

APPEALS COURT RULES SEXUAL ORIENTATION NOT COVERED BY THE MISSOURI HUMAN RIGHTS ACT

The Missouri Court of Appeals, Western District, ruled today that the Missouri Human Rights Act (MHRA) does not prohibit discrimination based on sexual orientation. Accordingly, it affirmed dismissal of a former employee's sexual orientation discrimination suit for failure to state a claim.

Currently, the MHRA prohibits discrimination based on "sex." It does not define "sex," and neither the terms "sexual orientation," "sexual preference" and/or "sexual identity" appear within its text. The Western District attached great weight to this omission. It reasoned that the Missouri legislature's intent in including the term "sex" in the MHRA was solely to prohibit gender discrimination. It found no indication that the legislature intended this term to have any other meaning, or to have anything to do with sexual orientation. Though the Court expressed sympathy for the former employee's situation, it noted it is constrained by the state of the law as it currently exists. Until and unless the legislature specifically enumerates "sexual orientation" as a protected class under the MHRA, the Western District will not extend the definition of sex via judicial interpretation.

Caution: The Equal Employment Opportunity Commission considers the definition of "sex" under Title VII of the Civil Rights Act of 1964 – the federal counterpart to the MHRA – to include sexual orientation. Please also keep in mind that the Missouri Court of Appeals for the Western District governs appeals from the western half of the state only.

Conclusion: The case is important for Missouri employers defending against MHRA claims based on sexual orientation but does not impact federal claims brought under Title VII. Employers should continue to consider sexual orientation as a protected class under federal law even if they are in the Western half of Missouri to best position themselves to defend against "sex discrimination" charges and lawsuits. Please contact any of the lawyers in Armstrong Teasdale's [Employment and Labor group](#) if you have questions

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