

FIRST REGULAR SESSION

SENATE BILL NO. 273

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Read 1st time February 6, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1286S.01I

AN ACT

To amend chapter 610, RSMo, by adding thereto one new section relating to the release of crime scene materials under the state open records law.

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
2 section, to be known as section 610.205, to read as follows:

**610.205. 1. After an investigation is inactive, as the term
2 "inactive" is defined in section 610.100, crime scene or death scene
3 photographs and video recordings, including photographs and video
4 recordings created or produced by a state or local agency or by a
5 perpetrator or suspect at a crime scene, which depict or describe a
6 deceased person in a state of dismemberment, decapitation, or similar
7 mutilation including, without limitation, where the deceased person's
8 genitalia are exposed, shall be considered open records for inspection,
9 but closed records for purposes of copying under the provisions of this
10 chapter. Unless dissemination is prohibited by 18 U.S.C. Section 2285,
11 this section shall not prohibit disclosure of such material to:**

**(1) State and local law enforcement agencies, prosecuting
12 attorneys, juvenile officers, courts and court personnel, coroners, the
13 State Technical Assistance Team, child fatality review panels, the
14 department of social services, or other state or local officials who need
15 access to the photograph and video recordings in order to perform
16 their duties; and**

**(2) The deceased's nonoffending next of kin or to an individual
18 who has secured a written release from the nonoffending next of kin. It
19 shall be the responsibility of the nonoffending next of kin to show proof
20 of the familial relationship. For purposes of such access, the deceased's
21**

22 nonoffending next of kin shall be:

23 (a) The spouse of the deceased, if living;

24 (b) If there is no living spouse of the deceased, an adult child of
25 the deceased; or

26 (c) If there is no living spouse or adult child, a parent of the
27 deceased.

28 Any person who is otherwise a next of kin of the deceased under this
29 section who has been found guilty of the crime that resulted in the
30 deceased's death shall be an offending next of kin and shall not be
31 authorized to access such records or consent to the disclosure of such
32 materials under this section.

33 2. Subject to the provisions of subsection 3 of this section, in the
34 case of closed criminal investigations a circuit court judge may order
35 the disclosure of such photographs or video recordings not otherwise
36 prohibited by 18 U.S.C. Section 2252 upon findings in writing that
37 disclosure is in the public interest and outweighs any privacy interest
38 that may be asserted by the deceased person's next of kin. In making
39 such determination, the court shall consider whether such disclosure
40 is necessary for public evaluation of governmental performance, the
41 seriousness of the intrusion into the family's right to privacy, and
42 whether such disclosure is the least intrusive means available
43 considering the availability of similar information in other public
44 records. In any such action, the court shall review the photographs or
45 video recordings in question in camera with the custodian of the crime
46 scene materials present and may condition any disclosure on such
47 condition as the court may deem necessary to accommodate the
48 interests of the parties.

49 3. Prior to releasing any crime scene material described in
50 subsection 1 of this section, the custodian of such material shall give
51 the deceased person's nonoffending next of kin at least two weeks'
52 notice. No court shall order a disclosure under subsection 2 of this
53 section which would disregard or shorten the duration of such notice
54 requirement. No court order or notification to the next of kin shall be
55 required for the release or disclosure of information to state and local
56 law enforcement agencies, prosecuting attorneys, juvenile officers,
57 courts and court personnel, coroners, the State Technical Assistance
58 Team, child fatality review panels, the department of social services, or

59 other state or local officials who need access to the photograph and
60 video recordings in order to perform their official duties.

61 4. The provisions of this section shall apply to all undisclosed
62 material which is in the custody of a state or local agency on the
63 effective date of this section and to any such material which comes into
64 the custody of a state or local agency after such date.

65 5. The provisions of this section shall not apply to disclosure of
66 crime scene material to counsel representing a defendant. Unless
67 otherwise prohibited by 18 U.S.C. Section 2252, counsel may disclose
68 such materials to his or her client and any expert or investigator
69 assisting counsel but shall not otherwise disseminate such materials,
70 except to the extent they may be necessary exhibits in court
71 proceedings. A request under this subsection shall clearly state that
72 such request is being made for the purpose of preparing to file and
73 litigate proceedings enumerated in this subsection.

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Bill

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