

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 72

AN ACT

To repeal section 565.240, RSMo, and to enact in lieu thereof seven new sections relating to judicial privacy, with penalty provisions.

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

Section A. Section 565.240, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 476.1300, 476.1302, 476.1304, 476.1306, 476.1308, 476.1310, and 565.240, to read as follows:

476.1300. 1. Sections 476.1300 to 476.1312 shall be known and may be cited as the "Judicial Privacy Act".

2. As used in sections 476.1300 to 476.1312, the following terms mean:

(1) "Government agency", all agencies, authorities, boards, commissions, departments, institutions, offices, and any other bodies politic and corporate of the state created by the constitution or statute, whether in the executive, judicial, or legislative branch; all units and corporate outgrowths created by executive order of the governor or any constitutional officer, by the supreme court, or by resolution of the general assembly; and agencies, authorities, boards, commissions, departments, institutions, offices, and any other bodies politic and corporate of a political subdivision, including school districts; and any public governmental body as that term is defined in section 610.010;

(2) "Home address", a judicial officer's permanent residence and any secondary residences affirmatively

identified by the judicial officer, but does not include a
judicial officer's work address;

(3) "Immediate family", a judicial officer's spouse,
child, adoptive child, foster child, parent, or any
unmarried companion of the judicial officer or other
familial relative of the judicial officer or the judicial
officer's spouse who lives in the same residence;

(4) "Judicial officer", actively employed, formerly
employed, or retired:

(a) Justices of the Supreme Court of the United States;

(b) Judges of the United States Court of Appeals;

(c) Judges and magistrate judges of the United States
District Courts;

(d) Judges of the United States Bankruptcy Court;

(e) Judges of the Missouri supreme court;

(f) Judges of the Missouri court of appeals;

(g) Judges and commissioners of the Missouri circuit
courts, including of the divisions of a circuit court; and

(h) Prosecuting or circuit attorney, or assistant
prosecuting or circuit attorney;

(5) "Personal information", a home address, home
telephone number, mobile telephone number, pager number,
personal email address, Social Security number, federal tax
identification number, checking and savings account numbers,
credit card numbers, marital status, and identity of
children under eighteen years of age;

(6) "Publicly available content", any written,
printed, or electronic document or record that provides
information or that serves as a document or record
maintained, controlled, or in the possession of a government
agency that may be obtained by any person or entity, from
the internet, from the government agency upon request either
free of charge or for a fee, or in response to a request

pursuant to chapter 610 or the federal Freedom of Information Act, 5 U.S.C. Section 552, as amended;

(7) "Publicly post or display", to communicate to another or to otherwise make available to the general public;

(8) "Written request", written or electronic notice signed by:

(a) A state judicial officer and submitted to the clerk of the Missouri supreme court or the clerk's designee;
or

(b) A federal judicial officer and submitted to that judicial officer's clerk of the court or the clerk's designee;

that is transmitted by the applicable clerk to a government agency, person, business, or association to request such government agency, person, business, or association refrain from posting or displaying publicly available content that includes the judicial officer's personal information.

476.1302. 1. A government agency shall not publicly post or display publicly available content that includes a judicial officer's personal information, provided that the government agency has received a written request that the agency refrain from disclosing the judicial officer's personal information. After a government agency has received a written request, the agency shall remove the judicial officer's personal information from publicly available content within five business days. After the government agency has removed the judicial officer's personal information from publicly available content, the government agency shall not publicly post or display the judicial officer's personal information and the judicial officer's personal information shall be exempted from the provisions of chapter 610, unless the government agency has

received consent from the judicial officer to make the personal information available to the public.

2. If a government agency fails to comply with a written request to refrain from disclosing personal information, the judicial officer may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. If the court grants injunctive or declaratory relief, the court may award costs and reasonable attorney's fees to the judicial officer.

476.1304. 1. No person, business, or association shall publicly post or display on the internet publicly available content that includes a judicial officer's personal information, provided that the judicial officer has made a written request to the person, business, or association that it refrain from disclosing the personal information.

2. No person, business, or association shall solicit, sell, or trade on the internet a judicial officer's personal information for purposes of tampering with a judicial officer in violation of section 575.095 or with the intent to pose an imminent and serious threat to the health and safety of the judicial officer or the judicial officer's immediate family.

3. As prohibited in this section, persons, businesses, or associations posting, displaying, soliciting, selling, or trading a judicial officer's personal information on the internet includes, but is not limited to, internet phone directories, internet search engines, internet data aggregators, and internet service providers.

476.1306. 1. After a person, business, or association has received a written request from a judicial officer to protect the privacy of the officer's personal information, that person, business, or association shall have five

business days to remove the personal information from the internet.

2. After a person, business, or association has received a written request from a judicial officer, that person, business, or association shall ensure that the judicial officer's personal information is not made available on any website or subsidiary website controlled by that person, business, or association.

3. After receiving a judicial officer's written request, no person, business, or association shall make public the judicial officer's personal information to any other person, business, or association through any medium.

476.1308. A judicial officer whose personal information is made public as a result of a violation of sections 476.1300 to 476.1312 may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay the judicial officer's costs and reasonable attorney's fees.

476.1310. 1. No government agency, person, business, or association shall be found to have violated any provision of sections 476.1300 to 476.1312 if the judicial officer fails to submit a written request calling for the protection of the judicial officer's personal information.

2. A written request shall be valid if:

(1) The judicial officer sends a written request directly to a government agency, person, business, or association; or

(2) If the judicial officer complies with a Missouri supreme court rule for a state judicial officer to file the written request with the clerk of the Missouri supreme court or the clerk's designee to notify government agencies and

such notice is properly delivered by mail or electronic format.

3. In each quarter of a calendar year, the clerk of the Missouri supreme court or the clerk's designee shall provide a list of all state judicial officers who have submitted a written request under this section to the appropriate officer with ultimate supervisory authority for a government agency. The officer shall promptly provide a copy of the list to all government agencies under his or her supervision. Receipt of the written request list compiled by the clerk of the Missouri supreme court or the clerk's designee by a government agency shall constitute a written request to that agency for the purposes of sections 476.1300 to 476.1312.

4. The chief clerk or circuit clerk of the court where the judicial officer serves may submit a written request on the judicial officer's behalf, provided that the judicial officer gives written consent to the clerk and provided that the clerk agrees to furnish a copy of that consent when a written request is made. The chief clerk or circuit clerk shall submit the written request as provided by subsection 2 of this section.

5. A judicial officer's written request shall specify what personal information shall be maintained as private. If a judicial officer wishes to identify a secondary residence as a home address, the designation shall be made in the written request. A judicial officer shall disclose the identity of his or her immediate family and indicate that the personal information of those members of the immediate family shall also be excluded to the extent that it could reasonably be expected to reveal the personal information of the judicial officer.

6. A judicial officer's written request is valid until the judicial officer provides the government agency, person, business, or association with written permission to release the personal information. A judicial officer's written request expires on such judicial officer's death.

565.240. 1. A person commits the offense of unlawful posting of certain information over the internet if he or she knowingly posts the name, home address, Social Security number, telephone number, or any other personally identifiable information of any person on the internet intending to cause great bodily harm or death, or threatening to cause great bodily harm or death to such person.

2. The offense of unlawful posting of certain information over the internet is a class C misdemeanor, unless the person knowingly posts on the internet the name, home address, Social Security number, telephone number, or any other personally identifiable information of any law enforcement officer, corrections officer, parole officer, judge, commissioner, or prosecuting attorney, or of any immediate family member of such law enforcement officer, corrections officer, parole officer, judge, commissioner, or prosecuting attorney, intending to cause great bodily harm or death, or threatening to cause great bodily harm or death, in which case it is a class E felony, and if such intention or threat results in bodily harm or death to such person or immediate family member, the offense of unlawful posting of certain information over the internet is a class D felony.