

SENATE BILL NO. 1237

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

3604S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 570.095, RSMo, and to enact in lieu thereof one new section relating to the offense of filing false documents, with penalty provisions.

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

Section A. Section 570.095, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 570.095,
3 to read as follows:

570.095. 1. A person commits the offense of filing
2 false documents if:

3 (1) With the intent to defraud, deceive, harass,
4 alarm, or negatively impact financially, or in such a manner
5 reasonably calculated to deceive, defraud, harass, alarm, or
6 negatively impact financially, he or she files, causes to be
7 filed or recorded, or attempts to file or record, creates,
8 uses as genuine, transfers or has transferred, presents, or
9 prepares with knowledge or belief that it will be filed,
10 presented, recorded, or transferred to the secretary of
11 state or the secretary's designee, to the recorder of deeds
12 of any county or city not within a county or the recorder's
13 designee, to any municipal, county, district, or state
14 government entity, division, agency, or office, or to any
15 credit bureau or financial institution any of the following
16 types of documents:

17 (a) Common law lien;

18 (b) Uniform commercial code filing or record;

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

- 19 (c) Real property recording;
- 20 (d) Financing statement;
- 21 (e) Contract;
- 22 (f) Warranty, special, or quitclaim deed;
- 23 (g) Quiet title claim or action;
- 24 (h) Deed in lieu of foreclosure;
- 25 (i) Legal affidavit;
- 26 (j) Legal process;
- 27 (k) Legal summons;
- 28 (l) Bills and due bills;
- 29 (m) Criminal charging documents or materially false
30 criminal charging documents;
- 31 (n) Any other document not stated in this subdivision
32 that is related to real property; or
- 33 (o) Any state, county, district, federal, municipal,
34 credit bureau, or financial institution form or document; and
- 35 (2) Such document listed under subdivision (1) of this
36 subsection contains materially false information; is
37 fraudulent; is a forgery, as defined under section 570.090;
38 lacks the consent of all parties listed in a document that
39 requires mutual consent; or is invalid under Missouri law.
- 40 2. Filing false documents under this section is a
41 class **[D]** C felony for the first offense except the
42 following circumstances shall be a class **[C]** B felony:
- 43 (1) The defendant has been previously found guilty or
44 pleaded guilty to a violation of this section;
- 45 (2) The victim or named party in the matter:
- 46 (a) Is an official elected to municipal, county,
47 district, federal, or statewide office;
- 48 (b) Is an official appointed to municipal, county,
49 district, federal, or statewide office; or

50 (c) Is an employee of an official elected or appointed
51 to municipal, county, district, federal, or statewide office;

52 (3) The victim or named party in the matter is a judge
53 or magistrate of:

54 (a) Any court or division of the court in this or any
55 other state or an employee thereof; or

56 (b) Any court system of the United States or is an
57 employee thereof;

58 (4) The victim or named party in the matter is a full-
59 time, part-time, or reserve or auxiliary peace officer, as
60 defined under section 590.010, who is licensed in this state
61 or any other state;

62 (5) The victim or named party in the matter is a full-
63 time, part-time, or volunteer firefighter in this state or
64 any other state;

65 (6) The victim or named party in the matter is an
66 officer of federal job class 1811 who is empowered to
67 enforce United States laws;

68 (7) The victim or named party in the matter is a law
69 enforcement officer of the United States as defined under 5
70 U.S.C. Section 8401(17) (A) or (D);

71 (8) The victim or named party in the matter is an
72 employee of any law enforcement or legal prosecution agency
73 in this state, any other state, or the United States;

74 (9) The victim or named party in the matter is an
75 employee of a federal agency that has agents or officers of
76 job class 1811 who are empowered to enforce United States
77 laws or is an employee of a federal agency that has law
78 enforcement officers as defined under 5 U.S.C. Section
79 8401(17) (A) or (D); or

80 (10) The victim or named party in the matter is an
81 officer of the railroad police as defined under section
82 388.600.

83 3. For a penalty enhancement as described under
84 subsection 2 of this section to apply, the occupation of the
85 victim or named party shall be material to the subject
86 matter of the document or documents filed or the relief
87 sought by the document or documents filed, and the
88 occupation of the victim or named party shall be materially
89 connected to the apparent reason that the victim has been
90 named, victimized, or involved. For purposes of subsection
91 2 of this section and this subsection, a person who has
92 retired or resigned from any agency, institution, or
93 occupation listed under subsection 2 of this section shall
94 be considered the same as a person who remains in employment
95 and shall also include the following family members of a
96 person listed under subdivisions (2) to (9) of subsection 2
97 of this section:

98 (1) Such person's spouse;

99 (2) Such person or such person's spouse's ancestor or
100 descendant by blood or adoption; or

101 (3) Such person's stepchild while the marriage
102 creating that relationship exists.

103 4. Any person who pleads guilty or is found guilty
104 under subsections 1 to 3 of this section shall be ordered by
105 the court to make full restitution to any person or entity
106 that has sustained actual losses or costs as a result of the
107 actions of the defendants. Such restitution shall not be
108 paid in lieu of jail or prison time but rather in addition
109 to any jail or prison time imposed by the court.

110 5. (1) Nothing in this section shall limit the power
111 of the state to investigate, charge, or punish any person

112 for any conduct that constitutes a crime by any other
113 statute of this state or the United States.

114 (2) No receiving entity shall be required under this
115 section to retain the filing or record for prosecution under
116 this section. A filing or record being rejected by the
117 receiving entity shall not be used as an affirmative defense.

118 6. (1) Any agency of the state, a county, or a city
119 not within a county that is responsible for or receives
120 document filings or records, including county recorders of
121 deeds and the secretary of state's office, shall, by January
122 1, 2019, impose a system in which the documents that have
123 been submitted to the receiving agency, or those filings
124 rejected by the secretary of state under its legal
125 authority, are logged or noted in a ledger, spreadsheet, or
126 similar recording method if the filing or recording officer
127 or employee believes the filings or records appear to be
128 fraudulent or contain suspicious language. The receiving
129 agency shall make noted documents available for review by:

130 (a) The jurisdictional prosecuting or circuit attorney
131 or such attorney's designee;

132 (b) The county sheriff or the sheriff's designee;

133 (c) The police chief of a county or city not within a
134 county or such chief's designee; or

135 (d) A commissioned peace officer as defined under
136 section 590.010.

137 Review of such documents is permissible for the agent or
138 agencies under this subdivision without the need of a grand
139 jury subpoena or court order. No fees or monetary charges
140 shall be levied on the investigative agents or agencies for
141 review of documents noted in the ledger or spreadsheet. The
142 ledger or spreadsheet and its contents shall be retained by

143 the agency that controls entries into such ledger or
144 spreadsheet for a minimum of three years from the earliest
145 entry listed in the ledger or spreadsheet.

146 (2) The receiving entity shall, upon receipt of a
147 filing or record that has been noted as a suspicious filing
148 or record, notify the chief law enforcement officer or such
149 officer's designee of the county and the prosecutor or the
150 prosecutor's designee of the county of the filing's or
151 record's existence. Such notification shall be made within
152 two business days of the filing or record having been
153 received. Notification may be accomplished via email or via
154 paper memorandum.

155 (3) No agency receiving the filing or record shall be
156 required under this section to notify the person conducting
157 the filing or record that the filing or record is entered as
158 a logged or noted filing or record.

159 (4) Reviews to ensure compliance with the provisions
160 of this section shall be the responsibility of any
161 commissioned peace officer. Findings of noncompliance shall
162 be reported to the jurisdictional prosecuting or circuit
163 attorney or such attorney's designee by any commissioned
164 peace officer who has probable cause to believe that the
165 noncompliance has taken place purposely, knowingly,
166 recklessly, or with criminal negligence, as described under
167 section 562.016.

168 7. To petition for a judicial review of a filing or
169 record that is believed to be fraudulent, false, misleading,
170 forged, or contains materially false information, a
171 petitioner may file a probable cause statement that
172 delineates the basis for the belief that the filing or
173 record is materially false, contains materially false
174 information, is a forgery, is fraudulent, or is misleading.

175 This probable cause statement shall be filed in the
176 associate or circuit court of the county in which the
177 original filing or record was transferred, received, or
178 recorded.

179 8. A filed petition under this section shall have an
180 initial hearing date within twenty business days of the date
181 the petition is filed with the court. A court ruling of
182 invalid shall be evidence that the original filing or record
183 was not accurate, true, or correct. A court ruling of
184 invalid shall be retained or recorded at the original
185 receiving entity. The receiving entity shall waive all
186 filing or recording fees associated with the filing or
187 recording of the court ruling document in this subsection.
188 Such ruling may be forwarded to credit bureaus or other
189 institutions at the request of the petitioner via motion to
190 the applicable court at no additional cost to the petitioner.

191 9. If a filing or record is deemed invalid, court
192 costs and fees are the responsibility of the party who
193 originally initiated the filing or record. If the filing or
194 record is deemed valid, no court costs or fees, in addition
195 to standard filing fees, shall be assessed.

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