

1 AN ACT relating to civil rights.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. KRS 344.010 IS REPEALED AND REENACTED TO READ

4 AS FOLLOWS:

5 *As used in this chapter, unless the context otherwise requires:*

6 *(1) "Commission" means the Kentucky Commission on Human Rights;*

7 *(2) "Commissioner" means a member of the commission;*

8 *(3) "Credit transaction" means any open-end or closed-end credit transaction,*
9 *whether in the nature of a loan, retail installment transaction, credit card issue or*
10 *charge, or otherwise, and whether for personal or business purposes, in which a*
11 *service, finance, or interest charge is imposed, or which provides for repayment*
12 *in scheduled payments, when the credit is extended in the regular course of*
13 *business of any trade or commerce, including but not limited to transactions by*
14 *banks, savings and loan associations, or other financial lending institutions of*
15 *whatever nature, stockbrokers, or a merchant or mercantile establishment which*
16 *as part of its ordinary business permits or provides that payment for purchases of*
17 *property or services therefrom may be deferred;*

18 *(4) "Disability" means, with respect to an individual:*

19 *(a) A physical or mental impairment that substantially limits one (1) or more of*
20 *the major life activities of the individual;*
21 *(b) A record of such an impairment; or*
22 *(c) Being regarded as having such an impairment.*

23 *Persons with current or past controlled substances abuse or alcohol abuse*
24 *problems and persons excluded from coverage by the Americans with Disabilities*
25 *Act of 1990, 42 U.S.C. sec. 12101 et seq., as amended, shall not be considered*
26 *individuals with a disability;*

27 *(5) "Discrimination" means any direct or indirect act or practice of exclusion,*

1 distinction, restriction, segregation, limitation, refusal, denial, or any other act or
2 practice of differentiation or preference in the treatment of a person or persons,
3 or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful
4 under this chapter;

5 (6) "Discriminatory housing practice" means an act that is unlawful under Section
6 19, 20, 21, 22, 23, or 24 of this Act;

7 (7) (a) "Familial status" means one (1) or more individuals who have not attained
8 the age of eighteen (18) and are domiciled with:

- 9 1. A parent or another person having legal custody of the individual or
10 individuals; or
- 11 2. The designee of a parent or other person having custody, with the
12 written permission of the parent or other person.

13 (b) The protection afforded against discrimination on the basis of familial
14 status shall apply to any person who is pregnant or is in the process of
15 securing legal custody of any individual who has not attained the age of
16 eighteen (18);

17 (8) "Family" includes a single individual;

18 (9) "Financial institution" means a bank, banking organization, mortgage company,
19 insurance company, or other lender to whom application is made for financial
20 assistance for the purchase, lease, acquisition, construction, rehabilitation,
21 repair, maintenance, or improvement of real property, or an individual employed
22 by or acting on behalf of any of these;

23 (10) "Gender identity" means having or being perceived as having a gender identity
24 or expression, whether or not traditionally associated with the sex assigned to that
25 person at birth;

26 (11) "Housing accommodations" includes improved and unimproved property and
27 means any building, structure, lot, or portion thereof which is used or occupied,

1 or is intended, arranged, or designed to be used or occupied, as the home or
2 residence of one (1) or more families, and any vacant land which is offered for
3 sale or lease for the construction or location thereon of any such building or
4 structure;

5 (12) "Licensing agency" means any public or private organization which has as one
6 (1) of its duties the issuing of licenses or the setting of standards which an
7 individual must hold or must meet as a condition to practicing a particular trade
8 or profession or to obtaining certain employment within this Commonwealth or
9 as a condition to competing effectively with an individual who does hold a license
10 or meet the standards;

11 (13) "Local commission" means a local human rights commission created pursuant
12 to Section 18 of this Act;

13 (14) "Person" includes one (1) or more individuals, labor organizations, joint
14 apprenticeship committees, partnerships, associations, corporations, legal
15 representatives, mutual companies, joint stock companies, limited liability
16 companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy,
17 fiduciaries, receivers, or other legal or commercial entities, or the Commonwealth
18 or any of its political or civil subdivisions or agencies;

19 (15) "Real estate broker" or "real estate salesperson" means any individual, whether
20 licensed or not, who:

21 (a) On behalf of others, for a fee, commission, salary, or other valuable
22 consideration, or who with the intention or expectation of receiving or
23 collecting the same, lists, sells, purchases, exchanges, rents, or leases real
24 estate, or the improvements thereon, including options;

25 (b) Negotiates or attempts to negotiate on behalf of others an activity described
26 in paragraph (a) of this subsection;

27 (c) Advertises or holds oneself out as engaged in activities described in

1 paragraph (a) of this subsection;

2 (d) Negotiates or attempts to negotiate on behalf of others a loan secured by a
3 mortgage or other encumbrance upon a transfer of real estate;

4 (e) Is engaged in the business of charging an advance fee or contracting for
5 collection of a fee in connection with a contract whereby the individual
6 undertakes to promote the sale, purchase, exchange, rental, or lease of real
7 estate through its listing in a publication issued primarily for this purpose;
8 or

9 (f) Is employed by or acting on behalf of any person described in paragraphs
10 (a) to (e) of this subsection;

11 (16) "Real estate operator" means:

12 (a) Any individual or combination of individuals, labor organizations, joint
13 apprenticeship committees, partnerships, associations, corporations, legal
14 representatives, mutual companies, joint stock companies, limited liability
15 companies, trusts, unincorporated organizations, trustees in bankruptcy,
16 receivers, or other legal or commercial entities, the county, or any of its
17 agencies, that:

18 1. Is engaged in the business of selling, purchasing, exchanging, renting,
19 or leasing real estate, or the improvements thereon, including options;

20 or

21 2. Derives income, in whole or in part, from the sale, purchase,
22 exchange, rental, or lease of real estate; or

23 (b) An individual employed by or acting on behalf of any individual or entity
24 described in paragraph (a) of this subsection;

25 (17) "Real estate-related transaction" means:

26 (a) The making or purchasing of loans or providing other financial assistance:

27 1. For purchasing, constructing, improving, repairing, or maintaining a

housing accommodation; or

2. Secured by real estate; or

(b) The selling, brokering, or appraising of real property, except that a person engaged in the business of furnishing appraisals of real property shall not take into consideration familial status, race, color, religion, national origin, sex, sexual orientation, gender identity, age forty (40) and over, or disability;

8 (18) "Real property" includes buildings, structures, real estate, lands, tenements,
9 leaseholds, cooperatives, condominiums, and hereditaments, corporeal and
10 incorporeal, or any interest in them;

11 **(19) "Sexual orientation" means an individual's actual or imputed heterosexuality,**
12 **homosexuality, or bisexuality; and**

13 **(20) "To rent" means to lease, sublease, let, or otherwise grant for a consideration the**
14 ***right to occupy premises not owned by the occupant.***

15 ➔ Section 2. KRS 344.020 is amended to read as follows:

16 (1) The general purposes of this chapter are **to:**

17 (a) [To]Provide for execution within the Commonwealth[state] of the policies
18 embodied in the[Federal] Civil Rights Act of 1964, Pub. L. No. 88-352, as
19 amended[(78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968
20 (82 Stat. 81)], the Fair Housing Act, Pub. L. No. 90-284, as amended[(42
21 U.S.C. 360)], the[Federal] Age Discrimination in Employment Act of 1967,
22 Pub. L. No. 90-202, as amended[(81 Stat. 602)], the Americans with
23 Disabilities Act of 1990, Pub. L. No.[(P.L.) 101-336]), as amended, and the
24 Civil Rights Act of 1991, Pub. L. No. 102-166, as amended[(P.L. 102-166,
25 amended by P.L. 102-392)]:

26 (b) [To] Safeguard all individuals within the Commonwealth[state] from
27 discrimination because of familial status, race, color, religion, national origin.

1 sex, sexual orientation, gender identity, age forty (40) and over, or[because
2 of the person's status as a qualified individual with a] disability[as defined in
3 KRS 344.010 and KRS 344.030]; thereby to protect their interest in personal
4 dignity and freedom from humiliation, to make available to the
5 Commonwealth[state] their full productive capacities, to secure the
6 Commonwealth[state] against domestic strife and unrest which would menace
7 its democratic institutions, to preserve the public safety, health, and general
8 welfare, and to further the interest, rights, and privileges of individuals within
9 the Commonwealth[state]; **and**

10 (c) [To]Establish as the policy of the Commonwealth the safeguarding of the
11 rights of an individual selling or leasing the individual's[his] primary
12 residence through private sale without the aid of any real estate operator,
13 broker, or salesperson[salesman] and without advertising or public display.

14 (2) This chapter shall be construed to further the general purposes stated in this section
15 and the special purposes of the particular provision involved.

16 (3) [Nothing in]This chapter shall **not** be construed as indicating an intent to exclude
17 local laws on the same subject matter not inconsistent with this chapter.

18 (4) [Nothing contained in]This chapter shall **not** be deemed to repeal any other law of
19 this Commonwealth[state] relating to discrimination because of familial status,
20 race, color, religion, national origin, sex, sexual orientation, gender identity, age
21 forty (40) and over, or[because of the person's status as a qualified individual with
22 a] disability[as defined in KRS 344.030].

23 ➔Section 3. KRS 344.025 is amended to read as follows:

24 [No provision in]KRS Chapter 18A shall **not** be construed to preclude any classified or
25 unclassified state employee from appealing to the personnel board any action alleged to
26 be in violation of laws prohibiting discrimination based on an individual's familial
27 status, race, color, religion, national origin,[a person's status as a qualified individual

1 with a disability,] sex, sexual orientation, gender identity, age[.]forty (40) and over, or
2 disability[religion, or race or national origin], in accordance with this chapter.

3 ➔Section 4. KRS 344.040 is amended to read as follows:

4 (1) It is an unlawful practice for an employer to:

5 (a) Because of the individual's familial status, race, color, religion, national
6 origin, sex, sexual orientation, gender identity, age forty (40) and over,
7 disability, or because the individual is a smoker or nonsmoker, as long as
8 the individual complies with any workplace policy concerning smoking:

9 1. Fail or refuse to hire, or to discharge any individual, or otherwise to
10 discriminate against an individual with respect to compensation,
11 terms, conditions, or privileges of employment; or

12 2. Limit, segregate, or classify employees in any way that would deprive
13 or tend to deprive an individual of employment opportunities or
14 otherwise adversely affect status as an employee[To fail or refuse to
15 hire, or to discharge any individual, or otherwise to discriminate against
16 an individual with respect to compensation, terms, conditions, or
17 privileges of employment, because of the individual's race, color,
18 religion, national origin, sex, age forty (40) and over, because the person
19 is a qualified individual with a disability, or because the individual is a
20 smoker or nonsmoker, as long as the person complies with any
21 workplace policy concerning smoking;

22 (b) To limit, segregate, or classify employees in any way which would deprive or
23 tend to deprive an individual of employment opportunities or otherwise
24 adversely affect status as an employee, because of the individual's race, color,
25 religion, national origin, sex, or age forty (40) and over, because the person is
26 a qualified individual with a disability, or because the individual is a smoker
27 or nonsmoker, as long as the person complies with any workplace policy

1 concerning smoking];

2 **(b)(e) [REDACTED]**Fail to make reasonable accommodations for any employee with
3 limitations related to pregnancy, childbirth, or a related medical condition
4 who requests an accommodation, including but not limited to the need to
5 express breast milk, unless the employer can demonstrate the accommodation
6 would impose an undue hardship on the employer's program, enterprise, or
7 business. The following shall be required as to reasonable accommodations:

17 **(c)(4)** [To]Require as a condition of employment that any employee or
18 applicant for employment abstain from smoking or using tobacco products
19 outside the course of employment, as long as the *individual*[person] complies
20 with any workplace policy concerning smoking.

21 (2) (a) A difference in employee contribution rates for smokers and nonsmokers in
22 relation to an employer-sponsored health plan shall not be deemed to be an
23 unlawful practice in violation of this section.

24 (b) The offering of incentives or benefits offered by an employer to employees
25 who participate in a smoking cessation program shall not be deemed to be an
26 unlawful practice in violation of this section.

27 (3) (a) An employer shall provide written notice of the right to be free from

1 discrimination in relation to pregnancy, childbirth, and related medical
2 conditions, including the right to reasonable accommodations, to:–
3 1. new employees at the commencement of employment; and
4 2. Existing employees not later than thirty (30) days after June 27, 2019].
5 (b) An employer shall conspicuously post a written notice of the right to be free
6 from discrimination in relation to pregnancy, childbirth, and related medical
7 conditions, including the right to reasonable accommodations, at the
8 employer's place of business in an area accessible to employees.

9 ➤Section 5. KRS 344.030 is amended to read as follows:

10 As used in [For the purposes of] KRS 344.030 to 344.110:

11 (1) ["Qualified individual with a disability" means an individual with a disability as
12 defined in KRS 344.010 who, with or without reasonable accommodation, can
13 perform the essential functions of the employment position that the individual holds
14 or desires unless an employer demonstrates that he is unable to reasonably
15 accommodate an employee's or prospective employee's disability without undue
16 hardship on the conduct of the employers' business. Consideration shall be given to
17 the employer's judgment as to what functions of a job are essential, and if an
18 employer has prepared a written description before advertising or interviewing
19 applicants for the job, this description shall be considered evidence of the essential
20 functions of the job;]

21 (2) "Employer" means a person who has eight (8) or more employees within the
22 Commonwealth [state] in each of twenty (20) or more calendar weeks in the current
23 or preceding calendar year and an agent of such a person, except for purposes of
24 determining accommodations for an employee's own limitations related to her
25 pregnancy, childbirth, or related medical conditions, employer means a person who
26 has fifteen (15) or more employees within the Commonwealth [state] in each of
27 twenty (20) or more calendar weeks in the current or preceding calendar year and

1 any agent of the person, and, except for purposes of determining discrimination
2 based on disability, employer means a person engaged in an industry affecting
3 commerce who has fifteen (15) or more employees for each working day in each of
4 twenty (20) or more calendar weeks in the current or preceding calendar year, and
5 any agent of that person~~[, except that, for two (2) years following July 14, 1992, an~~
6 ~~employer means a person engaged in an industry affecting commerce who has~~
7 ~~twenty-five (25) or more employees for each working day in each of twenty (20) or~~
8 ~~more calendar weeks in the current or preceding year, and any agent of that person]~~.
9 For the purposes of determining discrimination based on disability, employer shall
10 not include:

11 (a) The United States, a corporation wholly owned by the government of the
12 United States, or an Indian tribe; or

13 (b) A bona fide private membership club (other than a labor organization) that is
14 exempt from taxation under Section 501(c) of the Internal Revenue Service
15 Code of 1986;

16 ~~(2)~~
~~(3)~~ "Employment agency" means a person regularly undertaking with or without
17 compensation to procure employees for an employer or to procure for employees
18 opportunities to work for an employer and includes an agent of such person;

19 ~~(3)~~
~~(4)~~ "Labor organization" means a labor organization and an agent of such an
20 organization, and includes an organization of any kind, an agency or employee
21 representation committee, group, association, or plan so engaged in which
22 employees participate and which exists for the purpose, in whole or in part, of
23 dealing with employers concerning grievances, labor disputes, wages, rates of pay,
24 hours, or other terms or conditions of employment, and a conference, general
25 committee, joint or system board, or joint council so engaged which is subordinate
26 to a national or international labor organization;

27 ~~(4)~~
~~(5)~~ (a) "Employee" means an individual employed by an employer, but does

1 not include an individual employed by his or her parents, spouse, or child, or
2 an individual employed to render services as a domestic in the home of the
3 employer.

4 (b) Notwithstanding any voluntary agreement entered into between the United
5 States Department of Labor and a franchisee, neither a franchisee nor a
6 franchisee's employee shall be deemed to be an employee of the franchisor for
7 any purpose under this chapter.

8 (c) Notwithstanding any voluntary agreement entered into between the United
9 States Department of Labor and a franchisor, neither a franchisor nor a
10 franchisor's employee shall be deemed to be an employee of the franchisee for
11 any purpose under this chapter.

12 (d) For purposes of this subsection, "franchisee" and "franchisor" have the same
13 meanings as in 16 C.F.R. sec. 436.1;

14 (5)(6) "Reasonable accommodation":

15 (a) Means making existing facilities used by employees readily accessible to and
16 usable by individuals with disabilities, job restructuring, part-time or modified
17 work schedules, reassignment to a vacant position, acquisition or modification
18 of equipment or devices, appropriate adjustment or modifications of
19 examinations, training materials or policies, the provision of qualified readers
20 or interpreters, and other similar accommodations for individuals with
21 disabilities; and

22 (b) For an employee's own limitations related to her pregnancy, childbirth, or
23 related medical conditions, may include more frequent or longer breaks, time
24 off to recover from childbirth, acquisition or modification of equipment,
25 appropriate seating, temporary transfer to a less strenuous or less hazardous
26 position, job restructuring, light duty, modified work schedule, and private
27 space that is not a bathroom for expressing breast milk;

1 (6){(7)} "Religion" means all aspects of religious observance and practice, as well as
2 belief, unless an employer demonstrates that it ~~the~~ is unable to reasonably
3 accommodate to an employee's or prospective employee's religious observance or
4 practice without undue hardship on the conduct of the employer's business;

5 (7){(8)} (a) The terms "because of sex" and "on the basis of sex" include but are not
6 limited to because of or on the basis of pregnancy, childbirth, or related
7 medical conditions, and women affected by pregnancy, childbirth, or related
8 medical conditions shall be treated the same for all employment-related
9 purposes, including receipt of benefits under fringe benefit programs, as other
10 persons not so affected but similar in their ability or inability to work.

11 (b) "Related medical condition" includes but is not limited to lactation or the need
12 to express breast milk for a nursing child and has the same meaning as in the
13 Pregnancy Discrimination Act, 42 U.S.C. sec. 2000e(k), and shall be
14 construed as that term has been construed under that Act; and

15 (8){(9)} "Undue hardship," for purposes of disability discrimination or limitations due
16 to pregnancy, childbirth, or related medical conditions as described in KRS
17 344.040(1)(b){(e)}, means an action requiring significant difficulty or expense,
18 when considered in light of the following factors:

19 (a) The nature and cost of the accommodation needed;

20 (b) The overall financial resources of the facility or facilities involved in the
21 provision of the reasonable accommodation~~;~~ the number of persons
22 employed at the facility~~;~~ the effect on expenses and resources~~;~~ or the
23 impact otherwise of such accommodation upon the operation of the facility~~;~~

24 (c) The overall financial resources of the covered entity~~;~~ the overall size of the
25 business of a covered entity with respect to the number of its employees~~;~~
26 and the number, type, and location of its facilities;

27 (d) The type of operation or operations of the covered entity, including the

1 composition, structure, and functions of the workforce of such entity; the
2 geographic separateness, administrative, or fiscal relationship of the facility or
3 facilities in question to the covered entity; and

4 (e) In addition to paragraphs (a) to (d) of this subsection, for pregnancy,
5 childbirth, and related medical conditions, the following factors:

- 6 1. The duration of the requested accommodation; and
- 7 2. Whether similar accommodations are required by policy to be made,
8 have been made, or are being made for other employees due to any
9 reason.

10 ➔ Section 6. KRS 344.050 is amended to read as follows:

11 ~~{(1)}~~ It is an unlawful practice for:

12 ~~(1)~~ An employment agency to fail or refuse to refer for employment~~{,}~~ or to otherwise~~{~~
13 ~~to~~ discriminate against~~{,}~~ an individual because of ~~this~~familial status, race, color,
14 religion, national origin, sex, sexual orientation, gender identity,~~{,}~~ age forty (40)
15 and over, or~~{ because the person is a qualified individual with a}~~ disability, or to
16 classify or refer for employment an individual because of~~{on the basis of~~
17 disability~~,~~ familial status, race, color, religion, national origin, sex, sexual
18 orientation, gender identity,~~{,}~~ age~~{ between }~~ forty (40) and over, or disability;
19 ~~or~~seventy (70).~~}~~

20 ~~(2)~~ ~~It is an unlawful practice for~~ A licensing agency to refuse to license, or to bar or
21 terminate from licensing an individual because of familial status, race, color,
22 religion, national origin, sex, sexual orientation, gender identity,~~{,}~~ age forty (40)
23 and over, or~~{ because the person is a qualified individual with a}~~ disability.

24 ➔ Section 7. KRS 344.060 is amended to read as follows:

25 It is an unlawful practice for a labor organization to:

26 ~~(1)~~ ~~{To }~~Exclude or~~{ to }~~ expel from its membership~~{,}~~ or to otherwise~~{ to }~~ discriminate
27 against~~{,}~~ a member, or applicant for membership, because of familial status, race,

1 color, religion, national origin, sex, sexual orientation, gender identity, ~~or~~ age
2 forty (40) and over, or ~~because the person is a qualified individual with a~~
3 disability;~~.~~

4 (2) ~~To~~ Limit, segregate, or classify its membership, or to classify or fail to refuse to
5 refer for employment an individual, in any way which would deprive or tend to
6 deprive an individual of employment opportunities, or would limit such
7 employment opportunities or otherwise adversely affect the status as an employee
8 or as an applicant for employment, because of familial status, race, color, religion,
9 national origin, sex, sexual orientation, gender identity, ~~or~~ age forty (40) and
10 over, or ~~because the person is a qualified individual with a~~ disability; or~~.~~

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

13 ➔ Section 8. KRS 344.070 is amended to read as follows:

14 It is an unlawful practice for an employer, labor organization, or joint labor-management
15 committee controlling apprenticeship or other training or retraining, including on-the-job
16 training programs, to discriminate against an individual because of familial status, race,
17 color, religion, national origin, sex, sexual orientation, gender identity, ~~or~~ age forty
18 (40) and over, or ~~because the person is a qualified individual with a~~ disability in
19 admission to or employment in, any program established to provide apprenticeship or
20 other training.

21 ➔ Section 9. KRS 344.080 is amended to read as follows:

22 (1) It is an unlawful practice for an employer, labor organization, licensing agency, or
23 employment agency to print or publish or cause to be printed or published a notice
24 or advertisement relating to employment by such an employer or membership in or
25 any classification or referral for employment by the employment or licensing
26 agency, indicating any preference, limitation, specification, or discrimination, based
27 on familial status, race, color, religion, national origin, sex, sexual orientation,

1 ~~gender identity, or~~ age forty (40) and over, or~~because the person is a qualified~~
2 ~~individual with a~~ disability, ~~except that such a notice or advertisement may~~

3 **(2) It shall not be a violation of subsection (1) of this section for a notice or**
4 **advertisement to** indicate a preference, limitation, or specification based on
5 religion, national origin, sex, **sexual orientation, gender identity,**~~or~~ age forty (40)
6 and over, or~~because the person is a qualified individual with a~~ disability, when
7 religion, national origin, sex, **sexual orientation, gender identity,**~~or~~ age forty (40)
8 and over, or~~because the person is a qualified individual with a~~ disability, is a
9 bona fide occupational qualification for employment.

10 ➔ Section 10. KRS 344.100 is amended to read as follows:

11 ~~[Notwithstanding]Any[other]~~ provision of this chapter **to the contrary notwithstanding,**
12 it is not an unlawful practice for an employer to:

13 **(1) Apply different standards of compensation, or different terms, conditions, or**
14 **privileges of employment pursuant to a bona fide seniority or merit system, or a**
15 **system which measures earnings by quantity or quality of production or to**
16 **employees who work in different locations, if the differences are not the result of an**
17 **intention to discriminate because of familial status, race, color, religion, national**
18 **origin, sex, sexual orientation, gender identity,**~~or~~ age forty (40) and over, or~~because the person is a qualified individual with a~~ disability; **or**, nor is it an
19 **unlawful practice for an employer to]**

21 **(2) Give and to act upon the results of any professionally developed ability test**
22 **provided that the test, its administration, or action upon the results is not designed,**
23 **intended, or used to discriminate because of familial status, race, color, religion,**
24 **national origin, sex, sexual orientation, gender identity,**~~or~~ age forty (40) and
25 **over, or~~because the person is a qualified individual with a~~ disability.**

26 ➔ Section 11. KRS 344.110 is amended to read as follows:

27 **(1) This chapter shall not be construed to require**

1 ~~requires~~] an employer, employment agency, labor organization, or joint labor-
2 management committee subject to this chapter to grant preferential treatment to an
3 individual or to a group because of the familial status, race, color, religion, national
4 origin, sex, sexual orientation, gender identity, ~~or~~ age forty (40) and over, or ~~because the person is a qualified individual with a~~ disability, of the individual or
5 group on account of an imbalance which may exist with respect to the total number
6 or percentage of individuals~~persons~~ of any familial status, race, color, religion,
7 national origin, sex, sexual orientation, gender identity, ~~or~~ age forty (40) and
8 over, or ~~because the person is a qualified individual with a~~ disability, employed by
9 an employer, referred or classified for employment by an employment agency or
10 labor organization, admitted to membership or classified by a labor organization, or
11 admitted to, or employed in, an apprenticeship or other training program, in
12 comparison with the total number or percentage of individuals~~persons~~ of familial
13 status, race, color, religion, national origin, sex, sexual orientation, gender
14 identity, ~~or~~ age forty (40) and over, or ~~because the person is a qualified individual~~
15 ~~with a~~ disability, in the Commonwealth~~state~~ or a community, section, or other
16 area, or in the available workforce in the Commonwealth~~state~~ or a community,
17 section, or other area.

18

19 (2) ~~Nothing contained in~~] This chapter shall not be construed to prohibit:

20 (a) Minimum hiring ages otherwise provided by law; ~~or~~

21 (b) State compliance with federal regulations; ~~or~~

22 (c) Termination of the employment of any person who is unable to perform the
23 essential functions of the job, with or without reasonable accommodation; ~~or~~

24 (d) Any post-job-offer physical or medical examinations of applicants or
25 employees which an employer requires to determine their ability to perform
26 the essential functions of the job, with or without reasonable accommodation;
27 or ~~or~~

1 (e) An employer, labor organization, or employment agency from observing the
2 terms of a bona fide seniority system or any bona fide employee benefit plan
3 such as a retirement, pension, or insurance plan which is not a subterfuge to
4 evade the purposes of this chapter, except that no such employee benefit plan
5 shall excuse the failure to hire any individual.

6 ➔Section 12. KRS 344.120 is amended to read as follows:

7 Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for
8 a person to deny an individual the full and equal enjoyment of the goods, services,
9 facilities, privileges, advantages, and accommodations of a place of public
10 accommodation, resort, or amusement because[, as defined in KRS 344.130, on the
11 ground] of the individual's familial status[disability], race, color, religion,[or] national
12 origin, *sex, sexual orientation, gender identity, age forty (40) and over, or disability*.

13 →Section 13. KRS 344.140 is amended to read as follows:

14 It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue,
15 display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a
16 written, printed, oral, or visual communication, notice, or advertisement, which indicates
17 that the:

18 (1) Goods, services, facilities, privileges, advantages, and accommodations of a place
19 of public accommodation, resort, or amusement will be refused, withheld from, or
20 denied an individual because[on account] of familial status[disability], race, color,
21 religion,[or] national origin, sex, sexual orientation, gender identity, age forty (40)
22 and over, or disability; or[that the]

23 (2) Patronage of, or presence at, a place of public accommodation, resort, or
24 amusement, of an individual, because[on account] of familial status[disability],
25 race, color, religion,[or] national origin, sex, sexual orientation, gender identity,
26 age forty (40) and over, or disability is objectionable, unwelcome, unacceptable, or
27 undesirable.

1 ➔Section 14. KRS 344.170 is amended to read as follows:
2 The function of the commission shall be to encourage fair treatment for, to foster mutual
3 understanding and respect among, and to discourage discrimination against individuals
4 on the basis of familial status, race, color, religion, national origin, sex, sexual
5 orientation, gender identity, age forty (40) and over, or disability~~[any racial or ethnic~~
6 ~~group or its members]~~.

7 ➔Section 15. KRS 344.180 is amended to read as follows:
8 The powers and duties of the commission shall be to:
9 (1) ~~[To—]Employ~~ an executive director and other necessary personnel within the limits
10 of funds made available;
11 (2) ~~[To—]Conduct~~ research projects or make studies into and publish reports on
12 discrimination in Kentucky;
13 (3) ~~[To—]Receive~~ and investigate complaints of discrimination and to recommend ways
14 of eliminating any injustices occasioned thereby;
15 (4) ~~[To—]Hold~~ public hearings and request the attendance of witnesses;
16 (5) ~~[To—]Cooperate~~ with other organizations, public and private, to discourage
17 discrimination;
18 (6) ~~[To—]Encourage~~ fair treatment for all persons regardless of familial status, race,
19 color, religion, national origin, sex, sexual orientation, gender identity, age forty
20 (40) and over, or disability~~[national ancestry]~~; and
21 (7) ~~[To—]Make~~ an annual report to the Governor and the Legislative Research
22 Commission for referral to the appropriate committee or committees of its
23 activities under this chapter.

24 ➔Section 16. KRS 344.190 is amended to read as follows:
25 In the enforcement of this chapter, the commission~~[on Human Rights]~~ shall have the
26 following powers and duties:
27 (1) To maintain an office in the city of Louisville and other offices within the

1 Commonwealth{state} as may be deemed necessary;[.]

2 (2) To meet and exercise its powers at any place within the Commonwealth;[.]

3 (3) Within the limitations provided by law, to appoint an executive director, attorneys,

4 hearing examiners, clerks, and other employees and agents as it may deem

5 necessary. At the direction of the commission, attorneys appointed under this

6 section may appear for and represent the commission in any court. The commission

7 may, by written order, delegate the authority given by this subsection to its

8 executive director, except as that authority relates to the appointment of its

9 executive director;[.]

10 (4) To promote the creation of local commissions on human rights, to cooperate with

11 state, local, and other agencies, both public and private, and individuals, and to

12 obtain upon request and utilize the services of all governmental departments and

13 agencies;[.]

14 (5) To cooperate with the~~United States~~ Equal Employment Opportunity Commission,

15 created by~~Section 705 of~~ the Civil Rights Act of 1964, Pub. L. No. 88-352[(78

16 Stat. 241)], in order to achieve the purposes of that act, and with other federal and

17 local agencies in order to achieve the purposes of that act, and with other federal

18 and local agencies in order to achieve the purposes of this chapter;[.]

19 (6) To accept gifts or bequests, grants, or other payments, public or private, to help

20 finance its activities;[.]

21 (7) To accept reimbursement pursuant to Section 709(b) of the Civil Rights Act of

22 1964, Pub. L. No. 88-352[(78 Stat. 241)] for services rendered to assist the~~Federal~~

23 Equal Employment Opportunity Commission;[.]

24 (8) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon

25 complaints alleging violations of this chapter;[.]

26 (9) At any time after a complaint is filed, to require answers to interrogatories, compel

27 the attendance of witnesses, examine witnesses under oath or affirmation in person

1 or by deposition, and require the production of documents relevant to the complaint.
2 The commission may make rules authorizing any member or individual designated
3 to exercise these powers in the performance of official duties;[.]

4 (10) To furnish technical assistance requested by persons subject to this chapter to
5 further their compliance with this chapter or an order issued thereunder;[.]

6 (11) To make studies appropriate to effectuate the purposes and policies of this chapter
7 and to make the results[thereof] available to the public;[.]

8 (12) To render annual written reports to the Governor and the Legislative Research
9 Commission for referral to the appropriate committee or committees[Legislature].
10 The reports may contain recommendations of the commission for legislative or
11 other action to effectuate the purposes and policies of this chapter;[.]

12 (13) To create local or statewide advisory agencies that in its judgment will aid in
13 effectuating the purpose of this chapter. The commission may empower these
14 agencies to:
15 (a) [To]Study and report on problems of discrimination because of familial
16 status, race, color, religion,[or] national origin, sex, sexual orientation,
17 gender identity, age forty (40) and over, or disability;[.]
18 (b) [To]Foster, through community effort or otherwise, goodwill among the
19 groups and elements of the population of the Commonwealth;[state,] and
20 (c) [To]Make recommendations to the commission for the development of
21 policies and practices that will aid in carrying out the purposes of this chapter.
22 Members of these agencies[such committees] shall serve without pay but
23 shall be reimbursed for expenses incurred in such service. The commission
24 may make provision for technical and clerical assistance to the
25 agencies;[committees.]

26 (14) To[adopt,] promulgate administrative[, amend, and rescind] regulations in
27 accordance with KRS Chapter 13A to effectuate the purposes and provisions of

1 this chapter, including regulations requiring the posting of notices prepared or
2 approved by the commission; and[-]

3 (15) To purchase liability insurance for the protection of all members of the commission
4 to protect them from liability arising in the course of pursuing their duties as
5 members of the commission and for all full-time employees to protect them from
6 liability arising in the course or scope of their employment. This insurance shall be
7 purchased with money contained in the agency appropriated budget.

8 ➔ Section 17. KRS 344.300 is amended to read as follows:

9 (1) City, county, urban-county, consolidated local, unified local, and charter county
10 governments[~~Cities and counties~~] are authorized to adopt and enforce ordinances,
11 orders, and resolutions prohibiting all forms of discrimination, including
12 discrimination on the basis of familial status, race, color, religion,[-disability,
13 familial status, or] national origin, sex, sexual orientation, gender identity,[or] age
14 forty (40) and over, or disability and to prescribe penalties for violations thereof.[-]
15 These such penalties shall be[~~being~~] in addition to the remedial orders and
16 enforcement herein authorized.

17 (2) (a) City, county, urban-county, consolidated local, unified local, and charter
18 county governments[~~Cities and counties~~] may adopt and enforce ordinances,
19 orders, and resolutions prohibiting discrimination.[-;]

20 (b) No ordinance, order, or resolution shall attempt to exempt more transactions
21 from its coverage than are exempted by KRS 344.362 and 344.365.

22 ➔ Section 18. KRS 344.310 is amended to read as follows:

23 Any city,[-or] county, urban-county, consolidated local, unified local, or charter county
24 government, or one (1) or more of those local governments[~~cities and counties~~] acting
25 jointly, may create a local[-human rights] commission to[- (hereinafter a "local
26 commission")]:

27 (1) [~~To~~]Provide for execution within its jurisdiction of the policies embodied in this

1 chapter and the ~~Federal~~ Civil Rights Act of 1964, Pub. L. No. 88-352, as
2 amended ~~(78 Stat. 241)~~; and

3 (2) ~~To~~ Safeguard all individuals within its jurisdiction from discrimination because of
4 familial status, race, color, religion, ~~or~~ national origin, sex, sexual orientation,
5 gender identity, ~~or~~ age forty (40) and over, or disability.

6 ➔ Section 19. KRS 344.360 is amended to read as follows:

7 (1) It is an unlawful housing practice for a real estate operator, or for a real estate
8 broker, real estate salesman, or any person employed by or acting on behalf of any
9 of these to:

10 (a) Because of the individual's familial status, race, color, religion, national
11 origin, sex, sexual orientation, gender identity, age forty (40) and over, or
12 disability:

13 1. Refuse to sell, exchange, rent, or lease, or otherwise deny to or
14 withhold, real property from any individual;

15 2. Discriminate against any individual in the terms, conditions, or
16 privileges of the sale, exchange, rental, or lease of real property or in
17 the furnishing of facilities or services in connection therewith;

18 3. Refuse to receive or transmit a bona fide offer to purchase, rent, or
19 lease real property from any individual;

20 4. Refuse to negotiate for the sale, rental, or lease of real property to any
21 individual;

22 5. Represent to any individual that real property is not available for
23 inspection, sale, rental, or lease when it is so available, or to refuse to
24 permit any individual to inspect real property;

25 6. Offer, solicit, accept, use, or retain a listing of real property for sale,
26 rental, or lease with the understanding that any individual may be
27 discriminated against in the sale, rental, or lease of that real property

or in the furnishing of facilities or services in connection therewith; or

7. Otherwise deny to or withhold real property from any individual;

(b) Make, print, circulate, post, or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to familial status, race, color, religion, national origin, sex, sexual orientation, gender identity, age forty (40) and over, or disability, or an intent to make such a limitation, specification, or discrimination;[

12 (1) To refuse to sell, exchange, rent, or lease, or otherwise deny to or withhold, real
13 property from any person because of race, color, religion, sex, familial status,
14 disability, or national origin;

15 (2) To discriminate against any person because of race, color, religion, sex, familial
16 status, disability, or national origin in the terms, conditions, or privileges of the sale,
17 exchange, rental, or lease of real property or in the furnishing of facilities or
18 services in connection therewith;

19 (3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real
20 property from any person because of race, color, religion, sex, familial status,
21 disability, or national origin;

22 (4) To refuse to negotiate for the sale, rental, or lease of real property to any person
23 because of race, color, religion, sex, familial status, disability, or national origin;

24 (5) To represent to any person that real property is not available for inspection, sale,
25 rental, or lease when it is so available, or to refuse to permit any person to inspect
26 real property because of his race, color, religion, sex, familial status, disability, or
27 national origin;

1 (6) ~~To make, print, circulate, post, or mail or cause to be printed, circulated, posted, or~~
2 ~~mailed an advertisement or sign, or to use a form of application for the purchase,~~
3 ~~rental, or lease of real property, or to make a record of inquiry in connection with~~
4 ~~the prospective purchase, rental, or lease of real property, which indicates, directly~~
5 ~~or indirectly, a limitation, specification, or discrimination as to race, color, religion,~~
6 ~~sex, familial status, disability, or national origin or an intent to make such a~~
7 ~~limitation, specification, or discrimination;~~

8 (7) ~~To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or~~
9 ~~lease with the understanding that any person may be discriminated against in the~~
10 ~~sale, rental, or lease of that real property or in the furnishing of facilities or services~~
11 ~~in connection therewith because of his race, color, religion, sex, familial status,~~
12 ~~disability, or national origin;~~

13 (8) ~~To otherwise deny to or withhold real property from any person because of his race,~~
14 ~~color, religion, sex, familial status, disability, or national origin;]~~

15 (c)~~(9)~~ [To]Discriminate in the sale or rental, or to otherwise make unavailable
16 or deny, a housing accommodation to any buyer or renter because of a
17 disability of:

18 1.~~(a)~~ That buyer or renter;

19 2.~~(b)~~ A person residing in or intending to reside in that housing
20 accommodation after it is~~so~~ sold, rented, or made available; or

21 3.~~(e)~~ Any person associated with that buyer or renter; or

22 (d)~~(10)~~ [To]Discriminate against any person in the terms, conditions, or
23 privileges of sale or rental of a dwelling, or in the provision of services or
24 facilities in connection with ~~a~~~~such~~ housing accommodation, because of a
25 disability of:

26 1.~~(a)~~ That person;~~or~~

27 2.~~(b)~~ A person residing in or intending to reside in that housing

1 accommodation after it is sold, rented, or made available; or

2 3. [e] Any person associated with that person.

3 (2) [(1)] For purposes of this section, discrimination includes:

4 (a) A refusal to permit, at the expense of the disabled person, reasonable
5 modifications of existing premises occupied or to be occupied by a person, if
6 the modifications may be necessary to afford the person full enjoyment of the
7 premises; except that, in the case of a rental, the landlord may, where it is
8 reasonable to do so, condition permission for a modification on the renter
9 agreeing to restore the interior of the premises to the condition that existed
10 before the modification, reasonable wear and tear excepted; [.]

11 (b) A refusal to make reasonable accommodations in rules, policies, practices, or
12 services, when the accommodations may be necessary to afford the person
13 equal opportunity to use and enjoy a housing accommodation; or

14 (c) In connection with the design and construction of covered multifamily
15 housing accommodations for first occupancy after January 1, 1993, a failure
16 to design and construct those housing accommodations in a manner ensuring
17 that they have at least one (1) entrance on an accessible route unless
18 impractical to do so because of the terrain or unusual characteristics of the
19 site. Housing accommodations with a building entrance on an accessible route
20 shall comply with the following requirements:

21 1. The public use and common use portions of the housing
22 accommodations shall be readily accessible to and usable by disabled
23 persons;

3. All premises within the housing accommodations shall contain the

1 following features of adaptive design:

2 a. An accessible route into and through the housing accommodation;

3 b. Light switches, electrical outlets, thermostats, and other

4 environmental controls in accessible locations;

5 c. Reinforcements in bathroom walls to allow later installation of

6 grab bars; and

7 d. Usable kitchens and bathrooms so that an individual in a

8 wheelchair can maneuver about the space.

9 (3)(12) Compliance with the appropriate requirements of the American National
10 Standard for buildings and facilities providing accessibility and usability for
11 physically disabled persons, {commonly cited as "ANSI A117.1 - 1986."}
12 suffices to satisfy the requirements of subsection (2)(11)(c)3. of this section.

13 **(4)(13)** As used in subsection **(2)(11)** of this section, ~~the term~~ "covered
14 multifamily housing accommodation" means:

15 (a) Buildings consisting of four (4) or more units if the buildings have one (1) or
16 more elevators; and

17 (b) Ground floor units in other buildings consisting of two (2) or more units.

18 (5)[(14)] **This section shall not be construed to require that** Nothing in this section
19 requires that] a housing accommodation be made available to an individual whose
20 tenancy would constitute a direct threat to the health or safety of other individuals
21 or whose tenancy would result in substantial physical damage to the property of
22 others.

23 ➔ Section 20. KRS 344.367 is amended to read as follows:

24 It is an unlawful practice for a person in the business of insuring against hazards to refuse
25 to enter into, or discriminate in the terms, conditions, or privileges of, a contract of
26 insurance against hazards to a housing accommodation because of the familial status,
27 race, color, religion, national origin, ~~familial status, disability, or~~ sex, ~~sexual~~

1 orientation, gender identity, age forty (40) and over, or disability of persons owning[;]
2 or residing in or near the housing accommodation.

3 ➔ Section 21. KRS 344.370 is amended to read as follows:

4 It is an unlawful practice for a financial institution or for any person or other entity whose
5 business includes engaging in real estate-related transactions to:

6 (1) [To]Discriminate against an individual because of the familial status, race, color,
7 religion,[or] national origin,[familial status, disability,] sex, sexual orientation,
8 gender identity,[or] age forty (40) and over, or disability of the individual or the
9 present or prospective owner, tenant, or occupant of the real property or of a
10 member, stockholder, director, officer, employee, or representative of any of these,
11 in the granting, withholding, extending, modifying, or renewing the rates, terms,
12 conditions, privileges, or other provisions of financial assistance or in the extension
13 of services in connection therewith;

14 (2) [To]Use a form of application for financial assistance or to make or keep a record
15 or inquiry in connection with applications for financial assistance which indicate,
16 directly or indirectly, a limitation, specification, or discrimination as to familial
17 status, race, color, religion, national origin[familial status, disability], sex, sexual
18 orientation,[or] gender identity, age forty (40) and over, or disability,[national
19 origin] or an intent to make such a limitation, specification, or discrimination; or

20 (3) [To]Discriminate by refusing to give full recognition, because of sex, to the income
21 of each spouse or the total income and expenses of both spouses where both
22 spouses become or are prepared to become joint or several obligors in real estate
23 transactions[; or]

24 (4) ~~As used in this section, the term "real estate related transaction" means any of the
25 following:~~

26 (a) ~~The making or purchasing of loans or providing other financial assistance;~~
27 1. ~~For purchasing, constructing, improving, repairing, or maintaining a~~

1 housing accommodation; or

2. ~~Secured by real estate.~~

3 (b) The selling, brokering, or appraising of real property except that a person
4 engaged in the business of furnishing appraisals of real property may take into
5 consideration factors other than race, color, religion, national origin, sex,
6 disability, or familial status].

7 ➔Section 22. KRS 344.380 is amended to read as follows:

8 It is an unlawful practice for a real estate operator, a real estate broker, a real estate
9 **salesperson**[salesman], a financial institution, an employee of any of these, or any other
10 person, for the purpose of inducing a real estate transaction from which a person may
11 benefit financially **to**:

12 (1) [To]Represent that a change has occurred or will or may occur in the composition
13 with respect to familial status, race, color, religion, national origin, sex, sexual
14 orientation, gender identity, age forty (40) and over, or disability[, familial status,
15 or national origin] of the owners or occupants in the block, neighborhood, or area in
16 which the real property is located;

17 (2) [To]Represent that this change will or may result in the lowering of property
18 values, an increase in criminal or antisocial behavior, or a decline in the quality of
19 schools in the block, neighborhood, or area in which the real property is located; or

20 (3) [To]Induce or attempt to induce any person to sell or rent any dwelling by
21 representations regarding the entry or prospective entry into the neighborhood of a
22 person or persons of a particular familial status, race, color, religion, national
23 origin, sex, sexual orientation, gender identity, age forty (40) and over, or
24 disability[familial status, or national origin].

25 →Section 23. KRS 344.400 is amended to read as follows:

26 (1) It shall be an unlawful practice for any person, whether acting on behalf of
27 oneself[for himself] or another, in connection with any credit transaction because of

1 familial status, race, color, religion, national origin, ~~or~~ sex, sexual orientation,
2 gender identity, or disability to:

3 (a) Deny credit to any person;
4 (b) Increase the charges or fees for or collateral required to secure any credit
5 extended to any person;
6 (c) Restrict the amount or use of credit extended or impose different terms or
7 conditions with respect to the credit extended to any person or any item or
8 service related thereto; or
9 (d) Attempt to do any of the unlawful practices defined in this section.

10 (2) The provisions of this section shall not prohibit any party to a credit transaction
11 from considering the:

12 (a) Credit history of any individual applicant; or
13 (b) Application of Kentucky law on dower and courtesy or descent and
14 distribution to the particular case or from taking reasonable action
15 thereon. {

16 (3) ~~The provisions of this section shall not prohibit any party to a credit transaction~~
17 ~~from considering the application of Kentucky law on dower, courtesy, descent and~~
18 ~~distribution to the particular case or from taking reasonable action thereon.~~ }

19 ➔ Section 24. KRS 344.680 is amended to read as follows:

20 It shall be unlawful to deny any person access to, or membership or participation in, any
21 multiple listing service, real estate brokers' organization, or other service, organization, or
22 facility relating to the business of selling or renting housing accommodations, or to
23 discriminate against a person in the terms or conditions of access, membership, or
24 participation, because~~on account~~ of familial status, race, color, religion, national
25 origin, sex, sexual orientation, gender identity, or disability, ~~familial status, or national~~
26 ~~origin~~.

27 ➔ Section 25. KRS 210.033 is amended to read as follows:

- 1 (1) As used in this section, "developmental disabilities" has the same meaning as in
2 KRS 387.510.
- 3 (2) The General Assembly finds that in addition to the rights provided under KRS
4 Chapter 347 for developmentally disabled persons, the rights of individuals with
5 intellectual or developmental disabilities include but are not limited to the right to:
6
 - 7 (a) Be treated at all times with courtesy and respect and with full recognition of
8 their dignity and individuality;
 - 9 (b) Accessible, appropriate, safe, equal, and sanitary living, learning, and working
10 environments that comply with local, state, and federal standards and
11 recognize the individual's need for privacy and independence;
 - 12 (c) Practice the religion of their choice or to abstain from the practice of religion;
 - 13 (d) Ownership and use of personal possessions to maintain individuality and
14 personal dignity;
 - 15 (e) Pursue vocational opportunities that will promote and enhance economic
16 independence;
 - 17 (f) Be treated equally as citizens under the law;
 - 18 (g) Be free from emotional, psychological, verbal, and physical abuse;
 - 19 (h) Participate in decisions that affect their lives and promote self-determination
20 in relation to their cognitive abilities;
 - 21 (i) Participate in their personal financial affairs to the extent not otherwise
22 determined by order of a court of competent jurisdiction or otherwise by law;
 - 23 (j) Confidential treatment of all information in their personal and medical
24 records, except to the extent that disclosure or release of records is permitted
25 under KRS 210.235;
 - 26 (k) Voice grievances and recommend changes in policies and services without
27 coercion or discrimination;
 - 28 (l) Freely participate in the political process to the extent provided by law;

1 (m) Communicate verbal or nonverbal refusal to participate in medical or
2 psychological experiments;

3 (n) Participate in integrated programs of education, training, social development,
4 habilitation, and recreation;

5 (o) Fair and equal wages in integrated work places; and

6 (p) Choose and maintain healthcare providers, personal care providers, services,
7 and supports to the extent not otherwise required by order of a court of
8 competent jurisdiction or otherwise by law.

9 (3) The general purposes of this section are to:

10 (a) Safeguard all individuals within the state from discrimination because of the
11 person's status as an individual with an intellectual or developmental
12 disability;

13 (b) Protect the individual's interest in personal dignity and freedom from
14 humiliation;

15 (c) Make available to the state the individual's full productive capacities; and

16 (d) Further the interest, rights, and privileges of individuals with intellectual
17 disabilities and developmental disabilities within the state.

18 (4) ~~Nothing in~~ This section shall **not** be deemed to repeal any other law of this state
19 relating to discrimination because of the person's~~status as a qualified individual~~
20 ~~with a~~ disability as defined in **Section 1 of this Act**~~[KRS 344.030]~~.

21 ➔ Section 26. KRS 18A.095 is amended to read as follows:

22 (1) A classified employee with status shall not be dismissed, demoted, suspended
23 without pay, or involuntarily transferred except for cause.

24 (2) Prior to dismissal, a classified employee with status shall be notified in writing of
25 the intent to dismiss **the employee**~~[him or her]~~. The notice shall also state:

26 (a) The specific reasons for dismissal, including:

27 1. The statutory, regulatory, or policy violation;

- 1 2. The specific action or activity on which the intent to dismiss is based;
- 2 3. The date and place of such action or activity; and
- 3 4. The names of the parties involved;
- 4 (b) That the employee has the right to appear personally, or with counsel if the
5 employee~~he or she~~ has retained counsel, to reply to the appointing authority
6 or the cabinet's or agency's~~his or her~~ designee; and
- 7 (c) Whether the employee is placed on administrative leave by the appointing
8 authority with pay upon receiving the intent to dismiss letter prior to the
9 agency's final action.

10 (3) The Personnel Cabinet shall prescribe and distribute a pretermination form to be
11 completed and forwarded by an employee who wishes to appear before the
12 appointing authority or the cabinet's or agency's~~his or her~~ designee. The form
13 shall be attached to every notice of intent to dismiss and shall contain written
14 instructions explaining:

- 15 (a) The right granted an employee under the provisions of this section relating to
16 pretermination hearings; and
- 17 (b) The time limits and procedures to be followed by all parties in pretermination
18 hearings.

19 (4) No later than five (5) working days after receipt of the notice of intent to dismiss,
20 excluding the day the employee~~he or she~~ receives the notice, the employee may
21 request to appear, personally or with counsel if the employee~~he or she~~ has retained
22 counsel, to reply to the appointing authority or the cabinet's or agency's~~his or her~~
23 designee.

24 (5) Unless agreed to by the appointing authority or the cabinet's or agency's~~his or her~~
25 designee and the employee, the appearance shall be scheduled within six (6)
26 working days after receipt of an employee's request to appear before the appointing
27 authority or the cabinet's or agency's~~his or her~~ designee, excluding the day the

1 employee's~~his or her~~ request is received.

2 (6) No later than five (5) working days after the employee appears before the
3 appointing authority or the cabinet's or agency's~~his or her~~ designee, excluding the
4 day of the appearance, the cabinet head or agency or the cabinet's or agency's~~his~~
5 ~~or her~~ designee shall:

6 (a) Determine whether to dismiss the employee or to modify or rescind the intent
7 to dismiss; and

8 (b) Notify the employee in writing of the decision.

9 (7) If the appointing authority or the cabinet's or agency's~~his or her~~ designee
10 determines that the employee shall be dismissed, the employee shall be notified in
11 writing of:

12 (a) The effective date of the employee's~~his or her~~ dismissal;

13 (b) The specific reason for the dismissal, including:

14 1. The statutory, regulatory, or policy violation;

15 2. The specific action or activity on which the dismissal is based;

16 3. The date and place of the action or activity; and

17 4. The names of the parties involved; and

18 (c) That the employee~~he or she~~ may appeal the dismissal to the board within
19 thirty (30) calendar days after receipt of this notification, excluding the day
20 the employee~~he or she~~ receives notice.

21 (8) A classified employee with status who is demoted, suspended without pay, or
22 involuntarily transferred shall be notified in writing of:

23 (a) The demotion, suspension, or involuntary transfer;

24 (b) The effective date of the demotion, suspension, or involuntary transfer;

25 (c) The specific reason for the demotion, suspension, or involuntary transfer,
26 including:

27 1. The statutory, regulatory, or policy violation;

- 1 2. The specific action or activity on which the demotion, suspension, or
2 involuntary transfer is based;
- 3 3. The date and place of the action or activity; and
4 4. The names of the parties involved; and
5 (d) That the employee~~he or she~~ has the right to appeal to the board within thirty
6 (30) calendar days, excluding the day that the employee~~he or she~~ received
7 notification of the personnel action.
- 8 (9) Any unclassified employee who is dismissed, demoted, suspended without pay, or
9 involuntarily transferred for cause may, within thirty (30) calendar days after the
10 dismissal, demotion, suspension, or involuntary transfer, appeal to the board for
11 review thereof.
- 12 (10) (a) An employee whose position is reallocated shall be notified in writing by the
13 appointing authority of:
 - 14 1. The reallocation or reclassification; and
 - 15 2. If the reallocation or reclassification is to a lower grade, the
16 employee's~~his or her~~ right to request reconsideration by the secretary
17 within ten (10) working days of receipt of the notice, excluding the day
18 the employee~~he or she~~ receives notification.- 19 (b) The employee shall file a written request for reconsideration of the
20 reallocation or reclassification to a lower grade with the secretary in a manner
21 and form prescribed by the secretary and shall be given a reasonable
22 opportunity to be heard by the secretary. The secretary shall make a
23 determination within sixty (60) calendar days after the request has been filed
24 by an employee. The secretary's determination shall be final and shall not be
25 appealable to the Personnel Board.
- 26 (11) (a) Any applicant, classified employee, or federally funded time-limited
27 employee may appeal to the board an action alleged to be based on

1 discrimination due to familial status, race, color, religion, national origin, sex,
2 sexual orientation, gender identity[disability], age forty (40) and
3 over[above], disability, or any other category protected under state or federal
4 civil rights laws. [Nothing in]This section shall not be construed to preclude
5 any applicant, classified employee, or unclassified employee from filing with
6 the Kentucky Commission on Human Rights a complaint alleging
7 discrimination on the basis of familial status, race, color, religion, national
8 origin, sex, sexual orientation, gender identity, age forty (40) and over, or
9 disability[, or age in accordance with KRS Chapter 344].

10 (b) Appeals alleging discrimination shall be filed within thirty (30) calendar days
11 after the alleged discriminatory action occurred.

12 (12) (a) Any applicant for classified employment under KRS Chapter 18A who has
13 been notified by the Personnel Cabinet that the applicant[he or she] did not
14 meet the minimum qualifications for a position may request reconsideration
15 from the secretary not more than ten (10) calendar days after the notification
16 was sent. The secretary's review and determination of the reconsideration
17 shall be completed within ten (10) calendar days from the receipt of the
18 request for reconsideration. The secretary's determination shall be final and
19 shall not be appealable to the Personnel Board.

20 (b) Any applicant for employment in a classified position under KRS Chapter
21 18A may appeal the hiring agency's nonselection based on an alleged
22 violation of appointment and promotion provisions contained in this chapter
23 or administrative regulations promulgated under this chapter to the board. The
24 appeal shall be filed not later than thirty (30) calendar days after the notice of
25 nonselection was mailed or sent electronically.

26 (13) When an employee who qualifies for a position has the employee's[his or her] name
27 removed from the register, the employee may petition the secretary for the

1 opportunity to be heard by the secretary or the cabinet's or agency's~~his or her~~
2 designee. The petition shall be delivered to the secretary in writing or electronically
3 no later than ten (10) calendar days after the removal notification has been sent. The
4 secretary's decision shall be final and not appealable to the Personnel Board.

5 (14) (a) Appeals to the board shall be in writing on an appeal form prescribed by the
6 board. The Personnel Board shall be responsible for the distribution of these
7 forms.

8 (b) The appeal form shall be attached to any notice of dismissal, demotion,
9 suspension, or involuntary transfer. The appeal form shall instruct the
10 employee to state:

11 1. Whether the employee~~he or she~~ is a classified or unclassified
12 employee~~;~~,

13 2. The employee's~~his or her~~

14 a. Full name~~;~~ ~~his or her~~

15 b. Appointing authority~~;~~

16 c. Work station address and telephone number; and~~,~~

17 d. Home address~~,~~ ~~and~~ personal telephone number, and personal
18 email address~~,~~ and~~,~~

19 3. If the employee~~he or she~~ has retained counsel at the time an appeal is
20 filed~~he or she files an appeal~~, the name, address, and telephone number
21 of the employee's~~his or her~~ attorney.

22 (c) The form shall also instruct a classified employee to state the action the
23 employee~~he or she~~ is appealing in a short, plain, concise statement of the
24 facts. The form shall instruct an unclassified employee to make a short, plain,
25 concise statement of the reason for the appeal and the cause given for the~~his~~
26 ~~or her~~ dismissal, demotion, suspension, or involuntary transfer.

27 (d) Any appeal form filed by a classified or unclassified employee shall identify

the statute, administrative regulation, or policy that was allegedly violated.

2 (e) Upon receipt of the appeal by the board, the appointing authority and the
3 Personnel Cabinet shall be notified and the board shall schedule a hearing.

4 (15) All administrative hearings conducted by the board shall be conducted in
5 accordance with KRS Chapter 13B.

6 (16) (a) The board shall deny a hearing to an employee who has failed to file an
7 appeal within the time prescribed by this section; and to an unclassified

8 employee who has failed to state the reasons for the appeal and the cause for
9 *the dismissal, demotion, suspension without pay, or involuntary transfer* [REDACTED]

which he or she has been dismissed, demoted, suspended without pay, or involuntarily transferred]. The board shall deny any appeal after a preliminary

12 hearing if it lacks jurisdiction to grant relief. The board shall notify the
13 employee of its denial in writing and shall inform the employee of ~~the~~^{his or}

16 employee shall be conducted only upon notice to the employee, the
17 employee's counsel, and the appointing authority. All parties to the appeal

18 shall have access to information produced by the investigations and the
19 information shall be presented at the hearing

20 (17) Each appeal shall be decided individually, unless otherwise agreed by the parties
21 and the board. The board shall not:

22 (a) Employ class action procedures; or

23 (b) Conduct test representative cases

24 (18) Board members shall abstain from pub

25 proceeding before the board. This shall not prohibit board members from making
26 public statements in the course of their official duties or from explaining for public

27 information the procedures of the board

- 1 (19) An appeal to the board may be heard by the full board or one (1) or more of the
2 following:
 - 3 (a) Its executive director;~~it~~
 - 4 (b) Its general counsel;~~it~~
 - 5 (c) Any nonelected member of the board;~~it~~ or
 - 6 (d) Any hearing officer secured by the board pursuant to KRS 13B.030.
- 7 (20) (a) If the board finds that the action complained of was taken by the appointing
8 authority in violation of laws prohibiting favor for, or discrimination against,
9 or bias with respect to, the employee's~~his or her~~ political or religious
10 opinions or affiliations or ethnic origin, or in violation of laws prohibiting
11 discrimination because of such individual's familial status, race, color,
12 religion, national origin, sex, sexual orientation, gender identity,~~or~~ age
13 forty (40) and over, or disability, the appointing authority shall immediately
14 reinstate the employee to the employee's~~his or her~~ former position or a
15 position of like status and pay, without loss of pay for the period of time at
16 issue, or otherwise make the employee whole unless the order is stayed by the
17 board or the court on appeal.
- 18 (b) If the board finds that the action complained of was taken without just cause,
19 the board shall order the immediate reinstatement of the employee to the~~his~~
20 ~~or her~~ former position or a position of like status and pay, without loss of pay
21 for the period of time at issue, or otherwise make the employee whole unless
22 the order is stayed by the board or the court on appeal.
- 23 (c) If the board finds that the action taken by the appointing authority was
24 excessive or erroneous in view of all the surrounding circumstances, the board
25 shall direct the appointing authority to modify or rescind the action at issue.
- 26 (d) In all other cases, the board shall direct the appointing authority to rescind the
27 action taken or otherwise grant specific relief or dismiss the appeal.

- 1 (21) If a final order of the board is appealed, a court may award reasonable attorney fees
- 2 to an employee who prevails by a final adjudication on the merits as provided by
- 3 KRS 453.260. This award shall not include attorney fees attributable to the hearing
- 4 before the board.
- 5 (22) When any employee is dismissed and not ordered reinstated after the appeal, the
- 6 board in its discretion may direct that the employee's~~his or her~~ name be placed on
- 7 an appropriate reemployment list for employment in any similar position other than
- 8 the one from which the employee~~he or she~~ had been removed.
- 9 (23) After a final decision has been rendered by the board or court, an employee who
- 10 prevails in an~~his or her~~ appeal may be credited with the amount of leave time
- 11 used for time spent at the~~his or her~~ hearing before the board or court. Employees
- 12 who had an insufficient amount of leave time shall be credited with leave time
- 13 equal to the amount of time spent at their hearings before the board or court.
- 14 (24) If the appointing authority appeals the final order of the board, unless the board
- 15 rules otherwise, the reinstated employee shall remain in the~~his or her~~ former
- 16 position, or a position of like status or pay, until the conclusion of the appeals
- 17 process, at which time the appointing authority shall take action in accordance with
- 18 the court order.
- 19 (25) After a final decision in a contested case has been rendered by the last
- 20 administrative or judicial body to which the case has been appealed, the board shall
- 21 make the decision available to the public in electronic format on its website and
- 22 shall organize the decisions according to the statutory basis for which the appeal
- 23 was based.
- 24 (26) Appeals concerning dismissals of classified employees with status shall take
- 25 precedence for hearings before the board over all other appeals.
- 26 (27) Any classified or unclassified employee as defined in KRS 18A.005 who is not
- 27 restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed

1 without cause within one (1) year after reinstatement, may appeal to the Personnel
2 Board. The appeal shall be filed in writing with the executive director of the board
3 not later than thirty (30) days after the notification of the action in question has
4 been mailed or sent electronically.

5 (28) If an individual received a notice that does not comply with subsection (7)(c),
6 (8)(d), or (14)(b) of this section, or received no written or electronic notification of
7 ~~the~~~~his or her~~ dismissal, demotion, suspension, or involuntary transfer pursuant to
8 subsection (7) or (8) of this section, the employee~~he or she~~ shall file an~~his or her~~
9 appeal to the board within one hundred eighty (180) days of:

10 (a) Receipt of the written notice, if the employee~~he or she~~ received a written
11 notice that does not comply with subsection (7)(c), (8)(d), or (14)(b) of this
12 section; or

13 (b) The alleged act, if the employee~~he or she~~ did not receive written or
14 electronic notification of the alleged act in question.

15 (29) If a classified or unclassified employee refuses or fails to cooperate as a witness in
16 an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or
17 inquiry, the employee may be subject to disciplinary action.

18 (30) Unless otherwise provided by this chapter, the board shall not have jurisdiction over
19 any appeal except as authorized by this section.