

FIRST REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 762**  
**98TH GENERAL ASSEMBLY**

1837H.02P

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal section 610.100, RSMo, and to enact in lieu thereof two new sections relating to accessibility of information acquired by law enforcement.

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

Section A. Section 610.100, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as section 590.810 and 610.100, to read as follows:

**590.810. 1. No law enforcement agency shall be required by the state to provide mobile video recorders as defined in section 610.100 to officers employed by the agency, nor shall the state require any peace officer to wear such recorders.**

**2. Any law enforcement agency that utilizes a mobile video recorder shall have a written policy on the use of the recorders.**

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

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

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

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

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

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

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.

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, vessel, or aircraft, or being worn or carried by**  
26 **personnel of law enforcement agency and that includes, at a minimum, a camera and**  
27 **recording capabilities.**

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

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

49           4. Any person, including a family member of such person within the first degree of  
50 consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a  
51 person involved in any incident or whose property is involved in an incident, may obtain any  
52 records closed pursuant to this section or section 610.150 for purposes of investigation of any  
53 civil claim or defense, as provided by this subsection. Any individual, his or her family member  
54 within the first degree of consanguinity if such individual is deceased or incompetent, his or her  
55 attorney or insurer, involved in an incident or whose property is involved in an incident, upon  
56 written request, may obtain a complete unaltered and unedited incident report concerning the  
57 incident, and may obtain access to other records closed by a law enforcement agency pursuant  
58 to this section. Within thirty days of such request, the agency shall provide the requested  
59 material or file a motion pursuant to this subsection with the circuit court having jurisdiction  
60 over the law enforcement agency stating that the safety of the victim, witness or other individual  
61 cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If,  
62 based on such motion, the court finds for the law enforcement agency, the court shall either order  
63 the record closed or order such portion of the record that should be closed to be redacted from  
64 any record made available pursuant to this subsection.

65           5. Any person may bring an action pursuant to this section in the circuit court having  
66 jurisdiction to authorize disclosure of the information contained in an investigative report of any  
67 law enforcement agency **or data in the possession of a law enforcement agency from a mobile**  
68 **video recorder**, which would otherwise be closed pursuant to this section. The court may order  
69 that all or part of the information contained in an investigative report **or the data from a mobile**  
70 **video recorder** be released to the person bringing the action.

71           (1) In making the determination as to whether information contained in an investigative  
72 report **or data from a mobile video recorder** shall be disclosed, the court shall consider  
73 whether the benefit to the person bringing the action or to the public outweighs any harm to the  
74 public, to the law enforcement agency or any of its officers, or to any person identified in the  
75 investigative report **or captured in the data from the mobile video recorder** in regard to the  
76 need for law enforcement agencies to effectively investigate and prosecute criminal activity.

77           (2) The investigative report **or data from a mobile video recorder** in question may be  
78 examined by the court in camera.

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

81           (a) **That the data from a mobile video recorder may be disclosed only on specified**  
82 **terms and conditions, including a designation of the time or place;**

83           (b) **That the data from a mobile video recorder may be had only by a method of**  
84 **disclosure other than that selected by the party seeking the disclosure;**

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

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

88 (e) That a trade secret or other confidential research, development, or commercial  
89 information not be disclosed or be disclosed only in a designated way.

90 (4) The court may find that the party seeking disclosure of the investigative report or  
91 data from a mobile video recorder shall bear [the] its reasonable and necessary costs and  
92 attorneys' fees [of both parties], unless the court finds that the decision of the law enforcement  
93 agency not to open the investigative report or data from a mobile video recorder was  
94 substantially unjustified under all relevant circumstances, and in that event, the court [may] shall  
95 assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

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

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

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