

FIRST REGULAR SESSION

SENATE BILL NO. 309

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR STEELMAN.

Read 1st time January 16, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0932S.021

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to court records.

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 610.040, to read as follows:

610.040. 1. As used in this section, the following terms shall mean:

(1) "Party", a party of record in the civil action;

(2) "Records", all documents, instruments and things which constitute or are related to a civil action, including, but not limited to, pleadings, claims, applications, answers, replies, court dockets, motions, memoranda, forms, notices, rulings, orders, judgments, depositions, transcripts, interrogatories, requests for production, admissions, exhibits, consents, settlements, waivers, dismissals and withdrawals;

(3) "Unfair insurance practices", any of the practices defined by section 375.936, RSMo, as unfair trade practices in the business of insurance.

2. Records filed with the courts of this state in civil actions or records produced or maintained by the parties in such actions, as well as records of all court proceedings, shall be open and available for inspection, copying or viewing by the public, with the exception of those records or proceedings which a court of competent jurisdiction orders sealed pursuant to subsection 3 or 4 of this section. Access to open records or proceedings of the courts of this state shall be governed by the provisions of this chapter. The clerk of the court shall maintain sealed records in a restricted area apart from the case file to which the public has access. Unless the docket in the civil action reflects prior entry of an order to file under seal or the party offering a record presents the clerk with an order of the court authorizing a filing under seal, all records received

in the office of the clerk shall be filed in the public record of a civil action.

3. All records and proceedings of juvenile courts shall be and remain sealed pursuant to section 211.321, RSMo, and Supreme Court Rule 122. Records and proceedings of the commission on retirement, removal and discipline shall be and remain sealed pursuant to Supreme Court Rule 12.13.

4. (1) Upon written motion filed by any party, a court may order that a record filed in a civil action be received and maintained by the court clerk under seal until such time as the court orders the record to be opened, if the court determines that good cause exists based upon a showing that the request is narrowly tailored and that no less restrictive means exist to protect disclosure of prejudicial or confidential information and that:

(a) The information requested to be sealed is a trade secret or other confidential research, development, or commercial information; and

(b) Public disclosure of the record or proceeding would subject any party to undue harassment, embarrassment, annoyance, humiliation, oppression, burden or expense; and

(c) An interest exists which substantially outweighs the right of public access to the information contained in the record or proceeding and the overriding interest will be imminently compromised if the record is not sealed or the proceeding not closed.

(2) This subsection shall not be used as and shall not constitute the basis for a court to order the sealing of any record in a civil action which action is based upon any of the following claims, unless abuse of a child is involved in the claim, and, in that instance, only if requested by the child who was abused or that child's representative:

(a) Defective product;

(b) Discrimination;

(c) Environmental hazard;

(d) Fraud;

(e) Misrepresentation;

(f) Personal injury;

(g) Sexual harassment;

(h) Unfair insurance practices; or

(i) Wrongful death;

(3) If any sealed records or proceedings are relevant to any other proceeding in another court of competent jurisdiction, or such sealed records or proceedings may be reasonably calculated to lead to discovery of relevant matters in such other proceeding, the court with jurisdiction of such other proceeding shall order that such sealed records or proceedings be made available to the party seeking the same, and may make such

further orders as are appropriate under the circumstances regarding any further disclosure of such information.

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