

GENERAL LEGAL RIGHTS

CHAPTER I

Congress passed the Fair Housing Amendments Act of 1988 expanding coverage of the 1968 Fair Housing Act for persons with disabilities. That Act and the rights of persons with disabilities in housing are discussed in Chapter 6, **Housing**. In 1990, Congress passed a much broader civil rights bill -- The Americans with Disabilities Act of 1990. That Act, referred to as "the ADA," will be summarized in this chapter and, because of its breadth, will be mentioned in several other places in this handbook.

THE AMERICANS WITH DISABILITIES ACT OF 1990

Congress declared "the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals." Thus, Congress passed the ADA to eliminate discrimination against and expand opportunities for persons with disabilities.

The ADA generally makes it illegal to discriminate against any person because of a disability, a record of disability or a perceived disability. The term "disability" is defined by the ADA as a physical or mental impairment that substantially limits one or more major life activities. The ADA covers private and public employment, facilities and services provided by state and local governments, transportation, public accommodations (including private businesses open to the public) and telecommunications. The ADA requires many businesses to remove barriers and to make facilities accessible to persons with disabilities.

Additional information about the ADA is provided in Chapter 2, **Architectural Barriers**, and Chapter 4, **Employment**.

RIGHT TO VOTE

Any person registered to vote in Missouri has the right to vote in the state. Any Missouri resident aged 18 years or older may register to vote in Missouri unless the individual has been:

1. Adjudged incompetent by the court systems;
2. Convicted of a felony and the sentence for such conviction has not been terminated; or
3. Convicted of a misdemeanor concerning the election process and the sentence for such conviction has not been terminated.

To register to vote, an individual should contact his/her local election authority.

RIGHT TO SUE AND TO BE SUED

This right allows an individual free access to the courts of Missouri for the prosecution and defense of claims. The individual alone may exercise this right. For minors or persons adjudged incompetent, a guardian, next friend, or other legal representative must initiate action.

RIGHT TO CONTRACT

The right to contract in Missouri exists for all persons aged 18 and over who have not been adjudged incompetent by the courts. The right to contract involves the right to the benefits obtained by the contract and also involves accepting the responsibilities imposed by the contract. Individuals under the age of 18 years and persons with mental deficiencies may not be capable of meeting these requirements.

Contracts of Minors

Contracts made by persons under the age of 18 years are generally not enforceable against the minor unless the minor ratifies the contract after he attains the age of 18 years. According to § 431.060, RSMo., to ratify a contract one could:

1. Make an acknowledgement of, or promise to pay such debt, in writing;
2. Make a partial payment of the debt;
3. Dispose of all or part of the property for which the debt was contracted; or
4. Refuse to deliver the property in his/her possession or under his/her control after written demand has been made by the person to whom the debt is due.

Exceptions

1. The courts have recognized that a minor may be liable for the reasonable value of necessities of life (e.g., clothing, food, etc.) provided to him by another person if the items were in fact necessary.
2. A married minor is liable for medical expenses from medical services consented to by the minor that were performed for the married minor, his/her spouse, or his/her minor children. In cases where emergency treatment is necessary, such consent is implied.
3. A single minor is liable for medical expenses from medical services which he/she consented to have performed in relation to treatment of pregnancy (excluding abortion), venereal disease, or drug abuse. In cases where emergency treatment is necessary, such consent is implied.
4. A minor is liable on contracts entered into to help meet the costs of higher education.

Though the minor is not liable on the contract itself, if a minor fraudulently misrepresents his/her age to induce another person into a contract, the minor may be liable to the other person for damages in the nature of fraud and deceit.

Contracts of Persons Adjudged to be Mentally Incompetent

A contract entered into by a person who has been adjudged by a court to be incompetent is not enforceable unless the contract was entered into with the consent of the person's guardian and approved by the court. If a person has entered into a contract and is then adjudged by a court to be incompetent, the contract may be set aside by the court. The individual must show that he was, in fact, incompetent at the time he entered into the contract.

Exception

An individual is liable for the reasonable value of necessities of life (e.g., clothing, food, etc.) provided to the individual by another person if the items supplied were in fact necessary. This is true whether the individual has been adjudged incompetent or not.

IDENTIFICATION**State Identification Card**

Upon request to the Department of Revenue, a person may obtain an identification card quite similar in form and content to that of a driver's license. There is a fee for such a card. Although this card is designed for proof of age in securing alcoholic beverages, it is also quite often used by persons who have no driver's license but need proof of identification as in the writing or cashing of checks.

Social Security Card

A Social Security card is a necessary form of identification, particularly when one desires to participate in employment or in financial assistance programs. Social Security numbers are now applied for at birth.

RIGHT TO RECREATION

The ADA and other federal legislation prohibit discrimination by any person or organization in recreational activities when federal funds are being utilized. Two pieces of federal legislation of particular importance in the area of the right to recreation provide as follows:

1. Certain public buildings and facilities constructed or altered after August 12, 1968, which are financed in whole or in part or leased with federal funds are to be designed in such a fashion as to insure that individuals with a disability will have ready access to them.
2. "No otherwise qualified individual with a disability in the United States, . . . shall, solely by reason of his or her disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving federal funds or financial assistance, or activity receiving federal funds or financial assistance, or under any program or activity conducted by the Executive agency or by the United States Postal Service." 29 USC § 794.

Missouri state law also provides for the preservation of individuals with disabilities rights to recreation.

Local governmental units (e.g., city or county) may establish and maintain a system of public recreation, including parks or other recreational facilities. The state government may also establish and maintain parks or other recreational grounds or facilities. Financing for these recreational areas comes from public funds.

All construction and improvements of public parks, recreational areas and rest areas after August 13, 1976, supported in whole or in part through public funds are to be planned and executed to enable individuals with disabilities and senior citizens to utilize these areas and facilities.

A person who resides in an institutional setting is guaranteed the right to recreation unless the head of the facility determines that the exercise of this right would be dangerous to the health of the patient or others.

RIGHT TO TRANSPORTATION

Federal Law

The Americans with Disabilities Act of 1990 (ADA) explains the rights of accessibility for most forms of transportation available to the public as well. The United States Congress recognized that individuals with disabilities have the right to access public transportation as do all people. Congress further stated, in another provision of the law, that mass transportation services and facilities should be designed in such a way to assure that individuals with disabilities and the elderly will be able to utilize it. 49 USC § 5301(d).

In order to seek a remedy under the ADA, an individual must be a “qualified person” as defined in the ADA. A qualified person is one who is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. As used here, mass transportation includes stations, terminals, buildings or other facilities, buses, rail vehicles and other vehicles.

An individual with a disability has the same right to utilize interstate commerce facilities as any other person. Interstate commerce facilities include not only transportation services, but also restaurants, motels, and the like.

Public Transportation

There are various forms of public transportation available in the communities of Missouri. For information concerning public transportation that is available, a person should contact a public service organization in his/her own town (e.g., Chamber of Commerce).

Driver's Licenses

A Missouri resident aged 16 years to 18 years old who has satisfactorily passed the driver's examination is entitled to an intermediate driver's license. The intermediate license differs from a full driver's license in that an individual with an intermediate license cannot drive a car between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a driver who has a full license.

There are exceptions to this limitation. The intermediate driver may obtain a full license when he/she turns 18, contingent on his/her driving record.

The application, examination and issuance of licenses is administered by the Missouri Department of Revenue. The examination involves a written examination testing knowledge of traffic laws and highway signs, a vision examination, and an actual performance showing driving skills. The written examination and the driving skills portions of the examination are not required of applicants seeking a renewal of a license, unless the license has lapsed.

If the Director of Revenue has reasonable grounds to believe that the applicant has a disability that would interfere with the applicant's ability to operate a motor vehicle safely, the examination may also include a physical or mental examination of the applicant by a licensed physician of the applicant's choice, at the applicant's expense, to determine the extent of such disability.

A person is considered incompetent if he/she has become physically incapable of meeting the examination requirements, or has been adjudged by a court to be a habitual drunkard, of unsound mind, or of being addicted to the use of narcotics.

No driver's license shall be issued to any person whom the Director of Revenue determines is not qualified to operate a motor vehicle safely upon the highways of Missouri.

Appeals Process

If a person has been denied a license or has had his/her license suspended or revoked by the Director of Revenue, that person may appeal the decision to the circuit court of the county in which he resides. Any further appeal