

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Committee Substitute for Senate Bill No. 765, Page 1, In the Title, Lines 5-6, by
2 deleting the phrase "prohibitions on traffic citation quotas" and inserting in lieu thereof the phrase
3 "law enforcement"; and

4
5 Further amend said bill, Page 3, Section 575.320, Line 37, by inserting after all of said section and
6 line the following:

7
8 "610.026. 1. Except as otherwise provided by law, each public governmental body shall
9 provide access to and, upon request, furnish copies of public records subject to the following:

10 (1) Fees for copying public records, except those records restricted under section 32.091,
11 shall not exceed ten cents per page for a paper copy not larger than nine by fourteen inches, with the
12 hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the
13 public governmental body. Research time required for fulfilling records requests includes time
14 spent reviewing records to determine whether records are closed or are authorized to be closed, and
15 may be charged at the actual cost of research time. Based on the scope of the request, the public
16 governmental body shall produce the copies using employees of the body that result in the lowest
17 amount of charges for search, research, and duplication time. Prior to producing copies of the
18 requested records, the person requesting the records may request the public governmental body to
19 provide an estimate of the cost to the person requesting the records. Documents [may] shall be
20 furnished without charge [or at a reduced charge] when the request is made by bona fide
21 credentialed members of the media or may be furnished at a reduced charge when the public
22 governmental body determines that [waiver or] reduction of the fee is in the public interest because:

23 (a) It is likely to contribute significantly to public understanding of the operations or
24 activities of the public governmental body and is not primarily in the commercial interest of the
25 requester; or

26 (b) The applicable fees are minimal and should be waived for administrative efficiency.

27 (2) Fees for providing access to public records maintained on computer facilities, recording
28 tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations or similar audio or
29 visual items or devices, and for paper copies larger than nine by fourteen inches shall include only
30 the cost of copies, research time, staff time, which shall not exceed the average hourly rate of pay
31 for staff of the public governmental body required for making copies and programming, if
32 necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps,
33 blueprints, or plats that require special expertise to duplicate may include the actual rate of
34 compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If
35 programming is required beyond the customary and usual level to comply with a request for records
36 or information, the fees for compliance may include the actual costs of such programming.

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 2. Payment of such copying, search, research, and duplication fees may be requested prior
2 to the making of copies or production of records.

3 3. Except as otherwise provided by law, each public governmental body of the state shall
4 remit all moneys received by or for it from fees charged pursuant to this section to the director of
5 revenue for deposit to the general revenue fund of the state.

6 4. Except as otherwise provided by law, each public governmental body of a political
7 subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to
8 sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit
9 to the governmental body's accounts.

10 5. The term "tax, license or fees" as used in Section 22 of Article X of the Constitution of
11 the State of Missouri does not include copying charges and related fees that do not exceed the level
12 necessary to pay or to continue to pay the costs for providing a service, program, or activity which
13 was in existence on November 4, 1980, or which was approved by a vote of the people subsequent
14 to November 4, 1980.

15 610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall
16 mean:

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

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

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

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

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

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

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

34 (5) "Investigative report", a record, other than an arrest or incident report, prepared by
35 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response
36 to an incident report or in response to evidence developed by law enforcement officers in the course
37 of their duties;

38 (6) "Mobile video recorder", any system or device that captures visual signals that is capable
39 of being installed in a vehicle or being worn or carried by personnel of a law enforcement agency
40 and that includes, at minimum, a camera and recording capabilities;

41 (7) "Mobile video recording", any data captured by a mobile video recorder, including
42 audio, video, and any metadata;

43 (8) "Nonpublic location", a place where one would have a reasonable expectation of privacy
44 including, but not limited to, a dwelling, school, or medical facility.

45 2. Each law enforcement agency of this state, of any county, and of any municipality shall
46 maintain records of all incidents reported to the agency, investigations and arrests made by such law
47 enforcement agency. All incident reports and arrest reports shall be open records.

48 (1) Notwithstanding any other provision of law other than the provisions of subsections 4, 5

1 and 6 of this section or section 320.083, mobile video recordings and investigative reports of all law
2 enforcement agencies are closed records until the investigation becomes inactive.

3 (2) If any person is arrested and not charged with an offense against the law within thirty
4 days of the person's arrest, the arrest report shall thereafter be a closed record except that the
5 disposition portion of the record may be accessed and except as provided in section 610.120.

6 (3) Except as provided in subsections 3 and 5 of this section, a mobile video recording that
7 is recorded in a nonpublic location is authorized to be closed, except that any person who is depicted
8 in the recording or whose voice is in the recording, a legal guardian or parent of such person if he or
9 she is a minor, a family member of such person within the first degree of consanguinity if he or she
10 is deceased or incompetent, an attorney for such person, or insurer of such person may obtain a
11 complete, unaltered, and unedited copy of a recording under this section upon written request.

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

20 4. Any person, including a legal guardian or a parent of such person if he or she is a minor,
21 family member of such person within the first degree of consanguinity if such person is deceased or
22 incompetent, attorney for a person, or insurer of a person involved in any incident or whose
23 property is involved in an incident, may obtain any records closed pursuant to this section or section
24 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection.
25 Any individual, legal guardian or parent of such person if he or she is a minor, his or her family
26 member within the first degree of consanguinity if such individual is deceased or incompetent, his
27 or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon
28 written request, may obtain a complete unaltered and unedited incident report concerning the
29 incident, and may obtain access to other records closed by a law enforcement agency pursuant to
30 this section. Within thirty days of such request, the agency shall provide the requested material or
31 file a motion pursuant to this subsection with the circuit court having jurisdiction over the law
32 enforcement agency stating that the safety of the victim, witness or other individual cannot be
33 reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such
34 motion, the court finds for the law enforcement agency, the court shall either order the record closed
35 or order such portion of the record that should be closed to be redacted from any record made
36 available pursuant to this subsection.

37 5. Any person may bring an action pursuant to this section in the circuit court having
38 jurisdiction to authorize disclosure of a mobile video recording or the information contained in an
39 investigative report of any law enforcement agency, which would otherwise be closed pursuant to
40 this section. The court may order that all or part of a mobile video recording or the information
41 contained in an investigative report be released to the person bringing the action.

42 (1) In making the determination as to whether information contained in an investigative
43 report shall be disclosed, the court shall consider whether the benefit to the person bringing the
44 action or to the public outweighs any harm to the public, to the law enforcement agency or any of
45 its officers, or to any person identified in the investigative report in regard to the need for law
46 enforcement agencies to effectively investigate and prosecute criminal activity.

47 (2) In making the determination as to whether a mobile video recording shall be disclosed,
48 the court shall consider:

1 (a) Whether the benefit to the person bringing the action or the benefit to the public
2 outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any
3 person identified in the mobile video recording with respect to the need for law enforcement
4 agencies to effectively investigate and prosecute criminal activity;

5 (b) Whether the mobile video recording contains information that is reasonably likely to
6 disclose private matters in which the public has no legitimate concern;

7 (c) Whether the mobile video recording is reasonably likely to bring shame or humiliation
8 to a person of ordinary sensibilities; and

9 (d) Whether the mobile recording was taken in a place where a person recorded or depicted
10 has a reasonable expectation of privacy.

11 (3) The mobile video recording or investigative report in question may be examined by the
12 court in camera.

13 (4) If the disclosure is authorized in whole or in part, the court may make any order that
14 justice requires, including one or more of the following:

15 (a) That the mobile video recording or investigative report may be disclosed only on
16 specified terms and conditions, including a designation of the time or place;

17 (b) That the mobile video recording or investigative report may be disclosed to the person
18 making the request in a different manner or form as requested;

19 (c) That the scope of the request be limited to certain matters;

20 (d) That the disclosure occur with no one present except persons designated by the court;

21 (e) That the mobile video recording or investigative report be redacted to exclude for
22 example, personally identifiable features or other sensitive information;

23 (f) That a trade secret or other confidential research, development, or commercial
24 information not be disclosed or be disclosed only in a designated way.

25 (5) The court may find that the party seeking disclosure of the mobile video recording or
26 investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties,
27 unless the court finds that the decision of the law enforcement agency not to open the mobile video
28 recording or investigative report was substantially unjustified under all relevant circumstances, and
29 in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law
30 enforcement agency.

31 6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction
32 for an order requiring a law enforcement agency to open incident reports and arrest reports being
33 unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence
34 that the law enforcement officer or agency has knowingly violated this section, the officer or agency
35 shall be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that
36 there is a knowing violation of this section, the court may order payment by such officer or agency
37 of all costs and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance
38 of the evidence that the law enforcement officer or agency has purposely violated this section, the
39 officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the
40 court shall order payment by such officer or agency of all costs and attorney fees, as provided in
41 section 610.027. The court shall determine the amount of the penalty by taking into account the size
42 of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or
43 agency has violated this section previously.

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

46 8. Any person who requests and receives a mobile video recording that was recorded in a
47 nonpublic location under this section is prohibited from displaying or disclosing the mobile video
48 recording, including any description or account of any or all of the mobile video recording, without

1 first providing direct third party notice to each person not affiliated with a law enforcement agency
2 whose image or sound is contained in the recording. Upon receiving such notice, each person
3 appearing in a mobile video recording shall be given ten days to file and serve an action seeking an
4 order from a court of competent jurisdiction to enjoin all or some of the intended display,
5 disclosure, description, or account of the recording. Any person who fails to comply with the
6 provisions of this section shall be subject to damages in a civil action proceeding."; and
7

8 Further amend said bill by amending the title, enacting clause, and intersectional references
9 accordingly.