

FIRST REGULAR SESSION

# SENATE BILL NO. 211

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

0440S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 182.817, 191.656, 213.111, 260.210, 302.170, 417.457, 448.4-117, 510.265, 537.090, 538.210, 542.418, and 544.195, RSMo, and to enact in lieu thereof twelve new sections relating to punitive damages, with existing penalty provisions.

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

Section A. Sections 182.817, 191.656, 213.111, 260.210, 2 302.170, 417.457, 448.4-117, 510.265, 537.090, 538.210, 3 542.418, and 544.195, RSMo, are repealed and twelve new sections 4 enacted in lieu thereof, to be known as sections 182.817, 5 191.656, 213.111, 260.210, 302.170, 417.457, 448.4-117, 6 510.265, 537.090, 538.210, 542.418, and 544.195, to read as 7 follows:

182.817. 1. Notwithstanding the provisions of any 2 other law to the contrary, no library, employee or agent of 3 a library, or third party contracted by a library that 4 receives, transmits, maintains, or stores library records 5 shall release or disclose a library record or portion of a 6 library record to any person or persons except:

(1) In response to a written request of the person 7 8 identified in that record, according to procedures and forms 9 giving written consent as determined by the library; or

(2) In response to an order issued by a court of 10 11 competent jurisdiction upon a finding that the disclosure of 12 such record is necessary to protect the public safety or to 13 prosecute a crime.

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

14           2. Any person whose privacy is compromised as a result  
15 of an alleged violation of this section may file a written  
16 complaint within one hundred eighty days of the alleged  
17 violation with the office of the attorney general describing  
18 the facts surrounding the alleged violation. Such person  
19 may additionally bring a private civil action in the circuit  
20 court of the county in which the library is located to  
21 recover damages. The court may, in its discretion, award  
22 punitive damages, **except as provided in subsection 4 of this**  
23 **section**, and may award to the prevailing party attorney's  
24 fees, based on the amount of time reasonably expended, and  
25 may provide such equitable relief as it deems necessary or  
26 proper. A prevailing respondent may be awarded attorney  
27 fees under this subsection only upon a showing that the case  
28 is without foundation.

29           3. Upon receipt of a complaint filed in accordance  
30 with subsection 2 of this section, the attorney general  
31 shall review each complaint and may initiate legal action if  
32 deemed appropriate.

33           **4. In any cause of action brought pursuant to this**  
34 **section, punitive damages shall not be awarded against a**  
35 **library established by the state, a political subdivision of**  
36 **the state, or any combination thereof, any community college**  
37 **district, or any state college or university, or any**  
38 **employee or agent of such library if such person was acting**  
39 **within the scope of his or her employment.**

191.656. 1. (1) All information known to, and  
2 records containing any information held or maintained by,  
3 any person, or by any agency, department, or political  
4 subdivision of the state concerning an individual's HIV  
5 infection status or the results of any individual's HIV

6 testing shall be strictly confidential and shall not be  
7 disclosed except to:

8 (a) Public employees within the agency, department, or  
9 political subdivision who need to know to perform their  
10 public duties;

11 (b) Public employees of other agencies, departments,  
12 or political subdivisions who need to know to perform their  
13 public duties;

14 (c) Peace officers, as defined in section 590.100, the  
15 attorney general or any assistant attorneys general acting  
16 on his or her behalf, as defined in chapter 27, and  
17 prosecuting attorneys or circuit attorneys as defined in  
18 chapter 56 and pursuant to section 191.657;

19 (d) Prosecuting attorneys or circuit attorneys as  
20 defined in chapter 56 to prosecute cases pursuant to section  
21 191.677 or 567.020. Prosecuting attorneys or circuit  
22 attorneys may obtain from the department of health and  
23 senior services the contact information and test results of  
24 individuals with whom the HIV-infected individual has had  
25 sexual intercourse or deviate sexual intercourse. Any  
26 prosecuting attorney or circuit attorney who receives  
27 information from the department of health and senior  
28 services pursuant to the provisions of this section shall  
29 use such information only for investigative and  
30 prosecutorial purposes and such information shall be  
31 considered strictly confidential and shall only be released  
32 as authorized by this section;

33 (e) Persons other than public employees who are  
34 entrusted with the regular care of those under the care and  
35 custody of a state agency, including but not limited to  
36 operators of day care facilities, group homes, residential  
37 care facilities and adoptive or foster parents;

38 (f) As authorized by subsection 2 of this section;

39 (g) Victims of any sexual offense defined in chapter  
40 566, which includes sexual intercourse or deviate sexual  
41 intercourse, as an element of the crime or to a victim of a  
42 section 545.940 offense, in which the court, for good cause  
43 shown, orders the defendant to be tested for HIV, hepatitis  
44 B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the  
45 charge is filed. Prosecuting attorneys or circuit  
46 attorneys, or the department of health and senior services  
47 may release information to such victims;

48 (h) Any individual who has tested positive or false  
49 positive to HIV, hepatitis B, hepatitis C, syphilis,  
50 gonorrhea, or chlamydia, may request copies of any and all  
51 test results relating to said infections.

52 (2) Further disclosure by public employees shall be  
53 governed by subsections 2 and 3 of this section;

54 (3) Disclosure by a public employee or any other  
55 person in violation of this section may be subject to civil  
56 actions brought under subsection 6 of this section, unless  
57 otherwise required by chapter 330, 332, 334, or 335,  
58 pursuant to discipline taken by a state licensing board.

59 2. (1) Unless the person acted in bad faith or with  
60 conscious disregard, no person shall be liable for violating  
61 any duty or right of confidentiality established by law for  
62 disclosing the results of an individual's HIV testing:

63 (a) To the department of health and senior services;

64 (b) To health care personnel working directly with the  
65 infected individual who have a reasonable need to know the  
66 results for the purpose of providing direct patient health  
67 care;

68 (c) Pursuant to the written authorization of the  
69 subject of the test result or results;

70 (d) To the spouse of the subject of the test result or  
71 results;

72 (e) To the subject of the test result or results;

73 (f) To the parent or legal guardian or custodian of  
74 the subject of the testing, if he is an unemancipated minor;

75 (g) To the victim of any sexual offense defined in  
76 chapter 566, which includes sexual intercourse or deviate  
77 sexual intercourse, as an element of the crime or to a  
78 victim of a section 545.940 offense, in which the court, for  
79 good cause shown, orders the defendant to be tested for HIV,  
80 B, hepatitis C, syphilis, gonorrhea, or chlamydia, once the  
81 charge is filed;

82 (h) To employees of a state licensing board in the  
83 execution of their duties under chapter 330, 332, 334, or  
84 335 pursuant to discipline taken by a state licensing board;

85 The department of health and senior services and its  
86 employees shall not be held liable for disclosing an HIV-  
87 infected person's HIV status to individuals with whom that  
88 person had sexual intercourse or deviate sexual intercourse;

89 (2) Paragraphs (b) and (d) of subdivision (1) of this  
90 subsection shall not be construed in any court to impose any  
91 duty on a person to disclose the results of an individual's  
92 HIV testing to a spouse or health care professional or other  
93 potentially exposed person, parent or guardian;

94 (3) No person to whom the results of an individual's  
95 HIV testing has been disclosed pursuant to paragraphs (b)  
96 and (c) of subdivision (1) of this subsection shall further  
97 disclose such results; except that prosecuting attorneys or  
98 circuit attorneys may disclose such information to defense  
99 attorneys defending actions pursuant to section 191.677 or  
100 567.020 under the rules of discovery, or jurors or court

101 personnel hearing cases pursuant to section 191.677 or  
102 567.020. Such information shall not be used or disclosed  
103 for any other purpose;

104 (4) When the results of HIV testing, disclosed  
105 pursuant to paragraph (b) of subdivision (1) of this  
106 subsection, are included in the medical record of the  
107 patient who is subject to the test, the inclusion is not a  
108 disclosure for purposes of such paragraph so long as such  
109 medical record is afforded the same confidentiality  
110 protection afforded other medical records.

111 3. All communications between the subject of HIV  
112 testing and a physician, hospital, or other person  
113 authorized by the department of health and senior services  
114 who performs or conducts HIV sampling shall be privileged  
115 communications.

116 4. The identity of any individual participating in a  
117 research project approved by an institutional review board  
118 shall not be reported to the department of health and senior  
119 services by the physician conducting the research project.

120 5. The subject of HIV testing who is found to have HIV  
121 infection and is aware of his or her HIV status shall  
122 disclose such information to any health care professional  
123 from whom such person receives health care services. Said  
124 notification shall be made prior to receiving services from  
125 such health care professional if the HIV-infected person is  
126 medically capable of conveying that information or as soon  
127 as he or she becomes capable of conveying that information.

128 6. Any individual aggrieved by a violation of this  
129 section or regulations promulgated by the department of  
130 health and senior services may bring a civil action for  
131 damages. If it is found in a civil action that:

132 (1) A person has negligently violated this section,  
133 the person is liable, for each violation, for:

134 (a) The greater of actual damages or liquidated  
135 damages of one thousand dollars; and

136 (b) Court costs and reasonable attorney's fees  
137 incurred by the person bringing the action; and

138 (c) Such other relief, including injunctive relief, as  
139 the court may deem appropriate; or

140 (2) A person has willfully or intentionally or  
141 recklessly violated this section, the person is liable, for  
142 each violation, for:

143 (a) The greater of actual damages or liquidated  
144 damages of five thousand dollars; and

145 (b) Exemplary damages, **except such damages shall not**  
146 **be awarded if the person is a public body or an officer,**  
147 **director, agent, or employee of a public body if such person**  
148 **was acting within the scope of his or her employment;** and

149 (c) Court costs and reasonable attorney's fees  
150 incurred by the person bringing the action; and

151 (d) Such other relief, including injunctive relief, as  
152 the court may deem appropriate.

153 7. No civil liability shall accrue to any health care  
154 provider as a result of making a good faith report to the  
155 department of health and senior services about a person  
156 reasonably believed to be infected with HIV, or cooperating  
157 in good faith with the department in an investigation  
158 determining whether a court order directing an individual to  
159 undergo HIV testing will be sought, or in participating in  
160 good faith in any judicial proceeding resulting from such a  
161 report or investigations; and any person making such a  
162 report, or cooperating with such an investigation or  
163 participating in such a judicial proceeding, shall be immune

164 from civil liability as a result of such actions so long as  
165 taken in good faith.

213.111. 1. If, after one hundred eighty days from  
2 the filing of a complaint alleging an unlawful  
3 discriminatory practice pursuant to section 213.055, 213.065  
4 or 213.070 to the extent that the alleged violation of  
5 section 213.070 relates to or involves a violation of  
6 section 213.055 or 213.065, or subdivision (3) of subsection  
7 1 of section 213.070 as it relates to employment and public  
8 accommodations, the commission has not completed its  
9 administrative processing and the person aggrieved so  
10 requests in writing, the commission shall issue to the  
11 person claiming to be aggrieved a letter indicating his or  
12 her right to bring a civil action within ninety days of such  
13 notice against the respondent named in the complaint. If,  
14 after the filing of a complaint pursuant to sections  
15 213.040, 213.045, 213.050 and 213.070, to the extent that  
16 the alleged violation of section 213.070 relates to or  
17 involves a violation of sections 213.040, 213.045 and  
18 213.050, or subdivision (3) of subsection 1 of section  
19 213.070 as it relates to housing, and the person aggrieved  
20 so requests in writing, the commission shall issue to the  
21 person claiming to be aggrieved a letter indicating his or  
22 her right to bring a civil action within ninety days of such  
23 notice against the respondent named in the complaint. The  
24 commission may not at any other time or for any other reason  
25 issue a letter indicating a complainant's right to bring a  
26 civil action. Such an action may be brought in any circuit  
27 court in any county in which the unlawful discriminatory  
28 practice is alleged to have been committed, either before a  
29 circuit or associate circuit judge. Upon issuance of this  
30 notice, the commission shall terminate all proceedings



31 relating to the complaint. No person may file or reinstate  
32 a complaint with the commission after the issuance of a  
33 notice under this section relating to the same practice or  
34 act. Any action brought in court under this section shall  
35 be filed within ninety days from the date of the  
36 commission's notification letter to the individual but no  
37 later than two years after the alleged cause occurred or its  
38 reasonable discovery by the alleged injured party.

39 2. The court may grant as relief, as it deems  
40 appropriate, any permanent or temporary injunction,  
41 temporary restraining order, or other order, and may award  
42 to the plaintiff actual and punitive damages, and may award  
43 court costs and reasonable attorney fees to the prevailing  
44 party, other than a state agency or commission or a local  
45 commission; except that, a prevailing respondent may be  
46 awarded reasonable attorney fees only upon a showing that  
47 the case was without foundation. **No award of damages shall**  
48 **include punitive damages in any civil action brought**  
49 **pursuant to this section in which the respondent is the**  
50 **state, any political subdivision of the state, or any**  
51 **official or employee thereof if such person was acting**  
52 **within the scope of his or her official duties or employment.**

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

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

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

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

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

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

74           (d) In the case of a respondent who has more than five  
75 hundred employees in each of twenty or more calendar weeks  
76 in the current or preceding calendar year, five hundred  
77 thousand dollars.

78           5. In any employment-related civil action brought  
79 under this chapter, the plaintiff shall bear the burden of  
80 proving the alleged unlawful decision or action was made or  
81 taken because of his or her protected classification and was  
82 the direct proximate cause of the claimed damages.

260.210. 1. It is unlawful for any person to:

2           (1) Dump or deposit, or permit dumping or depositing  
3 of any solid wastes onto the surface of the ground or into  
4 streams, springs, and all bodies of surface or ground water,  
5 whether natural or artificial, within the boundaries of the  
6 state except in a solid waste processing facility or solid  
7 waste disposal area having a permit as required by section  
8 260.205; provided that, this subdivision shall not prohibit  
9 the use or require a permit for the use of solid wastes in  
10 normal farming operations or in the processing or  
11 manufacturing of other products in a manner that will not

12 create a public nuisance or adversely affect the public  
13 health, and shall not prohibit the disposal of or require a  
14 permit for the disposal by an individual of solid wastes  
15 resulting from his or her own residential activities on  
16 property owned or lawfully occupied by him or her when such  
17 wastes do not thereby create a public nuisance or adversely  
18 affect the public health;

19 (2) Construct or alter a solid waste processing  
20 facility or solid waste disposal area of a solid waste  
21 management system without approval from the department;

22 (3) Conduct any solid waste burning operations in  
23 violation of the rules and regulations of the Missouri air  
24 conservation commission or the department;

25 (4) Except as otherwise provided, store, collect,  
26 transport, process, or dispose of solid waste in violation  
27 of the rules, regulations or orders of the department or in  
28 such a manner as to create a public nuisance or adversely  
29 affect the public health; or

30 (5) Refuse entry or access, requested for purposes of  
31 inspecting solid waste processing facilities or solid waste  
32 disposal areas, to an agent or employee of the department  
33 who presents appropriate credentials, or hinder the agent or  
34 employee in carrying out the inspection. A suitably  
35 restricted search warrant, upon a showing of probable cause  
36 in writing and upon oath, shall be issued by any circuit or  
37 associate circuit judge having jurisdiction to any such  
38 agent or employee for the purpose of enabling him to make  
39 such inspection.

40 2. Information obtained from waste disposed or  
41 deposited in violation of this section may be a rebuttable  
42 presumption that the person so identified committed the  
43 violation of sections 260.200 to 260.345. If the operator

44 or passenger of any vehicle is witnessed by a peace officer  
45 or employee of the department of natural resources to have  
46 violated the provisions of this section and the identity of  
47 the operator is not determined or otherwise apparent, it may  
48 be a rebuttable presumption that the person in whose name  
49 such vehicle is registered committed the violation.

50 3. No person shall be held responsible pursuant to  
51 this section for the dumping or depositing of any solid  
52 waste on land owned or lawfully occupied by him or her  
53 without his or her express or implied consent, permission or  
54 knowledge.

55 4. The department shall investigate reports of the  
56 dumping or depositing of solid waste or demolition waste in  
57 a manner contrary to the requirements of sections 260.200 to  
58 260.345. The department shall immediately issue a cease and  
59 desist order if it determines that any person has been or is  
60 dumping or depositing solid waste or demolition waste, or  
61 has allowed the dumping or disposal of solid waste or  
62 demolition waste or has received compensation for same, in a  
63 manner contrary to sections 260.200 to 260.345. The  
64 department shall order the owner of the property or the  
65 person placing solid waste or demolition waste thereon, or  
66 both, to remove all solid waste from the premises if it  
67 determines that the waste might be reasonably expected to  
68 cause a public nuisance or health hazard.

69 5. The department shall order a site cleaned up  
70 pursuant to the provisions of section 260.230, when it  
71 determines that the property owner or the operator has  
72 accepted remuneration or otherwise benefitted financially  
73 for placing solid waste or demolition waste in or on the  
74 site in contravention of this section. Persons who  
75 knowingly haul solid waste or demolition waste to a site

76 which is operating without a permit, persons who operate  
77 such a site and persons who own the property where the solid  
78 waste or demolition waste is being dumped or deposited shall  
79 be jointly and severally liable for cleanup costs and any  
80 damage to third parties caused by the dumping or disposing  
81 of solid waste or demolition waste on the property if the  
82 owner or operator has accepted remuneration or otherwise  
83 benefitted financially from such disposal. The provisions  
84 of sections 260.230 and 260.240, relating to the issuance of  
85 orders, shall be applicable to an action pursuant to this  
86 section. Any person aggrieved by any action of the  
87 department pursuant to this section may appeal in the manner  
88 provided in section 260.235. Any person may bring civil  
89 action for actual and exemplary damages against the  
90 responsible party if the person has sustained injury due to  
91 violations of this section, **except no exemplary damages**  
92 **shall be awarded if the responsible party is a city, county,**  
93 **political subdivision, authority, state agency or**  
94 **institution, or any official or employee thereof if such**  
95 **person was acting within the scope of his or her official**  
96 **duties or employment.**

97 6. Notwithstanding subsection 1 of section 260.250,  
98 any solid waste disposal area or solid waste processing  
99 facility serving a city with a population of more than four  
100 hundred thousand inhabitants may accept yard waste  
101 commingled with solid waste that results from an illegal  
102 dump cleanup activity or program conducted by the local  
103 government of such city pursuant to this section. The local  
104 government of such city shall provide certification to the  
105 solid waste disposal area or solid waste processing facility  
106 that the origin of the yard waste is from the cleanup of  
107 illegally dumped solid waste.

108           7. Any person who engages in building construction,  
109 modification or in construction, modification or demolition  
110 which produces demolition waste, in types and quantities  
111 established by the department, shall dispose of such waste  
112 in a demolition or sanitary landfill or other authorized  
113 sites as provided by rule. Each such person shall maintain  
114 records of sites used for demolition disposal for a period  
115 of one year. These records shall be made available to the  
116 department upon request.

117           8. Cities and counties which issue building permits  
118 shall reprint the following on each permit or on a separate  
119 notice:

120                   "Notice: The disposal of demolition waste  
121 is regulated by the department of natural  
122 resources pursuant to chapter 260, RSMo. Such  
123 waste, in types and quantities established by  
124 the department, shall be taken to a demolition  
125 landfill or a sanitary landfill for disposal."

126           9. A demolition landfill may accept clean fill, waste  
127 resulting from building or demolishing structures and all  
128 other waste not required to be placed in a sanitary landfill  
129 or a hazardous waste disposal facility for final disposition.

130           10. Notwithstanding subsection 7 of this section,  
131 certain wastes may be disposed of as provided by this  
132 subsection:

133                   (1) A person engaged in any activity which produces  
134 clean fill may use such material for fill, reclamation or  
135 other beneficial purposes on his or her own property or on  
136 the property of another person with the permission of the  
137 owner of such property, provided that such use does not  
138 violate any state law or local ordinance or order;

139           (2) A person engaged in any activity which produces  
140 wood waste may reuse or recycle such waste or may dispose of  
141 wood waste on the site where generated if such disposal is  
142 in compliance with applicable state law or local ordinances  
143 or orders;

144           (3) A person who engages in clearance, trimming or  
145 removal of trees, brush or other vegetation may use wood  
146 wastes from such activities for beneficial purposes  
147 including, but not limited to, firewood, ground cover,  
148 erosion control, mulch, compost or cover for wildlife.

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

3           (1) "Biometric data" shall include, but not be limited  
4 to, the following:

5           (a) Voice data used for comparing live speech with a  
6 previously created speech model of a person's voice;

7           (b) Iris recognition data containing color or texture  
8 patterns or codes;

9           (c) Retinal scans, reading through the pupil to  
10 measure blood vessels lining the retina;

11           (d) Fingerprint, palm prints, hand geometry, measure  
12 of any and all characteristics of biometric information,  
13 including shape and length of fingertips, or recording ridge  
14 pattern or fingertip characteristics;

15           (e) Characteristic gait or walk;

16           (f) DNA;

17           (g) Keystroke dynamic, measuring pressure applied to  
18 key pads or other digital receiving devices;

19           (2) "Commercial purposes" shall not include data used  
20 or compiled solely to be used for, or obtained or compiled  
21 solely for purposes expressly allowed under Missouri law or  
22 the federal Drivers Privacy Protection Act;

23           (3) "Source documents", original or certified copies,  
24 where applicable, of documents presented by an applicant as  
25 required under 6 CFR Part 37 to the department of revenue to  
26 apply for a driver's license or nondriver's license. Source  
27 documents shall also include any documents required for the  
28 issuance of driver's licenses or nondriver's licenses by the  
29 department of revenue under the provisions of this chapter  
30 or accompanying regulations.

31           2. Except as provided in subsection 3 of this section  
32 and as required to carry out the provisions of subsection 4  
33 of this section, the department of revenue shall not retain  
34 copies, in any format, of source documents presented by  
35 individuals applying for or holding driver's licenses or  
36 nondriver's licenses or use technology to capture digital  
37 images of source documents so that the images are capable of  
38 being retained in electronic storage in a transferable  
39 format.

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

41           (1) Original application forms, which may be retained  
42 but not scanned except as provided in this section;

43           (2) Test score documents issued by state highway  
44 patrol driver examiners and Missouri commercial third-party  
45 tester examiners;

46           (3) Documents demonstrating lawful presence of any  
47 applicant who is not a citizen of the United States,  
48 including documents demonstrating duration of the person's  
49 lawful presence in the United States;

50           (4) Any document required to be retained under federal  
51 motor carrier regulations in Title 49, Code of Federal  
52 Regulations, including but not limited to documents required  
53 by federal law for the issuance of a commercial driver's  
54 license and a commercial driver instruction permit;



55           (5) Documents submitted by a commercial driver's  
56 license or commercial driver's instruction permit applicant  
57 who is a Missouri resident and is a qualified current or  
58 former military service member which allow for waiver of the  
59 commercial driver's license knowledge test, skills test, or  
60 both; and

61           (6) Any other document at the request of and for the  
62 convenience of the applicant.

63           4. (1) To the extent not prohibited under subsection  
64 13 of this section, the department of revenue shall amend  
65 procedures for applying for a driver's license or  
66 identification card in order to comply with the goals or  
67 standards of the federal REAL ID Act of 2005, any rules or  
68 regulations promulgated under the authority granted in such  
69 Act, or any requirements adopted by the American Association  
70 of Motor Vehicle Administrators for furtherance of the Act,  
71 unless such action conflicts with Missouri law.

72           (2) The department of revenue shall issue driver's  
73 licenses or identification cards that are compliant with the  
74 federal REAL ID Act of 2005, as amended, to all applicants  
75 for driver's licenses or identification cards unless an  
76 applicant requests a driver's license or identification card  
77 that is not REAL ID compliant. Except as provided in  
78 subsection 3 of this section and as required to carry out  
79 the provisions of this subsection, the department of revenue  
80 shall not retain the source documents of individuals  
81 applying for driver's licenses or identification cards not  
82 compliant with REAL ID. Upon initial application for a  
83 driver's license or identification card, the department  
84 shall inform applicants of the option of being issued a REAL  
85 ID compliant driver's license or identification card or a  
86 driver's license or identification card that is not

87 compliant with REAL ID. The department shall inform all  
88 applicants:

89 (a) With regard to the REAL ID compliant driver's  
90 license or identification card:

91 a. Such card is valid for official state purposes and  
92 for official federal purposes as outlined in the federal  
93 REAL ID Act of 2005, as amended, such as domestic air travel  
94 and seeking access to military bases and most federal  
95 facilities;

96 b. Electronic copies of source documents will be  
97 retained by the department and destroyed after the minimum  
98 time required for digital retention by the federal REAL ID  
99 Act of 2005, as amended;

100 c. The facial image capture will only be retained by  
101 the department if the application is finished and submitted  
102 to the department; and

103 d. Any other information the department deems  
104 necessary to inform the applicant about the REAL ID  
105 compliant driver's license or identification card under the  
106 federal REAL ID Act;

107 (b) With regard to a driver's license or  
108 identification card that is not compliant with the federal  
109 REAL ID Act:

110 a. Such card is valid for official state purposes, but  
111 it is not valid for official federal purposes as outlined in  
112 the federal REAL ID Act of 2005, as amended, such as  
113 domestic air travel and seeking access to military bases and  
114 most federal facilities;

115 b. Source documents will be verified but no copies of  
116 such documents will be retained by the department unless  
117 permitted under subsection 3 of this section, except as

118 necessary to process a request by a license or card holder  
119 or applicant;

120 c. Any other information the department deems  
121 necessary to inform the applicant about the driver's license  
122 or identification card.

123 5. The department of revenue shall not use, collect,  
124 obtain, share, or retain biometric data nor shall the  
125 department use biometric technology to produce a driver's  
126 license or nondriver's license or to uniquely identify  
127 licensees or license applicants. This subsection shall not  
128 apply to digital images nor licensee signatures required for  
129 the issuance of driver's licenses and nondriver's licenses  
130 or for the use of software for purposes of combating fraud,  
131 or to biometric data collected from employees of the  
132 department of revenue, employees of the office of  
133 administration who provide information technology support to  
134 the department of revenue, contracted license offices, and  
135 contracted manufacturers engaged in the production,  
136 processing, or manufacture of driver's licenses or  
137 identification cards in positions which require a background  
138 check in order to be compliant with the federal REAL ID Act  
139 or any rules or regulations promulgated under the authority  
140 of such Act. Except as otherwise provided by law,  
141 applicants' source documents and Social Security numbers  
142 shall not be stored in any database accessible by any other  
143 state or the federal government. Such database shall  
144 contain only the data fields included on driver's licenses  
145 and nondriver identification cards compliant with the  
146 federal REAL ID Act, and the driving records of the  
147 individuals holding such driver's licenses and nondriver  
148 identification cards.

149           6. Notwithstanding any provision of this chapter that  
150 requires an applicant to provide reasonable proof of lawful  
151 presence for issuance or renewal of a noncommercial driver's  
152 license, noncommercial instruction permit, or a nondriver's  
153 license, an applicant shall not have his or her privacy  
154 rights violated in order to obtain or renew a Missouri  
155 noncommercial driver's license, noncommercial instruction  
156 permit, or a nondriver's license.

157           7. No citizen of this state shall have his or her  
158 privacy compromised by the state or agents of the state.  
159 The state shall within reason protect the sovereignty of the  
160 citizens the state is entrusted to protect. Any data  
161 derived from a person's application shall not be sold for  
162 commercial purposes to any other organization or any other  
163 state without the express permission of the applicant  
164 without a court order; except such information may be shared  
165 with a law enforcement agency, judge, prosecuting attorney,  
166 or officer of the court, or with another state for the  
167 limited purposes set out in section 302.600, or for the  
168 purposes set forth in section 32.091, or for conducting  
169 driver history checks in compliance with the Motor Carrier  
170 Safety Improvement Act, 49 U.S.C. Section 31309. The state  
171 of Missouri shall protect the privacy of its citizens when  
172 handling any written, digital, or electronic data, and shall  
173 not participate in any standardized identification system  
174 using driver's and nondriver's license records except as  
175 provided in this section.

176           8. Other than to process a request by a license or  
177 card holder or applicant, no person shall knowingly access,  
178 distribute, or allow access to or distribution of any  
179 written, digital, or electronic data collected or retained  
180 under this section without the express permission of the

181 applicant or a court order, except that such information may  
182 be shared with a law enforcement agency, judge, prosecuting  
183 attorney, or officer of the court, or with another state for  
184 the limited purposes set out in section 302.600 or for  
185 conducting driver history checks in compliance with the  
186 Motor Carrier Safety Improvement Act, 49 U.S.C. Section  
187 31309. A first violation of this subsection shall be a  
188 class A misdemeanor. A second violation of this subsection  
189 shall be a class E felony. A third or subsequent violation  
190 of this subsection shall be a class D felony.

191 9. Any person harmed or damaged by any violation of  
192 this section may bring a civil action for damages, including  
193 noneconomic [and punitive] damages, as well as injunctive  
194 relief, in the circuit court where that person resided at  
195 the time of the violation or in the circuit court of Cole  
196 County to recover such damages from the department of  
197 revenue and any persons participating in such violation.  
198 Sovereign immunity shall not be available as a defense for  
199 the department of revenue in such an action. In the event  
200 the plaintiff prevails on any count of his or her claim, the  
201 plaintiff shall be entitled to recover reasonable attorney  
202 fees from the defendants.

203 10. The department of revenue may promulgate rules  
204 necessary to implement the provisions of this section. Any  
205 rule or portion of a rule, as that term is defined in  
206 section 536.010, that is created under the authority  
207 delegated in this section shall become effective only if it  
208 complies with and is subject to all of the provisions of  
209 chapter 536 and, if applicable, section 536.028. This  
210 section and chapter 536 are nonseverable and if any of the  
211 powers vested with the general assembly pursuant to chapter  
212 536 to review, to delay the effective date, or to disapprove

213 and annul a rule are subsequently held unconstitutional,  
214 then the grant of rulemaking authority and any rule proposed  
215 or adopted after August 28, 2017, shall be invalid and void.

216 11. Biometric data, digital images, source documents,  
217 and licensee signatures, or any copies of the same, required  
218 to be collected or retained to comply with the requirements  
219 of the federal REAL ID Act of 2005 shall be digitally  
220 retained for no longer than the minimum duration required to  
221 maintain compliance, and immediately thereafter shall be  
222 securely destroyed so as to make them irretrievable.

223 12. No agency, department, or official of this state  
224 or of any political subdivision thereof shall use, collect,  
225 obtain, share, or retain radio frequency identification data  
226 from a REAL ID compliant driver's license or identification  
227 card issued by a state, nor use the same to uniquely  
228 identify any individual.

229 13. Notwithstanding any provision of law to the  
230 contrary, the department of revenue shall not amend  
231 procedures for applying for a driver's license or  
232 identification card, nor promulgate any rule or regulation,  
233 for purposes of complying with modifications made to the  
234 federal REAL ID Act of 2005 after August 28, 2017, imposing  
235 additional requirements on applications, document retention,  
236 or issuance of compliant licenses or cards, including any  
237 rules or regulations promulgated under the authority granted  
238 under the federal REAL ID Act of 2005, as amended, or any  
239 requirements adopted by the American Association of Motor  
240 Vehicle Administrators for furtherance thereof.

241 14. If the federal REAL ID Act of 2005 is modified or  
242 repealed such that driver's licenses and identification  
243 cards issued by this state that are not compliant with the  
244 federal REAL ID Act of 2005 are once again sufficient for

245 federal identification purposes, the department shall not  
246 issue a driver's license or identification card that  
247 complies with the federal REAL ID Act of 2005 and shall  
248 securely destroy, within thirty days, any source documents  
249 retained by the department for the purpose of compliance  
250 with such Act.

417.457. 1. Except to the extent that a material and  
2 prejudicial change of position prior to acquiring knowledge  
3 or reason to know of misappropriation renders a monetary  
4 recovery inequitable, a complainant is entitled to recover  
5 damages for misappropriation. Damages can include both the  
6 actual loss caused by misappropriation and the unjust  
7 enrichment caused by misappropriation that is not taken into  
8 account in computing actual loss. In lieu of damages  
9 measured by any other methods, the damages caused by  
10 misappropriation may be measured by imposition of liability  
11 for a reasonable royalty for a misappropriator's  
12 unauthorized disclosure or use of a trade secret.

13 2. If misappropriation is outrageous because of the  
14 misappropriator's evil motive or reckless indifference to  
15 the rights of others, the court may award punitive damages,  
16 **except that punitive damages shall not be awarded if the**  
17 **misappropriator is a governmental subdivision or agency, or**  
18 **an official or employee thereof if such person was acting**  
19 **within the scope of his or her official duties or employment.**

448.4-117. If a declarant or any other person subject  
2 to sections 448.1-101 to 448.4-120 fails to comply with any  
3 provision hereof or any provision of the declaration or  
4 bylaws, any person or class of persons adversely affected by  
5 such failure to comply has a claim for appropriate relief.  
6 Punitive damages may be awarded in the case of a willful,  
7 wanton and malicious failure to comply with any provision of

8 sections 448.1-101 to 448.4-120, **except that punitive**  
9 **damages shall not be awarded if the declarant or any other**  
10 **person subject to sections 448.1-101 to 448.4-120 is the**  
11 **government, governmental subdivision or agency, or an**  
12 **official or employee thereof is such person was acting**  
13 **within the scope of his or her official duties or**  
14 **employment.** The court, in an appropriate case, may award  
15 reasonable attorney's fees.

510.265. 1. No award of punitive damages against any  
2 defendant shall exceed the greater of:

- 3 (1) Five hundred thousand dollars; or
- 4 (2) Five times the net amount of the judgment awarded  
5 to the plaintiff against the defendant.

6 Such limitations shall not apply if the state of Missouri is  
7 the plaintiff requesting the award of punitive damages, or  
8 the defendant pleads guilty to or is convicted of a felony  
9 arising out of the acts or omissions pled by the plaintiff.

10 2. The provisions of this section and sections 510.261  
11 and 510.263 shall not apply to civil actions brought under  
12 section 213.111 that allege a violation of section 213.040,  
13 213.045, 213.050, or 213.070, to the extent that the alleged  
14 violation of section 213.070 relates to or involves a  
15 violation of section 213.040, 213.045, or 213.050, or  
16 subdivision (3) of subsection 1 of section 213.070 as it  
17 relates to housing.

18 3. **In any civil action, punitive damages shall not be**  
19 **awarded against the state, a political subdivision of the**  
20 **state, or any official or employee thereof if such person**  
21 **was acting within the scope of his or her official duties or**  
22 **employment.**



537.090. In every action brought under section  
2 537.080, the trier of the facts may give to the party or  
3 parties entitled thereto such damages as the trier of the  
4 facts may deem fair and just for the death and loss thus  
5 occasioned, having regard to the pecuniary losses suffered  
6 by reason of the death, funeral expenses, and the reasonable  
7 value of the services, consortium, companionship, comfort,  
8 instruction, guidance, counsel, training, and support of  
9 which those on whose behalf suit may be brought have been  
10 deprived by reason of such death and without limiting such  
11 damages to those which would be sustained prior to attaining  
12 the age of majority by the deceased or by the person  
13 suffering any such loss. In addition, the trier of the  
14 facts may award such damages as the deceased may have  
15 suffered between the time of injury and the time of death  
16 and for the recovery of which the deceased might have  
17 maintained an action had death not ensued. The mitigating  
18 or aggravating circumstances attending the death may be  
19 considered by the trier of the facts, but damages for grief  
20 and bereavement by reason of the death shall not be  
21 recoverable. If the deceased was not employed full time and  
22 was at least fifty percent responsible for the care of one  
23 or more minors or disabled persons, or persons over sixty-  
24 five years of age, there shall be a rebuttable presumption  
25 that the value of the care provided, regardless of the  
26 number of persons cared for, is equal to one hundred and ten  
27 percent of the state average weekly wage, as computed under  
28 section 287.250. If the deceased is under the age of  
29 eighteen, there shall be a rebuttable presumption that the  
30 annual pecuniary losses suffered by reason of the death  
31 shall be calculated based on the annual income of the  
32 deceased's parents, provided that if the deceased has only

33 one parent earning income, then the calculation shall be  
34 based on such income, but if the deceased had two parents  
35 earning income, then the calculation shall be based on the  
36 average of the two incomes. **In any action brought pursuant**  
37 **to section 537.080, punitive damages or damages based on**  
38 **aggravating circumstances shall not be awarded against a**  
39 **public body or an official or employee of a public body if**  
40 **such person was acting within the scope of his or her**  
41 **official duties or employment. For purposes of this**  
42 **section, the term "public body" shall include the state and**  
43 **any political subdivision thereof.**

538.210. 1. A statutory cause of action for damages  
2 against a health care provider for personal injury or death  
3 arising out of the rendering of or failure to render health  
4 care services is hereby created, replacing any such common  
5 law cause of action. The elements of such cause of action  
6 are that the health care provider failed to use that degree  
7 of skill and learning ordinarily used under the same or  
8 similar circumstances by members of the defendant's  
9 profession and that such failure directly caused or  
10 contributed to cause the plaintiff's injury or death.

11 2. (1) In any action against a health care provider  
12 for damages for personal injury arising out of the rendering  
13 of or the failure to render health care services, no  
14 plaintiff shall recover more than four hundred thousand  
15 dollars for noneconomic damages irrespective of the number  
16 of defendants.

17 (2) Notwithstanding the provisions of subdivision (1)  
18 of this subsection, in any action against a health care  
19 provider for damages for a catastrophic personal injury  
20 arising out of the rendering or failure to render health care  
21 services, no plaintiff shall recover more than seven hundred

22 thousand dollars for noneconomic damages irrespective of the  
23 number of defendants.

24 (3) In any action against a health care provider for  
25 damages for death arising out of the rendering of or the  
26 failure to render health care services, no plaintiff shall  
27 recover more than seven hundred thousand dollars for  
28 noneconomic damages irrespective of the number of defendants.

29 3. This section shall also apply to any individual or  
30 entity, or their employees or agents:

31 (1) That provide, refer, coordinate, consult upon, or  
32 arrange for the delivery of health care services to the  
33 plaintiff; and

34 (2) Who is a defendant in a lawsuit brought against a  
35 health care provider under this chapter, or who is a  
36 defendant in any lawsuit that arises out of the rendering of  
37 or the failure to render health care services.

38 4. No health care provider whose liability is limited  
39 by the provisions of this chapter shall be liable to any  
40 plaintiff based on the actions or omissions of any other  
41 entity or individual who is not an employee of such health  
42 care provider, unless the individual is an employee of a  
43 subsidiary in which the health care provider has a  
44 controlling interest and the subsidiary does not carry a  
45 professional liability insurance policy or self-insurance  
46 covering said individual of at least one million dollars per  
47 occurrence and a professional liability insurance policy or  
48 self-insurance covering said subsidiary of at least one  
49 million dollars per occurrence.

50 5. The limitations on liability as provided for in  
51 this section shall apply to all claims for contribution.

52 6. In any action against a health care provider for  
53 damages for personal injury or death arising out of the

54 rendering of or the failure to render health care services,  
55 where the trier of fact is a jury, such jury shall not be  
56 instructed by the court with respect to the limitation on an  
57 award of noneconomic damages, nor shall counsel for any  
58 party or any person providing testimony during such  
59 proceeding in any way inform the jury or potential jurors of  
60 such limitation.

61 7. For purposes of sections 538.205 to 538.230, any  
62 spouse claiming damages for loss of consortium of their  
63 spouse shall be considered to be the same plaintiff as their  
64 spouse.

65 8. Any provision of law or court rule to the contrary  
66 notwithstanding, an award of punitive damages against a  
67 health care provider governed by the provisions of sections  
68 538.205 to 538.230 shall be made only upon a finding by the  
69 jury that the evidence clearly and convincingly demonstrated  
70 that the health care provider intentionally caused damage to  
71 the plaintiff or demonstrated malicious misconduct that  
72 caused damage to the plaintiff. Evidence of negligence  
73 including, but not limited to, indifference to or conscious  
74 disregard for the safety of others shall not constitute  
75 intentional conduct or malicious misconduct.

76 9. **In any action brought pursuant to this section, no**  
77 **plaintiff shall recover punitive damages from a health care**  
78 **provider that is a public body or an official or employee of**  
79 **a public body if such person was acting within the scope of**  
80 **his or her official duties or employment. For purposes of**  
81 **this subsection, the term "public body" shall include the**  
82 **state and any political subdivision thereof.**

83 10. For purposes of sections 538.205 to 538.230, all  
84 individuals and entities asserting a claim for a wrongful

85 death under section 537.080 shall be considered to be one  
86 plaintiff.

87 [10.] 11. The limitations on awards for noneconomic  
88 damages provided for in this section shall be increased by  
89 one and seven-tenths percent on an annual basis effective  
90 January first of each year. The current value of the  
91 limitation shall be calculated by the director of the  
92 department of commerce and insurance, who shall furnish that  
93 value to the secretary of state, who shall publish such  
94 value in the Missouri Register on the first business day  
95 following January first, but the value shall otherwise be  
96 exempt from the provisions of section 536.021.

97 [11.] 12. In any claim for damages under this chapter,  
98 and upon post-trial motion following a jury verdict with  
99 noneconomic damages exceeding four hundred thousand dollars,  
100 the trial court shall determine whether the limitation in  
101 subsection 2 of this section shall apply based on the  
102 severity of the most severe injuries.

103 [12.] 13. If a court of competent jurisdiction enters  
104 a final judgment on the merits that is not subject to appeal  
105 and that declares any provision or part of either section  
106 1.010 or this section to be unconstitutional or  
107 unenforceable, then section 1.010 and this section, as  
108 amended by this act and in their entirety, are invalid and  
109 shall have no legal effect as of the date of such judgment,  
110 and this act, including its repealing clause, shall likewise  
111 be invalid and of no legal effect. In such event, the  
112 versions of sections 1.010 and this section that were in  
113 effect prior to the enactment of this act shall remain in  
114 force.

542.418. 1. The contents of any wire communication or  
2 evidence derived therefrom shall not be received in evidence

3 or otherwise disclosed in any civil or administrative  
4 proceeding, except in civil actions brought pursuant to this  
5 section.

6 2. Any person whose wire communication is intercepted,  
7 disclosed, or used in violation of sections 542.400 to  
8 542.422 shall:

9 (1) Have a civil cause of action against any person  
10 who intercepts, discloses, or uses, or procures any other  
11 person to intercept, disclose, or use such communications;  
12 and

13 (2) Be entitled to recover from any such person:

14 (a) Actual damages, but not less than liquidated  
15 damages computed at the rate of one hundred dollars a day  
16 for each day of violation or ten thousand dollars whichever  
17 is greater;

18 (b) Punitive damages on a showing of a willful or  
19 intentional violation of sections 542.400 to 542.422, **except**  
20 **that punitive damages shall not be awarded if the person who**  
21 **intercepts, discloses, or uses, or procures any other person**  
22 **to intercept, disclose, or use such communications is an**  
23 **employee or agent of this state or a political subdivision**  
24 **of this state if such person was acting within the scope of**  
25 **his or her employment;** and

26 (c) A reasonable attorney's fee and other litigation  
27 costs reasonably incurred.

28 3. A good faith reliance on a court order or on the  
29 provisions of section 542.408 shall constitute a prima facie  
30 defense to any civil or criminal action brought under  
31 sections 542.400 to 542.422.

32 4. Nothing contained in this section shall limit any  
33 cause of action available prior to August 28, 1989.

544.195. 1. Nothing in sections 544.193 to 544.197 shall be construed as limiting any common law or statutory rights of any person regarding any action for damages or injunctive relief, or as precluding the prosecution under another provision of law of any law enforcement official or employee who has violated sections 544.193 to 544.197.

2. Any person who suffers actual damage as a result of the violation of sections 544.193 to 544.197 may bring a private civil action in the circuit court of any county in which any defendant resides or in which the search complained of occurred or in which any plaintiff resides and a defendant may be found, to recover actual damages. In addition to actual damages, the court may, in its discretion, also award [punitive damages and] such equitable relief as it deems necessary and proper. The court may award reasonable attorney's fees to the prevailing party, which attorney's fees shall be based on the amount of time reasonably expended by an attorney on behalf of the prevailing party.

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