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Section A. Sections 575.095 and 610.021, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 105.1500, 575.095, 610.021, and 1, to read as follows:

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

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

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

(2) "Public agency", the state and any political subdivision thereof including, but not limited to, any department, agency, office, commission, board, division, or other entity of state government; any county, city, 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.
district; or any other local governmental unit, agency, authority, council, board, commission, state or local court, tribunal or other judicial or quasi-judicial body.

3. (1) Notwithstanding any provision of law to the contrary, but subject to the exceptions listed under subsection 4 of this section, a public agency shall not:
   (a) Require any individual to provide the public agency with personal information or otherwise compel the release of personal information;
   (b) Require any entity exempt from federal income taxation under Section 501(c) of the Internal Revenue Code to provide the public agency with personal information or otherwise compel the release of personal information;
   (c) Release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or
   (d) Request or require a current or prospective contractor or grantee with the public agency to provide the public agency with a list of entities exempt from federal income taxation under Section 501(c) of the Internal Revenue Code of 1986, as amended, to which it has provided financial or nonfinancial support.

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

4. The provisions of this section shall not preclude any individual or entity from being required to comply with any of the following:
   (1) Submitting any report or disclosure required by this chapter or chapter 130;
   (2) Responding to any lawful request or subpoena for personal information from the Missouri ethics commission as a part of an investigation, or publicly disclosing personal
information as a result of an enforcement action from the Missouri ethics commission pursuant to its authority in sections 105.955 to 105.966;

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

(4) Responding to any lawful request for discovery of personal information in litigation if:
   (a) The requestor demonstrates a compelling need for the personal information by clear and convincing evidence; and
   (b) The requestor obtains a protective order barring disclosure of personal information to any person not named in the litigation;

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

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

5. (1) A person or entity alleging a violation of this section may bring a civil action for appropriate injunctive relief, damages, or both. Damages awarded under this section may include one of the following, as appropriate:
(a) A sum of moneys not less than two thousand five hundred dollars to compensate for injury or loss caused by each violation of this section; or

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

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

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

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

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

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

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

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

(5) Disseminates through any means, including by posting on the internet, the personal information of the judicial officer or of the spouse or dependent child of the
judicial officer. For purposes of this section, "personal information" includes a home address, home telephone number, mobile telephone number, personal email address, Social Security number, federal tax identification number, checking and savings account numbers, credit card numbers, marital status, and identity of a child under eighteen years of age.

2. A judicial officer for purposes of this section shall be a judge or commissioner of the state or federal court, arbitrator, special master, juvenile officer, deputy juvenile officer, state prosecuting or circuit attorney, state assistant prosecuting or circuit attorney, [juvenile court commissioner, state probation or parole officer, or referee.

3. A judicial officer's family for purposes of this section shall be:
   (1) Such officer's spouse; or
   (2) Such officer or such officer's spouse's ancestor or descendant by blood or adoption; or
   (3) Such officer's stepchild, while the marriage creating that relationship exists.

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

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 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 upon 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 shall 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, and the names of private sources donating or contributing money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(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 hotlines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all
(18) Operational guidelines, policies and specific response plans developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Financial records related to the procurement of or expenditures relating to operational guidelines, policies or plans purchased with public funds shall be open. When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

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

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;
(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

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

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

(21) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open;
(22) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body;

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

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

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

Section 1. A person commits the offense of tampering with a public official if, with the purpose to harass, intimidate, or influence a public official in the
performance of such official's official duties, such person disseminates through any means, including by posting on the internet, the personal information of the public official or of the spouse or dependent children of the public official. For purposes of this section, "personal information" includes a home address, Social Security number, federal tax identification number, checking or savings account numbers, marital status, and identity of a child under eighteen years of age. For the purposes of this section, the term "public official" includes members of the general assembly, statewide elected officials, first responders, children's division employees, and employees of the department of corrections. The offense of tampering with a public official shall be a class D felony. If a violation of this section results in death or bodily injury to a public official or the spouse or dependent child of the public official, the offense shall be a class B felony.