

207.135 Protections available to persons with HIV -- Employment discrimination prohibited.

- (1) Any person with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus shall have every protection made available to individuals with disabilities under KRS 207.130 to 207.240 and Section 504, Public Law No. 93-112, the Rehabilitation Act of 1973.
- (2)
 - (a) No person may require an individual to take a human immunodeficiency virus related test as a condition of hiring, promotion, or continued employment, unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification for the job in question.
 - (b) A person who asserts that a bona fide occupational qualification exists for human immunodeficiency virus-related testing shall have the burden of proving that:
 1. The human immunodeficiency virus-related test is necessary to ascertain whether an employee is currently able to perform in a reasonable manner the duties of the particular job or whether an employee will present a significant risk of transmitting human immunodeficiency virus infection to other persons in the course of normal work activities; and
 2. There exists no means of reasonable accommodation short of requiring the test.
- (3)
 - (a) A person shall not discriminate against an otherwise qualified individual in housing, public accommodations, or governmental services on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.
 - (b) A person or other entity receiving or benefiting from state financial assistance shall not discriminate against an otherwise qualified individual on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.
 - (c) A person who asserts that an individual who is infected with human immunodeficiency virus is not otherwise qualified shall have the burden of proving that no reasonable accommodation can be made to prevent the likelihood that the individual will, under the circumstances involved, expose other individuals to a significant possibility of being infected with human immunodeficiency virus.
 - (d) No person shall fail or refuse to hire or discharge any individual, segregate or classify any individual in any way which would deprive or tend to deprive that individual of employment opportunities or adversely affect his or her status as an employee, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of the fact that the individual is a licensed health care professional who treats or provides patient care to persons infected with human immunodeficiency virus.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 405, sec. 63, effective July 15, 1994.

--Created 1990 Ky. Acts ch. 443, sec. 49, effective July 13, 1990.