

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 765

AN ACT

To repeal sections 67.145, 221.407, and 610.100, RSMo, section 575.320 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 575.320 as enacted by senate bill no. 180, eighty-seventh general assembly, first regular session, and to enact in lieu thereof five new sections relating to public safety, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 67.145, 221.407, and 610.100, RSMo,
2 section 575.320 as enacted by senate bill no. 491, ninety-seventh
3 general assembly, second regular session, and section 575.320 as
4 enacted by senate bill no. 180, eighty-seventh general assembly,
5 first regular session, are repealed and five new sections enacted
6 in lieu thereof, to be known as sections 67.145, 221.407,
7 304.125, 575.320, and 610.100, to read as follows:

8 67.145. 1. No political subdivision of this state shall
9 prohibit any first responder[, as the term first responder is
10 defined in section 192.800,] from engaging in any political
11 activity while off duty and not in uniform, being a candidate for
12 elected or appointed public office, or holding such office unless

1 such political activity or candidacy is otherwise prohibited by
2 state or federal law.

3 2. As used in this section, "first responder" means any
4 person trained and authorized by law or rule to render emergency
5 medical assistance or treatment. Such persons may include, but
6 shall not be limited to, emergency first responders, police
7 officers, sheriffs, deputy sheriffs, firefighters, ambulance
8 attendants and attendant drivers, emergency medical technicians,
9 mobile emergency medical technicians, emergency medical
10 technician-paramedics, registered nurses, or physicians.

11 221.407. 1. The commission of any regional jail district
12 may impose, by order, a sales tax in the amount of one-eighth of
13 one percent, one-fourth of one percent, three-eighths of one
14 percent, or one-half of one percent on all retail sales made in
15 such region which are subject to taxation pursuant to the
16 provisions of sections 144.010 to 144.525 for the purpose of
17 providing jail services and court facilities and equipment for
18 such region. The tax authorized by this section shall be in
19 addition to any and all other sales taxes allowed by law, except
20 that no order imposing a sales tax pursuant to this section shall
21 be effective unless the commission submits to the voters of the
22 district, on any election date authorized in chapter 115, a
23 proposal to authorize the commission to impose a tax.

24 2. The ballot of submission shall contain, but need not be
25 limited to, the following language:

26 Shall the regional jail district of
27 (counties' names) impose a region-wide sales tax of
28 (insert amount) for the purpose of providing

1 jail services and court facilities and equipment for the region?

2 YES

NO

3
4 If you are in favor of the question, place an "X" in the box
5 opposite "Yes". If you are opposed to the question, place an "X"
6 in the box opposite "No".

7
8 If a majority of the votes cast on the proposal by the qualified
9 voters of the district voting thereon are in favor of the
10 proposal, then the order and any amendment to such order shall be
11 in effect on the first day of the second quarter immediately
12 following the election approving the proposal. If the proposal
13 receives less than the required majority, the commission shall
14 have no power to impose the sales tax authorized pursuant to this
15 section unless and until the commission shall again have
16 submitted another proposal to authorize the commission to impose
17 the sales tax authorized by this section and such proposal is
18 approved by the required majority of the qualified voters of the
19 district voting on such proposal; however, in no event shall a
20 proposal pursuant to this section be submitted to the voters
21 sooner than twelve months from the date of the last submission of
22 a proposal pursuant to this section.

23 3. All revenue received by a district from the tax
24 authorized pursuant to this section shall be deposited in a
25 special trust fund and shall be used solely for providing jail
26 services and court facilities and equipment for such district for
27 so long as the tax shall remain in effect.

28 4. Once the tax authorized by this section is abolished or

1 terminated by any means, all funds remaining in the special trust
2 fund shall be used solely for providing jail services and court
3 facilities and equipment for the district. Any funds in such
4 special trust fund which are not needed for current expenditures
5 may be invested by the commission in accordance with applicable
6 laws relating to the investment of other county funds.

7 5. All sales taxes collected by the director of revenue
8 pursuant to this section on behalf of any district, less one
9 percent for cost of collection which shall be deposited in the
10 state's general revenue fund after payment of premiums for surety
11 bonds as provided in section 32.087, shall be deposited in a
12 special trust fund, which is hereby created, to be known as the
13 "Regional Jail District Sales Tax Trust Fund". The moneys in the
14 regional jail district sales tax trust fund shall not be deemed
15 to be state funds and shall not be commingled with any funds of
16 the state. The director of revenue shall keep accurate records
17 of the amount of money in the trust fund which was collected in
18 each district imposing a sales tax pursuant to this section, and
19 the records shall be open to the inspection of officers of each
20 member county and the public. Not later than the tenth day of
21 each month the director of revenue shall distribute all moneys
22 deposited in the trust fund during the preceding month to the
23 district which levied the tax. Such funds shall be deposited
24 with the treasurer of each such district, and all expenditures of
25 funds arising from the regional jail district sales tax trust
26 fund shall be paid pursuant to an appropriation adopted by the
27 commission and shall be approved by the commission. Expenditures
28 may be made from the fund for any function authorized in the

1 order adopted by the commission submitting the regional jail
2 district tax to the voters.

3 6. The director of revenue may [authorize the state
4 treasurer to] make refunds from the amounts in the trust fund and
5 credited to any district for erroneous payments and overpayments
6 made, and may redeem dishonored checks and drafts deposited to
7 the credit of such districts. If any district abolishes the tax,
8 the commission shall notify the director of revenue of the action
9 at least ninety days prior to the effective date of the repeal,
10 and the director of revenue may order retention in the trust
11 fund, for a period of one year, of two percent of the amount
12 collected after receipt of such notice to cover possible refunds
13 or overpayment of the tax and to redeem dishonored checks and
14 drafts deposited to the credit of such accounts. After one year
15 has elapsed after the effective date of abolition of the tax in
16 such district, the director of revenue shall remit the balance in
17 the account to the district and close the account of that
18 district. The director of revenue shall notify each district in
19 each instance of any amount refunded or any check redeemed from
20 receipts due the district.

21 7. Except as provided in this section, all provisions of
22 sections 32.085 and 32.087 shall apply to the tax imposed
23 pursuant to this section.

24 8. The provisions of this section shall expire September
25 30, [2015] 2028.

26 304.125. No political subdivision or law enforcement agency
27 shall have a policy requiring or encouraging an employee to issue
28 a certain number of citations for traffic violations on a daily,

1 weekly, monthly, quarterly, yearly, or other quota basis. This
2 section shall not apply to the issuance of warning citations.

3 575.320. 1. A public servant, in his or her public
4 capacity or under color of his or her office or employment,
5 commits the offense of misconduct in administration of justice if
6 he or she:

7 (1) Is charged with the custody of any person accused or
8 convicted of any offense or municipal ordinance violation and he
9 or she coerces, threatens, abuses or strikes such person for the
10 purpose of securing a confession from him or her;

11 (2) Knowingly seizes or levies upon any property or
12 dispossesses anyone of any lands or tenements without due and
13 legal process, or other lawful authority;

14 (3) Is a judge and knowingly accepts a plea of guilty from
15 any person charged with a violation of a statute or ordinance at
16 any place other than at the place provided by law for holding
17 court by such judge;

18 (4) Is a jailer or keeper of a county jail and knowingly
19 refuses to receive, in the jail under his or her charge, any
20 person lawfully committed to such jail on any criminal charge or
21 criminal conviction by any court of this state, or on any warrant
22 and commitment or capias on any criminal charge issued by any
23 court of this state;

24 (5) Is a law enforcement officer and violates the
25 provisions of section 544.170 by knowingly:

26 (a) Refusing to release any person in custody who is
27 entitled to such release; or

28 (b) Refusing to permit a person in custody to see and

1 consult with counsel or other persons; or

2 (c) Transferring any person in custody to the custody or
3 control of another, or to another place, for the purpose of
4 avoiding the provisions of that section; or

5 (d) Proffering against any person in custody a false charge
6 for the purpose of avoiding the provisions of that section; or

7 (6) Orders or suggests to an employee of a [county of the
8 first class having a charter form of government with a population
9 over nine hundred thousand and not containing any part of a city
10 of three hundred fifty thousand or more inhabitants] political
11 subdivision that such employee shall issue a certain number of
12 traffic citations on a daily, weekly, monthly, quarterly, yearly
13 or other quota basis[, except when such employee is assigned
14 exclusively to traffic control and has no other responsibilities
15 or duties] or that such employee shall increase the number of
16 traffic citations that he or she is currently issuing.

17 2. The offense of misconduct in the administration of
18 justice is a class A misdemeanor.

19 575.320. 1. A public servant, in his public capacity or
20 under color of his office or employment, commits the crime of
21 misconduct in administration of justice if:

22 (1) He is charged with the custody of any person accused or
23 convicted of any crime or municipal ordinance violation and he
24 coerces, threatens, abuses or strikes such person for the purpose
25 of securing a confession from him;

26 (2) He knowingly seizes or levies upon any property or
27 dispossesses anyone of any lands or tenements without due and
28 legal process, or other lawful authority;

1 (3) He is a judge and knowingly accepts a plea of guilty
2 from any person charged with a violation of a statute or
3 ordinance at any place other than at the place provided by law
4 for holding court by such judge;

5 (4) He is a jailer or keeper of a county jail and knowingly
6 refuses to receive, in the jail under his charge, any person
7 lawfully committed to such jail on any criminal charge or
8 criminal conviction by any court of this state, or on any warrant
9 and commitment or capias on any criminal charge issued by any
10 court of this state;

11 (5) He is a law enforcement officer and violates the
12 provisions of section 544.170 by knowingly:

13 (a) Refusing to release any person in custody who is
14 entitled to such release; or

15 (b) Refusing to permit a person in custody to see and
16 consult with counsel or other persons; or

17 (c) Transferring any person in custody to the custody or
18 control of another, or to another place, for the purpose of
19 avoiding the provisions of that section; or

20 (d) Preferring against any person in custody a false charge
21 for the purpose of avoiding the provisions of that section;

22 (6) He orders or suggests to an employee of a [county of
23 the first class having a charter form of government with a
24 population over nine hundred thousand and not containing any part
25 of a city of three hundred fifty thousand or more inhabitants]
26 political subdivision that such employee shall issue a certain
27 number of traffic citations on a daily, weekly, monthly,
28 quarterly, yearly or other quota basis[, except when such

1 employee is assigned exclusively to traffic control and has no
2 other responsibilities or duties] or that such employee shall
3 increase the number of traffic citations that he or she is
4 currently issuing.

5 2. Misconduct in the administration of justice is a class A
6 misdemeanor.

7 610.100. 1. As used in sections 610.100 to 610.150, the
8 following words and phrases shall mean:

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

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

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

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

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

26 (c) Finality of the convictions of all persons convicted on
27 the basis of the information contained in the investigative
28 report, by exhaustion of or expiration of all rights of appeal of

1 such persons;

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

8 (5) "Investigative report", a record, other than an arrest
9 or incident report, prepared by personnel of a law enforcement
10 agency, inquiring into a crime or suspected crime, either in
11 response to an incident report or in response to evidence
12 developed by law enforcement officers in the course of their
13 duties;

14 (6) "Mobile video recorder", any system or device that
15 captures visual signals that is capable of installation in a
16 vehicle or being worn or carried by personnel of a law
17 enforcement agency and that includes, at minimum, a camera and
18 recording capabilities;

19 (7) "Mobile video recording", any data captured by a mobile
20 video recorder, including audio, video, and any metadata;

21 (8) "Nonpublic location", a place where one would have a
22 reasonable expectation of privacy, including but not limited to a
23 dwelling, school, or medical facility.

24 2. Each law enforcement agency of this state, of any
25 county, and of any municipality shall maintain records of all
26 incidents reported to the agency, investigations and arrests made
27 by such law enforcement agency. All incident reports and arrest
28 reports shall be open records.

1 (1) Notwithstanding any other provision of law other than
2 the provisions of subsections 4, 5 and 6 of this section or
3 section 320.083, mobile video recordings and investigative
4 reports of all law enforcement agencies are closed records until
5 the investigation becomes inactive.

6 (2) If any person is arrested and not charged with an
7 offense against the law within thirty days of the person's
8 arrest, the arrest report shall thereafter be a closed record
9 except that the disposition portion of the record may be accessed
10 and except as provided in section 610.120.

11 (3) Except as provided in subsections 3 and 5 of this
12 section, a mobile video recording that is recorded in a nonpublic
13 location is authorized to be closed, except that any person who
14 is depicted in the recording or whose voice is in the recording,
15 a legal guardian or parent of such person if he or she is a
16 minor, a family member of such person within the first degree of
17 consanguinity if he or she is deceased or incompetent, an
18 attorney for such person, or insurer of such person, upon written
19 request, may obtain a complete, unaltered, and unedited copy
20 pursuant to this section.

21 3. Except as provided in subsections 4, 5, 6 and 7 of this
22 section, if any portion of a record or document of a law
23 enforcement officer or agency, other than an arrest report, which
24 would otherwise be open, contains information that is reasonably
25 likely to pose a clear and present danger to the safety of any
26 victim, witness, undercover officer, or other person; or
27 jeopardize a criminal investigation, including records which
28 would disclose the identity of a source wishing to remain

1 confidential or a suspect not in custody; or which would disclose
2 techniques, procedures or guidelines for law enforcement
3 investigations or prosecutions, that portion of the record shall
4 be closed and shall be redacted from any record made available
5 pursuant to this chapter.

6 4. Any person, including a legal guardian or parent of such
7 person if he or she is a minor, family member of such person
8 within the first degree of consanguinity if such person is
9 deceased or incompetent, attorney for a person, or insurer of a
10 person involved in any incident or whose property is involved in
11 an incident, may obtain any records closed pursuant to this
12 section or section 610.150 for purposes of investigation of any
13 civil claim or defense, as provided by this subsection. Any
14 individual, legal guardian or parent of such person if he or she
15 is a minor, his or her family member within the first degree of
16 consanguinity if such individual is deceased or incompetent, his
17 or her attorney or insurer, involved in an incident or whose
18 property is involved in an incident, upon written request, may
19 obtain a complete unaltered and unedited incident report
20 concerning the incident, and may obtain access to other records
21 closed by a law enforcement agency pursuant to this section.
22 Within thirty days of such request, the agency shall provide the
23 requested material or file a motion pursuant to this subsection
24 with the circuit court having jurisdiction over the law
25 enforcement agency stating that the safety of the victim, witness
26 or other individual cannot be reasonably ensured, or that a
27 criminal investigation is likely to be jeopardized. If, based on
28 such motion, the court finds for the law enforcement agency, the

1 court shall either order the record closed or order such portion
2 of the record that should be closed to be redacted from any
3 record made available pursuant to this subsection.

4 5. Any person may bring an action pursuant to this section
5 in the circuit court having jurisdiction to authorize disclosure
6 of a mobile video recording or the information contained in an
7 investigative report of any law enforcement agency, which would
8 otherwise be closed pursuant to this section. The court may
9 order that all or part of a mobile video recording or the
10 information contained in an investigative report be released to
11 the person bringing the action.

12 (1) In making the determination as to whether information
13 contained in an investigative report shall be disclosed, the
14 court shall consider whether the benefit to the person bringing
15 the action or to the public outweighs any harm to the public, to
16 the law enforcement agency or any of its officers, or to any
17 person identified in the investigative report in regard to the
18 need for law enforcement agencies to effectively investigate and
19 prosecute criminal activity.

20 (2) In making the determination as to whether a mobile
21 video recording shall be disclosed, the court shall consider:

22 (a) Whether the benefit to the person bringing the action
23 or to the public outweighs any harm to the public, to the law
24 enforcement agency or any of its officers, or to any person
25 identified in the mobile video recording in regard to the need
26 for law enforcement agencies to effectively investigate and
27 prosecute criminal activity;

28 (b) Whether the mobile video recording contains information

1 that is reasonably likely to disclose private matters in which
2 the public has no legitimate concern;

3 (c) Whether the mobile video recording is reasonably likely
4 to bring shame or humiliation to a person of ordinary
5 sensibilities; and

6 (d) Whether the mobile video recording was taken in a place
7 where a person recorded or depicted has a reasonable expectation
8 of privacy.

9 (3) The mobile video recording or investigative report in
10 question may be examined by the court in camera.

11 (4) If the disclosure is authorized in whole or in part,
12 the court may make any order that justice requires, including one
13 or more of the following:

14 (a) That the mobile video recording or investigative report
15 may be disclosed only on specified terms and conditions,
16 including a designation of the time or place;

17 (b) That the mobile video recording or investigative report
18 may be had only by a method of disclosure other than that
19 selected by the party seeking such disclosure;

20 (c) That the scope of the request be limited to certain
21 matters;

22 (d) That the disclosure occur with no one present except
23 persons designated by the court;

24 (e) That the mobile video recording or investigative report
25 be redacted to exclude, for example, personally identifiable
26 features or other sensitive information;

27 (f) That a trade secret or other confidential research,
28 development, or commercial information not be disclosed or be

1 disclosed only in a designated way.

2 (5) The court may find that the party seeking disclosure of
3 the mobile video recording or investigative report shall bear the
4 reasonable and necessary costs and attorneys' fees of both
5 parties, unless the court finds that the decision of the law
6 enforcement agency not to open the mobile video recording or
7 investigative report was substantially unjustified under all
8 relevant circumstances, and in that event, the court may assess
9 such reasonable and necessary costs and attorneys' fees to the
10 law enforcement agency.

11 6. Any person may apply pursuant to this subsection to the
12 circuit court having jurisdiction for an order requiring a law
13 enforcement agency to open incident reports and arrest reports
14 being unlawfully closed pursuant to this section. If the court
15 finds by a preponderance of the evidence that the law enforcement
16 officer or agency has knowingly violated this section, the
17 officer or agency shall be subject to a civil penalty in an
18 amount up to one thousand dollars. If the court finds that there
19 is a knowing violation of this section, the court may order
20 payment by such officer or agency of all costs and attorneys'
21 fees, as provided by section 610.027. If the court finds by a
22 preponderance of the evidence that the law enforcement officer or
23 agency has purposely violated this section, the officer or agency
24 shall be subject to a civil penalty in an amount up to five
25 thousand dollars and the court shall order payment by such
26 officer or agency of all costs and attorney fees, as provided in
27 section 610.027. The court shall determine the amount of the
28 penalty by taking into account the size of the jurisdiction, the

1 seriousness of the offense, and whether the law enforcement
2 officer or agency has violated this section previously.

3 7. The victim of an offense as provided in chapter 566 may
4 request that his or her identity be kept confidential until a
5 charge relating to such incident is filed.

6 8. Any person who requests and receives a mobile video
7 recording that was recorded in a nonpublic location pursuant to
8 this section is prohibited from displaying or disclosing the
9 mobile video recording, including any description or account of
10 any or all of the mobile video recording, without first providing
11 direct third party notice to each non law enforcement agency
12 individual whose image or sound is contained in the recording and
13 affording each person whose image or sound is contained in the
14 mobile video recording no less than ten days to file and serve an
15 action seeking an order from a court of competent jurisdiction to
16 enjoin all or some of the intended display, disclosure,
17 description, or account of the recording. Any person who fails
18 to comply with the provisions of this subsection is subject to
19 damages in a civil action.

20 ✓

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27 Eric Schmitt
