

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 761
AN ACT

To repeal sections 476.055 and 610.021, RSMo, and to enact in lieu thereof three new sections relating to access to public records, with penalty provisions.

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

Section A. Sections 476.055 and 610.021, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 43.253, 476.055, and 610.021, to read as follows:

43.253. 1. Notwithstanding any other provision of law to the contrary, a minimum fee of five dollars may be charged by the Missouri state highway patrol for any records request where there are allowable fees of less than five dollars under this chapter or chapter 610. Such five-dollar fee shall be in place of any allowable fee of less than five dollars.

2. The superintendent of the Missouri state highway patrol may increase the minimum fee described in this section by no more than one dollar every other year beginning August 28, 2023; however, the minimum fee described in this section shall not exceed ten dollars.

3. A request for public records under chapter 43 or chapter 610 shall be considered withdrawn if the requester fails to remit all fees within thirty days of a request for payment of the fees by the Missouri state highway patrol.

476.055. 1. There is hereby established in the state treasury the "Statewide Court Automation Fund". All moneys collected pursuant to section 488.027, as well as gifts, contributions, devises, bequests, and grants received

5 relating to automation of judicial record keeping, and
6 moneys received by the judicial system for the dissemination
7 of information and sales of publications developed relating
8 to automation of judicial record keeping, shall be credited
9 to the fund. Moneys credited to this fund may only be used
10 for the purposes set forth in this section and as
11 appropriated by the general assembly. Any unexpended
12 balance remaining in the statewide court automation fund at
13 the end of each biennium shall not be subject to the
14 provisions of section 33.080 requiring the transfer of such
15 unexpended balance to general revenue; except that, any
16 unexpended balance remaining in the fund on September 1,
17 2023, shall be transferred to general revenue.

18 2. The statewide court automation fund shall be
19 administered by a court automation committee consisting of
20 the following: the chief justice of the supreme court, a
21 judge from the court of appeals, four circuit judges, four
22 associate circuit judges, four employees of the circuit
23 court, the commissioner of administration, two members of
24 the house of representatives appointed by the speaker of the
25 house, two members of the senate appointed by the president
26 pro tem of the senate, the executive director of the
27 Missouri office of prosecution services, the director of the
28 state public defender system, and two members of the
29 Missouri Bar. The judge members and employee members shall
30 be appointed by the chief justice. The commissioner of
31 administration shall serve ex officio. The members of the
32 Missouri Bar shall be appointed by the board of governors of
33 the Missouri Bar. Any member of the committee may designate
34 another person to serve on the committee in place of the
35 committee member.

36 3. The committee shall develop and implement a plan
37 for a statewide court automation system. The committee

38 shall have the authority to hire consultants, review systems
39 in other jurisdictions and purchase goods and services to
40 administer the provisions of this section. The committee
41 may implement one or more pilot projects in the state for
42 the purposes of determining the feasibility of developing
43 and implementing such plan. The members of the committee
44 shall be reimbursed from the court automation fund for their
45 actual expenses in performing their official duties on the
46 committee.

47 4. Any purchase of computer software or computer
48 hardware that exceeds five thousand dollars shall be made
49 pursuant to the requirements of the office of administration
50 for lowest and best bid. Such bids shall be subject to
51 acceptance by the office of administration. The court
52 automation committee shall determine the specifications for
53 such bids.

54 5. The court automation committee shall not require
55 any circuit court to change any operating system in such
56 court, unless the committee provides all necessary
57 personnel, funds and equipment necessary to effectuate the
58 required changes. No judicial circuit or county may be
59 reimbursed for any costs incurred pursuant to this
60 subsection unless such judicial circuit or county has the
61 approval of the court automation committee prior to
62 incurring the specific cost.

63 6. Any court automation system, including any pilot
64 project, shall be implemented, operated and maintained in
65 accordance with strict standards for the security and
66 privacy of confidential judicial records. Any court
67 automation system, including any pilot project, that
68 provides public access to electronic records on the internet
69 shall redact any personal identifying information, including
70 name, address, and year of birth, of a minor and, if

71 applicable, any next friend. Any person who knowingly
72 releases information from a confidential judicial record is
73 guilty of a class B misdemeanor. Any person who, knowing
74 that a judicial record is confidential, uses information
75 from such confidential record for financial gain is guilty
76 of a class E felony.

77 7. On the first day of February, May, August and
78 November of each year, the court automation committee shall
79 file a report on the progress of the statewide automation
80 system with:

- 81 (1) The chair of the house budget committee;
- 82 (2) The chair of the senate appropriations committee;
- 83 (3) The chair of the house judiciary committee; and
- 84 (4) The chair of the senate judiciary committee.

85 8. Section 488.027 shall expire on September 1, 2023.
86 The court automation committee established pursuant to this
87 section may continue to function until completion of its
88 duties prescribed by this section, but shall complete its
89 duties prior to September 1, 2025.

90 9. This section shall expire on September 1, 2025.

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

- 5 (1) Legal actions, causes of action or litigation
6 involving a public governmental body and any confidential or
7 privileged communications between a public governmental body
8 or its representatives and its attorneys. However, any
9 minutes, vote or settlement agreement relating to legal
10 actions, causes of action or litigation involving a public
11 governmental body or any agent or entity representing its
12 interests or acting on its behalf or with its authority,
13 including any insurance company acting on behalf of a public

14 government body as its insured, shall be made public upon
15 final disposition of the matter voted upon or upon the
16 signing by the parties of the settlement agreement, unless,
17 prior to final disposition, the settlement agreement is
18 ordered closed by a court after a written finding that the
19 adverse impact to a plaintiff or plaintiffs to the action
20 clearly outweighs the public policy considerations of
21 section 610.011, however, the amount of any moneys paid by,
22 or on behalf of, the public governmental body shall be
23 disclosed; provided, however, in matters involving the
24 exercise of the power of eminent domain, the vote shall be
25 announced or become public immediately following the action
26 on the motion to authorize institution of such a legal
27 action. Legal work product shall be considered a closed
28 record;

29 (2) Leasing, purchase or sale of real estate by a
30 public governmental body where public knowledge of the
31 transaction might adversely affect the legal consideration
32 therefor. However, any minutes, vote or public record
33 approving a contract relating to the leasing, purchase or
34 sale of real estate by a public governmental body shall be
35 made public upon execution of the lease, purchase or sale of
36 the real estate;

37 (3) Hiring, firing, disciplining or promoting of
38 particular employees by a public governmental body when
39 personal information about the employee is discussed or
40 recorded. However, any vote on a final decision, when taken
41 by a public governmental body, to hire, fire, promote or
42 discipline an employee of a public governmental body shall
43 be made available with a record of how each member voted to
44 the public within seventy-two hours of the close of the
45 meeting where such action occurs; provided, however, that
46 any employee so affected shall be entitled to prompt notice

47 of such decision during the seventy-two-hour period before
48 such decision is made available to the public. As used in
49 this subdivision, the term "personal information" means
50 information relating to the performance or merit of
51 individual employees;

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

54 (5) Nonjudicial mental or physical health proceedings
55 involving identifiable persons, including medical,
56 psychiatric, psychological, or alcoholism or drug dependency
57 diagnosis or treatment;

58 (6) Scholastic probation, expulsion, or graduation of
59 identifiable individuals, including records of individual
60 test or examination scores; however, personally identifiable
61 student records maintained by public educational
62 institutions shall be open for inspection by the parents,
63 guardian or other custodian of students under the age of
64 eighteen years and by the parents, guardian or other
65 custodian and the student if the student is over the age of
66 eighteen years;

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

70 (8) Welfare cases of identifiable individuals;

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

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

76 (11) Specifications for competitive bidding, until
77 either the specifications are officially approved by the
78 public governmental body or the specifications are published
79 for bid;

80 (12) Sealed bids and related documents, until the bids
81 are opened; and sealed proposals and related documents or
82 any documents related to a negotiated contract until a
83 contract is executed, or all proposals are rejected;

84 (13) Individually identifiable personnel records,
85 performance ratings or records pertaining to employees or
86 applicants for employment, except that this exemption shall
87 not apply to the names, positions, salaries and lengths of
88 service of officers and employees of public agencies once
89 they are employed as such, and the names of private sources
90 donating or contributing money to the salary of a chancellor
91 or president at all public colleges and universities in the
92 state of Missouri and the amount of money contributed by the
93 source;

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

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

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

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

106 (18) Operational guidelines, policies and specific
107 response plans developed, adopted, or maintained by any
108 public agency responsible for law enforcement, public
109 safety, first response, or public health for use in
110 responding to or preventing any critical incident which is
111 or appears to be terrorist in nature and which has the
112 potential to endanger individual or public safety or

113 health. Financial records related to the procurement of or
114 expenditures relating to operational guidelines, policies or
115 plans purchased with public funds shall be open. When
116 seeking to close information pursuant to this exception, the
117 public governmental body shall affirmatively state in
118 writing that disclosure would impair the public governmental
119 body's ability to protect the security or safety of persons
120 or real property, and shall in the same writing state that
121 the public interest in nondisclosure outweighs the public
122 interest in disclosure of the records;

123 (19) Existing or proposed security systems and
124 structural plans of real property owned or leased by a
125 public governmental body, and information that is
126 voluntarily submitted by a nonpublic entity owning or
127 operating an infrastructure to any public governmental body
128 for use by that body to devise plans for protection of that
129 infrastructure, the public disclosure of which would
130 threaten public safety:

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

134 (b) When seeking to close information pursuant to this
135 exception, the public governmental body shall affirmatively
136 state in writing that disclosure would impair the public
137 governmental body's ability to protect the security or
138 safety of persons or real property, and shall in the same
139 writing state that the public interest in nondisclosure
140 outweighs the public interest in disclosure of the records;

141 (c) Records that are voluntarily submitted by a
142 nonpublic entity shall be reviewed by the receiving agency
143 within ninety days of submission to determine if retention
144 of the document is necessary in furtherance of a state
145 security interest. If retention is not necessary, the

146 documents shall be returned to the nonpublic governmental
147 body or destroyed;

148 (20) The portion of a record that identifies security
149 systems or access codes or authorization codes for security
150 systems of real property;

151 (21) Records that identify the configuration of
152 components or the operation of a computer, computer system,
153 computer network, or telecommunications network, and would
154 allow unauthorized access to or unlawful disruption of a
155 computer, computer system, computer network, or
156 telecommunications network of a public governmental body.
157 This exception shall not be used to limit or deny access to
158 otherwise public records in a file, document, data file or
159 database containing public records. Records related to the
160 procurement of or expenditures relating to such computer,
161 computer system, computer network, or telecommunications
162 network, including the amount of moneys paid by, or on
163 behalf of, a public governmental body for such computer,
164 computer system, computer network, or telecommunications
165 network shall be open;

166 (22) Credit card numbers, personal identification
167 numbers, digital certificates, physical and virtual keys,
168 access codes or authorization codes that are used to protect
169 the security of electronic transactions between a public
170 governmental body and a person or entity doing business with
171 a public governmental body. Nothing in this section shall
172 be deemed to close the record of a person or entity using a
173 credit card held in the name of a public governmental body
174 or any record of a transaction made by a person using a
175 credit card or other method of payment for which
176 reimbursement is made by a public governmental body;

177 (23) Records submitted by an individual, corporation,
178 or other business entity to a public institution of higher

179 education in connection with a proposal to license
180 intellectual property or perform sponsored research and
181 which contains sales projections or other business plan
182 information the disclosure of which may endanger the
183 competitiveness of a business; [and]

184 (24) Records relating to foster home or kinship
185 placements of children in foster care under section 210.498;
186 and

187 (25) Individually identifiable customer usage and
188 billing records for customers of a municipally owned
189 utility, unless the records are requested by the customer or
190 authorized for release by the customer, except that a
191 municipally owned utility shall make available to the public
192 the customer's name, billing address, location of service,
193 and dates of service provided for any commercial service
194 account.