

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NOS. 1665 & 1335

AN ACT

To repeal sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and 610.122, RSMo, and to enact in lieu thereof eleven new sections relating to the administration of justice, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 57.015, 57.201, 57.220, 57.250,
2 483.140, 544.216, 610.120, and 610.122, RSMo, are repealed and
3 eleven new sections enacted in lieu thereof, to be known as
4 sections 57.015, 57.201, 57.220, 57.250, 407.1150, 483.140,
5 542.375, 544.216, 610.120, 610.122, and 1, to read as follows:

6 57.015. [As used in this chapter] For purposes of section
7 57.275, the following words and terms shall have the following
8 meaning:

9 (1) "Deputy sheriff" or "officer", any deputy sheriff who
10 is employed full time by a law enforcement agency, authorized by
11 this chapter and certified pursuant to chapter 590. This term
12 shall not include an officer serving in probationary status or
13 one year, whichever is longer, upon initial employment. This

1 term shall not include any deputy sheriff with the rank of
2 lieutenant and above, or any chief deputies, under sheriffs and
3 the command staff as defined by the sheriff's department policy
4 and procedure manual;

5 (2) "Hearing", a closed meeting conducted by a hearing
6 board appointed by the sheriff for the purpose of receiving
7 evidence in order to determine the facts regarding the dismissal
8 of a deputy sheriff. Witnesses to the event that triggered the
9 dismissal may attend the hearing for the limited purpose of
10 providing testimony; the attorney for the deputy dismissed may
11 attend the hearing, but only to serve as an observer; the sheriff
12 and his or her attorney may attend the hearing, but only to serve
13 as an observer;

14 (3) "Hearing board", the individuals appointed by the
15 sheriff for the purpose of receiving evidence in order to
16 determine the facts regarding the dismissal of a deputy sheriff;
17 and

18 (4) "Law enforcement agency", any county sheriff's office
19 of this state that employs county law enforcement deputies
20 authorized by this chapter and certified by chapter 590.

21 57.201. 1. The sheriff of all counties of the first class
22 not having a charter form of government shall appoint such
23 deputies, assistants and other employees as he deems necessary
24 for the proper discharge of the duties of his office and may set
25 their compensation within the limits of the allocations made for
26 that purpose by the county commission. The compensation for the
27 deputies, assistants and employees shall be paid in equal
28 installments out of the county treasury in the same manner as

1 other county employees are paid.

2 2. The assistants and employees shall hold office at the
3 pleasure of the sheriff.

4 3. [Deputies] A deputy sheriff, as the term "deputy
5 sheriff" is defined under section 57.015 shall hold office
6 pursuant to the provisions of sections 57.015 and 57.275.

7 57.220. The sheriff, in a county of the second class, shall
8 be entitled to such a number of deputies as a majority of the
9 circuit judges of the circuit court shall deem necessary for the
10 prompt and proper discharge of the duties of the sheriff's
11 office; provided, however, such number of deputies appointed by
12 the sheriff shall not be less than one chief deputy sheriff and
13 one additional deputy for each five thousand inhabitants of the
14 county according to the last decennial census. Such deputies
15 shall be appointed by the sheriff, but no appointment shall
16 become effective until approved by a majority of the circuit
17 judges of the circuit court of the county. A majority of the
18 circuit judges of the circuit court, by agreement with the
19 sheriff, shall fix the salaries of such deputies. A statement of
20 the number of deputies allowed the sheriff, and their
21 compensation, together with the approval of any appointment by
22 such judges of the circuit court, shall be in writing and signed
23 by them and filed by the sheriff with the county commission.

24 [Deputies] A deputy sheriff as the term "deputy sheriff" is
25 defined under section 57.015 shall hold office pursuant to the
26 provisions of sections 57.015 and 57.275.

27 57.250. The sheriff in counties of the third and fourth
28 classifications shall be entitled to such number of deputies and

1 assistants, to be appointed by such official, with the approval
2 of a majority of the circuit judges of the circuit court, as such
3 judges shall deem necessary for the prompt and proper discharge
4 of such sheriff's duties relative to the enforcement of the
5 criminal law of this state. Such judges of the circuit court, in
6 their order permitting the sheriff to appoint deputies or
7 assistants, shall fix the compensation of such deputies or
8 assistants. The circuit judges shall annually review their order
9 fixing the number and compensation of the deputies and assistants
10 and in setting such number and compensation shall have due regard
11 for the financial condition of the county. Each such order shall
12 be entered of record and a certified copy thereof shall be filed
13 in the office of the county clerk at least fifteen days prior to
14 the date of the adoption of the county budget as prescribed by
15 section 50.610. The sheriff may at any time discharge any
16 assistant and may regulate the time of such person's employment.

17 **[Deputies]** A deputy sheriff as the term "deputy sheriff" is
18 defined under section 57.015 shall hold office pursuant to the
19 provisions of sections 57.015 and 57.275. At the request of the
20 sheriff, the presiding judge may order additional deputies in
21 cases where exigent or emergency circumstances require the need
22 for such additional deputies.

23 407.1150. 1. As used in this section, the following words
24 and phrases shall mean:

25 (1) "Booking photograph", a photograph of a subject
26 individual that was taken in this state by an arresting law
27 enforcement agency;

28 (2) "Criminal record information", a booking photograph, or

1 the name, address, charges filed, or a description of a subject
2 individual who is asserted or implied to have engaged in illegal
3 conduct;

4 (3) "Subject individual", an individual who was arrested
5 and had his or her photograph taken by law enforcement during the
6 processing of the arrest.

7 2. It shall be unlawful for any person engaged in
8 publishing or otherwise disseminating criminal record information
9 through a print or electronic medium to solicit or accept from a
10 subject individual the payment of a fee or other consideration to
11 remove or correct criminal record information.

12 3. A person who knowingly and willfully violates the
13 provisions of this section shall be guilty of a class A
14 misdemeanor.

15 4. Each payment solicited or accepted in violation of this
16 section constitutes a separate violation.

17 5. In addition to the remedies already provided in this
18 section, any subject individual who suffers a loss or harm as a
19 result of a violation of this section may be awarded an amount
20 equal to ten thousand dollars or actual and punitive damages,
21 whichever is greater, and in addition may be awarded reasonable
22 attorney's fees, court costs, and any other remedies provided by
23 law. Humiliation or embarrassment shall be adequate to show that
24 the plaintiff has incurred damages; however, no physical
25 manifestation of either humiliation or embarrassment is necessary
26 for damages to be shown.

27 483.140. It shall be the special duty of every judge of a
28 court of record to examine into and superintend the manner in

1 which the rolls and records of the court are made up and kept; to
2 prescribe orders that will procure uniformity, regularity and
3 accuracy in the transaction of the business of the court; to
4 require that the records and files be properly maintained and
5 entries be made at the proper times as required by law or supreme
6 court rule, and that the duties of the clerks be performed
7 according to law and supreme court rule; and if any clerk fail to
8 comply with the law, the court shall proceed against him as for a
9 misdemeanor. The provisions of this section shall not be
10 construed to permit the adoption of any local court rule that
11 grants a judge the discretion to remove or direct the removal of
12 any pleading, file, or communication from a court file or record
13 without the agreement of all parties.

14 542.375. 1. As used in this section, the following terms
15 shall mean:

16 (1) "Electronic communication service", a service that
17 provides to users of the service the ability to send or receive
18 wire or electronic communications;

19 (2) "Electronic device", a device that enables access to or
20 use of an electronic communication service, remote computing
21 service, or location information service;

22 (3) "Government entity", a state or local agency, including
23 but not limited to a law enforcement entity or any other
24 investigative entity, agency, department, division, bureau,
25 board, or commission or a person acting or purporting to act for
26 or on behalf of a state or local agency;

27 (4) "Location information", information concerning the
28 location of an electronic device that, in whole or in part, is

1 generated or derived from or obtained by the operation of an
2 electronic device;

3 (5) "Location information service", the provision of a
4 global positioning service or other mapping, locational, or
5 directional information service;

6 (6) "Remote computing service", the provision of computer
7 storage or processing services by means of an electronic
8 communication system.

9 2. Except as otherwise provided in subsection 3 of this
10 section or section 392.415, a government entity shall not obtain
11 the location information of an electronic device without:

12 (1) A search warrant or investigative subpoena issued by a
13 court of competent jurisdiction; or

14 (2) An order for disclosure issued by a court of competent
15 jurisdiction after a government entity has offered specific and
16 articulable facts showing that there are reasonable grounds to
17 believe that the information sought is relevant and material to
18 an ongoing criminal investigation.

19 3. A government entity may obtain location information of
20 an electronic device under any of the following circumstances:

21 (1) The device is reported stolen by the owner;

22 (2) To respond to the user's call for emergency services;

23 (3) With the informed affirmative consent of the owner or
24 user of the electronic device; or

25 (4) A possible life-threatening situation exists.

26 4. Any evidence obtained in violation of this section is
27 not admissible in a civil, criminal, or administrative proceeding
28 and shall not be used in an affidavit of probable cause in an

1 effort to obtain a search warrant.

2 544.216. Except as otherwise provided in section 544.157,
3 any sheriff or deputy sheriff, any member of the Missouri state
4 highway patrol, and any county or municipal law enforcement
5 officer in this state, except those officers of a political
6 subdivision or municipality having a population of less than two
7 thousand persons or which does not have at least four full-time
8 nonelected peace officers unless such subdivision or municipality
9 has elected to come under and is operating pursuant to the
10 provisions of sections 590.100 to 590.150, may arrest on view,
11 and without a warrant, any person the officer sees violating or
12 who such officer has reasonable grounds to believe has violated
13 any ordinance or law of this state, including a misdemeanor or
14 infraction, [or has violated any ordinance] over which such
15 officer has jurisdiction. Peace officers of a municipality shall
16 have arrest powers, as described in this section, upon lands
17 which are leased or owned by the municipality in an
18 unincorporated area. Ordinances enacted by a municipality,
19 owning or leasing lands outside its boundaries, may be enforced
20 by peace officers of the municipality upon such owned or leased
21 lands. The power of arrest authorized by this section is in
22 addition to all other powers conferred upon law enforcement
23 officers, and shall not be construed so as to limit or restrict
24 any other power of a law enforcement officer.

25 610.120. 1. Except as otherwise provided under section
26 610.124, records required to be closed shall not be destroyed;
27 they shall be inaccessible to the general public and to all
28 persons other than the defendant except as provided in this

1 section and section 43.507. The closed records shall be
2 available to: criminal justice agencies for the administration
3 of criminal justice pursuant to section 43.500, criminal justice
4 employment, screening persons with access to criminal justice
5 facilities, procedures, and sensitive information; to law
6 enforcement agencies for issuance or renewal of a license,
7 permit, certification, or registration of authority from such
8 agency including but not limited to watchmen, security personnel,
9 private investigators, and persons seeking permits to purchase or
10 possess a firearm; those agencies authorized by section 43.543 to
11 submit and when submitting fingerprints to the central
12 repository; the sentencing advisory commission created in section
13 558.019 for the purpose of studying sentencing practices in
14 accordance with section 43.507; to qualified entities for the
15 purpose of screening providers defined in section 43.540; the
16 department of revenue for driver license administration; the
17 division of workers' compensation for the purposes of determining
18 eligibility for crime victims' compensation pursuant to sections
19 595.010 to 595.075, department of health and senior services for
20 the purpose of licensing and regulating facilities and regulating
21 in-home services provider agencies and federal agencies for
22 purposes of criminal justice administration, criminal justice
23 employment, child, elderly, or disabled care, and for such
24 investigative purposes as authorized by law or presidential
25 executive order.

26 2. These records shall be made available only for the
27 purposes and to the entities listed in this section. A criminal
28 justice agency receiving a request for criminal history

1 information under its control may require positive
2 identification, to include fingerprints of the subject of the
3 record search, prior to releasing closed record information.
4 Dissemination of closed and open records from the Missouri
5 criminal records repository shall be in accordance with section
6 43.509. All records which are closed records shall be removed
7 from the records of the courts, administrative agencies, and law
8 enforcement agencies which are available to the public and shall
9 be kept in separate records which are to be held confidential
10 and, where possible, pages of the public record shall be retyped
11 or rewritten omitting those portions of the record which deal
12 with the defendant's case. If retyping or rewriting is not
13 feasible because of the permanent nature of the record books,
14 such record entries shall be blacked out and recopied in a
15 confidential book.

16 610.122. 1. Notwithstanding other provisions of law to the
17 contrary, any record of arrest recorded pursuant to section
18 43.503 may be expunged if:

19 (1) The court determines that the arrest was based on false
20 information and the following conditions exist:

21 **[(1)]** (a) There is no probable cause, at the time of the
22 action to expunge, to believe the individual committed the
23 offense;

24 **[(2)]** (b) No charges will be pursued as a result of the
25 arrest; and

26 **[(3)]** The subject of the arrest has no prior or subsequent
27 misdemeanor or felony convictions;

28 **[(4)]** (c) The subject of the arrest did not receive a

1 suspended imposition of sentence for the offense for which the
2 arrest was made or for any offense related to the arrest; [and

3 (5) No civil action is pending relating to the arrest or
4 the records sought to be expunged] or

5 (2) The court determines the person was arrested for, or
6 was subsequently charged with, a misdemeanor offense of chapter
7 303 or any moving violation as the term "moving violation" is
8 defined under section 302.010, except for any intoxication-
9 related traffic offense as "intoxication-related traffic offense"
10 is defined under section 577.023 and:

11 (a) Each such offense or violation related to the arrest
12 was subsequently nolle prossed or dismissed, or the accused was
13 found not guilty of each offense or violation; and

14 (b) The person is not a commercial driver's license holder
15 and was not operating a commercial motor vehicle at the time of
16 the arrest.

17 2. A record of arrest shall only be eligible for
18 expungement under this section if:

19 (1) The subject of the arrest has no prior or subsequent
20 misdemeanor or felony convictions; and

21 (2) No civil action is pending relating to the arrest or
22 the records sought to be expunged.

23 Section 1. All courts that require mandatory electronic
24 filing shall accept, file, and docket a notice of entry of
25 appearance filed by an attorney in a criminal case if such filing
26 does not exceed one page in length and was sent by fax or regular
27 mail. The provisions of this section shall expire on December
28 31, 2016.