

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 316**  
95TH GENERAL ASSEMBLY

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Reported from the Committee on General Laws, May 13, 2009, with recommendation that the Senate Committee Substitute do pass.

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TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 105.957, 105.961, 610.020, 610.021, 610.022, 610.023, 610.027, 610.029, 610.100, and 610.120, RSMo, and to enact in lieu thereof ten new sections relating to public records and meetings, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 105.957, 105.961, 610.020, 610.021, 610.022, 610.023, 610.027, 610.029, 610.100, and 610.120, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 105.957, 105.961, 610.020, 610.021, 610.022, 610.023, 610.027, 610.029, 610.100, and 610.120, to read as follows:

105.957. 1. The commission shall receive any complaints alleging violation of the provisions of:

(1) The requirements imposed on lobbyists by sections 105.470 to 105.478;

(2) The financial interest disclosure requirements contained in sections 105.483 to 105.492;

(3) The campaign finance disclosure requirements contained in chapter 130, RSMo;

(4) Any code of conduct promulgated by any department, division or agency of state government, or by state institutions of higher education, or by executive order;

(5) The conflict of interest laws contained in sections 105.450 to 105.468 and section 171.181, RSMo; and

(6) The provisions of the constitution or state statute or order, ordinance

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

14 or resolution of any political subdivision relating to the official conduct of officials  
15 or employees of the state and political subdivisions.

16           2. Complaints filed with the commission shall be in writing and filed only  
17 by a natural person. The complaint shall contain all facts known by the  
18 complainant that have given rise to the complaint and the complaint shall be  
19 sworn to, under penalty of perjury, by the complainant. No complaint shall be  
20 investigated unless the complaint alleges facts which, if true, fall within the  
21 jurisdiction of the commission. Within five days after receipt of a complaint by  
22 the commission, a copy of the complaint, including the name of the complainant,  
23 shall be delivered to the alleged violator.

24           3. No complaint shall be investigated which concerns alleged criminal  
25 conduct which allegedly occurred previous to the period of time allowed by law for  
26 criminal prosecution for such conduct. The commission may refuse to investigate  
27 any conduct which is the subject of civil or criminal litigation. The commission,  
28 its executive director or an investigator shall not investigate any complaint  
29 concerning conduct which is not criminal in nature which occurred more than two  
30 years prior to the date of the complaint. A complaint alleging misconduct on the  
31 part of a candidate for public office, other than those alleging failure to file the  
32 appropriate financial interest statements or campaign finance disclosure reports,  
33 shall not be accepted by the commission within sixty days prior to the primary  
34 election at which such candidate is running for office, and until after the general  
35 election.

36           4. If the commission finds that any complaint is frivolous in nature [or  
37 finds no probable cause to believe that there has been a violation], the  
38 commission shall dismiss the case. For purposes of this subsection, "frivolous"  
39 shall mean a complaint clearly lacking any basis in fact or law. Any person who  
40 submits a frivolous complaint shall be liable for actual and compensatory  
41 damages to the alleged violator for holding the alleged violator before the public  
42 in a false light. If the commission finds that a complaint is frivolous [or that  
43 there is not probable cause to believe there has been a violation], the commission  
44 shall issue a public report to the complainant and the alleged violator stating  
45 with particularity its reasons for dismissal of the complaint. Upon such issuance,  
46 the complaint and all materials relating to the complaint shall be a public record  
47 as defined in chapter 610, RSMo.

48           5. Complaints which allege violations as described in this section which  
49 are filed with the commission shall be handled as provided by section 105.961.

105.961. 1. Upon receipt of a complaint as described by section 105.957,  
2 the commission shall assign the complaint to a special investigator, who may be  
3 a commission employee, who shall investigate and determine the merits of the  
4 complaint. Within ten days of such assignment, the special investigator shall  
5 review such complaint and disclose, in writing, to the commission any conflict of  
6 interest which the special investigator has or might have with respect to the  
7 investigation and subject thereof. Within one hundred twenty days of receipt of  
8 the complaint from the commission, the special investigator shall submit the  
9 special investigator's report to the commission. The commission, after review of  
10 such report, shall determine:

11 (1) That there is reasonable grounds for belief that a violation has  
12 occurred; or

13 (2) That there are no reasonable grounds for belief that a violation exists  
14 and the complaint should be dismissed; or

15 (3) That additional time is necessary to complete the investigation, and  
16 the status and progress of the investigation to date. The commission, in its  
17 discretion, may allow the investigation to proceed for additional successive  
18 periods of one hundred twenty days each, pending reports regarding the status  
19 and progress of the investigation at the end of each such period.

20 2. When the commission concludes, based on the report from the special  
21 investigator, or based on an audit conducted pursuant to section 105.959, that  
22 there are reasonable grounds to believe that a violation of any criminal law has  
23 occurred, and if the commission believes that criminal prosecution would be  
24 appropriate upon a vote of four members of the commission, the commission shall  
25 refer the report to the Missouri office of prosecution services, prosecutors  
26 coordinators training council established in section 56.760, RSMo, which shall  
27 submit a panel of five attorneys for recommendation to the court having criminal  
28 jurisdiction, for appointment of an attorney to serve as a special prosecutor;  
29 except that, the attorney general of Missouri or any assistant attorney general  
30 shall not act as such special prosecutor. The court shall then appoint from such  
31 panel a special prosecutor pursuant to section 56.110, RSMo, who shall have all  
32 the powers provided by section 56.130, RSMo. The court shall allow a reasonable  
33 and necessary attorney's fee for the services of the special prosecutor. Such fee  
34 shall be assessed as costs if a case is filed, or ordered by the court if no case is  
35 filed, and paid together with all other costs in the proceeding by the state, in  
36 accordance with rules and regulations promulgated by the state courts

37 administrator, subject to funds appropriated to the office of administration for  
38 such purposes. If the commission does not have sufficient funds to pay a special  
39 prosecutor, the commission shall refer the case to the prosecutor or prosecutors  
40 having criminal jurisdiction. If the prosecutor having criminal jurisdiction is not  
41 able to prosecute the case due to a conflict of interest, the court may appoint a  
42 special prosecutor, paid from county funds, upon appropriation by the county or  
43 the attorney general to investigate and, if appropriate, prosecute the case. The  
44 special prosecutor or prosecutor shall commence an action based on the report by  
45 the filing of an information or seeking an indictment within sixty days of the date  
46 of such prosecutor's appointment, or shall file a written statement with the  
47 commission explaining why criminal charges should not be sought. If the special  
48 prosecutor or prosecutor fails to take either action required by this subsection,  
49 upon request of the commission, a new special prosecutor, who may be the  
50 attorney general, shall be appointed. The report may also be referred to the  
51 appropriate disciplinary authority over the person who is the subject of the  
52 report.

53           3. When the commission concludes, based on the report from the special  
54 investigator or based on an audit conducted pursuant to section 105.959, that  
55 there are reasonable grounds to believe that a violation of any law has occurred  
56 which is not a violation of criminal law or that criminal prosecution is not  
57 appropriate, the commission shall conduct a hearing which shall be a closed  
58 meeting and not open to the public. The hearing shall be conducted pursuant to  
59 the procedures provided by sections 536.063 to 536.090, RSMo, and shall be  
60 considered to be a contested case for purposes of such sections. The commission  
61 shall determine, in its discretion, whether or not that there is probable cause that  
62 a violation has occurred. If the commission determines, by a vote of at least four  
63 members of the commission, that probable cause exists that a violation has  
64 occurred, the commission may refer its findings and conclusions to the  
65 appropriate disciplinary authority over the person who is the subject of the  
66 report, as described in subsection 7 of this section. After the commission  
67 determines by a vote of at least four members of the commission that probable  
68 cause exists that a violation has occurred, and the commission has referred the  
69 findings and conclusions to the appropriate disciplinary authority over the person  
70 subject of the report, the subject of the report may appeal the determination of  
71 the commission to the administrative hearing commission. Such appeal shall stay  
72 the action of the Missouri ethics commission. Such appeal shall be filed not later

73 than the fourteenth day after the subject of the commission's action receives  
74 actual notice of the commission's action. **Notwithstanding any other**  
75 **provision of law to the contrary, all records introduced at a hearing, or**  
76 **any portion thereof, and the record of the hearing, shall be open**  
77 **records under chapter 610, RSMo, when the commission determines at**  
78 **a hearing that probable cause exists that a violation has occurred**  
79 **pursuant to subsection 3 of section 105.961. Upon the motion of any**  
80 **party and good cause shown, the commission may close any record to**  
81 **be introduced at a hearing, including the record of the hearing, or any**  
82 **portion thereof.**

83 4. If the appropriate disciplinary authority receiving a report from the  
84 commission pursuant to subsection 3 of this section fails to follow, within sixty  
85 days of the receipt of the report, the recommendations contained in the report, or  
86 if the commission determines, by a vote of at least four members of the  
87 commission that some action other than referral for criminal prosecution or for  
88 action by the appropriate disciplinary authority would be appropriate, the  
89 commission shall take any one or more of the following actions:

90 (1) Notify the person to cease and desist violation of any provision of law  
91 which the report concludes was violated and that the commission may seek  
92 judicial enforcement of its decision pursuant to subsection 5 of this section;

93 (2) Notify the person of the requirement to file, amend or correct any  
94 report, statement, or other document or information required by sections 105.473,  
95 105.483 to 105.492, or chapter 130, RSMo, and that the commission may seek  
96 judicial enforcement of its decision pursuant to subsection 5 of this section; and

97 (3) File the report with the executive director to be maintained as a public  
98 document; or

99 (4) Issue a letter of concern or letter of reprimand to the person, which  
100 would be maintained as a public document; or

101 (5) Issue a letter that no further action shall be taken, which would be  
102 maintained as a public document; or

103 (6) Through reconciliation agreements or civil action, the power to seek  
104 fees for violations in an amount not greater than one thousand dollars or double  
105 the amount involved in the violation.

106 5. Upon vote of at least four members, the commission may initiate formal  
107 judicial proceedings seeking to obtain any of the following orders:

108 (1) Cease and desist violation of any provision of sections 105.450 to

109 105.496, or chapter 130, RSMo, or sections 105.955 to 105.963;

110 (2) Pay any civil penalties required by sections 105.450 to 105.496 or  
111 chapter 130, RSMo;

112 (3) File any reports, statements, or other documents or information  
113 required by sections 105.450 to 105.496, or chapter 130, RSMo; or

114 (4) Pay restitution for any unjust enrichment the violator obtained as a  
115 result of any violation of any criminal statute as described in subsection 6 of this  
116 section.

117 The Missouri ethics commission shall give actual notice to the subject of the  
118 complaint of the proposed action as set out in this section. The subject of the  
119 complaint may appeal the action of the Missouri ethics commission, other than  
120 a referral for criminal prosecution, to the administrative hearing  
121 commission. Such appeal shall stay the action of the Missouri ethics  
122 commission. Such appeal shall be filed no later than fourteen days after the  
123 subject of the commission's actions receives actual notice of the commission's  
124 actions.

125 6. In the proceeding in circuit court, the commission may seek restitution  
126 against any person who has obtained unjust enrichment as a result of violation  
127 of any provision of sections 105.450 to 105.496, or chapter 130, RSMo, and may  
128 recover on behalf of the state or political subdivision with which the alleged  
129 violator is associated, damages in the amount of any unjust enrichment obtained  
130 and costs and attorney's fees as ordered by the court.

131 7. The appropriate disciplinary authority to whom a report shall be sent  
132 pursuant to subsection 2 or 3 of this section shall include, but not be limited to,  
133 the following:

134 (1) In the case of a member of the general assembly, the ethics committee  
135 of the house of which the subject of the report is a member;

136 (2) In the case of a person holding an elective office or an appointive office  
137 of the state, if the alleged violation is an impeachable offense, the report shall be  
138 referred to the ethics committee of the house of representatives;

139 (3) In the case of a person holding an elective office of a political  
140 subdivision, the report shall be referred to the governing body of the political  
141 subdivision;

142 (4) In the case of any officer or employee of the state or of a political  
143 subdivision, the report shall be referred to the person who has immediate  
144 supervisory authority over the employment by the state or by the political

145 subdivision of the subject of the report;

146 (5) In the case of a judge of a court of law, the report shall be referred to  
147 the commission on retirement, removal and discipline, or if the inquiry involves  
148 an employee of the judiciary to the applicable presiding judge;

149 (6) In the case of a person holding an appointive office of the state, if the  
150 alleged violation is not an impeachable offense, the report shall be referred to the  
151 governor;

152 (7) In the case of a statewide elected official, the report shall be referred  
153 to the attorney general;

154 (8) In a case involving the attorney general, the report shall be referred  
155 to the prosecuting attorney of Cole County.

156 8. The special investigator having a complaint referred to the special  
157 investigator by the commission shall have the following powers:

158 (1) To request and shall be given access to information in the possession  
159 of any person or agency which the special investigator deems necessary for the  
160 discharge of the special investigator's responsibilities;

161 (2) To examine the records and documents of any person or agency, unless  
162 such examination would violate state or federal law providing for confidentiality;

163 (3) To administer oaths and affirmations;

164 (4) Upon refusal by any person to comply with a request for information  
165 relevant to an investigation, an investigator may issue a subpoena for any person  
166 to appear and give testimony, or for a subpoena duces tecum to produce  
167 documentary or other evidence which the investigator deems relevant to a matter  
168 under the investigator's inquiry. The subpoenas and subpoenas duces tecum may  
169 be enforced by applying to a judge of the circuit court of Cole County or any  
170 county where the person or entity that has been subpoenaed resides or may be  
171 found, for an order to show cause why the subpoena or subpoena duces tecum  
172 should not be enforced. The order and a copy of the application therefor shall be  
173 served in the same manner as a summons in a civil action, and if, after hearing,  
174 the court determines that the subpoena or subpoena duces tecum should be  
175 sustained and enforced, the court shall enforce the subpoena or subpoena duces  
176 tecum in the same manner as if it had been issued by the court in a civil action;  
177 and

178 (5) To request from the commission such investigative, clerical or other  
179 staff assistance or advancement of other expenses which are necessary and  
180 convenient for the proper completion of an investigation. Within the limits of

181 appropriations to the commission, the commission may provide such assistance,  
182 whether by contract to obtain such assistance or from staff employed by the  
183 commission, or may advance such expenses.

184           9. (1) Any retired judge may request in writing to have the judge's name  
185 removed from the list of special investigators subject to appointment by the  
186 commission or may request to disqualify himself or herself from any  
187 investigation. Such request shall include the reasons for seeking removal;

188           (2) By vote of four members of the commission, the commission may  
189 disqualify a judge from a particular investigation or may permanently remove the  
190 name of any retired judge from the list of special investigators subject to  
191 appointment by the commission.

192           10. Any person who is the subject of any investigation pursuant to this  
193 section shall be entitled to be represented by counsel at any proceeding before the  
194 special investigator or the commission.

195           11. The provisions of sections 105.957, 105.959 and 105.961 are in  
196 addition to other provisions of law under which any remedy or right of appeal or  
197 objection is provided for any person, or any procedure provided for inquiry or  
198 investigation concerning any matter. The provisions of this section shall not be  
199 construed to limit or affect any other remedy or right of appeal or objection.

200           12. No person shall be required to make or file a complaint to the  
201 commission as a prerequisite for exhausting the person's administrative remedies  
202 before pursuing any civil cause of action allowed by law.

203           13. If, in the opinion of the commission, the complaining party was  
204 motivated by malice or reason contrary to the spirit of any law on which such  
205 complaint was based, in filing the complaint without just cause, this finding shall  
206 be reported to appropriate law enforcement authorities. Any person who  
207 knowingly files a complaint without just cause, or with malice, is guilty of a class  
208 A misdemeanor.

209           14. A respondent party who prevails in a formal judicial action brought  
210 by the commission shall be awarded those reasonable fees and expenses incurred  
211 by that party in the formal judicial action, unless the court finds that the position  
212 of the commission was substantially justified or that special circumstances make  
213 such an award unjust.

214           15. The special investigator and members and staff of the commission  
215 shall maintain confidentiality with respect to all matters concerning a complaint  
216 until and if a report is filed with the commission, with the exception of

217 communications with any person which are necessary to the investigation. The  
218 report filed with the commission resulting from a complaint acted upon under the  
219 provisions of this section shall not contain the name of the complainant or other  
220 person providing information to the investigator, if so requested in writing by the  
221 complainant or such other person. Any person who violates the confidentiality  
222 requirements imposed by this section or subsection 17 of section 105.955 required  
223 to be confidential is guilty of a class A misdemeanor and shall be subject to  
224 removal from or termination of employment by the commission.

225         16. Any judge of the court of appeals or circuit court who ceases to hold  
226 such office by reason of the judge's retirement and who serves as a special  
227 investigator pursuant to this section shall receive annual compensation, salary  
228 or retirement for such services at the rates of compensation provided for senior  
229 judges by subsections 1, 2 and 4 of section 476.682, RSMo. Such retired judges  
230 shall by the tenth day of each month following any month in which the judge  
231 provided services pursuant to this section certify to the commission and to the  
232 state courts administrator the amount of time engaged in such services by hour  
233 or fraction thereof, the dates thereof, and the expenses incurred and allowable  
234 pursuant to this section. The commission shall then issue a warrant to the state  
235 treasurer for the payment of the salary and expenses to the extent, and within  
236 limitations, provided for in this section. The state treasurer upon receipt of such  
237 warrant shall pay the same out of any appropriations made for this purpose on  
238 the last day of the month during which the warrant was received by the state  
239 treasurer.

610.020. 1. All public governmental bodies shall give notice of the time,  
2 date, and place of each meeting, and its tentative agenda, in a manner reasonably  
3 calculated to advise the public of the matters to be considered, and if the meeting  
4 will be conducted by telephone or other electronic means, the notice of the  
5 meeting shall identify the mode by which the meeting will be conducted and the  
6 designated location where the public may observe and attend the meeting. If a  
7 public body plans to meet by Internet chat, Internet message board, or other  
8 computer link, it shall post a notice of the meeting on its web site in addition to  
9 its principal office and shall notify the public how to access that  
10 meeting. Reasonable notice shall include making available copies of the notice  
11 to any representative of the news media who requests notice of meetings of a  
12 particular public governmental body concurrent with the notice being made  
13 available to the members of the particular governmental body and posting the

14 notice on a bulletin board or other prominent place which is easily accessible to  
15 the public and clearly designated for that purpose at the principal office of the  
16 body holding the meeting, or if no such office exists, at the building in which the  
17 meeting is to be held.

18           2. Notice conforming with all of the requirements of subsection 1 of this  
19 section shall be given at least twenty-four hours, exclusive of weekends and  
20 holidays when the facility is closed, prior to the commencement of any meeting  
21 of a governmental body unless for good cause such notice is impossible or  
22 impractical, in which case as much notice as is reasonably possible shall be  
23 given. Each meeting shall be held at a place reasonably accessible to the public  
24 and of sufficient size to accommodate the anticipated attendance by members of  
25 the public, and at a time reasonably convenient to the public, unless for good  
26 cause such a place or time is impossible or impractical. Every reasonable effort  
27 shall be made to grant special access to the meeting to handicapped or disabled  
28 individuals.

29           3. A public body shall allow for the recording by audiotape, videotape, or  
30 other electronic means of any open meeting. A public body may establish  
31 guidelines regarding the manner in which such recording is conducted so as to  
32 minimize disruption to the meeting. No audio recording of any meeting, record,  
33 or vote closed pursuant to the provisions of section 610.021 shall be permitted  
34 without permission of the public body; any person who violates this provision  
35 shall be guilty of a class C misdemeanor.

36           4. When it is necessary to hold a meeting on less than twenty-four hours'  
37 notice, or at a place that is not reasonably accessible to the public, or at a time  
38 that is not reasonably convenient to the public, the nature of the good cause  
39 justifying that departure from the normal requirements shall be stated in the  
40 minutes.

41           5. A formally constituted subunit of a parent governmental body may  
42 conduct a meeting without notice as required by this section during a lawful  
43 meeting of the parent governmental body, a recess in that meeting, or  
44 immediately following that meeting, if the meeting of the subunit is publicly  
45 announced at the parent meeting and the subject of the meeting reasonably  
46 coincides with the subjects discussed or acted upon by the parent governmental  
47 body.

48           6. If another provision of law requires a manner of giving specific notice  
49 of a meeting, hearing or an intent to take action by a governmental body,

50 compliance with that section shall constitute compliance with the notice  
51 requirements of this section.

52         7. A journal or minutes of open and closed meetings shall be taken and  
53 retained by the public governmental body, including, but not limited to, a record  
54 of any votes taken at such meeting. The minutes shall include, **but not be**  
55 **limited to**, the date, time, place, members present, members absent and a record  
56 of any votes taken. When a roll call vote is taken, the minutes shall attribute  
57 each "yea" and "nay" vote or abstinence if not voting to the name of the individual  
58 member of the public governmental body. **Minutes shall reflect a summary**  
59 **of the discussions occurring during any closed meeting, but nothing in**  
60 **this subsection shall require the disclosure of records or votes that are**  
61 **properly closed pursuant to section 610.021.**

62         8. **Notwithstanding other provisions of this section to the**  
63 **contrary, for any public meeting addressing issues regarding a fee or**  
64 **tax increase, eminent domain, zoning of a specific property or zoning**  
65 **map amendment, transportation development districts, capital**  
66 **improvement districts, commercial improvement districts, or tax**  
67 **increment financing, the governing body of any county, city, town, or**  
68 **village, or any entity created by such county, city, town, or village,**  
69 **shall give notice conforming with all the requirements of subsection 1**  
70 **of this section at least four days before such entity may vote to address**  
71 **such issues, exclusive of weekends and holidays when the facility is**  
72 **closed; provided that this subsection shall not apply to any votes or**  
73 **discussion related to proposed ordinances which require a minimum of**  
74 **two separate readings on different days for their passage, or in case of**  
75 **emergencies. Each public meeting described in this subsection shall**  
76 **include a period of time in which the members of the public may offer**  
77 **comments on matters of the public business of the entity holding the**  
78 **meeting. Public comment shall be taken after the proponents of the**  
79 **proposal have made their presentation. If the notice required under**  
80 **this subsection is not properly given, any discussion of such issues shall**  
81 **be postponed, and no vote on such issues shall be held until proper**  
82 **notice has been provided pursuant to this subsection. For the purpose**  
83 **of this subsection, a tax increase shall not include the setting of the**  
84 **annual tax rates provided for under sections 67.110 and 137.055, RSMo.**  
85 **In zoning matters, the four-day notice of commencement of any meeting**  
86 **addressing a zoning matter as set out in this subsection shall apply to**

87 **the first meeting at which the matter is heard, whether at a meeting of**  
88 **the jurisdiction's governing body, at a board of zoning adjustment**  
89 **meeting, or at a planning and zoning meeting.**

610.021. Except to the extent disclosure is otherwise required by law, a  
2 public governmental body is authorized to close meetings, records and votes, to  
3 the extent they relate to the following:

4 (1) Legal actions, causes of action or litigation involving a public  
5 governmental body and any confidential or privileged communications between  
6 a public governmental body or its representatives and its attorneys. However,  
7 any minutes, vote or settlement agreement relating to legal actions, causes of  
8 action or litigation involving a public governmental body or any agent or entity  
9 representing its interests or acting on its behalf or with its authority, including  
10 any insurance company acting on behalf of a public government body as its  
11 insured, shall be [made public] **publicly disclosed in an open meeting** upon  
12 final disposition of the matter voted upon or upon the signing by the parties of  
13 the settlement agreement, unless, prior to final disposition, the settlement  
14 agreement is ordered closed by a court after a written finding that the adverse  
15 impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy  
16 considerations of section 610.011, however, the amount of any moneys paid by, or  
17 on behalf of, the public governmental body shall be disclosed; provided, however,  
18 in matters involving the exercise of the power of eminent domain, the vote shall  
19 be [announced or become public] **publicly disclosed in an open meeting**  
20 immediately following the action on the motion to authorize institution of such  
21 a legal action. Legal work product shall be considered a closed record. **When**  
22 **public disclosure in an open meeting is prescribed, such disclosure**  
23 **shall be done orally or in writing, or both, and shall occur at an open**  
24 **meeting of the governing body. As used in this subdivision, "cause of**  
25 **action" means that a lawsuit has been filed, regardless of whether the**  
26 **lawsuit has been served, or correspondence from a party to the body**  
27 **stating that litigation shall be filed unless certain demands are met and**  
28 **the body agrees that such demands will not be met or are unlikely to**  
29 **be met, or the body agrees that a substantial likelihood exists that**  
30 **litigation may occur. The provisions of this subdivision shall only**  
31 **apply to settlement agreements involving a claim under 42 U.S.C. 1983,**  
32 **chapter 213, RSMo, or involving the federal Equal Employment**  
33 **Opportunity Commission, or any claim or cause of action involving**

34 **personal injury or property damage, other than a claim brought**  
35 **pursuant to chapters 287 or 288, RSMo, if the settlement of such claims**  
36 **is in excess of twenty-five thousand dollars for any one occurrence;**

37 (2) Leasing, purchase or sale of real estate by a public governmental body  
38 where public knowledge of the transaction might adversely affect the legal  
39 consideration therefor. However, any minutes, vote or public record approving  
40 a contract relating to the leasing, purchase or sale of real estate by a public  
41 governmental body shall be made public upon execution of the lease, purchase or  
42 sale of the real estate;

43 (3) Hiring, firing, disciplining or promoting of particular employees by a  
44 public governmental body when personal information about the employee is  
45 discussed or recorded. However, any vote on a final decision, when taken by a  
46 public governmental body, to hire, fire, promote or discipline an employee of a  
47 public governmental body shall be made available with a record of how each  
48 member voted to the public within seventy-two hours of the close of the meeting  
49 where such action occurs; provided, however, that any employee so affected shall  
50 be entitled to prompt notice of such decision during the seventy-two-hour period  
51 before such decision is made available to the public. As used in this subdivision,  
52 the term "personal information" means information relating to the performance  
53 or merit of individual employees;

54 (4) The state militia or national guard or any part thereof;

55 (5) Nonjudicial mental or physical health proceedings involving  
56 identifiable persons, including medical, psychiatric, psychological, or alcoholism  
57 or drug dependency diagnosis or treatment;

58 (6) Scholastic probation, expulsion, or graduation of identifiable  
59 individuals, including records of individual test or examination scores; however,  
60 personally identifiable student records maintained by public educational  
61 institutions shall be open for inspection by the parents, guardian or other  
62 custodian of students under the age of eighteen years and by the parents,  
63 guardian or other custodian and the student if the student is over the age of  
64 eighteen years;

65 (7) Testing and examination materials, before the test or examination is  
66 given or, if it is to be given again, before so given again;

67 (8) Welfare cases of identifiable individuals;

68 (9) Preparation, including any discussions or work product, on behalf of  
69 a public governmental body or its representatives for negotiations with employee

70 groups;

71 (10) Software codes for electronic data processing and documentation  
72 thereof;

73 (11) Specifications for competitive bidding, until either the specifications  
74 are officially approved by the public governmental body or the specifications are  
75 published for bid;

76 (12) Sealed bids and related documents, until the bids are opened; and  
77 sealed proposals and related documents or any documents related to a negotiated  
78 contract until a contract is executed, or all proposals are rejected;

79 (13) Individually identifiable personnel records, performance ratings or  
80 records pertaining to employees or applicants for employment, except that this  
81 exemption shall not apply to the names, positions, salaries and lengths of service  
82 of officers and employees of public agencies once they are employed as such, and  
83 the names of private sources donating or contributing money to the salary of a  
84 chancellor or president at all public colleges and universities in the state of  
85 Missouri and the amount of money contributed by the source;

86 (14) Records which are protected from disclosure by law;

87 (15) Meetings and public records relating to scientific and technological  
88 innovations in which the owner has a proprietary interest;

89 (16) Records relating to municipal hotlines established for the reporting  
90 of abuse and wrongdoing;

91 (17) Confidential or privileged communications between a public  
92 governmental body and its auditor, including all auditor work product; however,  
93 all final audit reports issued by the auditor are to be considered open records  
94 pursuant to this chapter;

95 (18) Operational guidelines and policies developed, adopted, or maintained  
96 by any public agency responsible for law enforcement, public safety, first  
97 response, or public health for use in responding to or preventing any critical  
98 incident which is or appears to be terrorist in nature and which has the potential  
99 to endanger individual or public safety or health.

100 Nothing in this exception shall be deemed to close information regarding  
101 expenditures, purchases, or contracts made by an agency in implementing these  
102 guidelines or policies. When seeking to close information pursuant to this  
103 exception, the agency shall affirmatively state in writing that disclosure would  
104 impair its ability to protect the safety or health of persons, and shall in the same  
105 writing state that the public interest in nondisclosure outweighs the public

106 interest in disclosure of the records. This exception shall sunset on December 31,  
107 2012;

108 (19) Existing or proposed security systems and structural plans of real  
109 property owned or leased by a public governmental body, and information that is  
110 voluntarily submitted by a nonpublic entity owning or operating an infrastructure  
111 to any public governmental body for use by that body to devise plans for  
112 protection of that infrastructure, the public disclosure of which would threaten  
113 public safety:

114 (a) Records related to the procurement of or expenditures relating to  
115 security systems purchased with public funds shall be open;

116 (b) When seeking to close information pursuant to this exception, the  
117 public governmental body shall affirmatively state in writing that disclosure  
118 would impair the public governmental body's ability to protect the security or  
119 safety of persons or real property, and shall in the same writing state that the  
120 public interest in nondisclosure outweighs the public interest in disclosure of the  
121 records;

122 (c) Records that are voluntarily submitted by a nonpublic entity shall be  
123 reviewed by the receiving agency within ninety days of submission to determine  
124 if retention of the document is necessary in furtherance of a state security  
125 interest. If retention is not necessary, the documents shall be returned to the  
126 nonpublic governmental body or destroyed;

127 (d) This exception shall sunset on December 31, 2012;

128 (20) Records that identify the configuration of components or the  
129 operation of a computer, computer system, computer network, or  
130 telecommunications network, and would allow unauthorized access to or unlawful  
131 disruption of a computer, computer system, computer network, or  
132 telecommunications network of a public governmental body. This exception shall  
133 not be used to limit or deny access to otherwise public records in a file, document,  
134 data file or database containing public records. Records related to the  
135 procurement of or expenditures relating to such computer, computer system,  
136 computer network, or telecommunications network, including the amount of  
137 moneys paid by, or on behalf of, a public governmental body for such computer,  
138 computer system, computer network, or telecommunications network shall be  
139 open; [and]

140 (21) Credit card numbers, personal identification numbers, digital  
141 certificates, physical and virtual keys, access codes or authorization codes that

142 are used to protect the security of electronic transactions between a public  
143 governmental body and a person or entity doing business with a public  
144 governmental body. Nothing in this section shall be deemed to close the record  
145 of a person or entity using a credit card held in the name of a public  
146 governmental body or any record of a transaction made by a person using a credit  
147 card or other method of payment for which reimbursement is made by a public  
148 governmental body;

149 **(22) Records submitted by an individual, corporation, or other**  
150 **business entity to a public institution of higher education in connection**  
151 **with a proposal to license intellectual property or perform sponsored**  
152 **research and which contain sales projections or other business plan**  
153 **information the disclosure of which may endanger the competitiveness**  
154 **of a business; except the name of the individual, corporation, or other**  
155 **business entity and the amount of any public funding provided to such**  
156 **individual, corporation, or other business entity by the public**  
157 **institution of higher education shall be deemed as records open for**  
158 **public inspection;**

159 **(23) Records and documents of and pertaining to internal**  
160 **investigations by a law enforcement agency into matters of fitness and**  
161 **conduct of a law enforcement officer employed by such investigating**  
162 **law enforcement agency used solely in connection with matters relating**  
163 **to the employment of such law enforcement officer, and records and**  
164 **documents pertaining to any determinations or actions relating to an**  
165 **officer's employment status taken in connection with or following such**  
166 **investigations. However, if such records and documents are used or**  
167 **shared by an agency in a criminal investigation involving an officer,**  
168 **provisions regarding incident reports, investigative reports or other**  
169 **documents covered under section 610.100 shall apply; and**

170 **(24) Deliberations and votes by a board of trustees concerning**  
171 **denial of an application to participate in a state insurance trust fund,**  
172 **or a denial of a claim for reimbursement from said fund, provided that**  
173 **the disposition of the matter, including the amount of any moneys paid**  
174 **from the fund, shall be disclosed as required by this section.**

610.022. 1. Except as set forth in subsection 2 of this section, no meeting  
2 or vote may be closed without an affirmative public vote of the majority of a  
3 quorum of the public governmental body. The vote of each member of the public  
4 governmental body on the question of closing a public meeting or vote and the

5 specific reason for closing that public meeting or vote by reference to a specific  
6 section of this chapter shall be announced publicly at an open meeting of the  
7 governmental body and entered into the minutes.

8         2. A public governmental body proposing to hold a closed meeting or vote  
9 shall give notice of the time, date and place of such closed meeting or vote and  
10 the reason for holding it by reference to the specific exception allowed pursuant  
11 to the provisions of section 610.021. Such notice shall comply with the procedures  
12 set forth in section 610.020 for notice of a public meeting.

13         3. Any meeting or vote closed pursuant to section 610.021 shall be closed  
14 only to the extent necessary for the specific reason announced to justify the closed  
15 meeting or vote. Public governmental bodies shall not discuss any business in a  
16 closed meeting, record or vote which does not directly relate to the specific reason  
17 announced to justify the closed meeting or vote. **Only members of a public**  
18 **governmental body, their attorney and staff assistants, and any other**  
19 **person necessary to provide information needed by or requested by the**  
20 **public governmental body in regard to the matter being discussed shall**  
21 **be permitted in a closed meeting.** Public governmental bodies holding a  
22 closed meeting shall close only an existing portion of the meeting facility  
23 necessary to house the members of the public governmental body in the closed  
24 session, allowing members of the public to remain to attend any subsequent open  
25 session held by the public governmental body following the closed session.

26         4. Nothing in sections 610.010 to 610.028 shall be construed as to require  
27 a public governmental body to hold a closed meeting, record or vote to discuss or  
28 act upon any matter.

29         5. Public records shall be presumed to be open unless otherwise exempt  
30 pursuant to the provisions of this chapter.

31         6. In the event any member of a public governmental body makes a  
32 motion to close a meeting, or a record, or a vote from the public and any other  
33 member believes that such motion, if passed, would cause a meeting, record or  
34 vote to be closed from the public in violation of any provision in this chapter, such  
35 latter member shall state his or her objection to the motion at or before the time  
36 the vote is taken on the motion. The public governmental body shall enter in the  
37 minutes of the public governmental body any objection made pursuant to this  
38 subsection. Any member making such an objection shall be allowed to fully  
39 participate in any meeting, record or vote that is closed from the public over the  
40 member's objection. In the event the objecting member also voted in opposition

41 to the motion to close the meeting, record or vote at issue, the objection and vote  
42 of the member as entered in the minutes shall be an absolute defense to any  
43 claim filed against the objecting member pursuant to section 610.027.

610.023. 1. Each public governmental body is to appoint a custodian who  
2 is to be responsible for the maintenance of that body's records. The identity and  
3 location of a public governmental body's custodian is to be made available upon  
4 request.

5 2. Each public governmental body shall make available for inspection and  
6 copying by the public of that body's public records. No person shall remove  
7 original public records from the office of a public governmental body or its  
8 custodian without written permission of the designated custodian. No public  
9 governmental body shall, after August 28, 1998, grant to any person or entity,  
10 whether by contract, license or otherwise, the exclusive right to access and  
11 disseminate any public record unless the granting of such right is necessary to  
12 facilitate coordination with, or uniformity among, industry regulators having  
13 similar authority.

14 3. Each request for access to a public record shall be acted upon as soon  
15 as possible, but in no event later than the end of the third business day following  
16 the date the request is received by the custodian of records of a public  
17 governmental body. If records are requested in a certain format, the public body  
18 shall provide the records in the requested format, if such format is  
19 available. **Data-processing programs used by public governmental**  
20 **bodies shall allow for copying of data in a format that is easily accessed**  
21 **and manipulated by programs commonly available to the public,**  
22 **provided that this requirement shall not be construed to compel a**  
23 **hospital operated by the board of curators of the University of Missouri**  
24 **or under chapter 96, 205, or 206, RSMo, to violate its licensing**  
25 **agreement for the use of proprietary data processing systems for**  
26 **financial or patient medical record information.** If access to the public  
27 record is not granted immediately, the custodian shall give a detailed explanation  
28 of the cause for further delay and the place and earliest time and date that the  
29 record will be available for inspection. This period for document production may  
30 exceed three days for reasonable cause.

31 4. If a request for access is denied, the custodian shall provide, upon  
32 request, a written statement of the grounds for such denial. Such statement shall  
33 cite the specific provision of law under which access is denied and shall be

34 furnished to the requester no later than the end of the third business day  
35 following the date that the request for the statement is received.

610.027. 1. The remedies provided by this section against public  
2 governmental bodies shall be in addition to those provided by any other provision  
3 of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney  
4 general or prosecuting attorney, may seek judicial enforcement of the  
5 requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to  
6 610.026 shall be brought in the circuit court for the county in which the public  
7 governmental body has its principal place of business. Upon service of a  
8 summons, petition, complaint, counterclaim, or cross-claim in a civil action  
9 brought to enforce the provisions of sections 610.010 to 610.026, the custodian of  
10 the public record that is the subject matter of such civil action shall not transfer  
11 custody, alter, destroy, or otherwise dispose of the public record sought to be  
12 inspected and examined, notwithstanding the applicability of an exemption  
13 pursuant to section 610.021 or the assertion that the requested record is not a  
14 public record until the court directs otherwise.

15 [2. Once a party seeking judicial enforcement of sections 610.010 to  
16 610.026 demonstrates to the court that the body in question is subject to the  
17 requirements of sections 610.010 to 610.026 and has held a closed meeting, record  
18 or vote, the burden of persuasion shall be on the body and its members to  
19 demonstrate compliance with the requirements of sections 610.010 to 610.026.]

20 **2. In any legal proceeding, there shall be a presumption that a**  
21 **meeting, record, or vote is open to the public. The burden shall be on**  
22 **a public governmental body or a member of a public governmental body**  
23 **to prove that such meeting, record, or vote may be closed to the public.**

24 3. Upon a finding by a preponderance of the evidence that a public  
25 governmental body or a member of a public governmental body has knowingly  
26 violated sections 610.010 to 610.026, the public governmental body or the member  
27 shall be subject to a civil penalty in an amount up to one thousand dollars. If the  
28 court finds that there is a knowing violation of sections 610.010 to 610.026, the  
29 court may order the payment by such body or member of all costs and reasonable  
30 attorney fees to any party successfully establishing a violation. The court shall  
31 determine the amount of the penalty by taking into account the size of the  
32 jurisdiction, the seriousness of the offense, and whether the public governmental  
33 body or member of a public governmental body has violated sections 610.010 to  
34 610.026 previously.

35           4. Upon a finding by [a preponderance of the] **clear and convincing**  
36 evidence that a public governmental body or a member of a public governmental  
37 body has purposely violated sections 610.010 to 610.026, the public governmental  
38 body or the member shall be subject to a civil penalty in an amount up to [five]  
39 **eight** thousand dollars. If the court finds that there was a purposeful violation  
40 of sections 610.010 to 610.026, then the court shall order the payment by such  
41 body or member of all costs and reasonable attorney fees to any party successfully  
42 establishing such a violation. **As used in this subsection, "purposely**  
43 **violated" means exhibiting a conscious design, intent, or plan to violate**  
44 **the law, and doing so with awareness of the probable**  
45 **consequences.** The court shall determine the amount of the penalty by taking  
46 into account the size of the jurisdiction, the seriousness of the offense, and  
47 whether the public governmental body or member of a public governmental body  
48 has violated sections 610.010 to 610.026 previously.

49           5. Upon a finding by a preponderance of the evidence that a public  
50 governmental body has violated any provision of sections 610.010 to 610.026, a  
51 court shall void any action taken in violation of sections 610.010 to 610.026, if the  
52 court finds under the facts of the particular case that the public interest in the  
53 enforcement of the policy of sections 610.010 to 610.026 outweighs the public  
54 interest in sustaining the validity of the action taken in the [closed] meeting,  
55 record or vote. Suit for enforcement shall be brought within one year from which  
56 the violation is ascertainable and in no event shall it be brought later than two  
57 years after the violation. This subsection shall not apply to an action taken  
58 regarding the issuance of bonds or other evidence of indebtedness of a public  
59 governmental body if a public hearing, election or public sale has been held  
60 regarding the bonds or evidence of indebtedness.

61           6. A public governmental body which is in doubt about the legality of  
62 closing a particular meeting, record or vote may bring suit at the expense of that  
63 public governmental body in the circuit court of the county of the public  
64 governmental body's principal place of business to ascertain the propriety of any  
65 such action, or seek a formal opinion of the attorney general or an attorney for  
66 the governmental body.

610.029. 1. A public governmental body keeping its records in an  
2 electronic format is strongly encouraged to provide access to its public records to  
3 members of the public in an electronic format. A public governmental body [is  
4 strongly encouraged to] **that maintains its records in an electronic format**

5 **shall** make information available in a **format easily accessed and managed**  
6 **by programs commonly available to the public** [usable electronic formats  
7 to the greatest extent feasible]. A public governmental body may not enter into  
8 a contract for the creation or maintenance of a public records database if that  
9 contract impairs the ability of the public to inspect or copy the public records of  
10 that agency, including public records that are on-line or stored in an electronic  
11 record-keeping system used by the agency. Such contract may not allow any  
12 impediment that as a practical matter makes it more difficult for the public to  
13 inspect or copy the records than to inspect or copy the public governmental body's  
14 records. For purposes of this section, a usable electronic format shall allow, at  
15 a minimum, viewing and printing of records. However, if the public governmental  
16 body keeps a record on a system capable of allowing the copying of electronic  
17 documents into other electronic documents, the public governmental body shall  
18 provide data to the public in such electronic format, if requested. The activities  
19 authorized pursuant to this section may not take priority over the primary  
20 responsibilities of a public governmental body. For purposes of this section the  
21 term "electronic services" means on-line access or access via other electronic  
22 means to an electronic file or database. This subsection shall not apply to  
23 contracts initially entered into before August 28, 2004.

24 2. Public governmental bodies shall include in a contract for electronic  
25 services provisions that:

26 (1) Protect the security and integrity of the information system of the  
27 public governmental body and of information systems that are shared by public  
28 governmental bodies; and

29 (2) Limit the liability of the public governmental body providing the  
30 services **through the use of data loss prevention or data leak prevention**  
31 **technology that can identify, monitor, and protect data at rest, data in**  
32 **use, or data in motion through deep content inspection and with a**  
33 **centralized management framework.**

34 3. Each public governmental body may consult with the division of data  
35 processing and telecommunications of the office of administration to develop the  
36 electronic services offered by the public governmental body to the public pursuant  
37 to this section.

610.100. 1. As used in sections 610.100 to 610.150, the following words  
2 and phrases shall mean:

3 (1) "Arrest", an actual restraint of the person of the defendant, or by his

4 or her submission to the custody of the officer, under authority of a warrant or  
5 otherwise for a criminal violation which results in the issuance of a summons or  
6 the person being booked;

7 (2) "Arrest report", a record of a law enforcement agency of an arrest and  
8 of any detention or confinement incident thereto together with the charge  
9 therefor;

10 (3) "Inactive", an investigation in which no further action will be taken  
11 by a law enforcement agency or officer for any of the following reasons:

12 (a) A decision by the law enforcement agency not to pursue the case;

13 (b) Expiration of the time to file criminal charges pursuant to the  
14 applicable statute of limitations, or ten years after the commission of the offense;  
15 whichever date earliest occurs;

16 (c) Finality of the convictions of all persons convicted on the basis of the  
17 information contained in the investigative report, by exhaustion of or expiration  
18 of all rights of appeal of such persons;

19 (4) "Incident report", a record of a law enforcement agency consisting of  
20 the date, time, specific location, name of the victim and immediate facts and  
21 circumstances surrounding the initial report of a crime or incident, including any  
22 logs of reported crimes, accidents and complaints maintained by that agency;

23 (5) "Investigative report", a record, other than an arrest or incident report,  
24 prepared by personnel of a law enforcement agency, inquiring into a crime or  
25 suspected crime, either in response to an incident report or in response to  
26 evidence developed by law enforcement officers in the course of their duties.

27 2. Each law enforcement agency of this state, of any county, and of any  
28 municipality shall maintain records of all incidents reported to the agency,  
29 investigations and arrests made by such law enforcement agency. All incident  
30 reports and arrest reports shall be open records. Notwithstanding any other  
31 provision of law other than the provisions of subsections 4, 5 and 6 of this section  
32 or section 320.083, RSMo, investigative reports of all law enforcement agencies  
33 are closed records until the investigation becomes inactive. If any person is  
34 arrested and not charged with an offense against the law within thirty days of the  
35 person's arrest, the arrest report shall thereafter be a closed record except that  
36 the disposition portion of the record may be accessed and except as provided in  
37 section 610.120.

38 3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any  
39 portion of a record or document of a law enforcement officer or agency, other than

40 an arrest report, which would otherwise be open, contains information that is  
41 reasonably likely to pose a clear and present danger to the safety of any victim,  
42 witness, undercover officer, or other person; or jeopardize a criminal  
43 investigation, including records which would disclose the identity of a source  
44 wishing to remain confidential or a suspect not in custody; or which would  
45 disclose techniques, procedures or guidelines for law enforcement investigations  
46 or prosecutions, that portion of the record shall be closed and shall be redacted  
47 from any record made available pursuant to this chapter.

48         4. Any person, including a family member of such person within the first  
49 degree of consanguinity if such person is deceased or incompetent, attorney for  
50 a person, or insurer of a person involved in any incident or whose property is  
51 involved in an incident, may obtain any records closed pursuant to this section  
52 or section 610.150 for purposes of investigation of any civil claim or defense, as  
53 provided by this subsection. Any individual, his or her family member within the  
54 first degree of consanguinity if such individual is deceased or incompetent, his or  
55 her attorney or insurer, involved in an incident or whose property is involved in  
56 an incident, upon written request, may obtain a complete unaltered and unedited  
57 incident report concerning the incident, and may obtain access to other records  
58 closed by a law enforcement agency pursuant to this section. Within thirty days  
59 of such request, the agency shall provide the requested material or file a motion  
60 pursuant to this subsection with the circuit court having jurisdiction over the law  
61 enforcement agency stating that the safety of the victim, witness or other  
62 individual cannot be reasonably ensured, or that a criminal investigation is likely  
63 to be jeopardized. If, based on such motion, the court finds for the law  
64 enforcement agency, the court shall either order the record closed or order such  
65 portion of the record that should be closed to be redacted from any record made  
66 available pursuant to this subsection.

67         5. Any person may bring an action pursuant to this section in the circuit  
68 court having jurisdiction to authorize disclosure of the information contained in  
69 an investigative report of any law enforcement agency, which would otherwise be  
70 closed pursuant to this section. The court may order that all or part of the  
71 information contained in an investigative report be released to the person  
72 bringing the action. In making the determination as to whether information  
73 contained in an investigative report shall be disclosed, the court shall consider  
74 whether the benefit to the person bringing the action or to the public outweighs  
75 any harm to the public, to the law enforcement agency or any of its officers, or to

76 any person identified in the investigative report in regard to the need for law  
77 enforcement agencies to effectively investigate and prosecute criminal  
78 activity. The investigative report in question may be examined by the court in  
79 camera. The court may find that the party seeking disclosure of the investigative  
80 report shall [bear the] **have its** reasonable and necessary costs and attorneys'  
81 fees [of both parties, unless] **paid if** the court finds that the decision of the law  
82 enforcement agency not to open the investigative report was substantially  
83 unjustified under all relevant circumstances[, and in that event, the court may  
84 assess such reasonable and necessary costs and attorneys' fees to the law  
85 enforcement agency].

86           6. Any person may apply pursuant to this subsection to the circuit court  
87 having jurisdiction for an order requiring a law enforcement agency to open  
88 incident reports and arrest reports being unlawfully closed pursuant to this  
89 section. If the court finds by a preponderance of the evidence that the law  
90 enforcement officer or agency has knowingly violated this section, the officer or  
91 agency shall be subject to a civil penalty in an amount up to one thousand  
92 dollars. If the court finds that there is a knowing violation of this section, the  
93 court may order payment by such officer or agency of all costs and attorneys' fees,  
94 as provided by section 610.027. If the court finds by a preponderance of the  
95 evidence that the law enforcement officer or agency has purposely violated this  
96 section, the officer or agency shall be subject to a civil penalty in an amount up  
97 to five thousand dollars and the court shall order payment by such officer or  
98 agency of all costs and attorney fees, as provided in section 610.027. The court  
99 shall determine the amount of the penalty by taking into account the size of the  
100 jurisdiction, the seriousness of the offense, and whether the law enforcement  
101 officer or agency has violated this section previously.

102           7. The victim of an offense as provided in chapter 566, RSMo, may request  
103 that his or her identity be kept confidential until a charge relating to such  
104 incident is filed.

610.120. 1. Records required to be closed shall not be destroyed; they  
2 shall be inaccessible to the general public and to all persons other than the  
3 defendant except as provided in this section and section 43.507, RSMo. The  
4 closed records shall be available to: criminal justice agencies for the  
5 administration of criminal justice pursuant to section 43.500, RSMo, criminal  
6 justice employment, screening persons with access to criminal justice facilities,  
7 procedures, and sensitive information; to law enforcement agencies for issuance

8 or renewal of a license, permit, certification, or registration of authority from such  
9 agency including but not limited to watchmen, security personnel, private  
10 investigators, and persons seeking permits to purchase or possess a firearm; those  
11 agencies authorized by section 43.543, RSMo, to submit and when submitting  
12 fingerprints to the central repository; the sentencing advisory commission created  
13 in section 558.019, RSMo, for the purpose of studying sentencing practices in  
14 accordance with section 43.507, RSMo; to qualified entities for the purpose of  
15 screening providers defined in section 43.540, RSMo; the department of revenue  
16 for driver license administration; the [division of workers' compensation]  
17 **department of public safety** for the purposes of determining eligibility for  
18 crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo,  
19 department of health and senior services for the purpose of licensing and  
20 regulating facilities and regulating in-home services provider agencies and federal  
21 agencies for purposes of criminal justice administration, criminal justice  
22 employment, child, elderly, or disabled care, and for such investigative purposes  
23 as authorized by law or presidential executive order.

24 2. These records shall be made available only for the purposes and to the  
25 entities listed in this section. A criminal justice agency receiving a request for  
26 criminal history information under its control may require positive identification,  
27 to include fingerprints of the subject of the record search, prior to releasing closed  
28 record information. Dissemination of closed and open records from the Missouri  
29 criminal records repository shall be in accordance with section 43.509, RSMo. All  
30 records which are closed records shall be removed from the records of the courts,  
31 administrative agencies, and law enforcement agencies which are available to the  
32 public and shall be kept in separate records which are to be held confidential and,  
33 where possible, pages of the public record shall be retyped or rewritten omitting  
34 those portions of the record which deal with the defendant's case. If retyping or  
35 rewriting is not feasible because of the permanent nature of the record books,  
36 such record entries shall be blacked out and recopied in a confidential book.

✓