

FIRST REGULAR SESSION

HOUSE BILL NO. 1058

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FUCHS.

2195H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 213, RSMo, by adding thereto two new sections relating to unlawful discriminatory practices based on certain medical information.

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

Section A. Chapter 213, RSMo, is amended by adding thereto two new sections, to be known as sections 213.061 and 213.062, to read as follows:

213.061. 1. As used in this section, the following terms shall mean:

(1) "Adverse employment action", includes, but is not limited to, termination, demotion or refusal to promote or advance, loss of career specialty, reassignment to a different shift, reduction of wages or benefits, refusal to provide training opportunities or transfer to a different department, adverse administrative action, or any other penalty, disciplinary, or retaliatory action;

(2) "Employer", any person who employs six or more persons exclusive of that person's parents, spouse, or children;

(3) "Employment agency", any person undertaking for compensation to procure opportunities to work or to procure, recruit, refer, or place employees;

(4) "Individual", one or more individuals;

(5) "Labor organization", any organization that exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment;

(6) "Person", one or more individuals, partnerships, associations, unincorporated organizations, corporations, mutual companies, joint stock companies,

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.

18 legal representatives, trusts, trustees, labor organizations, fiduciaries, trustees in
19 bankruptcy, or receivers.

20 **2. It shall be a prohibited discriminatory employment practice:**

21 **(1) For an employer to fail or refuse to hire, to discharge, or otherwise to**
22 **discriminate against any individual with respect to compensation or the terms,**
23 **conditions, or privileges of employment because of such individual's private medical**
24 **history or medical choices;**

25 **(2) For an employer to take any adverse employment action against an employee**
26 **based on the private medical history or medical choice by an employee or employee's**
27 **dependent;**

28 **(3) For a labor organization to exclude or expel from membership or otherwise**
29 **to discriminate against any applicant or member because of such applicant's or**
30 **member's private medical history or medical choices;**

31 **(4) For an employment agency to fail or refuse to refer for employment or**
32 **otherwise to discriminate against any individual because of such individual's private**
33 **medical history or medical choices; or**

34 **(5) For an employer, labor organization, or employment agency to print or**
35 **circulate, or cause to be printed or circulated, any statement, advertisement, or**
36 **publication, or to make any inquiry in connection with prospective employment, that**
37 **expresses directly or indirectly any preference, limitation, specification, or**
38 **discrimination because of private medical history or medical choices unless based**
39 **upon a bona fide occupational qualification.**

40 **3. The provisions of subsection 2 of this section shall not apply if the private**
41 **medical history or medical choices of an individual directly impede the individual's**
42 **ability to perform any essential job function. Nevertheless, inquiries into an individual's**
43 **medical history or medical choices shall be job-related and consistent with business**
44 **necessity.**

45 **4. Nothing in this section shall prohibit a religious institution, corporation,**
46 **association, society, health care facility, or educational institution with historic religious**
47 **affiliation from:**

48 **(1) Prohibiting the provision of any reproductive health service on property**
49 **owned or leased by it;**

50 **(2) Refusing to provide or pay for any reproductive health service to any patient,**
51 **student, or employee;**

52 **(3) Establishing employment policies that include requirements that an**
53 **employee follow certain medical guidelines that are reasonably based on the**

54 established religious beliefs or practices of the organization, so long as such policies
55 apply uniformly to similarly situated employees; or

56 (4) Refusing to provide health insurance coverage to any employee for any
57 reproductive health service.

213.062. 1. As used in this section, the following terms shall mean:

2 (1) "Dwelling", any building, structure, or portion thereof that is occupied as, or
3 designed or intended for occupancy as, a residence by one or more families, and any
4 vacant land that is offered for sale or lease for the construction or location thereon of
5 any such building, structure, or portion thereof;

6 (2) "Financial institution", any bank, banking organization, mortgage company,
7 insurance company, investment company, or other lender to whom application is made
8 for financial assistance for the purchase, lease, acquisition, construction, rehabilitation,
9 repair, maintenance, or improvement of real property, or an individual employed by or
10 acting on behalf of or as an agent of any of these;

11 (3) "Individual", one or more individuals;

12 (4) "Person", one or more individuals, partnerships, associations,
13 unincorporated organizations, corporations, mutual companies, joint stock companies,
14 legal representatives, trusts, trustees, labor organizations, fiduciaries, trustees in
15 bankruptcy, or receivers;

16 (5) "Real estate broker" or "real estate salesperson", any person who on behalf
17 of others, for a fee, commission, salary, or other valuable consideration, or who with the
18 intention or the expectation of receiving or collecting the same, lists, sells, purchases,
19 exchanges, rents, or leases real estate, or the improvement thereon, including options, or
20 who negotiates or attempts to negotiate on behalf of others such an activity; or who
21 advertises or holds himself or herself out as engaged in such activities; or who negotiates
22 or attempts to negotiate on behalf of others a loan secured by mortgage or other
23 encumbrance upon a transfer of real estate; or who is engaged in the business of
24 charging an advance fee or contracting for collection of a fee in connection with a
25 contract whereby he or she undertakes to promote the sale, purchase, exchange, rental,
26 or lease of real estate through its listing in a publication issued primarily for such
27 purpose; or an individual employed by or acting on behalf of any of these;

28 (6) "Realty", real estate, lands, buildings, structures, housing accommodations,
29 dwellings, tenements, leaseholds, cooperatives, condominiums, and hereditaments,
30 corporeal or incorporeal, or any interest in the above;

31 (7) "To rent", to lease, to sublease, to let, and otherwise to grant for a
32 consideration the right to occupy premises not owned by the occupant.

33 **2. It shall be a prohibited housing or realty practice and shall constitute a**
34 **discriminatory housing practice:**

35 **(1) For any person, including, without limitation, any real estate broker, real**
36 **estate salesperson, or agent, or any employee thereof, to discriminate against any**
37 **individual because of such individual's private medical history or medical choices with**
38 **respect to the use, enjoyment, or transfer, or prospective use, enjoyment, or transfer, of**
39 **any interest whatsoever in realty; or with respect to the terms, conditions, privileges, or**
40 **services granted or rendered in connection therewith; or with respect to the making or**
41 **purchasing of loans for the purchase or maintenance of residential real estate or loans in**
42 **the secondary market, or the provision of other financial assistance; or with respect to**
43 **the terms, conditions, privileges, or services granted or rendered in connection with any**
44 **interest whatsoever in realty; or with respect to the making of loans secured by**
45 **residential real estate;**

46 **(2) For any person, including, without limitation, any banking, money lending,**
47 **credit securing, or other financial institution, or any officer, agent, or employee thereof,**
48 **to discriminate against any individual because of such individual's private medical**
49 **history or medical choices with respect to the granting or withholding of credit or**
50 **financial assistance; or the extending or renewing of credit or financial assistance; or the**
51 **modifying of rates, terms, conditions, privileges, or other provisions of credit or**
52 **financial assistance, or services retained or rendered in connection with the transfer or**
53 **prospective transfer of any interest whatsoever in realty or in connection with the**
54 **construction, repair, improvement, or rehabilitation of realty;**

55 **(3) For any real estate broker, real estate salesperson or agent, or any employee**
56 **thereof, or any other person seeking financial gain thereby, directly or indirectly, to**
57 **induce or solicit, or attempt to induce or solicit, the transfer of any interest whatsoever**
58 **in realty by making or distributing, or causing to be made or distributed, any statement**
59 **or representation concerning the entry or prospective entry into the neighborhood of an**
60 **individual based on such individual's private medical history or medical choices;**

61 **(4) For any person to refuse to sell or rent after the making of a bona fide offer,**
62 **or to refuse to negotiate the sale or rental of, or otherwise make unavailable or deny a**
63 **dwelling to any individual because of such individual's private medical history or**
64 **medical choices;**

65 **(5) For any person to discriminate against any other individual in the terms,**
66 **conditions, or privileges of sale or rental of a dwelling, or in the provision of services or**
67 **facilities in connection therewith, because of that individual's private medical history or**
68 **medical choices;**

69 **(6) For any person to make, print, or publish, or cause to be made, printed, or**
70 **published, any notice, statement, or advertisement with respect to the sale or rental of a**
71 **dwelling that indicates any preference, limitation, or discrimination based on private**
72 **medical history or medical choices or an intention to make any such preference,**
73 **limitation, or discrimination;**

74 **(7) For any person to represent to any individual because of such individual's**
75 **private medical history or medical choices that any dwelling is not available for**
76 **inspection, sale, or rental when such dwelling is, in fact, so available; or**

77 **(8) For any person to deny any individual access to or membership or**
78 **participation in any multiple-listing service, real estate brokers' organization, or other**
79 **service, organization, or facility relating to the business of selling or renting dwellings,**
80 **or to discriminate against him or her in the terms or conditions of such access,**
81 **membership, or participation on account of such individual's private medical history or**
82 **medical choices.**

83 **3. Nothing in this section shall prohibit a religious institution, corporation,**
84 **association, society, health care facility, or educational institution with historic religious**
85 **affiliation from:**

86 **(1) Prohibiting the provision of any reproductive health service on property**
87 **owned or leased by it;**

88 **(2) Refusing to provide or pay for any reproductive health service to any patient,**
89 **student, or employee;**

90 **(3) Refusing to sell, rent, lease, inspect, transfer, or secure property or grant,**
91 **withhold, extend, or renew credit or financial assistance to any individuals whose**
92 **private medical history or medical choices conflict with the religious beliefs or moral**
93 **convictions of the religious institution, corporation, association, society, health care**
94 **facility, or educational institution with historic religious affiliation; or**

95 **(4) Refusing to provide health insurance coverage to any employee for any**
96 **reproductive health service.**

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