

SECOND REGULAR SESSION

SENATE BILL NO. 1079

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDDLE.

Read 1st time February 23, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6599S.011

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to crime scene photographs and video recordings.

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

Section A. Chapter 610, RSMo, is amended by adding thereto one new
2 section, to be known as section 610.205, to read as follows:

**610.205. 1. Crime scene photographs and video recordings,
2 including photographs and video recordings created or produced by a
3 state or local agency or by a perpetrator or suspect at a crime scene,
4 which depict or describe a deceased person in a state of
5 dismemberment, decapitation, or similar mutilation including, without
6 limitation, where the deceased person's genitalia are exposed, shall be
7 considered closed records and shall not be subject to disclosure under
8 the provisions of this chapter; provided, however, that this section shall
9 not prohibit disclosure of such material to the deceased's next of kin or
10 to an individual who has secured a written release from the next of kin.
11 It shall be the responsibility of the next of kin to show proof of the
12 familial relationship. For purposes of such access, the deceased's next
13 of kin shall be:**

- 14 **(1) The spouse of the deceased if living;**
15 **(2) If there is no living spouse of the deceased, an adult child of
16 the deceased; or**
17 **(3) If there is no living spouse or adult child, a parent of the
18 deceased.**

19 **2. Subject to the provisions of subsection 3 of this section, in the
20 case of closed criminal investigations a circuit court judge may order
21 the disclosure of such photographs or video recordings upon findings**

22 in writing that disclosure is in the public interest and outweighs any
23 privacy interest that may be asserted by the deceased person's next of
24 kin. In making such determination, the court shall consider whether
25 such disclosure is necessary for public evaluation of governmental
26 performance, the seriousness of the intrusion into the family's right to
27 privacy, and whether such disclosure is the least intrusive means
28 available considering the availability of similar information in other
29 public records. In any such action, the court shall review the
30 photographs or video recordings in question in camera with the
31 custodian of the crime scene materials present and may condition any
32 disclosure on such condition as the court may deem necessary to
33 accommodate the interests of the parties.

34 3. Prior to releasing any crime scene material described in
35 subsection 1 of this section, the custodian of such material shall give
36 the deceased person's next of kin at least two weeks' notice. No court
37 shall order a disclosure under subsection 2 of this section which would
38 disregard or shorten the duration of such notice requirement.

39 4. The provisions of this section shall apply to all undisclosed
40 material which is in the custody of a state or local agency on the
41 effective date of this section and to any such material which comes into
42 the custody of a state or local agency after such date.

43 5. The provisions of this section shall not apply to disclosure of
44 crime scene material to counsel representing a convicted defendant in
45 a habeas corpus action, on a motion for new trial, or in a federal
46 habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the
47 purpose of preparing to file or litigating such proceedings. Counsel
48 may disclose such materials to his or her client and any expert or
49 investigator assisting counsel but shall not otherwise disseminate such
50 materials, except to the extent they may be necessary exhibits in court
51 proceedings. A request under this subsection shall clearly state that
52 such request is being made for the purpose of preparing to file and
53 litigate proceedings enumerated in this subsection.

54 6. The director of the department of public safety shall
55 promulgate rules and regulations governing the viewing of materials
56 described in subsection 1 of this section by bona fide credentialed
57 members of the press. Any rule or portion of a rule, as that term is
58 defined in section 536.010 that is created under the authority delegated

59 in this section shall become effective only if it complies with and is
60 subject to all of the provisions of chapter 536, and, if applicable, section
61 536.028. This section and chapter 536 are nonseverable and if any of
62 the powers vested with the general assembly pursuant to chapter 536,
63 to review, to delay the effective date, or to disapprove and annul a rule
64 are subsequently held unconstitutional, then the grant of rulemaking
65 authority and any rule proposed or adopted after August 28, 2016, shall
66 be invalid and void.

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Bill

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