

SECOND REGULAR SESSION

SENATE BILL NO. 962

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS CURLS, HOLSMAN, SIFTON AND SCHUPP.

Read 1st time January 21, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5216S.03I

AN ACT

To repeal section 610.100, RSMo, and to enact in lieu thereof four new sections relating to video recorders used by law enforcement agencies.

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

Section A. Section 610.100, RSMo, is repealed and four new sections
2 enacted in lieu thereof, to be known as sections 488.500, 590.1025, 590.1027, and
3 610.100, to read as follows:

**488.500. 1. If approved by a majority of the voters voting on the
2 proposal, the governing body of any county or municipality may, by
3 order or ordinance, provide for an additional surcharge in an amount
4 of up to one dollar per case for each criminal case, including violations
5 of any county or municipal ordinance.**

**6 2. The ballot of submission shall be in substantially the following
7 form:**

**8 For the purpose of purchasing and maintaining video cameras
9 worn by peace officers and storing information collected by such
10 cameras, shall (city, town, village, county) be authorized to
11 impose a court surcharge not to exceed one dollar on each criminal
12 case, including municipal and county ordinance violations?**

13 YES NO

**14 If a majority of voters voting thereon approve the proposal, the
15 governing body of the county or municipality may enact an order or
16 ordinance for the collection of the surcharge. If the proposal is not
17 approved by a majority of the voters voting thereon, the governing
18 body shall not enact such order or ordinance.**

19 **3. No surcharge imposed under this section shall be collected**

20 when the case has been dismissed by the court. The judge may waive
21 the assessment of the surcharge in those cases in which the defendant
22 is found by the judge to be indigent and unable to pay the costs.

23 4. Such surcharges collected by municipal clerks in
24 municipalities electing or required to have violations of municipal
25 ordinances tried before a municipal judge under section 479.020, or to
26 employ judicial personnel under section 479.060, shall be disbursed to
27 the city at least monthly, and such surcharges collected by circuit court
28 clerks shall be collected and disbursed as provided by sections 488.010
29 to 488.020. Such surcharges shall be payable to the county or
30 municipality in which such surcharges originated. The county or
31 municipality shall only use the surcharge for the initial purchase,
32 maintenance, and replacement of video cameras worn by peace officers
33 and costs relating to the maintenance and storage of data collected by
34 such video cameras.

590.1025. 1. A law enforcement agency may require its uniformed
2 peace officers to wear video cameras, which include audio and video,
3 affixed to the peace officer's uniform while on duty to record
4 interactions between peace officers and members of the public. The
5 provisions of this section shall not apply to detectives or other peace
6 officers while they are working in an undercover capacity, or to any
7 peace officer in any situation if the wearing of such a video camera
8 would endanger the safety of the officer or the public.

9 2. In order to facilitate uniformity throughout the state, the
10 department of public safety shall develop guidelines for the use of
11 officer-worn body cameras by state and local law enforcement
12 agencies. The guidelines shall include specifications as to which peace
13 officers should wear body cameras, when body cameras should be worn
14 and activated, restrictions on the use of body cameras, the process to
15 obtain consent of victims and witnesses before using body worn
16 cameras during an interview, the retention and release of data
17 recorded by body cameras that includes a requirement that recorded
18 data be retained by each agency for at least sixty days, and access to
19 the data recorded by body cameras.

20 3. State and local law enforcement agencies requiring their
21 peace officers to wear video cameras shall develop policies and
22 procedures for the use of officer-worn body cameras pursuant to the

23 guidelines adopted by the department of public safety under subsection
24 2 of this section.

25 4. State and local law enforcement agencies requiring their
26 peace officers to wear video cameras shall provide comprehensive
27 training for all peace officers regarding the use of officer-worn body
28 cameras. Such training shall include the following:

29 (1) Discussion of department policy regarding the use of officer-
30 worn body cameras and the distribution of a written copy of the official
31 department policy on officer-worn body cameras;

32 (2) Review of all relevant state laws governing consent, evidence,
33 privacy, and public disclosure of recordings;

34 (3) Procedure for camera use; and

35 (4) Scenario-based exercises intended to replicate situations an
36 officer could encounter when using an officer-worn body camera.

590.1027. 1. The department of public safety shall develop and
2 implement a grant program to assist state and local law enforcement
3 agencies in implementing the provisions of section 590.1025 including,
4 but not limited to, the initial purchase, maintenance, and replacement
5 of officer-worn body cameras and ongoing costs relating to the
6 maintenance and storage of data recorded by officer-worn body
7 cameras. The department shall develop guidelines for grant
8 applications and establish priorities for grant distribution.

9 2. There is hereby established in the state treasury a fund to be
10 known as the "Law Enforcement Officer-Worn Body Camera Fund",
11 which shall consist of all moneys that may be appropriated to it by the
12 general assembly and, in addition, may include any gifts, contributions,
13 grants, or bequests received from federal, state, private, or other
14 sources. The fund shall be administered by the department of public
15 safety. The state treasurer shall be custodian of the fund and may
16 approve disbursements from the fund in accordance with sections
17 30.170 and 30.180. The fund shall be a dedicated fund and, upon
18 appropriation, moneys in the fund shall be used solely to fund the
19 purchase of officer-worn body cameras.

20 3. Notwithstanding the provisions of section 33.080 to the
21 contrary, any moneys remaining in the fund at the end of the biennium
22 shall not revert to the credit of the general revenue fund. The state
23 treasurer shall invest moneys in the fund in the same manner as other

24 funds are invested. Any interest and moneys earned on such
25 investments shall be credited to the fund.

26 4. State and local law enforcement agencies may apply to the
27 department of public safety for funding to implement the law
28 enforcement agencies' use of officer-worn body cameras under this
29 section and section 590.1025 including, but not limited to, the initial
30 purchase, maintenance, and replacement of officer-worn cameras and
31 ongoing costs relating to the maintenance and storage of data recorded
32 by officer-worn body cameras.

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

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

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

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

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

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

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

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

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

27 (6) "Mobile video recorder", any system or device that captures

28 **visual signals that is capable of installation in a vehicle, vessel, or**
29 **aircraft, or being worn or carried by personnel of a law enforcement**
30 **agency and that includes, at a minimum, a camera and recording**
31 **capabilities.**

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. **Notwithstanding any other provision of law to the**
43 **contrary, other than the provisions of subsections 4, 5, and 6 of this**
44 **section or section 320.083, data from mobile video recorders in the**
45 **possession of law enforcement agencies are closed records.**

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

56 4. Any person, including a family member of such person within the first
57 degree of consanguinity if such person is deceased or incompetent, attorney for
58 a person, or insurer of a person involved in any incident or whose property is
59 involved in an incident, may obtain any records closed pursuant to this section
60 or section 610.150 for purposes of investigation of any civil claim or defense, as
61 provided by this subsection. Any individual, his or her family member within the
62 first degree of consanguinity if such individual is deceased or incompetent, his or
63 her attorney or insurer, involved in an incident or whose property is involved in

64 an incident, upon written request, may obtain a complete unaltered and unedited
65 incident report concerning the incident, and may obtain access to other records
66 closed by a law enforcement agency pursuant to this section. Within thirty days
67 of such request, the agency shall provide the requested material or file a motion
68 pursuant to this subsection with the circuit court having jurisdiction over the law
69 enforcement agency stating that the safety of the victim, witness or other
70 individual cannot be reasonably ensured, or that a criminal investigation is likely
71 to be jeopardized. If, based on such motion, the court finds for the law
72 enforcement agency, the court shall either order the record closed or order such
73 portion of the record that should be closed to be redacted from any record made
74 available pursuant to this subsection.

75 5. Any person may bring an action pursuant to this section in the circuit
76 court having jurisdiction to authorize disclosure of the information contained in
77 an investigative report of any law enforcement agency **or data in the**
78 **possession of a law enforcement agency from a mobile video recorder,**
79 which would otherwise be closed pursuant to this section. The court may order
80 that all or part of the information contained in an investigative report **or the**
81 **data from a mobile video recorder** be released to the person bringing the
82 action. In making the determination as to whether information contained in an
83 investigative report **or data from a mobile video recorder** shall be disclosed,
84 the court shall consider whether the benefit to the person bringing the action or
85 to the public outweighs any harm to the public, to the law enforcement agency or
86 any of its officers, or to any person identified in the investigative report **or**
87 **captured in the data from the mobile video recorder** in regard to the need
88 for law enforcement agencies to effectively investigate and prosecute criminal
89 activity. The investigative report **or data from a mobile video recorder** in
90 question may be examined by the court in camera. The court may find that the
91 party seeking disclosure of the investigative report **or data from a mobile**
92 **video recorder** shall bear the reasonable and necessary costs and attorneys'
93 fees of both parties, unless the court finds that the decision of the law
94 enforcement agency not to open the investigative report **or data from a mobile**
95 **video recorder** was substantially unjustified under all relevant circumstances,
96 and in that event, the court may assess such reasonable and necessary costs and
97 attorneys' fees to the law enforcement agency.

98 6. Any person may apply pursuant to this subsection to the circuit court
99 having jurisdiction for an order requiring a law enforcement agency to open

100 incident reports, **data from mobile video recorders**, and arrest reports being
101 unlawfully closed pursuant to this section. If the court finds by a preponderance
102 of the evidence that the law enforcement officer or agency has knowingly violated
103 this section, the officer or agency shall be subject to a civil penalty in an amount
104 up to one thousand dollars. If the court finds that there is a knowing violation
105 of this section, the court may order payment by such officer or agency of all costs
106 and attorneys' fees, as provided by section 610.027. If the court finds by a
107 preponderance of the evidence that the law enforcement officer or agency has
108 purposely violated this section, the officer or agency shall be subject to a civil
109 penalty in an amount up to five thousand dollars and the court shall order
110 payment by such officer or agency of all costs and attorney fees, as provided in
111 section 610.027. The court shall determine the amount of the penalty by taking
112 into account the size of the jurisdiction, the seriousness of the offense, and
113 whether the law enforcement officer or agency has violated this section
114 previously.

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

Bill ✓

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