

Employee Privacy Laws: Missouri

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A Q&A guide to employee privacy laws for private employers in Missouri. This Q&A addresses employee privacy rights and the consequences for employers that violate these rights. Federal, local, or municipal law may impose additional or different requirements. Answers to questions can be compared across a number of jurisdictions (see Employee Privacy Laws: State Q&A Tool).

States and municipalities continue to issue public health guidance in response to COVID-19 that may impact employee privacy. For information and ongoing updates, see [COVID-19: Employment Law and Development Tracker: State Laws and Directives](#).

Overview of State Privacy Law

1. Please list each state law relating to employee privacy (for example, employee right to privacy, access to personnel files, electronic communications, surveillance and monitoring, medical examinations, and lawful off-duty activity laws), EXCEPT state laws on background checks and drug testing. For each, please describe:

- What activity the law protects.
- Which employers are covered.
- Which employees are covered, including any exceptions for interns, independent contractors, minors, or others.
- Whether the law protects employees from their co-workers' actions in addition to their supervisor's actions.
- Whether it provides for a private right of action.
- For statutes and regulations, the entity that administers the statute or regulation(s).

Employment Reference Immunity Law: § 290.152, RSMo

Protected Activity

Missouri employers are generally immune from civil liability for responding in writing to a written request for an employment reference regarding a former employee from an entity or person reasonably believed to be a prospective employer. The response may both:

- Disclose the nature and character of the employee's role and the length of the employment.
- Truthfully state the cause for the employee's termination or resignation, which must be consistent with the reason stated in a service letter under § 290.140, RSMo.

(§ 290.152.3, RSMo.)

The employer must send a copy of the letter to the employee or former employee at the individual's last known address. An employee or former employee may request a copy of the letter up to one year after the date of the letter. (§ 290.152.3, RSMo.) Employers are immune from civil liability unless the response was false and made with either:



- Knowledge that it was false.
- Reckless disregard for whether it was true or false.

(§ 290.152.4, RSMo.)

Covered Employers

This law covers all Missouri employers.

Covered Employees

This law covers all Missouri employees and former employees.

Co-Worker Violations

This law does not address co-worker violations.

Private Right of Action

An aggrieved employee or former employee may bring a claim for compensatory damages (§ 290.152.5, RSMo).

Administration

The statute does not specify an administering agency.

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

Protected Activity

Any information concerning an employee's HIV infection status or the results of HIV testing may not be disclosed except in limited circumstances to public health officials, law enforcement officials, or other approved recipients on a need-to-know basis (§§ 191.656 and 191.657, RSMo).

Covered Employers

This law covers all Missouri employers (§§ 191.650.10 and 191.656, RSMo).

Covered Employees

This law covers all Missouri employees (§§ 191.650.10 and 191.656, RSMo).

Co-Worker Violations

Although this law does not address co-worker violations, individuals may be liable for violations.

Private Right of Action

An aggrieved employee may bring an action for damages (§ 191.656.6, RSMo).

Administration

The statute does not specify an administering agency.

Invasion of Privacy: § 565.252, RSMo

Protected Activity

An employer may not photograph, film, videotape, produce, or create an image of an employee, without the employee's consent either:

- While the employee is in:
 - a state of full or partial nudity; and
 - a place where one would have a reasonable expectation of privacy.
- Under or through the clothing worn by an employee for the purpose of viewing the employee's body or undergarments.

(§ 565.252.1, RSMo.)

Covered Employers

This law covers all Missouri employers (§ 565.252.1, RSMo).

Covered Employees

This law covers all Missouri employees (§ 565.252.1, RSMo).

Co-Worker Violations

Although this law does not address co-worker violations, individuals may be liable for violations.

Private Right of Action

There is no private right of action available under this law.

Administration

The local prosecuting attorney enforces this law.

Personal Identification Microchip Technology Law: § 285.035, RSMo

Protected Activity

An employer may not require an employee to have personal identification microchip technology implanted into the employee for any reason (§ 285.035.1, RSMo). Personal identification microchip technology is a subcutaneous or surgically implanted microchip technology device containing a unique identification number and personal information that can be retrieved

or transmitted with an external scanning device (§ 285.035.2, RSMo).

Covered Employers

This law covers all Missouri employers (§ 285.035.1, RSMo).

Covered Employees

This law covers all Missouri employees (§ 285.035.1, RSMo).

Co-Worker Violations

This law does not address co-worker violations.

Private Right of Action

This law has no private right of action.

Administration

The local prosecuting attorney administers the law.

Protection of Genetic Information: §§ 375.1300 to 375.1309, RSMo

Protected Activity

Employers may not use genetic information or the results of a genetic test to:

- Distinguish between employees or prospective employees.
- Discriminate against an employee or prospective employee.
- Restrict any right or benefit available to prospective or current employees.

(§ 375.1306.1, RSMo.)

Genetic information is defined as the results of a genetic test. A genetic test is a laboratory test of DNA or RNA used to identify the presence or absence of inherited alterations in the DNA or RNA that cause predisposition to disease or illness. (§§ 375.1300(3), (4), RSMo.)

Genetic information does not include:

- Family history.
- Routine physical measurements.
- The results of:
 - chemical, blood, or urine analysis;
 - tests for drugs or the presence of HIV; or

- any other tests commonly accepted in clinical practice at the time.

(§ 375.1300(3), RSMo.)

The law does not prohibit an employer from using employees' or prospective employees' genetic information if it is directly related to their ability to perform assigned job responsibilities (§ 375.1306.1(4), RSMo).

Covered Employers

This law covers all Missouri employers (§ 375.1306.1, RSMo).

Covered Employees

This law covers all Missouri current and prospective employees (§ 375.1306.1, RSMo).

Co-Worker Violations

This law does not specifically address co-worker violations, but a separate provision of the statute requires individuals who have access to genetic information in the course of their jobs to keep that information confidential (§ 375.1309, RSMo).

Private Right of Action

There is no private right of action available to employees.

Administration

This law is enforced by the [Missouri Department of Commerce and Insurance](#). The [Director of the Department](#) may impose civil penalties and bring suit to enforce compliance and seek damages. (§§ 374.046 and 374.048, RSMo.)

Protection of Social Security Numbers: § 407.1355, RSMo

Protected Activity

Employers may not:

- Publicly post or display an employee's Social Security number (SSN), including to the employee's co-workers.
- Require an employee to transmit their SSN on the internet unless the connection is secure or the data is encrypted.
- Require an employee's SSN to access a website unless another authentication device is also required.
- Require an employee's SSN or their last four digits as an employee number for any employment-related activity.

(§ 407.1355.1(1)-(5), RSMo.)

The law does not apply to the collection, use, or release of an employee's SSN as required by state or federal law or for internal verification or administrative purposes (§ 407.1355.3, RSMo).

Covered Employers

This law covers all Missouri employers (§ 407.1355.1, RSMo).

Covered Employees

This law covers all Missouri employees (§ 407.1355.1, RSMo).

Co-Worker Violations

Although this law does not address co-worker violations, individuals may be liable for violations.

Private Right of Action

Employees may bring a civil action against an employer that has acquired money or property through violation of the statute (§ 407.120, RSMo).

Administration

The attorney general enforces this law (§ 407.040, RSMo).

Service Letter Statute: § 290.140, RSMo

Protected Activity

Former employees may request a letter setting out the nature and character of service rendered by the former employee, the duration of employment, and the cause, if any, for why the former employee was discharged or voluntarily quit. The request must be submitted within one year of the discharge or voluntary end of employment via certified mail and must specifically reference the statute. Within 45 days of receipt of the letter, the former employer must issue the service letter, which must be signed by a superintendent or manager. (§ 290.140, RSMo.)

Covered Employers

This law covers Missouri employers with seven or more employees (§ 290.140.1, RSMo).

Covered Employees

This law covers former employees who were employed by a covered employer for at least 90 days (§ 290.140.1, RSMo).

Co-Worker Violations

There is no individual liability under this law (*Bartow v. State Farm Mut. Auto. Ins. Co.*, 531 F. Supp. 20, 22 (W.D.

Mo. 1981) ("The duty imposed by the service letter statute is the duty of the corporation").

Private Right of Action

An aggrieved individual may bring a civil lawsuit to recover damages (§ 290.140.2, RSMo).

Administration

The statute does not specify an administering agency.

Wiretap Law: § 542.402, RSMo

Protected Activity

Employers may not knowingly:

- Intercept, try to intercept, or have another intercept a wire communication.
- Use, try to use, or have another use any device to intercept oral communications if the device transmits communications by radio or interferes with radio transmission.
- Disclose or try to disclose to another person the contents of a wire communication when there is reason to know the information was obtained through unlawful interception of a wire communication.
- Use or try to use the contents of a wire communication when there is reason to know the information was obtained through the unlawful interception of a wire communication.

(§ 542.402.1(1)-(4), RSMo.)

The law does not apply to employers if either:

- The communication is intercepted, disclosed, or used in the normal course of employment (§ 542.402.2, RSMo).
- The employer is a party to the communication or the employee has given prior consent, so long as the communication is not being intercepted for the purpose of committing a criminal or tortious act (§ 542.402.2, RSMo).
- The communication is made under circumstances where there is no reasonable expectation of privacy, for example, in a public place (§ 542.400.8, RSMo).

Covered Employers

This law covers all Missouri employers (§ 542.402.1, RSMo).

Covered Employees

This law covers all Missouri employees (§ 542.402.1, RSMo).

Co-Worker Violations

Although this law does not address co-worker violations, individuals may be liable for violations.

Private Right of Action

An aggrieved employee may bring an action against an employer who intercepts, discloses, or uses a communication or who procures another party to do so (§ 542.418.2, RSMo).

Administration

The local prosecuting attorney enforces the law.

Personnel Files

2. For any law in Question 1 regarding employer maintenance of personnel files, please describe:

- What constitutes a personnel file in your jurisdiction.
- Which records employers must maintain and for how long.
- Any records that must be kept separately.
- Any records that should not be included in an employee's personnel file.
- How records must be maintained (for example, in digital or paper form, or in locked drawers or rooms).
- Any requirements or prohibitions regarding destruction of records.

Definition of Personnel File

None of the Missouri laws listed in Question 1 address employer maintenance of personnel files.

Required Records and Maintenance Period

None of the laws listed in Question 1 address employer maintenance of personnel files.

Separate Records

None of the laws listed in Question 1 address employer maintenance of personnel files.

Exclusions from Personnel Files

None of the laws listed in Question 1 address employer maintenance of personnel files.

How to Maintain Records

None of the laws listed in Question 1 address employer maintenance of personnel files.

Destruction of Records

None of the laws listed in Question 1 address employer maintenance of personnel files.

However, employees have a fundamental right of privacy in personal information contained in personnel files (*State ex rel. Tally v. Grimm*, 722 S.W.2d 604, 605 (Mo. 1987)). In the context of litigation, employment records sought in discovery must be limited to the issues raised in the pleadings (*State ex rel. Madlock v. O'Malley*, 8 S.W.3d 890, 891 (Mo. banc 1999)).

3. For any law in Question 1 regarding employee access to personnel files, please describe:

- Who may access the files, such as employees, applicants, and former employees.
- Whether individuals may copy the files or only inspect them.
- When access must be granted (and whether it must be granted within a set period of time).
- Any limitations on access.

None of the laws listed in Question 1 address employee access to personnel files. Missouri employees do not have a statutory right to inspect their own personnel records unless an employer and employee agree otherwise.

However, employers must provide former employees a service letter, on request, describing the nature and character of service rendered, the duration of employment, and the cause, if any, why the former employee was discharged or voluntarily quit under the Service Letter Statute (§ 290.140, RSMo).

Medical or Other Test Results

4. For any law in Question 1 that protects employees from medical examinations, including AIDS/HIV tests, or other tests, such as psychological or personality tests, please describe any limitations on access to test results or the protection of records.

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

In Missouri, an employer who obtains information regarding an employee's HIV status or the results of an employee's HIV testing may only disclose the information to:

- Public employees of government agencies, departments, or political subdivisions on a need-to-know basis related to their jobs.
- Law enforcement officers, in certain circumstances.
- Prosecuting attorneys, circuit attorneys, assistant attorneys general, and attorneys general, in certain circumstances.

(§ 191.656.1, RSMo.)

Employee Electronic Communications

5. For any law in Question 1 that governs the monitoring or recording of employees' electronic communications, please describe what monitoring or recording is permitted or prohibited in each of the following media:

- Telephone.
- Internet.
- Email.
- Other.

Wiretap Law: § 542.402, RSMo

Telephone Communications

Missouri employers may not record an employee's telephone conversation unless an exception to the wiretap law applies. Exceptions include either that:

- The employer is a party to the conversation or the employee has given consent and the recording is not being made for an unlawful purpose.
- The recording is made in the normal course of business.

(§ 542.402, RSMo.)

Internet Usage

There is no Missouri law that prohibits an employer from monitoring an employee's internet use except the wiretap law.

E-mail Communications

There is no Missouri law that prohibits an employer from monitoring an employee's e-mail communications.

Other Forms of Communication

There are no other statutes addressing monitoring or recording employee electronic communications in Missouri.

Searches, Surveillance, and Biometric Information

6. For any law in Question 1 that governs searches and surveillance, please describe:

- Any limits on employer searches (such as searches in common areas or individual offices).
- What kind of surveillance, tracking, or monitoring of workplaces or employees is permitted (such as GPS or video, or surveillance of an employee's computer or phone usage) and whether there are any limitations on the areas that can be monitored or recorded.
- Any limits on the use of biometric information (such as fingerprints, retina, or voiceprint scans used for identification).

Workplace Searches

Missouri does not have a law regulating workplace searches.

Surveillance and Tracking

Missouri does not have a law regulating employee surveillance and tracking.

Biometric Information

Missouri does not have a law regulating the use of biometric information.

Notice to Employees

7. For each privacy law listed in response to Question 1, what obligations does an employer have to inform its employees of their rights?

Employment Reference Immunity Law: § 290.152, RSMo

This Missouri law does not address employer notice obligations, except that an employer must also send the reference letter written in response to a request under this statute to the current or former employee, at the employee's last known address, when it is sent to the prospective employer (§ 290.152.3, RSMo).

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

The law does not address employer notice obligations.

Invasion of Privacy: § 565.252, RSMo

The law does not address employer notice obligations.

Personal Identification Microchip Technology Law: § 285.035, RSMo

The law does not address employer notice obligations.

Protection of Genetic Information: §§ 375.1300 to 375.1309, RSMo

The law does not address employer notice obligations.

Protection of Social Security Numbers: § 407.1355, RSMo

This law does not address employer notice obligations.

Service Letter Statute: § 290.140, RSMo

The law does not address employer notice obligations.

Wiretap Law: § 542.402, RSMo

This law does not address employer notice obligations.

Consequences for Violation

8. For each privacy law listed in response to Question 1, what are possible consequences for employers that violate the law?

Employment Reference Immunity Law: § 290.152, RSMo

Under this Missouri law, an aggrieved employee may recover compensatory damages in a civil action (§ 290.152.5, RSMo).

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

An aggrieved employee may bring a civil action for damages. For a negligent violation, the employee may recover for each violation:

- Actual damages or liquidated damages of \$1,000, whichever is greater.
- Costs and attorneys' fees.
- Other appropriate relief, including injunctive relief.

(§ 191.656.6, RSMo.)

For a willful, intentional, or reckless violation, the employee may recover for each violation:

- Actual damages or liquidated damages of \$5,000, whichever is greater.
- Exemplary damages.
- Costs and attorneys' fees.
- Other appropriate relief, including injunctive relief.

(§ 191.656.6, RSMo.)

Invasion of Privacy: § 565.252, RSMo

Violation of the law is at minimum a class A misdemeanor (§ 565.252.2, RSMo). The violation becomes a class E felony if:

- The person who illegally created the image under the statute distributes it to another person or transmits it in a manner that allows access via computer.
- The material is disseminated to another person.
- More than one person is viewed, photographed, filmed, or videotaped during the same violation.
- The offense was committed by someone who had previously been found guilty of invasion of privacy.

(§ 565.252.2, RSMo.)

Personal Identification Microchip Technology Law: § 285.035, RSMo

A violation of the law is a class A misdemeanor (§ 285.035.3, RSMo).

Protection of Genetic Information: §§ 375.1300 to 375.1309, RSMo

The [Director of the Department of Commerce and Insurance](#) may impose civil penalties, bring suit to enforce compliance, and seek damages (§§ 374.046 and 374.048, RSMo).

Protection of Social Security Numbers: § 407.1355, RSMo

The [attorney general](#) may seek an injunction, restitution, and civil penalties of \$1,000 or less per violation (§ 407.100, RSMo). The attorney general may also seek costs and attorneys' fees (§ 407.130, RSMo). An employee may recover damages in a civil action alleging a violation of the statute that resulted in the employer obtaining money or property (§ 407.120, RSMo).

Service Letter Statute: § 290.140, RSMo

An aggrieved employee may recover compensatory damages for a violation of the statute and may recover punitive damages and nominal damages if the employer did not issue the service letter. An award of punitive damages may not be based on the content of the letter. (§ 290.140.2, RSMo.)

Wiretap Law: § 542.402, RSMo

An employee aggrieved by an employer's violation of the law may recover in a civil action:

- Actual damages of the greater of:
 - at least \$100 per day for each day of violation; or
 - \$10,000.
- Punitive damages, on showing that the violation was willful or intentional.
- Reasonable attorneys' fees and costs.

(§ 542.418.2, RSMo.)

Violation of the law is a class E felony (§ 542.402.1, RSMo).

Consent

9. For each privacy law listed in response to Question 1, is employee consent required? If not, will employee consent protect the employer from liability?

Employment Reference Immunity Law: § 290.152, RSMo

This Missouri law does not specifically address consent as a defense from liability.

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

The law does not specifically address consent as a defense from liability.

Invasion of Privacy: § 565.252, RSMo

There is no violation of the statute for the creation of images under or through the clothing of an individual for the purpose of viewing the body or undergarments if the individual consents (§ 565.252.1, RSMo).

Protection of Genetic Information: §§ 375.1300 to 375.1309, RSMo

An employer does not violate the law if any action otherwise prohibited is taken with the written permission of the employee, former employee, or that individual's authorized representative (§ 375.1306.1, RSMo).

Protection of Social Security Numbers: § 407.1355, RSMo

The law does not specifically address consent as a defense from liability. However, because the law only prohibits employers from requiring employees to use their Social Security numbers (SSN) in proscribed ways, employees may voluntarily choose to use their SSNs for purposes that the statute would otherwise prohibit if required by the employer.

Personal Identification Microchip Technology Law: § 285.035, RSMo

The law does not specifically address consent as a defense from liability. However, because the law only

prohibits employers from requiring employees to submit to microchip implantation, employees may voluntarily agree to be implanted with microchips.

Service Letter Statute: § 290.140, RSMo

The law does not specifically address consent as a defense from liability. However, an employee may waive the right to request a service letter by contract (see *Earl v. St. Louis Univ.*, 875 S.W.2d 234, 236 (Mo. Ct. App. 1994)).

Wiretap Law: § 542.402, RSMo

Employee consent is not required if one of the law's other exceptions applies, but an employee's prior consent is a defense to an alleged violation of the statute as long as the communication is not intercepted for the purpose of committing a criminal or tortious act (§ 542.402.2(3), RSMo).

Recordkeeping

10. What are the recordkeeping obligations for each privacy law listed in response to Question 1?

Employment Reference Immunity Law: § 290.152, RSMo

This Missouri statute does not have any specific recordkeeping requirements, but employers should retain reference letters sent under the law for at least one year after the date of the letter in case an employee requests a copy (§ 290.152.3, RSMo).

Human Immunodeficiency Virus Testing Law: §§ 191.650 to 191.703, RSMo

The law does not address employer recordkeeping obligations apart from the requirement to keep any materials concerning HIV status or HIV testing results confidential (§ 191.656.1, RSMo).

Invasion of Privacy: § 565.252, RSMo

The law does not address employer recordkeeping obligations.

Personal Identification Microchip Technology Law: § 285.035, RSMo

The law does not address employer recordkeeping obligations.

Protection of Genetic Information: §§ 375.1300 to 375.1309, RSMo

The law does not address employer recordkeeping obligations.

Protection of Social Security Numbers: § 407.1355, RSMo

The law does not specifically address employer recordkeeping obligations. The law does not prevent employers from collecting, using, or releasing an SSN as required by state or federal law or for internal verification purposes. (§ 407.1355.3, RSMo.)

Service Letter Statute: § 290.140, RSMo

The law does not specifically address employer recordkeeping obligations. However, the statute of limitations for bringing a private action for a violation of the statute is two years, so employers should maintain any service letter at least that long. (§516.140, RSMo.)

Wiretap Law: § 542.402, RSMo

This law does not specifically address employer recordkeeping obligations.

Employees' Lawful, Off-Duty Activity

11. To the extent not described in Question 1, please state whether an employee's lawful, off-duty use of or activity in any of the following is protected and describe any limits to the protections:

- Tobacco use or use of other consumable goods.
- Online activities, including posting on social media sites.
- Other activities, including gun ownership or political activities.

Tobacco or Consumable Goods Use

In Missouri, employers may not discharge, refuse to hire, or take any other adverse employment action against an employee because of the lawful use of alcohol or tobacco products off work premises during non-working hours.

An employer does not violate the statute for taking such actions if the employee's use interferes with duties and job performance, co-workers, or the employer's business.

Employers may provide employee benefits at a reduced premium or deductible level for employees who do not use tobacco products. Religious employers and not-for-profit organizations whose principal business is health care promotion are exempt from the statute. This law does not create a private right of action. (§ 290.145, RSMo.)

Online Activities

Missouri law does not address employees' lawful off-duty use of the internet or social media.

Other Activities

Missouri's medical marijuana law does not address whether employers must permit employees to use medical marijuana during off-duty hours. The law does not permit employees to bring claims against employers for prohibiting the employee from being under the influence of marijuana at work or disciplining the employee for working or attempting to work while under the influence of marijuana. (Mo. Const. art. XIV, § 1(7)(d).)

Invasion of Privacy Claims

12. For invasion of privacy claims in your jurisdiction, please describe:

- The elements of an invasion of privacy claim, or factors relevant to the analysis.
- Affirmative or other defenses available to the employer.
- Examples of circumstances in which employees have been found to have a reasonable expectation of privacy in the workplace.

In Missouri, tort claims for invasion of privacy can be based on one of four theories:

- Unreasonable intrusion upon the seclusion of another.
- Appropriation of another's name or likeness.
- Unreasonable publicity given to another's private life.
- Publicity that unreasonably places another in a false light before the public.

(*St. Anthony's Med. Ctr. v. H.S.H.*, 974 S.W.2d 606, 609 (Mo. Ct. App. 1998).)

Claim Elements

Intrusion upon Seclusion

To maintain a claim for intrusion upon seclusion, an employee must prove all the following:

- The existence of a secret and private subject matter.
- The employee's right to keep that subject matter private.
- The defendant obtained information about the private subject matter by unreasonable means.

(*Crow v. Crawford & Co.*, 259 S.W.3d 104, 120 (Mo. Ct. App. 2008).)

A claim of intrusion upon seclusion is primarily concerned with whether private information is obtained by reasonable means. Once private information has been obtained, how it is handled is irrelevant to this tort. (See, *Mackey v. Belden, Inc.*, 2021 WL 3363174, at *10 (E.D. Mo. Aug. 3, 2021) ("Subsequent negligence in handling [private information] does not render the initial acquisition unreasonable".) Private information is obtained by unreasonable means if the method is objectionable to a reasonable person (*Corcoran v. Sw. Bell Tel. Co.*, 572 S.W.2d 212, 215 (Mo. Ct. App. 1978)).

Appropriation of Name or Likeness

To state a claim for appropriation of name or likeness, an employee must show all the following:

- The employer used the employee's name or likeness as a symbol of the employer's identity.
- The employee did not consent.
- The employer intended to obtain an advantage.

(*Doe v. TCI Cablevision*, 110 S.W.3d 363, 368 (Mo. 2003).)

A separate, related tort exists under Missouri law for right of publicity claims, which are substantially similar to appropriation claims but differ in the rights the two torts are intended to protect. The misappropriation tort "protects against intrusion upon an individual's private self-esteem and dignity, while the right of publicity protects against commercial loss caused by appropriation of an individual's [identity] for commercial exploitation." The elements of the actions are identical except that the right of publicity requires that the defendant sought a commercial advantage by appropriating the plaintiff's name or likeness. (*TCI Cablevision*, 110 S.W.3d at 368-69.) For more information, see [Right of Publicity Laws: Missouri](#).

Public Disclosure of Private Facts

A claim for public disclosure of private facts must show publication:

- Of private matters in which the public has no legitimate concern.
- In the absence of any waiver or privilege.
- That brings shame or humiliation to a person of ordinary sensibilities.

(*Corcoran*, 572 S.W.2d at 214–15.)

To satisfy the publication requirement, the private matter must be communicated to the public in general or to a large number of persons rather than to an individual or a few people (*Corcoran*, 572 S.W.2d at 215).

False Light Publicity

The elements of the tort of false light invasion of privacy include the following:

- Publication of a private matter.
- The publicized matter places the individual in a false light that would be highly offensive to a reasonable person.
- The employer knew of or acted with reckless disregard as to both:
 - the falsity of the publicized matter; and
 - the false light in which the employee would be viewed.

(*Meyerkord v. Zipatoni Co.*, 276 S.W.3d 319, 323 (Mo. Ct. App. 2008).)

A claim will only succeed if the employer knows that the employee, as a reasonable person, “would be justified in the eyes of the community in feeling seriously offended and aggrieved by the publicity.” Publications at issue typically concern a major misrepresentation of a person’s character, history, activities, or beliefs. (*Meyerkord*, 276 S.W.3d at 323.)

Though they are similar, a false light claim is distinguishable from a defamation claim. With a defamation claim, the interest sought to be protected is an individual’s reputation, whereas false light invasion of privacy is intended to protect a person’s right to be left alone. (*Farrow v. Saint Francis Med. Ctr.*, 407 S.W.3d 579, 601 (Mo. 2013).)

Employer Defenses

Employer defenses to an employee claim for invasion of privacy include that:

- The employee consented.
- Information published by the employer was in the public interest.

Consent

An employee’s consent to what would otherwise be an invasion of privacy:

- May be either:
 - explicit, as in a writing; or
 - implied from the employee’s conduct or inaction.

(See *Mackey v. Belden, Inc.*, 2021 WL 3363174, at *10 (E.D. Mo. Aug. 3, 2021).)

- Extends as a defense only to conduct that is within the scope of the consent (*Churchill in Crestwood, LLC v. Schwartz*, 2011 WL 7109212, at *15 (W.D. Mo. Jan. 27, 2011)).

Public Interest

A court may rule that published information alleged to violate an employee’s privacy is protected from suit because the information is in the public interest (*Barber v. Time, Inc.*, 348 Mo. 1199, 1206-07 (1942)).

Information is:

- In the public interest when it involves both:
 - the operation of laws; and
 - activities of police or other public bodies.
- Not in the public interest when the events involved both:
 - affect the individual alone; and
 - do not touch the sphere of public concern.

(*Buller v. Pulitzer Pub. Co.*, 684 S.W.2d 473, 482 (Mo. Ct. App. 1984).)

Reasonable Expectation of Privacy

Missouri courts have not addressed the reasonable expectation of privacy in the workplace.

Other Employee Privacy Laws

13. Please list and briefly describe any additional employment-related workplace privacy laws not previously addressed.

Kansas City Salary History Ban

Protected Activity

A Missouri employer in Kansas City engages in a prohibited discriminatory action if it does one or more of the following:

- Inquires about the salary history of an applicant for employment.
- Screens job applicants based on their current or prior wages, benefits, or other compensation, or salary histories.
- Relies on the salary history of an applicant in deciding whether to offer employment to an applicant, or in determining the salary, benefits, or other compensation for such applicant during the hiring process.
- Refuses to hire or otherwise disfavors, injures, or retaliates against an applicant for not disclosing their salary history to an employer.

([Kansas City Ord. 38-102\(a\)](#).)

Covered Employers

This law covers Kansas City employers with six or more employees ([Kansas City Ord. 38-1\(a\)\(13\)](#)).

Covered Employees

This law covers all employees and prospective employees ([Kansas City Ord. 38-1\(a\)\(12\)](#) and [38-102\(a\)](#)).

Co-Worker Violations

This law does not address co-worker violations.

Private Right of Action

An aggrieved individual may file a complaint with the Kansas City Human Rights Commission ([Kansas City Ord. 38-23](#)).

Administration

The ordinance is enforced by the Kansas City Human Rights Commission.

In addition to the laws stated in Question 1, Missouri may have additional laws on background checks and drug testing. For information on state laws on:

- Background checks, see [Background Check Laws: Missouri](#).
- Drug testing, see [Drug Testing Laws: Missouri](#).

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