

FIRST REGULAR SESSION

SENATE BILL NO. 428

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIFTON.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1855S.011

AN ACT

To repeal sections 213.010, 213.040, 213.045, and 557.035, RSMo, and to enact in lieu thereof five new sections relating to homelessness, with existing penalty provisions.

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

Section A. Sections 213.010, 213.040, 213.045, and 557.035, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections
3 213.010, 213.040, 213.045, 213.048, and 557.035, to read as follows:

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

2 (1) "Age", an age of forty or more years but less than seventy years, except
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) "Commission", the Missouri commission on human rights;

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

15 (4) "Disability", a physical or mental impairment which substantially
16 limits one or more of a person's major life activities, being regarded as having
17 such an impairment, or a record of having such an impairment, which with or

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

18 without reasonable accommodation does not interfere with performing the job,
19 utilizing the place of public accommodation, or occupying the dwelling in
20 question. For purposes of this chapter, the term "disability" does not include
21 current, illegal use of or addiction to a controlled substance as such term is
22 defined by section 195.010; however, a person may be considered to have a
23 disability if that person:

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

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

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

32 (5) "Discrimination", any unfair treatment based on race, color, religion,
33 national origin, ancestry, sex, age as it relates to employment, disability, or
34 familial status as it relates to housing;

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

39 (7) "Employer" includes the state, or any political or civil subdivision
40 thereof, or any person employing six or more persons within the state, and any
41 person directly acting in the interest of an employer, but does not include
42 corporations and associations owned and operated by religious or sectarian
43 groups;

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

48 (9) "Executive director", the executive director of the Missouri commission
49 on human rights;

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

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

53 (b) The designee of such parent or other person having such custody, with

54 the written permission of such parent or other person. The protections afforded
55 against discrimination on the basis of familial status shall apply to any person
56 who is pregnant or is in the process of securing legal custody of any individual
57 who has not attained the age of eighteen years;

58 (11) **"Housing status", the status of not having a fixed, regular,**
59 **and adequate residence, including the status of living in places not**
60 **meant for human habitation such as the streets, cars, parks, public**
61 **spaces, abandoned buildings, or similar settings or in a homeless**
62 **shelter or similar temporary residence including motels, hotels, and**
63 **transitional housing;**

64 (12) "Human rights fund", a fund established to receive civil penalties as
65 required by federal regulations and as set forth by subdivision (2) of subsection
66 11 of section 213.075, and which will be disbursed to offset additional expenses
67 related to compliance with the Department of Housing and Urban Development
68 regulations;

69 [(12)] (13) "Labor organization" includes any organization which exists
70 for the purpose, in whole or in part, of collective bargaining or of dealing with
71 employers concerning grievances, terms or conditions of employment, or for other
72 mutual aid or protection in relation to employment;

73 [(13)] (14) "Local commissions", any commission or agency established
74 prior to August 13, 1986, by an ordinance or order adopted by the governing body
75 of any city, constitutional charter city, town, village, or county;

76 [(14)] (15) "Person" includes one or more individuals, corporations,
77 partnerships, associations, organizations, labor organizations, legal
78 representatives, mutual companies, joint stock companies, trusts, trustees,
79 trustees in bankruptcy, receivers, fiduciaries, or other organized groups of
80 persons;

81 [(15)] (16) "Places of public accommodation", all places or businesses
82 offering or holding out to the general public, goods, services, privileges, facilities,
83 advantages or accommodations for the peace, comfort, health, welfare and safety
84 of the general public or such public places providing food, shelter, recreation and
85 amusement, including, but not limited to:

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

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

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

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

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

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

105 [(16)] (17) "Rent" includes to lease, to sublease, to let and otherwise to
106 grant for consideration the right to occupy premises not owned by the occupant;

107 [(17)] (18) "Respondent", a person who is alleged to have engaged in a
108 prohibited discriminatory practice in a complaint filed with the commission;

109 [(18)] (19) "Unlawful discriminatory practice", any act that is unlawful
110 under this chapter.

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, disability, **housing status**, 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, disability, **housing status**, or familial status;

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

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

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

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

26 (a) That buyer or renter;

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

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

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

33 (a) That person;

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

36 (c) Any person associated with that person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

84 (2) The commission shall encourage, but may not require, the units of
85 local government to include in their existing procedures for the review and
86 approval of newly constructed covered multifamily dwellings, determinations as
87 to whether the design and construction of such dwellings are consistent with

88 subdivision (3) of subsection 2 of this section, and shall provide technical
89 assistance to units of local government and other persons to implement the
90 requirements of subdivision (3) of subsection 2 of this section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

159 (a) The private individual owner does not own or have any interest in

160 more than three single family houses at any one time; and

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

168 (2) Rooms or units in dwellings containing living quarters occupied or
169 intended to be occupied by no more than four families living independently of
170 each other, if the owner actually maintains and occupies one of such living
171 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, disability, **housing status**, or familial status to
6 a person applying therefor for the purpose of purchasing, construction, improving,
7 repairing, or maintaining a dwelling, or to discriminate against him in fixing of
8 the amount, interest rate, duration or other terms or conditions of such loan or
9 other financial assistance, because of the race, color, religion, national origin,
10 ancestry, sex, disability, **housing status**, or familial status of such person or of
11 any person associated with him in connection with such loan or other financial
12 assistance, or of the present or prospective owners, lessees, tenants, or occupants,
13 of the dwellings in relation to which such loan or other financial assistance is to
14 be made or given.

213.048. 1. This section shall be known and may be cited as the
2 **"Homeless Bill of Rights".**

3 **2. No person's rights, privileges, or access to public services may**
4 **be denied or abridged solely because he or she is homeless. Such a**
5 **person shall be granted the same rights and privileges as any other**
6 **resident of this state. A person experiencing homelessness:**

7 **(1) Has the right to use and move freely in public spaces,**
8 **including, but not limited to, public sidewalks, public parks, public**
9 **transportation and public buildings, in the same manner as any other**
10 **person, and without discrimination on the basis of his or her housing**

11 **status;**

12 **(2) Has the right to equal treatment by all state and municipal**
13 **agencies, without discrimination on the basis of housing status;**

14 **(3) Has the right not to face discrimination while seeking or**
15 **maintaining employment due to his or her lack of permanent mailing**
16 **address, or his or her mailing address being that of a shelter or social**
17 **service provider;**

18 **(4) Has the right to emergency medical care free from**
19 **discrimination based on his or her housing status;**

20 **(5) Has the right to vote, register to vote, and receive**
21 **documentation necessary to prove identity for voting without**
22 **discrimination due to his or her housing status;**

23 **(6) Has the right to protection from disclosure of his or her**
24 **records and information provided to homeless shelters and service**
25 **providers to state, municipal, and private entities without appropriate**
26 **legal authority; and the right to confidentiality of personal records and**
27 **information in accordance with all limitations on disclosure established**
28 **by the federal Homeless Management Information Systems, the federal**
29 **Health Insurance Portability and Accountability Act, and the federal**
30 **Violence Against Women Act; and**

31 **(7) Has the right to a reasonable expectation of privacy in his or**
32 **her personal property to the same extent as personal property in a**
33 **permanent residence.**

34 **3. In any civil action alleging a violation of this section, the**
35 **court may award appropriate injunctive and declaratory relief, actual**
36 **damages, and reasonable attorneys fees and costs to a prevailing**
37 **plaintiff.**

557.035. 1. For all violations of subdivision (1) of subsection 1 of section
2 569.100 or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section
3 571.030, which the state believes to be knowingly motivated because of race,
4 color, religion, national origin, sex, sexual orientation, **housing status**, or
5 disability of the victim or victims, the state may charge the crime or crimes under
6 this section, and the violation is a class C felony.

7 2. For all violations of section 565.070; subdivisions (1), (3) and (4) of
8 subsection 1 of section 565.090; subdivision (1) of subsection 1 of section 569.090;
9 subdivision (1) of subsection 1 of section 569.120; section 569.140; or section
10 574.050; which the state believes to be knowingly motivated because of race,

11 color, religion, national origin, sex, sexual orientation, **housing status**, or
12 disability of the victim or victims, the state may charge the crime or crimes under
13 this section, and the violation is a class D felony.

14 3. The court shall assess punishment in all of the cases in which the state
15 pleads and proves any of the motivating factors listed in this section.

16 4. For the purposes of this section, the following terms mean:

17 (1) "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; and

20 (2) "**Housing status**", **the status of not having a fixed, regular, and**
21 **adequate residence, including the status of living in places not meant**
22 **for human habitation such as the streets, cars, parks, public spaces,**
23 **abandoned buildings, or similar settings or in a homeless shelter or**
24 **similar temporary residence including motels, hotels, and transitional**
25 **housing;**

26 (3) "Sexual orientation", male or female heterosexuality, homosexuality
27 or bisexuality by inclination, practice, identity or expression, or having a
28 self-image or identity not traditionally associated with one's gender.

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