

SECOND REGULAR SESSION

SENATE BILL NO. 911

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

Read 1st time January 22, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5012S.011

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191.656, 213.111, 260.210, 302.170, 417.457, 448.4-117, 510.265, 537.090, 538.210, 542.418, and 544.195, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 182.817, 191.656, 213.111, 260.210, 302.170, 417.457, 448.4-117, 510.265, 537.090,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, to read as follows:

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

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

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

2. Any person whose privacy is compromised as a result of an alleged violation of this section may file a written complaint within one hundred eighty days of the alleged violation with the office of the attorney general describing the

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

15 facts surrounding the alleged violation. Such person may additionally bring a
16 private civil action in the circuit court of the county in which the library is
17 located to recover damages. The court may, in its discretion, award punitive
18 damages, **except as provided in subsection 4 of this section**, and may
19 award to the prevailing party attorney's fees, based on the amount of time
20 reasonably expended, and may provide such equitable relief as it deems necessary
21 or proper. A prevailing respondent may be awarded attorney fees under this
22 subsection only upon a showing that the case is without foundation.

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

26 **4. In any cause of action brought pursuant to this section,**
27 **punitive damages shall not be awarded against a library established by**
28 **the state, a political subdivision of the state, or any combination**
29 **thereof, any community college district, or any state college or**
30 **university, or any employee or agent of such library if such person was**
31 **acting within the scope of his or her employment.**

191.656. 1. (1) All information known to, and records containing any
2 information held or maintained by, any person, or by any agency, department, or
3 political subdivision of the state concerning an individual's HIV infection status
4 or the results of any individual's HIV testing shall be strictly confidential and
5 shall not be disclosed except to:

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

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

10 (c) Peace officers, as defined in section 590.100, the attorney general or
11 any assistant attorneys general acting on his or her behalf, as defined in chapter
12 27, and prosecuting attorneys or circuit attorneys as defined in chapter 56 and
13 pursuant to section 191.657;

14 (d) Prosecuting attorneys or circuit attorneys as defined in chapter 56 to
15 prosecute cases pursuant to section 191.677 or 567.020. Prosecuting attorneys or
16 circuit attorneys may obtain from the department of health and senior services
17 the contact information and test results of individuals with whom the
18 HIV-infected individual has had sexual intercourse or deviate sexual
19 intercourse. Any prosecuting attorney or circuit attorney who receives

20 information from the department of health and senior services pursuant to the
21 provisions of this section shall use such information only for investigative and
22 prosecutorial purposes and such information shall be considered strictly
23 confidential and shall only be released as authorized by this section;

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

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

29 (g) Victims of any sexual offense defined in chapter 566, which includes
30 sexual intercourse or deviate sexual intercourse, as an element of the crime or to
31 a victim of a section 545.940 offense, in which the court, for good cause shown,
32 orders the defendant to be tested for HIV, hepatitis B, hepatitis C, syphilis,
33 gonorrhea, or chlamydia, once the charge is filed. Prosecuting attorneys or circuit
34 attorneys, or the department of health and senior services may release
35 information to such victims;

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

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

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

45 2. (1) Unless the person acted in bad faith or with conscious disregard,
46 no person shall be liable for violating any duty or right of confidentiality
47 established by law for disclosing the results of an individual's HIV testing:

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

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

52 (c) Pursuant to the written authorization of the subject of the test result
53 or results;

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

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

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

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

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

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

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

73 (3) No person to whom the results of an individual's HIV testing has been
74 disclosed pursuant to paragraphs (b) and (c) of subdivision (1) of this subsection
75 shall further disclose such results; except that prosecuting attorneys or circuit
76 attorneys may disclose such information to defense attorneys defending actions
77 pursuant to section 191.677 or 567.020 under the rules of discovery, or jurors or
78 court personnel hearing cases pursuant to section 191.677 or 567.020. Such
79 information shall not be used or disclosed for any other purpose;

80 (4) When the results of HIV testing, disclosed pursuant to paragraph (b)
81 of subdivision (1) of this subsection, are included in the medical record of the
82 patient who is subject to the test, the inclusion is not a disclosure for purposes
83 of such paragraph so long as such medical record is afforded the same
84 confidentiality protection afforded other medical records.

85 3. All communications between the subject of HIV testing and a physician,
86 hospital, or other person authorized by the department of health and senior
87 services who performs or conducts HIV sampling shall be privileged
88 communications.

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

92 5. The subject of HIV testing who is found to have HIV infection and is
93 aware of his or her HIV status shall disclose such information to any health care
94 professional from whom such person receives health care services. Said
95 notification shall be made prior to receiving services from such health care
96 professional if the HIV-infected person is medically capable of conveying that
97 information or as soon as he or she becomes capable of conveying that
98 information.

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

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

104 (a) The greater of actual damages or liquidated damages of one thousand
105 dollars; and

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

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

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

112 (a) The greater of actual damages or liquidated damages of five thousand
113 dollars; and

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

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

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

122 7. No civil liability shall accrue to any health care provider as a result of
123 making a good faith report to the department of health and senior services about
124 a person reasonably believed to be infected with HIV, or cooperating in good faith
125 with the department in an investigation determining whether a court order
126 directing an individual to undergo HIV testing will be sought, or in participating
127 in good faith in any judicial proceeding resulting from such a report or

128 investigations; and any person making such a report, or cooperating with such an
129 investigation or participating in such a judicial proceeding, shall be immune from
130 civil liability as a result of such actions so long as taken in good faith.

213.111. 1. If, after one hundred eighty days from the filing of a
2 complaint alleging an unlawful discriminatory practice pursuant to section
3 213.055, 213.065 or 213.070 to the extent that the alleged violation of section
4 213.070 relates to or involves a violation of section 213.055 or 213.065, or
5 subdivision (3) of subsection 1 of section 213.070 as it relates to employment and
6 public accommodations, the commission has not completed its administrative
7 processing and the person aggrieved so requests in writing, the commission shall
8 issue to the person claiming to be aggrieved a letter indicating his or her right
9 to bring a civil action within ninety days of such notice against the respondent
10 named in the complaint. If, after the filing of a complaint pursuant to sections
11 213.040, 213.045, 213.050 and 213.070, to the extent that the alleged violation of
12 section 213.070 relates to or involves a violation of sections 213.040, 213.045 and
13 213.050, or subdivision (3) of subsection 1 of section 213.070 as it relates to
14 housing, and the person aggrieved so requests in writing, the commission shall
15 issue to the person claiming to be aggrieved a letter indicating his or her right
16 to bring a civil action within ninety days of such notice against the respondent
17 named in the complaint. The commission may not at any other time or for any
18 other reason issue a letter indicating a complainant's right to bring a civil
19 action. Such an action may be brought in any circuit court in any county in
20 which the unlawful discriminatory practice is alleged to have been committed,
21 either before a circuit or associate circuit judge. Upon issuance of this notice, the
22 commission shall terminate all proceedings relating to the complaint. No person
23 may file or reinstate a complaint with the commission after the issuance of a
24 notice under this section relating to the same practice or act. Any action brought
25 in court under this section shall be filed within ninety days from the date of the
26 commission's notification letter to the individual but no later than two years after
27 the alleged cause occurred or its reasonable discovery by the alleged injured
28 party.

29 2. The court may grant as relief, as it deems appropriate, any permanent
30 or temporary injunction, temporary restraining order, or other order, and may
31 award to the plaintiff actual and punitive damages, and may award court costs
32 and reasonable attorney fees to the prevailing party, other than a state agency
33 or commission or a local commission; except that, a prevailing respondent may be

34 awarded reasonable attorney fees only upon a showing that the case was without
35 foundation. **No award of damages shall include punitive damages in any**
36 **civil action brought pursuant to this section in which the respondent**
37 **is the state, any political subdivision of the state, or any official or**
38 **employee thereof if such person was acting within the scope of his or**
39 **her official duties or employment.**

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

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

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

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

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

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

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

59 5. In any employment-related civil action brought under this chapter, the
60 plaintiff shall bear the burden of proving the alleged unlawful decision or action
61 was made or taken because of his or her protected classification and was the
62 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 of any solid wastes
3 onto the surface of the ground or into streams, springs, and all bodies of surface
4 or ground water, whether natural or artificial, within the boundaries of the state
5 except in a solid waste processing facility or solid waste disposal area having a
6 permit as required by section 260.205; provided that, this subdivision shall not
7 prohibit the use or require a permit for the use of solid wastes in normal farming

8 operations or in the processing or manufacturing of other products in a manner
9 that will not create a public nuisance or adversely affect the public health, and
10 shall not prohibit the disposal of or require a permit for the disposal by an
11 individual of solid wastes resulting from his or her own residential activities on
12 property owned or lawfully occupied by him or her when such wastes do not
13 thereby create a public nuisance or adversely affect the public health;

14 (2) Construct or alter a solid waste processing facility or solid waste
15 disposal area of a solid waste management system without approval from the
16 department;

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

19 (4) Except as otherwise provided, store, collect, transport, process, or
20 dispose of solid waste in violation of the rules, regulations or orders of the
21 department or in such a manner as to create a public nuisance or adversely affect
22 the public health; or

23 (5) Refuse entry or access, requested for purposes of inspecting solid waste
24 processing facilities or solid waste disposal areas, to an agent or employee of the
25 department who presents appropriate credentials, or hinder the agent or
26 employee in carrying out the inspection. A suitably restricted search warrant,
27 upon a showing of probable cause in writing and upon oath, shall be issued by
28 any circuit or associate circuit judge having jurisdiction to any such agent or
29 employee for the purpose of enabling him to make such inspection.

30 2. Information obtained from waste disposed or deposited in violation of
31 this section may be a rebuttable presumption that the person so identified
32 committed the violation of sections 260.200 to 260.345. If the operator or
33 passenger of any vehicle is witnessed by a peace officer or employee of the
34 department of natural resources to have violated the provisions of this section
35 and the identity of the operator is not determined or otherwise apparent, it may
36 be a rebuttable presumption that the person in whose name such vehicle is
37 registered committed the violation.

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

42 4. The department shall investigate reports of the dumping or depositing
43 of solid waste or demolition waste in a manner contrary to the requirements of

44 sections 260.200 to 260.345. The department shall immediately issue a cease and
45 desist order if it determines that any person has been or is dumping or depositing
46 solid waste or demolition waste, or has allowed the dumping or disposal of solid
47 waste or demolition waste or has received compensation for same, in a manner
48 contrary to sections 260.200 to 260.345. The department shall order the owner
49 of the property or the person placing solid waste or demolition waste thereon, or
50 both, to remove all solid waste from the premises if it determines that the waste
51 might be reasonably expected to cause a public nuisance or health hazard.

52 5. The department shall order a site cleaned up pursuant to the provisions
53 of section 260.230, when it determines that the property owner or the operator
54 has accepted remuneration or otherwise benefitted financially for placing solid
55 waste or demolition waste in or on the site in contravention of this
56 section. Persons who knowingly haul solid waste or demolition waste to a site
57 which is operating without a permit, persons who operate such a site and persons
58 who own the property where the solid waste or demolition waste is being dumped
59 or deposited shall be jointly and severally liable for cleanup costs and any
60 damage to third parties caused by the dumping or disposing of solid waste or
61 demolition waste on the property if the owner or operator has accepted
62 remuneration or otherwise benefitted financially from such disposal. The
63 provisions of sections 260.230 and 260.240, relating to the issuance of orders,
64 shall be applicable to an action pursuant to this section. Any person aggrieved
65 by any action of the department pursuant to this section may appeal in the
66 manner provided in section 260.235. Any person may bring civil action for actual
67 and exemplary damages against the responsible party if the person has sustained
68 injury due to violations of this section, **except no exemplary damages shall**
69 **be awarded if the responsible party is a city, county, political**
70 **subdivision, authority, state agency or institution, or any official or**
71 **employee thereof if such person was acting within the scope of his or**
72 **her official duties or employment.**

73 6. Notwithstanding subsection 1 of section 260.250, any solid waste
74 disposal area or solid waste processing facility serving a city with a population
75 of more than four hundred thousand inhabitants may accept yard waste
76 commingled with solid waste that results from an illegal dump cleanup activity
77 or program conducted by the local government of such city pursuant to this
78 section. The local government of such city shall provide certification to the solid
79 waste disposal area or solid waste processing facility that the origin of the yard

80 waste is from the cleanup of illegally dumped solid waste.

81 7. Any person who engages in building construction, modification or in
82 construction, modification or demolition which produces demolition waste, in
83 types and quantities established by the department, shall dispose of such waste
84 in a demolition or sanitary landfill or other authorized sites as provided by
85 rule. Each such person shall maintain records of sites used for demolition
86 disposal for a period of one year. These records shall be made available to the
87 department upon request.

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

90 "Notice: The disposal of demolition waste is regulated by the
91 department of natural resources pursuant to chapter 260,
92 RSMo. Such waste, in types and quantities established by the
93 department, shall be taken to a demolition landfill or a sanitary
94 landfill for disposal."

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

98 10. Notwithstanding subsection 7 of this section, certain wastes may be
99 disposed of as provided by this subsection:

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

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

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

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

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

3 (a) Facial feature pattern characteristics;

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

6 (c) Iris recognition data containing color or texture patterns or codes;

7 (d) Retinal scans, reading through the pupil to measure blood vessels
8 lining the retina;

9 (e) Fingerprint, palm prints, hand geometry, measure of any and all
10 characteristics of biometric information, including shape and length of fingertips,
11 or recording ridge pattern or fingertip characteristics;

12 (f) Eye spacing;

13 (g) Characteristic gait or walk;

14 (h) DNA;

15 (i) Keystroke dynamic, measuring pressure applied to key pads or other
16 digital receiving devices;

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

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

26 2. Except as provided in subsection 3 of this section and as required to
27 carry out the provisions of subsection 4 of this section, the department of revenue
28 shall not retain copies, in any format, of source documents presented by
29 individuals applying for or holding driver's licenses or nondriver's licenses or use
30 technology to capture digital images of source documents so that the images are
31 capable of being retained in electronic storage in a transferable
32 format. Documents retained as provided or required by subsection 4 of this
33 section shall be stored solely on a system not connected to the internet nor to a
34 wide area network that connects to the internet. Once stored on such system, the
35 documents and data shall be purged from any systems on which they were
36 previously stored so as to make them irretrievable.

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

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

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

42 (3) Documents demonstrating lawful presence of any applicant who is not
43 a citizen of the United States, including documents demonstrating duration of the
44 person's lawful presence in the United States;

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

49 (5) Documents submitted by a commercial driver's license or commercial
50 driver's instruction permit applicant who is a Missouri resident and is a qualified
51 current or former military service member which allow for waiver of the
52 commercial driver's license knowledge test, skills test, or both; and

53 (6) Any other document at the request of and for the convenience of the
54 applicant where the applicant requests the department of revenue review
55 alternative documents as proof required for issuance of a driver's license,
56 nondriver's license, or instruction permit.

57 4. (1) To the extent not prohibited under subsection 13 of this section, the
58 department of revenue shall amend procedures for applying for a driver's license
59 or identification card in order to comply with the goals or standards of the federal
60 REAL ID Act of 2005, any rules or regulations promulgated under the authority
61 granted in such Act, or any requirements adopted by the American Association
62 of Motor Vehicle Administrators for furtherance of the Act, unless such action
63 conflicts with Missouri law.

64 (2) The department of revenue shall issue driver's licenses or
65 identification cards that are compliant with the federal REAL ID Act of 2005, as
66 amended, to all applicants for driver's licenses or identification cards unless an
67 applicant requests a driver's license or identification card that is not REAL ID
68 compliant. Except as provided in subsection 3 of this section and as required to
69 carry out the provisions of this subsection, the department of revenue shall not
70 retain the source documents of individuals applying for driver's licenses or
71 identification cards not compliant with REAL ID. Upon initial application for a
72 driver's license or identification card, the department shall inform applicants of
73 the option of being issued a REAL ID compliant driver's license or identification
74 card or a driver's license or identification card that is not compliant with REAL
75 ID. The department shall inform all applicants:

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

78 a. Such card is valid for official state purposes and for official federal
79 purposes as outlined in the federal REAL ID Act of 2005, as amended, such as
80 domestic air travel and seeking access to military bases and most federal
81 facilities;

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

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

87 d. Any other information the department deems necessary to inform the
88 applicant about the REAL ID compliant driver's license or identification card
89 under the federal REAL ID Act;

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

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

96 b. Source documents will be verified but no copies of such documents will
97 be retained by the department unless permitted under subsection 3 of this
98 section, except as necessary to process a request by a license or card holder or
99 applicant;

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

102 5. The department of revenue shall not use, collect, obtain, share, or
103 retain biometric data nor shall the department use biometric technology to
104 produce a driver's license or nondriver's license or to uniquely identify licensees
105 or license applicants. This subsection shall not apply to digital images nor
106 licensee signatures required for the issuance of driver's licenses and nondriver's
107 licenses or to biometric data collected from employees of the department of
108 revenue, employees of the office of administration who provide information
109 technology support to the department of revenue, contracted license offices, and
110 contracted manufacturers engaged in the production, processing, or manufacture
111 of driver's licenses or identification cards in positions which require a background

112 check in order to be compliant with the federal REAL ID Act or any rules or
113 regulations promulgated under the authority of such Act. Except as otherwise
114 provided by law, applicants' source documents and Social Security numbers shall
115 not be stored in any database accessible by any other state or the federal
116 government. Such database shall contain only the data fields included on driver's
117 licenses and nondriver identification cards compliant with the federal REAL ID
118 Act, and the driving records of the individuals holding such driver's licenses and
119 nondriver identification cards.

120 6. Notwithstanding any provision of this chapter that requires an
121 applicant to provide reasonable proof of lawful presence for issuance or renewal
122 of a noncommercial driver's license, noncommercial instruction permit, or a
123 nondriver's license, an applicant shall not have his or her privacy rights violated
124 in order to obtain or renew a Missouri noncommercial driver's license,
125 noncommercial instruction permit, or a nondriver's license.

126 7. No citizen of this state shall have his or her privacy compromised by
127 the state or agents of the state. The state shall within reason protect the
128 sovereignty of the citizens the state is entrusted to protect. Any data derived
129 from a person's application shall not be sold for commercial purposes to any other
130 organization or any other state without the express permission of the applicant
131 without a court order; except such information may be shared with a law
132 enforcement agency, judge, prosecuting attorney, or officer of the court, or with
133 another state for the limited purposes set out in section 302.600, or for the
134 purposes set forth in section 32.091, or for conducting driver history checks in
135 compliance with the Motor Carrier Safety Improvement Act, 49 U.S.C. Section
136 31309. The state of Missouri shall protect the privacy of its citizens when
137 handling any written, digital, or electronic data, and shall not participate in any
138 standardized identification system using driver's and nondriver's license records
139 except as provided in this section.

140 8. Other than to process a request by a license or card holder or applicant,
141 no person shall access, distribute, or allow access to or distribution of any
142 written, digital, or electronic data collected or retained under this section without
143 the express permission of the applicant or a court order, except that such
144 information may be shared with a law enforcement agency, judge, prosecuting
145 attorney, or officer of the court, or with another state for the limited purposes set
146 out in section 302.600 or for conducting driver history checks in compliance with
147 the Motor Carrier Safety Improvement Act, 49 U.S.C. Section 31309. A first

148 violation of this subsection shall be a class A misdemeanor. A second violation
149 of this subsection shall be a class E felony. A third or subsequent violation of
150 this subsection shall be a class D felony.

151 9. Any person harmed or damaged by any violation of this section may
152 bring a civil action for damages, including noneconomic [and punitive] damages,
153 as well as injunctive relief, in the circuit court where that person resided at the
154 time of the violation or in the circuit court of Cole County to recover such
155 damages from the department of revenue and any persons participating in such
156 violation. Sovereign immunity shall not be available as a defense for the
157 department of revenue in such an action. In the event the plaintiff prevails on
158 any count of his or her claim, the plaintiff shall be entitled to recover reasonable
159 attorney fees from the defendants.

160 10. The department of revenue may promulgate rules necessary to
161 implement the provisions of this section. Any rule or portion of a rule, as that
162 term is defined in section 536.010, that is created under the authority delegated
163 in this section shall become effective only if it complies with and is subject to all
164 of the provisions of chapter 536 and, if applicable, section 536.028. This section
165 and chapter 536 are nonseverable and if any of the powers vested with the
166 general assembly pursuant to chapter 536 to review, to delay the effective date,
167 or to disapprove and annul a rule are subsequently held unconstitutional, then
168 the grant of rulemaking authority and any rule proposed or adopted after August
169 28, 2017, shall be invalid and void.

170 11. Biometric data, digital images, source documents, and licensee
171 signatures, or any copies of the same, required to be collected or retained to
172 comply with the requirements of the federal REAL ID Act of 2005 shall be
173 digitally retained for no longer than the minimum duration required to maintain
174 compliance, and immediately thereafter shall be securely destroyed so as to make
175 them irretrievable.

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

180 13. Notwithstanding any provision of law to the contrary, the department
181 of revenue shall not amend procedures for applying for a driver's license or
182 identification card, nor promulgate any rule or regulation, for purposes of
183 complying with modifications made to the federal REAL ID Act of 2005 after

184 August 28, 2017, imposing additional requirements on applications, document
185 retention, or issuance of compliant licenses or cards, including any rules or
186 regulations promulgated under the authority granted under the federal REAL ID
187 Act of 2005, as amended, or any requirements adopted by the American
188 Association of Motor Vehicle Administrators for furtherance thereof.

189 14. If the federal REAL ID Act of 2005 is modified or repealed such that
190 driver's licenses and identification cards issued by this state that are not
191 compliant with the federal REAL ID Act of 2005 are once again sufficient for
192 federal identification purposes, the department shall not issue a driver's license
193 or identification card that complies with the federal REAL ID Act of 2005 and
194 shall securely destroy, within thirty days, any source documents retained by the
195 department for the purpose of compliance with such Act.

196 15. The provisions of this section shall expire five years after August 28,
197 2017.

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

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

448.4-117. If a declarant or any other person subject to sections 448.1-101
2 to 448.4-120 fails to comply with any provision hereof or any provision of the
3 declaration or bylaws, any person or class of persons adversely affected by such
4 failure to comply has a claim for appropriate relief. Punitive damages may be
5 awarded in the case of a willful, wanton and malicious failure to comply with any
6 provision of sections 448.1-101 to 448.4-120, **except that punitive damages**
7 **shall not be awarded if the declarant or any other person subject to**

8 **sections 448.1-101 to 448.4-120 is the government, governmental**
9 **subdivision or agency, or an official or employee thereof if such person**
10 **was acting within the scope of his or her official duties or**
11 **employment.** The court, in an appropriate case, may award reasonable
12 attorney's fees.

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

3 (1) Five hundred thousand dollars; or

4 (2) Five times the net amount of the judgment awarded to the plaintiff
5 against the defendant.

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

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

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

537.090. In every action brought under section 537.080, the trier of the
2 facts may give to the party or parties entitled thereto such damages as the trier
3 of the facts may deem fair and just for the death and loss thus occasioned, having
4 regard to the pecuniary losses suffered by reason of the death, funeral expenses,
5 and the reasonable value of the services, consortium, companionship, comfort,
6 instruction, guidance, counsel, training, and support of which those on whose
7 behalf suit may be brought have been deprived by reason of such death and
8 without limiting such damages to those which would be sustained prior to
9 attaining the age of majority by the deceased or by the person suffering any such
10 loss. In addition, the trier of the facts may award such damages as the deceased
11 may have suffered between the time of injury and the time of death and for the
12 recovery of which the deceased might have maintained an action had death not
13 ensued. The mitigating or aggravating circumstances attending the death may
14 be considered by the trier of the facts, but damages for grief and bereavement by

15 reason of the death shall not be recoverable. If the deceased was not employed
16 full time and was at least fifty percent responsible for the care of one or more
17 minors or disabled persons, or persons over sixty-five years of age, there shall be
18 a rebuttable presumption that the value of the care provided, regardless of the
19 number of persons cared for, is equal to one hundred and ten percent of the state
20 average weekly wage, as computed under section 287.250. If the deceased is
21 under the age of eighteen, there shall be a rebuttable presumption that the
22 annual pecuniary losses suffered by reason of the death shall be calculated based
23 on the annual income of the deceased's parents, provided that if the deceased has
24 only one parent earning income, then the calculation shall be based on such
25 income, but if the deceased had two parents earning income, then the calculation
26 shall be based on the average of the two incomes. **In any action brought**
27 **pursuant to section 537.080, punitive damages or damages based on**
28 **aggravating circumstances shall not be awarded against a public body**
29 **or an official or employee of a public body if such person was acting**
30 **within the scope of his or her official duties or employment. For**
31 **purposes of this section, the term "public body" shall include the state**
32 **and any political subdivision thereof.**

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

8 2. (1) In any action against a health care provider for damages for
9 personal injury arising out of the rendering of or the failure to render health care
10 services, no plaintiff shall recover more than four hundred thousand dollars for
11 noneconomic damages irrespective of the number of defendants.

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

17 (3) In any action against a health care provider for damages for death
18 arising out of the rendering of or the failure to render health care services, no

19 plaintiff shall recover more than seven hundred thousand dollars for noneconomic
20 damages irrespective of the number of defendants.

21 3. (1) This section shall also apply to any individual or entity, or their
22 employees or agents, that provide, refer, coordinate, consult upon, or arrange for
23 the delivery of health care services to the plaintiff; and

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

27 4. No health care provider whose liability is limited by the provisions of
28 this chapter shall be liable to any plaintiff based on the actions or omissions of
29 any other entity or individual who is not an employee of such health care
30 provider, unless the individual is an employee of a subsidiary in which the health
31 care provider has a controlling interest and the subsidiary does not carry a
32 professional liability insurance policy or self-insurance covering said individual
33 of at least one million dollars per occurrence and a professional liability insurance
34 policy or self-insurance covering said subsidiary of **at** least one million dollars per
35 occurrence.

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

38 6. In any action against a health care provider for damages for personal
39 injury or death arising out of the rendering of or the failure to render health care
40 services, where the trier of fact is a jury, such jury shall not be instructed by the
41 court with respect to the limitation on an award of noneconomic damages, nor
42 shall counsel for any party or any person providing testimony during such
43 proceeding in any way inform the jury or potential jurors of such limitation.

44 7. For purposes of sections 538.205 to 538.230, any spouse claiming
45 damages for loss of consortium of their spouse shall be considered to be the same
46 plaintiff as their spouse.

47 8. Any provision of law or court rule to the contrary notwithstanding, an
48 award of punitive damages against a health care provider governed by the
49 provisions of sections 538.205 to 538.230 shall be made only upon a showing by
50 a plaintiff that the health care provider demonstrated willful, wanton or
51 malicious misconduct with respect to his actions which are found to have injured
52 or caused or contributed to cause the damages claimed in the petition.

53 **9. In any action brought pursuant to this section, no plaintiff**
54 **shall recover punitive damages from a health care provider that is a**

55 **public body or an official or employee of a public body if such person**
56 **was acting within the scope of his or her official duties or**
57 **employment. For purposes of this subsection, the term "public body"**
58 **shall include the state and any political subdivision thereof.**

59 [9.] 10. For purposes of sections 538.205 to 538.230, all individuals and
60 entities asserting a claim for a wrongful death under section 537.080 shall be
61 considered to be one plaintiff.

62 [10.] 11. The limitations on awards for noneconomic damages provided
63 for in this section shall be increased by one and seven-tenths percent on an
64 annual basis effective January first of each year. The current value of the
65 limitation shall be calculated by the director of the department of commerce and
66 insurance, who shall furnish that value to the secretary of state, who shall
67 publish such value in the Missouri Register on the first business day following
68 January first, but the value shall otherwise be exempt from the provisions of
69 section 536.021.

70 [11.] 12. In any claim for damages under this chapter, and upon
71 post-trial motion following a jury verdict with noneconomic damages exceeding
72 four hundred thousand dollars, the trial court shall determine whether the
73 limitation in subsection 2 of this section shall apply based on the severity of the
74 most severe injuries.

75 [12.] 13. If a court of competent jurisdiction enters a final judgment on
76 the merits that is not subject to appeal and that declares any provision or part
77 of either section 1.010 or this section to be unconstitutional or unenforceable,
78 then section 1.010 and this section, as amended by this act and in their entirety,
79 are invalid and shall have no legal effect as of the date of such judgment, and this
80 act, including its repealing clause, shall likewise be invalid and of no legal effect.
81 In such event, the versions of sections 1.010 and this section that were in effect
82 prior to the enactment of this act shall remain in force.

542.418. 1. The contents of any wire communication or evidence derived
2 therefrom shall not be received in evidence or otherwise disclosed in any civil or
3 administrative proceeding, except in civil actions brought pursuant to this
4 section.

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

7 (1) Have a civil cause of action against any person who intercepts,
8 discloses, or uses, or procures any other person to intercept, disclose, or use such

9 communications; and

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

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

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

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

23 3. A good faith reliance on a court order or on the provisions of section
24 542.408 shall constitute a prima facie defense to any civil or criminal action
25 brought under sections 542.400 to 542.422.

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

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

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

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