

SECOND REGULAR SESSION

HOUSE BILL NO. 2618

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

6610H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to crime scene photographs and video recordings.

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

Section A. Chapter 610, RSMo, is amended by adding thereto one new section, to be known as section 610.205, to read as follows:

610.205. 1. Crime scene photographs and video recordings, including photographs and video recordings created or produced by a state or local agency or by a perpetrator or suspect at a crime scene, which depict or describe a deceased person in a state of dismemberment, decapitation, or similar mutilation including, without limitation, where the deceased person's genitalia are exposed, shall be considered closed records and shall not be subject to disclosure under the provisions of this chapter; provided, however, that this section shall not prohibit disclosure of such material to the deceased's next of kin or to an individual who has secured a written release from the next of kin. It shall be the responsibility of the next of kin to show proof of the familial relationship. For purposes of such access, the deceased's next of kin shall be:

(1) The spouse of the deceased if living;

(2) If there is no living spouse of the deceased, an adult child of the deceased; or

(3) If there is no living spouse or adult child, a parent of the deceased.

2. Subject to the provisions of subsection 3 of this section, in the case of closed criminal investigations a circuit court judge may order the disclosure of such photographs or video recordings upon findings in writing that disclosure is in the public interest and outweighs any privacy interest that may be asserted by the deceased person's next of kin.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 In making such determination, the court shall consider whether such disclosure is
19 necessary for public evaluation of governmental performance, the seriousness of the
20 intrusion into the family's right to privacy, and whether such disclosure is the least
21 intrusive means available considering the availability of similar information in other public
22 records. In any such action, the court shall review the photographs or video recordings in
23 question in camera with the custodian of the crime scene materials present and may
24 condition any disclosure on such condition as the court may deem necessary to
25 accommodate the interests of the parties.

26 3. Prior to releasing any crime scene material described in subsection 1 of this
27 section, the custodian of such material shall give the deceased person's next of kin at least
28 two weeks' notice. No court shall order a disclosure under subsection 2 of this section
29 which would disregard or shorten the duration of such notice requirement.

30 4. The provisions of this section shall apply to all undisclosed material which is in
31 the custody of a state or local agency on the effective date of this section and to any such
32 material which comes into the custody of a state or local agency after such date.

33 5. The provisions of this section shall not apply to disclosure of crime scene material
34 to counsel representing a convicted defendant in a habeas corpus action, on a motion for
35 new trial, or in a federal habeas corpus action under 28 U.S.C. Section 2254 or 2255 for the
36 purpose of preparing to file or litigating such proceedings. Counsel may disclose such
37 materials to his or her client and any expert or investigator assisting counsel but shall not
38 otherwise disseminate such materials, except to the extent they may be necessary exhibits
39 in court proceedings. A request under this subsection shall clearly state that such request
40 is being made for the purpose of preparing to file and litigate proceedings enumerated in
41 this subsection.

42 6. The director of the department of public safety shall promulgate rules and
43 regulations governing the viewing of materials described in subsection 1 of this section by
44 bona fide credentialed members of the press.

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