

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1445**  
**95TH GENERAL ASSEMBLY**

3405L.03C

D. ADAM CRUMBLISS, Chief Clerk

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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, and 610.100, RSMo, and to enact in lieu thereof twelve 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Section A. Sections 105.957, 105.961, 610.020, 610.021, 610.022, 610.023, 610.027, 2 610.029, and 610.100, RSMo, are repealed and twelve new sections enacted in lieu thereof, to 3 be known as sections 105.957, 105.961, 610.020, 610.021, 610.022, 610.023, 610.027, 610.029, 4 610.040, 610.045, 610.050, and 610.100, to read as follows:

105.957. 1. The commission shall receive any complaints alleging violation of the 2 provisions of:

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

4 (2) The financial interest disclosure requirements contained in sections 105.483 to 5 105.492;

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

7 (4) Any code of conduct promulgated by any department, division or agency of state 8 government, or by state institutions of higher education, or by executive order;

9 (5) The conflict of interest laws contained in sections 105.450 to 105.468 and section 10 171.181, RSMo; and

11 (6) The provisions of the constitution or state statute or order, ordinance or resolution 12 of any political subdivision relating to the official conduct of officials or employees of the state 13 and political subdivisions.

14 2. Complaints filed with the commission shall be in writing and filed only by a natural 15 person. The complaint shall contain all facts known by the complainant that have given rise to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 the complaint and the complaint shall be sworn to, under penalty of perjury, by the complainant.  
17 No complaint shall be investigated unless the complaint alleges facts which, if true, fall within  
18 the jurisdiction of the commission. Within five days after receipt of a complaint [by the  
19 commission] **that is properly signed and notarized and that alleges facts that, if true, fall**  
20 **within the jurisdiction of the commission**, a copy of the complaint, including the name of the  
21 complainant, shall be delivered to the alleged violator.

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

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

42 5. Complaints which allege violations as described in this section which are filed with  
43 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, the  
2 commission shall assign the complaint to a special investigator, who may be a commission  
3 employee, who shall investigate and determine the merits of the complaint. Within ten days of  
4 such assignment, the special investigator shall review such complaint and disclose, in writing,  
5 to the commission any conflict of interest which the special investigator has or might have with  
6 respect to the investigation and subject thereof. Within one hundred twenty days of receipt of  
7 the complaint from the commission, the special investigator shall submit the special

8 investigator's report to the commission. The commission, after review of such report, shall  
9 determine:

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

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

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

18 2. When the commission concludes, based on the report from the special investigator,  
19 or based on an audit conducted pursuant to section 105.959, that there are reasonable grounds  
20 to believe that a violation of any criminal law has occurred, and if the commission believes that  
21 criminal prosecution would be appropriate upon a vote of four members of the commission, the  
22 commission shall refer the report to the Missouri office of prosecution services, prosecutors  
23 coordinators training council established in section 56.760, RSMo, which shall submit a panel  
24 of five attorneys for recommendation to the court having criminal jurisdiction, for appointment  
25 of an attorney to serve as a special prosecutor; except that, the attorney general of Missouri or  
26 any assistant attorney general shall not act as such special prosecutor. The court shall then  
27 appoint from such panel a special prosecutor pursuant to section 56.110, RSMo, who shall have  
28 all the powers provided by section 56.130, RSMo. The court shall allow a reasonable and  
29 necessary attorney's fee for the services of the special prosecutor. Such fee shall be assessed as  
30 costs if a case is filed, or ordered by the court if no case is filed, and paid together with all other  
31 costs in the proceeding by the state, in accordance with rules and regulations promulgated by the  
32 state courts administrator, subject to funds appropriated to the office of administration for such  
33 purposes. If the commission does not have sufficient funds to pay a special prosecutor, the  
34 commission shall refer the case to the prosecutor or prosecutors having criminal jurisdiction.  
35 If the prosecutor having criminal jurisdiction is not able to prosecute the case due to a conflict  
36 of interest, the court may appoint a special prosecutor, paid from county funds, upon  
37 appropriation by the county or the attorney general to investigate and, if appropriate, prosecute  
38 the case. The special prosecutor or prosecutor shall commence an action based on the report by  
39 the filing of an information or seeking an indictment within sixty days of the date of such  
40 prosecutor's appointment, or shall file a written statement with the commission explaining why  
41 criminal charges should not be sought. If the special prosecutor or prosecutor fails to take either  
42 action required by this subsection, upon request of the commission, a new special prosecutor,

43 who may be the attorney general, shall be appointed. The report may also be referred to the  
44 appropriate disciplinary authority over the person who is the subject of the report.

45 3. When the commission concludes, based on the report from the special investigator or  
46 based on an audit conducted pursuant to section 105.959, that there are reasonable grounds to  
47 believe that a violation of any law has occurred which is not a violation of criminal law or that  
48 criminal prosecution is not appropriate, the commission shall conduct a hearing which shall be  
49 a closed meeting and not open to the public. The hearing shall be conducted pursuant to the  
50 procedures provided by sections 536.063 to 536.090, RSMo, and shall be considered to be a  
51 contested case for purposes of such sections. **Notwithstanding any other provision of law to  
52 the contrary, all records introduced at a hearing or any portion thereof, and the record of  
53 the hearing, shall be open records under chapter 610 when the commission determines at  
54 a hearing that probable cause exists that a violation has occurred under this subsection.  
55 Upon the motion of any party, the commission shall, upon good cause shown, close any  
56 record to be introduced at a hearing, including the record of the hearing, or any portion  
57 thereof. The order of the commission regarding the motion to close any record of the  
58 hearing shall be an open record, and shall state the reasons for the commission's order.**

59 The commission shall determine, in its discretion, whether or not that there is probable cause that  
60 a violation has occurred. If the commission determines, by a vote of at least four members of  
61 the commission, that probable cause exists that a violation has occurred, the commission may  
62 refer its findings and conclusions to the appropriate disciplinary authority over the person who  
63 is the subject of the report, as described in subsection 7 of this section. After the commission  
64 determines by a vote of at least four members of the commission that probable cause exists that  
65 a violation has occurred, and the commission has referred the findings and conclusions to the  
66 appropriate disciplinary authority over the person subject of the report, the subject of the report  
67 may appeal the determination of the commission to the administrative hearing commission.  
68 Such appeal shall stay the action of the Missouri ethics commission. Such appeal shall be filed  
69 not later than the fourteenth day after the subject of the commission's action receives actual  
70 notice of the commission's action.

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

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

80 (2) Notify the person of the requirement to file, amend or correct any report, statement,  
81 or other document or information required by sections 105.473, 105.483 to 105.492, or chapter  
82 130, RSMo, and that the commission may seek judicial enforcement of its decision pursuant to  
83 subsection 5 of this section; and

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

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

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

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

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

94 (1) Cease and desist violation of any provision of sections 105.450 to 105.496, or chapter  
95 130, RSMo, or sections 105.955 to 105.963;

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

98 (3) File any reports, statements, or other documents or information required by sections  
99 105.450 to 105.496, or chapter 130, RSMo; or

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

102

103 The Missouri ethics commission shall give actual notice to the subject of the complaint of the  
104 proposed action as set out in this section. The subject of the complaint may appeal the action  
105 of the Missouri ethics commission, other than a referral for criminal prosecution, to the  
106 administrative hearing commission. Such appeal shall stay the action of the Missouri ethics  
107 commission. Such appeal shall be filed no later than fourteen days after the subject of the  
108 commission's actions receives actual notice of the commission's actions.

109 6. In the proceeding in circuit court, the commission may seek restitution against any  
110 person who has obtained unjust enrichment as a result of violation of any provision of sections  
111 105.450 to 105.496, or chapter 130, RSMo, and may recover on behalf of the state or political

112 subdivision with which the alleged violator is associated, damages in the amount of any unjust  
113 enrichment obtained and costs and attorney's fees as ordered by the court.

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

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

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

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

123 (4) In the case of any officer or employee of the state or of a political subdivision, the  
124 report shall be referred to the person who has immediate supervisory authority over the  
125 employment by the state or by the political subdivision of the subject of the report;

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

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

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

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

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

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

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

142 (3) To administer oaths and affirmations;

143 (4) Upon refusal by any person to comply with a request for information relevant to an  
144 investigation, an investigator may issue a subpoena for any person to appear and give testimony,  
145 or for a subpoena duces tecum to produce documentary or other evidence which the investigator  
146 deems relevant to a matter under the investigator's inquiry. The subpoenas and subpoenas duces  
147 tecum may be enforced by applying to a judge of the circuit court of Cole County or any county

148 where the person or entity that has been subpoenaed resides or may be found, for an order to  
149 show cause why the subpoena or subpoena duces tecum should not be enforced. The order and  
150 a copy of the application therefor shall be served in the same manner as a summons in a civil  
151 action, and if, after hearing, the court determines that the subpoena or subpoena duces tecum  
152 should be sustained and enforced, the court shall enforce the subpoena or subpoena duces tecum  
153 in the same manner as if it had been issued by the court in a civil action; and

154 (5) To request from the commission such investigative, clerical or other staff assistance  
155 or advancement of other expenses which are necessary and convenient for the proper completion  
156 of an investigation. Within the limits of appropriations to the commission, the commission may  
157 provide such assistance, whether by contract to obtain such assistance or from staff employed  
158 by the commission, or may advance such expenses.

159 9. (1) Any retired judge may request in writing to have the judge's name removed from  
160 the list of special investigators subject to appointment by the commission or may request to  
161 disqualify himself or herself from any investigation. Such request shall include the reasons for  
162 seeking removal;

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

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

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

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

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

182 14. A respondent party who prevails in a formal judicial action brought by the  
183 commission shall be awarded those reasonable fees and expenses incurred by that party in the

184 formal judicial action, unless the court finds that the position of the commission was  
185 substantially justified or that special circumstances make such an award unjust.

186         15. The special investigator and members and staff of the commission shall maintain  
187 confidentiality with respect to all matters concerning a complaint until and if a report is filed  
188 with the commission, with the exception of communications with any person which are  
189 necessary to the investigation. The report filed with the commission resulting from a complaint  
190 acted upon under the provisions of this section shall not contain the name of the complainant or  
191 other person providing information to the investigator, if so requested in writing by the  
192 complainant or such other person. Any person who violates the confidentiality requirements  
193 imposed by this section or subsection 17 of section 105.955 required to be confidential is guilty  
194 of a class A misdemeanor and shall be subject to removal from or termination of employment  
195 by the commission.

196         16. Any judge of the court of appeals or circuit court who ceases to hold such office by  
197 reason of the judge's retirement and who serves as a special investigator pursuant to this section  
198 shall receive annual compensation, salary or retirement for such services at the rates of  
199 compensation provided for senior judges by subsections 1, 2 and 4 of section 476.682, RSMo.  
200 Such retired judges shall by the tenth day of each month following any month in which the judge  
201 provided services pursuant to this section certify to the commission and to the state courts  
202 administrator the amount of time engaged in such services by hour or fraction thereof, the dates  
203 thereof, and the expenses incurred and allowable pursuant to this section. The commission shall  
204 then issue a warrant to the state treasurer for the payment of the salary and expenses to the extent,  
205 and within limitations, provided for in this section. The state treasurer upon receipt of such  
206 warrant shall pay the same out of any appropriations made for this purpose on the last day of the  
207 month during which the warrant was received by the state treasurer.

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

13 at the principal office of the body holding the meeting, or if no such office exists, at the building  
14 in which the meeting is to be held.

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

24         3. A public body shall allow for the recording by audiotape, videotape, or other  
25 electronic means of any open meeting. A public body may establish guidelines regarding the  
26 manner in which such recording is conducted so as to minimize disruption to the meeting. No  
27 audio recording of any meeting, record, or vote closed pursuant to the provisions of section  
28 610.021 shall be permitted without permission of the public body; any person who violates this  
29 provision shall be guilty of a class C misdemeanor.

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

34         5. A formally constituted subunit of a parent governmental body may conduct a meeting  
35 without notice as required by this section during a lawful meeting of the parent governmental  
36 body, a recess in that meeting, or immediately following that meeting, if the meeting of the  
37 subunit is publicly announced at the parent meeting and the subject of the meeting reasonably  
38 coincides with the subjects discussed or acted upon by the parent governmental body.

39         6. If another provision of law requires a manner of giving specific notice of a meeting,  
40 hearing or an intent to take action by a governmental body, compliance with that section shall  
41 constitute compliance with the notice requirements of this section.

42         7. A journal or minutes of open and closed meetings shall be taken and retained by the  
43 public governmental body, including, but not limited to, a record of any votes taken at such  
44 meeting. The minutes shall include, **but not be limited to**, the date, time, place, members  
45 present, members absent and a record of any votes taken. When a roll call vote is taken, the  
46 minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the  
47 individual member of the public governmental body. **Minutes shall reflect a summary of the**  
48 **discussions occurring during any closed meeting. Nothing in this subsection shall require**

49 the disclosure of records or votes that are properly closed under section 610.021; however,  
50 nothing in this subsection shall allow closure of records or votes that are open under this  
51 chapter.

52 **8. Notwithstanding other provisions of this section to the contrary, for any public**  
53 **meeting addressing issues regarding a fee or tax increase, eminent domain, zoning,**  
54 **transportation development districts, capital improvement districts, community**  
55 **improvement districts, commercial improvement districts, or tax increment financing, the**  
56 **governing body of any county, city, town, or village, or any entity created by such county,**  
57 **city, town, or village, shall give notice conforming with all the requirements of subsection**  
58 **1 of this section at least five days before such entity may vote to address such issues,**  
59 **exclusive of weekends and holidays when the facility is closed. Each public meeting**  
60 **described in this subsection shall include a period of time in which the members of the**  
61 **public may offer comments on matters of the public business of the entity holding the**  
62 **meeting. Public comment shall be taken after the proponents of the proposal have made**  
63 **their presentation. If the notice required under this subsection is not properly given, any**  
64 **discussion of such issues shall be postponed, and no vote on such issues shall be held for**  
65 **at least twenty days after the public meeting for which notice under this subsection should**  
66 **have been provided. An entity may discuss and vote on any issue if proper notice has been**  
67 **provided under this subsection. For the purpose of this subsection, a tax increase shall not**  
68 **include the setting of the annual tax rates provided for under sections 67.110 and 137.055.**

69 **9. At all regular meetings of the state board of education, there shall be a public**  
70 **comment period of at least one hour. Any person or group wishing to discuss a topic**  
71 **relating to education in this state that requests time to do so in writing at least two weeks**  
72 **before the meeting shall be allowed not less than ten minutes to do so at the next available**  
73 **public comment period on a first-come, first-served schedule. The board may, by**  
74 **unanimous vote, cancel the public comment period at any meeting on the basis of an**  
75 **emergency, and such emergency shall be described in the minutes.**

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

4 (1) Legal actions, causes of action or litigation involving a public governmental body  
5 and any confidential or privileged communications between a public governmental body or its  
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating  
7 to legal actions, causes of action or litigation involving a public governmental body or any agent  
8 or entity representing its interests or acting on its behalf or with its authority, including any  
9 insurance company acting on behalf of a public government body as its insured, shall be [made

10 public] **publicly disclosed in an open meeting** upon final disposition of the matter voted upon  
11 or upon the signing by the parties of the settlement agreement, unless, prior to final disposition,  
12 the settlement agreement is ordered closed by a court after a written finding that the adverse  
13 impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations  
14 of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public  
15 governmental body shall be disclosed; provided, however, in matters involving the exercise of  
16 the power of eminent domain, the vote shall be [announced or become public] **publicly**  
17 **disclosed in an open meeting** immediately following the action on the motion to authorize  
18 institution of such a legal action. Legal work product shall be considered a closed record. **When**  
19 **public disclosure in an open meeting is prescribed, such disclosure shall be done orally or**  
20 **in writing, or both, and shall occur at the next scheduled open meeting of the public body,**  
21 **or at the resumption of a recessed or subsequent open meeting, whatever is applicable**  
22 **soonest to the timelines for disclosure as prescribed in this section. As used in this**  
23 **subdivision, "cause of action" means that a lawsuit has been filed, regardless of whether**  
24 **the lawsuit has been served, or correspondence from a party to the body stating that**  
25 **litigation shall be filed unless certain demands are met and the body agrees that such**  
26 **demands will not be met or are unlikely to be met, or the body agrees that a substantial**  
27 **likelihood exists that litigation may occur;**

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

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

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

43 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,  
44 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or  
45 treatment;

46 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including  
47 records of individual test or examination scores; however, personally identifiable student records  
48 maintained by public educational institutions shall be open for inspection by the parents,  
49 guardian or other custodian of students under the age of eighteen years and by the parents,  
50 guardian or other custodian and the student if the student is over the age of eighteen years;

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

53 (8) Welfare cases of identifiable individuals;

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

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

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

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

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

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

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

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

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

76 (18) Operational guidelines and policies developed, adopted, or maintained by any public  
77 agency responsible for law enforcement, public safety, first response, or public health for use in  
78 responding to or preventing any critical incident which is or appears to be terrorist in nature and  
79 which has the potential to endanger individual or public safety or health. Nothing in this  
80 exception shall be deemed to close information regarding expenditures, purchases, or contracts  
81 made by an agency in implementing these guidelines or policies. When seeking to close

82 information pursuant to this exception, the agency shall affirmatively state in writing that  
83 disclosure would impair its ability to protect the safety or health of persons, and shall in the same  
84 writing state that the public interest in nondisclosure outweighs the public interest in disclosure  
85 of the records. This exception shall sunset on December 31, 2012;

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

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

93 (b) When seeking to close information pursuant to this exception, the public  
94 governmental body shall affirmatively state in writing that disclosure would impair the public  
95 governmental body's ability to protect the security or safety of persons or real property, and shall  
96 in the same writing state that the public interest in nondisclosure outweighs the public interest  
97 in disclosure of the records;

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

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

103 (20) Records that identify the configuration of components or the operation of a  
104 computer, computer system, computer network, or telecommunications network, and would  
105 allow unauthorized access to or unlawful disruption of a computer, computer system, computer  
106 network, or telecommunications network of a public governmental body. This exception shall  
107 not be used to limit or deny access to otherwise public records in a file, document, data file or  
108 database containing public records. Records related to the procurement of or expenditures  
109 relating to such computer, computer system, computer network, or telecommunications network,  
110 including the amount of moneys paid by, or on behalf of, a public governmental body for such  
111 computer, computer system, computer network, or telecommunications network shall be open;

112 (21) Credit card numbers, personal identification numbers, digital certificates, physical  
113 and virtual keys, access codes or authorization codes that are used to protect the security of  
114 electronic transactions between a public governmental body and a person or entity doing business  
115 with a public governmental body. Nothing in this section shall be deemed to close the record  
116 of a person or entity using a credit card held in the name of a public governmental body or any

117 record of a transaction made by a person using a credit card or other method of payment for  
118 which reimbursement is made by a public governmental body; and

119 (22) Records submitted by an individual, corporation, or other business entity to a public  
120 institution of higher education in connection with a proposal to license intellectual property or  
121 perform sponsored research and which contains sales projections or other business plan  
122 information the disclosure of which may endanger the competitiveness of a business; **except the**  
123 **name of the individual, corporation, or other business entity and the amount of any public**  
124 **funding provided to such individual, corporation, or other business entity by the public**  
125 **institution of higher education shall be deemed as records open for public inspection.**

610.022. 1. Except as set forth in subsection 2 of this section, no meeting or vote may  
2 be closed without an affirmative public vote of the majority of a quorum of the public  
3 governmental body. The vote of each member of the public governmental body on the question  
4 of closing a public meeting or vote and the specific reason for closing that public meeting or vote  
5 by reference to a specific section of this chapter shall be announced publicly at an open meeting  
6 of the governmental body and entered into the minutes.

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

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

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

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

27           6. In the event any member of a public governmental body makes a motion to close a  
28 meeting, or a record, or a vote from the public and any other member believes that such motion,  
29 if passed, would cause a meeting, record or vote to be closed from the public in violation of any  
30 provision in this chapter, such latter member shall state his or her objection to the motion at or  
31 before the time the vote is taken on the motion. The public governmental body shall enter in the  
32 minutes of the public governmental body any objection made pursuant to this subsection. Any  
33 member making such an objection shall be allowed to fully participate in any meeting, record  
34 or vote that is closed from the public over the member's objection. In the event the objecting  
35 member also voted in opposition to the motion to close the meeting, record or vote at issue, the  
36 objection and vote of the member as entered in the minutes shall be an absolute defense to any  
37 claim filed against the objecting member pursuant to section 610.027.

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

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

11           3. Each request for access to a public record shall be acted upon as soon as possible, but  
12 in no event later than the end of the third business day following the date the request is received  
13 by the custodian of records of a public governmental body. If records are requested in a certain  
14 format, the public body shall provide the records in the requested format, if such format is  
15 available. **Data-processing programs used by public governmental bodies shall allow for  
16 copying of data in responding to such requests in a format that is easily manipulated by  
17 programs commonly available to the public, provided that this requirement shall not be  
18 construed to compel a hospital operated by the board of curators of the University of  
19 Missouri or under chapter 96, 205, or 206 to violate its licensing agreement for the use of  
20 proprietary data processing systems for financial or patient medical record information  
21 or to disclose information not releaseable to the public under any state or federal laws  
22 protecting medical patient privacy or otherwise closed under section 610.021.** If access to  
23 the public record is not granted immediately, the custodian shall give a detailed explanation of  
24 the cause for further delay and the place and earliest time and date that the record will be

25 available for inspection. This period for document production may exceed three days for  
26 reasonable cause.

27 4. If a request for access is denied, the custodian shall provide, upon request, a written  
28 statement of the grounds for such denial. Such statement shall cite the specific provision of law  
29 under which access is denied and shall be furnished to the requester no later than the end of the  
30 third business day following the date that the request for the statement is received.

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

13 2. [Once a party seeking judicial enforcement of sections 610.010 to 610.026  
14 demonstrates to the court that the body in question is subject to the requirements of sections  
15 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall  
16 be on the body and its members to demonstrate compliance with the requirements of sections  
17 610.010 to 610.026.] **In any legal proceeding, there shall be a presumption that a meeting,  
18 record, or vote is open to the public. The burden shall be on a public governmental body  
19 or a member of a public governmental body to prove that such meeting, record, or vote  
20 may be closed to the public.**

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

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

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

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

610.029. 1. A public governmental body keeping its records in an electronic format is  
2 strongly encouraged to provide access to its public records to members of the public in an  
3 electronic format. A public governmental body [is strongly encouraged to] **that maintains its**  
4 **records in an electronic format shall** make information available in [usable electronic formats  
5 to the greatest extent feasible] **a format easily accessed and managed by programs commonly**  
6 **available to the public, provided that this requirement shall not be construed to compel a**  
7 **hospital operated by the board of curators of the University of Missouri or under chapter**  
8 **96, 205, or 206 to violate its licensing agreement for the use of proprietary data processing**  
9 **systems for financial or patient medical record information.** A public governmental body

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

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

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

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

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

**610.040. 1. Each elected or appointed public official who is a member of a public**  
2 **governmental body subject to this chapter shall complete a course of training of not less**  
3 **than one and not more than two hours regarding the responsibilities of the public**  
4 **governmental body and its members concerning open meetings laws not later than one year**  
5 **after the date the member:**

6             (1) Takes the oath of office, if the member is required to take an oath of office to  
7 assume the person's duties as a member of the public governmental body; or

8             (2) Otherwise assumes responsibilities as a member of the public governmental  
9 body, if the member is not required to take an oath of office to assume the person's duties  
10 as a member of the public governmental body.

11           **2. The attorney general shall ensure that the training is made available. The office**  
12 **of the attorney general may provide the training and may also approve any acceptable**  
13 **course of training offered by a public governmental body or other entity. The attorney**  
14 **general shall ensure that at least one course of training approved or provided by the**  
15 **attorney general is available on videotape or a functionally similar and widely available**  
16 **medium at no cost. The training shall include:**

17           **(1) The general background of the legal requirements for open meetings;**

18           **(2) The applicability of this chapter to public governmental bodies;**

19           **(3) Procedures and requirements regarding quorums, notice, and record keeping**  
20 **under this chapter;**

21           **(4) Procedures and requirements for holding an open meeting and for holding a**  
22 **closed meeting under this chapter;**

23           **(5) Procedures for retaining e-mails, memos, and other office communications; and**

24           **(6) Penalties and other consequences for failure to comply with this chapter.**

25           **3. The office of the attorney general or other entity providing the training shall**  
26 **provide a certificate of course completion to persons who complete the training required**  
27 **by this section. A public governmental body shall maintain and make available for public**  
28 **inspection the record of its members' completion of the training.**

29           **4. Completing the required training as a member of the public governmental body**  
30 **satisfies the requirements of this section with regard to the member's service on a**  
31 **committee or subcommittee of the public governmental body and the member's ex-officio**  
32 **service on any other public governmental body.**

33           **5. The training required by this section may be used to satisfy any corresponding**  
34 **training requirements concerning this chapter or open meetings required by law for the**  
35 **members of a public governmental body. The attorney general shall attempt to coordinate**  
36 **the training required by this section with training required by other law to the extent**  
37 **practicable.**

38           **6. The failure of one or more members of a public governmental body to complete**  
39 **the training required by this section does not affect the validity of an action taken by the**  
40 **public governmental body.**

41           **7. A certificate of course completion is admissible as evidence in a criminal**  
42 **prosecution under this chapter. However, evidence that a defendant completed a course**  
43 **of training offered under this section is not prima facie evidence that the defendant**  
44 **knowingly violated this chapter.**

**610.045. 1. This section applies to an elected or appointed public official who is:**

2           **(1) A member of a multimember public governmental body;**

3           **(2) The governing officer of a public governmental body that is headed by a single**  
4 **officer rather than by a multimember public governmental body; or**

5           **(3) The officer for public information of a public governmental body, without**  
6 **regard to whether the officer is elected or appointed to a specific term.**

7           **2. Each public official shall complete a course of training of not less than one and**  
8 **not more than two hours regarding the responsibilities of the public governmental body**  
9 **with which the official serves and its officers and employees concerning open records and**  
10 **public information laws not later than one year after the date the public official:**

11           **(1) Takes the oath of office, if the person is required to take an oath of office to**  
12 **assume the person's duties as a public official; or**

13           **(2) Otherwise assumes the person's duties as a public official, if the person is not**  
14 **required to take an oath of office to assume the person's duties.**

15           **3. The attorney general shall ensure that the training is made available. The office**  
16 **of the attorney general may provide the training and may also approve any acceptable**  
17 **course of training offered by a public governmental body or other entity. The attorney**  
18 **general shall ensure that at least one course of training approved or provided by the**  
19 **attorney general is available on videotape or a functionally similar and widely available**  
20 **medium at no cost. The training shall include instruction in:**

21           **(1) The general background of the legal requirements for open records and public**  
22 **information;**

23           **(2) The applicability of this chapter to public governmental bodies;**

24           **(3) Procedures and requirements regarding complying with a request for**  
25 **information under this chapter;**

26           **(4) The role of the attorney general under this chapter;**

27           **(5) Procedures for retaining e-mails, memos, and other office communications; and**

28           **(6) Penalties and other consequences for failure to comply with this chapter.**

29           **4. The office of the attorney general or other entity providing the training shall**  
30 **provide a certificate of course completion to persons who complete the training required**  
31 **by this section. A public governmental body shall maintain and make available for public**  
32 **inspection the record of its public officials.**

33           **5. Completing the required training as a public official of the public governmental**  
34 **body satisfies the requirements of this section with regard to the public official's service**  
35 **on a committee or a subcommittee of the public governmental body and the public official's**  
36 **ex-officio service on any other public governmental body.**

37           **6. The training required by this section may be used to satisfy any corresponding**  
38 **training requirements concerning this chapter or open records required by law for a public**

39 **official. The attorney general shall attempt to coordinate the training required by this**  
40 **section with training required by other law to the extent practicable.**

41 **7. A certificate of course completion is admissible as evidence in a criminal**  
42 **prosecution under this chapter. However, evidence that a defendant completed a course**  
43 **of training offered under this section is not prima facie evidence that the defendant**  
44 **knowingly violated this chapter.**

**610.050. Each elected or appointed public official who is a member of a public**  
2 **governmental body subject to sections 610.040 and 610.045 and who has taken the oath of**  
3 **office or otherwise assumed the person's responsibilities before January 1, 2010, shall**  
4 **complete the course of training required by sections 610.040 and 610.045 before January**  
5 **1, 2011.**

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

3 (1) "Arrest", an actual restraint of the person of the defendant, or by his or her  
4 submission to the custody of the officer, under authority of a warrant or otherwise for a criminal  
5 violation which results in the issuance of a summons or the person being booked;

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

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

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

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

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

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

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

24 2. Each law enforcement agency of this state, of any county, and of any municipality  
25 shall maintain records of all incidents reported to the agency, investigations and arrests made by

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

33         3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a  
34 record or document of a law enforcement officer or agency, other than an arrest report, which  
35 would otherwise be open, contains information that is reasonably likely to pose a clear and  
36 present danger to the safety of any victim, witness, undercover officer, or other person; or  
37 jeopardize a criminal investigation, including records which would disclose the identity of a  
38 source wishing to remain confidential or a suspect not in custody; or which would disclose  
39 techniques, procedures or guidelines for law enforcement investigations or prosecutions, that  
40 portion of the record shall be closed and shall be redacted from any record made available  
41 pursuant to this chapter.

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

58         5. Any person may bring an action pursuant to this section in the circuit court having  
59 jurisdiction to authorize disclosure of the information contained in an investigative report of any  
60 law enforcement agency, which would otherwise be closed pursuant to this section. The court  
61 may order that all or part of the information contained in an investigative report be released to

62 the person bringing the action. In making the determination as to whether information contained  
63 in an investigative report shall be disclosed, the court shall consider whether the benefit to the  
64 person bringing the action or to the public outweighs any harm to the public, to the law  
65 enforcement agency or any of its officers, or to any person identified in the investigative report  
66 in regard to the need for law enforcement agencies to effectively investigate and prosecute  
67 criminal activity. The investigative report in question may be examined by the court in camera.  
68 The court may find that the party seeking disclosure of the investigative report shall [bear the]  
69 **have its** reasonable and necessary costs and attorneys' fees [of both parties, unless] **paid if** the  
70 court finds that the decision of the law enforcement agency not to open the investigative report  
71 was substantially unjustified under all relevant circumstances[, and in that event, the court may  
72 assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency].

73 6. Any person may apply pursuant to this subsection to the circuit court having  
74 jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest  
75 reports being unlawfully closed pursuant to this section. If the court finds by a preponderance  
76 of the evidence that the law enforcement officer or agency has knowingly violated this section,  
77 the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars.  
78 If the court finds that there is a knowing violation of this section, the court may order payment  
79 by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the  
80 court finds by a preponderance of the evidence that the law enforcement officer or agency has  
81 purposely violated this section, the officer or agency shall be subject to a civil penalty in an  
82 amount up to five thousand dollars and the court shall order payment by such officer or agency  
83 of all costs and attorney fees, as provided in section 610.027. The court shall determine the  
84 amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the  
85 offense, and whether the law enforcement officer or agency has violated this section previously.

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

✓