

SECOND REGULAR SESSION

HOUSE BILL NO. 2689

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ALLRED.

5697H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 213.111, RSMo, and to enact in lieu thereof one new section relating to the right to bring a civil action for certain unlawful discriminatory practices.

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

Section A. Section 213.111, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 213.111, to read as follows:

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 subsection 1 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 subsection 1 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 been committed, either before a circuit or associate

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 circuit judge. Upon issuance of this notice, the commission shall terminate all proceedings
19 relating to the complaint. No person may file or reinstate a complaint with the commission after
20 the issuance of a notice under this section relating to the same practice or act. Any action
21 brought in court under this section shall be filed within ninety days from the date of the
22 commission's notification letter to the individual but no later than two years after the alleged
23 cause occurred or its reasonable discovery by the alleged injured party.

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

30 3. **If the court decides to award attorney's fees under this section, the**
31 **reasonableness of the award shall be determined as provided by this subsection. The fees**
32 **shall be the lesser of the amount of one-third of the actual damages awarded to the**
33 **plaintiff, the difference between the amount of actual damages awarded to the plaintiff and**
34 **an offer of judgment filed with the court more than one hundred eighty days before**
35 **commencement of trial, or actual attorney's or attorneys' fees incurred by the plaintiff**
36 **during the litigation at a rate not to exceed one hundred fifty dollars per hour if the**
37 **plaintiff's attorney or attorneys were not retained on a contingency fee basis.**

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

39 [4-] 5. The sum of the amount of actual damages, including damages for future pecuniary
40 losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and
41 other nonpecuniary losses, and punitive damages awarded under this section shall not exceed for
42 each complaining party:

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

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

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

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

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

56 ~~[5-]~~ **6.** In any employment-related civil action brought under this chapter, the plaintiff
57 shall bear the burden of proving the alleged unlawful decision or action was made or taken
58 because of his or her protected classification and was the direct proximate cause of the claimed
59 damages.

✓