

LEGAL UPDATES

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Missouri Supreme Court Defines "Sex" in MHRA Public Accommodation Case: Potential Implications for Employers

Earlier this week, the Missouri Supreme Court firmly held that “sex” refers only to **“one’s biological classification as male or female”** under the provision of the Missouri Human Rights Act (MHRA) prohibiting discrimination in public accommodations. In so doing, the court expressly declined to extend the definition of “sex,” in the public accommodation context, to include gender identity or sexual orientation. This ruling carries immediate and significant implications for places of public accommodation but could also telegraph future developments for employers subject to the MHRA’s prohibition on sex discrimination in employment.

The case: “sex” does not include gender identity or sexual orientation under MHRA’s prohibition against discrimination in public accommodations

On June 10, 2025, in *R.M.A. v. Blue Springs R-IV School District*, the Missouri Supreme Court affirmed a lower court’s decision to overturn a \$4,000,000 jury verdict awarded to a transgender male student who was denied access to the school’s male-designated restrooms and locker rooms.

Though the student had obtained a birth certificate reflecting his legal sex as “male,” the school did not permit the student access to male-designated facilities because the student had female genitalia. By affirming the lower court’s decision, the court held the school’s exclusion of the student from its male facilities did **not** violate the MHRA’s statute prohibiting public accommodation discrimination on the basis of sex.

The MHRA does not expressly define “sex,” and in recent years, the Missouri legislature rejected numerous proposed amendments that would prohibit discrimination in public accommodations on the basis of gender identity and sexual orientation. Consequently, in referencing a dictionary definition of “sex,” the court concluded that the term means “one’s biological classification as male or female” and did not extend to gender identity or sexual orientation.

The implications on employers

The Missouri Supreme Court’s holding has immediate and significant implications for places of public accommodation (e.g., schools) that have sex-restricted facilities such as restrooms, locker rooms, and other intimate spaces. However, the ruling could also have future implications for private employers operating in Missouri, because the MHRA (RSMo. § 213, *et al.*) also prohibits sex-based discrimination in **employment**.

While the case described above centered on a claim arising under the MHRA’s prohibition against public accommodation discrimination, the court’s narrow definition of “sex” as synonymous with a binary biological classification could influence how Missouri courts interpret “sex” in employment discrimination cases governed by the MHRA. At the same time, it is important to note that the Missouri Supreme Court’s *R.M.A.* decision did not construe the MHRA’s prohibition on sex-based employment discrimination, leaving the question open for future resolution.

It is crucial to note that if Missouri courts do adopt a biological classification of “sex” for MHRA employment discrimination claims, a conflict will undisputedly arise between how courts must analyze sex-based discrimination claims filed under the MHRA verses those filed under Title VII of the Civil Rights Act of 1964.

While Title VII also prohibits employment discrimination based on “sex,” the United States Supreme Court held in *Bostock v. Clayton County* 580 U.S. 644 (2020) that discrimination based on gender identity and/or sexual orientation is a form of “sex” discrimination under Title VII. Thus, as a matter of federal law, those employers governed by Title VII cannot discriminate against an employee based on their gender identity or sexual orientation. The Missouri Supreme Court noted in *R.M.A.* that federal Title VII precedents can be persuasive authority for construing parallel non-discrimination prohibitions under the MHRA, although whether the Missouri Supreme Court will follow *Bostock* or extend the narrow definition of “sex” from its decision in *R.M.A.* remains to be seen.

Relying on the United States Supreme Court’s understanding of “sex” under Title VII, some district courts in the Eighth Circuit have similarly interpreted the definition of “sex” under Title IX of the Civil Rights Act of 1964 to prohibit discrimination on the basis of gender identity and sexual orientation in schools or other education programs receiving funding from the federal government. However, this view is not uniformly held, with multiple courts outside the Eighth Circuit limiting Title IX’s

definition to a binary, biological construct. Given the volume of cases brought under Title IX, a definitive ruling from the Eighth Circuit is likely, although the timing is unclear. Thus, there is also the potential for a future conflict between Title IX obligations and MHRA employment discrimination obligations, depending on the outcome of future cases.

What this means to you

Based on the above, Missouri employers may face a murky and conflicted landscape if conflicts between the construction of federal civil rights laws and the MHRA develop.

Regardless of how relevant courts ultimately construe “sex” for purposes of employment discrimination, employers may continue to encourage respectful behaviors in the workplace and choose to prohibit gender identity and sexual orientation discrimination as a matter of policy.

Contact us

For more detailed information regarding how the Missouri Supreme Court’s ruling could impact your business or organization, please contact Jenna Brofsky, Michaeli Hennessy, or your Husch Blackwell attorney.