

SECOND REGULAR SESSION

SENATE BILL NO. 1022

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 22, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6257S.02I

AN ACT

To repeal sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, and to enact in lieu thereof thirteen new sections relating to unlawful discriminatory practices.

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Section A. Sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 1.202, 173.1555, 173.1556, 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, 213.101, and 213.134, to read as follows:

1.202. 1. Neither the state nor any political subdivision of the state shall impose a penalty on:

(1) An individual or religious organization wholly or partially on the basis that such individual or organization believes or acts in accordance with a sincerely held religious belief that marriage is or should be recognized as the union of one man and one woman, or that sexual intimacy is properly reserved to such a marriage;

(2) Any clergy or other religious leader on the basis that such cleric or leader declines or will decline to perform, solemnize, or facilitate a marriage or ceremony for reasons set out in subdivision (1) of this subsection, nor refuse to authorize any cleric or religious leader to conduct marriages recognized by the state for reasons set out in subdivision (1) of this subsection;

(3) Any church, synagogue, mosque, temple, or other house of worship, denomination, or other religious organization on the basis

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 that such organization declines or will decline to make its buildings or
17 other facilities and property open or available to perform, solemnize,
18 or facilitate a marriage or ceremony for reasons set out in subdivision
19 (1) of this subsection;

20 (4) Any church, synagogue, mosque, temple, or other house of
21 worship, denomination, or other religious organization on the basis
22 that such organization promotes marriage through programs,
23 counseling, courses, or retreats in conformity with a sincerely held
24 religious belief set out in subdivision (1) of this subsection;

25 (5) Any religious organization respecting the performing,
26 assisting, counseling or participating in any placement of a child for
27 foster care or adoption consistent with the organizations religious or
28 moral convictions or policies.

29 2. (1) Notwithstanding any other provision of law to the
30 contrary, neither the state nor any political subdivision of the state,
31 nor an accrediting, certifying or licensing body of the state or a
32 political subdivision, shall:

33 (a) Deny, revoke, or suspend a licensee's professional or business
34 license based on that licensee's beliefs or the licensee's lawful
35 expression of those beliefs, including the licensee's religious beliefs
36 regarding marriage, family, or sexuality; or

37 (b) Penalize, discipline, censure, disadvantage, discriminate
38 against, or retaliate against a licensee who holds a professional,
39 occupational, or business license based on that licensee's beliefs or
40 lawful expression of those beliefs, including licensee's religious beliefs
41 regarding marriage, family, or sexuality.

42 (2) The state and each political subdivision of the state shall
43 consider accredited, licensed, or certified for purposes of state or local
44 law any individual or religious organization that would be accredited,
45 licensed, or certified, respectively, for such purposes but for a
46 determination against such individual or organization wholly or
47 partially or the basis that the individual or organization believes or
48 acts in accordance with a sincerely held religious belief that marriage
49 is or should be recognized as the union of one man or one woman, or
50 that sexual intimacy is properly reserved to such a marriage.

51 3. For purposes of this section, the following terms shall mean:

52 (1) "Individual", a natural person;

53 **(2) "Penalty", any action taken by the state or any political**
54 **subdivision to:**

55 **(a) Adversely alter the tax treatment of, or cause any tax, fine,**
56 **or payment to be assessed against, or to delay, revoke, or otherwise**
57 **deny an exemption from taxation of any individual or religious**
58 **organization referred to in subsection 1 of this section;**

59 **(b) Disallow or hinder a deduction for tax purposes of any**
60 **charitable contribution made by or to any such individual or**
61 **organization;**

62 **(c) Withhold, reduce, exclude, terminate, or otherwise deny any**
63 **grant, contract, subcontract, cooperative agreement, loan, guarantee,**
64 **insurance, scholarship, license, certification, accreditation,**
65 **employment, internship, or other similar status, from or to any such**
66 **individual or organization;**

67 **(d) Withhold, reduce, exclude, terminate, or otherwise deny any**
68 **entitlement, social service, health care benefit, or to adversely alter or**
69 **deny admission to or degree from an educational program, or to**
70 **adversely alter or deny a custody award, foster home placement, or**
71 **adoption, from or to any such individual or organization;**

72 **(e) Deny access to meeting space, funding, and channels of**
73 **communication at an educational institution that is otherwise available**
74 **to other student organizations, access to charitable fund-raising**
75 **campaigns that is otherwise available to other charitable organizations,**
76 **or access to minister at correctional institutions and other public**
77 **facilities and property as is otherwise available to other**
78 **nongovernmental organizations to any such individual or organization;**
79 **or**

80 **(f) Allow or recognize a civil claim or cause of action in tort**
81 **against any such individual or organization;**

82 **(3) "Political subdivision", any municipality, county, school**
83 **district, or other governmental body of the state of Missouri, an agent**
84 **of a political subdivision or person acting under color of law of the**
85 **political subdivision;**

86 **(4) "Religious organization", an organization that is:**

87 **(a) A religious group, society, corporation, association, order,**
88 **school, or institution of higher education, ministry, charity,**
89 **social-service provider, adoption agency, child placement service**

90 provider, hospital or other healthcare facility, hospice, elder care
91 facility, or crisis pregnancy center, and associated counseling, courses,
92 and teaching, regardless of whether its purposes and activities are
93 deemed wholly or partly religious;

94 (b) A house of worship, including but not limited to, a church,
95 convention, denomination, synagogue, mosque, temple or stake; or

96 (c) Any clergy, religious leader, minister, officer, manager,
97 employee, member, or volunteer of any entity described in this
98 subdivision, while acting in the scope of his or her office, employment,
99 or duties of such position; or

100 (d) Any subsidiary, affiliate, or agency operated, supervised or
101 controlled by any entity described in this subdivision.

102 (5) "Sexuality", includes legal sexual conduct, legal sexual
103 expression, sexual desires, and the legal status of a person as male or
104 female.

105 (6) "State", any department, commission, board, agency, or court
106 of the state of Missouri, and any agent of the state or person acting
107 under color of law of the state, or any political subdivision of the state.

108 4. (1) An individual or religious organization may assert an
109 actual or threatened violation of this section as a claim or defense in
110 a judicial or administrative proceeding and may obtain compensatory
111 damages, injunctive relief, declaratory relief, or any other appropriate
112 relief against the state or a political subdivision of the state.

113 (2) Notwithstanding any other provision of law to the contrary,
114 an action under this section may be commenced, and relief may be
115 granted, in a court of competent jurisdiction without regard to whether
116 the individual or religious organization commencing the action has
117 pursued or exhausted available administrative remedies.

118 5. (1) Nothing in this section shall be construed to repeal or
119 supersede any state law that is equally or more protective of free
120 exercise of religious belief and practices. Nothing in this section shall
121 be construed to narrow the meaning or application of any state law
122 protecting free exercise of religious beliefs and practices. This section
123 shall be broadly construed in favor of a broad protection of religious
124 beliefs, exercise, and conscience to the maximum extent permitted by
125 the terms of this section and the Missouri and United States
126 Constitutions.

127 **(2) (a) Nothing in this section shall be construed to prevent the**
128 **state or a political subdivision of the state from providing, either**
129 **directly or through an individual not seeking protection under this**
130 **section, a license to marry or other entitlement, service, or benefit**
131 **authorized by state law.**

132 **(b) Nothing in this section shall permit a hospital, hospice, or**
133 **other healthcare facility, or an elder care facility, to refuse to treat a**
134 **marriage as valid for purposes of a spouse's right to visitation or to**
135 **surrogate healthcare decisions.**

136 **6. Notwithstanding any other provision of law to the contrary,**
137 **neither the state nor any political subdivision of the state shall engage**
138 **in any adverse action against any individual or entity for exercising**
139 **the protections contained in this section.**

173.1555. As used in sections 173.1555 and 173.1556, the following
2 **terms shall mean:**

3 **(1) "Benefit", recognition, registration, the use of facilities of the**
4 **public institution of higher learning for meetings or speaking purposes,**
5 **the use of channels of communication of the public institution of higher**
6 **learning and the use of funding sources that are otherwise available to**
7 **other student associations in the public institution of higher learning;**

8 **(2) "Public institution of higher learning", any state**
9 **postsecondary educational institution governed or supervised by a**
10 **board created under chapter 172, 174, 175, or 178, a board of trustees**
11 **of a community college, or any state board for any other technical**
12 **school;**

13 **(3) "Religion" or "religious", includes all aspects of a religious**
14 **belief or practice, regardless of whether compelled or central to a**
15 **particular religion.**

173.1556. 1. No public institution of higher learning shall take
2 **any action or enforce any policy that denies a religious student**
3 **association any benefit available to any other student association, or**
4 **discriminate against a religious student association with respect to**
5 **such benefit, based on that association's requirement that its leaders**
6 **or members adhere to the association's sincerely held religious beliefs,**
7 **comply with the association's sincere religious observance**
8 **requirements, comply with the association's sincere religious standards**
9 **of conduct, or be committed to furthering the association's religious**

10 **missions as such beliefs, requirements, standards, or missions are**
11 **defined by the association or religion upon which the association is**
12 **based.**

13 **2. Any student or religious student association that has been**
14 **aggrieved as a result of a violation of subsection 1 of this section may**
15 **assert that violation as a claim or defense in a judicial or**
16 **administrative proceeding against the public institution of higher**
17 **learning and obtain appropriate relief.**

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
3 that it shall not be an unlawful employment practice for an employer to require
4 the compulsory retirement of any person who has attained the age of sixty-five
5 and who, for the two-year period immediately before retirement, is employed in
6 a bona fide executive or high policy-making position, if such person is entitled to
7 an immediate nonforfeitable annual retirement benefit from a pension, profit
8 sharing, savings or deferred compensation plan, or any combination of such plans,
9 of the employer, which equals, in the aggregate, at least forty-four thousand
10 dollars;

11 (2) "Because" or "because of", as it relates to the adverse decision or
12 action, the protected criterion was the motivating factor;

13 (3) "Commission", the Missouri commission on human rights;

14 (4) "Complainant", a person who has filed a complaint with the
15 commission alleging that another person has engaged in a prohibited
16 discriminatory practice;

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

26 (a) Has successfully completed a supervised drug rehabilitation program
27 and is no longer engaging in the illegal use of, and is not currently addicted to,
28 a controlled substance or has otherwise been rehabilitated successfully and is no

29 longer engaging in such use and is not currently addicted;

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

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

34 (6) "Discrimination", conduct proscribed herein, taken because of race,
35 color, religion, national origin, ancestry, sex, **sexual orientation, gender**
36 **identity**, or age as it relates to employment, disability, or familial status as it
37 relates to housing;

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

42 (8) "Employer", a person engaged in an industry affecting commerce who
43 has six or more employees for each working day in each of twenty or more
44 calendar weeks in the current or preceding calendar year, and shall include the
45 state, or any political or civil subdivision thereof, or any person employing six or
46 more persons within the state but does not include corporations and associations
47 **primarily** owned or operated by religious or sectarian organizations **regardless**
48 **of whether being a member of the religion or sect is a requirement for**
49 **employment**. "Employer" shall not include:

50 (a) The United States;

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

52 (c) An individual employed by an employer;

53 (d) An Indian tribe;

54 (e) Any department or agency of the District of Columbia subject by
55 statute to procedures of the competitive service, as defined in 5 U.S.C. Section
56 [2101] **2102**; or

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

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

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

64 (11) "Familial status", one or more individuals who have not attained the

65 age of eighteen years being domiciled with:

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

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

72 (12) **"Gender identity", the same meaning as in the fifth edition**
73 **of the Diagnostic and Statistical Manual. A person's gender identity**
74 **may be shown by providing evidence of including, but not limited to,**
75 **medical history, care, or treatment of the gender identity, consistent**
76 **and uniform assertion of the gender identity, or other evidence that the**
77 **gender identity is sincerely held, part of the person's core identity, and**
78 **not being asserted for an improper purpose;**

79 (13) "Human rights fund", a fund established to receive civil penalties as
80 required by federal regulations and as set forth by subdivision (2) of subsection
81 11 of section 213.075, and which will be disbursed to offset additional expenses
82 related to compliance with the Department of Housing and Urban Development
83 regulations;

84 [(13)] (14) "Labor organization" includes any organization which exists
85 for the purpose, in whole or in part, of collective bargaining or of dealing with
86 employers concerning grievances, terms or conditions of employment, or for other
87 mutual aid or protection in relation to employment;

88 [(14)] (15) "Local commissions", any commission or agency established
89 prior to August 13, 1986, by an ordinance or order adopted by the governing body
90 of any city, constitutional charter city, town, village, or county;

91 [(15)] (16) "Person" includes one or more individuals, corporations,
92 partnerships, associations, organizations, labor organizations, legal
93 representatives, mutual companies, joint stock companies, trusts, trustees,
94 trustees in bankruptcy, receivers, fiduciaries, or other organized groups of
95 persons;

96 [(16)] (17) "Places of public accommodation", all places or businesses
97 offering or holding out to the general public, goods, services, privileges, facilities,
98 advantages or accommodations for the peace, comfort, health, welfare and safety
99 of the general public or such public places providing food, shelter, recreation and
100 amusement, including, but not limited to:

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

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

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

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

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

116 (f) Any establishment which is physically located within the premises of
117 any establishment otherwise covered by this section or within the premises of
118 which is physically located any such covered establishment, and which holds itself
119 out as serving patrons of such covered establishment;

120 **[(17)] (18) "Religious organization", an organization that is:**

121 **(a) A religious group, society, corporation, association, order,**
122 **school, or institution of higher education, ministry, charity,**
123 **social-service provider, adoption agency, child placement service**
124 **provider, hospital or other healthcare facility, hospice, elder care**
125 **facility, or crisis pregnancy center, and associated counseling, courses,**
126 **and teaching, regardless of whether its purposes and activities are**
127 **deemed wholly or partly religious;**

128 **(b) A house of worship, including but not limited to, a church,**
129 **convention, denomination, synagogue, mosque, temple or stake; or**

130 **(c) Any clergy, religious leader, minister, officer, manager,**
131 **employee, member, or volunteer of any entity described in this**
132 **subdivision, while acting in the scope of his or her office, employment,**
133 **or duties of such position; or**

134 **(d) Any subsidiary, affiliate, or agency operated, supervised or**
135 **controlled by any entity described in this subdivision;**

136 **(19) "Rent" includes to lease, to sublease, to let and otherwise to grant for**

137 consideration the right to occupy premises not owned by the occupant;

138 [(18)] **(20)** "Respondent", a person who is alleged to have engaged in a
139 prohibited discriminatory practice in a complaint filed with the commission;

140 **(21) "Sexual orientation", an individual's actual or perceived**
141 **orientation as heterosexual, homosexual, or bisexual;**

142 [(19)] **(22)** "The motivating factor", the employee's protected classification
143 actually played a role in the adverse action or decision and had a determinative
144 influence on the adverse decision or action;

145 [(20)] **(23)** "Unlawful discriminatory practice", any act that is unlawful
146 under this 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,
3 religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
4 age as it relates to employment, disability, or familial status as it relates to
5 housing and to take other actions against discrimination because of race, color,
6 religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
7 age, disability, or familial status as provided by law; and the commission is
8 hereby given general jurisdiction and power for such purposes;

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

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

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

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

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

23 (7) To receive, investigate, initiate, and pass upon complaints alleging
24 discrimination in employment, housing or in places of public accommodations
25 because of race, color, religion, national origin, ancestry, sex, **sexual**
26 **orientation, gender identity,** age as it relates to employment, disability, or

27 familial status as it relates to housing and to require the production for
28 examination of any books, papers, records, or other materials relating to any
29 matter under investigation;

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

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

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

43 (11) To adopt an official seal;

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

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

53 (14) To establish a human rights fund as defined in section 213.010, for
54 the purposes of administering sections 213.040, 213.045, 213.050, 213.070,
55 213.075, and 213.076.

56 2. No rule or portion of a rule promulgated under the authority of this
57 chapter shall become effective unless it has been promulgated pursuant to the
58 provisions of [section 536.024] **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
3 to negotiate for the sale or rental of, to deny or otherwise make unavailable, a
4 dwelling to any person because of race, color, religion, national origin, ancestry,

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

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

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

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

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

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

28 (a) That buyer or renter;

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

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

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

35 (a) That person;

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

38 (c) Any person associated with that person.

39 2. For purposes of this section and sections 213.045 and 213.050,
40 discrimination includes:

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

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

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

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

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

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

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

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

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

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

68 3. As used in subdivision (3) of subsection 2 of this section, the term
69 "covered multifamily dwelling" means:

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

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

73 4. Compliance with the appropriate requirements of the American
74 National Standard for Buildings and Facilities providing accessibility and
75 usability for people with physical disabilities, commonly cited as "ANSI A117.1",
76 suffices to satisfy the requirements of paragraph (a) of subdivision (3) of

77 subsection 2 of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

137 (2) Unoccupied units, provided that such units are reserved for occupancy
138 by persons who meet the age requirements of subdivision (2) or (3) of subsection
139 9 of this section.

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

144 12. **(1)** Nothing in this chapter shall prohibit a religious organization,
145 association, or society, **including a religious school or institution of higher**
146 **education**, or any nonprofit institution or organization operated, supervised or
147 controlled by or in conjunction with a religious organization, association, or
148 society, from limiting the sale, rental or occupancy of dwellings which it owns or

149 operates for other than a commercial purpose to persons of the same religion, or
150 from giving preference to such persons, unless membership in such religion is
151 restricted on account of race, color, or national origin. Nor shall anything in this
152 chapter prohibit a private club not in fact open to the public, which as an incident
153 to its primary purpose or purposes provides lodging which it owns or operates for
154 other than a commercial purpose, from limiting the rental or occupancy of such
155 lodging to its members or from giving preference to its members.

156 **(2) Nothing in this chapter shall prohibit a religious**
157 **organization, association, or society, including a religious school or**
158 **institution of higher education, or any nonprofit institution or**
159 **organization operated, supervised, or controlled by or in conjunction**
160 **with a religious organization, association, or society, from limiting the**
161 **sale, rental, or occupancy of dwellings it owns or operates for other**
162 **than a commercial purpose, on the basis of sex, sexual orientation, or**
163 **gender identity, for reasons of personal modesty or privacy, or in the**
164 **furtherance of the organization's free exercise of religion under the**
165 **United States constitution and the Missouri constitution.**

166 **(3) Nothing in this chapter shall prohibit a nonprofit educational**
167 **institution from segregating a dwelling or a temporary permanent**
168 **residence facility it owns or operates on the basis of sex.**

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

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

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

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

183 (2) Rooms or units in dwellings containing living quarters occupied or
184 intended to be occupied by no more than four families living independently of

185 each other, if the owner actually maintains and occupies one of such living
186 quarters as his or her residence.

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

213.050. It shall be unlawful to deny any person access to or membership
2 or participation in any multiple listing service, real estate brokers' organization
3 or other service organization, or facility relating to the business of selling or
4 renting dwellings, because of race, color, religion, national origin, ancestry, sex,
5 **sexual orientation, gender identity**, 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,
3 sex, **sexual orientation, gender identity**, ancestry, age or disability of any
4 individual:

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

10 (b) To limit, segregate, or classify [his] **such person's** employees or [his]
11 **such person's** employment applicants in any way which would deprive or tend
12 to deprive any individual of employment opportunities or otherwise adversely
13 affect [his] **such person's** status as an employee, because of such individual's
14 race, color, religion, national origin, sex, **sexual orientation, gender identity**,

15 ancestry, age or disability;

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

34 (3) For any employer or employment agency to print or circulate or cause
35 to be printed or circulated any statement, advertisement or publication, or to use
36 any form of application for employment or to make any inquiry in connection with
37 prospective employment, which expresses, directly or indirectly, any limitation,
38 specification, or discrimination, because of race, color, religion, national origin,
39 sex, **sexual orientation, gender identity,** ancestry, age or disability unless
40 based upon a bona fide occupational qualification or for an employment agency
41 to fail or refuse to refer for employment, or otherwise to discriminate against, any
42 individual because of his or her race, color, religion, national origin, sex, **sexual**
43 **orientation, gender identity,** ancestry, age as it relates to employment, or
44 disability, or to classify or refer for employment any individual because of his or
45 her race, color, religion, national origin, sex, **sexual orientation, gender**
46 **identity,** ancestry, age or disability.

47 2. Notwithstanding any other provision of this chapter, it shall not be an
48 unlawful employment practice for an employer to apply different standards of
49 compensation, or different terms, conditions or privileges of employment pursuant
50 to a bona fide seniority or merit system, or a system which measures earnings by

51 quantity or quality of production or to employees who work in different locations,
52 provided that such differences or such systems are not the result of an intention
53 or a design to discriminate, and are not used to discriminate, because of race,
54 color, religion, sex, **sexual orientation, gender identity**, national origin,
55 ancestry, age or disability, nor shall it be an unlawful employment practice for
56 an employer to give and to act upon the results of any professionally developed
57 ability test, provided that such test, its administration, or action upon the results
58 thereof, is not designed, intended or used to discriminate because of race, color,
59 religion, national origin, sex, **sexual orientation, gender identity**, ancestry,
60 age or disability.

61 3. Nothing contained in this chapter shall be interpreted to require any
62 employer, employment agency, labor organization, or joint labor-management
63 committee subject to this chapter to grant preferential treatment to any
64 individual or to any group because of the race, color, religion, national origin, sex,
65 **sexual orientation, gender identity**, ancestry, age or disability of such
66 individual or group on account of an imbalance which may exist with respect to
67 the total number or percentage of persons of any race, color, religion, national
68 origin, sex, **sexual orientation, gender identity**, ancestry, age or disability
69 employed by any employer, referred or classified for employment by any
70 employment agency or labor organization, admitted to membership or classified
71 by any labor organization, or admitted to or employed in any apprenticeship or
72 other training program, in comparison with the total number or percentage of
73 persons of such race, color, religion, national origin, sex, **sexual orientation,**
74 **gender identity**, ancestry, age or disability in any community, state, section, or
75 other area, or in the available workforce in any community, state, section, or
76 other area.

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

81 **5. Nothing in this chapter may be interpreted to prohibit an**
82 **employer from adopting reasonable dress and grooming standards not**
83 **prohibited by other provisions of federal or state law, provided that the**
84 **employer's dress and grooming standards afford reasonable**
85 **accommodations based on gender identity to all employees.**

86 **6. Nothing in this chapter may be interpreted to prohibit an**

87 employer from adopting reasonable rules and policies that designate
88 sex-specific facilities, including restrooms, shower facilities, and
89 dressing facilities, provided that the employer's rules and policies
90 adopted under this section afford reasonable accommodations based on
91 gender identity to all employees.

92 7. An employee may express the employee's religious or moral
93 beliefs and commitments in the workplace in a reasonable,
94 nondisruptive, and nonharassing way on equal terms with similar types
95 of expression of beliefs or commitments allowed by the employer in the
96 workplace, unless the expression is in direct conflict with essential
97 business-related interests of the employer.

98 8. An employer shall not discharge, demote, terminate, or refuse
99 to hire any person, or retaliate against, harass, or discriminate in
100 matters of compensation or in terms, privileges, and conditions of
101 employment against any person otherwise qualified, for lawful
102 expression or expressive activity outside the workplace regarding the
103 person's religious, political, or personal convictions, including
104 convictions about marriage, family, or sexuality, unless the expression
105 or expressive activity is in direct conflict with the business-related
106 interests of the employer.

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

6 2. It is an unlawful discriminatory practice for any person, directly or
7 indirectly, to refuse, withhold from or deny any other person, or to attempt to
8 refuse, withhold from or deny any other person, any of the accommodations,
9 advantages, facilities, services, or privileges made available in any place of public
10 accommodation, [as defined in section 213.010 and this section,] or to segregate
11 or discriminate against any such person in the use thereof because of race, color,
12 religion, national origin, sex, **sexual orientation, gender identity**, ancestry,
13 or disability.

14 3. The provisions of this section shall not apply to:

15 (1) A private club [, a place of accommodation owned by or operated on
16 behalf of a religious corporation, association or society,] or other establishment

17 which is not in fact open to the public, unless the facilities of such **private club**
18 **or establishment** [establishments] are made available to the customers or
19 patrons of a place of public accommodation [as defined in section 213.010 and this
20 section.]; **or**

21 **(2) A place of accommodation owned by or operated on behalf of**
22 **a religious organization, association, or society.**

23 **4. No person shall be subject to a penalty under this section for**
24 **declining to personally be a participant in a wedding or marriage or to**
25 **provide goods or services of expressional or artistic creation, such as**
26 **a photographer or florist, for a wedding or marriage, or a closely**
27 **preceding or ensuing reception therefore, because of a sincerely held**
28 **religious belief concerning marriage between two persons of the same**
29 **sex.**

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

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

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

11 (3) For the state or any political subdivision of this state to discriminate
12 on the basis of race, color, religion, national origin, sex, **sexual orientation,**
13 **gender identity,** ancestry, age, as it relates to employment, disability, or
14 familial status as it relates to housing; or

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

17 2. This chapter, in addition to [chapter 285 and chapter] **chapters 285**
18 **and 287,** shall provide the exclusive remedy for any and all claims for injury or
19 damages arising out of an employment relationship.

213.101. 1. The provisions of this chapter shall be construed to
2 accomplish the purposes thereof and any law inconsistent with any provision of
3 this chapter shall not apply. Nothing contained in this chapter shall be deemed
4 to repeal any of the provisions of any law of this state relating to discrimination

5 because of race, color, religion, national origin, sex, **sexual orientation, gender**
6 **identity**, ancestry, age, disability, or familial status.

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

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

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

22 5. The general assembly hereby expressly abrogates by this statute the
23 holding in Hurst v. Kansas City Mo. School District, 437 S.W.3d 327 (Mo.App.
24 W.D. 2014), that Missouri Approved Instruction 19.01 may be applied to actions
25 brought pursuant to this chapter, and the holding in Thomas v. McKeever's
26 Enterprises, Inc., 388 S.W.3d 206 (Mo.App. W.D. 2012), that juries shall not be
27 instructed that plaintiffs bear the burden of establishing "but for" causation in
28 actions brought pursuant to this chapter.

29 6. The general assembly hereby abrogates all Missouri-approved jury
30 instructions specifically addressing civil actions brought under this chapter which
31 were in effect prior to August 28, 2017.

213.134. 1. Any political subdivision of the state may adopt or
2 **maintain an ordinance, regulation, or policy prohibiting discrimination**
3 **in employment, housing, or public accommodations on the basis of**
4 **sexual orientation or gender identity to the extent such ordinance,**
5 **regulation, or policy expressly:**

6 **(1) States in its terms that it includes the definition of employer**
7 **set forth at subdivision (8) of section 213.010;**

8 **(2) Includes the protections for religious organization set forth**
9 **at subsection 12 of section 213.040;**

10 **(3) Includes the dress and grooming standard provisions set**
11 **forth at subsection 5 and 6 of section 213.055;**

12 **(4) Includes the protections for religious organizations set forth**
13 **at subsection 3 of section 213.065; and**

14 **(5) Includes the protections for individuals and businesses set**
15 **forth at subsection 4 of section 213.065.**

16 **2. Any ordinance, regulation, or policy of a political subdivision**
17 **of this state that neglects or otherwise fails to comply with subsection**
18 **1 of this section is thereby not enforceable against any church or other**
19 **religious organization.**

 Section B. If any provision of section A of this act or the application
2 thereof to anyone or to any circumstance is held invalid, the remainder of those
3 sections and the application of such provisions to others or other circumstances
4 shall not be affected thereby.

✓

Bill

Copy