

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for House Bill No. 341, Page 1, Line
2 1, by inserting after the phrase "Page 1," the following:

3
4 "Section A, Line 2, by inserting after said line and section all of the following:

5 "43.508. 1. Except as provided in subsection 2 of this section and notwithstanding any other
6 provision of law, prior to the dissemination of criminal history information to a noncriminal justice agency,
7 all information relating to a conviction, and the arrest, indictment, or other information leading thereto, that is
8 the subject of a court order for limited access as provided in section 610.078 or all information relating to a
9 conviction or nonconviction final disposition, and the arrest, indictment, or other information leading to the
10 arrest or indictment, that is subject to a court order for limited access as provided for in section 610.080 shall
11 be omitted.

12 2. Subsection 1 of this section shall not apply if the request is made under a court order:

13 (1) In a case for child custody or protection from abuse; or

14 (2) By an employer against whom a claim of civil liability has been brought, as described under
15 section 610.088, for purposes of defending against a claim of civil liability.

16 3. Subsection 1 of this section shall not apply:

17 (1) To the verification of information provided by an applicant if federal law, including rules and
18 regulations promulgated by a self-regulatory organization that has been created under federal law, requires
19 the consideration of an applicant's criminal history for purposes of employment; or

20 (2) To the verification of information provided to the supreme court, or an entity of the supreme
21 court, in its capacity to govern the practice, procedure, and conduct of all courts, the admission to the bar, the
22 practice of law, the administration of all courts, and supervision of all officers of the judicial branch.

23 610.078. 1. Subject to the exceptions in subsection 2 of this section and notwithstanding any other
24 provision of law, upon petition of a person who has been free from conviction for a period of ten years for an
25 offense punishable by one or more years in prison and has completed each court-ordered financial obligation
26 of the sentence, the court where the conviction occurred may enter an order that criminal history record
27 information maintained by a criminal justice agency pertaining to a qualifying offense that carries a
28 maximum penalty of no more than five years be disseminated only to a criminal justice agency; upon its
29 request, to the department of social services in the performance of duties relating to children and youth; or as
30 provided in subsections 2 and 3 of section 43.508.

31 2. An order for limited access under subsection 1 of this section shall not be granted for any of the
32 following:

33 (1) A conviction for an offense punishable by more than two years in prison that is any of the
34 following or an attempt or a conspiracy or solicitation to commit any of the following:

35 (a) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under chapter
36 565;

37 (b) Any offense under chapter 566;

38 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in children under

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1 chapter 568; or

2 (d) An offense involving a firearm or other dangerous weapon under chapter 571; or

3 (2) An individual who:

4 (a) Has been convicted of murder, any felony in the first degree, or an offense punishable by
5 imprisonment of twenty years or more;

6 (b) Has been convicted within the previous twenty years of:

7 a. A felony or an offense punishable by imprisonment of seven or more years involving:

8 (i) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under chapter
9 565;

10 (ii) Any offense under chapter 566;

11 (iii) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in children under
12 chapter 568; or

13 (iv) An offense involving a firearm or other dangerous weapon under chapter 571; or

14 b. Four or more offenses punishable by imprisonment of two or more years; or

15 (c) Has been convicted within the previous fifteen years of:

16 a. Two or more offenses punishable by more than two years in prison; or

17 b. Any sexual offense under chapter 566.

18 610.080. 1. The following shall be subject to limited access:

19 (1) Subject to the exceptions under section 610.082 or if a court has vacated an order for limited
20 access under section 610.084, criminal history record information pertaining to a conviction of a nonviolent
21 offense or a nonsexual offense if a person has been free from conviction for ten years for any offense
22 punishable by imprisonment of one or more years and if completion of each court-ordered financial
23 obligation of the sentence has occurred; or

24 (2) Criminal history record information pertaining to charges that resulted in a final disposition other
25 than a conviction.

26 2. (1) On a monthly basis, the Missouri office of state courts administrator shall transmit to the
27 Missouri state highway patrol's central repository the record of any conviction eligible for limited access
28 under subdivision (1) of subsection 1 of this section.

29 (2) The office of state courts administrator shall transmit to the Missouri state highway patrol's
30 central repository the record of charges subject to limited access under subdivision (2) of subsection 1 of this
31 section within thirty days after entry of the disposition and payment of each court-ordered financial
32 obligation.

33 (3) If the Missouri state highway patrol's central repository determines through a validation process
34 that a record transmitted is not eligible for limited access relief under subsection 1 of this section or does not
35 match data held in the central repository, the Missouri state highway patrol shall notify the office of state
36 courts administrator of such determination within thirty days of receiving the information.

37 (4) Upon the expiration of the thirty-day period under subdivision (3) of this subsection, the office of
38 state courts administrator shall remove from the list of eligible records any record for which the office of state
39 courts administrator received a notification of ineligibility or nonmatch with central repository data.

40 (5) Monthly, each court shall issue an order for limited access for any record in its judicial circuit for
41 which no notification of ineligibility was received by the office of state courts administrator.

42 3. A criminal history record that is the subject of an order for limited access under this section shall
43 be made available to a noncriminal justice agency only as provided in subsections 2 and 3 of section 43.508
44 or, upon request, to the department of social services in the performance of duties relating to children and
45 youth.

46 610.082. 1. Limited access to records under subdivision (1) of subsection 1 of section 610.080 shall
47 not be granted for any of the following:

48 (1) A conviction for any of the following or an attempt, conspiracy, or solicitation to commit any of
49 the following:

50 (a) An offense involving murder or manslaughter, infanticide, assault, or kidnapping under chapter
51 565;

52 (b) Any offense under chapter 566;

53 (c) An offense of bigamy, incest, endangering the welfare of a child, or trafficking in children under

1 chapter 568;

2 (d) An offense involving a firearm or other dangerous weapon under chapter 571; or

3 (e) An offense of animal abuse or neglect under chapter 578; or

4 (2) An individual who, at any time, has been convicted of:

5 (a) A felony;

6 (b) Two or more offenses punishable by imprisonment of more than two years; or

7 (c) Four or more offenses punishable by imprisonment of one or more years.

8 2. Limited access under this section shall not apply to an otherwise qualifying conviction if a
 9 conviction for an offense punishable by imprisonment of five or more years or an offense enumerated in
 10 subsection 1 of this section arose out of the same case.

11 3. Nothing in this section shall preclude the filing of a petition for limited access under section
 12 610.078 if limited access is available under that section.

13 610.084. 1. Upon petition of the prosecuting attorney to the court where a conviction occurred, and
 14 with notice to the defendant and opportunity to be heard, the court shall vacate an order for limited access
 15 granted under section 610.080 if the court determines that the order was erroneously entered and not in
 16 accordance with section 610.080.

17 2. Upon conviction of a defendant of a misdemeanor or felony offense and upon a filing of a motion
 18 by the prosecuting attorney, the court shall enter an order vacating any prior order for limited access
 19 pertaining to a record of the defendant, except under subdivision (2) of subsection 1 of section 610.080.

20 3. An order under subsection 1 or 2 of this section shall be transmitted to the central repository of the
 21 Missouri state highway patrol.

22 610.086. 1. (1) Except if requested or required by a criminal justice agency, or if disclosure to
 23 noncriminal justice agencies is authorized or required by section 43.508, an individual shall not be required
 24 or requested to disclose information about the individual's criminal history record that has been provided
 25 limited access under section 610.078 or section 610.080. An individual required or requested to provide
 26 information in violation of this section may respond as if the offense did not occur.

27 (2) This subsection shall not apply if federal law, including rules and regulations promulgated by a
 28 self-regulatory organization that has been created under federal law, requires the consideration of an
 29 applicant's criminal history for purposes of employment.

30 2. A record subject to limited access under section 610.078 or 610.080 shall not be considered a
 31 conviction that would prohibit the employment of a person under any law of this state or under federal laws
 32 that prohibit employment based on state convictions to the extent permitted by federal law.

33 610.088. An employer who employs or otherwise engages an individual whose criminal history
 34 record to which limited access has been applied under section 610.078 or 610.080 shall be immune from
 35 liability for any claim arising out of the misconduct of the individual if the misconduct relates to the portion
 36 of the criminal history record that has been provided limited access.

37 610.090. The official records pertaining to a case in which limited access has been granted under
 38 section 610.078 or 610.080 shall be considered closed records.

39 610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

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

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

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

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

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

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

52 (4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific
 53 location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime

1 or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

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

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

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

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

12 2. (1) Each law enforcement agency of this state, of any county, and of any municipality shall
13 maintain records of all incidents reported to the agency, investigations and arrests made by such law
14 enforcement agency. All incident reports and arrest reports shall be open records.

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

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

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

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

35 4. Any person, including a legal guardian or a parent of such person if he or she is a minor, family
36 member of such person within the first degree of consanguinity if such person is deceased or incompetent,
37 attorney for a person, ~~or~~ insurer of a person, or creditor with a secured interest in the property, involved in
38 any incident or whose property is involved in an incident, may obtain any records closed pursuant to this
39 section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this
40 subsection. Any individual, legal guardian or parent of such person if he or she is a minor, his or her family
41 member within the first degree of consanguinity if such individual is deceased or incompetent, his or her
42 attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request,
43 may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access
44 to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such
45 request, the agency shall provide the requested material or file a motion pursuant to this subsection with the
46 circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness
47 or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized.
48 If, based on such motion, the court finds for the law enforcement agency, the court shall either order the
49 record closed or order such portion of the record that should be closed to be redacted from any record made
50 available pursuant to this subsection.

51 5. (1) Any person may bring an action pursuant to this section in the circuit court having jurisdiction
52 to authorize disclosure of a mobile video recording or the information contained in an investigative report of
53 any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order

1 that all or part of a mobile video recording or the information contained in an investigative report be released
2 to the person bringing the action.

3 (2) In making the determination as to whether information contained in an investigative report shall
4 be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public
5 outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person
6 identified in the investigative report in regard to the need for law enforcement agencies to effectively
7 investigate and prosecute criminal activity.

8 (3) In making the determination as to whether a mobile video recording shall be disclosed, the court
9 shall consider:

10 (a) Whether the benefit to the person bringing the action or the benefit to the public outweighs any
11 harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the
12 mobile video recording in regard and with respect to the need for law enforcement agencies to effectively
13 investigate and prosecute criminal activity;

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

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

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

20 (4) The mobile video recording or investigative report in question may be examined by the court in
21 camera.

22 (5) If the disclosure is authorized in whole or in part, the court may make any order that justice
23 requires, including one or more of the following:

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

26 (b) That the mobile video recording or investigative report may be had only by a method of
27 disclosure other than that selected by the party seeking such disclosure and may be disclosed to the person
28 making the request in a different manner or form as requested;

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

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

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

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

35 (6) The court may find that the party seeking disclosure of the mobile video recording or the
36 investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless
37 the court finds that the decision of the law enforcement agency not to open the mobile video recording or
38 investigative report was substantially unjustified under all relevant circumstances, and in that event, the court
39 may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

40 6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an
41 order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed
42 pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement
43 officer or agency has knowingly violated this section, the officer or agency shall be subject to a civil penalty
44 in an amount up to one thousand dollars. If the court finds that there is a knowing violation of this section,
45 the court may order payment by such officer or agency of all costs and attorneys' fees, as provided by section
46 610.027. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has
47 purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five
48 thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as
49 provided in section 610.027. The court shall determine the amount of the penalty by taking into account the
50 size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has
51 violated this section previously.

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

1 8. Any person who requests and receives a mobile video recording that was recorded in a nonpublic
2 location under and pursuant to this section is prohibited from displaying or disclosing the mobile video
3 recording, including any description or account of any or all of the mobile video recording, without first
4 providing direct third-party notice to each person not affiliated with a law enforcement agency or each non-
5 law enforcement agency individual whose image or sound is contained in the recording, and affording, upon
6 receiving such notice, each person appearing and whose image or sound is contained in the mobile video
7 recording no less than ten days to file and serve an action seeking an order from a court of competent
8 jurisdiction to enjoin all or some of the intended display, disclosure, description, or account of the recording.
9 Any person who fails to comply with the provisions of this subsection is subject to damages in a civil action
10 proceeding."; and

11
12 Further amend said bill and page,"; and

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14 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

15
16 THIS AMENDS 0681H03.08H.