

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILLS NOS. 145 & 59

AN ACT

To repeal sections 476.1300, 476.1302, 476.1304, 476.1306, 476.1308, 476.1310, 476.1313, and 610.021, RSMo, and to enact in lieu thereof eight new sections relating to the disclosure of certain records.

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

Section A. Sections 476.1300, 476.1302, 476.1304, 2 476.1306, 476.1308, 476.1310, 476.1313, and 610.021, RSMo, are 3 repealed and eight new sections enacted in lieu thereof, to be 4 known as sections 476.1300, 476.1302, 476.1304, 476.1306, 5 476.1308, 476.1310, 476.1313, and 610.021, to read as follows:

476.1300. 1. Sections 476.1300 to [476.1310] 476.1313 2 shall be known and may be cited as the "Judicial Privacy 3 Act".

4 2. As used in sections 476.1300 to [476.1310] 5 476.1313, the following terms mean:

6 (1) "Court-related officer", an actively employed, a 7 formerly employed, or a retired:

8 (a) Justice of the Supreme Court of the United States;

9 (b) Judge of the United States Court of Appeals;

10 (c) Judge or magistrate judge of the United States 11 District Courts;

12 (d) Judge of the United States Bankruptcy Court;

13 (e) Judge of the Missouri supreme court;

14 (f) Judge of the Missouri court of appeals;

15 (g) Judge or commissioner of the Missouri circuit
16 courts, including of the divisions of a circuit court;

17 (h) Prosecuting or circuit attorney, or assistant
18 prosecuting or circuit attorney;

19 (i) Circuit clerk, court administrator, deputy circuit
20 clerk, division clerk, or municipal clerk; or

21 (j) Juvenile officer or chief deputy juvenile officer;

22 (2) "Government agency", all agencies, authorities,
23 boards, commissions, departments, institutions, offices, and
24 any other bodies politic and corporate of the state created
25 by the constitution or statute, whether in the executive,
26 judicial, or legislative branch; all units and corporate
27 outgrowths created by executive order of the governor or any
28 constitutional officer, by the supreme court, or by
29 resolution of the general assembly; agencies, authorities,
30 boards, commissions, departments, institutions, offices, and
31 any other bodies politic and corporate of a political
32 subdivision, including school districts; and any public
33 governmental body as that term is defined in section 610.010;

34 [(2)] (3) "Home address", a [judicial] court-related
35 officer's permanent residence and any secondary residences
36 affirmatively identified by the [judicial] court-related
37 officer, but does not include a [judicial] court-related
38 officer's work address;

39 [(3)] (4) "Immediate family", a [judicial] court-
40 related officer's spouse, child, adoptive child, foster
41 child, parent, or any unmarried companion of the [judicial]
42 court-related officer or other familial relative of the
43 [judicial] court-related officer or the [judicial] court-
44 related officer's spouse who lives in the same residence;

45 [(4) "Judicial officer", actively employed, formerly
46 employed, or retired:

47 (a) Justices of the Supreme Court of the United States;

(b) Judges of the United States Court of Appeals;

(c) Judges and magistrate judges of the United States District Courts;

(d) Judges of the United States Bankruptcy Court;

(e) Judges of the Missouri supreme court;

(f) Judges of the Missouri court of appeals;

(g) Judges and commissioners of the Missouri circuit courts, including of the divisions of a circuit court; and

(h) Prosecuting or circuit attorney, or assistant prosecuting or circuit attorney;]

(5) "Personal information", a home address, home telephone number, mobile telephone number, pager number, personal email address, Social Security number, federal tax identification number, checking and savings account numbers, credit card numbers, marital status, and identity of children under eighteen years of age;

(6) "Publicly available content", any written, printed, or electronic document or record that provides information or that serves as a document or record maintained, controlled, or in the possession of a government agency that may be obtained by any person or entity, from the internet, from the government agency upon request either free of charge or for a fee, or in response to a request pursuant to chapter 610 or the federal Freedom of Information Act, 5 U.S.C. Section 552, as amended;

(7) "Publicly post or display", to communicate to another or to otherwise make available to the general public;

(8) "Written request", written or electronic notice signed by:

(a) A state [judicial] court-related officer and submitted to the clerk of the Missouri supreme court or the clerk's designee; or

80 (b) A federal [judicial] court-related officer and
81 submitted to that [judicial] court-related officer's clerk
82 of the court or the clerk's designee;

83 that is transmitted by the applicable clerk to a government
84 agency, person, business, or association [to request such
85 government agency, person, business, or association refrain
86 from posting or displaying publicly available content that
87 includes the judicial officer's personal information].

476.1302. 1. A government agency shall not publicly
2 post or display publicly available content that includes a
3 [judicial] court-related officer's personal information,
4 provided that the government agency has received a written
5 request that the agency refrain from disclosing the
6 [judicial] court-related officer's personal information.
7 After a government agency has received a written request,
8 the government agency shall remove the [judicial] court-
9 related officer's personal information from publicly
10 available content within five business days. After the
11 government agency has removed the [judicial] court-related
12 officer's personal information from publicly available
13 content, the government agency shall not publicly post or
14 display the [judicial] court-related officer's personal
15 information and the [judicial] court-related officer's
16 personal information shall be exempted from the provisions
17 of chapter 610, unless the government agency has received a
18 written [consent from the judicial officer] request to make
19 the personal information available to the public.

20 2. If a government agency fails to comply with a
21 written request to refrain from disclosing personal
22 information, the [judicial] court-related officer may bring
23 an action seeking injunctive or declaratory relief in any
24 court of competent jurisdiction. If the court grants
25 injunctive or declaratory relief, the court may award costs

26 and reasonable attorney's fees to the [judicial] court-
27 related officer.

28 3. The provisions of [subsection 1 of] this section
29 shall not apply to any government agency created under
30 section 43.020 or to a court-related officer's personal
31 information present in records of proceedings of any court
32 of this state contained within any statewide court
33 automation system, which shall be governed by rules
34 promulgated by the Missouri supreme court.

476.1304. 1. No person, business, or association
2 shall publicly post or display on the internet publicly
3 available content that includes a [judicial] court-related
4 officer's personal information, provided that the [judicial]
5 officer has made a written request to the] person, business,
6 or association has received a written request that it
7 refrain from disclosing the personal information.

8 2. No person, business, or association shall solicit,
9 sell, or trade on the internet a [judicial] court-related
10 officer's personal information for purposes of tampering
11 with a [judicial] court-related officer in violation of
12 section 575.095 or with the intent to pose an imminent and
13 serious threat to the health and safety of the [judicial]
14 court-related officer or the [judicial] court-related
15 officer's immediate family.

16 3. As prohibited in this section, persons, businesses,
17 or associations posting, displaying, soliciting, selling, or
18 trading a [judicial] court-related officer's personal
19 information on the internet includes, but is not limited to,
20 internet phone directories, internet search engines,
21 internet data aggregators, and internet service providers.

476.1306. 1. After a person, business, or association
2 has received a written request [from a judicial officer] to
3 protect the privacy of the court-related officer's personal

4 information, that person, business, or association shall
5 have five business days to remove the personal information
6 from the internet.

7 2. After a person, business, or association has
8 received a written request [from a judicial officer] to
9 protect the privacy of the court-related officer's personal
10 information, that person, business, or association shall
11 ensure that the [judicial] court-related officer's personal
12 information is not made available on any website or
13 subsidiary website controlled by that person, business, or
14 association.

15 3. After receiving a [judicial officer's] written
16 request to protect the privacy of the court-related
17 officer's personal information, no person, business, or
18 association shall make available the [judicial] court-
19 related officer's personal information to any other person,
20 business, or association through any medium.

476.1308. A [judicial] court-related officer whose
2 personal information is made public as a result of a
3 violation of sections 476.1304 to 476.1306 may bring an
4 action seeking injunctive or declaratory relief in any court
5 of competent jurisdiction. If the court grants injunctive
6 or declaratory relief, the person, business, or association
7 responsible for the violation shall be required to pay the
8 [judicial officer's] costs and reasonable attorney's fees of
9 the court-related officer.

476.1310. 1. No government agency, person, business,
2 or association shall be found to have violated any provision
3 of sections 476.1300 to [476.1310] 476.1313 if the [judicial
4 officer fails to submit] government agency, person,
5 business, or association has not received a valid written
6 request calling for the protection of the [judicial] court-
7 related officer's personal information.

8 2. A written request shall be valid if:

9 (1) The [judicial] court-related officer sends a
10 written request directly to a government agency, person,
11 business, or association; or

12 (2) The [judicial] court-related officer complies with
13 a Missouri supreme court rule for a state [judicial] court-
14 related officer to file the written request with the clerk
15 of the Missouri supreme court or the clerk's designee to
16 notify government agencies and such notice is properly
17 delivered by mail or electronic format.

18 3. In each quarter of a calendar year, the clerk of
19 the Missouri supreme court or the clerk's designee shall
20 provide a list of all state [judicial] court-related
21 officers who have submitted a written request under this
22 section to the appropriate officer with ultimate supervisory
23 authority for a government agency. The officer shall
24 promptly provide a copy of the list to all government
25 agencies under his or her supervision. Receipt of the
26 written request list compiled by the clerk of the Missouri
27 supreme court or the clerk's designee by a government agency
28 shall constitute a written request to that government agency
29 for the purposes of sections 476.1300 to [476.1310] 476.1313.

30 4. The chief clerk or circuit clerk of the court where
31 the [judicial] court-related officer serves may submit a
32 written request on the [judicial] court-related officer's
33 behalf, provided that the [judicial] court-related officer
34 gives written consent to the clerk and provided that the
35 clerk agrees to furnish a copy of that consent when a
36 written request is made. The chief clerk or circuit clerk
37 shall submit the written request as provided by subsection 2
38 of this section.

39 5. A [judicial] court-related officer's written
40 request shall specify what personal information shall be

41 maintained as private. If a [judicial] court-related
42 officer wishes to identify a secondary residence as a home
43 address, the designation shall be made in the written
44 request. A [judicial] court-related officer shall disclose
45 the identity of his or her immediate family and indicate
46 that the personal information of those members of the
47 immediate family shall also be excluded to the extent that
48 it could reasonably be expected to reveal the personal
49 information of the [judicial] court-related officer. A
50 [judicial] court-related officer shall make reasonable
51 efforts to identify specific publicly available content in
52 the possession of a government agency.

53 6. A [judicial] court-related officer's written
54 request is valid until the [judicial] court-related officer
55 provides the government agency, person, business, or
56 association with written consent to release the personal
57 information. A [judicial] court-related officer's written
58 request expires on such [judicial] court-related officer's
59 death.

60 7. The provisions of sections 476.1300 to [476.1310]
61 476.1313 shall not apply to any disclosure of personal
62 information of a [judicial] court-related officer or a
63 member of a [judicial] court-related officer's immediate
64 family as required by Article VIII, Section 23 of the
65 Missouri Constitution, sections 105.470 to 105.482, section
66 105.498, and chapter 130.

476.1313. 1. Notwithstanding any other provision of
2 law to the contrary, a recorder of deeds shall meet the
3 requirements of the provisions of sections 476.1300 to
4 476.1310 by complying with this section.

5 2. As used in this section, the following terms mean:

(1) "Eligible documents", documents or instruments that are maintained by and located in the office of the recorder of deeds that are accessed electronically;

(2) ["Immediate family" shall have the same meaning as in section 476.1300;

(3)] "Indexes", indexes maintained by and located in the office of the recorder of deeds that are accessed electronically;

[(4) "Judicial officer" shall have the same meaning as in section 476.1300;

(5)] (3) "Recorder of deeds" shall have the same meaning as in section 59.005;

[(6)] (4) "Shield", "shielded", or "shielding", a prohibition against the general public's electronic access to eligible documents and the [unique identifier] document locator number, address, property description, and recording date contained in indexes for eligible documents; except that, nothing in this definition shall prohibit a recorder of deeds from attaching a notice to the grantor's name in the indexes indicating a document is shielded;

[(7)] (5) "Written request", written or electronic notice signed by:

(a) A state [judicial] court-related officer and submitted to the clerk of the Missouri supreme court or the clerk's designee; or

(b) A federal [judicial] court-related officer and submitted to that [judicial] court-related officer's clerk of the court or the clerk's designee;

that is transmitted electronically by the applicable clerk to a recorder of deeds to request that eligible documents be shielded.

[2.] 3. Written requests transmitted to a recorder of deeds shall only include information specific to eligible

documents maintained by that county. Any written request transmitted to a recorder of deeds shall include the requesting [judicial] court-related officer's full legal name or legal alias and a document locator number for each eligible document for which the [judicial] court-related officer is requesting shielding. If the [judicial] court-related officer is not a party to the instrument but is requesting shielding for an eligible document in which an immediate family member is a party to the instrument, the full legal name or legal alias of the immediate family member shall also be provided.

[3.] 4. Not more than five business days after the date on which the recorder of deeds receives the written request, the recorder of deeds shall shield the eligible documents listed in the written request. Within five business days of receipt, the recorder of deeds shall electronically reply to the written request with a list of any document locator numbers submitted under subsection **[2]** 3 of this section not found in the records maintained by that recorder of deeds.

[4.] 5. If the full legal name or legal alias of the [judicial] court-related officer or immediate family member provided does not appear on an eligible document listed in the written request, the recorder of deeds may electronically reply to the written request with this information. The recorder of deeds may delay shielding such eligible document until electronic confirmation is received from the applicable court clerk or [judicial] court-related officer.

[5.] 6. In order to shield subsequent eligible documents, the [judicial] court-related officer shall present to the recorder of deeds at the time of recording a copy of his or her written request. The recorder of deeds

shall ensure that the eligible document is shielded within five business days.

[6.] 7. Eligible documents shall remain shielded until the recorder of deeds receives a court order or notarized affidavit signed by the [judicial] court-related officer directing the recorder of deeds to terminate shielding.

[7.] 8. The provisions of this section shall not prohibit access to a shielded eligible document by a party to the instrument or an individual or entity that provides to the recorder of deeds a court order or notarized affidavit signed by the [judicial] court-related officer.

[8.] 9. No recorder of deeds shall be liable for any damages under this section, provided the recorder of deeds made a good faith effort to comply with the provisions of this section. No recorder of deeds shall be liable for the release of any eligible document or any data from any eligible document that was released or accessed prior to the eligible document being shielded pursuant to this section.

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the

16 signing by the parties of the settlement agreement, unless,
17 prior to final disposition, the settlement agreement is
18 ordered closed by a court after a written finding that the
19 adverse impact to a plaintiff or plaintiffs to the action
20 clearly outweighs the public policy considerations of
21 section 610.011, however, the amount of any moneys paid by,
22 or on behalf of, the public governmental body shall be
23 disclosed; provided, however, in matters involving the
24 exercise of the power of eminent domain, the vote shall be
25 announced or become public immediately following the action
26 on the motion to authorize institution of such a legal
27 action. Legal work product shall be considered a closed
28 record;

29 (2) Leasing, purchase or sale of real estate by a
30 public governmental body where public knowledge of the
31 transaction might adversely affect the legal consideration
32 therefor. However, any minutes, vote or public record
33 approving a contract relating to the leasing, purchase or
34 sale of real estate by a public governmental body shall be
35 made public upon execution of the lease, purchase or sale of
36 the real estate;

37 (3) Hiring, firing, disciplining or promoting of
38 particular employees by a public governmental body when
39 personal information about the employee is discussed or
40 recorded. However, any vote on a final decision, when taken
41 by a public governmental body, to hire, fire, promote or
42 discipline an employee of a public governmental body shall
43 be made available with a record of how each member voted to
44 the public within seventy-two hours of the close of the
45 meeting where such action occurs; provided, however, that
46 any employee so affected shall be entitled to prompt notice
47 of such decision during the seventy-two-hour period before
48 such decision is made available to the public. As used in

49 this subdivision, the term "personal information" means
50 information relating to the performance or merit of
51 individual employees;

52 (4) The state militia or national guard or any part
53 thereof;

54 (5) Nonjudicial mental or physical health proceedings
55 involving identifiable persons, including medical,
56 psychiatric, psychological, or alcoholism or drug dependency
57 diagnosis or treatment;

58 (6) Scholastic probation, expulsion, or graduation of
59 identifiable individuals, including records of individual
60 test or examination scores; however, personally identifiable
61 student records maintained by public educational
62 institutions shall be open for inspection by the parents,
63 guardian or other custodian of students under the age of
64 eighteen years and by the parents, guardian or other
65 custodian and the student if the student is over the age of
66 eighteen years;

67 (7) Testing and examination materials, before the test
68 or examination is given or, if it is to be given again,
69 before so given again;

70 (8) Welfare cases of identifiable individuals;

71 (9) Preparation, including any discussions or work
72 product, on behalf of a public governmental body or its
73 representatives for negotiations with employee groups;

74 (10) Software codes for electronic data processing and
75 documentation thereof;

76 (11) Specifications for competitive bidding, until
77 either the specifications are officially approved by the
78 public governmental body or the specifications are published
79 for bid;

80 (12) Sealed bids and related documents, until the bids
81 are opened; and sealed proposals and related documents or

any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing;

(17) Records relating to reports of allegations of improper governmental activities under section 29.221;

(18) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

(19) (a) Security measures, global positioning system (GPS) data, investigative information, or investigative or surveillance techniques of any public agency responsible for law enforcement or public safety that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(b) Any information or data provided to a tip line for the purpose of safety or security at an educational institution that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(c) Any information contained in any suspicious activity report provided to law enforcement that, if disclosed, has the potential to endanger the health or safety of an individual or the public.

(d) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(20) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety:

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(21) The portion of a record that identifies security systems or access codes or authorization codes for security systems of real property;

(22) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer,

179 computer system, computer network, or telecommunications
180 network shall be open;

181 (23) Credit card numbers, personal identification
182 numbers, digital certificates, physical and virtual keys,
183 access codes or authorization codes that are used to protect
184 the security of electronic transactions between a public
185 governmental body and a person or entity doing business with
186 a public governmental body. Nothing in this section shall
187 be deemed to close the record of a person or entity using a
188 credit card held in the name of a public governmental body
189 or any record of a transaction made by a person using a
190 credit card or other method of payment for which
191 reimbursement is made by a public governmental body;

192 (24) Records submitted by an individual, corporation,
193 or other business entity to a public institution of higher
194 education in connection with a proposal to license
195 intellectual property or perform sponsored research and
196 which contains sales projections or other business plan
197 information the disclosure of which may endanger the
198 competitiveness of a business;

199 (25) Records relating to foster home or kinship
200 placements of children in foster care under section 210.498;
201 [and]

202 (26) Individually identifiable customer usage and
203 billing records for customers of a municipally owned utility_
204 or a utility operated by any political subdivision created
205 by Article VI, Section 30(a) of the Constitution of
206 Missouri, unless the records are requested by the customer
207 or authorized for release by the customer, except that a
208 municipally owned utility or a utility operated by any
209 political subdivision created by Article VI, Section 30(a)
210 of the Constitution of Missouri shall make available to the
211 public the customer's name, billing address, location of

212 service, and dates of service provided for any commercial
213 service account;

214 (27) Any portion of a record that contains
215 individually identifiable information of a minor under
216 eighteen years of age held by a public governmental body, if
217 such public governmental body is a city, town, village, or
218 park board except when such records are requested by the
219 division of labor standards within the department of labor
220 and industrial relations for the purpose of enforcing
221 chapter 294;

222 (28) Individually identifiable customer information
223 for visitors who make a camping, lodging, or shelter
224 reservation for a county park, municipal park, or Missouri
225 state park or state historic site unless the records are
226 requested by the visitor or authorized for release by the
227 visitor, and except that this exemption shall not apply to
228 the municipality of residence and the zip code of residence
229 of the visitor; and

230 (29) Records to protect the specific location of a
231 plant or animal species considered endangered, threatened,
232 critically imperiled, imperiled, or vulnerable when the
233 known location may cause the species to be at an increased
234 risk of peril.