

SECOND REGULAR SESSION

# HOUSE BILL NO. 1782

99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ELLINGTON.

5338H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, and 213.050, RSMo, and to enact in lieu thereof five new sections relating to discrimination based on sexual orientation or gender identity.

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

Section A. Sections 213.010, 213.030, 213.040, 213.045, and 213.050, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 213.010, 213.030,  
3 213.040, 213.045, and 213.050, to read as follows:

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

- 2 (1) “Age”, an age of forty or more years but less than seventy years, except that it shall  
3 not be an unlawful employment practice for an employer to require the compulsory retirement  
4 of any person who has attained the age of sixty-five and who, for the two-year period  
5 immediately before retirement, is employed in a bona fide executive or high policy-making  
6 position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from  
7 a pension, profit sharing, savings or deferred compensation plan, or any combination of such  
8 plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;
- 9 (2) “Because” or “because of”, as it relates to the adverse decision or action, the  
10 protected criterion was the motivating factor;
- 11 (3) “Commission”, the Missouri commission on human rights;
- 12 (4) “Complainant”, a person who has filed a complaint with the commission alleging that  
13 another person has engaged in a prohibited discriminatory practice;
- 14 (5) “Disability”, a physical or mental impairment which substantially limits one or more  
15 of a person’s major life activities, being regarded as having such an impairment, or a record of

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.

16 having such an impairment, which with or without reasonable accommodation does not interfere  
17 with performing the job, utilizing the place of public accommodation, or occupying the dwelling  
18 in question. For purposes of this chapter, the term “disability” does not include current, illegal  
19 use of or addiction to a controlled substance as such term is defined by section 195.010;  
20 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) “Discrimination”, conduct proscribed herein, taken because of race, color, religion,  
30 national origin, ancestry, sex, [ø] **sexual orientation, gender identity**, age as it relates to  
31 employment, disability, or familial status as it relates to housing. **Discrimination includes any**  
32 **unfair treatment based on a person’s presumed or assumed race, color, religion, national**  
33 **origin, ancestry, sex, sexual orientation, gender identity, age as it relates to employment,**  
34 **disability, or familial status as it relates to housing, regardless of whether the presumption**  
35 **or assumption as to such characteristics is correct;**

36 (7) “Dwelling”, any building, structure or portion thereof which is occupied as, or  
37 designed or intended for occupancy as, a residence by one or more families, and any vacant land  
38 which is offered for sale or lease for the construction or location thereon of any such building,  
39 structure or portion thereof;

40 (8) “Employer”, a person engaged in an industry affecting commerce who has six or  
41 more employees for each working day in each of twenty or more calendar weeks in the current  
42 or preceding calendar year, and shall include the state, or any political or civil subdivision  
43 thereof, or any person employing six or more persons within the state but does not include  
44 corporations and associations owned or operated by religious or sectarian organizations.  
45 “Employer” shall not include:

46 (a) The United States;

47 (b) A corporation wholly owned by the government of the United States;

48 (c) An individual employed by an employer;

49 (d) An Indian tribe;

50 (e) Any department or agency of the District of Columbia subject by statute to  
51 procedures of the competitive service, as defined in 5 U.S.C. Section 2101; or

52 (f) A bona fide private membership club, other than a labor organization, that is exempt  
53 from taxation under 26 U.S.C. Section 501(c);

54 (9) "Employment agency" includes any person or agency, public or private, regularly  
55 undertaking with or without compensation to procure employees for an employer or to procure  
56 for employees opportunities to work for an employer;

57 (10) "Executive director", the executive director of the Missouri commission on human  
58 rights;

59 (11) "Familial status", one or more individuals who have not attained the age of eighteen  
60 years being domiciled with:

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

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

66 (12) **"Gender identity", the gender-related identity, appearance, or mannerisms,**  
67 **or other gender-related characteristics of an individual, with or without regard to the**  
68 **individual's assigned sex at birth;**

69 (13) "Human rights fund", a fund established to receive civil penalties as required by  
70 federal regulations and as set forth by subdivision (2) of subsection 11 of section 213.075, and  
71 which will be disbursed to offset additional expenses related to compliance with the Department  
72 of Housing and Urban Development regulations;

73 ~~[(13)]~~ (14) "Labor organization" includes any organization which exists for the purpose,  
74 in whole or in part, of collective bargaining or of dealing with employers concerning grievances,  
75 terms or conditions of employment, or for other mutual aid or protection in relation to  
76 employment;

77 ~~[(14)]~~ (15) "Local commissions", any commission or agency established prior to August  
78 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional  
79 charter city, town, village, or county;

80 ~~[(15)]~~ (16) "Person" includes one or more individuals, corporations, partnerships,  
81 associations, organizations, labor organizations, legal representatives, mutual companies, joint  
82 stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized  
83 groups of persons;

84 ~~[(16)]~~ (17) "Places of public accommodation", all places or businesses offering or  
85 holding out to the general public, goods, services, privileges, facilities, advantages or  
86 accommodations for the peace, comfort, health, welfare and safety of the general public or such  
87 public places providing food, shelter, recreation and amusement, including, but not limited to:

88 (a) Any inn, hotel, motel, or other establishment which provides lodging to transient  
89 guests, other than an establishment located within a building which contains not more than five  
90 rooms for rent or hire and which is actually occupied by the proprietor of such establishment as  
91 ~~his~~ **the proprietor's** residence;

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

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

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

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

102 (f) Any establishment which is physically located within the premises of any  
103 establishment otherwise covered by this section or within the premises of which is physically  
104 located any such covered establishment, and which holds itself out as serving patrons of such  
105 covered establishment;

106 ~~[(17)]~~ **(18)** "Rent" includes to lease, to sublease, to let and otherwise to grant for  
107 consideration the right to occupy premises not owned by the occupant;

108 ~~[(18)]~~ **(19)** "Respondent", a person who is alleged to have engaged in a prohibited  
109 discriminatory practice in a complaint filed with the commission;

110 ~~[(19)]~~ **(20)** "**Sexual orientation**", **one's actual or perceived emotional or physical**  
111 **attraction to, or romantic or physical relationships with, members of the same gender,**  
112 **members of a different gender, or members of any gender; or the lack of any emotional or**  
113 **physical attraction to, or romantic or physical relationships with, anyone. The term**  
114 **"sexual orientation" includes a history of such attraction or relationship or a history of no**  
115 **such attraction or relationship;**

116 **(21)** "The motivating factor", the employee's protected classification actually played a  
117 role in the adverse action or decision and had a determinative influence on the adverse decision  
118 or action;

119 ~~[(20)]~~ **(22)** "Unlawful discriminatory practice", any act that is unlawful under this  
120 chapter.

213.030. 1. The powers and duties of the commission shall be:

2 (1) To seek to eliminate and prevent discrimination because of race, color, religion,  
3 national origin, ancestry, sex, **sexual orientation, gender identity**, age as it relates to

4 employment, disability, or familial status as it relates to housing and to take other actions against  
5 discrimination because of race, color, religion, national origin, ancestry, sex, **sexual orientation**,  
6 **gender identity**, age, disability, or familial status as provided by law; and the commission is  
7 hereby given general jurisdiction and power for such purposes;

8 (2) To implement the purposes of this chapter first by conference, conciliation and  
9 persuasion so that persons may be guaranteed their civil rights and goodwill be fostered;

10 (3) To formulate policies to implement the purposes of this chapter and to make  
11 recommendations to agencies and officers of the state and political subdivisions in aid of such  
12 policies and purposes;

13 (4) To appoint such employees as it may deem necessary, fix their compensation within  
14 the appropriations provided and in accordance with the wage structure established for other state  
15 agencies, and prescribe their duties;

16 (5) To obtain upon request and utilize the services of all governmental departments and  
17 agencies to be paid from appropriations to this commission;

18 (6) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out  
19 the provisions of this chapter and the policies and practices of the commission in connection  
20 therewith;

21 (7) To receive, investigate, initiate, and pass upon complaints alleging discrimination  
22 in employment, housing or in places of public accommodations because of race, color, religion,  
23 national origin, ancestry, sex, **sexual orientation**, **gender identity**, age as it relates to  
24 employment, disability, or familial status as it relates to housing and to require the production  
25 for examination of any books, papers, records, or other materials relating to any matter under  
26 investigation;

27 (8) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to  
28 take the testimony of any person under oath, and, in connection therewith, to require the  
29 production for examination of any books, papers or other materials relating to any matter under  
30 investigation or in question before the commission;

31 (9) To issue publications and the results of studies and research which will tend to  
32 promote goodwill and minimize or eliminate discrimination in housing, employment or in places  
33 of public accommodation because of race, color, religion, national origin, ancestry, sex, **sexual**  
34 **orientation**, **gender identity**, age as it relates to employment, disability, or familial status as it  
35 relates to housing;

36 (10) To provide each year to the governor and to the general assembly a full written  
37 report of all its activities and of its recommendations;

38 (11) To adopt an official seal;

39 (12) To cooperate, act jointly, enter into cooperative or work-sharing agreements with  
40 the United States Equal Employment Opportunity Commission, the United States Department  
41 of Housing and Urban Development, and other federal agencies and local commissions or  
42 agencies to achieve the purposes of this chapter;

43 (13) To accept grants, private gifts, bequests, and establish funds to dispose of such  
44 moneys so long as the conditions of the grant, gift, or bequest are not inconsistent with the  
45 purposes of this chapter and are used to achieve the purposes of this chapter;

46 (14) To establish a human rights fund as defined in section 213.010, for the purposes of  
47 administering sections 213.040, 213.045, 213.050, 213.070, 213.075, and 213.076.

48 2. No rule or portion of a rule promulgated under the authority of this chapter shall  
49 become effective unless it has been promulgated pursuant to the provisions of [~~section 536.024~~]  
50 **chapter 536.**

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, **sexual orientation, gender identity,**  
5 disability, or familial status;

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

10 (3) To make, print, or publish, or cause to be made, printed, or published any notice,  
11 statement or advertisement, with respect to the sale or rental of a dwelling that indicates any  
12 preference, limitation, or discrimination because of race, color, religion, national origin, ancestry,  
13 sex, **sexual orientation, gender identity,** disability, or familial status, or an intention to make  
14 any such preference, limitation, or discrimination;

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

18 (5) To induce or attempt to induce any person to sell or rent any dwelling by  
19 representations regarding the entry or prospective entry into the neighborhood of a person or  
20 persons because of a particular race, color, religion, national origin, ancestry, sex, **sexual**  
21 **orientation, gender identity,** disability, or familial status;

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

24 (a) That buyer or renter;

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

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

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

31 (a) That person;

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

34 (c) Any person associated with that person.

35 2. For purposes of this section and sections 213.045 and 213.050, discrimination  
36 includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

94           8. Nothing in this section and sections 213.045 and 213.050 limits the applicability of  
95 any reasonable local or state restriction regarding the maximum number of occupants permitted

96 to occupy a dwelling, nor does any provision in this section and sections 213.045 and 213.050  
97 regarding familial status apply with respect to housing for older persons.

98 9. As used in this section and sections 213.045 and 213.050, “housing for older persons”  
99 means housing:

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

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

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

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

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

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

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

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

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

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

126 12. Nothing in this chapter shall prohibit a religious organization, association, or society,  
127 or any nonprofit institution or organization operated, supervised or controlled by or in  
128 conjunction with a religious organization, association, or society, from limiting the sale, rental  
129 or occupancy of dwellings which it owns or operates for other than a commercial purpose to  
130 persons of the same religion, or from giving preference to such persons, unless membership in  
131 such religion is restricted on account of race, color, or national origin. Nor shall anything in this

132 chapter prohibit a private club not in fact open to the public, which as an incident to its primary  
 133 purpose or purposes provides lodging which it owns or operates for other than a commercial  
 134 purpose, from limiting the rental or occupancy of such lodging to its members or from giving  
 135 preference to its members.

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

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

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

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

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

213.045. It shall be unlawful for any bank, building and loan association, insurance  
 2 company or other corporation, association, firm or enterprise whose business consists in whole  
 3 or in part in the making of commercial real estate loans, to deny a loan or other financial  
 4 assistance because of race, color, religion, national origin, ancestry, sex, **sexual orientation,**  
 5 **gender identity,** disability or familial status to a person applying therefor for the purpose of  
 6 purchasing, construction, improving, repairing, or maintaining a dwelling, or to discriminate  
 7 against ~~him~~ **such person** in fixing of the amount, interest rate, duration or other terms or  
 8 conditions of such loan or other financial assistance, because of the race, color, religion, national  
 9 origin, ancestry, sex, **sexual orientation, gender identity,** disability, or familial status of such  
 10 person or of any person associated with ~~him~~ **such person** in connection with such loan or other  
 11 financial assistance, or of the present or prospective owners, lessees, tenants, or occupants, of  
 12 the dwellings in relation to which such loan or other financial assistance is to be made or given.

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 of race, color, religion,  
 4 national origin, ancestry, sex, **sexual orientation, gender identity,** disability, or familial status.

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