

FIRST REGULAR SESSION

# HOUSE BILL NO. 1405

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FOGLE.

2748H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 610.025, RSMo, and to enact in lieu thereof one new section relating to electronic public records, with penalty provisions.

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

Section A. Section 610.025, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.025, to read as follows:

610.025. **1.** Any **elected or appointed** member of a public governmental body **or any staff member or employee of the public governmental body** who transmits any message relating to public business by electronic means shall also concurrently transmit that message to ~~[either the member's public office computer or]~~ the custodian of records **for the public governmental body** in the same format. ~~[The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied.]~~ Any such message received by the custodian ~~[or at the member's office computer]~~ shall be a public record subject to the exceptions of section 610.021.

**2.** No **elected or appointed member of a public governmental body or any staff member or employee of the public governmental body shall download or use software designed to send encrypted messages by electronic means that automatically self-destruct on any communication device purchased with public moneys; except that, nothing in this subsection shall be construed to prohibit the downloading or use of such software by law enforcement officers for purposes of conducting undercover investigations.**

**3.** No **elected or appointed member of a public governmental body or any staff member or employee of the public governmental body shall use software designed to send**

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.

17 **encrypted messages by electronic means that automatically self-destruct to conduct public**  
18 **business on any personally owned electronic device.**

19 **4. Any individual who knowingly or purposely violates this section shall only be**  
20 **held individually liable under section 610.027. A staff member or employee of a public**  
21 **governmental body shall be treated as a member of the public governmental body under**  
22 **section 610.027 only for purposes of determining the appropriate penalty for violation of**  
23 **this section.**

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