

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE SUBSTITUTE FOR

HOUSE BILL NO. 470

92ND GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 28, 2003, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1604S.05C

AN ACT

To repeal sections 195.417, 478.610, 542.276, 544.170, 565.092, 610.106, and 610.110, RSMo, and to enact in lieu thereof sixteen new sections relating to crime, with penalty provisions.

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

Section A. Sections 195.417, 478.610, 542.276, 544.170, 565.092, 610.106, and
2 610.110, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be
3 known as sections 195.215, 195.417, 478.610, 542.276, 544.170, 565.085, 565.092,
4 570.400, 570.405, 570.410, 570.415, 574.110, 577.075, 578.160, 610.106, and 610.110, to
5 read as follows:

**195.215. 1. A person commits the offense of manufacturing of a
2 controlled substance near schools if such person violates section 195.211 by
3 unlawfully manufacturing any controlled substance within two thousand feet
4 of the real property comprising a public or private elementary or secondary
5 school, public vocational school, or a public or private junior college, college
6 or university, or on any school bus.**

7 2. Violation of the provisions of this section is a class A felony.

195.417. 1. No person shall deliver in any single over-the-counter sale more than
2 [three]:

**3 (1) Two packages or any number of packages that contain a combined
4 total of no more than six grams, of any [methamphetamine precursor drug or any**

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 combination of methamphetamine precursor drugs.

6 **2.] drug containing a sole active ingredient of ephedrine,**
7 **pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers,**
8 **or salts of optical isomers; or**

9 **(2) Two packages of any combination drug containing, as one of its**
10 **active ingredients, ephedrine, pseudoephedrine, phenylpropanolamine, or any**
11 **of their salts, optical isomers, or salts of optical isomers, or any number of**
12 **packages of said combination drug that contain a combined total of no more**
13 **than six grams of ephedrine, pseudoephedrine, phenylpropanolamine, or any**
14 **of their salts, optical isomers, or salts of optical isomers.**

15 **2. All packages of any drug having a sole active ingredient of**
16 **ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts,**
17 **optical isomers, or salts of optical isomers, shall be displayed and offered for**
18 **sale only behind a checkout counter where the public is not permitted, or**
19 **within fifteen feet and an unobstructed view of an attended checkout**
20 **counter. This subsection shall not apply to any retailer utilizing an electronic**
21 **anti-theft system that utilizes a product tag and detection alarm which**
22 **specifically prevents the theft of such drugs from the place of business where**
23 **such drugs are sold.**

24 **3. This section shall supersede any municipal ordinances or regulations**
25 **to the extent that such ordinances or regulations are more restrictive than**
26 **the provisions of this section.** This section shall not apply to any product labeled
27 pursuant to federal regulation for use only in children under twelve years of age, or to
28 any products that the state department of health and senior services, upon application
29 of a manufacturer, exempts by rule from this section because the product has been
30 formulated in such a way as to effectively prevent the conversion of the active ingredient
31 into methamphetamine, or its salts or precursors **or to the sale of any animal feed**
32 **products containing ephedrine or any naturally occurring or herbal ephedra**
33 **or extract of ephedra.**

34 **[3.] 4.** Any person who is considered the general owner or operator of the outlet
35 where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for
36 sale who violates subsection 1 of this section shall not be penalized pursuant to this
37 section if such person documents that an employee training program was in place to
38 provide the employee with information on the state and federal regulations regarding
39 ephedrine, pseudoephedrine, or phenylpropanolamine.

40 **[4.] 5.** Any person who knowingly or recklessly violates this section is guilty of

41 a class A misdemeanor.

478.610. 1. There shall be three circuit judges in the thirteenth judicial circuit
2 consisting of the counties of Boone and Callaway. These judges shall sit in divisions
3 numbered one, two and three. **Beginning on January 1, 2007, there shall be four**
4 **circuit judges in the thirteenth judicial circuit and these judges shall sit in**
5 **divisions numbered one, two, three, and four.**

6 2. The circuit judge in division two shall be elected in 1980. The circuit judges
7 in divisions one and three shall be elected in 1982. **The circuit judge in division**
8 **four shall be elected in 2006 for a two-year term and thereafter in 2008 for a**
9 **full four-year term.**

10 3. The authority for a majority of judges of the thirteenth judicial circuit to
11 appoint or retain a commissioner pursuant to section 478.003 shall expire August 28,
12 2001. As of such date, there shall be one additional associate circuit judge position in
13 Boone County than is provided pursuant to section 478.320.

542.276. 1. Any peace officer or prosecuting attorney may make application
2 under section 542.271 for the issuance of a search warrant.

3 2. The application shall:

4 (1) Be in writing, **except as provided in this section;**

5 (2) State the time and date of the making of the application;

6 (3) Identify the property, article, material, substance or person which is to be
7 searched for and seized, in sufficient detail and particularity that the officer executing
8 the warrant can readily ascertain it;

9 (4) Identify the person, place, or thing which is to be searched, in sufficient detail
10 and particularity that the officer executing the warrant can readily ascertain whom or
11 what [he] **the officer** is to search;

12 (5) State facts sufficient to show probable cause for the issuance of a search
13 warrant;

14 (6) Be verified by the oath or affirmation of the applicant;

15 (7) Be filed in the proper court;

16 (8) Be signed **or verbally authorized pursuant to this section for**
17 **telephonic search warrants** by the prosecuting attorney of the county where the
18 search is to take place, or [his] **the prosecuting attorney's** designated assistant.

19 3. The application may be supplemented by a written affidavit verified by oath
20 or affirmation. Such affidavit shall be considered in determining whether there is
21 probable cause for the issuance of a search warrant and in filling out any deficiencies in
22 the description of the person, place, or thing to be searched or of the property, article,

23 material, substance, or person to be seized. Oral testimony shall not be considered.

24 4. The judge shall hold a nonadversary hearing to determine whether sufficient
25 facts have been stated to justify the issuance of a search warrant. If it appears from the
26 application and any supporting affidavit that there is probable cause to believe that
27 property, article, material, substance, or person subject to seizure is on the person or at
28 the place or in the thing described, a search warrant shall immediately be issued. The
29 warrant shall be issued in the form of an original and two copies.

30 5. The application and any supporting affidavit and a copy of the warrant shall
31 be retained in the records of the court from which the warrant was issued.

32 6. **In lieu of, or in addition to, a written application, affidavit, or**
33 **affidavits, as provided in this section, the prosecuting attorney may give voice**
34 **authorization to the applicant to affix the prosecutor's signature at the**
35 **conclusion of an oral application recorded and preserved pursuant to the**
36 **procedures of this section. After the prosecutor's signature has been affixed,**
37 **the applicant shall contact the judge who may take an oral statement under**
38 **oath which shall be recorded on tape, wire or other comparable method by**
39 **the peace officer or transmitted by a facsimile. Such statement may be given**
40 **in person to the judge or by telephone, radio or other means of electronic**
41 **communication including a facsimile transmission. Such statement shall be**
42 **deemed to be an application and an affidavit for the purposes of issuance of**
43 **a search warrant. In such cases if a recording of the sworn statement has**
44 **been made, the judge shall direct that the statement be transcribed, and**
45 **certified by the peace officer, and filed with the court. Such affidavit shall**
46 **be considered in determining whether there is probable cause for the**
47 **issuance of a search warrant and in filling out any deficiencies in the**
48 **description of the person, place, or thing to be searched or of the property,**
49 **article, material, substance, or person to be seized. To ensure uniformity in**
50 **making applications for search warrant by wire or other comparable method**
51 **or by transmission by facsimile, the forms for the application and affidavit for**
52 **a telephonic search warrant and the duplicate original search warrant is as**
53 **follows:**

54 **APPLICATION FOR TELEPHONE SEARCH WARRANT**

55 **Prosecuting Attorney: Hello.**

56 **Officer: Prosecutor , this is officer , of theI.**
57 **am calling you on(date) with officer standing by as a**
58 **witness. The time now is I am calling with an application for a**
59 **telephonic search warrant and have just, probable and reasonable cause to**

60 **believe that there is now in the possession of**

61

62 **On the premises located at**

63

64 **Which consists of**

65

66 **In the vehicle described as**

67 **The following property, to wit:**

68

69

70 **Together with other fruits, instrumentalities and evidence of the crime(s) of**

71

72 **As set forth in this affidavit. That I,**

73 **your affiant, am a peace officer in the State of Missouri, employed by**

74

75 **I have been a police officer for years, and have the following special**

76 **training and experience:**

77

78 **I am investigating the crime(s) of**

79

80 **which I believe to have been committed on the day of,**

81 **in, based upon the following reasons:**

82

83

84 **I believe that the property I described earlier in this affidavit is evidence of**

85

86

87 **For the following reasons:**

88

89

90 **I believe the property I previously described in this application is presently:**

91 **On the premises located at**

92

93 **Which consists of**

94

95 **On the person of**

96 **In the vehicle described as**

97 **My belief that the property is presently at these locations is based upon the**
98 **following reasons:**

99
100

101 **I believe it is necessary to search for this evidence after 10:00 p.m. and before**
102 **6:30 a.m., for the reason that it is now and, therefore, I cannot serve it**
103 **before 10:00 p.m. tonight, and.....**

104

105 **That based on the preceding facts, I,**
106 **request that a telephonic search warrant be issued. I, also, request that you**
107 **consider this application and incorporate it into the warrant itself. This**
108 **concludes my application.**

109 **Mr./Madame Prosecutor, do I have permission to sign your name?**

110 **Prosecutor: (Await Prosecutor's reply)**

111 **AFFIDAVIT FOR TELEPHONE SEARCH WARRANT**

112 **Judge: Hello.**

113 **Officer: Judge, this is officer, of the Will**
114 **you swear me in, please?**

115 **Judge: (The judge swears the officer in.)**

116 **Officer: This is of the I am calling you on**
117 **(date) with officer standing by as a witness. The time now is**
118 **..... At hours, Prosecutor authorized me to affix the**

119 **prosecutor's signature to an application for search warrant in County.I**
120 **have recorded that call and am including it in as a reference. I am calling for**
121 **a telephonic search warrant and have just, probable and reasonable cause to**
122 **believe that there is now in the possession of**
123 **.....**

124

125 **On the premises located at**

126

127 **Which consists of**

128

129 **In the vehicle described as**

130 **The following property, to wit:**

131

132

133 **Together with other fruits, instrumentalities and evidence of the crime(s) of**

134

135 **As set forth in this affidavit. That I,, your affiant, am a peace**
136 **officer in the State of Missouri, employed by**
137

138 **I have been a police officer for years, and have the following special**
139 **training and experience:**
140

141 **I am investigating the crime(s) of**
142

143 **which I believe to have been committed on the day of,**
144 **....., in, based upon the following reasons:**

145

146

147 **I believe that the property I described earlier in this affidavit is evidence of**
148

149

150 **For the following reasons:**

151

152

153

154 **I believe the property I previously described in this affidavit is presently:**

155 **On the premises located at**
156

157 **Which consists of**
158

159 **On the person of**

160 **In the vehicle described as**

161 **My belief that the property is presently at these locations is based upon the**
162 **following reasons:**

163

164

165 **I believe it is necessary to search for this evidence after 10:00 p.m. and before**
166 **6:30 a.m., for the reason that it is now and, therefore, I cannot serve**
167 **it before 10:00 p.m. tonight, and**

168

169

170 **That based on the preceding facts, I,**

171 request that a telephonic search warrant be issued. I, also, request that you
172 consider this affidavit and incorporate it into the warrant itself. This
173 concludes my affidavit, your honor.

174 Judge: (Await Judge's reply)

175 Officer: I will now read verbatim to you the standard Missouri duplicate
176 original search warrant, State of Missouri, indicating which spaces I have
177 completed and which ones I have left blank.

178 STANDARD MISSOURI DUPLICATE ORIGINAL SEARCH WARRANT
179 STATE OF MISSOURI

180 No.

181 COUNTY OF, STATE OF MISSOURI

182 To any peace officer in the State of Missouri:

183 Proof by affidavit having been made this day before me by,

184 I am satisfied that there is probable cause to believe that:

185 On the person(s) of

186

187 On the premises known as

188

189 In the vehicle(s) described as

190

191 in the City of, County of,

192 State of Missouri, there is now being possessed or concealed certain property
193 or things described as:

194

195

196 which property or things:

197 Were stolen or embezzled

198 Were used as a means for committing a public offense

199 Is being possessed with the intent to use it as a means of committing a
200 public offense

201 Are in the possession of

202

203 to whom it was delivered for the purpose of concealing it or preventing it
204 from being discovered.

205 Consists of any item or constitutes any evidence which tends to show that
206 a public offense has been committed, such being more fully described in the
207 affidavit, to wit:

208

209 **which offense occurred on or about the day of,, in**

210

211 **YOU ARE THEREFORE COMMANDED:**

212 **In the daytime (excluding the time period between 10:00 p.m. and 6:30 a.m.)**

213 **Or nighttime (good cause therefore having been shown) to make a search**

214 **of the above-named or described person(s), premises and vehicles for the**

215 **hereinabove described property or things, and if you find the same or any**

216 **part thereof, to retain such in your custody or in the custody of the agency**

217 **you represent, as provided in chapter 542, RSMo.**

218 **Return this warrant to me within ten (10) days of the date thereof, as directed**

219 **by section 542.276, RSMo.**

220 **Given under my hand and dated this day of,**

221

222 **Judge of Court**

223 **Officer: That concludes the reading of the standard Missouri duplicate search**

224 **warrant. Do I have your permission to sign your name?**

225 **Judge: (Reply)**

226 **Officer: I am signing my name,, date, time, beneath**

227 **yours, and I will also have officer sign as a witness.**

228 **7. The search warrant shall:**

229 **(1) Be in writing and in the name of the state of Missouri;**

230 **(2) Be directed to any peace officer in the state;**

231 **(3) State the time and date the warrant is issued;**

232 **(4) Identify the property, article, material, substance or person which is to be**

233 **searched for and seized, in sufficient detail and particularity that the officer executing**

234 **the warrant can readily ascertain it;**

235 **(5) Identify the person, place, or thing which is to be searched, in sufficient detail**

236 **and particularity that the officer executing the warrant can readily ascertain whom or**

237 **what he is to search;**

238 **(6) Command that the described person, place, or thing be searched and that any**

239 **of the described property, article, material, substance, or person found thereon or therein**

240 **be seized or photographed or copied and be returned, or the photograph or copy be**

241 **brought, within ten days after filing of the application, to the judge who issued the**

242 **warrant, to be dealt with according to law;**

243 **(7) Be signed by the judge, with his title of office indicated. **The judge may****

244 **orally authorize a peace officer to sign the judge's name on a search warrant**
245 **if the peace officer applying for the warrant is not in the actual physical**
246 **presence of the judge or the judge may transmit the judge's signature by a**
247 **facsimile machine. Such warrant shall be called a duplicate original search**
248 **warrant and shall be deemed a search warrant for the purposes of sections**
249 **542.261 to 542.296. In such cases, the judge shall cause to be issued an**
250 **original search warrant docket number and shall enter the exact time of**
251 **issuance of the duplicate original warrant in the court record. The officer**
252 **shall present a verbatim transcription of the recorded application, affidavit,**
253 **and duplicate original search warrant to the issuing judge within forty-eight**
254 **hours along with the original recording. The judge may retain the recording**
255 **in the care and custody of the court or may direct the peace officer to**
256 **preserve the recording as evidence in the custody of the law enforcement**
257 **agency. Upon the return of the duplicate original warrant, the judge shall**
258 **cause it to be filed under the issued docket number as a duplicate original**
259 **search warrant.**

260 [7.] **8.** A search warrant issued under this section may be executed only by a
261 peace officer. The warrant shall be executed by conducting the search and seizure
262 commanded.

263 [8.] **9.** A search warrant shall be executed as soon as practicable and shall
264 expire if it is not executed and the return made within ten days after the date of the
265 making of the application.

266 [9.] **10.** After execution of the search warrant, the warrant with a return
267 thereon, signed by the officer making the search, shall be delivered to the judge who
268 issued the warrant. The return shall show the date and manner of execution, what was
269 seized, and the name of the possessor and of the owner, when he is not the same person,
270 if known. The return shall be accompanied by a copy of the itemized receipt required by
271 subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy
272 of such receipt to the person from whose possession the property was taken and to the
273 applicant for the warrant.

274 [10.] **11.** A search warrant shall be deemed invalid:

275 (1) If it was not issued by a judge; or

276 (2) If it was issued without a written application having been filed and verified;

277 or

278 (3) If it was issued without probable cause; or

279 (4) If it was not issued in the proper county; or

280 (5) If it does not describe the person, place, or thing to be searched or the
281 property, article, material, substance, or person to be seized with sufficient certainty; or

282 (6) **Except as provided in subsection 7 of this section**, if it is not signed
283 by the judge who issued it; or

284 (7) If it was not executed within the time prescribed by subsection ~~[8]~~ **9** of this
285 section.

544.170. 1. [Except as provided in subsection 2 of this section,] All persons
2 arrested and confined in any jail or other place of confinement by any peace officer,
3 without warrant or other process, for any alleged breach of the peace or other criminal
4 offense, or on suspicion thereof, shall be discharged from said custody within [twenty]
5 **thirty** hours from the time of such arrest, unless they shall be charged with a criminal
6 offense by the oath of some credible person, and be held by warrant to answer to such
7 offense.

8 2. [Upon a determination by the commanding officer, or the delegate thereof, of
9 the law enforcement agency making such an arrest, a person arrested for any of the
10 following offenses without warrant or other process of law shall be released from custody
11 within twenty-four hours of arrest, unless the person is charged and held pursuant to
12 a warrant to answer for such offense:

13 (1) First degree murder pursuant to section 565.020, RSMo;

14 (2) Second degree murder pursuant to section 565.021, RSMo;

15 (3) First degree assault pursuant to section 565.050, RSMo;

16 (4) Forcible rape pursuant to section 566.030, RSMo;

17 (5) Forcible sodomy pursuant to section 566.060, RSMo;

18 (6) First degree robbery pursuant to section 569.020, RSMo; or

19 (7) Distribution of drugs pursuant to section 195.211, RSMo.

20 3.] In any confinement to which the provisions of this section apply, the confinee
21 shall be permitted at any reasonable time to consult with counsel or other persons acting
22 on the confinee's behalf.

23 [4.] 3. Any person who violates the provisions of this section, by refusing to
24 release any person who is entitled to release pursuant to this section, or by refusing to
25 permit a confinee to consult with counsel or other persons, or who transfers any such
26 confinees to the custody or control of another, or to another place, or who falsely charges
27 such person, with intent to avoid the provisions of this section, is guilty of a class A
28 misdemeanor.

**565.085. 1. Any person who causes or attempts to cause an employee
2 of the department of corrections, or any person assigned to work in any jail,**

3 **prison, or correctional facility to come into contact with blood, seminal fluid,**
4 **urine, feces, or saliva.**

5 **2. Any person who violates the provisions of subsection 1 of this section**
6 **is guilty of a class D felony.**

7 **3. If a person knowingly puts an employee of the department of**
8 **corrections, or a person assigned to work in any jail, prison, or correctional**
9 **facility in danger of contracting HIV, Hepatitis B, or Hepatitis C through**
10 **endangerment of corrections personnel, then the person is guilty of a class B**
11 **felony.**

12 **4. If a person causes or attempts to cause an employee of the**
13 **department of corrections or assigned to work in any jail, prison, or**
14 **correctional facility to come into contact with an unidentified substance then**
15 **the person is guilty of a class A misdemeanor.**

565.092. 1. [An inmate,] A patient or respondent is guilty of aggravated
2 harassment of an employee when, with intent to harass, annoy, threaten or alarm a
3 person in a facility whom the person knows or reasonably should know to be an employee
4 of such facility [or of the department of corrections] or the department of mental health
5 or to be an employee of any law enforcement agency, the person causes or attempts to
6 cause such employee to come into contact with blood, seminal fluid, urine or feces, by
7 throwing, tossing or expelling such fluid or material.

8 2. For the purposes of this section, ["inmate" means an offender, as defined in
9 section 217.010, RSMo, or any person incarcerated in a local detention facility. For the
10 purposes of this section,] "patient" means any person who is a patient in a facility
11 operated by the department of mental health. For purposes of this section, "respondent"
12 means a juvenile in a secure facility operated and maintained by the division of youth
13 services. For purposes of this section, "facility" means a [correctional facility or local
14 correctional facility,] hospital operated by the department of mental health or a secure
15 facility operated by the division of youth services.

16 3. [No person convicted and serving a sentence for the crime of aggravated
17 harassment of an employee pursuant to the provisions of this section shall be eligible to
18 participate in a work release program pursuant to section 217.435, RSMo.

19 4.] Any person who violates the provisions of this section is guilty of a class A
20 misdemeanor.

570.400. A person commits the crime of motor vehicle theft if he or she
2 **appropriates a motor vehicle of another with the purpose to deprive him or**
3 **her thereof, either without his or her consent or by means of deceit or**

4 **coercion. Motor vehicle theft is a class C felony.**

570.405. A person commits the crime of carjacking when he or she
2 **obtains unauthorized possession or control of a motor vehicle from another**
3 **individual in actual possession by intimidation, force, or a threat of**
4 **force. Carjacking is a class B felony.**

570.410. 1. A person commits the crime of unauthorized use of a vehicle
2 **if he or she:**

3 (1) **Having custody of a vehicle pursuant to an agreement between**
4 **himself or herself and the owner of such vehicle to perform for compensation**
5 **a specific service for the owner involving the maintenance, repair, or use of**
6 **such vehicle, he or she intentionally uses or operates the same, without the**
7 **consent of the owner for his or her own purposes in a manner constituting a**
8 **gross deviation from the agreed purpose; and**

9 (2) **Having custody of a vehicle pursuant to an agreement with the**
10 **owner of such vehicle to be returned to the owner at a specified time, he or**
11 **she intentionally retains or withholds possession beyond the specified time**
12 **as to render such retention or possession a gross deviation from the**
13 **agreement.**

14 2. **Unauthorized use of a vehicle is a class A misdemeanor.**

570.415. 1. A person commits the crime of tampering if, he or she
2 **without the consent of the owner, takes, operates, exercises control over,**
3 **rides in, or otherwise uses a motor vehicle. For the purposes of this**
4 **subdivision, the act of taking, operating, exercising control over, riding in, or**
5 **otherwise using the motor vehicle while the keys are in the motor vehicle,**
6 **and when the owner is not present, shall be prima facie evidence that the**
7 **person did not have the owner's consent.**

8 2. **Tampering is a class B misdemeanor. Every person who pleads**
9 **guilty to or is found guilty of a second violation is guilty of a class A**
10 **misdemeanor. Every person who pleads guilty to or is found guilty of third**
11 **or subsequent violations is guilty of a class D felony.**

574.110. 1. No person, while at the scene of an accident or other
2 **emergency, shall fail to obey the lawful order of a law enforcement officer.**

3 2. **An order shall be considered lawful if the purpose of the order is:**

4 (1) **To protect the safety of emergency personnel or members of the**
5 **public;**

6 (2) **To provide better access to the emergency scene by emergency**
7 **personnel, vehicles, or equipment;**

- 8 **(3) To protect the privacy or well-being of victims;**
9 **(4) To preserve evidence; or**
10 **(5) To ensure reasonable precautions to enable progress of the**
11 **emergency personnel's work.**

12 **3. Any person who violates the provisions of subsection 1 of this section**
13 **is guilty of a class A misdemeanor.**

14 **4. This section shall not apply to emergency personnel when in the**
15 **performance of their duties.**

577.075. 1. It shall be unlawful for any person not the owner or not in
2 **lawful control of an approved container of anhydrous ammonia to release or**
3 **allow the escape of anhydrous ammonia into the atmosphere.**

4 **2. Unlawful release of anhydrous ammonia is a class B felony, unless**
5 **such release causes death of a human being or causes serious physical injury**
6 **to any person in which case it is a class A felony.**

578.160. Any person who obtains information not intended for that
2 **person by intercepting a cellular or radio transmission and publishes such**
3 **information to any person other than the original intended recipient is guilty**
4 **of a class A misdemeanor.**

 610.106. [Any person as to whom imposition of sentence was suspended prior to
2 September 28, 1981, may make a motion to the court in which the action was prosecuted
3 after his discharge from the court's jurisdiction for closure of official records pertaining
4 to the case. If the prosecuting authority opposes the motion, an informal hearing shall
5 be held in which technical rules of evidence shall not apply. Having regard to the nature
6 and circumstances of the offense and the history and character of the defendant and
7 upon a finding that the ends of justice are so served, the court may order official records
8 pertaining to the case to be closed, except as provided in section 610.120.] **1. In the**
9 **event a person is charged with a criminal offense and subsequently enters a**
10 **guilty plea or is found guilty and imposition of sentence is suspended in the**
11 **case for a period of time while the person is on court-ordered probation:**

12 **(1) The official records of the case shall remain open until such time**
13 **as the court-ordered probation is successfully completed;**

14 **(2) Upon successful completion of the court-ordered probation, the**
15 **records of the case shall be sealed and closed for all purposes,**
16 **notwithstanding any provision of the law or court order to the contrary; and**

17 **(3) Upon successful completion of the court-ordered probation, the**
18 **person shall not thereafter be impeached by his or her arrest, charges,**
19 **conviction or guilty plea in the case.**

20 **2. Records required to be sealed and closed pursuant to this section**
21 **shall be inaccessible to all persons other than the defendant, notwithstanding**
22 **any provision of law to the contrary.**

23 **3. Nothing in this section shall be construed, interpreted, or applied to**
24 **deny or abridge any person's constitutional or statutory protection against**
25 **double jeopardy.**

26 **4. The provisions of subsections 1, 2, and 3 of this section shall apply**
27 **to all cases terminating prior to, on, or after the effective date of this section,**
28 **except no case which terminated before the effective date of this section shall**
29 **be re-opened because of any provision of this section.**

610.110. No person as to whom such records have become **sealed or** closed
2 [records] **pursuant to section 610.105 or 610.106** shall thereafter, under any
3 provision of law, be held to be guilty of perjury or otherwise of giving a false statement
4 by reason of his **or her** failure to recite [or], acknowledge [such arrest or trial], **admit,**
5 **or confess any aspect of any such arrest or any such case** in response to any
6 inquiry made of him for any purpose[, except as provided in section 491.050, RSMo, and
7 section 610.120].

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