, bending, speaking,  
16 breathing, learning, reading, concentrating, thinking, communicating and  
17 working.  
18          (b) The operation of a major bodily function, including functions  
19 of the immune system, normal cell growth and digestive, bowel, bladder,  
20 neurological, brain, respiratory, circulatory, endocrine and reproductive  
21 functions.  
22          ~~11.~~ 12. "Person" means one or more individuals, governmental  
23 agencies, political subdivisions, labor unions, partnerships,  
24 associations, corporations, legal representatives, mutual companies,  
25 joint-stock companies, trusts, unincorporated organizations, trustees,  
26 trustees in bankruptcy or receivers.  
27          ~~12.~~ 13. "Qualified individual" means a person with a disability  
28 who, with or without reasonable accommodation, is capable of performing  
29 the essential functions of the employment position that the individual  
30 holds or desires.  
31          ~~13.~~ 14. "Reasonable accommodation" includes:  
32          (a) Making existing facilities used by employees readily accessible  
33 to and usable by individuals with disabilities.  
34          (b) Job restructuring, part-time or modified work schedules,  
35 reassignment to a vacant position, acquisition or modification of  
36 equipment or devices, appropriate adjustment or modification of  
37 examinations, training materials or policies, the provision of qualified  
38 readers, taped texts or other effective methods of making visually  
39 delivered materials available to individuals with visual impairments, the  
40 provision of auxiliary aids and services or interpreters and other similar  
41 services and actions for individuals with disabilities.  
42          ~~14.~~ 15. "Religion" means all aspects of religious observance and  
43 practice, as well as belief. Unlawful practices as prohibited by this  
44 article include practices with respect to religion unless an employer  
45 demonstrates that the employer is unable, AFTER INITIATING AND ENGAGING IN

1 AN AFFIRMATIVE AND BONA FIDE EFFORT, to reasonably accommodate an  
2 employee's or prospective employee's religious observance or practice  
3 without undue hardship on the conduct of the employer's business.

4 ~~15.~~ 16. "Undue hardship":

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

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

10 (i) The nature and cost of the accommodations needed under this  
11 article.

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

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

21 (iv) The type of operation or operations of the covered entity,  
22 including the composition, structure and functions of the workforce of the  
23 covered entity.

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

26 (vi) THAT AN EMPLOYER SHALL NOT BE REQUIRED TO PROVIDE AN  
27 ACCOMMODATION THAT WILL RESULT IN THE VIOLATION OF FEDERAL OR STATE LAW,  
28 INCLUDING THE DENIAL OF EQUAL TREATMENT IN A PUBLIC ACCOMMODATION, OR  
29 RESULT IN LIABILITY FOR A HOSTILE WORK ENVIRONMENT.

30 Sec. 6. Section 41-1463, Arizona Revised Statutes, is amended to  
31 read:

32 ~~41-1463.~~ Discrimination; unlawful practices; definition

33 A. ~~Nothing contained in~~ This article shall NOT be interpreted to  
34 require that the less qualified be preferred over the better qualified  
35 simply because of race, color, religion, sex, SEXUAL ORIENTATION, GENDER  
36 IDENTITY, age or national origin or on the basis of disability.

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

38 1. To fail or refuse to hire or to discharge any individual or  
39 otherwise to discriminate against any individual with respect to the  
40 individual's compensation, terms, conditions or privileges of employment  
41 because of the individual's race, color, religion, sex, SEXUAL  
42 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of  
43 disability.

44 2. To limit, segregate or classify employees or applicants for  
45 employment in any way that would deprive or tend to deprive any individual



1 of employment opportunities or otherwise adversely affect the individual's  
2 status as an employee, because of the individual's race, color, religion,  
3 sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age or national origin or on the  
4 basis of disability.

5 3. To fail or refuse to hire, to discharge or to otherwise  
6 discriminate against any individual based on the results of a genetic test  
7 received by the employer, notwithstanding subsection ~~J~~ K, paragraph 2 of  
8 this section.

9 **C. THE DENIAL OF ACCESS TO A SHARED FACILITY IS A FORM OF**  
10 **DISCRIMINATION AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.**

11 ~~C~~ D. It is an unlawful employment practice for an employment  
12 agency to fail or refuse to refer for employment or otherwise to  
13 discriminate against any individual because of the individual's race,  
14 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age or national  
15 origin or on the basis of disability or to classify or refer for  
16 employment any individual on the basis of the individual's race, color,  
17 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age or national origin  
18 or on the basis of disability.

19 ~~D~~ E. It is an unlawful employment practice for a labor  
20 organization:

21 1. To exclude or to expel from its membership or otherwise to  
22 discriminate against any individual because of the individual's race,  
23 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age or national  
24 origin or on the basis of disability.

25 2. To limit, segregate or classify its membership or applicants for  
26 membership or to classify or fail or refuse to refer for employment any  
27 individual in any way that would deprive or tend to deprive the individual  
28 of employment opportunities or would limit those employment opportunities  
29 or otherwise adversely affect the individual's status as an employee or as  
30 an applicant for employment because of the individual's race, color,  
31 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, age or national origin  
32 or on the basis of disability.

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

35 ~~E~~ F. It is an unlawful employment practice for any employer,  
36 labor organization 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  
39 because of the individual's race, color, religion, sex, **SEXUAL**  
40 **ORIENTATION, GENDER IDENTITY**, age or national origin or on the basis of  
41 disability in admission to or employment in any program established to  
42 provide apprenticeship or other training and, if the individual is an  
43 otherwise qualified individual, to fail or refuse to reasonably  
44 accommodate the individual's disability.

1 ~~F.~~ G. With respect to a qualified individual, it is an unlawful  
2 employment practice for a covered entity to:

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

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

11 3. Exclude or otherwise deny equal jobs or benefits to an  
12 individual qualified for the job or benefits because of the known  
13 disability of an individual with whom the individual qualified for the job  
14 or benefits is known to have a relationship or association.

15 4. Not make reasonable accommodations to the known physical or  
16 mental limitations of an otherwise qualified individual who is an  
17 applicant or employee unless the covered entity can demonstrate that the  
18 accommodation would impose an undue hardship on the operation of the  
19 business of the covered entity or the individual only meets the definition  
20 of disability as prescribed in section 41-1461, paragraph 5,  
21 subdivision (c).

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

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

33 7. Fail to select and administer tests relating to employment in  
34 the most effective manner to ensure that, when the test is administered to  
35 a job applicant or employee who has a disability that impairs sensory,  
36 manual or speaking skills, the test results accurately reflect the skills  
37 or aptitude or whatever other factor of the applicant or employee that the  
38 test purports to measure, rather than reflecting the impaired sensory,  
39 manual or speaking skills of the applicant or employee, except if the  
40 skills are the factors that the test purports to measure.

41 ~~G.~~ H. Women who are affected by pregnancy or childbirth or related  
42 medical conditions shall be treated the same for all employment-related  
43 purposes, including receipt of benefits under fringe benefit programs, as  
44 other persons not so affected but similar in their ability or inability to

1 work, and subsection ~~J~~ K, paragraph 3 of this section may not be  
2 interpreted to allow otherwise.

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

5 1. For an employer to hire and employ employees, for an employment  
6 agency to classify or refer for employment any individual, for a labor  
7 organization to classify its membership or classify or refer for  
8 employment any individual or for an employer, labor organization or joint  
9 labor-management committee controlling apprenticeship or other training or  
10 retraining programs to admit or employ any individual in any such program,  
11 on the basis of the individual's religion, sex, SEXUAL ORIENTATION, GENDER  
12 IDENTITY or national origin in those certain instances when religion, sex,  
13 SEXUAL ORIENTATION, GENDER IDENTITY or national origin is a bona fide  
14 occupational qualification reasonably necessary to the normal operation of  
15 that particular business or enterprise.

16 2. For any school, college, university or other educational  
17 institution or institution of learning to hire and employ employees of a  
18 particular religion if the school, college, university or other  
19 educational institution or institution of learning is in whole or in  
20 substantial part owned, supported, controlled or managed by a particular  
21 religion or religious corporation, association or society, or if the  
22 curriculum of the school, college, university or other educational  
23 institution or institution of learning is directed toward the propagation  
24 of a particular religion.

25 3. For an employer to fail or refuse to hire or employ any  
26 individual for any position, for an employment agency to fail or refuse to  
27 refer any individual for employment in any position or for a labor  
28 organization to fail or refuse to refer any individual for employment in  
29 any position, if both of the following apply:

30 (a) The occupancy of the position or access to the premises in or  
31 on which any part of the duties of the position are performed or are to be  
32 performed is subject to any requirement imposed in the interest of the  
33 national security of the United States under any security program in  
34 effect pursuant to or administered under any statute of the United States  
35 or any executive order of the president of the United States.

36 (b) The individual has not fulfilled or has ceased to fulfill that  
37 requirement.

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

40 (a) To take any action otherwise prohibited under subsection B,  
41 ~~C~~ D or ~~D~~ E of this section if age is a bona fide occupational  
42 qualification reasonably necessary to the normal operation of the  
43 particular business or if the differentiation is based on reasonable  
44 factors other than age.

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

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

11 ~~I.~~ J. For the purposes of this article, unlawful employment  
12 practice does not include any action or measure taken by an employer,  
13 labor organization, joint labor-management committee or employment agency  
14 with respect to an individual who is a member of the communist party of  
15 the United States or of any other organization required to register as a  
16 communist-action or communist-front organization by final order of the  
17 subversive activities control board pursuant to the subversive activities  
18 control act of 1950.

19 ~~J.~~ K. Notwithstanding any other provision of this article, it is  
20 not an unlawful employment practice:

21 1. For an employer to apply different standards of compensation or  
22 different terms, conditions or privileges of employment pursuant to a bona  
23 fide seniority or merit system or a system that measures earnings by  
24 quantity or quality of production or to employees who work in different  
25 locations, if these differences are not the result of an intention to  
26 discriminate because of race, color, religion, sex, **SEXUAL ORIENTATION,**  
27 **GENDER IDENTITY** or national origin.

28 2. For an employer to give and act on the results of any  
29 professionally developed ability test if the test, its administration or  
30 action on the results is not designed, intended or used to discriminate  
31 because of race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**  
32 or national origin.

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

39 ~~K.~~ L. ~~Nothing contained in~~ This chapter ~~applies~~ **DOES NOT APPLY** to  
40 any business or enterprise on or near an Indian reservation with respect  
41 to any publicly announced employment practice of the business or  
42 enterprise under which a preferential treatment is given to any individual  
43 because the individual is an Indian living on or near a reservation.

1 ~~L. M. Nothing contained in~~ This article or article 6 of this  
 2 chapter ~~requires~~ DOES NOT REQUIRE any employer, employment agency, labor  
 3 organization or joint labor-management committee subject to this article  
 4 to grant preferential treatment to any individual or group because of the  
 5 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or  
 6 national origin of the individual or group on account of an imbalance that  
 7 may exist with respect to the total number or percentage of persons of any  
 8 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or  
 9 national origin employed by any employer, referred or classified for  
 10 employment by any employment agency or labor organization, admitted to  
 11 membership or classified by any labor organization or admitted to or  
 12 employed in any apprenticeship or other training program, in comparison  
 13 with the total number or percentage of persons of that race, color,  
 14 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or national origin in  
 15 any community, state, section or other area, or in the available workforce  
 16 in any community, state, section or other area.

17 ~~M. N.~~ N. The age discrimination prohibitions of this article may not  
 18 be construed to prohibit compulsory retirement of any employee who has  
 19 attained sixty-five years of age and who, for the two year period  
 20 immediately before retirement, is employed in a bona fide executive or  
 21 high policymaking position, if the employee is entitled to an immediate  
 22 nonforfeitable annual retirement benefit from a pension, profit sharing,  
 23 savings or deferred compensation plan or any combination of plans of the  
 24 employer for the employee, that equals, in the aggregate, at least  
 25 \$44,000. In applying the retirement benefit test of this subsection, if  
 26 any retirement benefit is in a form other than a straight life annuity,  
 27 with no ancillary benefits, or if employees contribute to the plan or make  
 28 rollover contributions, the benefit shall be adjusted in accordance with  
 29 rules adopted by the division so the benefit is the equivalent of a  
 30 straight life annuity, with no ancillary benefits, under a plan to which  
 31 employees do not contribute and under which no rollover contributions are  
 32 made.

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

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

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

1           Sec. 7. Section 41-1464, Arizona Revised Statutes, is amended to  
2 read:

3           41-1464. Other unlawful employment practices; opposition to  
4                                   unlawful practices; filing of charges;  
5                                   participation in proceedings; notices and  
6                                   advertisements for employment

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

19           B. It is an unlawful employment practice for an employer, labor  
20 organization, employment agency or joint labor-management committee  
21 controlling apprenticeship or other training or retraining programs,  
22 including on-the-job training programs, to print or publish or cause to be  
23 printed or published any notice or advertisement relating to employment by  
24 an employer or membership in or any classification or referral for  
25 employment by a labor organization, ~~or relating to~~ any classification or  
26 referral for employment by an employment agency or ~~relating to~~ admission  
27 or ~~to~~ employment in any program established to provide apprenticeship or  
28 other training by a joint labor-management committee indicating any  
29 preference, limitation, specification or discrimination based on race,  
30 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY** or national  
31 origin, except that a notice or advertisement may indicate a preference,  
32 limitation, specification or discrimination based on religion, sex or  
33 national origin when religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY** or  
34 national origin is a bona fide occupational qualification for employment.

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

1           Sec. 8. Section 41-1481, Arizona Revised Statutes, is amended to  
2 read:

3           41-1481. Filing charges; investigation; findings;  
4                           conciliation; compliance proceedings; appeals;  
5                           attorney fees; violation; classification

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

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

1 class 1 misdemeanor. The division shall make its determination on  
2 reasonable cause as promptly as possible and as far as practicable not  
3 later than sixty days ~~from~~ AFTER the filing of the charge. If more than  
4 two years have elapsed after the alleged unlawful employment practice  
5 occurred, and if the charging party has received a notice of right to sue,  
6 the division may cease investigation of a charge without reaching a  
7 determination.

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

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

44 E. Whenever a charge is filed with the division and the division  
45 concludes on the basis of a preliminary investigation that prompt judicial



1 action is necessary to carry out the purposes of this article or article 4  
2 of this chapter, the division may bring an action for appropriate  
3 temporary or preliminary relief pending final disposition of the charge.  
4 Any temporary restraining order or other order granting preliminary or  
5 temporary relief shall be issued in accordance with the Arizona rules of  
6 civil procedure. The court having jurisdiction over the proceedings shall  
7 assign such action for hearing at the earliest practicable date and cause  
8 the action to be expedited in every way.

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

15 G. If the court finds that the defendant has intentionally engaged  
16 in or is intentionally engaging in an unlawful employment practice alleged  
17 in the complaint, the court may enjoin the defendant from engaging in the  
18 unlawful employment practice and order the affirmative action as may be  
19 appropriate. Affirmative action may include, but is not limited to,  
20 reinstatement or hiring of employees with or without back pay payable by  
21 the employer, employment agency or labor organization responsible for the  
22 unlawful employment practice or any other equitable relief as the court  
23 deems appropriate. Back pay liability shall not accrue from a date more  
24 than two years before the filing of the charge with the division. Interim  
25 earnings or amounts earnable with reasonable diligence by the person or  
26 persons discriminated against shall reduce the back pay otherwise  
27 allowable. An order of the court shall not require the admission or  
28 reinstatement of an individual as a member of a union or the hiring,  
29 reinstatement or promotion of an individual as an employee or the payment  
30 to the individual of any back pay if the individual was refused admission,  
31 suspended or expelled or was refused employment or advancement or was  
32 suspended or discharged for any reason other than discrimination on  
33 account of race, color, religion, sex, **SEXUAL ORIENTATION, GENDER**  
34 **IDENTITY**, age, disability or national origin or a violation of section  
35 41-1464.

36 H. In any case in which an employer, employment agency or labor  
37 organization fails to comply with an order of a court issued in a civil  
38 action brought under this section, a party to the action or the division  
39 on the written request of a person aggrieved by such failure may commence  
40 proceedings to compel compliance with the order.

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

1 J. In any action or proceeding under this section the court may  
2 allow the prevailing party, other than the division, a reasonable attorney  
3 fee as part of the costs.

4 Sec. 9. Section 41-1491, Arizona Revised Statutes, is amended to  
5 read:

6 41-1491. Definitions

7 In this article, unless the context otherwise requires:

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

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

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

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

15 3. "Conciliation" means the attempted resolution of issues raised  
16 by a complaint or by the investigation of the complaint through informal  
17 negotiations involving the aggrieved person, the respondent and the  
18 attorney general.

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

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

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

31 7. "Dwelling" means either:

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

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

38 8. "Family" includes a single individual.

39 9. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY AND  
40 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED  
41 CHARACTERISTICS OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S DESIGNATED  
42 SEX AT BIRTH.

43 ~~9.~~ 10. "Person" means one or more individuals, corporations,  
44 partnerships, associations, labor organizations, legal representatives,  
45 mutual companies, joint stock companies, trusts, unincorporated

1 organizations, trustees, receivers, fiduciaries, banks, credit unions and  
2 financial institutions.

3 ~~10.~~ 11. "Respondent" means either:

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

6 (b) Any person identified as an additional or substitute respondent  
7 under section 41-1491.25 or an agent of an additional or substitute  
8 respondent.

9 ~~11.~~ 12. "To rent" includes to lease, to sublease, to let or to  
10 otherwise grant for a consideration the right to occupy premises not owned  
11 by the occupant.

12 Sec. 10. Section 41-1491.05, Arizona Revised Statutes, is amended  
13 to read:

14 41-1491.05. Appraisal exemption

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

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

21 41-1491.14. Discrimination in sale or rental

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

27 B. A person may not discriminate against any person in the terms,  
28 conditions or privileges of sale or rental of a dwelling, or in providing  
29 services or facilities in connection with the sale or rental, because of  
30 race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, familial  
31 status or national origin.

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

36 Sec. 12. Section 41-1491.15, Arizona Revised Statutes, is amended  
37 to read:

38 41-1491.15. Publication of sales or rentals

39 A person may not make, print or publish or cause to be made, printed  
40 or published any notice, statement or advertisement with respect to the  
41 sale or rental of a dwelling that indicates any preference, limitation or  
42 discrimination based on race, color, religion, sex, **SEXUAL ORIENTATION,**  
43 **GENDER IDENTITY**, disability, familial status or national origin or an  
44 intention to make such a preference, limitation or discrimination.

1           Sec. 13. Section 41-1491.16, Arizona Revised Statutes, is amended  
2 to read:

3           41-1491.16. Inspection of dwelling

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

8           Sec. 14. Section 41-1491.17, Arizona Revised Statutes, is amended  
9 to read:

10          41-1491.17. Entry into neighborhood

11          A person, for profit, may not induce or attempt to induce a person  
12 to sell or rent a dwelling by representations regarding the entry or  
13 prospective entry into a neighborhood of a person of a particular race,  
14 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability,  
15 familial status or national origin.

16          Sec. 15. Section 41-1491.20, Arizona Revised Statutes, is amended  
17 to read:

18          41-1491.20. Residential real estate related transaction:  
19 definition

20          A. A person whose business includes engaging in residential real  
21 estate related transactions may not discriminate against a person in  
22 making a real estate related transaction available or in the terms or  
23 conditions of a real estate related transaction because of race, color,  
24 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial  
25 status or national origin.

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

28           1. Making or purchasing loans or providing other financial  
29 assistance either:

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

31           (b) To secure residential real estate.

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

33          Sec. 16. Section 41-1491.21, Arizona Revised Statutes, is amended  
34 to read:

35          41-1491.21. Brokerage services

36          A person may not deny any person access to, or membership or  
37 participation in, a multiple listing service, real estate brokers'  
38 organization or other service, organization or facility relating to the  
39 business of selling or renting dwellings or may not discriminate against a  
40 person in the terms or conditions of access, membership or participation  
41 in such an organization, service or facility because of race, color,  
42 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, disability, familial  
43 status or national origin.

1           Sec. 17. Legislative findings

2           The legislature finds that:

3           1. Discrimination can occur based on the sex, sexual orientation,  
4 gender identity, pregnancy, childbirth or a related medical condition of  
5 an individual, as well as because of sex-based stereotypes. Each of these  
6 factors alone can serve as the basis for discrimination and each is a form  
7 of sex discrimination.

8           2. A single instance of discrimination may have more than one  
9 reason. For example, discrimination against a married same-sex couple  
10 could be based on the sex stereotype that marriage should only be between  
11 heterosexual couples or the sexual orientation of the two individuals in  
12 the couple, or both. In addition, some individuals are subjected to  
13 discrimination based on a combination or the intersection of multiple  
14 protected characteristics. Discrimination against a pregnant lesbian  
15 could be based on her sex, her sexual orientation, her pregnancy or  
16 multiple factors.

17           3. Lesbian, gay, bisexual, transgender and queer people commonly  
18 experience discrimination in securing access to public accommodations,  
19 including restaurants, senior centers, stores, entertainment  
20 establishments, health care facilities, shelters, government offices,  
21 youth service providers, including adoption and foster care providers, and  
22 transportation. Forms of discrimination include exclusion and denial of  
23 entry, unequal or unfair treatment, harassment and violence. This  
24 discrimination prevents the full participation of lesbian, gay, bisexual,  
25 transgender and queer people in society and disrupts the free flow of  
26 commerce.

27           4. Many employers continue to take proactive steps, beyond those  
28 required by some states and localities, to ensure they are fostering  
29 positive and respectful cultures for all employees. Many places of public  
30 accommodation also recognize the economic imperative to offer goods and  
31 services to as many consumers as possible.

32           5. Regular and ongoing discrimination against accessing public  
33 accommodations contributes to negative social and economic outcomes and in  
34 the case of public accommodations operated by state and local governments,  
35 abridges individuals' constitutional rights.

36           6. Lesbian, gay, bisexual, transgender and queer people face  
37 widespread discrimination in employment and various services, including by  
38 entities that receive federal financial assistance. Such discrimination  
39 is particularly troubling and inappropriate for programs and services  
40 funded by the government, undermines progress toward equal treatment  
41 regardless of sex, sexual orientation or gender identity and is  
42 inconsistent with the constitutional principle of equal protection under  
43 the fourteenth amendment to the United States Constitution.

44           7. Discrimination by state and local governments based on sexual  
45 orientation or gender identity in employment, housing and public

1 accommodations and in programs and activities receiving federal financial  
 2 assistance violates the equal protection clause of the fourteenth  
 3 amendment to the United States Constitution. In many circumstances, such  
 4 discrimination also violates other constitutional rights such as those of  
 5 liberty and privacy under the due process clause of the fourteenth  
 6 amendment to the United States Constitution and article II, section 13 of  
 7 the Arizona constitution.

8 8. Individuals who are lesbian, gay, bisexual, transgender or queer  
 9 or who are perceived to be lesbian, gay, bisexual, transgender or queer  
 10 have been subjected to a history and pattern of persistent, widespread and  
 11 pervasive discrimination on the bases of sexual orientation and gender  
 12 identity by both private sector and federal, state and local government  
 13 actors, including in employment, housing and public accommodations. This  
 14 discrimination inflicts a range of tangible and intangible harms,  
 15 sometimes even including serious physical injury or death. An explicit  
 16 and comprehensive solution is needed to address this discrimination.

17 9. Discrimination based on sexual orientation includes  
 18 discrimination based on an individual's actual or perceived romantic,  
 19 emotional, physical or sexual attraction to other persons, or lack  
 20 thereof, based on gender. Lesbian, gay, bisexual, transgender and queer  
 21 people, including gender nonbinary people, also commonly experience  
 22 discrimination because of sex-based stereotypes. Many people are  
 23 subjected to discrimination because of others' perceptions or beliefs  
 24 regarding their sexual orientation. Even if these perceptions are  
 25 incorrect, the identity imputed by others forms the basis of  
 26 discrimination.

27 10. Lesbian, gay, bisexual, transgender and queer people often face  
 28 discrimination when seeking to rent or purchase housing, as well as in  
 29 every other aspect of obtaining and maintaining housing. Lesbian, gay,  
 30 bisexual, transgender and queer people in same-sex relationships are often  
 31 discriminated against when two names associated with one gender appear on  
 32 a housing application and transgender people often encounter  
 33 discrimination when credit checks or inquiries reveal a former name.

34 11. National surveys, including a study commissioned by the United  
 35 States department of housing and urban development, show that housing  
 36 discrimination against lesbian, gay, bisexual, transgender and queer  
 37 people is prevalent. For instance, when same-sex couples inquire about  
 38 housing that is available for rent, they are less likely to receive  
 39 positive responses from landlords. A national matched pair testing  
 40 investigation found that nearly one-half of same-sex couples had  
 41 encountered adverse or differential treatment when seeking elder housing.  
 42 According to other studies, transgender people have half the homeownership  
 43 rate of nontransgender people and about one in five transgender people  
 44 experience homelessness. Another survey found that eighty-two percent of

1 gender nonbinary people experiencing homelessness lacked access to  
2 shelter.

3 12. As a result of the absence of explicit prohibitions against  
4 discrimination based on sexual orientation and gender identity, credit  
5 applicants who are lesbian, gay, bisexual, transgender or queer or who are  
6 perceived to be lesbian, gay, bisexual, transgender or queer have unequal  
7 opportunities to establish credit. Lesbian, gay, bisexual, transgender  
8 and queer people can experience being denied a mortgage, credit card,  
9 student loans or other types of credit simply because of their sexual  
10 orientation or gender identity.

11 13. Numerous studies demonstrate that lesbian, gay, bisexual,  
12 transgender and queer people, especially transgender people and women, are  
13 economically disadvantaged and at a higher risk for poverty compared with  
14 other groups of people. For example, the poverty rate for older women in  
15 same-sex couples is twice that of older different-sex couples.

16 14. Numerous studies document the shortage of qualified and  
17 available homes for the approximately four hundred twenty-four thousand  
18 youth in the child welfare system and the negative outcomes for the many  
19 youth who live in group care as opposed to a loving home or who age out of  
20 care without a permanent family placement. Although same-sex couples are  
21 seven times more likely to foster or adopt than their different-sex  
22 counterparts, many child-placing agencies refuse to serve same-sex couples  
23 and lesbian, gay, bisexual, transgender and queer individuals. This has  
24 resulted in a reduction of the pool of qualified and available homes for  
25 youth in the child welfare system who need placement on a temporary or  
26 permanent basis. It also sends a negative message about lesbian, gay,  
27 bisexual, transgender and queer people to children and youth in the child  
28 welfare system about who is, and who is not, considered fit to be a  
29 parent. While the priority should be on providing the supports necessary  
30 to keep children with their families, when removal is required, barring  
31 discrimination in foster care and adoption will increase the number of  
32 homes available to foster children waiting for foster and adoptive  
33 families.

34 15. Courts consistently have found that the government has a  
35 compelling interest in preventing and remedying discrimination. For  
36 example, the United States Supreme Court found there to be a compelling  
37 government interest in eliminating sex discrimination in Board of  
38 directors of Rotary International v. Rotary club of Duarte, 481 U.S. 537,  
39 549 (1987). Discrimination based on sexual orientation or gender identity  
40 inherently is a form of sex discrimination, as held in Bostock v. Clayton  
41 County, 140 S. Ct. 1731 (2020). This act furthers the compelling  
42 government interest in providing redress for the serious harms to mental  
43 and physical health, financial security and well-being, civic  
44 participation, freedom of movement and opportunity, personal dignity and  
45 physical safety that result from discrimination. Consistent with the role

1 nondiscrimination laws play in protecting lives and livelihoods,  
2 alleviating suffering and improving individual and public health, the  
3 United States Supreme Court has long recognized, under the decision in  
4 Heart of Atlanta motel, inc. v. United States, 379 U.S. 241 (1964), that  
5 these laws also benefit society as a whole by ending the "disruptive  
6 effect" discrimination has on travel and commerce, and by creating a level  
7 field for all participants in a given sector.

8         16. As with all prohibitions on invidious discrimination, this act  
9 furthers the government's compelling interest in the least restrictive way  
10 because only by forbidding discrimination is it possible to avert or  
11 redress the harms caused by such discrimination.

12         17. Nondiscrimination measures attract diverse businesses to this  
13 state, improving the economic well-being of all the citizens of this state

14         18. There are many protections in the law for religious entities  
15 that wish to engage in conduct consistent with their religious beliefs.  
16 Religious entities do not have to violate their religious beliefs to  
17 conform with this state's nondiscrimination laws.

18         Sec. 18. Short title

19         This act may be cited as the "Equality And Fairness For All  
20 Arizonans Act".