

SECOND REGULAR SESSION

SENATE BILL NO. 854

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

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TERRY L. SPIELER, Secretary.

2601S.031

AN ACT

To repeal section 610.021, RSMo, relating to terrorism, and to enact in lieu thereof twelve new sections relating to the same subject, with penalty provisions.

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

Section A. Section 610.021, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 610.021, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, to read as follows:

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 signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public within seventy-two hours after execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body must be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

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

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

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

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

(8) Welfare cases of identifiable individuals;

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

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

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

(12) Sealed bids and related documents, until the bids 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;

(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 hot lines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; [and]

(18) In preparation for and implementation of electric restructuring, a municipal electric utility may close that portion of its financial records and business plans which contains information regarding the name of the suppliers of services to said utility and the cost of such services, and the records and business plans concerning the municipal electric utility's future marketing and service expansion areas. However, this exception shall not be construed to limit access to other records of a municipal electric utility, including but not limited to the names and addresses of its business and residential customers, its financial reports, including but not limited to its budget, annual reports and other financial statements prepared in the course of business, and other records maintained in the course of doing business as a municipal electric utility. This exception shall become null and void if the state of Missouri fails to implement by December 31, 2001, electric restructuring through the adoption of statutes permitting the same in this state; **and**

(19) Directly relating to terrorism readiness information.

Section 1. 1. The chief executive officer of a hospital shall be responsible for developing a written emergency preparedness plan. The plan shall include procedures which provide for safe and orderly evacuation of patients, visitors and personnel in the event of fire, explosion or other internal disaster. The plan shall also include procedures for caring for mass casualties resulting from any external disaster in the region.

2. The emergency preparedness plan shall be readily available to all personnel. The chief executive officer of the hospital is responsible for ensuring that all employees are instructed regarding their responsibilities during an emergency. Drills for internal disasters, such as fires, shall be held at least quarterly for each shift and shall include the simulated use of fire alarm signals and simulation of emergency fire conditions. Annual drills for external disasters shall be held in coordination with representatives of local emergency preparedness offices. The drills shall not require the movement of hospital patients.

Section 2. 1. There is hereby created a "Governor's Expert Emergency Epidemic

Response Committee". The duties of the committee shall be to develop by January 1, 2003, a new supplement to the state disaster plan that is concerned with the public health response to acts of bioterrorism, pandemic influenza, and epidemics caused by novel and highly fatal infectious agents and to provide expert public health advice to the governor in the event of an emergency epidemic. The committee shall meet at least annually to review and amend the supplement as necessary. The committee shall provide information to and fully cooperate with the council.

2. The committee shall consist of the following members:

- (1) The director of the department of health or a designee;**
- (2) The director of the department of natural resources or a designee;**
- (3) The chief public information officer of the department of health;**
- (4) The emergency response coordinator for the department of health;**
- (5) A hospital infectious disease control practitioner;**
- (6) A wildlife disease specialist with the department of conservation;**
- (7) A pharmacist member of the state board of pharmacy; and**
- (8) The director of the office of the state emergency management agency.**

3. In addition to the state members of the committee, the governor shall appoint to the committee an individual from each of the following categories:

- (1) A licensed physician who specializes in infectious diseases;**
- (2) A licensed physician who specializes in emergency medicine;**
- (3) A medical examiner;**
- (4) A specialist in posttraumatic stress management;**
- (5) A director of a local public health department; and**
- (6) The attorney general or his or her designee.**

4. The director of the department of health shall serve as the chair of the committee. A majority of the membership of the committee, not including vacant positions, shall constitute a quorum.

5. The director of the department of public safety or a designee shall serve as an ex officio member of the committee and shall not be able to vote on decisions of the committee. The director shall serve as a liaison between the committee, the council, and the state emergency management agency in the event of an emergency epidemic.

Section 3. 1. The expert emergency epidemic response committee shall include in the supplement to the state disaster plan a proposal for the prioritization, allocation, storage, protection, and distribution of antibiotic medicines, antiviral medicines, antidotes, and vaccines that may be needed and in short supply in the event of an emergency epidemic.

2. The committee shall convene at the call of the governor or the director of the department of health to consider evidence presented by the department's chief medical officer that there is an occurrence or imminent threat of an emergency epidemic. If the committee finds that there is an occurrence or imminent threat of an emergency epidemic, the director of the department of health shall advise the governor to declare a disaster emergency.

3. In the event of an emergency epidemic that has been declared a disaster emergency, the committee shall convene as rapidly and as often as necessary to advise the governor, who shall act by executive order, regarding reasonable and appropriate measures to reduce or prevent spread of the disease, agent, or toxin and to protect the public health. Such measures may include, but are not limited to:

- (1) Procuring or taking supplies of medicines and vaccines;**
- (2) Ordering physicians and hospitals to transfer or cease admission of patients or perform medical examinations of persons;**
- (3) Isolating or quarantining persons or property;**
- (4) Determining whether to seize, destroy, or decontaminate property or objects that may threaten the public health;**
- (5) Determining how to safely dispose of corpses and infectious waste;**
- (6) Assessing the adequacy and potential contamination of food and water supplies;**
- (7) Providing mental health support to affected persons; and**
- (8) Informing the citizens of the state how to protect themselves, what actions are being taken to control the epidemic, and when the epidemic is over.**

4. The committee may adopt rules and establish such standards as it deems necessary or proper to assure that hospitals, other acute care facilities, local public health departments, trauma centers, area trauma advisory councils, and managed care organizations are prepared for an emergency epidemic that is declared to be a disaster emergency, including the immediate investigation of any case of a suspected emergency epidemic.

Section 4. Sections 4 to 11 of this act shall be known and may be cited as "The Terrorism Prevention Act".

Section 5. 1. For the purposes of sections 4 to 11 of this act, the following terms mean:

- (1) "Chemical warfare agents" includes, but is not limited to, the following weaponized agents, or any analog of these agents:**
 - (a) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX;**
 - (b) Choking agents, including Phosgene (CG) and Diphosgene (DP);**

(c) **Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA);**

(d) **Blister agents, including mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen mustard)), arsenicals, such as Lewisite (L), urticants, such as CX; and incapacitating agents, such as BZ;**

(2) **"Nuclear or radiological agents" includes any improvised nuclear device which is any explosive device designed to cause a nuclear yield; any radiological dispersal device which is any explosive device utilized to spread radioactive material; or a simple radiological dispersal device which is any act or container designed to release radiological material as a weapon without an explosion;**

(3) **"Vector", a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host;**

(4) **"Weapon of mass destruction" includes chemical warfare agents, weaponized biological or biologic warfare agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon;**

(5) **"Weaponization", the deliberate processing, preparation, packaging, or synthesis of any substance for use as a weapon or munition. "Weaponized agents" are those agents or substances prepared for dissemination through any explosive, thermal, pneumatic, or mechanical means;**

(6) **"Weaponized biological or biologic warfare agents" include weaponized pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous biological regulators.**

2. The intentional release of a dangerous chemical or hazardous material generally utilized in an industrial or commercial process shall be considered use of a weapon of mass destruction when a person knowingly utilizes those agents with the intent to cause harm and the use places persons or animals at risk of serious injury, illness, or death, or endangers the environment.

3. The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not prohibited by sections 4 to 11 of this act.

4. No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention pursuant to Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to sections 4 to 11 of this act.

Section 6. 1. A person commits the crime of possession of a weapon of mass destruction when he or she possesses, develops, manufactures, produces, transfers, acquires, or retains any weapon of mass destruction.

2. Possession of a weapon of mass destruction is a class B felony.

Section 7. 1. A person commits the crime of unlawful use of a weapon of mass destruction when he or she uses or directly employs against another person a weapon of mass destruction in a form that may cause widespread, disabling illness, or injury in human beings.

2. Unlawful use of a weapon of mass destruction is a class A felony, unless widespread damage to and disruption of the water or food supply results, in which case it is a class B felony.

Section 8. 1. A person commits the crime of destruction of public resources by using a weapon of mass destruction in a form that may cause widespread and significant damage to public natural resources, including coastal waterways and beaches, public parkland, surface waters, groundwater, and wildlife.

2. Destruction of public resources is a class B felony.

Section 9. 1. A person commits the crime of biological terrorism if he or she uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for the purposes specified in sections 6 through 10 of this act.

2. Biological terrorism is a class B felony.

Section 10. 1. Any person who knowingly threatens to use a weapon of mass destruction, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety, or for his or her immediate family's safety, which results in an isolation, quarantine, or decontamination effort shall be guilty of the crime of threatening to use a weapon of mass destruction.

2. Threatening to use a weapon of mass destruction is a class C felony.

3. For the purposes of this section, "sustained fear" can be established by, but is not limited to, conduct such as evacuation of any building by any occupant, evacuation of any school by any employee or student, evacuation of any home by any resident or occupant, or any other action taken in direct response to the threat to use a weapon of mass destruction.

4. The fact that the person who allegedly violated this section did not actually possess a biological agent, toxin, or chemical weapon does not constitute a defense to the crime specified in this section.

Section 11. 1. Any person or entity possessing any of the restricted biological agents enumerated in subsection 2 of this section shall be guilty of the crime of possession of biological agents.

2. Possession of biological agents is a class B felony.

3. For the purposes of this section, "restricted biological agents" includes the following:

(1) Viruses: Crimean-Congo hemorrhagic fever virus, Eastern equine encephalitis virus, ebola viruses, equine morbilli virus, lassa fever virus, marburg virus, Rift Valley fever virus, South African hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome, yellow fever virus;

(2) Bacteria: bacillus anthracis (commonly known as anthrax), brucella abortus, brucella melitensis, brucella suis, burkholderia (pseudomonas) mallei, burkholderia (pseudomonas) pseudomallei, clostridium botulinum, francisella tularensis, yersinia pestis (commonly known as plague);

(3) Rickettsiae: coxiella burnetii, rickettsia prowazekii, rickettsia rickettsii;

(4) Fungi: coccidioides immitis; and

(5) Toxins: abrin, aflatoxins, botulinum toxins, clostridium perfringens epsilon toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, staphylococcal enterotoxins, tetrodotoxin, T-2 toxin.

4. This section shall not apply to any physician, veterinarian, pharmacist, or licensed medical practitioner authorized to dispense a prescription, or universities, research institutions, or pharmaceutical corporations, or any person possessing the agents pursuant to a lawful prescription issued by a person defined in section 195.070, RSMo, if the person possesses vaccine strains of the viral agents Junin virus strain #1, Rift Valley fever virus strain MP-12, Venezuelan equine encephalitis virus strain TC-83 and yellow fever virus strain 17-D; any vaccine strain described in Section 78.1 of Subpart A of Part 78 of Subchapter C of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions, and any toxin for medical use, inactivated for use as vaccines, or toxin preparation for biomedical research use at a median lethal dose for vertebrates of more than 100 ng/kg, as well as any national standard toxin required for biologic potency testing as described in Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 of the Code of Federal

Regulations, or any successor provisions.

5. For the purposes of this section, no person shall be deemed to be in possession of an agent if the person is naturally exposed to, or innocently infected or contaminated with, the agent.

6. Any peace officer who encounters any of the restricted agents mentioned above shall immediately notify and consult with a local public health officer to ensure proper consideration of any public health risk.

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