

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

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1512

Introduced by
Senators Bowie: Gabaldon, Gonzales, Marsh, Stahl Hamilton, Terán;
Representatives Dalessandro, Epstein, Espinoza, Hernandez M, Jermaine,
Pawlik

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, 41-1491.21 AND 41-1493.01, ARIZONA REVISED STATUTES; RELATING TO CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 41-1402. Powers and duties of the division

5 A. The division may:

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

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

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

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

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

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

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

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

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

39 B. The division shall:

40 1. Administer this chapter.

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

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

3 41-1441. Definitions

4 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

1 or ancestry may be excluded from any place of public accommodation and
2 nothing in this article shall be considered to limit the right of such
3 exclusion.

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

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

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

21 41-1461. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Auxiliary aids and services" includes:

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

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

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

31 (d) Other similar services and actions.

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

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

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

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

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

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

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

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

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

7 6. "Employee":

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

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

16 7. "Employer":

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

24 (b) Does not include either:

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

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

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

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

38 ~~9.~~ 10. "Labor organization":

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

41 (b) Includes:

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

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

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

6 ~~10.~~ 11. "Major life activities" includes:

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

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

15 ~~11.~~ 12. "Person" means one or more individuals, governmental
16 agencies, political subdivisions, labor unions, partnerships,
17 associations, corporations, legal representatives, mutual companies,
18 joint-stock companies, trusts, unincorporated organizations, trustees,
19 trustees in bankruptcy or receivers.

20 ~~12.~~ 13. "Qualified individual" means a person with a disability
21 who, with or without reasonable accommodation, is capable of performing
22 the essential functions of the employment position that the individual
23 holds or desires.

24 ~~13.~~ 14. "Reasonable accommodation" includes:

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

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

35 ~~14.~~ 15. "Religion" means all aspects of religious observance and
36 practice, as well as belief. Unlawful practices as prohibited by this
37 article include practices with respect to religion unless an employer
38 demonstrates that the employer is unable to reasonably accommodate an
39 employee's or prospective employee's religious observance or practice
40 without undue hardship on the conduct of the employer's business.

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

1 ~~15.~~ 17. "Undue hardship":

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

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

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

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

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

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

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

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

25 41-1463. Discrimination; unlawful practices; definition

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 1. For an employer to hire and employ employees, for an employment
44 agency to classify or refer for employment any individual, for a labor
45 organization to classify its membership or classify or refer for

1 employment any individual or for an employer, labor organization or joint
2 labor-management committee controlling apprenticeship or other training or
3 retraining programs to admit or employ any individual in any such program,
4 on the basis of the individual's religion, sex or national origin in those
5 certain instances when religion, sex or national origin is a bona fide
6 occupational qualification reasonably necessary to the normal operation of
7 that particular business or enterprise, **PROVIDED THAT IF SEX IS A BONA**
8 **FIDE OCCUPATIONAL QUALIFICATION INDIVIDUALS ARE RECOGNIZED AS QUALIFIED**
9 **BASED ON THEIR GENDER IDENTITY.**

10 2. For any school, college, university or other educational
11 institution or institution of learning to hire and employ employees of a
12 particular religion if the school, college, university or other
13 educational institution or institution of learning is in whole or in
14 substantial part owned, supported, controlled or managed by a particular
15 religion or religious corporation, association or society, or if the
16 curriculum of the school, college, university or other educational
17 institution or institution of learning is directed toward the propagation
18 of a particular religion.

19 3. For an employer to fail or refuse to hire or employ any
20 individual for any position, for an employment agency to fail or refuse to
21 refer any individual for employment in any position or for a labor
22 organization to fail or refuse to refer any individual for employment in
23 any position, if both of the following apply:

24 (a) The occupancy of the position or access to the premises in or
25 on which any part of the duties of the position are performed or are to be
26 performed is subject to any requirement imposed in the interest of the
27 national security of the United States under any security program in
28 effect pursuant to or administered under any statute of the United States
29 or any executive order of the president of the United States.

30 (b) The individual has not fulfilled or has ceased to fulfill that
31 requirement.

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

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

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

1 (c) To discharge or otherwise discipline an individual for good
2 cause.

3 I. For the purposes of this article, unlawful employment practice
4 does not include any action or measure taken by an employer, labor
5 organization, joint labor-management committee or employment agency with
6 respect to an individual who is a member of the communist party of the
7 United States or of any other organization required to register as a
8 communist-action or communist-front organization by final order of the
9 subversive activities control board pursuant to the subversive activities
10 control act of 1950.

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

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

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

25 3. For any employer to differentiate on the basis of sex or
26 disability in determining the amount of the wages or compensation paid or
27 to be paid to employees of the employer if the differentiation is
28 authorized by the provisions of section 6(d) or section 14 of the fair
29 labor standards act of 1938, as amended (29 United States Code section
30 206(d)).

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

36 L. ~~Nothing contained in~~ This article or article 6 of this chapter
37 ~~requires~~ **DOES NOT REQUIRE** any employer, employment agency, labor
38 organization or joint labor-management committee subject to this article
39 to grant preferential treatment to any individual or group because of the
40 race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY** or
41 national origin of the individual or group on account of an imbalance that
42 may exist with respect to the total number or percentage of persons of any
43 race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY** or
44 national origin employed by any employer, referred or classified for
45 employment by any employment agency or labor organization, admitted to

1 membership or classified by any labor organization or admitted to or
2 employed in any apprenticeship or other training program, in comparison
3 with the total number or percentage of persons of that race, color,
4 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY** or national origin in
5 any community, state, section or other area, or in the available workforce
6 in any community, state, section or other area.

7 M. The age discrimination prohibitions of this article may not be
8 construed to prohibit compulsory retirement of any employee who has
9 attained sixty-five years of age and who, for the two year period
10 immediately before retirement, is employed in a bona fide executive or
11 high policymaking position, if the employee is entitled to an immediate
12 nonforfeitable annual retirement benefit from a pension, profit sharing,
13 savings or deferred compensation plan or any combination of plans of the
14 employer for the employee, that equals, in the aggregate, at least
15 \$44,000. In applying the retirement benefit test of this subsection, if
16 any retirement benefit is in a form other than a straight life annuity,
17 with no ancillary benefits, or if employees contribute to the plan or make
18 rollover contributions, the benefit shall be adjusted in accordance with
19 rules adopted by the division so the benefit is the equivalent of a
20 straight life annuity, with no ancillary benefits, under a plan to which
21 employees do not contribute and under which no rollover contributions are
22 made.

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

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

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

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

36 **41-1464. Other unlawful employment practices: opposition to**
37 **unlawful practices; filing of charges;**
38 **participation in proceedings; notices and**
39 **advertisements for employment**

40 A. It is an unlawful employment practice for an employer to
41 discriminate against any of the employer's employees or applicants for
42 employment, for an employment agency or joint labor-management committee
43 controlling apprenticeship or other training or retraining programs,
44 including on-the-job training programs, to discriminate against any
45 individual or for a labor organization to discriminate against any member

1 or applicant for membership because the employee, the member, the
2 applicant or the individual in an apprenticeship or other training or
3 retraining program has opposed any practice that is an unlawful employment
4 practice under this article or has made a charge, testified, assisted or
5 participated in any manner in an investigation, proceeding or hearing
6 under article 6 of this chapter.

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

25 C. It is unlawful for an employer, labor organization or employment
26 agency to print or publish or cause to be printed or published any notice
27 or advertisement relating to employment by an employer or membership in or
28 any classification or referral for employment by a labor organization or
29 relating to any classification or referral for employment by an employment
30 agency, indicating any preference, limitation, specification or
31 discrimination based on age, except that the notice or advertisement may
32 indicate a preference, limitation, specification or discrimination based
33 on age when age is a bona fide occupational qualification for employment.

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

36 41-1481. Filing charges; investigation; findings;
37 conciliation; compliance proceedings; appeals;
38 attorney fees; violation; classification

39 A. A charge under this section shall be filed within one hundred
40 eighty days after the alleged unlawful employment practice occurred. A
41 charge is deemed filed on receipt by the division from or on behalf of a
42 person claiming to be aggrieved or, if filed by a member of the division,
43 when executed by the member on oath or affirmation. A charge is deemed
44 filed by or on behalf of a person claiming to be aggrieved if received
45 from the United States equal employment opportunity commission. A charge

1 shall be in writing on oath or affirmation and shall contain the
2 information, including the date, place and circumstances of the alleged
3 unlawful employment practice, and be in the form as the division
4 requires. The division shall not make charges public.

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

41 C. All conciliation agreements shall provide that the charging
42 party waives, releases and covenants not to sue the respondent or claim
43 against the respondent in any forum with respect to the matters ~~which~~ THAT
44 were alleged as charges filed with the division, subject to performance by
45 the respondent of the promises and representations contained in the

1 conciliation agreement. The charging party or the respondent may prepare
 2 a conciliation agreement that the division shall submit to the other party
 3 and that, if accepted by the other party, shall be accepted by the
 4 division.

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

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

42 F. The court shall assign any action brought under this article for
 43 hearing at the earliest practicable date and cause the action to be in
 44 every way expedited. If the action has not been scheduled for trial
 45 within one hundred twenty days after issue has been joined, the judge may

1 appoint a master pursuant to rule 53 of the Arizona rules of civil
2 procedure.

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

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

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

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

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

37 **41-1491. Definitions**

38 In this article, unless the context otherwise requires:

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

40 (a) Claims to have been injured by a discriminatory housing
41 practice.

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

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

1 3. "Conciliation" means the attempted resolution of issues raised
2 by a complaint or by the investigation of the complaint through informal
3 negotiations involving the aggrieved person, the respondent and the
4 attorney general.

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

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

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

17 7. "Dwelling" means either:

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

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

24 8. "Family" includes a single individual.

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

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

33 ~~10.~~ 11. "Respondent" means either:

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

36 (b) Any person identified as an additional or substitute respondent
37 under section 41-1491.25 or an agent of an additional or substitute
38 respondent.

39 12. "SEXUAL ORIENTATION" MEANS HOMOSEXUALITY, HETEROSEXUALITY OR
40 BISEXUALITY.

41 ~~11.~~ 13. "To rent" includes to lease, to sublease, to let or to
42 otherwise grant for a consideration the right to occupy premises not owned
43 by the occupant.

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

3 41-1491.05. Appraisal exemption

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

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

10 41-1491.14. Discrimination in sale or rental

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

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

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

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

27 41-1491.15. Publication of sales or rentals

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

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

36 41-1491.16. Inspection of dwelling

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

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

43 41-1491.17. Entry into neighborhood

44 A person, for profit, may not induce or attempt to induce a person
45 to sell or rent a dwelling by representations regarding the entry or

1 prospective entry into a neighborhood of a person of a particular race,
2 color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability,
3 familial status or national origin.

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

6 **41-1491.20. Residential real estate related transaction;**
7 **definition**

8 A. A person whose business includes engaging in residential real
9 estate related transactions may not discriminate against a person in
10 making a real estate related transaction available or in the terms or
11 conditions of a real estate related transaction because of race, color,
12 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial
13 status or national origin.

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

16 1. Making or purchasing loans or providing other financial
17 assistance either:

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

19 (b) To secure residential real estate.

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

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

23 **41-1491.21. Brokerage services**

24 A person may not deny any person access to, or membership or
25 participation in, a multiple listing service, real estate brokers'
26 organization or other service, organization or facility relating to the
27 business of selling or renting dwellings or may not discriminate against a
28 person in the terms or conditions of access, membership or participation
29 in such an organization, service or facility because of race, color,
30 religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY**, disability, familial
31 status or national origin.

32 Sec. 16. Section 41-1493.01, Arizona Revised Statutes, is amended
33 to read:

34 **41-1493.01. Free exercise of religion protected**

35 A. Free exercise of religion is a fundamental right that applies in
36 this state even if laws, rules or other government actions are facially
37 neutral.

38 B. Except as provided in subsection C **OF THIS SECTION**, government
39 shall not substantially burden a person's exercise of religion even if the
40 burden results from a rule of general applicability.

41 C. Government may substantially burden a person's exercise of
42 religion only if ~~it~~ **THE GOVERNMENT DOES EITHER OF THE FOLLOWING:**

43 1. Demonstrates that application of the burden to the person is
44 both:

45 ~~it~~ (a) In furtherance of a compelling governmental interest.

1 ~~2.~~ (b) The least restrictive means of furthering that compelling
2 governmental interest.

3 2. ENFORCES ANY PROVISION OF LAW OR IMPLEMENTS ANY LAW THAT
4 PROVIDES FOR OR REQUIRES ANY OF THE FOLLOWING:

5 (a) PROTECTIONS AGAINST DISCRIMINATION OR THE PROMOTION OF EQUAL
6 OPPORTUNITY UNDER ANY FEDERAL, STATE OR LOCAL LAW, INCLUDING THE
7 PROTECTIONS AND PROMOTIONS IN THIS CHAPTER, THE CIVIL RIGHTS ACT OF 1964
8 (P.L. 88-352; 78 STAT. 241), THE AMERICANS WITH DISABILITIES ACT OF 1990
9 (P.L. 101-336 ; 104 STAT. 327), THE FAMILY AND MEDICAL LEAVE ACT OF 1993
10 (P.L. 103-3; 107 STAT. 6), UNITED STATES EXECUTIVE ORDER 11246, THE
11 VIOLENCE AGAINST WOMEN ACT OF 1994 (P.L. 103-322; 108 STAT. 1902) AND THE
12 EQUAL ACCESS TO HOUSING IN THE UNITED STATES DEPARTMENT OF HOUSING AND
13 URBAN DEVELOPMENT PROGRAMS REGARDLESS OF SEXUAL ORIENTATION OR GENDER
14 IDENTITY (24 CODE OF FEDERAL REGULATIONS PARTS 5, 200, 203, 236, 401, 570,
15 574, 882, 891 AND 982).

16 (b) EMPLOYERS TO PROVIDE WAGES, OTHER COMPENSATION OR BENEFITS,
17 INCLUDING LEAVE OR STANDARDS PROTECTING COLLECTIVE ACTIVITY IN THE
18 WORKPLACE.

19 (c) PROTECTIONS AGAINST CHILD LABOR, ABUSE OR EXPLOITATION.

20 (d) ACCESS TO, INFORMATION ABOUT, REFERRALS FOR, PROVISION OF OR
21 COVERAGE FOR ANY HEALTH CARE ITEM OR SERVICE.

22 D. A person whose religious exercise is burdened in violation of
23 this section may assert that violation as a claim or defense in a judicial
24 proceeding and obtain appropriate relief against a government. A party
25 who prevails in any action to enforce this article against a government
26 shall recover attorney fees and costs.

27 E. In this section, the term substantially burden is intended
28 solely to ensure that this article is not triggered by trivial, technical
29 or de minimis infractions.