

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

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2364

Introduced by
Representatives De Los Santos: Garcia, Gutierrez

AN ACT

AMENDING SECTIONS 41-1402, 41-1441, 41-1442, 41-1444, 41-1461, 41-1463, 41-1464, 41-1481, 41-1491, 41-1491.05, 41-1491.14, 41-1491.15, 41-1491.16, 41-1491.17, 41-1491.20 AND 41-1491.21, ARIZONA REVISED STATUTES; RELATING TO CIVIL RIGHTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 41-1402. Powers and duties of the division

5 A. The division may:

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

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

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

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

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

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

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

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

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

39 B. The division shall:

40 1. Administer this chapter.

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

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

3 41-1441. Definitions

4 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

public accommodation and nothing in this article shall be considered to limit the right of such exclusion.

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

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

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

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

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

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

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

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

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

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

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

(a) The installation would not be feasible.

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

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

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

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

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

8 E. For the purposes of this section:

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

11 2. "Public entity" means any:

12 (a) State or local government.

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

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

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

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

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

29 41-1461. Definitions

30 In this article, unless the context otherwise requires:

31 1. "Auxiliary aids and services" includes:

32 (a) Qualified interpreters or other effective methods of making
33 aurally delivered materials available to individuals with hearing
34 impairments.

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

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

39 (d) Other similar services and actions.

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

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

43 (a) Means an individual who establishes that the individual has
44 been subjected to an action prohibited under this article because of an

1 actual or perceived physical or mental impairment whether or not the
2 impairment limits or is perceived to limit a major life activity.

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

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

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

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

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

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

14 6. "Employee":

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

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

23 7. "Employer":

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

29 (i) Committed any act of sexual harassment.

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

33 (b) Does not include either:

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

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

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

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

5 ~~9.~~ 10. "Labor organization":

6 (a) Means a labor organization and any agent of a labor
7 organization.

8 (b) Includes:

9 (i) Any organization of any kind, any agency or employee
10 representation committee, group, association or plan in which ~~fifteen~~ FIVE
11 or more employees participate and that exists for the purpose, in whole or
12 in part, of dealing with employers concerning grievances, labor disputes,
13 wages, rates of pay, hours or other terms or conditions of employment.

14 (ii) Any conference, general committee, joint or system board or
15 joint council that is subordinate to a national or international labor
16 organization.

17 ~~10.~~ 11. "Major life activities" includes:

18 (a) Caring for oneself, performing manual tasks, seeing, hearing,
19 eating, sleeping, walking, standing, lifting, bending, speaking,
20 breathing, learning, reading, concentrating, thinking, communicating and
21 working.

22 (b) The operation of a major bodily function, including functions
23 of the immune system, normal cell growth and digestive, bowel, bladder,
24 neurological, brain, respiratory, circulatory, endocrine and reproductive
25 functions.

26 ~~11.~~ 12. "Person" means one or more individuals, governmental
27 agencies, political subdivisions, labor unions, partnerships,
28 associations, corporations, legal representatives, mutual companies,
29 joint-stock companies, trusts, unincorporated organizations, trustees,
30 trustees in bankruptcy or receivers.

31 ~~12.~~ 13. "Qualified individual" means a person with a disability
32 who, with or without reasonable accommodation, is capable of performing
33 the essential functions of the employment position that the individual
34 holds or desires.

35 ~~13.~~ 14. "Reasonable accommodation" includes:

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

38 (b) Job restructuring, part-time or modified work schedules,
39 reassignment to a vacant position, acquisition or modification of
40 equipment or devices, appropriate adjustment or modification of
41 examinations, training materials or policies, the provision of qualified
42 readers, taped texts or other effective methods of making visually
43 delivered materials available to individuals with visual impairments, the
44 provision of auxiliary aids and services or interpreters and other similar
45 services and actions for individuals with disabilities.

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

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

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

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

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

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

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

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

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

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

41-1463. Discrimination; unlawful practices; definition

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~E.~~ **F.** It is an unlawful employment practice for any employer,
 37 labor organization or joint labor-management committee controlling
 38 apprenticeship or other training or retraining programs, including
 39 on-the-job training programs, to discriminate against any individual
 40 because of the individual's race, color, religion, sex, **SEXUAL**
 41 **ORIENTATION, GENDER IDENTITY AND GENDER EXPRESSION**, age or national origin
 42 or on the basis of disability in admission to or employment in any program
 43 established to provide apprenticeship or other training and, if the
 44 individual is an otherwise qualified individual, to fail or refuse to
 45 reasonably accommodate the individual's disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~L.~~ M. ~~Nothing contained in~~ This article or article 6 of this chapter ~~requires~~ **DOES NOT REQUIRE** any employer, employment agency, labor

1 organization or joint labor-management committee subject to this article
 2 to grant preferential treatment to any individual or group because of the
 3 race, color, religion, sex, **SEXUAL ORIENTATION, GENDER IDENTITY AND GENDER**
 4 **EXPRESSION** or national origin of the individual or group on account of an
 5 imbalance that may exist with respect to the total number or percentage of
 6 persons of any race, color, religion, sex, **SEXUAL ORIENTATION, GENDER**
 7 **IDENTITY AND GENDER EXPRESSION** or national origin employed by any
 8 employer, referred or classified for employment by any employment agency
 9 or labor organization, admitted to membership or classified by any labor
 10 organization or admitted to or employed in any apprenticeship or other
 11 training program, in comparison with the total number or percentage of
 12 persons of that race, color, religion, sex, **SEXUAL ORIENTATION, GENDER**
 13 **IDENTITY AND GENDER EXPRESSION** or national origin in any community, state,
 14 section or other area, or in the available workforce in any community,
 15 state, section or other area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 41-1491. Definitions

10 In this article, unless the context otherwise requires:

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

12 (a) Claims to have been injured by a discriminatory housing
13 practice.

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

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

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

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

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

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

34 7. "Dwelling" means either:

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

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

41 8. "Family" includes a single individual.

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

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

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

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

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

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

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

41-1491.05. Appraisal exemption

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

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

41-1491.14. Discrimination in sale or rental

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

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

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

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

3 41-1491.15. Publication of sales or rentals

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

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

13 41-1491.16. Inspection of dwelling

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

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

21 41-1491.17. Entry into neighborhood

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

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

29 41-1491.20. Residential real estate related transaction;
30 definition

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

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

39 1. Making or purchasing loans or providing other financial
40 assistance either:

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

42 (b) To secure residential real estate.

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

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

3 41-1491.21. Brokerage services

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