

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

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2625

Introduced by
Representatives De Los Santos: Austin, Contreras L, Contreras P,
Gutierrez, Hernandez M, Ortiz

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-110.01; 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; AMENDING TITLE 41, CHAPTER 9, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1492.13; 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. Title 15, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 15-110.01, to read:

4 15-110.01. Public educational institutions; discrimination

5 A PUBLIC EDUCATIONAL INSTITUTION MAY NOT DISCRIMINATE AGAINST
6 STUDENTS OR PARENTS ON THE BASIS OF RACE, COLOR, RELIGION, SEX, SEXUAL
7 ORIENTATION, GENDER IDENTITY, AGE, NATIONAL ORIGIN OR DISABILITY.

8 Sec. 2. Section 41-1402, Arizona Revised Statutes, is amended to
9 read:

10 41-1402. Powers and duties of the division

11 A. The division may:

12 1. Employ an executive director for the board and other necessary
13 personnel whose compensation shall be as determined pursuant to section
14 38-611.

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

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

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

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

29 6. Make periodic surveys of the existence and effect of
30 discrimination because of race, color, religion, sex, SEXUAL ORIENTATION,
31 GENDER IDENTITY, age, disability, familial status or national origin in
32 the enjoyment of civil rights by any person within this state as
33 prescribed by this chapter.

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

38 8. Issue publications of results of studies, investigations and
39 research as in its judgment will tend to promote goodwill and the
40 elimination of discrimination between persons because of race, color,
41 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age, disability,
42 familial status or national origin.

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

1 B. The division shall:

2 1. Administer this chapter.

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

8 Sec. 3. Section 41-1441, Arizona Revised Statutes, is amended to
9 read:

10 41-1441. Definitions

11 In this article, unless the context otherwise requires:

12 1. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY AND
13 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED
14 CHARACTERISTICS, OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S
15 DESIGNATED SEX AT BIRTH.

16 ~~1.~~ 2. "Person" means an individual, corporation, partnership,
17 unincorporated association, or other organization, and includes the owner,
18 lessee, operator, proprietor, manager, superintendent, agent, ~~or~~ or employee
19 of any place of public accommodation.

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

30 Sec. 4. Section 41-1442, Arizona Revised Statutes, is amended to
31 read:

32 41-1442. Discrimination in places of public accommodation:
33 exceptions

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

38 B. PLACES OF PUBLIC ACCOMMODATION THAT PROVIDE FACILITIES
39 SEGREGATED BY SEX FOR INDIVIDUALS TO USE WHEN IN A STATE OF UNDRESS OR
40 WHEN PERFORMING BODILY FUNCTIONS, SUCH AS RESTROOMS AND LOCKER ROOMS, DO
41 NOT VIOLATE THIS SECTION. SINGLE-OCCUPANCY FACILITIES VIOLATE THIS
42 SECTION UNLESS THEY ARE GENDER NEUTRAL. REFUSING TO ALLOW A PERSON TO USE
43 FACILITIES SEGREGATED BY SEX THAT CORRESPOND TO THE PERSON'S GENDER
44 IDENTITY CONSTITUTES DISCRIMINATION ON THE BASIS OF GENDER IDENTITY. THIS
45 SECTION DOES NOT PROHIBIT A PLACE OF PUBLIC ACCOMMODATION THAT HAS

1 FACILITIES SEGREGATED BY SEX FROM ALSO PROVIDING SEPARATE, PRIVATE
2 FACILITIES TO INDIVIDUALS WHO REQUEST THEM.

3 ~~B.~~ C. No person, directly or indirectly, shall refuse to, withhold
4 from or deny to any person, nor aid in or incite the refusal to deny or
5 withhold, accommodations, advantages, facilities or privileges thereof
6 because of race, color, religion, sex, SEXUAL ORIENTATION, GENDER
7 IDENTITY, national origin or ancestry, nor shall distinction be made with
8 respect to any person based on race, color, religion, sex, SEXUAL
9 ORIENTATION, GENDER IDENTITY, national origin or ancestry in connection
10 with the price or quality of any item, goods or services offered by or at
11 any place of public accommodation.

12 ~~C.~~ D. Any person who is under the influence of alcohol or
13 narcotics, who is guilty of boisterous conduct, who is of lewd or immoral
14 character, who is physically violent or who violates any regulation of any
15 place of public accommodation that applies to all persons regardless of
16 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, national
17 origin or ancestry may be excluded from any place of public accommodation
18 and nothing in this article shall be considered to limit the right of such
19 exclusion.

20 ~~D.~~ E. Notwithstanding any other provision of this article and
21 except as required by federal law, it is not an unlawful practice if a
22 person fails to provide a trained and competent bilingual person who is
23 skilled in interpreting a language other than English to assist a person
24 who is seeking services at a place of public accommodation.
25 Notwithstanding any other provision of this article and except as required
26 by federal law, a person who offers a service at a place of public
27 accommodation is not required to provide a person who is seeking the
28 service any form or other documentation in that person's native language.

29 ~~E.~~ F. It is not an unlawful practice pursuant to this section for
30 a person to fail to provide service at a place of public accommodation if
31 by providing the service the person offering the service would violate a
32 state or federal law or a rule that is adopted by a state or federal
33 board, commission or agency that has jurisdiction over the person offering
34 the service.

35 Sec. 5. Section 41-1444, Arizona Revised Statutes, is amended to
36 read:

37 41-1444. Gender-neutral restrooms; changing stations; public
38 buildings; definitions

39 A. A public entity that constructs a new restroom that is
40 accessible to the public in a public building or that totally renovates an
41 existing restroom ~~that is accessible to both men and women and to the~~
42 ~~public in a public building~~ shall:

43 1. DESIGNATE ALL SINGLE-OCCUPANCY RESTROOM FACILITIES AS
44 GENDER-NEUTRAL RESTROOMS.

1 ~~1.~~ 2. Include in EACH BUILDING at least one restroom ~~in each~~
2 ~~building at least one~~ THAT IS ACCESSIBLE TO ANY PERSON REGARDLESS OF
3 GENDER AND THAT CONTAINS A changing station that is capable of serving
4 both a baby and an adult ~~and that is accessible to both men and women.~~
5 ~~2.~~ 3. Provide signage at or near the entrance to the changing
6 station indicating the location of the changing station.
7 ~~3.~~ 4. Indicate the location of the changing station in the central
8 building directory, if such a directory exists.
9 B. The responsible authority may grant an exemption from the
10 requirements of this section if the responsible authority determines that:
11 1. Any of the following would apply to the installation of a
12 changing station that is capable of serving both a baby and an adult:
13 (a) The installation would not be feasible.
14 (b) The installation would result in a failure to comply with the
15 Americans with disabilities act standards for access for persons with
16 disabilities.
17 (c) The installation would threaten or destroy the historic
18 significance of a historic property.
19 2. The public building is not frequented by the public.
20 C. The installation of a changing station under this section must
21 provide sufficient clear floor space to comply with the requirements of
22 the 2010 Americans with disabilities act standards for accessible design.
23 D. This section does not establish a private right of action.
24 E. For the purposes of this section:
25 1. "Public building" means a building or appurtenance to a building
26 that is built in whole or in part with public monies.
27 2. "Public entity" means any:
28 (a) State or local government.
29 (b) Department, agency, special purpose district or other
30 instrumentality of a state or local government, including the legislature.
31 3. "Responsible authority" means an organization, office or
32 individual responsible for enforcing the requirements of a code or
33 standard or for approving equipment, materials, an installation or a
34 procedure.
35 4. "Totally renovates" means to perform construction that is at
36 least \$50,000 and that totally removes all nonstructural interior walls,
37 floor and ceiling finishes, mechanical systems, electrical systems and
38 plumbing fixtures and supply and waste lines.
39 5. "2010 Americans with disabilities act standards for accessible
40 design" means the 2010 standards for state and local government facilities
41 prescribed in 28 Code of Federal Regulations section 35.151 and 36 Code of
42 Federal Regulations part 1191, appendices B and D.

1 Sec. 6. Section 41-1461, Arizona Revised Statutes, is amended to
2 read:

3 41-1461. Definitions

4 In this article, unless the context otherwise requires:

5 1. "Auxiliary aids and services" includes:

6 (a) Qualified interpreters or other effective methods of making
7 aurally delivered materials available to individuals with hearing
8 impairments.

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

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

13 (d) Other similar services and actions.

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

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

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

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

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

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

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

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

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

32 6. "Employee":

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

34 (b) Does not include an elected public official of this state or
35 any political subdivision of this state, any person chosen by an elected
36 official to be on the elected official's personal staff, an appointee on
37 the policymaking level or an immediate adviser with respect to the
38 exercise of the constitutional or legal powers of the office, unless the
39 person or appointee is subject to the civil service laws of this state or
40 any political subdivision of this state.

41 7. "Employer":

42 (a) Means a person who has fifteen or more employees for each
43 working day in each of twenty or more calendar weeks in the current or
44 preceding calendar year and any agent of that person or a person who has

1 one or more employees in the current or preceding calendar year and any
2 agent of that person, to the extent that the person is alleged to have:

3 (i) Committed any act of sexual harassment.

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

7 (b) Does not include either:

8 (i) The United States or any department or agency of the United
9 States, a corporation wholly owned by the government of the United States
10 or an Indian tribe.

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

14 8. "Employment agency" means any person regularly undertaking with
15 or without compensation to procure employees for an employer or to procure
16 for employees opportunities to work for an employer and includes an agent
17 of that person.

18 9. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY AND
19 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED
20 CHARACTERISTICS, OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S
21 DESIGNATED SEX AT BIRTH.

22 ~~9.~~ 10. "Labor organization":

23 (a) Means a labor organization and any agent of a labor
24 organization.

25 (b) Includes:

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

31 (ii) Any conference, general committee, joint or system board or
32 joint council that is subordinate to a national or international labor
33 organization.

34 ~~10.~~ 11. "Major life activities" includes:

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

39 (b) The operation of a major bodily function, including functions
40 of the immune system, normal cell growth and digestive, bowel, bladder,
41 neurological, brain, respiratory, circulatory, endocrine and reproductive
42 functions.

43 ~~11.~~ 12. "Person" means one or more individuals, governmental
44 agencies, political subdivisions, labor unions, partnerships,
45 associations, corporations, legal representatives, mutual companies,

1 joint-stock companies, trusts, unincorporated organizations, trustees,
2 trustees in bankruptcy or receivers.

3 ~~12.~~ 13. "Qualified individual" means a person with a disability
4 who, with or without reasonable accommodation, is capable of performing
5 the essential functions of the employment position that the individual
6 holds or desires.

7 ~~13.~~ 14. "Reasonable accommodation" includes:

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

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

18 ~~14.~~ 15. "Religion" means all aspects of religious observance and
19 practice, as well as belief. Unlawful practices as prohibited by this
20 article include practices with respect to religion unless an employer
21 demonstrates that the employer is unable, **AFTER INITIATING AND ENGAGING IN**
22 **AN AFFIRMATIVE AND BONA FIDE EFFORT**, to reasonably accommodate an
23 employee's or prospective employee's religious observance or practice
24 without undue hardship on the conduct of the employer's business.

25 ~~15.~~ 16. "Undue hardship":

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

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

31 (i) The nature and cost of the accommodations needed under this
32 article.

33 (ii) The overall financial resources of the facility or facilities
34 involved in the provision of the reasonable accommodation, the number of
35 persons employed at the facility, the effect on expenses and resources of
36 the facility and any other impact of the accommodation on the operation of
37 the facility.

38 (iii) The overall financial resources of the covered entity, the
39 overall size of the business of the covered entity with respect to the
40 number of its employees and the number, type and location of its
41 facilities.

42 (iv) The type of operation or operations of the covered entity,
43 including the composition, structure and functions of the workforce of the
44 covered entity.

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

3 Sec. 7. Section 41-1463, Arizona Revised Statutes, is amended to
4 read:

5 41-1463. Discrimination; unlawful practices; definition

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

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

11 1. To fail or refuse to hire or to discharge any individual or
12 otherwise to discriminate against any individual with respect to the
13 individual's compensation, terms, conditions or privileges of employment
14 because of the individual's race, color, religion, sex, SEXUAL
15 ORIENTATION, GENDER IDENTITY, age or national origin or on the basis of
16 disability.

17 2. To limit, segregate or classify employees or applicants for
18 employment in any way that would deprive or tend to deprive any individual
19 of employment opportunities or otherwise adversely affect the individual's
20 status as an employee, because of the individual's race, color, religion,
21 sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin or on the
22 basis of disability.

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

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

29 ~~C~~ D. It is an unlawful employment practice for an employment
30 agency to fail or refuse to refer for employment or otherwise to
31 discriminate against any individual because of the individual's race,
32 color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national
33 origin or on the basis of disability or to classify or refer for
34 employment any individual on the basis of the individual's race, color,
35 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, age or national origin
36 or on the basis of disability.

37 ~~D~~ E. It is an unlawful employment practice for a labor
38 organization:

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

43 2. To limit, segregate or classify its membership or applicants for
44 membership or to classify or fail or refuse to refer for employment any
45 individual in any way that would deprive or tend to deprive the individual

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

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

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

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

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

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

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

32 4. Not make reasonable accommodations to the known physical or
33 mental limitations of an otherwise qualified individual who is an
34 applicant or employee unless the covered entity can demonstrate that the
35 accommodation would impose an undue hardship on the operation of the
36 business of the covered entity or the individual only meets the definition
37 of disability as prescribed in section 41-1461, paragraph 5,
38 subdivision (c).

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

43 6. Use qualification standards, employment tests or other selection
44 criteria, including those based on an individual's uncorrected vision,
45 that screen out or tend to screen out an individual with a disability or a

1 class of individuals with disabilities, unless the standard, test or other
2 selection criteria, as used by the covered entity, is shown to be job
3 related for the position in question and is consistent with business
4 necessity.

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

13 ~~G.~~ H. Women who are affected by pregnancy or childbirth or related
14 medical conditions shall be treated the same for all employment-related
15 purposes, including receipt of benefits under fringe benefit programs, as
16 other persons not so affected but similar in their ability or inability to
17 work, and subsection ~~J.~~ K, paragraph 3 of this section may not be
18 interpreted to allow otherwise.

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

21 1. For an employer to hire and employ employees, for an employment
22 agency to classify or refer for employment any individual, for a labor
23 organization to classify its membership or classify or refer for
24 employment any individual or for an employer, labor organization or joint
25 labor-management committee controlling apprenticeship or other training or
26 retraining programs to admit or employ any individual in any such program,
27 on the basis of the individual's religion, sex, **SEXUAL ORIENTATION, GENDER**
28 **IDENTITY** or national origin in those certain instances when religion, sex,
29 **SEXUAL ORIENTATION, GENDER IDENTITY** or national origin is a bona fide
30 occupational qualification reasonably necessary to the normal operation of
31 that particular business or enterprise.

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

41 3. For an employer to fail or refuse to hire or employ any
42 individual for any position, for an employment agency to fail or refuse to
43 refer any individual for employment in any position or for a labor
44 organization to fail or refuse to refer any individual for employment in
45 any position, if both of the following apply:

1 (a) The occupancy of the position or access to the premises in or
2 on which any part of the duties of the position are performed or are to be
3 performed is subject to any requirement imposed in the interest of the
4 national security of the United States under any security program in
5 effect pursuant to or administered under any statute of the United States
6 or any executive order of the president of the United States.

7 (b) The individual has not fulfilled or has ceased to fulfill that
8 requirement.

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

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

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

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

26 ~~I~~ J. For the purposes of this article, unlawful employment
27 practice does not include any action or measure taken by an employer,
28 labor organization, joint labor-management committee or employment agency
29 with respect to an individual who is a member of the communist party of
30 the United States or of any other organization required to register as a
31 communist-action or communist-front organization by final order of the
32 subversive activities control board pursuant to the subversive activities
33 control act of 1950.

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

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

43 2. For an employer to give and act on the results of any
44 professionally developed ability test if the test, its administration or
45 action on the results is not designed, intended or used to discriminate

1 because of race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY
2 or national origin.

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

9 ~~K. L. Nothing contained in~~ This chapter ~~applies~~ DOES NOT APPLY to
10 any business or enterprise on or near an Indian reservation with respect
11 to any publicly announced employment practice of the business or
12 enterprise under which a preferential treatment is given to any individual
13 because the individual is an Indian living on or near a reservation.

14 ~~L. M. Nothing contained in~~ This article or article 6 of this
15 chapter ~~requires~~ DOES NOT REQUIRE any employer, employment agency, labor
16 organization or joint labor-management committee subject to this article
17 to grant preferential treatment to any individual or group because of the
18 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or
19 national origin of the individual or group on account of an imbalance that
20 may exist with respect to the total number or percentage of persons of any
21 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or
22 national origin employed by any employer, referred or classified for
23 employment by any employment agency or labor organization, admitted to
24 membership or classified by any labor organization or admitted to or
25 employed in any apprenticeship or other training program, in comparison
26 with the total number or percentage of persons of that race, color,
27 religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY or national origin in
28 any community, state, section or other area, or in the available workforce
29 in any community, state, section or other area.

30 ~~M. N.~~ The age discrimination prohibitions of this article ~~may~~ DO
31 not ~~be construed to~~ prohibit compulsory retirement of any employee who has
32 attained sixty-five years of age and who, for the ~~two-year~~ TWO-YEAR period
33 immediately before retirement, is employed in a bona fide executive or
34 high policymaking position, if the employee is entitled to an immediate
35 nonforfeitable annual retirement benefit from a pension, profit sharing,
36 savings or deferred compensation plan or any combination of plans of the
37 employer for the employee, that equals, in the aggregate, at least
38 \$44,000. In applying the retirement benefit test of this subsection, if
39 any retirement benefit is in a form other than a straight life annuity,
40 with no ancillary benefits, or if employees contribute to the plan or make
41 rollover contributions, the benefit shall be adjusted in accordance with
42 rules adopted by the division so the benefit is the equivalent of a
43 straight life annuity, with no ancillary benefits, under a plan to which
44 employees do not contribute and under which no rollover contributions are
45 made.

1 ~~N.~~ 0. A covered entity may require that an individual with a
2 disability shall not pose a direct threat to the health or safety of other
3 individuals in the workplace. For the purposes of this subsection,
4 "direct threat" means a significant risk to the health or safety of others
5 that cannot be eliminated by reasonable accommodation.

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

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

12 Sec. 8. Section 41-1464, Arizona Revised Statutes, is amended to
13 read:

14 41-1464. Other unlawful employment practices; opposition to
15 unlawful practices; filing of charges;
16 participation in proceedings; notices and
17 advertisements for employment

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

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

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

10 Sec. 9. Section 41-1481, Arizona Revised Statutes, is amended to
11 read:

12 41-1481. Filing charges; investigation; findings;
13 conciliation; compliance proceedings; appeals;
14 attorney fees; violation; classification

15 A. A charge under this section shall be filed within one hundred
16 eighty days after the alleged unlawful employment practice occurred. A
17 charge is deemed filed on receipt by the division from or on behalf of a
18 person claiming to be aggrieved or, if filed by a member of the division,
19 when executed by the member on oath or affirmation. A charge is deemed
20 filed by or on behalf of a person claiming to be aggrieved if received
21 from the United States equal employment opportunity commission. A charge
22 shall be in writing on oath or affirmation and shall contain the
23 information, including the date, place and circumstances of the alleged
24 unlawful employment practice, and be in the form as the division
25 requires. The division shall not make charges public.

26 B. Whenever a charge is filed by or on behalf of a person claiming
27 to be aggrieved or by a member of the division, referred to as the
28 charging party, alleging that an employer, employment agency, labor
29 organization or joint labor-management committee controlling
30 apprenticeship or other training or retraining programs, including
31 on-the-job training programs, has engaged in an unlawful employment
32 practice, the division shall serve notice of and a copy of the charge on
33 the employer, employment agency, labor organization or joint
34 labor-management committee, referred to as the respondent, within ten days
35 and shall investigate the charge. If the division determines after the
36 investigation that there is not reasonable cause to believe that the
37 charge is true, the division shall enter an order determining the same and
38 dismissing the charge and shall notify the charging party and the
39 respondent of its action. If the division determines after the
40 investigation that there is reasonable cause to believe that the charge is
41 true, the division shall enter an order containing its findings of fact
42 and shall endeavor to eliminate the alleged unlawful employment practice
43 by informal methods of conference, conciliation and persuasion. Any party
44 to the informal proceeding may be represented by counsel. Counsel need
45 not be a member of the state bar if counsel is licensed to practice law in

1 any other state or territory of the United States. Nothing said or done
 2 during and as a part of the informal endeavors may be made public by the
 3 division or its officers or employees or used as evidence in a subsequent
 4 proceeding without the written consent of the persons concerned. If a
 5 civil action resulting from a charge is commenced in any federal or state
 6 court, evidence collected by or submitted to the division during the
 7 investigation of the charge and the source of the evidence shall be
 8 subject to discovery by the parties to the civil action. Any person who
 9 makes public information in violation of this subsection is guilty of a
 10 class 1 misdemeanor. The division shall make its determination on
 11 reasonable cause as promptly as possible and as far as practicable not
 12 later than sixty days ~~from~~ AFTER the filing of the charge. If more than
 13 two years have elapsed after the alleged unlawful employment practice
 14 occurred, and if the charging party has received a notice of right to sue,
 15 the division may cease investigation of a charge without reaching a
 16 determination.

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

26 D. If within thirty days after the division has made a
 27 determination that reasonable cause exists to believe that the charge is
 28 true the division has not accepted a conciliation agreement to which the
 29 charging party and the respondent are parties, the division may bring a
 30 civil action against the respondent, other than the state, named in the
 31 charge. The charging party shall have the right to intervene in a civil
 32 action brought by the division. If a charge filed with the division
 33 pursuant to subsection A of this section is dismissed by the division or
 34 if within ninety days ~~from~~ AFTER the filing of such charge the division
 35 has not filed a civil action under this section or has not entered into a
 36 conciliation agreement with the charging party, the division shall so
 37 notify the charging party. After providing the notice a civil action may
 38 be brought against the respondent named in the charge by the charging
 39 party or, if that charge was filed by a member of the division, by any
 40 person whom the charge alleges was aggrieved by the alleged unlawful
 41 employment practice. ~~In no event shall any~~ AN action MAY NOT be brought
 42 pursuant to this article more than one year after the charge to which the
 43 action relates has been filed. On application by the complainant and in
 44 the circumstances as the court may deem just, the court may appoint an
 45 attorney for such complainant and may authorize the commencement of the

1 action without the payment of fees, costs or security. On timely
2 application, the court may in its discretion allow the division to
3 intervene in civil actions in which the state is not a defendant on
4 certification that the case is of general public importance. ~~upon~~ ON
5 request the court may stay further proceedings for not more than sixty
6 days pending the further efforts of the parties or the division to obtain
7 voluntary compliance.

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

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

24 G. If the court finds that the defendant has intentionally engaged
25 in or is intentionally engaging in an unlawful employment practice alleged
26 in the complaint, the court may enjoin the defendant from engaging in the
27 unlawful employment practice and order the affirmative action as may be
28 appropriate. Affirmative action may include, ~~but is not limited to,~~
29 reinstatement or hiring of employees with or without back pay payable by
30 the employer, employment agency or labor organization responsible for the
31 unlawful employment practice or any other equitable relief as the court
32 deems appropriate. Back pay liability shall not accrue from a date more
33 than two years before the filing of the charge with the division. Interim
34 earnings or amounts earnable with reasonable diligence by the person or
35 persons discriminated against shall reduce the back pay otherwise
36 allowable. An order of the court shall not require the admission or
37 reinstatement of an individual as a member of a union or the hiring,
38 reinstatement or promotion of an individual as an employee or the payment
39 to the individual of any back pay if the individual was refused admission,
40 suspended or expelled or was refused employment or advancement or was
41 suspended or discharged for any reason other than discrimination on
42 account of race, color, religion, sex, **SEXUAL ORIENTATION, GENDER**
43 **IDENTITY**, age, disability or national origin or a violation of section
44 41-1464.

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

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

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

12 Sec. 10. Section 41-1491, Arizona Revised Statutes, is amended to
13 read:

14 41-1491. Definitions

15 In this article, unless the context otherwise requires:

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

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

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

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

23 3. "Conciliation" means the attempted resolution of issues raised
24 by a complaint or by the investigation of the complaint through informal
25 negotiations involving the aggrieved person, the respondent and the
26 attorney general.

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

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

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

39 7. "Dwelling" means either:

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

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

1 8. "Family" includes a single individual.

2 9. "GENDER IDENTITY" MEANS THE GENDER-RELATED IDENTITY AND
3 EXPRESSION, INCLUDING APPEARANCE, MANNERISMS OR OTHER GENDER-RELATED
4 CHARACTERISTICS OF AN INDIVIDUAL REGARDLESS OF THE INDIVIDUAL'S DESIGNATED
5 SEX AT BIRTH.

6 ~~9.~~ 10. "Person" means one or more individuals, corporations,
7 partnerships, associations, labor organizations, legal representatives,
8 mutual companies, joint stock companies, trusts, unincorporated
9 organizations, trustees, receivers, fiduciaries, banks, credit unions and
10 financial institutions.

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

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

14 (b) Any person identified as an additional or substitute respondent
15 under section 41-1491.25 or an agent of an additional or substitute
16 respondent.

17 ~~11.~~ 12. "To rent" includes to lease, to sublease, to let or to
18 otherwise grant for a consideration the right to occupy premises not owned
19 by the occupant.

20 Sec. 11. Section 41-1491.05, Arizona Revised Statutes, is amended
21 to read:

22 41-1491.05. Appraisal exemption

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

27 Sec. 12. Section 41-1491.14, Arizona Revised Statutes, is amended
28 to read:

29 41-1491.14. Discrimination in sale or rental

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

35 B. A person may not discriminate against any person in the terms,
36 conditions or privileges of sale or rental of a dwelling, or in providing
37 services or facilities in connection with the sale or rental, because of
38 race, color, religion, sex, SEXUAL ORIENTATION, GENDER IDENTITY, familial
39 status or national origin.

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

1 Sec. 13. Section 41-1491.15, Arizona Revised Statutes, is amended
2 to read:

3 41-1491.15. Publication of sales or rentals

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

10 Sec. 14. Section 41-1491.16, Arizona Revised Statutes, is amended
11 to read:

12 41-1491.16. Inspection of dwelling

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

17 Sec. 15. Section 41-1491.17, Arizona Revised Statutes, is amended
18 to read:

19 41-1491.17. Entry into neighborhood

20 A person, for profit, may not induce or attempt to induce a person
21 to sell or rent a dwelling by representations regarding the entry or
22 prospective entry into a neighborhood of a person of a particular race,
23 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY,** disability,
24 familial status or national origin.

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

27 41-1491.20. Residential real estate related transaction:
28 definition

29 A. A person whose business includes engaging in residential real
30 estate related transactions may not discriminate against a person in
31 making a real estate related transaction available or in the terms or
32 conditions of a real estate related transaction because of race, color,
33 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY,** disability, familial
34 status or national origin.

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

37 1. Making or purchasing loans or providing other financial
38 assistance either:

- 39 (a) To purchase, construct, improve, repair or maintain a dwelling.
- 40 (b) To secure residential real estate.

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

1 Sec. 17. Section 41-1491.21, Arizona Revised Statutes, is amended
2 to read:

3 41-1491.21. Brokerage services

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

12 Sec. 18. Title 41, chapter 9, article 8, Arizona Revised Statutes,
13 is amended by adding section 41-1492.13, to read:

14 41-1492.13. Prohibition on discrimination by recipients of
15 public monies; rules

16 **A PUBLIC OR PRIVATE ENTITY MAY NOT DISCRIMINATE ON THE BASIS OF**
17 **RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, AGE,**
18 **NATIONAL ORIGIN OR DISABILITY IN THE OPERATION OF ANY PROGRAM THAT**
19 **RECEIVES MONIES PROVIDED, DIRECTED, ADMINISTERED OR FACILITATED BY THIS**
20 **STATE. THE ATTORNEY GENERAL'S OFFICE SHALL ADOPT REGULATIONS TO ENFORCE**
21 **THIS SECTION.**

22 Sec. 19. Short title

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