

SECOND REGULAR SESSION

SENATE BILL NO. 764

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAEFER.

Read 1st time February 8, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5634S.02I

AN ACT

To repeal sections 610.010, 610.020, 610.021, 610.022, 610.023, 610.024, 610.025, 610.026, 610.027, 610.029, and 610.100, RSMo, and to enact in lieu thereof eleven new sections relating to public records and meetings, with existing penalty provisions.

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

Section A. Sections 610.010, 610.020, 610.021, 610.022, 610.023, 610.024, 610.025, 610.026, 610.027, 610.029, and 610.100, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 610.010, 610.020, 610.021, 610.022, 610.023, 610.024, 610.025, 610.026, 610.027, 610.029, and 610.100, to read as follows:

610.010. As used in this chapter, unless the context otherwise indicates, the following terms mean:

(1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote closed to the public;

(2) "Copying", if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) "Public business", all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) "Public governmental body", any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee,

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

15 board of regents or board of curators or any other governing body of any
16 institution of higher education, including a community college, which is supported
17 in whole or in part from state funds, including but not limited to the
18 administrative entity known as "The Curators of the University of Missouri" as
19 established by section 172.020;

20 (b) Any advisory committee or commission appointed by the governor by
21 executive order;

22 (c) Any department or division of the state, of any political subdivision of
23 the state, of any county or of any municipal government, school district or special
24 purpose district including but not limited to sewer districts, water districts, and
25 other subdistricts of any political subdivision;

26 (d) Any other legislative or administrative governmental deliberative body
27 under the direction of three or more elected or appointed members having
28 rulemaking or quasi-judicial power;

29 (e) Any committee appointed by or at the direction of any of the entities
30 and which is authorized to report to any of the above-named entities, any
31 advisory committee appointed by or at the direction of any of the named entities
32 for the specific purpose of recommending, directly to the public governmental
33 body's governing board or its chief administrative officer, policy or policy revisions
34 or expenditures of public funds including, but not limited to, entities created to
35 advise bi-state taxing districts regarding the expenditure of public funds, or any
36 policy advisory body, policy advisory committee or policy advisory group
37 appointed by a president, chancellor or chief executive officer of any college or
38 university system or individual institution at the direction of the governing body
39 of such institution which is supported in whole or in part with state funds for the
40 specific purpose of recommending directly to the public governmental body's
41 governing board or the president, chancellor or chief executive officer policy,
42 policy revisions or expenditures of public funds provided, however, the staff of the
43 college or university president, chancellor or chief executive officer shall not
44 constitute such a policy advisory committee. The custodian of the records of any
45 public governmental body shall maintain a list of the policy advisory committees
46 described in this subdivision;

47 (f) Any quasi-public governmental body. The term "quasi-public
48 governmental body" means any person, corporation or partnership organized or
49 authorized to do business in this state pursuant to the provisions of chapter 352,
50 353, or 355, or unincorporated association which either:

51 a. Has as its primary purpose to enter into contracts with public
52 governmental bodies, or to engage primarily in activities carried out pursuant to
53 an agreement or agreements with public governmental bodies, **or which acts on**
54 **behalf of public governmental bodies and is funded wholly or partially**
55 **by funds from state or local public governmental bodies;** or

56 b. Performs a public function as evidenced by a statutorily based capacity
57 to confer or otherwise advance, through approval, recommendation or other
58 means, the allocation or issuance of tax credits, tax abatement, public debt,
59 tax-exempt debt, rights of eminent domain, or the contracting of leaseback
60 agreements on structures whose annualized payments commit public tax
61 revenues; **or any Missouri high school athletic association that receives**
62 **public funding through dues paid by a public governmental body or its**
63 **members;** or any association that directly accepts the appropriation of money
64 from a public governmental body, but only to the extent that a meeting, record,
65 or vote relates to such appropriation; and

66 (g) Any bi-state development agency established pursuant to section
67 70.370;

68 (5) "Public meeting", any meeting of a public governmental body subject
69 to sections 610.010 to 610.030 at which any public business is discussed, decided,
70 or public policy formulated, whether such meeting is conducted in person or by
71 means of communication equipment, including, but not limited to, conference call,
72 video conference, Internet chat, or Internet message board. The term "public
73 meeting" shall not include an informal gathering of members of a public
74 governmental body for ministerial or social purposes when there is no intent to
75 avoid the purposes of this chapter, but the term shall include a public vote of all
76 or a majority of the members of a public governmental body, by electronic
77 communication or any other means, conducted in lieu of holding a public meeting
78 with the members of the public governmental body gathered at one location in
79 order to conduct public business;

80 (6) "Public record", any record, whether written or electronically stored,
81 retained by or of any public governmental body including any report, survey,
82 memorandum, or other document or study prepared for the public governmental
83 body by a consultant or other professional service paid for in whole or in part by
84 public funds, including records created or maintained by private contractors
85 under an agreement with a public governmental body or on behalf of a public
86 governmental body; provided, however, that personally identifiable student

87 records maintained by public educational institutions shall be open for inspection
88 by the parents, guardian or other custodian of students under the age of eighteen
89 years and by the parents, guardian or other custodian and the student if the
90 student is over the age of eighteen years. The term "public record" shall not
91 include any internal memorandum or letter received or prepared by or on behalf
92 of a member of a public governmental body consisting of advice, opinions and
93 recommendations in connection with the deliberative decision-making process of
94 said body, unless such records are retained by the public governmental body or
95 presented at a public meeting. Any document or study prepared for a public
96 governmental body by a consultant or other professional service as described in
97 this subdivision shall be retained by the public governmental body in the same
98 manner as any other public record. **Any lease, sublease, rental agreement,
99 or similar instrument entered into by any public governmental body,
100 or any sublease of a publicly-owned facility entered into between any
101 party and the entity which shall have the rights to manage said facility,
102 or any other agreement for the rental, construction, or renovation of
103 said facility shall be a public record;**

104 (7) "Public vote", any vote, whether conducted in person, by telephone, or
105 by any other electronic means, cast at any public meeting of any public
106 governmental body.

610.020. 1. All public governmental bodies shall give notice of the time,
2 date, and place of each meeting, and its tentative agenda, in a manner reasonably
3 calculated to advise the public of the matters to be considered, and if the meeting
4 will be conducted by telephone or other electronic means, the notice of the
5 meeting shall identify the mode by which the meeting will be conducted and the
6 designated location where the public may observe and attend the meeting. If a
7 public body plans to meet by Internet chat, Internet message board, or other
8 computer link, it shall post a notice of the meeting on its website in addition to
9 its principal office and shall notify the public how to access that
10 meeting. Reasonable notice shall include making available copies of the notice
11 to any **member of the public** or representative of the news media who requests
12 notice of meetings of a particular public governmental body concurrent with the
13 notice being made available to the members of the particular governmental body
14 and posting the notice on a bulletin board or other prominent place which is
15 easily accessible to the public and clearly designated for that purpose at the
16 principal office of the body holding the meeting, or if no such office exists, at the

17 building in which the meeting is to be held. **No action or discussion shall be**
18 **undertaken on any item not appearing on the posted agenda, except**
19 **that members of a public governmental body or its staff may briefly**
20 **respond to statements made or questions posed by members of the**
21 **public attending a public meeting.**

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

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

41 4. When it is necessary **for such governmental bodies** to hold a
42 meeting on less than [twenty-four] **forty-eight** hours' notice, **or twenty-four**
43 **hours' notice for the general assembly and any committee thereof**, or at
44 a place that is not reasonably accessible to the public, or at a time that is not
45 reasonably convenient to the public, the nature of the good cause justifying that
46 departure from the normal requirements shall be stated in the minutes.

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

53 body.

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

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

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

4 (1) Legal actions, causes of action or litigation involving a public
5 governmental body and any confidential or privileged communications between
6 a public governmental body or its representatives and its attorneys. However,
7 any minutes, vote or settlement agreement relating to legal actions, causes of
8 action or litigation involving a public governmental body or any agent or entity
9 representing its interests or acting on its behalf or with its authority, including
10 any insurance company acting on behalf of a public government body as its
11 insured, shall be [made public] **publicly disclosed in an open meeting** upon
12 final disposition of the matter voted upon or upon the signing by the parties of
13 the settlement agreement, unless, prior to final disposition, the settlement
14 agreement is ordered closed by a court after a written finding that the adverse
15 impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy
16 considerations of section 610.011, however, the amount of any moneys paid by, or
17 on behalf of, the public governmental body shall be disclosed; provided, however,
18 in matters involving the exercise of the power of eminent domain, the vote shall
19 be [announced or become public] **publicly disclosed in an open meeting**
20 immediately following the action on the motion to authorize institution of such
21 a legal action. Legal work product shall be considered a closed record. **When**

22 **public disclosure in an open meeting is prescribed, such disclosure**
23 **shall be done orally or in writing, or both, and shall occur at the next**
24 **scheduled open meeting of the public body, or at the resumption of a**
25 **recessed or subsequent open meeting, whatever is applicable soonest**
26 **to the time lines for disclosure as prescribed in this section. Where the**
27 **public governmental body shall close meetings, records, and votes due**
28 **to a "cause of action" as provided in this subdivision, the body shall**
29 **have received evidence that a lawsuit has been filed, although not yet**
30 **served, or shall have actual correspondence from a party stating that**
31 **litigation shall be filed under certain circumstances stated in said**
32 **correspondence;**

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

39 (3) Hiring, firing, disciplining or promoting of particular employees by a
40 public governmental body when personal information about the employee is
41 discussed or recorded. However, any vote on a final decision, when taken by a
42 public governmental body, to hire, fire, promote or discipline an employee of a
43 public governmental body shall be made available with a record of how each
44 member voted to the public within seventy-two hours of the close of the meeting
45 where such action occurs; provided, however, that any employee so affected shall
46 be entitled to prompt notice of such decision during the seventy-two-hour period
47 before such decision is made available to the public.

48 As used in this subdivision, the term "personal information" means information
49 relating to the performance or merit of individual employees;

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

51 (5) Nonjudicial mental or physical health proceedings involving
52 identifiable persons, including medical, psychiatric, psychological, or alcoholism
53 or drug dependency diagnosis or treatment;

54 (6) Scholastic probation, expulsion, or graduation of identifiable
55 individuals, including records of individual test or examination scores; however,
56 personally identifiable student records maintained by public educational
57 institutions shall be open for inspection by the parents, guardian or other

58 custodian of students under the age of eighteen years and by the parents,
59 guardian or other custodian and the student if the student is over the age of
60 eighteen years;

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

63 (8) Welfare cases of identifiable individuals;

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

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

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

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

75 (13) Individually identifiable personnel records, performance ratings or
76 records pertaining to employees or applicants for employment, except that this
77 exemption shall not apply to the names, positions, salaries and lengths of service
78 of officers and employees of public agencies once they are employed as such, and
79 the names of private sources donating or contributing money to the salary of a
80 chancellor or president at all public colleges and universities in the state of
81 Missouri and the amount of money contributed by the source, **and records of**
82 **former employment, including dates and locations of service and all**
83 **records relating to performance evaluations, for all employees of public**
84 **school districts and charter schools as established by chapter 160;**

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

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

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

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

94 (18) Operational guidelines and policies developed, adopted, or maintained
95 by any public agency responsible for law enforcement, public safety, first
96 response, or public health for use in responding to or preventing any critical
97 incident which is or appears to be terrorist in nature and which has the potential
98 to endanger individual or public safety or health. Nothing in this exception shall
99 be deemed to close information regarding expenditures, purchases, or contracts
100 made by an agency in implementing these guidelines or policies. When seeking
101 to close information pursuant to this exception, the agency shall affirmatively
102 state in writing that disclosure would impair its ability to protect the safety or
103 health of persons, and shall in the same writing state that the public interest in
104 nondisclosure outweighs the public interest in disclosure of the records. This
105 exception shall sunset on December 31, [2012] **2016**;

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

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

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

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

125 (d) This exception shall sunset on December 31, [2012] **2016**;

126 (20) Records that identify the configuration of components or the
127 operation of a computer, computer system, computer network, or
128 telecommunications network, and would allow unauthorized access to or unlawful
129 disruption of a computer, computer system, computer network, or

130 telecommunications network of a public governmental body. This exception shall
131 not be used to limit or deny access to otherwise public records in a file, document,
132 data file or database containing public records. Records related to the
133 procurement of or expenditures relating to such computer, computer system,
134 computer network, or telecommunications network, including the amount of
135 moneys paid by, or on behalf of, a public governmental body for such computer,
136 computer system, computer network, or telecommunications network shall be
137 open;

138 (21) Credit card numbers, personal identification numbers, digital
139 certificates, physical and virtual keys, access codes or authorization codes that
140 are used to protect the security of electronic transactions between a public
141 governmental body and a person or entity doing business with a public
142 governmental body. Nothing in this section shall be deemed to close the record
143 of a person or entity using a credit card held in the name of a public
144 governmental body or any record of a transaction made by a person using a credit
145 card or other method of payment for which reimbursement is made by a public
146 governmental body; and

147 (22) Records submitted by an individual, corporation, or other business
148 entity to a public institution of higher education in connection with a proposal to
149 license intellectual property or perform sponsored research and which contains
150 sales projections or other business plan information the disclosure of which may
151 endanger the competitiveness of a business.

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

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

13 3. Any meeting or vote closed pursuant to section 610.021 shall be closed
14 only to the extent necessary for the specific reason announced to justify the closed

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

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

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

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

610.023. 1. Each public governmental body is to appoint a custodian who
2 is to be responsible for the maintenance of that body's records. The identity and
3 location of a public governmental body's custodian is to be made available upon
4 request. **Each custodian of a public governmental body is encouraged**
5 **to create and maintain an index of all public records maintained by its**
6 **public governmental body.**

7 2. Each public governmental body shall make available for inspection and

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

16 3. Each request for access to a public record shall be acted upon as soon
17 as possible, but in no event later than the end of the third business day following
18 the date the request is received by the custodian of records of a public
19 governmental body. If records are requested in a certain format, the public body
20 shall provide the records in the requested format, if such [format is available]
21 **record is readily reproducible in that format. Effective January 1,**
22 **2013, all public governmental bodies acquiring new data-processing**
23 **programs shall ensure that such programs allow for copying of data in**
24 **a format that is easily accessed and manipulated by programs**
25 **commonly available to the public, provided that this requirement shall**
26 **not be construed to compel a hospital operated by the board of curators**
27 **of the University of Missouri or under chapters 96, 205, or 206 to violate**
28 **its licensing agreement for the use of proprietary data processing**
29 **systems for financial or patient medical record information.** If access to
30 the public record is not granted immediately, the custodian shall give a detailed
31 explanation of the cause for further delay and the place and earliest time and
32 date that the record will be available for inspection. This period for document
33 production may exceed three days for reasonable cause.

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

610.024. 1. If a public record contains material which is not exempt from
2 disclosure as well as material which is exempt from disclosure, the public
3 governmental body shall, **at its expense**, separate the exempt and nonexempt
4 material and make the nonexempt material available for examination and
5 copying.

6 2. When designing a public record, a public governmental body shall, to
7 the extent practicable, facilitate a separation of exempt from nonexempt
8 information. If the separation is readily apparent to a person requesting to
9 inspect or receive copies of the form, the public governmental body shall generally
10 describe the material exempted unless that description would reveal the contents
11 of the exempt information and thus defeat the purpose of the exemption.

610.025. Any member of a public governmental body who transmits any
2 message relating to public business by electronic means, **including by a mobile**
3 **communication device**, shall also concurrently transmit that message to either
4 the member's public office computer or the custodian of records in the same
5 format. The provisions of this section shall only apply to messages sent to two
6 or more members of that body so that, when counting the sender, a majority of
7 the body's members are copied. Any such message received by the custodian or
8 at the member's office computer shall be a public record subject to the exceptions
9 of section 610.021. **As used in this section, "mobile communication device"**
10 **includes, but is not limited to, any cellular phone or other mobile**
11 **electronic device able to send email or other electronic data**
12 **transmission.**

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

4 (1) Fees for copying public records, except those records restricted under
5 section 32.091, shall not exceed ten cents per page for a paper copy not larger
6 than nine by fourteen inches, with the hourly fee for duplicating time not to
7 exceed the average hourly rate of pay for clerical staff of the public governmental
8 body. Research time required for fulfilling records requests may be charged at
9 the actual cost of research time. **Research time shall include only the time**
10 **reasonably spent in locating the subject records for purposes of**
11 **responding to the request, and in no event shall it include time spent**
12 **in reviewing the records to determine whether such records are closed**
13 **or open records or whether portions of such records are exempt from**
14 **disclosure and subject to separation as set forth in section 610.024.**
15 Based on the scope of the request, the public governmental body shall produce the
16 copies using employees of the body that result in the lowest amount of charges
17 for search, research, and duplication time. Prior to producing copies of the
18 requested records, the person requesting the records may request the public

19 governmental body to provide an estimate of the cost to the person requesting the
20 records. Documents may be furnished without charge or at a reduced charge
21 when the public governmental body determines that waiver or reduction of the
22 fee is in the public interest because it is likely to contribute significantly to public
23 understanding of the operations or activities of the public governmental body and
24 is not primarily in the commercial interest of the requester;

25 (2) Fees for providing access to public records maintained on computer
26 facilities, recording tapes or disks, videotapes or films, pictures, maps, slides,
27 graphics, illustrations or similar audio or visual items or devices, and for paper
28 copies larger than nine by fourteen inches shall include only the cost of copies,
29 staff time, which shall not exceed the average hourly rate of pay for staff of the
30 public governmental body required for making copies and programming, if
31 necessary, and the cost of the disk, tape, or other medium used for the
32 duplication. **In no event shall such fees include charges for time spent**
33 **in reviewing the records to determine whether such records are closed**
34 **or open records or whether portions of such records are exempt from**
35 **disclosure and subject to separation as set forth in section 610.024.** Fees
36 for maps, blueprints, or plats that require special expertise to duplicate may
37 include the actual rate of compensation for the trained personnel required to
38 duplicate such maps, blueprints, or plats. If programming is required beyond the
39 customary and usual level to comply with a request for records or information,
40 the fees for compliance may include the actual costs of such programming.

41 2. Payment of such copying fees may be requested prior to the making of
42 copies.

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

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

52 5. The term "tax, license or fees" as used in section 22 of article X of the
53 Constitution of the state of Missouri does not include copying charges and related
54 fees that do not exceed the level necessary to pay or to continue to pay the costs

55 for providing a service, program, or activity which was in existence on November
56 4, 1980, or which was approved by a vote of the people subsequent to November
57 4, 1980.

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

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

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

34 body has violated sections 610.010 to 610.026 previously.]

35 4. Upon a finding by a preponderance of the evidence that a public
36 governmental body or a member of a public governmental body has purposely
37 violated sections 610.010 to 610.026, the public governmental body or the member
38 shall be subject to a civil penalty in an amount up to five thousand dollars. If the
39 court finds that there was a purposeful violation of sections 610.010 to 610.026,
40 then the court shall order the payment by such body or member of all costs and
41 reasonable attorney fees to any party successfully establishing such a
42 violation. The court shall determine the amount of the penalty by taking into
43 account the size of the jurisdiction, the seriousness of the offense, and whether
44 the public governmental body or member of a public governmental body has
45 violated sections 610.010 to 610.026 previously.

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

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

610.029. 1. A public governmental body keeping its records in an
2 electronic format is strongly encouraged to provide access to its public records to
3 members of the public in an electronic format. A public governmental body [is
4 strongly encouraged to] **that maintains its records in an electronic format**
5 **shall** make information available in [usable electronic formats to the greatest
6 extent feasible] **a format easily accessed and managed by programs**

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

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

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

29 (2) Limit the liability of the public governmental body providing the
30 services.

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

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

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

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

9 therefor;

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

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

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

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

19 (4) "Incident report", a record of a law enforcement agency [consisting of]
20 **as created by that agency, but including at least the following minimum**
21 **elements:** the date, time, specific location, name, **and home address** of the
22 victim and immediate facts and circumstances surrounding the initial report of
23 a crime or incident, including any logs of reported crimes, accidents and
24 complaints maintained by that agency. **The home address of a victim of**
25 **domestic violence, forcible rape, sexual assault, or stalking will be**
26 **redacted from the incident report prior to release by the law**
27 **enforcement agency;**

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

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

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

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

53 4. Any person, including a family member of such person within the first
54 degree of consanguinity if such person is deceased or incompetent, attorney for
55 a person, or insurer of a person involved in any incident or whose property is
56 involved in an incident, may obtain any records closed pursuant to this section
57 or section 610.150 for purposes of investigation of any civil claim or defense, as
58 provided by this subsection. Any individual, his or her family member within the
59 first degree of consanguinity if such individual is deceased or incompetent, his or
60 her attorney or insurer, involved in an incident or whose property is involved in
61 an incident, upon written request, may obtain a complete unaltered and unedited
62 incident report concerning the incident, and may obtain access to other records
63 closed by a law enforcement agency pursuant to this section. **Any member of**
64 **the news media operating within the state of Missouri shall, upon**
65 **written request, obtain a complete unaltered and unedited incident**
66 **report, however, the home address of a victim of domestic violence,**
67 **forcible rape, sexual assault, or stalking will be redacted from the**
68 **incident report prior to release by the law enforcement agency.** Within
69 thirty days of such request, the agency shall provide the requested material or
70 file a motion pursuant to this subsection with the circuit court having jurisdiction
71 over the law enforcement agency stating that the safety of the victim, witness or
72 other individual cannot be reasonably ensured, or that a criminal investigation
73 is likely to be jeopardized. If, based on such motion, the court finds for the law
74 enforcement agency, the court shall either order the record closed or order such
75 portion of the record that should be closed to be redacted from any record made
76 available pursuant to this subsection.

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

81 information contained in an investigative report be released to the person
82 bringing the action. In making the determination as to whether information
83 contained in an investigative report shall be disclosed, the court shall consider
84 whether the benefit to the person bringing the action or to the public outweighs
85 any harm to the public, to the law enforcement agency or any of its officers, or to
86 any person identified in the investigative report in regard to the need for law
87 enforcement agencies to effectively investigate and prosecute criminal
88 activity. The investigative report in question may be examined by the court in
89 camera. The court [may] **shall** find that the party seeking disclosure of the
90 investigative report shall [bear the] **have its** reasonable and necessary costs and
91 attorneys' fees [of both parties, unless the court finds that the] **paid if it finds**
92 **that the** decision of the law enforcement agency not to open the investigative
93 report was substantially unjustified under all relevant circumstances[, and in
94 that event, the court may assess such reasonable and necessary costs and
95 attorneys' fees to the law enforcement agency].

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

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