

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 256, 33 & 305

97TH GENERAL ASSEMBLY

1162H.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof two new sections relating to public safety, with an emergency clause.

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

Section A. Section 610.021, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 610.021 and 1, to read as follows:

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

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion 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.

17 authorize institution of such a legal action. Legal work product shall be considered a closed
18 record;

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

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

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

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

35 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
36 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
37 treatment;

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

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

45 (8) Welfare cases of identifiable individuals;

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

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

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

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

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

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

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

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

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

68 (18) Operational guidelines, [and] policies **and specific response plans** developed,
69 adopted, or maintained by any public agency responsible for law enforcement, public safety, first
70 response, or public health for use in responding to or preventing any critical incident which is
71 or appears to be terrorist in nature and which has the potential to endanger individual or public
72 safety or health. **Financial records related to the procurement of or expenditures relating**
73 **to operational guidelines, policies or plans purchased with public funds shall be open.**
74 **When seeking to close information pursuant to this exception, the public governmental**
75 **body shall affirmatively state in writing that disclosure would impair the public**
76 **governmental body's ability to protect the security or safety of persons or real property,**
77 **and shall in the same writing state that the public interest in nondisclosure outweighs the**
78 **public interest in disclosure of the records** [Nothing in this exception shall be deemed to close
79 information regarding expenditures, purchases, or contracts made by an agency in implementing
80 these guidelines or policies. When seeking to close information pursuant to this exception, the
81 agency shall affirmatively state in writing that disclosure would impair its ability to protect the
82 safety or health of persons, and shall in the same writing state that the public interest in
83 nondisclosure outweighs the public interest in disclosure of the records. This exception shall
84 sunset on December 31, 2012];

85 (19) Existing or proposed security systems and structural plans of real property owned
86 or leased by a public governmental body, and information that is voluntarily submitted by a

87 nonpublic entity owning or operating an infrastructure to any public governmental body for use
88 by that body to devise plans for protection of that infrastructure, the public disclosure of which
89 would threaten public safety:

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

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

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

101 **(d) Nothing in this exception shall be deemed to include video from cameras outside**
102 **the governor's office in the capitol building;**

103 [(d) This exception shall sunset on December 31, 2012;]

104 **(20) The portion of a record that identifies security systems or access codes or**
105 **authorization codes for security systems of real property;**

106 [(20)] **(21)** Records that identify the configuration of components or the operation of a
107 computer, computer system, computer network, or telecommunications network, and would
108 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
109 network, or telecommunications network of a public governmental body. This exception shall
110 not be used to limit or deny access to otherwise public records in a file, document, data file or
111 database containing public records. Records related to the procurement of or expenditures
112 relating to such computer, computer system, computer network, or telecommunications network,
113 including the amount of moneys paid by, or on behalf of, a public governmental body for such
114 computer, computer system, computer network, or telecommunications network shall be open;

115 [(21)] **(22)** Credit card numbers, personal identification numbers, digital certificates,
116 physical and virtual keys, access codes or authorization codes that are used to protect the security
117 of electronic transactions between a public governmental body and a person or entity doing
118 business with a public governmental body. Nothing in this section shall be deemed to close the
119 record of a person or entity using a credit card held in the name of a public governmental body
120 or any record of a transaction made by a person using a credit card or other method of payment
121 for which reimbursement is made by a public governmental body; and

122 [(22)] (23) Records submitted by an individual, corporation, or other business entity to
123 a public institution of higher education in connection with a proposal to license intellectual
124 property or perform sponsored research and which contains sales projections or other business
125 plan information the disclosure of which may endanger the competitiveness of a business.

**Section 1. Any records or flight logs pertaining to any flight or request for a flight
2 after such flight has occurred by any elected member of either the executive or legislative
3 branch shall be open public records under chapter 610, unless otherwise provided by law.**

Section B. Because immediate action is necessary to protect sensitive public records
2 relating to public agency plans to prevent and respond to possible terrorist incidents and to
3 protect security system plans for certain critical public and private buildings and facilities, the
4 repeal and reenactment of section 610.021 of section A of this act is deemed necessary for the
5 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
6 to be an emergency act within the meaning of the constitution, and the repeal and reenactment
7 of section 610.021 of section A of this act shall be in full force and effect upon its passage and
8 approval.

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