

SECOND REGULAR SESSION

SENATE BILL NO. 945

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILLIAMS.

Read 1st time January 28, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4777S.011

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 nine new sections relating to unlawful discriminatory practices based on sexual orientation or gender identity.

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Section A. Sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 213.010, 213.030, 213.040, 213.045, 213.050, 213.055, 213.065, 213.070, and 213.101, to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

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

(1) "Age", an age of forty or more years but less than seventy years, except that it shall not be an unlawful employment practice for an employer to require the compulsory retirement of any person who has attained the age of sixty-five and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policy-making position, if such person is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of such plans, of the employer, which equals, in the aggregate, at least forty-four thousand dollars;

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

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

(4) "Complainant", a person who has filed a complaint with the commission alleging that another person has engaged in a prohibited

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

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, [or] **sexual orientation, gender**
36 **identity**, age as it relates to employment, disability, or familial status as it
37 relates to housing. **Discrimination includes any unfair treatment based**
38 **on a person's presumed or assumed race, color, religion, national**
39 **origin, ancestry, sex, sexual orientation, gender identity, age as it**
40 **relates to employment, disability, or familial status as it relates to**
41 **housing, regardless of whether or not the presumption or assumption**
42 **as to such characteristic is correct;**

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

47 (8) "Employer", a person engaged in an industry affecting commerce who
48 has six or more employees for each working day in each of twenty or more
49 calendar weeks in the current or preceding calendar year, and shall include the
50 state, or any political or civil subdivision thereof, or any person employing six or
51 more persons within the state but does not include corporations and associations

52 owned or operated by religious or sectarian organizations. "Employer" shall not
53 include:

54 (a) The United States;

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

56 (c) An individual employed by an employer;

57 (d) An Indian tribe;

58 (e) Any department or agency of the District of Columbia subject by
59 statute to procedures of the competitive service, as defined in 5 U.S.C. Section
60 [2101] **2102**; or

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

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

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

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

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

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

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

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)** "Rent" includes to lease, to sublease, to let and otherwise to
121 grant for consideration the right to occupy premises not owned by the occupant;

122 [(18)] **(19)** "Respondent", a person who is alleged to have engaged in a
123 prohibited discriminatory practice in a complaint filed with the commission;

124 **(20) "Sexual orientation", one's actual or perceived emotional or**
125 **physical attraction to, or romantic or physical relationships with,**
126 **members of the same gender, members of a different gender, or**
127 **members of any gender; or the lack of any emotional or physical**
128 **attraction to, or romantic or physical relationships with, anyone. The**
129 **term "sexual orientation" includes a history of such attraction or**
130 **relationship or a history of no such attraction or relationship;**

131 [(19)] **(21)** "The motivating factor", the employee's protected classification
132 actually played a role in the adverse action or decision and had a determinative
133 influence on the adverse decision or action;

134 [(20)] **(22)** "Unlawful discriminatory practice", any act that is unlawful
135 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. Nothing in this chapter shall prohibit a religious organization,
145 association, or society, or any nonprofit institution or organization operated,
146 supervised or controlled by or in conjunction with a religious organization,

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

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

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

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

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

170 (2) Rooms or units in dwellings containing living quarters occupied or
171 intended to be occupied by no more than four families living independently of
172 each other, if the owner actually maintains and occupies one of such living
173 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 in fixing of the amount, interest rate, duration or other terms or
9 conditions of such loan or other financial assistance, because of the race, color,

10 religion, national origin, ancestry, sex, **sexual orientation, gender identity,**
11 disability, or familial status of such person or of any person associated with [him]
12 **such person** in connection with such loan or other financial assistance, or of the
13 present or prospective owners, lessees, tenants, or occupants, of the dwellings in
14 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
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] **such individual's**
7 compensation, terms, conditions, or privileges of employment, because of such
8 individual's race, color, religion, national origin, sex, **sexual orientation,**
9 **gender identity,** 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 individual's** status as an employee, because of such
14 individual's race, color, religion, national origin, sex, **sexual orientation,**
15 **gender identity,** 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 individual's** status as an employee or as
25 an 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 individual'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.

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 or
11 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 a private club, a place
15 of accommodation owned by or operated on behalf of a religious corporation,
16 association or society, or other establishment which is not in fact open to the
17 public, unless the facilities of such establishments are made available to the
18 customers or patrons of a place of public accommodation as defined in section

19 213.010 and this section.

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 287, shall provide
18 the exclusive remedy for any and all claims for injury or damages arising out of
19 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.

✓
Bill

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