

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 765

98TH GENERAL ASSEMBLY
2016

4939S.07T

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:

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4 general assembly, first regular session, are repealed and five new sections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

67.145. 1. No political subdivision of this state shall prohibit any first
2 responder[, as the term first responder is defined in section 192.800,] from
3 engaging in any political activity while off duty and not in uniform, being a
4 candidate for elected or appointed public office, or holding such office unless such
5 political activity or candidacy is otherwise prohibited by state or federal law.

6 **2. As used in this section, "first responder" means any person**
7 **trained and authorized by law or rule to render emergency medical**
8 **assistance or treatment. Such persons may include, but shall not be**
9 **limited to, emergency first responders, police officers, sheriffs, deputy**

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

10 **sheriffs, firefighters, ambulance attendants and attendant drivers,**
 11 **emergency medical technicians, mobile emergency medical technicians,**
 12 **emergency medical technician-paramedics, registered nurses, or**
 13 **physicians.**

221.407. 1. The commission of any regional jail district may impose, by
 2 order, a sales tax in the amount of one-eighth of one percent, one-fourth of one
 3 percent, three-eighths of one percent, or one-half of one percent on all retail sales
 4 made in such region which are subject to taxation pursuant to the provisions of
 5 sections 144.010 to 144.525 for the purpose of providing jail services and court
 6 facilities and equipment for such region. The tax authorized by this section shall
 7 be in addition to any and all other sales taxes allowed by law, except that no
 8 order imposing a sales tax pursuant to this section shall be effective unless the
 9 commission submits to the voters of the district, on any election date authorized
 10 in chapter 115, a proposal to authorize the commission to impose a tax.

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

13 Shall the regional jail district of (counties' names) impose a
 14 region-wide sales tax of (insert amount) for the purpose of providing
 15 jail services and court facilities and equipment for the region?

16 YES NO

17 If you are in favor of the question, place an "X" in the box opposite "Yes". If you
 18 are opposed to the question, place an "X" in the box opposite "No".

19 If a majority of the votes cast on the proposal by the qualified voters of the
 20 district voting thereon are in favor of the proposal, then the order and any
 21 amendment to such order shall be in effect on the first day of the second quarter
 22 immediately following the election approving the proposal. If the proposal
 23 receives less than the required majority, the commission shall have no power to
 24 impose the sales tax authorized pursuant to this section unless and until the
 25 commission shall again have submitted another proposal to authorize the
 26 commission to impose the sales tax authorized by this section and such proposal
 27 is approved by the required majority of the qualified voters of the district voting
 28 on such proposal; however, in no event shall a proposal pursuant to this section
 29 be submitted to the voters sooner than twelve months from the date of the last
 30 submission of a proposal pursuant to this section.

31 3. All revenue received by a district from the tax authorized pursuant to
 32 this section shall be deposited in a special trust fund and shall be used solely for

33 providing jail services and court facilities and equipment for such district for so
34 long as the tax shall remain in effect.

35 4. Once the tax authorized by this section is abolished or terminated by
36 any means, all funds remaining in the special trust fund shall be used solely for
37 providing jail services and court facilities and equipment for the district. Any
38 funds in such special trust fund which are not needed for current expenditures
39 may be invested by the commission in accordance with applicable laws relating
40 to the investment of other county funds.

41 5. All sales taxes collected by the director of revenue pursuant to this
42 section on behalf of any district, less one percent for cost of collection which shall
43 be deposited in the state's general revenue fund after payment of premiums for
44 surety bonds as provided in section 32.087, shall be deposited in a special trust
45 fund, which is hereby created, to be known as the "Regional Jail District Sales
46 Tax Trust Fund". The moneys in the regional jail district sales tax trust fund
47 shall not be deemed to be state funds and shall not be commingled with any funds
48 of the state. The director of revenue shall keep accurate records of the amount
49 of money in the trust fund which was collected in each district imposing a sales
50 tax pursuant to this section, and the records shall be open to the inspection of
51 officers of each member county and the public. Not later than the tenth day of
52 each month the director of revenue shall distribute all moneys deposited in the
53 trust fund during the preceding month to the district which levied the tax. Such
54 funds shall be deposited with the treasurer of each such district, and all
55 expenditures of funds arising from the regional jail district sales tax trust fund
56 shall be paid pursuant to an appropriation adopted by the commission and shall
57 be approved by the commission. Expenditures may be made from the fund for
58 any function authorized in the order adopted by the commission submitting the
59 regional jail district tax to the voters.

60 6. The director of revenue may [authorize the state treasurer to] make
61 refunds from the amounts in the trust fund and credited to any district for
62 erroneous payments and overpayments made, and may redeem dishonored checks
63 and drafts deposited to the credit of such districts. If any district abolishes the
64 tax, the commission shall notify the director of revenue of the action at least
65 ninety days prior to the effective date of the repeal, and the director of revenue
66 may order retention in the trust fund, for a period of one year, of two percent of
67 the amount collected after receipt of such notice to cover possible refunds or
68 overpayment of the tax and to redeem dishonored checks and drafts deposited to

69 the credit of such accounts. After one year has elapsed after the effective date of
70 abolition of the tax in such district, the director of revenue shall remit the
71 balance in the account to the district and close the account of that district. The
72 director of revenue shall notify each district in each instance of any amount
73 refunded or any check redeemed from receipts due the district.

74 7. Except as provided in this section, all provisions of sections 32.085 and
75 32.087 shall apply to the tax imposed pursuant to this section.

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

**304.125. No political subdivision or law enforcement agency shall
2 have a policy requiring or encouraging an employee to issue a certain
3 number of citations for traffic violations on a daily, weekly, monthly,
4 quarterly, yearly, or other quota basis. This section shall not apply to
5 the issuance of warning citations.**

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

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

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

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

13 (4) Is a jailer or keeper of a county jail and knowingly refuses to receive,
14 in the jail under his or her charge, any person lawfully committed to such jail on
15 any criminal charge or criminal conviction by any court of this state, or on any
16 warrant and commitment or capias on any criminal charge issued by any court
17 of this state;

18 (5) Is a law enforcement officer and violates the provisions of section
19 544.170 by knowingly:

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

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

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

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

28 (6) Orders or suggests to an employee of a [county of the first class having
29 a charter form of government with a population over nine hundred thousand and
30 not containing any part of a city of three hundred fifty thousand or more
31 inhabitants] **political subdivision** that such employee shall issue a certain
32 number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other
33 quota basis[, except when such employee is assigned exclusively to traffic control
34 and has no other responsibilities or duties] **or that such employee shall**
35 **increase the number of traffic citations that he or she is currently**
36 **issuing.**

37 2. The offense of misconduct in the administration of justice is a class A
38 misdemeanor.

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

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

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

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

13 (4) He is a jailer or keeper of a county jail and knowingly refuses to
14 receive, in the jail under his charge, any person lawfully committed to such jail
15 on any criminal charge or criminal conviction by any court of this state, or on any
16 warrant and commitment or capias on any criminal charge issued by any court
17 of this state;

18 (5) He is a law enforcement officer and violates the provisions of section
19 544.170 by knowingly:

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

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

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

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

28 (6) He orders or suggests to an employee of a [county of the first class
29 having a charter form of government with a population over nine hundred
30 thousand and not containing any part of a city of three hundred fifty thousand
31 or more inhabitants] **political subdivision** that such employee shall issue a
32 certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly
33 or other quota basis[, except when such employee is assigned exclusively to traffic
34 control and has no other responsibilities or duties] **or that such employee**
35 **shall increase the number of traffic citations that he or she is currently**
36 **issuing.**

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

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

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

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

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

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

13 (b) Expiration of the time to file criminal charges pursuant to the
14 applicable statute of limitations, or ten years after the commission of the offense;
15 whichever date earliest occurs;

16 (c) Finality of the convictions of all persons convicted on the basis of the
17 information contained in the investigative report, by exhaustion of or expiration
18 of all rights of appeal of such persons;

19 (4) "Incident report", a record of a law enforcement agency consisting of
20 the date, time, specific location, name of the victim and immediate facts and

21 circumstances surrounding the initial report of a crime or incident, including any
22 logs of reported crimes, accidents and complaints maintained by that agency;

23 (5) "Investigative report", a record, other than an arrest or incident report,
24 prepared by personnel of a law enforcement agency, inquiring into a crime or
25 suspected crime, either in response to an incident report or in response to
26 evidence developed by law enforcement officers in the course of their duties;

27 (6) **"Mobile video recorder", any system or device that captures**
28 **visual signals that is capable of installation in a vehicle or being worn**
29 **or carried by personnel of a law enforcement agency and that includes,**
30 **at minimum, a camera and recording capabilities;**

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

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

36 2. Each law enforcement agency of this state, of any county, and of any
37 municipality shall maintain records of all incidents reported to the agency,
38 investigations and arrests made by such law enforcement agency. All incident
39 reports and arrest reports shall be open records.

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

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

48 (3) **Except as provided in subsections 3 and 5 of this section, a**
49 **mobile video recording that is recorded in a nonpublic location is**
50 **authorized to be closed, except that any person who is depicted in the**
51 **recording or whose voice is in the recording, a legal guardian or parent**
52 **of such person if he or she is a minor, a family member of such person**
53 **within the first degree of consanguinity if he or she is deceased or**
54 **incompetent, an attorney for such person, or insurer of such person,**
55 **upon written request, may obtain a complete, unaltered, and unedited**
56 **copy pursuant to this section.**

57 3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any
58 portion of a record or document of a law enforcement officer or agency, other than
59 an arrest report, which would otherwise be open, contains information that is
60 reasonably likely to pose a clear and present danger to the safety of any victim,
61 witness, undercover officer, or other person; or jeopardize a criminal
62 investigation, including records which would disclose the identity of a source
63 wishing to remain confidential or a suspect not in custody; or which would
64 disclose techniques, procedures or guidelines for law enforcement investigations
65 or prosecutions, that portion of the record shall be closed and shall be redacted
66 from any record made available pursuant to this chapter.

67 4. Any person, including a **legal guardian or parent of such person**
68 **if he or she is a minor**, family member of such person within the first degree
69 of consanguinity if such person is deceased or incompetent, attorney for a person,
70 or insurer of a person involved in any incident or whose property is involved in
71 an incident, may obtain any records closed pursuant to this section or section
72 610.150 for purposes of investigation of any civil claim or defense, as provided by
73 this subsection. Any individual, **legal guardian or parent of such person if**
74 **he or she is a minor**, his or her family member within the first degree of
75 consanguinity if such individual is deceased or incompetent, his or her attorney
76 or insurer, involved in an incident or whose property is involved in an incident,
77 upon written request, may obtain a complete unaltered and unedited incident
78 report concerning the incident, and may obtain access to other records closed by
79 a law enforcement agency pursuant to this section. Within thirty days of such
80 request, the agency shall provide the requested material or file a motion pursuant
81 to this subsection with the circuit court having jurisdiction over the law
82 enforcement agency stating that the safety of the victim, witness or other
83 individual cannot be reasonably ensured, or that a criminal investigation is likely
84 to be jeopardized. If, based on such motion, the court finds for the law
85 enforcement agency, the court shall either order the record closed or order such
86 portion of the record that should be closed to be redacted from any record made
87 available pursuant to this subsection.

88 5. Any person may bring an action pursuant to this section in the circuit
89 court having jurisdiction to authorize disclosure of **a mobile video recording**
90 **or** the information contained in an investigative report of any law enforcement
91 agency, which would otherwise be closed pursuant to this section. The court may
92 order that all or part of **a mobile video recording or** the information contained

93 in an investigative report be released to the person bringing the action.

94 **(1) In making the determination as to whether information contained in**
95 **an investigative report shall be disclosed, the court shall consider whether the**
96 **benefit to the person bringing the action or to the public outweighs any harm to**
97 **the public, to the law enforcement agency or any of its officers, or to any person**
98 **identified in the investigative report in regard to the need for law enforcement**
99 **agencies to effectively investigate and prosecute criminal activity.**

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

102 **(a) Whether the benefit to the person bringing the action or to**
103 **the public outweighs any harm to the public, to the law enforcement**
104 **agency or any of its officers, or to any person identified in the mobile**
105 **video recording in regard to the need for law enforcement agencies to**
106 **effectively investigate and prosecute criminal activity;**

107 **(b) Whether the mobile video recording contains information**
108 **that is reasonably likely to disclose private matters in which the public**
109 **has no legitimate concern;**

110 **(c) Whether the mobile video recording is reasonably likely to**
111 **bring shame or humiliation to a person of ordinary sensibilities; and**

112 **(d) Whether the mobile video recording was taken in a place**
113 **where a person recorded or depicted has a reasonable expectation of**
114 **privacy.**

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

117 **(4) If the disclosure is authorized in whole or in part, the court**
118 **may make any order that justice requires, including one or more of the**
119 **following:**

120 **(a) That the mobile video recording or investigative report may**
121 **be disclosed only on specified terms and conditions, including a**
122 **designation of the time or place;**

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

126 **(c) That the scope of the request be limited to certain matters;**

127 **(d) That the disclosure occur with no one present except persons**
128 **designated by the court;**

129 **(e) That the mobile video recording or investigative report be**

130 **redacted to exclude, for example, personally identifiable features or**
131 **other sensitive information;**

132 **(f) That a trade secret or other confidential research,**
133 **development, or commercial information not be disclosed or be**
134 **disclosed only in a designated way.**

135 **(5)** The court may find that the party seeking disclosure of the **mobile**
136 **video recording or** investigative report shall bear the reasonable and necessary
137 costs and attorneys' fees of both parties, unless the court finds that the decision
138 of the law enforcement agency not to open the **mobile video recording or**
139 investigative report was substantially unjustified under all relevant
140 circumstances, and in that event, the court may assess such reasonable and
141 necessary costs and attorneys' fees to the law enforcement agency.

142 6. Any person may apply pursuant to this subsection to the circuit court
143 having jurisdiction for an order requiring a law enforcement agency to open
144 incident reports and arrest reports being unlawfully closed pursuant to this
145 section. If the court finds by a preponderance of the evidence that the law
146 enforcement officer or agency has knowingly violated this section, the officer or
147 agency shall be subject to a civil penalty in an amount up to one thousand
148 dollars. If the court finds that there is a knowing violation of this section, the
149 court may order payment by such officer or agency of all costs and attorneys' fees,
150 as provided by section 610.027. If the court finds by a preponderance of the
151 evidence that the law enforcement officer or agency has purposely violated this
152 section, the officer or agency shall be subject to a civil penalty in an amount up
153 to five thousand dollars and the court shall order payment by such officer or
154 agency of all costs and attorney fees, as provided in section 610.027. The court
155 shall determine the amount of the penalty by taking into account the size of the
156 jurisdiction, the seriousness of the offense, and whether the law enforcement
157 officer or agency has violated this section previously.

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

161 **8. Any person who requests and receives a mobile video**
162 **recording that was recorded in a nonpublic location pursuant to this**
163 **section is prohibited from displaying or disclosing the mobile video**
164 **recording, including any description or account of any or all of the**
165 **mobile video recording, without first providing direct third party**

166 **notice to each non law enforcement agency individual whose image or**
167 **sound is contained in the recording and affording each person whose**
168 **image or sound is contained in the mobile video recording no less than**
169 **ten days to file and serve an action seeking an order from a court of**
170 **competent jurisdiction to enjoin all or some of the intended display,**
171 **disclosure, description, or account of the recording. Any person who**
172 **fails to comply with the provisions of this subsection is subject to**
173 **damages in a civil action.**

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