

SECOND REGULAR SESSION

# HOUSE BILL NO. 1851

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE NEWMAN.

5025H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, 285.575, and 510.265, RSMo, and to enact in lieu thereof ten new sections relating to unlawful discriminatory practices.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, 285.575, and 510.265, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, and 510.265, to read as follows:

213.010. As used in this chapter, the following terms shall mean:

- (1) “Age”, an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;
- (2) [~~“Because” or “because of”, as it relates to the adverse decision or action, the protected criterion was the motivating factor;~~
- (3)] “Commission”, the Missouri commission on human rights;
- [(4)] (3) “Complainant”, a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited discriminatory practice;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14           ~~[(5)]~~ (4) “Disability”, a physical or mental impairment which substantially limits one  
15 or more of a person’s major life activities, being regarded as having such an impairment, or a  
16 record of having such an impairment, which with or without reasonable accommodation does  
17 not interfere with performing the job, utilizing the place of public accommodation, or occupying  
18 the dwelling in question. For purposes of this chapter, the term “disability” does not include  
19 current, illegal use of or addiction to a controlled substance as such term is defined by section  
20 195.010; however, a person may be considered to have a disability if that person:

21           (a) Has successfully completed a supervised drug rehabilitation program and is no longer  
22 engaging in the illegal use of, and is not currently addicted to, a controlled substance or has  
23 otherwise been rehabilitated successfully and is no longer engaging in such use and is not  
24 currently addicted;

25           (b) Is participating in a supervised rehabilitation program and is no longer engaging in  
26 illegal use of controlled substances; or

27           (c) Is erroneously regarded as currently illegally using, or being addicted to, a controlled  
28 substance;

29           ~~[(6)]~~ (5) “Discrimination”, ~~[conduct proscribed herein, taken because of]~~ **any unfair**  
30 **treatment based on** race, color, religion, national origin, ancestry, sex, ~~[or]~~ age as it relates to  
31 employment, disability, or familial status as it relates to housing;

32           ~~[(7)]~~ (6) “Dwelling”, any building, structure or portion thereof which is occupied as, or  
33 designed or intended for occupancy as, a residence by one or more families, and any vacant land  
34 which is offered for sale or lease for the construction or location thereon of any such building,  
35 structure or portion thereof;

36           ~~[(8)]~~ (7) “Employer”, ~~[a person engaged in an industry affecting commerce who has six~~  
37 ~~or more employees for each working day in each of twenty or more calendar weeks in the current~~  
38 ~~or preceding calendar year, and shall include]~~ **includes** the state, or any political or civil  
39 subdivision thereof, or any person employing six or more persons within the state, **and any**  
40 **person directly acting in the interest of an employer**, but does not include corporations and  
41 associations owned ~~[or]~~ **and** operated by religious or sectarian ~~[organizations]. “Employer” shall~~  
42 **not include:**

43           ~~\_\_\_\_\_~~ (a) The United States;

44           ~~\_\_\_\_\_~~ (b) A corporation wholly owned by the government of the United States;

45           ~~\_\_\_\_\_~~ (c) An individual employed by an employer;

46           ~~\_\_\_\_\_~~ (d) An Indian tribe;

47           ~~\_\_\_\_\_~~ (e) Any department or agency of the District of Columbia subject by statute to  
48 ~~procedures of the competitive service, as defined in 5 U.S.C. Section 2101, or~~

49 ~~\_\_\_\_\_ (f) A bona fide private membership club, other than a labor organization, that is exempt~~  
50 ~~from taxation under 26 U.S.C. Section 501(c)~~ **groups;**

51 ~~[(9)]~~ **(8)** “Employment agency” includes any person or agency, public or private,  
52 regularly undertaking with or without compensation to procure employees for an employer or  
53 to procure for employees opportunities to work for an employer **and includes any person acting**  
54 **in the interest of such a person;**

55 ~~[(10)]~~ **(9)** “Executive director”, the executive director of the Missouri commission on  
56 human rights;

57 ~~[(11)]~~ **(10)** “Familial status”, one or more individuals who have not attained the age of  
58 eighteen years being domiciled with:

59 (a) A parent or another person having legal custody of such individual; or

60 (b) The designee of such parent or other person having such custody, with the written  
61 permission of such parent or other person. The protections afforded against discrimination  
62 ~~[because]~~ **on the basis** of familial status shall apply to any person who is pregnant or is in the  
63 process of securing legal custody of any individual who has not attained the age of eighteen  
64 years;

65 ~~[(12)]~~ **(11)** “Human rights fund”, a fund established to receive civil penalties as required  
66 by federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and  
67 which will be disbursed to offset additional expenses related to compliance with the Department  
68 of Housing and Urban Development regulations;

69 ~~[(13)]~~ **(12)** “Labor organization” includes any organization which exists for the purpose,  
70 in whole or in part, of collective bargaining or of dealing with employers concerning grievances,  
71 terms or conditions of employment, or for other mutual aid or protection in relation to  
72 employment;

73 ~~[(14)]~~ **(13)** “Local commissions”, any commission or agency established prior to August  
74 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional  
75 charter city, town, village, or county;

76 ~~[(15)]~~ **(14)** “Person” includes one or more individuals, corporations, partnerships,  
77 associations, organizations, labor organizations, legal representatives, mutual companies, joint  
78 stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized  
79 groups of persons;

80 ~~[(16)]~~ **(15)** “Places of public accommodation”, all places or businesses offering or  
81 holding out to the general public, goods, services, privileges, facilities, advantages or  
82 accommodations for the peace, comfort, health, welfare and safety of the general public or such  
83 public places providing food, shelter, recreation and amusement, including, but not limited to:

84 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient  
 85 guests, other than an establishment located within a building which contains not more than five  
 86 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as  
 87 his **or her** residence;

88 (b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility  
 89 principally engaged in selling food for consumption on the premises, including, but not limited  
 90 to, any such facility located on the premises of any retail establishment;

91 (c) Any gasoline station, including all facilities located on the premises of such gasoline  
 92 station and made available to the patrons thereof;

93 (d) Any motion picture house, theater, concert hall, sports arena, stadium, or other place  
 94 of exhibition or entertainment;

95 (e) Any public facility owned, operated, or managed by or on behalf of this state or any  
 96 agency or subdivision thereof, or any public corporation; and any such facility supported in  
 97 whole or in part by public funds;

98 (f) Any establishment which is physically located within the premises of any  
 99 establishment otherwise covered by this section or within the premises of which is physically  
 100 located any such covered establishment, and which holds itself out as serving patrons of such  
 101 covered establishment;

102 ~~[(17)]~~ **(16)** “Rent” includes to lease, to sublease, to let and otherwise to grant for  
 103 consideration the right to occupy premises not owned by the occupant;

104 ~~[(18)]~~ **(17)** “Respondent”, a person who is alleged to have engaged in a prohibited  
 105 discriminatory practice in a complaint filed with the commission;

106 ~~[(19)]~~ “The motivating factor”, the employee’s protected classification actually played  
 107 a role in the adverse action or decision and had a determinative influence on the adverse decision  
 108 or action;

109 ~~————(20)]~~ **(18)** “Unlawful discriminatory practice”, any act that is unlawful under this  
 110 chapter.

213.040. 1. It shall be an unlawful housing practice:

2 (1) To refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate  
 3 for the sale or rental of, to deny or otherwise make unavailable, a dwelling to any person because  
 4 of race, color, religion, national origin, ancestry, sex, disability, or familial status;

5 (2) To discriminate against any person in the terms, conditions, or privileges of sale or  
 6 rental of a dwelling, or in the provision of services or facilities in connection therewith, because  
 7 of race, color, religion, national origin, ancestry, sex, disability, or familial status;

8 (3) To make, print, or publish, or cause to be made, printed, or published any notice,  
 9 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any

10 preference, limitation, or discrimination [~~because of~~] **based on** race, color, religion, national  
11 origin, ancestry, sex, disability, or familial status, or an intention to make any such preference,  
12 limitation, or discrimination;

13 (4) To represent to any person because of race, color, religion, national origin, ancestry,  
14 sex, disability, or familial status that any dwelling is not available for inspection, sale, or rental  
15 when such dwelling is in fact so available;

16 (5) To induce or attempt to induce any person to sell or rent any dwelling by  
17 representations regarding the entry or prospective entry into the neighborhood of a person or  
18 persons [~~because~~] of a particular race, color, religion, national origin, ancestry, sex, disability,  
19 or familial status;

20 (6) To discriminate in the sale or rental of, or to otherwise make unavailable or deny, a  
21 dwelling to any buyer or renter because of a disability of:

22 (a) That buyer or renter;

23 (b) A person residing in or intending to reside in that dwelling after it is so sold, rented,  
24 or made available; or

25 (c) Any person associated with that buyer or renter;

26 (7) To discriminate against any person in the terms, conditions, or privileges of sale or  
27 rental of a dwelling, or in the provision of services or facilities in connection with such dwelling,  
28 because of a disability of:

29 (a) That person;

30 (b) A person residing in or intending to reside in that dwelling after it is so sold, rented,  
31 or made available; or

32 (c) Any person associated with that person.

33 2. For purposes of this section and sections 213.045 and 213.050, discrimination  
34 includes:

35 (1) A refusal to permit, at the expense of the person with the disability, reasonable  
36 modifications of existing premises occupied or to be occupied by such person if such  
37 modifications may be necessary to afford such person full enjoyment of the premises, except that,  
38 in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for  
39 a modification on the renter's agreeing to restore the interior of the premises to the condition that  
40 existed before the modification, reasonable wear and tear excepted;

41 (2) A refusal to make reasonable accommodations in rules, policies, practices, or  
42 services, when such accommodations may be necessary to afford such person equal opportunity  
43 to use and enjoy a dwelling; or

44 (3) In connection with the design and construction of covered multifamily dwellings for  
45 first occupancy after March 13, 1991, a failure to design and construct those dwellings in such  
46 a manner that:

47 (a) The public use and common use portions of such dwellings are readily accessible to  
48 and usable by persons with a disability;

49 (b) All the doors designed to allow passage into and within all premises within such  
50 dwellings are sufficiently wide to allow passage by persons with a disability in wheelchairs; and

51 (c) All premises within such dwellings contain the following features of adaptive design:

52 a. An accessible route into and through the dwelling;

53 b. Light switches, electrical outlets, thermostats, and other environmental controls in  
54 accessible locations;

55 c. Reinforcements in bathroom walls to allow later installation of grab bars; and

56 d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver  
57 about the space.

58 3. As used in subdivision (3) of subsection 2 of this section, the term “covered  
59 multifamily dwelling” means:

60 (1) Buildings consisting of four or more units if such buildings have one or more  
61 elevators; and

62 (2) Ground floor units in other buildings consisting of four or more units.

63 4. Compliance with the appropriate requirements of the American National Standard for  
64 Buildings and Facilities providing accessibility and usability for people with physical disabilities,  
65 commonly cited as “ANSI A117.1”, suffices to satisfy the requirements of paragraph (a) of  
66 subdivision (3) of subsection 2 of this section.

67 5. Where a unit of general local government has incorporated into its laws the  
68 requirements set forth in subdivision (3) of subsection 2 of this section, compliance with such  
69 laws shall be deemed to satisfy the requirements of that subdivision. Such compliance shall be  
70 subject to the following provisions:

71 (1) A unit of general local government may review and approve newly constructed  
72 covered multifamily dwellings for the purpose of making determinations as to whether the design  
73 and construction requirements of subdivision (3) of subsection 2 of this section are met;

74 (2) The commission shall encourage, but may not require, the units of local government  
75 to include in their existing procedures for the review and approval of newly constructed covered  
76 multifamily dwellings, determinations as to whether the design and construction of such  
77 dwellings are consistent with subdivision (3) of subsection 2 of this section, and shall provide  
78 technical assistance to units of local government and other persons to implement the  
79 requirements of subdivision (3) of subsection 2 of this section;

80 (3) Nothing in this chapter shall be construed to require the commission to review or  
81 approve the plans, designs or construction of all covered dwellings, to determine whether the  
82 design and construction of such dwellings are consistent with the requirements of subdivision  
83 (3) of subsection 2 of this section.

84 6. Nothing in this chapter shall be construed to invalidate or limit any law of the state  
85 or political subdivision of the state, or other jurisdiction in which this chapter shall be effective,  
86 that requires dwellings to be designed and constructed in a manner that affords persons with  
87 disabilities greater access than is required by this chapter.

88 7. Nothing in this section and sections 213.045 and 213.050 requires that a dwelling be  
89 made available to an individual whose tenancy would constitute a direct threat to the health or  
90 safety of other individuals or whose tenancy would result in substantial physical damage to the  
91 property of others.

92 8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of  
93 any reasonable local or state restriction regarding the maximum number of occupants permitted  
94 to occupy a dwelling, nor does any provision in this section and sections 213.045 and 213.050  
95 regarding familial status apply with respect to housing for older persons.

96 9. As used in this section and sections 213.045 and 213.050, "housing for older persons"  
97 means housing:

98 (1) Provided under any state or federal program that the commission determines is  
99 specifically designed and operated to assist elderly persons, as defined in the state or federal  
100 program;

101 (2) Intended for, and solely occupied by, persons sixty-two years of age or older; or

102 (3) Intended and operated for occupancy by at least one person fifty-five years of age or  
103 older per unit. In determining whether housing qualifies as housing for older persons under this  
104 subsection, the commission shall develop regulations which require at least the following factors:

105 (a) The existence of significant facilities and services specifically designed to meet the  
106 physical or social needs of older persons, or if the provision of such facilities and services is not  
107 practicable, that such housing is necessary to provide important housing opportunities for older  
108 persons; and

109 (b) That at least eighty percent of the units are occupied by at least one person fifty-five  
110 years of age or older per unit; and

111 (c) The publication of, and adherence to, policies and procedures which demonstrate an  
112 intent by the owner or manager to provide housing for persons fifty-five years of age or older.

113 10. Housing shall not fail to meet the requirements for housing for older persons by  
114 reason of:

115 (1) Persons residing in such housing as of August 28, 1992, who do not meet the age  
116 requirements of subdivision (2) or (3) of subsection 9 of this section, provided that new  
117 occupants of such housing meet the age requirements of subdivision (2) or (3) of subsection 9  
118 of this section; or

119 (2) Unoccupied units, provided that such units are reserved for occupancy by persons  
120 who meet the age requirements of subdivision (2) or (3) of subsection 9 of this section.

121 11. Nothing in this section or section 213.045 or 213.050 shall prohibit conduct against  
122 a person because such person has been convicted by any court of competent jurisdiction of the  
123 illegal manufacture or distribution of a controlled substance, as defined by section 195.010.

124 12. Nothing in this chapter shall prohibit a religious organization, association, or society,  
125 or any nonprofit institution or organization operated, supervised or controlled by or in  
126 conjunction with a religious organization, association, or society, from limiting the sale, rental  
127 or occupancy of dwellings which it owns or operates for other than a commercial purpose to  
128 persons of the same religion, or from giving preference to such persons, unless membership in  
129 such religion is restricted on account of race, color, or national origin. Nor shall anything in this  
130 chapter prohibit a private club not in fact open to the public, which as an incident to its primary  
131 purpose or purposes provides lodging which it owns or operates for other than a commercial  
132 purpose, from limiting the rental or occupancy of such lodging to its members or from giving  
133 preference to its members.

134 13. Nothing in this chapter, other than the prohibitions against discriminatory advertising  
135 in subdivision (3) of subsection 1 of this section, shall apply to:

136 (1) The sale or rental of any single family house by a private individual owner, provided  
137 the following conditions are met:

138 (a) The private individual owner does not own or have any interest in more than three  
139 single family houses at any one time; and

140 (b) The house is sold or rented without the use of a real estate broker, agent or  
141 salesperson or the facilities of any person in the business of selling or renting dwellings and  
142 without publication, posting or mailing of any advertisement. If the owner selling the house does  
143 not reside in it at the time of the sale or was not the most recent resident of the house prior to  
144 such sale, the exemption in this section applies to only one such sale in any twenty-four-month  
145 period; or

146 (2) Rooms or units in dwellings containing living quarters occupied or intended to be  
147 occupied by no more than four families living independently of each other, if the owner actually  
148 maintains and occupies one of such living quarters as his or her residence.

213.050. It shall be unlawful to deny any person access to or membership or participation  
2 in any multiple listing service, real estate brokers' organization or other service organization, or

3 facility relating to the business of selling or renting dwellings, **[because] on account** of race,  
4 color, religion, national origin, ancestry, sex, disability, or familial status.

213.055. 1. It shall be an unlawful employment practice:

2 (1) For an employer, because of the race, color, religion, national origin, sex, ancestry,  
3 age or disability of any individual:

4 (a) To fail or refuse to hire or to discharge any individual, or otherwise to discriminate  
5 against any individual with respect to his **or her** compensation, terms, conditions, or privileges  
6 of employment, because of such individual's race, color, religion, national origin, sex, ancestry,  
7 age or disability;

8 (b) To limit, segregate, or classify his **or her** employees or his **or her** employment  
9 applicants in any way which would deprive or tend to deprive any individual of employment  
10 opportunities or otherwise adversely affect his **or her** status as an employee, because of such  
11 individual's race, color, religion, national origin, sex, ancestry, age or disability;

12 (2) For a labor organization to exclude or to expel from its membership any individual  
13 or to discriminate in any way against any of its members or against any employer or any  
14 individual employed by an employer because of race, color, religion, national origin, sex,  
15 ancestry, age or disability of any individual; or to limit, segregate, or classify its membership,  
16 or to classify or fail or refuse to refer for employment any individual, in any way which would  
17 deprive or tend to deprive any individual of employment opportunities, or would limit such  
18 employment opportunities or otherwise adversely affect his **or her** status as an employee or as  
19 an applicant for employment, because of such individual's race, color, religion, national origin,  
20 sex, ancestry, age or disability; or for any employer, labor organization, or joint  
21 labor-management committee controlling apprenticeship or other training or retraining, including  
22 on-the-job training programs to discriminate against any individual because of his **or her** race,  
23 color, religion, national origin, sex, ancestry, age or disability in admission to, or employment  
24 in, any program established to provide apprenticeship or other training;

25 (3) For any employer or employment agency to print or circulate or cause to be printed  
26 or circulated any statement, advertisement or publication, or to use any form of application for  
27 employment or to make any inquiry in connection with prospective employment, which  
28 expresses, directly or indirectly, any limitation, specification, or discrimination, because of race,  
29 color, religion, national origin, sex, ancestry, age or disability unless based upon a bona fide  
30 occupational qualification or for an employment agency to fail or refuse to refer for employment,  
31 or otherwise to discriminate against, any individual because of his or her race, color, religion,  
32 national origin, sex, ancestry, age as it relates to employment, or disability, or to classify or refer  
33 for employment any individual **[because] on the basis** of his or her race, color, religion, national  
34 origin, sex, ancestry, age or disability.

35           2. Notwithstanding any other provision of this chapter, it shall not be an unlawful  
36 employment practice for an employer to apply different standards of compensation, or different  
37 terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system,  
38 or a system which measures earnings by quantity or quality of production or to employees who  
39 work in different locations, provided that such differences or such systems are not the result of  
40 an intention or a design to discriminate, and are not used to discriminate, because of race, color,  
41 religion, sex, national origin, ancestry, age or disability, nor shall it be an unlawful employment  
42 practice for an employer to give and to act upon the results of any professionally developed  
43 ability test, provided that such test, its administration, or action upon the results thereof, is not  
44 designed, intended or used to discriminate because of race, color, religion, national origin, sex,  
45 ancestry, age or disability.

46           3. Nothing contained in this chapter shall be interpreted to require any employer,  
47 employment agency, labor organization, or joint labor-management committee subject to this  
48 chapter to grant preferential treatment to any individual or to any group because of the race,  
49 color, religion, national origin, sex, ancestry, age or disability of such individual or group on  
50 account of an imbalance which may exist with respect to the total number or percentage of  
51 persons of any race, color, religion, national origin, sex, ancestry, age or disability employed by  
52 any employer, referred or classified for employment by any employment agency or labor  
53 organization, admitted to membership or classified by any labor organization, or admitted to or  
54 employed in any apprenticeship or other training program, in comparison with the total number  
55 or percentage of persons of such race, color, religion, national origin, sex, ancestry, age or  
56 disability in any community, state, section, or other area, or in the available workforce in any  
57 community, state, section, or other area.

58           4. Notwithstanding any other provision of this chapter, it shall not be an unlawful  
59 employment practice for the state or any political subdivision of the state to comply with the  
60 provisions of 29 U.S.C. Section 623 relating to employment as firefighters or law enforcement  
61 officers.

213.065. 1. All persons within the jurisdiction of the state of Missouri are free and equal  
2 and shall be entitled to the full and equal use and enjoyment within this state of any place of  
3 public accommodation, as hereinafter defined, without discrimination or segregation [~~because~~]  
4 **on the grounds** of race, color, religion, national origin, sex, ancestry, or disability.

5           2. It is an unlawful discriminatory practice for any person, directly or indirectly, to  
6 refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny  
7 any other person, any of the accommodations, advantages, facilities, services, or privileges made  
8 available in any place of public accommodation, as defined in section 213.010 and this section,

9 or to segregate or discriminate against any such person in the use thereof ~~[because]~~ **on the**  
10 **grounds** of race, color, religion, national origin, sex, ancestry, or disability.

11 3. The provisions of this section shall not apply to a private club, a place of  
12 accommodation owned by or operated on behalf of a religious corporation, association or society,  
13 or other establishment which is not in fact open to the public, unless the facilities of such  
14 establishments are made available to the customers or patrons of a place of public  
15 accommodation as defined in section 213.010 and this section.

213.070. ~~[1.]~~ It shall be an unlawful discriminatory practice ~~[for an employer,  
2 employment agency, labor organization, or place of public accommodation]:~~

3 (1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this  
4 chapter or to attempt to do so;

5 (2) To retaliate or discriminate in any manner against any other person because such  
6 person has opposed any practice prohibited by this chapter or because such person has filed a  
7 complaint, testified, assisted, or participated in any manner in any investigation, proceeding or  
8 hearing conducted pursuant to this chapter;

9 (3) For the state or any political subdivision of this state to discriminate on the basis of  
10 race, color, religion, national origin, sex, ancestry, age, as it relates to employment, disability,  
11 or familial status as it relates to housing; or

12 (4) To discriminate in any manner against any other person because of such person's  
13 association with any person protected by this chapter.

14 ~~[2. This chapter, in addition to chapter 285 and chapter 287, shall provide the exclusive  
15 remedy for any and all claims for injury or damages arising out of an employment relationship.]~~

213.075. 1. ~~[As a jurisdictional condition precedent to filing a civil action under this  
2 chapter,]~~ Any person claiming to be aggrieved by an unlawful discriminatory practice ~~[shall]~~  
3 **may** make, sign and file with the commission a verified complaint in writing, within one  
4 hundred eighty days of the alleged act of discrimination, which shall state the name and address  
5 of the ~~[employer, employment agency, labor organization, or place of public accommodation]~~  
6 **person** alleged to have committed the unlawful discriminatory practice and which shall set forth  
7 the particulars thereof and such other information as may be required by the commission. The  
8 complainant's agent, attorney or the attorney general may, in like manner, make, sign and file  
9 such complaint. ~~[The failure to timely file a complaint with the commission shall deprive the  
10 commission of jurisdiction to investigate the complaint. The commission shall make a  
11 determination as to its jurisdiction with respect to all complaints. Notwithstanding any other  
12 provision of this chapter to the contrary, if a complaint is not filed with the commission within  
13 one hundred eighty days of the alleged act of discrimination, the commission shall lack  
14 jurisdiction to take any action on such a complaint other than to dismiss the complaint for lack~~

15 of jurisdiction. The failure to timely file a complaint with the commission may be raised as a  
16 complete defense by a respondent or defendant at any time, either during the administrative  
17 proceedings before the commission, or in subsequent litigation, regardless of whether the  
18 commission has issued the person claiming to be aggrieved a letter indicating his or her right to  
19 bring a civil action and regardless of whether the employer asserted the defense before the  
20 commission.]

21         2. Any complaint which is filed with the federal Equal Employment Opportunity  
22 Commission or other federal agencies with which the commission has a work-sharing or deferral  
23 agreement, or with a local commission which has been certified as substantially equivalent by  
24 the commission, shall be deemed filed with the commission on the date that such complaint is  
25 received by such federal agency or local commission. A copy of all complaints filed with a local  
26 commission with the authority to enforce the provisions of this chapter is to be forwarded to the  
27 commission within seven days of the filing thereof with such local commission. If a local  
28 commission has jurisdiction to hear a complaint filed with the commission, such complaint shall  
29 be deemed to have been filed with the local commission on the date on which such complaint  
30 was filed with the commission. The commission shall, within seven days of the receipt of a  
31 complaint which a local commission has jurisdiction to hear, forward a copy thereof to such local  
32 commission.

33         3. After the filing of any complaint, the executive director shall, with the assistance of  
34 the commission's staff, promptly investigate the complaint, and if the director determines after  
35 the investigation that probable cause exists for crediting the allegations of the complaint, the  
36 executive director shall immediately endeavor to eliminate the unlawful discriminatory practice  
37 complained of by conference, conciliation and persuasion, and shall report the results to the  
38 commission. The investigation, determination of probable cause and conciliation shall be  
39 conducted according to such rules, regulations and guidelines as the commission shall prescribe.

40         4. A person who is not named as a respondent in a complaint, but who is identified as  
41 a respondent in the course of investigation, may be joined as an additional or substitute  
42 respondent upon written notice, pursuant to such rules, regulations, and guidelines as the  
43 commission shall prescribe. Such notice, in addition to complying with the requirements of such  
44 rules, regulations, and guidelines, shall also state the reason why the person to whom the notice  
45 is addressed has been joined as a party.

46         5. In case of failure to eliminate such discriminatory practice as found in the  
47 investigation, if in the judgment of the chairperson of the commission circumstances so warrant,  
48 there shall be issued and served in the name of the commission, a written notice, together with  
49 a copy of the complaint, as it may have been amended, requiring the person named in the  
50 complaint, hereinafter referred to as "respondent", to answer the charges of the complaint at a

51 hearing, at a time and place to be specified in the notice, before a panel of at least three members  
52 of the commission sitting as the commission or before a hearing examiner licensed to practice  
53 law in this state who shall be appointed by the executive director and approved by the  
54 commission. The place of the hearing shall be in the office of the commission or such other  
55 place designated by it, except that if the respondent so requests, in writing, the hearing shall be  
56 held in the county of such person's residence or business location at the time of the alleged  
57 unlawful discriminatory practice. A copy of the notice shall also be served on the complainants.

58         6. In all cases where a written notice of hearing has been issued and a party has not  
59 elected the option to proceed in circuit court as set forth in section 213.076, the procedures set  
60 forth for a hearing shall apply.

61         7. The commission shall be a party to the action and shall be represented before the panel  
62 or the hearing examiner by the office of the attorney general or, when so delegated by the  
63 attorney general, a staff attorney of the commission. Neither the hearing examiner nor any  
64 member of the panel shall have participated in the investigation of the complaint. Evidence  
65 concerning endeavors at conciliation shall be excluded.

66         8. The respondent may file a written verified answer to the complaint and appear at the  
67 hearing in person or otherwise with or without counsel, and submit testimony. At the discretion  
68 of the hearing examiner or the panel, the complainant may be allowed to intervene, thereby  
69 becoming a party to the action with the right to present testimony in person or by counsel,  
70 provided the complainant at all times shall be treated as a party for the purpose of discovery and  
71 the taking of depositions. The commission or complainant intervenor shall have the power to  
72 reasonably and fairly amend any complaint, and the respondent shall have like power to amend  
73 any answer. The testimony taken at the hearing shall be under oath and be transcribed.

74         9. In any contested case before the commission, any party may take and use written  
75 interrogatories, requests for production of documents and other materials, and requests for  
76 admissions, and all other forms of discovery authorized by rules of civil procedure in the same  
77 manner, upon, and under the same conditions, and upon the same notice, as is or may hereafter  
78 be provided for with respect to the taking and using of written interrogatories, requests for  
79 production of documents and other materials, and requests for admissions, and all other forms  
80 of discovery authorized by rules of civil procedure in civil actions in the circuit court. The panel  
81 or hearing examiner shall have the authority to impose sanctions in the same manner as set forth  
82 in the rules of civil procedure.

83         10. The hearing shall be conducted in the manner provided by chapter 536.

84         11. When the case is heard by a panel of the commission, the chairperson of the  
85 commission shall select the hearing panel and the presiding officer. The presiding officer shall  
86 have full authority to call and examine witnesses, admit or exclude evidence and rule upon all

87 motions and objections. The panel shall state its findings of fact and conclusions of law, and if,  
88 upon all the evidence at the hearing, the panel finds:

89 (1) That a respondent has engaged in an unlawful discriminatory practice as defined in  
90 this chapter, the commission shall issue and cause to be served on the respondent an order  
91 requiring the respondent to cease and desist from the unlawful discriminatory practice. The order  
92 shall require the respondent to take such affirmative action, as in the panel's judgment will  
93 implement the purposes of this chapter, including, but not limited to, payment of back pay;  
94 hiring; reinstatement or upgrading; restoration to membership in any respondent labor  
95 organization; the extension of full, equal and unsegregated housing; the extension of full, equal  
96 and unsegregated public accommodations; extension of a commercial real estate loan or other  
97 financial assistance; extension or restoration of membership or participation in any multiple  
98 listing service or other real estate service organization or facility; payment of actual damages;  
99 and the submission of a report of the manner of compliance;

100 (2) That a respondent has engaged or is about to engage in a violation of section 213.040,  
101 213.045, 213.050, or 213.070, to the extent that the alleged violation of section 213.070 relates  
102 to or involves a violation of one or more of such other sections or relates to or involves the  
103 encouraging, aiding, or abetting of a violation of such other sections, the commission may, in  
104 addition to the relief provided in subdivision (1) of this subsection, assess a civil penalty against  
105 the respondent, for purposes of vindicating the public interest:

106 (a) In an amount not exceeding two thousand dollars if the respondent has not been  
107 adjudged to have violated one or more of the sections enumerated in subdivision (2) of this  
108 subsection within five years of the date of the filing of the complaint;

109 (b) In an amount not exceeding five thousand dollars if the respondent has been adjudged  
110 to have committed one violation of the sections enumerated in subdivision (2) of this subsection  
111 within five years of the date on which the complaint is filed;

112 (c) In an amount not exceeding ten thousand dollars if the respondent has been adjudged  
113 to have committed two or more prior violations of the sections enumerated in subdivision (2) of  
114 this subsection within seven years of the date on which the complaint is filed.

115

116 All civil penalties set forth in this subsection shall be paid to the human rights fund.

117 12. If, upon all the evidence, the panel finds that a respondent has not engaged in any  
118 unlawful discriminatory practice, the panel shall state its findings of fact and conclusions of law  
119 and shall issue and cause to be served on the complainant and respondent an order dismissing  
120 the complaint.

121 13. When the case is heard by a hearing examiner, the examiner shall have all powers  
122 described in subdivision (8) of **subsection 1** of section 213.030 and subsection 11 of this section,

123 for the purpose of the hearing. The hearing examiner shall make findings of fact and conclusions  
124 of law and shall recommend to the commission an order granting such relief as provided in  
125 subsection 11 of this section or dismissing the complaint as to the respondent as provided in  
126 subsection 12 of this section, in accordance with such findings.

127         14. A panel of at least three members of the commission, sitting as the commission, shall  
128 review the record, findings and recommended order of the hearing examiner. The panel shall  
129 thereafter accept or amend the recommended order which shall become the order of the  
130 commission. All orders shall be served on the complainant and respondent, and copies shall be  
131 delivered to the attorney general and such other public officers as the commission deems proper.

132         15. No order of the commission issued pursuant to this section shall affect any contract,  
133 sale, encumbrance or lease consummated before the issuance of such order and involving a bona  
134 fide purchaser without actual notice of the charge filed pursuant to this section.

135         16. Any person aggrieved by an order of the commission may appeal as provided in  
136 chapter 536.

213.101. [~~1~~] The provisions of this chapter shall be construed to accomplish the  
2 purposes thereof and any law inconsistent with any provision of this chapter shall not apply.  
3 Nothing contained in this chapter shall be deemed to repeal any of the provisions of any law of  
4 this state relating to discrimination because of race, color, religion, national origin, sex, ancestry,  
5 age, disability, or familial status.

6         ~~[2. The general assembly hereby expressly abrogates the case of McBryde v. Ritenour~~  
7 ~~School District, 207 S.W.3d 162 (Mo.App. E.D. 2006), and its progeny as it relates to the~~  
8 ~~necessity and appropriateness of the issuance of a business judgment instruction. In all civil~~  
9 ~~actions brought under this chapter, a jury shall be given an instruction expressing the business~~  
10 ~~judgment rule.~~

11         ~~3. If an employer in a case brought under this chapter files a motion pursuant to rule~~  
12 ~~74.04 of the Missouri rules of civil procedure, the court shall consider the burden-shifting~~  
13 ~~analysis of McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), and its progeny to be~~  
14 ~~highly persuasive for analysis in cases not involving direct evidence of discrimination.~~

15         ~~4. The general assembly hereby expressly abrogates by this statute the cases of~~  
16 ~~Daugherty v. City of Maryland Heights, 231 S.W.3d 814 (Mo. 2007) and its progeny as they~~  
17 ~~relate to the contributing factor standard and abandonment of the burden-shifting framework~~  
18 ~~established in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).~~

19         ~~5. The general assembly hereby expressly abrogates by this statute the holding in Hurst~~  
20 ~~v. Kansas City Mo. School District, 437 S.W.3d 327 (Mo.App. W.D. 2014), that Missouri~~  
21 ~~Approved Instruction 19.01 may be applied to actions brought pursuant to this chapter, and the~~  
22 ~~holding in Thomas v. McKeever's Enterprises, Inc., 388 S.W.3d 206 (Mo.App. W.D. 2012), that~~

23 juries shall not be instructed that plaintiffs bear the burden of establishing “but for” causation  
24 in actions brought pursuant to this chapter.

25 ~~6. The general assembly hereby abrogates all Missouri-approved jury instructions~~  
26 ~~specifically addressing civil actions brought under this chapter which were in effect prior to~~  
27 ~~August 28, 2017.]~~

213.111. 1. If, after one hundred eighty days from the filing of a complaint alleging an  
2 unlawful discriminatory practice pursuant to section 213.055, 213.065 or 213.070 to the extent  
3 that the alleged violation of section 213.070 relates to or involves a violation of section 213.055  
4 or 213.065, or subdivision (3) of ~~[subsection 1 of]~~ section 213.070 as it relates to employment  
5 and public accommodations, the commission has not completed its administrative processing and  
6 the person aggrieved so requests in writing, the commission shall issue to the person claiming  
7 to be aggrieved a letter indicating his or her right to bring a civil action within ninety days of  
8 such notice against the respondent named in the complaint. If, after the filing of a complaint  
9 pursuant to sections 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged  
10 violation of section 213.070 relates to or involves a violation of sections 213.040, 213.045 and  
11 213.050, or subdivision (3) of ~~[subsection 1 of]~~ section 213.070 as it relates to housing, and the  
12 person aggrieved so requests in writing, the commission shall issue to the person claiming to be  
13 aggrieved a letter indicating his or her right to bring a civil action within ninety days of such  
14 notice against the respondent named in the complaint. ~~[The commission may not at any other~~  
15 ~~time or for any other reason issue a letter indicating a complainant’s right to bring a civil action.]~~  
16 Such an action may be brought in any circuit court in any county in which the unlawful  
17 discriminatory practice is alleged to have ~~[been committed]~~ **occurred**, either before a circuit or  
18 associate circuit judge. Upon issuance of this notice, the commission shall terminate all  
19 proceedings relating to the complaint. No person may file or reinstate a complaint with the  
20 commission after the issuance of a notice under this section relating to the same practice or act.  
21 Any action brought in court under this section shall be filed within ninety days from the date of  
22 the commission’s notification letter to the individual but no later than two years after the alleged  
23 cause occurred or its reasonable discovery by the alleged injured party.

24 2. The court may grant as relief, as it deems appropriate, any permanent or temporary  
25 injunction, temporary restraining order, or other order, and may award to the plaintiff actual and  
26 punitive damages, and may award court costs and reasonable attorney fees to the prevailing  
27 party, other than a state agency or commission or a local commission; except that, a prevailing  
28 respondent may be awarded **court costs and** reasonable attorney fees only upon a showing that  
29 the case ~~[was]~~ **is** without foundation.

30 ~~[3. Any party to any action initiated under this section has a right to a trial by jury.]~~

31 ~~4. The sum of the amount of actual damages, including damages for future pecuniary~~  
 32 ~~losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and~~  
 33 ~~other nonpecuniary losses, and punitive damages awarded under this section shall not exceed for~~  
 34 ~~each complaining party:~~

35 ~~(1) Actual back pay and interest on back pay; and~~

36 ~~(2) (a) In the case of a respondent who has more than five and fewer than one hundred~~  
 37 ~~one employees in each of twenty or more calendar weeks in the current or preceding calendar~~  
 38 ~~year, fifty thousand dollars;~~

39 ~~(b) In the case of a respondent who has more than one hundred and fewer than two~~  
 40 ~~hundred one employees in each of twenty or more calendar weeks in the current or preceding~~  
 41 ~~calendar year, one hundred thousand dollars;~~

42 ~~(c) In the case of a respondent who has more than two hundred and fewer than five~~  
 43 ~~hundred one employees in each of twenty or more calendar weeks in the current or preceding~~  
 44 ~~calendar year, two hundred thousand dollars; or~~

45 ~~(d) In the case of a respondent who has more than five hundred employees in each of~~  
 46 ~~twenty or more calendar weeks in the current or preceding calendar year, five hundred thousand~~  
 47 ~~dollars.~~

48 ~~5. In any employment-related civil action brought under this chapter, the plaintiff shall~~  
 49 ~~bear the burden of proving the alleged unlawful decision or action was made or taken because~~  
 50 ~~of his or her protected classification and was the direct proximate cause of the claimed damages.]~~

510.265. 1. No award of punitive damages against any defendant shall exceed the  
 2 greater of:

3 (1) Five hundred thousand dollars; or

4 (2) Five times the net amount of the judgment awarded to the plaintiff against the  
 5 defendant.

6

7 Such limitations shall not apply if the state of Missouri is the plaintiff requesting the award of  
 8 punitive damages, or the defendant pleads guilty to or is convicted of a felony arising out of the  
 9 acts or omissions pled by the plaintiff.

10 2. The provisions of this section shall not apply to civil actions brought under section  
 11 213.111 that allege a violation of section 213.040, 213.045, 213.050, or 213.070, to the extent  
 12 that the alleged violation of section 213.070 relates to or involves a violation of section 213.040,  
 13 213.045, or 213.050, or subdivision (3) of ~~[subsection 1 of]~~ section 213.070 as it relates to  
 14 housing.

~~[285.575. 1. This section shall be known and may be cited as the~~  
 2 ~~“Whistleblower’s Protection Act”.~~

3 ~~2. As used in this section, the following terms shall mean:~~

- 4 ~~————— (1) “Because” or “because of”, as it relates to the adverse decision or~~  
5 ~~action, the person’s status as a protected person was the motivating factor;~~
- 6 ~~————— (2) “Employer”, an entity that has six or more employees for each~~  
7 ~~working day in each of twenty or more calendar weeks in the current or preceding~~  
8 ~~calendar year. “Employer” shall not include the state of Missouri or its agencies;~~  
9 ~~instrumentalities, or political subdivisions, including but not limited to any public~~  
10 ~~institution of higher education, a corporation wholly owned by the state of~~  
11 ~~Missouri, an individual employed by an employer, or corporations and~~  
12 ~~associations owned or operated by religious or sectarian organizations;~~
- 13 ~~————— (3) “Proper authorities”, a governmental or law enforcement agency, an~~  
14 ~~officer of an employee’s employer, the employee’s supervisor employed by the~~  
15 ~~employer, or the employee’s human resources representative employed by the~~  
16 ~~employer;~~
- 17 ~~————— (4) “Protected person”, an employee of an employer who has reported to~~  
18 ~~the proper authorities an unlawful act of his or her employer; an employee of an~~  
19 ~~employer who reports to his or her employer serious misconduct of the employer~~  
20 ~~that violates a clear mandate of public policy as articulated in a constitutional~~  
21 ~~provision, statute, or regulation promulgated under statute; or an employee of an~~  
22 ~~employer who has refused to carry out a directive issued by his or her employer~~  
23 ~~that if completed would be a violation of the law. An employee of an employer~~  
24 ~~is not a protected person if:~~
- 25 ~~————— (a) The employee is a supervisory, managerial, or executive employee or~~  
26 ~~an officer of his or her employer and the unlawful act or serious misconduct~~  
27 ~~reported concerns matters upon which the employee is employed to report or~~  
28 ~~provide professional opinion; or~~
- 29 ~~————— (b) The proper authority or person to whom the employee makes his or~~  
30 ~~her report is the person whom the employee claims to have committed the~~  
31 ~~unlawful act or violation of a clear mandate of public policy;~~
- 32 ~~————— (5) “The motivating factor”, the employee’s protected classification~~  
33 ~~actually played a role in the adverse decision or action and had a determinative~~  
34 ~~influence on the adverse decision or action.~~
- 35 ~~————— 3. This section is intended to codify the existing common law exceptions~~  
36 ~~to the at-will employment doctrine and to limit their future expansion by the~~  
37 ~~courts. This section, in addition to chapter 213 and chapter 287, shall provide the~~  
38 ~~exclusive remedy for any and all claims of unlawful employment practices.~~
- 39 ~~————— 4. It shall be an unlawful employment practice for an employer to~~  
40 ~~discharge an individual defined as a protected person in this section because of~~  
41 ~~that person’s status as a protected person.~~
- 42 ~~————— 5. A protected person aggrieved by a violation of this section shall have~~  
43 ~~a private right of action for actual damages for violations of this section but not~~  
44 ~~for punitive damages. However, if a private right of action for damages exists~~  
45 ~~under another statutory or regulatory scheme, whether under state or federal law,~~  
46 ~~no private right of action shall exist under this statute.~~

47 ~~6. Any party to any action initiated under this section may demand a trial~~  
48 ~~by jury.~~  
49 ~~7. A protected person aggrieved by a violation of this section shall have~~  
50 ~~a private right of action that may be filed in a court of competent jurisdiction.~~  
51 ~~The only remedies available in such an action shall be:~~  
52 ~~(1) Back pay;~~  
53 ~~(2) Reimbursement of medical bills directly related to a violation of this~~  
54 ~~section; and~~  
55 ~~(3) Additionally, if a protected person proves, by clear and convincing~~  
56 ~~evidence, that the conduct of the employer was outrageous because of the~~  
57 ~~employer's evil motive or reckless indifference to the rights of others, then, such~~  
58 ~~person may receive double the amount awarded under subdivisions (1) and (2)~~  
59 ~~of this subsection, as liquidated damages. In applying this subdivision, the~~  
60 ~~provisions of section 510.263 shall be applied as though liquidated damages were~~  
61 ~~punitive damages and as though the amounts referenced in subdivisions (1) and~~  
62 ~~(2) of this subsection were compensatory damages.~~  
63 ~~8. The court, in addition to the damages set forth in subsection 7 of this~~  
64 ~~section, may award the prevailing party court costs and reasonable attorney fees;~~  
65 ~~except that a prevailing respondent may be awarded reasonable attorney fees only~~  
66 ~~upon a showing that the case was without foundation.]~~

✓