

FIRST REGULAR SESSION

HOUSE BILL NO. 1214

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SAULS.

1416H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 590, RSMo, by adding thereto one new section relating to confidential informants, with a penalty provision.

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

Section A. Chapter 590, RSMo, is amended by adding thereto one new section, to be known as section 590.725, to read as follows:

- 590.725. 1. This section shall be known and may be cited as "Noelle's Law".**
- 2. A law enforcement agency that uses confidential informants shall:**
- (1) Adopt policies and procedures that provide reasonable protective measures for confidential informants when a law enforcement agency knows or should have known of a risk or threat of harm to a person serving as a confidential informant and the risk or threat of harm is a result of his or her service to the law enforcement agency; and**
- (2) Refer prospective and current confidential informants who are known to be substance abusers or to be at risk for substance abuse to prevention or treatment services.**
- 3. A law enforcement agency that uses confidential informants shall establish policies and procedures addressing the recruitment, control, and use of confidential informants. The policies and procedures shall state the:**
- (1) Information that the law enforcement agency shall maintain concerning each confidential informant;**
- (2) General guidelines for the management and safety of handling confidential informants;**

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.

16 (3) Process to advise confidential informants of conditions, restrictions, and
17 procedures associated with participating in the agency's investigative or intelligence-
18 gathering activities;

19 (4) Designated supervisory or command-level review and oversight in the use of
20 confidential informants;

21 (5) Limits or restrictions on off-duty association or social relationships by agency
22 personnel involved in investigative or intelligence gathering with confidential
23 informants;

24 (6) Guidelines to deactivate confidential informants, including guidelines for
25 deactivating communications with confidential informants; and

26 (7) Training requirements that agency personnel are required to complete in order
27 to recruit and manage confidential informants that are consistent with national law
28 enforcement standards level of supervisory approval required before a juvenile is used as
29 a confidential informant.

30 4. A law enforcement agency that uses confidential informants shall establish
31 policies and procedures to assess the
32 suitability of using a person as a confidential informant which consider the following
33 factors:

34 (1) The person's age, maturity, and experience to serve as a confidential informant;

35 (2) The risk the person poses to adversely affect a present or potential investigation
36 or prosecution;

37 (3) The effect upon agency efforts that the disclosure of the person's cooperation
38 may have on the agency's investigative or intelligence-gathering activities in the
39 community;

40 (4) Whether the person is a substance abuser, or has a history of substance abuse
41 or is in a court supervised drug treatment program;

42 (5) The risk of physical harm to the person, his or her immediate family, or close
43 associates as a result of providing information or assistance, or upon the disclosure of the
44 person's assistance;

45 (6) Whether the person has shown any indication of emotional instability or
46 unreliability, or of furnishing false information;

47 (7) The person's criminal history or prior criminal record; and

48 (8) Whether the use of the person is necessary, important to, or vital to the success
49 of an investigation.

50 5. A state or local law enforcement agency that uses confidential informants shall
51 perform a periodic review of actual agency confidential informant practices to ensure
52 conformity with the agency's policies and procedures and this section.

53 6. A law enforcement agency that solicits a person to act as a confidential informant
54 shall give that person the opportunity to consult with legal counsel before entering into an
55 assistance agreement and serving as a confidential informant. However, the agency may
56 advise the prospective confidential informant that he or she may waive the right to consult
57 with legal counsel before entering into the assistance agreement, and he or she may serve
58 as a confidential informant without consulting with legal counsel if such waiver is
59 documented.

60 7. (1) A person who is younger than eighteen years of age shall not participate in
61 a controlled buy or sale of contraband or related activities but may provide confidential
62 information to a law enforcement agency.

63 (2) A person who is receiving inpatient or outpatient substance abuse treatment
64 from a licensed service provider or is participating in a treatment-based drug court
65 program shall not participate in a controlled buy or sale of contraband or related activities
66 but may provide confidential information to a law enforcement agency while receiving
67 substance abuse treatment.

68 8. College or university police officers shall not recruit, assist in the recruitment of,
69 refer to another law enforcement agency, or otherwise use an enrolled student to
70 participate in a controlled buy or sale of contraband or related activities but an enrolled
71 student may provide confidential information to such police or another law enforcement
72 agency.

73 9. A law enforcement agency that uses confidential informants shall collect and
74 report data that includes the information required in subdivisions (1) to (8) of subsection
75 4 of this section. The department of public safety shall develop and disseminate a
76 standardized form that shall be completed by every law enforcement agency that uses
77 confidential informants. A law enforcement agency that uses confidential informants shall
78 collect such data for the preceding calendar year and report it by March first of each year
79 to the department. Upon receipt of the completed forms, the department shall compile the
80 data and, by June first of each year, issue a publicly available report. The data and report
81 shall not disclose the identity of a confidential informant but shall include the following
82 information:

83 (1) The number of active confidential informants;

84 (2) Categories of active confidential informants compiled by race, ethnicity, gender,
85 age, and zip code;

86 (3) The number of confidential informants used to conduct controlled buys or sales
87 of contraband, or related activities conducted on behalf of the agency;

88 (4) The number of deaths of confidential informants which occurred during
89 controlled buys or sales of contraband, or related activities conducted on behalf of the
90 agency;

91 (5) The number of injuries to confidential informants that occurred during
92 controlled buys or sales of contraband, or related activities conducted on behalf of the
93 agency;

94 (6) The number of deaths of confidential informants whose cause of death may be
95 related to their service as a confidential informant;

96 (7) The number of injuries to confidential informants whose cause of injury may
97 be related to their service as a confidential informant;

98 (8) The total amount of cash payments provided to a confidential informant by the
99 agency;

100 (9) The total number of dropped or reduced charges provided to a prospective or
101 current confidential informant by the agency; and

102 (10) The total number of instances in which the law enforcement agency
103 recommended leniency for a confidential informant at sentencing.

104 10. A law enforcement officer who willfully fails to comply with this section
105 commits a class C felony.

106 11. The provisions of this section and policies and procedures adopted under this
107 section do not grant any right or entitlement to a confidential informant or a person who
108 is requested to be a confidential informant, and any failure to abide by this section shall
109 not be relied upon to create any additional right, substantive or procedural, enforceable
110 at law by a defendant in a criminal proceeding.

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