

REFERENCE TITLE: **antidiscrimination; employment; vaccination status**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2452

Introduced by
Representatives Carter: Biasiucci, Blackman, Bolick, Chaplik, Diaz, Dunn,
Fillmore, Finchem, Kavanagh, Martinez, Nguyen, Parker, Wilmeth

AN ACT

AMENDING SECTIONS 41-1402, 41-1441, 41-1442, 41-1461, 41-1463, 41-1464, 41-1481, 41-1491, 41-1491.05, 41-1491.14, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.20 AND 41-1491.21, ARIZONA REVISED STATUTES; RELATING TO CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1402, Arizona Revised Statutes, is amended to
3 read:

4 41-1402. Powers and duties of the division

5 A. The division may:

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

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

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

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

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

23 6. Make periodic surveys of the existence and effect of
24 discrimination because of race, color, religion, sex, **VACCINATION STATUS**,
25 age, disability, familial status or national origin in the enjoyment of
26 civil rights by any person within this state as prescribed by this
27 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, **VACCINATION STATUS**, age, disability, familial
31 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, **VACCINATION STATUS**, age, disability, familial status or
36 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 D. Notwithstanding any other provision of this article and except
2 as required by federal law, it is not an unlawful practice if a person
3 fails to provide a trained and competent bilingual person who is skilled
4 in interpreting a language other than English to assist a person who is
5 seeking services at a place of public accommodation. Notwithstanding any
6 other provision of this article and except as required by federal law, a
7 person who offers a service at a place of public accommodation is not
8 required to provide a person who is seeking the service any form or other
9 documentation in that person's native language.

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

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

18 41-1461. Definitions

19 In this article, unless the context otherwise requires:

20 1. "Auxiliary aids and services" includes:

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

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

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

28 (d) Other similar services and actions.

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

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

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

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

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

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

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

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

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

2 6. "Employee":

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

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

11 7. "Employer":

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

19 (b) Does not include either:

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

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

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

30 9. "Labor organization":

31 (a) Means a labor organization and any agent of a labor
32 organization.

33 (b) Includes:

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

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

42 10. "Major life activities" includes:

43 (a) Caring for oneself, performing manual tasks, seeing, hearing,
44 eating, sleeping, walking, standing, lifting, bending, speaking,

1 breathing, learning, reading, concentrating, thinking, communicating and
2 working.

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

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

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

16 13. "Reasonable accommodation" includes:

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

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

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

33 15. "Undue hardship":

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

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

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

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

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

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

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

10 16. "VACCINATION STATUS" MEANS ANY INDICATION OF WHETHER A PERSON
11 HAS RECEIVED ONE OR MORE DOSES OF A VACCINE.

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

14 41-1463. Discrimination; unlawful practices; definition

15 A. ~~Nothing contained in~~ This article shall NOT be interpreted to
16 require that the less qualified be preferred over the better qualified
17 simply because of race, color, religion, sex, VACCINATION STATUS, age or
18 national origin or on the basis of disability.

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

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

25 2. To limit, segregate or classify employees or applicants for
26 employment in any way that would deprive or tend to deprive any individual
27 of employment opportunities or otherwise adversely affect the individual's
28 status as an employee, because of the individual's race, color, religion,
29 sex, VACCINATION STATUS, age or national origin or on the basis of
30 disability.

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

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

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

43 1. To exclude or to expel from its membership or otherwise to
44 discriminate against any individual because of the individual's race,

1 color, religion, sex, **VACCINATION STATUS**, age or national origin or on the
2 basis of disability.

3 2. To limit, segregate or classify its membership or applicants for
4 membership or to classify or fail or refuse to refer for employment any
5 individual in any way that would deprive or tend to deprive the individual
6 of employment opportunities or would limit those employment opportunities
7 or otherwise adversely affect the individual's status as an employee or as
8 an applicant for employment because of the individual's race, color,
9 religion, sex, **VACCINATION STATUS**, age or national origin or on the basis
10 of disability.

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

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

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

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

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

33 3. Exclude or otherwise deny equal jobs or benefits to an
34 individual qualified for the job or benefits because of the known
35 disability of an individual with whom the individual qualified for the job
36 or benefits is known to have a relationship or association.

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

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

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

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

20 G. Women who are affected by pregnancy or childbirth or related
21 medical conditions shall be treated the same for all employment-related
22 purposes, including receipt of benefits under fringe benefit programs, as
23 other persons not so affected but similar in their ability or inability to
24 work, and subsection J, paragraph 3 of this section may not be interpreted
25 to allow otherwise.

26 H. Notwithstanding any other provision of this article, it is not
27 an unlawful employment practice:

28 1. For an employer to hire and employ employees, for an employment
29 agency to classify or refer for employment any individual, for a labor
30 organization to classify its membership or classify or refer for
31 employment any individual or for an employer, labor organization or joint
32 labor-management committee controlling apprenticeship or other training or
33 retraining programs to admit or employ any individual in any such program,
34 on the basis of the individual's religion, sex or national origin in those
35 certain instances when religion, sex or national origin is a bona fide
36 occupational qualification reasonably necessary to the normal operation of
37 that particular business or enterprise.

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

1 institution or institution of learning is directed toward the propagation
2 of a particular religion.

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

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

14 (b) The individual has not fulfilled or has ceased to fulfill that
15 requirement.

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

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

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

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

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

40 J. Notwithstanding any other provision of this article, it is not
41 an unlawful employment practice:

42 1. For an employer to apply different standards of compensation or
43 different terms, conditions or privileges of employment pursuant to a bona
44 fide seniority or merit system or a system that measures earnings by
45 quantity or quality of production or to employees who work in different

1 locations, if these differences are not the result of an intention to
2 discriminate because of race, color, religion, sex, **VACCINATION STATUS** or
3 national origin.

4 2. For an employer to give and act on the results of any
5 professionally developed ability test if the test, its administration or
6 action on the results is not designed, intended or used to discriminate
7 because of race, color, religion, sex, **VACCINATION STATUS** or national
8 origin.

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

15 K. ~~Nothing contained in~~ This chapter ~~applies~~ **DOES NOT APPLY** to any
16 business or enterprise on or near an Indian reservation with respect to
17 any publicly announced employment practice of the business or enterprise
18 under which a preferential treatment is given to any individual because
19 the individual is an Indian living on or near a reservation.

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

35 M. The age discrimination prohibitions of this article may not be
36 construed to prohibit compulsory retirement of any employee who has
37 attained sixty-five years of age and who, for the two year period
38 immediately before retirement, is employed in a bona fide executive or
39 high policymaking position, if the employee is entitled to an immediate
40 nonforfeitable annual retirement benefit from a pension, profit sharing,
41 savings or deferred compensation plan or any combination of plans of the
42 employer for the employee, that equals, in the aggregate, at least
43 \$44,000. In applying the retirement benefit test of this subsection, if
44 any retirement benefit is in a form other than a straight life annuity,
45 with no ancillary benefits, or if employees contribute to the plan or make

1 rollover contributions, the benefit shall be adjusted in accordance with
2 rules adopted by the division so the benefit is the equivalent of a
3 straight life annuity, with no ancillary benefits, under a plan to which
4 employees do not contribute and under which no rollover contributions are
5 made.

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

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

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

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

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

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

35 B. It is an unlawful employment practice for an employer, labor
36 organization, employment agency or joint labor-management committee
37 controlling apprenticeship or other training or retraining programs,
38 including on-the-job training programs, to print or publish or cause to be
39 printed or published any notice or advertisement relating to employment by
40 an employer or membership in or any classification or referral for
41 employment by a labor organization, ~~or relating to~~ any classification or
42 referral for employment by an employment agency or ~~relating to~~ admission
43 or ~~to~~ employment in any program established to provide apprenticeship or
44 other training by a joint labor-management committee indicating any
45 preference, limitation, specification or discrimination based on race,

1 color, religion, sex, **VACCINATION STATUS** or national origin, except that a
2 notice or advertisement may indicate a preference, limitation,
3 specification or discrimination based on religion, sex or national origin
4 when religion, sex or national origin is a bona fide occupational
5 qualification for employment.

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

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

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

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

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

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

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

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

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

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

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

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

1 suspended or discharged for any reason other than discrimination on
2 account of race, color, religion, sex, **VACCINATION STATUS**, age, disability
3 or national origin or a violation of section 41-1464.

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

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

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

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

17 **41-1491. Definitions**

18 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

42 7. "Dwelling" means either:

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

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

4 8. "Family" includes a single individual.

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

10 10. "Respondent" means either:

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

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

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

19 12. "VACCINATION STATUS" MEANS ANY INDICATION OF WHETHER A PERSON
20 HAS RECEIVED ONE OR MORE DOSES OF A VACCINE.

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

23 41-1491.05. Appraisal exemption

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

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

30 41-1491.14. Discrimination in sale or rental

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

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

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

1 Sec. 15. 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, VACCINATION STATUS, disability, familial status or national
11 origin.