

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND House Bill No. 762, Page 1, Section 610.057, Lines 1-9, by deleting all of said lines and  
2 inserting in lieu thereof the following:

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4 "590.810. 1. No law enforcement agency shall be required by the state to provide mobile  
5 video recorders as defined in section 610.100 to officers employed by the agency, nor shall the state  
6 require any peace officer to wear such recorders.

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

9 610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall  
10 mean:

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

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

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

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

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

21 (c) Finality of the convictions of all persons convicted on the basis of the information  
22 contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such  
23 persons;

24 (4) "Incident report", a record of a law enforcement agency consisting of the date, time,  
25 specific location, name of the victim and immediate facts and circumstances surrounding the initial  
26 report of a crime or incident, including any logs of reported crimes, accidents and complaints  
27 maintained by that agency;

28 (5) "Investigative report", a record, other than an arrest or incident report, prepared by  
29 personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response  
30 to an incident report or in response to evidence developed by law enforcement officers in the course  
31 of their duties;

32 (6) "Mobile video recorder", any system or device that captures visual signals that is capable  
33 of installation in a vehicle, vessel, or aircraft, or being worn or carried by personnel of a law  
34 enforcement agency and that includes, at a minimum, a camera and recording capabilities.

35 2. Each law enforcement agency of this state, of any county, and of any municipality shall  
36 maintain records of all incidents reported to the agency, investigations and arrests made by such law

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding  
2 any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or  
3 section 320.083, investigative reports of all law enforcement agencies are closed records until the  
4 investigation becomes inactive. If any person is arrested and not charged with an offense against the  
5 law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record  
6 except that the disposition portion of the record may be accessed and except as provided in section  
7 610.120. Notwithstanding any other provision of law to the contrary, other than the provisions of  
8 subsections 4, 5, and 6 of this section or section 320.083, data from mobile video recorders in the  
9 possession of law enforcement agencies are closed records.

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

18 4. Any person, including a family member of such person within the first degree of  
19 consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person  
20 involved in any incident or whose property is involved in an incident, may obtain any records closed  
21 pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense,  
22 as provided by this subsection. Any individual, his or her family member within the first degree of  
23 consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved  
24 in an incident or whose property is involved in an incident, upon written request, may obtain a  
25 complete unaltered and unedited incident report concerning the incident, and may obtain access to  
26 other records closed by a law enforcement agency pursuant to this section. Within thirty days of  
27 such request, the agency shall provide the requested material or file a motion pursuant to this  
28 subsection with the circuit court having jurisdiction over the law enforcement agency stating that the  
29 safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal  
30 investigation is likely to be jeopardized. If, based on such motion, the court finds for the law  
31 enforcement agency, the court shall either order the record closed or order such portion of the record  
32 that should be closed to be redacted from any record made available pursuant to this subsection.

33 5. Any person may bring an action pursuant to this section in the circuit court having  
34 jurisdiction to authorize disclosure of the information contained in an investigative report of any law  
35 enforcement agency or data in the possession of a law enforcement agency from a mobile video  
36 recorder, which would otherwise be closed pursuant to this section. The court may order that all or  
37 part of the information contained in an investigative report or the data from a mobile video recorder  
38 be released to the person bringing the action. In making the determination as to whether information  
39 contained in an investigative report or data from a mobile video recorder shall be disclosed, the court  
40 shall consider whether the benefit to the person bringing the action or to the public outweighs any  
41 harm to the public, to the law enforcement agency or any of its officers, or to any person identified in  
42 the investigative report or captured in the data from the mobile video recorder in regard to the need  
43 for law enforcement agencies to effectively investigate and prosecute criminal activity. The  
44 investigative report or mobile video recorder in question may be examined by the court in camera.  
45 The court may find that the party seeking disclosure of the investigative report or mobile video  
46 recorder shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the  
47 court finds that the decision of the law enforcement agency not to open the investigative report or  
48 mobile video recorder was substantially unjustified under all relevant circumstances, and in that

1 event, the court may assess such reasonable and necessary costs and attorneys' fees to the law  
2 enforcement agency.

3 6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction  
4 for an order requiring a law enforcement agency to open incident reports and arrest reports being  
5 unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that  
6 the law enforcement officer or agency has knowingly violated this section, the officer or agency shall  
7 be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a  
8 knowing violation of this section, the court may order payment by such officer or agency of all costs  
9 and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the  
10 evidence that the law enforcement officer or agency has purposely violated this section, the officer or  
11 agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall  
12 order payment by such officer or agency of all costs and attorney fees, as provided in section  
13 610.027. The court shall determine the amount of the penalty by taking into account the size of the  
14 jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has  
15 violated this section previously.

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

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19 Further amend said bill by amending the title, enacting clause, and intersectional references  
20 accordingly.  
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