

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1936
98TH GENERAL ASSEMBLY

5343S.02T

2016

AN ACT

To repeal sections 57.111, 488.5026, and 610.100, RSMo, and to enact in lieu thereof three new sections relating to law enforcement officers.

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

Section A. Sections 57.111, 488.5026, and 610.100, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 57.111, 488.5026, and 610.100, to read
3 as follows:

57.111. Whenever any sheriff or deputy sheriff of any county in this state is expressly
2 requested, in each instance, by a sheriff [of an adjoining county] of this state to render assistance,
3 such sheriff or deputy shall have the same powers of arrest in such county as he **or she** has in his
4 **or her** own jurisdiction. **Any sheriff, or deputy sheriff that a responding sheriff sends, of a**
5 **county responding to a request for assistance in another county of the state shall be deemed**
6 **an employee of the sending sheriff's office and shall be subject to the workers'**
7 **compensation, overtime, and expense reimbursement provisions provided to him or her as**
8 **an employee of the sending sheriff's office.**

488.5026. 1. Upon approval of the governing body of a city, county, or a city not within
2 a county, a surcharge of two dollars shall be assessed as costs in each court proceeding filed in
3 any court in any city, county, or city not within a county adopting such a surcharge, in all
4 criminal cases including violations of any county ordinance or any violation of criminal or traffic
5 laws of the state, including an infraction and violation of a municipal ordinance; except that no
6 such fee shall be collected in any proceeding in any court when the proceeding or the defendant

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.

7 has been dismissed by the court or when costs are to be paid by the state, county, or municipality.
8 A surcharge of two dollars shall be assessed as costs in a juvenile court proceeding in which a
9 child is found by the court to come within the applicable provisions of subdivision (3) of
10 subsection 1 of section 211.031.

11 2. Notwithstanding any other provision of law, the moneys collected by clerks of the
12 courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed
13 in accordance with sections 488.010 to 488.020, and shall be payable to the treasurer of the
14 governmental unit authorizing such surcharge.

15 3. The treasurer shall deposit funds generated by the surcharge into the "Inmate Prisoner
16 Detainee Security Fund". Funds deposited shall be utilized to acquire and develop biometric
17 verification systems and information sharing to ensure that inmates, prisoners, or detainees in
18 a holding cell facility or other detention facility or area which hold persons detained only for a
19 shorter period of time after arrest or after being formally charged can be properly identified upon
20 booking and tracked within the local law enforcement administration system, criminal justice
21 administration system, or the local jail system. **The funds deposited in the inmate prisoner
22 detainee security fund shall be used only to supplement the sheriff's funding received from
23 other county, state, or federal funds. The county commission shall not reduce any sheriff's
24 budget as a result of any funds received within the inmate prisoner detainee security fund.**
25 Upon the installation of the information sharing or biometric verification system, funds in the
26 inmate prisoner detainee security fund may also be used for the maintenance, repair, and
27 replacement of the information sharing or biometric verification system, and also to pay for any
28 expenses related to detention, custody, and housing and other expenses for inmates, prisoners,
29 and detainees.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (1) Notwithstanding any other provision of law other than the provisions of subsections
35 4, 5 and 6 of this section or section 320.083, **mobile video recordings and** investigative reports
36 of all law enforcement agencies are closed records until the investigation becomes inactive.

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

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

47 3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a
48 record or document of a law enforcement officer or agency, other than an arrest report, which

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

56 4. Any person, including a **legal guardian or parent of such person if he or she is a**
57 **minor**, family member of such person within the first degree of consanguinity if such person is
58 deceased or incompetent, attorney for a person, or insurer of a person involved in any incident
59 or whose property is involved in an incident, may obtain any records closed pursuant to this
60 section or section 610.150 for purposes of investigation of any civil claim or defense, as provided
61 by this subsection. Any individual, **legal guardian or parent of such person if he or she is a**
62 **minor**, his or her family member within the first degree of consanguinity if such individual is
63 deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property
64 is involved in 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 closed by a law
66 enforcement agency pursuant to this section. Within thirty days of such request, the agency shall
67 provide the requested material or file a motion pursuant to this subsection with the circuit court
68 having jurisdiction over the law enforcement agency stating that the safety of the victim, witness
69 or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be
70 jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court
71 shall either order the record closed or order such portion of the record that should be closed to
72 be redacted from any record made available pursuant to this subsection.

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

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

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

85 **(a) Whether the benefit to the person bringing the action or to the public outweighs**
86 **any harm to the public, to the law enforcement agency or any of its officers, or to any**
87 **person identified in the mobile video recording in regard to the need for law enforcement**
88 **agencies to effectively investigate and prosecute criminal activity;**

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

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

93 **(d) Whether the mobile video recording was taken in a place where a person**
94 **recorded or depicted has a reasonable expectation of privacy.**

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

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

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

101 **(b) That the mobile video recording or investigative report may be had only by a**
102 **method of disclosure other than that selected by the party seeking such disclosure;**

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

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

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

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

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

116 6. Any person may apply pursuant to this subsection to the circuit court having
117 jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest
118 reports being unlawfully closed pursuant to this section. If the court finds by a preponderance
119 of the evidence that the law enforcement officer or agency has knowingly violated this section,
120 the officer or agency shall be subject to a civil penalty in an amount up to one thousand dollars.

121 If the court finds that there is a knowing violation of this section, the court may order payment
122 by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. If the
123 court finds by a preponderance of the evidence that the law enforcement officer or agency has
124 purposely violated this section, the officer or agency shall be subject to a civil penalty in an
125 amount up to five thousand dollars and the court shall order payment by such officer or agency
126 of all costs and attorney fees, as provided in section 610.027. The court shall determine the
127 amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the
128 offense, and whether the law enforcement officer or agency has violated this section previously.

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

131 **8. Any person who requests and receives a mobile video recording that was**
132 **recorded in a nonpublic location pursuant to this section is prohibited from displaying or**
133 **disclosing the mobile video recording, including any description or account of any or all**
134 **of the mobile video recording, without first providing direct third party notice to each non**
135 **law enforcement agency individual whose image or sound is contained in the recording and**
136 **affording each person whose image or sound is contained in the mobile video recording no**
137 **less than ten days to file and serve an action seeking an order from a court of competent**
138 **jurisdiction to enjoin all or some of the intended display, disclosure, description, or account**
139 **of recording. Any person who fails to comply with the provisions of this subsection is**
140 **subject to damages in a civil action.**

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