

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2120

101ST GENERAL ASSEMBLY

3691S.05C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 575.095 and 610.021, RSMo, and to enact in lieu thereof four new sections relating to disclosure of personal information, with penalty provisions.

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

Section A. Sections 575.095 and 610.021, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be
3 known as sections 105.1500, 575.095, 610.021, and 1, to read as
4 follows:

105.1500. 1. This section shall be known and may be
2 cited as "The Personal Privacy Protection Act".

3 2. As used in this section, the following terms mean:

4 (1) "Personal information", any list, record,
5 register, registry, roll, roster, or other compilation of
6 data of any kind that directly or indirectly identifies a
7 person as a member, supporter, or volunteer of, or donor of
8 financial or nonfinancial support to, any entity exempt from
9 federal income tax under Section 501(c) of the Internal
10 Revenue Code of 1986, as amended;

11 (2) "Public agency", the state and any political
12 subdivision thereof including, but not limited to, any
13 department, agency, office, commission, board, division, or
14 other entity of state government; any county, city,
15 township, village, school district, community college

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

16 district; or any other local governmental unit, agency,
17 authority, council, board, commission, state or local court,
18 tribunal or other judicial or quasi-judicial body.

19 3. (1) Notwithstanding any provision of law to the
20 contrary, but subject to the exceptions listed under
21 subsection 4 of this section, a public agency shall not:

22 (a) Require any individual to provide the public
23 agency with personal information or otherwise compel the
24 release of personal information;

25 (b) Require any entity exempt from federal income
26 taxation under Section 501(c) of the Internal Revenue Code
27 to provide the public agency with personal information or
28 otherwise compel the release of personal information;

29 (c) Release, publicize, or otherwise publicly disclose
30 personal information in possession of a public agency; or

31 (d) Request or require a current or prospective
32 contractor or grantee with the public agency to provide the
33 public agency with a list of entities exempt from federal
34 income taxation under Section 501(c) of the Internal Revenue
35 Code of 1986, as amended, to which it has provided financial
36 or nonfinancial support.

37 (2) All personal information in the possession of a
38 public agency shall be considered a closed record under
39 chapter 610 and court operating rules.

40 4. The provisions of this section shall not preclude
41 any individual or entity from being required to comply with
42 any of the following:

43 (1) Submitting any report or disclosure required by
44 this chapter or chapter 130;

45 (2) Responding to any lawful request or subpoena for
46 personal information from the Missouri ethics commission as
47 a part of an investigation, or publicly disclosing personal

48 information as a result of an enforcement action from the
49 Missouri ethics commission pursuant to its authority in
50 sections 105.955 to 105.966;

51 (3) Responding to any lawful warrant for personal
52 information issued by a court of competent jurisdiction;

53 (4) Responding to any lawful request for discovery of
54 personal information in litigation if:

55 (a) The requestor demonstrates a compelling need for
56 the personal information by clear and convincing evidence;
57 and

58 (b) The requestor obtains a protective order barring
59 disclosure of personal information to any person not named
60 in the litigation;

61 (5) Applicable court rules or admitting any personal
62 information as relevant evidence before a court of competent
63 jurisdiction. However, a submission of personal information
64 to a court shall be made in a manner that it is not publicly
65 revealed and no court shall publicly reveal personal
66 information absent a specific finding of good cause; or

67 (6) Any report or disclosure required by state law to
68 be filed with the secretary of state, provided that personal
69 information obtained by the secretary of state is otherwise
70 subject to the requirements of paragraph (c) of subdivision
71 (1) of subsection 3 of this section, unless expressly
72 required to be made public by state law.

73 5. (1) A person or entity alleging a violation of
74 this section may bring a civil action for appropriate
75 injunctive relief, damages, or both. Damages awarded under
76 this section may include one of the following, as
77 appropriate:

78 (a) A sum of moneys not less than two thousand five
79 hundred dollars to compensate for injury or loss caused by
80 each violation of this section; or

81 (b) For an intentional violation of this section, a
82 sum of moneys not to exceed three times the sum described in
83 paragraph (a) of this subdivision.

84 (2) A court, in rendering a judgment in an action
85 brought under this section, may award all or a portion of
86 the costs of litigation, including reasonable attorney's
87 fees and witness fees, to the complainant in the action if
88 the court determines that the award is appropriate.

89 (3) A person who knowingly violates this section is
90 guilty of a class B misdemeanor.

575.095. 1. A person commits the offense of tampering
2 with a judicial officer if, with the purpose to harass,
3 intimidate or influence a judicial officer in the
4 performance of such officer's official duties, such person:

5 (1) Threatens or causes harm to such judicial officer
6 or members of such judicial officer's family;

7 (2) Uses force, threats, or deception against or
8 toward such judicial officer or members of such judicial
9 officer's family;

10 (3) Offers, conveys or agrees to convey any benefit
11 direct or indirect upon such judicial officer or such
12 judicial officer's family;

13 (4) Engages in conduct reasonably calculated to harass
14 or alarm such judicial officer or such judicial officer's
15 family, including stalking pursuant to section 565.225 or
16 565.227[.];

17 (5) Disseminates through any means, including by
18 posting on the internet, the personal information of the
19 judicial officer or of the spouse or dependent child of the

20 **judicial officer. For purposes of this section, "personal**
21 **information" includes a home address, home telephone number,**
22 **mobile telephone number, personal email address, Social**
23 **Security number, federal tax identification number, checking**
24 **and savings account numbers, credit card numbers, marital**
25 **status, and identity of a child under eighteen years of age.**

26 2. A judicial officer for purposes of this section
27 shall be a judge **or commissioner of the state or federal**
28 **court,** arbitrator, special master, juvenile officer, deputy
29 juvenile officer, state prosecuting or circuit attorney,
30 state assistant prosecuting or circuit attorney, [juvenile
31 court commissioner,] state probation or parole officer, or
32 referee.

33 3. A judicial officer's family for purposes of this
34 section shall be:

35 (1) Such officer's spouse; or

36 (2) Such officer or such officer's spouse's ancestor
37 or descendant by blood or adoption; or

38 (3) Such officer's stepchild, while the marriage
39 creating that relationship exists.

40 4. The offense of tampering with a judicial officer is
41 a class D felony. **However, if a violation of this section**
42 **results in death or bodily injury to the judicial officer or**
43 **the spouse or dependent child of the judicial officer, the**
44 **offense shall be a class B felony.**

610.021. Except to the extent disclosure is otherwise
2 required by law, a public governmental body is authorized to
3 close meetings, records and votes, to the extent they relate
4 to the following:

5 (1) Legal actions, causes of action or litigation
6 involving a public governmental body and any confidential or
7 privileged communications between a public governmental body

8 or its representatives and its attorneys. However, any
9 minutes, vote or settlement agreement relating to legal
10 actions, causes of action or litigation involving a public
11 governmental body or any agent or entity representing its
12 interests or acting on its behalf or with its authority,
13 including any insurance company acting on behalf of a public
14 government body as its insured, shall be made public upon
15 final disposition of the matter voted upon or upon the
16 signing by the parties of the settlement agreement, unless,
17 prior to final disposition, the settlement agreement is
18 ordered closed by a court after a written finding that the
19 adverse impact to a plaintiff or plaintiffs to the action
20 clearly outweighs the public policy considerations of
21 section 610.011, however, the amount of any moneys paid by,
22 or on behalf of, the public governmental body shall be
23 disclosed; provided, however, in matters involving the
24 exercise of the power of eminent domain, the vote shall be
25 announced or become public immediately following the action
26 on the motion to authorize institution of such a legal
27 action. Legal work product shall be considered a closed
28 record;

29 (2) Leasing, purchase or sale of real estate by a
30 public governmental body where public knowledge of the
31 transaction might adversely affect the legal consideration
32 therefor. However, any minutes, vote or public record
33 approving a contract relating to the leasing, purchase or
34 sale of real estate by a public governmental body shall be
35 made public upon execution of the lease, purchase or sale of
36 the real estate;

37 (3) Hiring, firing, disciplining or promoting of
38 particular employees by a public governmental body when
39 personal information about the employee is discussed or

40 recorded. However, any vote on a final decision, when taken
41 by a public governmental body, to hire, fire, promote or
42 discipline an employee of a public governmental body shall
43 be made available with a record of how each member voted to
44 the public within seventy-two hours of the close of the
45 meeting where such action occurs; provided, however, that
46 any employee so affected shall be entitled to prompt notice
47 of such decision during the seventy-two-hour period before
48 such decision is made available to the public. As used in
49 this subdivision, the term "personal information" means
50 information relating to the performance or merit of
51 individual employees;

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

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

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

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

70 (8) Welfare cases of identifiable individuals;

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

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

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

80 (12) Sealed bids and related documents, until the bids
81 are opened; and sealed proposals and related documents or
82 any documents related to a negotiated contract until a
83 contract is executed, or all proposals are rejected;

84 (13) Individually identifiable personnel records,
85 performance ratings or records pertaining to employees or
86 applicants for employment, except that this exemption shall
87 not apply to the names, positions, salaries and lengths of
88 service of officers and employees of public agencies once
89 they are employed as such, and the names of private sources
90 donating or contributing money to the salary of a chancellor
91 or president at all public colleges and universities in the
92 state of Missouri and the amount of money contributed by the
93 source;

94 (14) Records which are protected from disclosure by
95 law;

96 (15) Meetings and public records relating to
97 scientific and technological innovations in which the owner
98 has a proprietary interest;

99 (16) Records relating to municipal hotlines
100 established for the reporting of abuse and wrongdoing;

101 (17) Confidential or privileged communications between
102 a public governmental body and its auditor, including all

103 auditor work product; however, all final audit reports
104 issued by the auditor are to be considered open records
105 pursuant to this chapter;

106 (18) Operational guidelines, policies and specific
107 response plans developed, adopted, or maintained by any
108 public agency responsible for law enforcement, public
109 safety, first response, or public health for use in
110 responding to or preventing any critical incident which is
111 or appears to be terrorist in nature and which has the
112 potential to endanger individual or public safety or
113 health. Financial records related to the procurement of or
114 expenditures relating to operational guidelines, policies or
115 plans purchased with public funds shall be open. When
116 seeking to close information pursuant to this exception, the
117 public governmental body shall affirmatively state in
118 writing that disclosure would impair the public governmental
119 body's ability to protect the security or safety of persons
120 or real property, and shall in the same writing state that
121 the public interest in nondisclosure outweighs the public
122 interest in disclosure of the records;

123 (19) Existing or proposed security systems and
124 structural plans of real property owned or leased by a
125 public governmental body, and information that is
126 voluntarily submitted by a nonpublic entity owning or
127 operating an infrastructure to any public governmental body
128 for use by that body to devise plans for protection of that
129 infrastructure, the public disclosure of which would
130 threaten public safety:

131 (a) Records related to the procurement of or
132 expenditures relating to security systems purchased with
133 public funds shall be open;

134 (b) When seeking to close information pursuant to this
135 exception, the public governmental body shall affirmatively
136 state in writing that disclosure would impair the public
137 governmental body's ability to protect the security or
138 safety of persons or real property, and shall in the same
139 writing state that the public interest in nondisclosure
140 outweighs the public interest in disclosure of the records;

141 (c) Records that are voluntarily submitted by a
142 nonpublic entity shall be reviewed by the receiving agency
143 within ninety days of submission to determine if retention
144 of the document is necessary in furtherance of a state
145 security interest. If retention is not necessary, the
146 documents shall be returned to the nonpublic governmental
147 body or destroyed;

148 (20) The portion of a record that identifies security
149 systems or access codes or authorization codes for security
150 systems of real property;

151 (21) Records that identify the configuration of
152 components or the operation of a computer, computer system,
153 computer network, or telecommunications network, and would
154 allow unauthorized access to or unlawful disruption of a
155 computer, computer system, computer network, or
156 telecommunications network of a public governmental body.
157 This exception shall not be used to limit or deny access to
158 otherwise public records in a file, document, data file or
159 database containing public records. Records related to the
160 procurement of or expenditures relating to such computer,
161 computer system, computer network, or telecommunications
162 network, including the amount of moneys paid by, or on
163 behalf of, a public governmental body for such computer,
164 computer system, computer network, or telecommunications
165 network shall be open;

166 (22) Credit card numbers, personal identification
167 numbers, digital certificates, physical and virtual keys,
168 access codes or authorization codes that are used to protect
169 the security of electronic transactions between a public
170 governmental body and a person or entity doing business with
171 a public governmental body. Nothing in this section shall
172 be deemed to close the record of a person or entity using a
173 credit card held in the name of a public governmental body
174 or any record of a transaction made by a person using a
175 credit card or other method of payment for which
176 reimbursement is made by a public governmental body;

177 (23) Records submitted by an individual, corporation,
178 or other business entity to a public institution of higher
179 education in connection with a proposal to license
180 intellectual property or perform sponsored research and
181 which contains sales projections or other business plan
182 information the disclosure of which may endanger the
183 competitiveness of a business; [and]

184 (24) Records relating to foster home or kinship
185 placements of children in foster care under section 210.498;
186 **and**

187 **(25) Individually identifiable customer usage and**
188 **billing records for customers of a municipally owned**
189 **utility, unless the records are requested by the customer or**
190 **authorized for release by the customer, except that a**
191 **municipally owned utility shall make available to the public**
192 **the customer's name, billing address, location of service,**
193 **and dates of service provided for any commercial service**
194 **account.**

Section 1. A person commits the offense of tampering
2 **with a public official if, with the purpose to harass,**
3 **intimidate, or influence a public official in the**

4 performance of such official's official duties, such person
5 disseminates through any means, including by posting on the
6 internet, the personal information of the public official or
7 of the spouse or dependent children of the public official.
8 For purposes of this section, "personal information"
9 includes a home address, Social Security number, federal tax
10 identification number, checking or savings account numbers,
11 marital status, and identity of a child under eighteen years
12 of age. For the purposes of this section, the term "public
13 official" includes members of the general assembly,
14 statewide elected officials, first responders, children's
15 division employees, and employees of the department of
16 corrections. The offense of tampering with a public
17 official shall be a class D felony. If a violation of this
18 section results in death or bodily injury to a public
19 official or the spouse or dependent child of the public
20 official, the offense shall be a class B felony.

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