AN ACT

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

Section A. Sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, and 213.111, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 213.010, 213.040, 213.050, 213.055, 213.065, 213.070, 213.075, 213.101, 213.111, and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

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
commission alleging that another person has engaged in a prohibited discriminatory practice;

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

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

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

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

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

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

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

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

(c) An individual employed by an employer;

(d) An Indian tribe;

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

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

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

[(9)] (10) "Executive director", the executive director of the Missouri commission on human rights;

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

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

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

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

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

[(13)] (14) "Local commissions", any commission or agency established prior to August 13, 1986, by an ordinance or order adopted by the governing body of any city, constitutional charter city, town, village, or county;
"Person" includes one or more individuals, corporations, partnerships, associations, organizations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, trustees, trustees in bankruptcy, receivers, fiduciaries, or other organized groups of persons;

"Places of public accommodation", all places or businesses offering or holding out to the general public, goods, services, privileges, facilities, advantages or accommodations for the peace, comfort, health, welfare and safety of the general public or such public places providing food, shelter, recreation and amusement, including, but not limited to:

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

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

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

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

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

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

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

"Respondent", a person who is alleged to have engaged in a prohibited discriminatory practice in a complaint filed with the commission;

"The motivating factor", the employee's protected classification actually played a role in the adverse action or decision and had a determinative influence on the adverse decision or action;
"Unlawful discriminatory practice", any act that is unlawful under this chapter.

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

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

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

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination [based on] because of race, color, religion, national origin, ancestry, sex, disability, or familial status, or an intention to make any such preference, limitation, or discrimination;

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

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

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

(a) That buyer or renter;

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

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

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

(a) That person;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
(c) Any person associated with that person.

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

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

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

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

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

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

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

         a. An accessible route into and through the dwelling;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

213.050. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service organization, or facility relating to the business of selling or renting dwellings, [on account] because of race, color, religion, national origin, ancestry, sex, disability, or familial status.

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

(1) For an employer, because of the race, color, religion, national origin, sex, ancestry, age or disability of any individual:
(a) To fail or refuse to hire or to discharge any individual, or otherwise to
discriminate against any individual with respect to his compensation, terms,
conditions, or privileges of employment, because of such individual's race, color,
religion, national origin, sex, ancestry, age or disability;

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

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

(3) For any employer or employment agency to print or circulate or cause
to be printed or circulated any statement, advertisement or publication, or to use
any form of application for employment or to make any inquiry in connection with
prospective employment, which expresses, directly or indirectly, any limitation,
specification, or discrimination, because of race, color, religion, national origin,
sex, ancestry, age or disability unless based upon a bona fide occupational
qualification or for an employment agency to fail or refuse to refer for
employment, or otherwise to discriminate against, any individual because of his
race, color, religion, national origin, sex, ancestry, age as it relates to
employment, or disability, or to classify or refer for employment any individual
[on the basis] because of his or her race, color, religion, national origin, sex,
2. Notwithstanding any other provision of this chapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences or such systems are not the result of an intention or a design to discriminate, and are not used to discriminate, because of race, color, religion, sex, national origin, ancestry, age or disability, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results thereof, is not designed, intended or used to discriminate because of race, color, religion, national origin, sex, ancestry, age or disability.

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

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

213.065. 1. All persons within the jurisdiction of the state of Missouri are free and equal and shall be entitled to the full and equal use and enjoyment within this state of any place of public accommodation, as hereinafter defined, without discrimination or segregation [on the grounds] because of race, color,
2. It is an unlawful discriminatory practice for any person, directly or indirectly, to refuse, withhold from or deny any other person, or to attempt to refuse, withhold from or deny any other person, any of the accommodations, advantages, facilities, services, or privileges made available in any place of public accommodation, as defined in section 213.010 and this section, or to segregate or discriminate against any such person in the use thereof because of race, color, religion, national origin, sex, ancestry, or disability.

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

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

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

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

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

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

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

213.075. 1. As a jurisdictional condition precedent to filing a civil action under this chapter, any person claiming to be aggrieved by an unlawful discriminatory practice [may] shall make, sign and file with the commission a verified complaint in writing, within one hundred eighty days of the alleged act.
of discrimination, which shall state the name and address of the [person]
employer, employment agency, labor organization, or place of public
accommodation alleged to have committed the unlawful discriminatory practice
and which shall set forth the particulars thereof and such other information as
may be required by the commission. The complainant's agent, attorney or the
attorney general may, in like manner, make, sign and file such complaint. The
failure to timely file a complaint with the commission shall deprive the
commission of jurisdiction to investigate the complaint. The
commission shall make a determination as to its jurisdiction with
respect to all complaints. Notwithstanding any other provision of this
chapter to the contrary, if a complaint is not filed with the commission
within one hundred eighty days of the alleged act of discrimination, the
commission shall lack jurisdiction to take any action on such a
complaint other than to dismiss the complaint for lack of
jurisdiction. The failure to timely file a complaint with the commission
may be raised as a complete defense by a respondent or defendant at
any time, either during the administrative proceedings before the
commission, or in subsequent litigation, regardless of whether the
commission has issued the person claiming to be aggrieved a letter
indicating his or her right to bring a civil action and regardless of
whether the employer asserted the defense before the commission.

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

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

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

5. In case of failure to eliminate such discriminatory practice as found in
the investigation, if in the judgment of the chairperson of the commission
circumstances so warrant, there shall be issued and served in the name of the
commission, a written notice, together with a copy of the complaint, as it may
have been amended, requiring the person named in the complaint, hereinafter
referred to as "respondent", to answer the charges of the complaint at a hearing,
at a time and place to be specified in the notice, before a panel of at least three
members of the commission sitting as the commission or before a hearing
examiner licensed to practice law in this state who shall be appointed by the
executive director and approved by the commission. The place of the hearing
shall be in the office of the commission or such other place designated by it,
except that if the respondent so requests, in writing, the hearing shall be held in
the county of such person’s residence or business location at the time of the
alleged unlawful discriminatory practice. A copy of the notice shall also be served
on the complainants.

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

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

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

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

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

11. When the case is heard by a panel of the commission, the chairperson of the commission shall select the hearing panel and the presiding officer. The presiding officer shall have full authority to call and examine witnesses, admit or exclude evidence and rule upon all motions and objections. The panel shall state its findings of fact and conclusions of law, and if, upon all the evidence at the hearing, the panel finds:

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

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

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

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

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

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

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

13. When the case is heard by a hearing examiner, the examiner shall
have all powers described in subdivision (8) of section 213.030 and subsection 11
of this section, for the purpose of the hearing. The hearing examiner shall make
findings of fact and conclusions of law and shall recommend to the commission
an order granting such relief as provided in subsection 11 of this section or
dismissing the complaint as to the respondent as provided in subsection 12 of this
section, in accordance with such findings.

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

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

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

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

2. The general assembly hereby expressly abrogates the case of
and its progeny as it relates to the necessity and appropriateness of the
issuance of a business judgment instruction. In all civil actions
brought under this chapter, a jury shall be given an instruction
expressing the business judgment rule.

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

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

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

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

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

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

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

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

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

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

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

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

   (d) In the case of a respondent who has more than five hundred
employees in each of twenty or more calendar weeks in the current or
preceding calendar year, five hundred thousand dollars.
5. In any employment-related civil action brought under this chapter, the plaintiff shall bear the burden of proving the alleged unlawful decision or action was made or taken because of his or her protected classification and was the direct proximate cause of the claimed damages.

285.575. 1. This section shall be known and may be cited as the "Whistleblower's Protection Act".

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

(1) "Because" or "because of", as it relates to the adverse decision or action, the person's status as a protected person was the motivating factor;

(2) "Employer", an entity that has six or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. "Employer" shall not include the state of Missouri or its agencies, instrumentalities, or political subdivisions, including but not limited to any public institution of higher education, a corporation wholly owned by the state of Missouri, an individual employed by an employer, or corporations and associations owned or operated by religious or sectarian organizations;

(3) "Proper authorities", a governmental or law enforcement agency, an officer of an employee's employer, the employee's supervisor employed by the employer, or the employee's human resources representative employed by the employer;

(4) "Protected person", an employee of an employer who has reported to the proper authorities an unlawful act of his or her employer; an employee of an employer who reports to his or her employer serious misconduct of the employer that violates a clear mandate of public policy as articulated in a constitutional provision, statute, or regulation promulgated under statute; or an employee of an employer who has refused to carry out a directive issued by his or her employer that if completed would be a violation of the law. An employee of an employer is not a "protected person" if:

(a) The employee is a supervisory, managerial, or executive employee or an officer of his or her employer and the unlawful act or serious misconduct reported concerns matters upon which the employee is employed to report or provide professional opinion; or

(b) The proper authority or person to whom the employee makes
his or her report is the person whom the employee claims to have committed the unlawful act or violation of a clear mandate of public policy;

(5) "The motivating factor", the employee's protected classification actually played a role in the adverse decision or action and had a determinative influence on the adverse decision or action.

3. This section is intended to codify the existing common law exceptions to the at-will employment doctrine and to limit their future expansion by the courts. This section, in addition to chapter 213 and chapter 287, shall provide the exclusive remedy for any and all claims of unlawful employment practices.

4. It shall be an unlawful employment practice for an employer to discharge an individual defined as a protected person in this section because of that person's status as a protected person.

5. A protected person aggrieved by a violation of this section shall have a private right of action for actual damages for violations of this section but not for punitive damages. However, if a private right of action for damages exists under another statutory or regulatory scheme, whether under state or federal law, no private right of action shall exist under this statute.

6. Any party to any action initiated under this section may demand a trial by jury.

7. A protected person aggrieved by a violation of this section shall have a private right of action that may be filed in a court of competent jurisdiction. The only remedies available in such an action shall be:

(1) Back pay;

(2) Reimbursement of medical bills directly related to a violation of this section; and

(3) Additionally, if a protected person proves, by clear and convincing evidence, that the conduct of the employer was outrageous because of the employer's evil motive or reckless indifference to the rights of others, then, such person may receive double the amount awarded under subdivisions (1) and (2) of this subsection, as liquidated damages. In applying this subdivision, the provisions of section 510.263 shall be applied as though liquidated damages were punitive damages and as though the amounts referenced in subdivisions (1) and (2) of this
subsection were compensatory damages.

8. The court, in addition to the damages set forth in subsection 7 of this section, may award the prevailing party court costs and reasonable attorney fees; except that a prevailing respondent may be awarded reasonable attorney fees only upon a showing that the case was without foundation.

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