AN ACT

To repeal sections 44.100 and 610.100, RSMo, and to enact in lieu thereof four new sections relating to law enforcement officers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 44.100 and 610.100, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 44.100, 590.711, 590.810, and 610.100, to read as follows:

44.100. 1. The emergency powers of the governor shall be as follows:

(1) The provisions of this section shall be operative only during the existence of a state of emergency (referred to in this section as "emergency"). The existence of an emergency may be proclaimed by the governor or by resolution of the legislature, if the governor in his proclamation, or the legislature in its resolution, finds that a natural or man-made disaster of major proportions has actually occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section;

(2) Any emergency, whether proclaimed by the governor or by the legislature, shall terminate upon the proclamation thereof by
the governor, or the passage by the legislature, of a resolution terminating such emergency;

(3) During the period that the state of emergency exists or continues, the governor shall:

(a) Enforce and put into operation all plans, rules and regulations relating to disasters and emergency management of resources adopted under this law and to assume direct operational control of all emergency forces and volunteers in the state;

(b) Take action and give directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this law and with the orders, rules and regulations made pursuant thereof;

(c) Seize, take or requisition to the extent necessary to bring about the most effective protection of the public:

a. Any means of transportation, other than railroads and railroad equipment and fuel, and all fuel necessary for the propulsion thereof;

b. Any communication system or part thereof necessary to the prompt and efficient functioning of the emergency management of the state;

c. All stocks of fuel;

d. Facilities for housing, feeding and hospitalization of persons, including buildings and plants;

(d) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods or
services;

(e) Prescribe and direct activities in connection with but not limited to use, conservation, salvage and prevention of waste of materials, services and facilities, including production, transportation, power and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs;

(f) Use or distribute all or any of this property among the inhabitants of the state in any area adversely affected by a natural or man-made disaster and to account to the state treasurer for any funds received thereof;

(g) Waive or suspend the operation of any statutory requirement or administrative rule regarding the licensing, certification or issuance of permits evidencing professional, mechanical or other skills;

(h) Waive or suspend the operation of any statutory requirement or administrative rule prescribing procedures for conducting state business, where strict compliance with such requirements and rules would prevent, hinder, or delay necessary action by the department of health and senior services to respond to a declared emergency or increased health threat to the population;

(i) In accordance with rules or regulations, provide that all law enforcement authorities and other emergency response workers and agencies of other states who may be within this state
at the request of the governor or pursuant to state or local mutual-aid agreements or compacts shall have the same authority and possess the same powers, duties, rights, privileges and immunities as are possessed by like law enforcement authorities and emergency response workers and agencies of this state;

(j) Perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population;

(k) Authorize the director of finance and the director of credit unions to waive or suspend the operation of any statutory requirement or administrative rule applicable to the division of finance, banking, financial services, or the division of credit unions and take action and give direction to banks, credit unions, and financial institutions, including coordinating actions with emergency responders, federal agencies, and state banking and credit union associations as may be reasonable and necessary to preserve the safety and soundness of banks, credit unions, and financial institutions; and facilitate disaster response and recovery efforts to serve essential civil needs and protect the public interest.

2. When any property is seized, taken or requisitioned under this section, the circuit court of the county in which the property was taken may on the application of the owner thereof or on the application of the governor in cases where numerous claims may be filed, appoint three disinterested commissioners in the manner provided by section 523.040 to assess the damages which the owners may have sustained by reason of the appropriation thereof. Upon the application the amount due because of the
seizure of property shall be determined in the manner provided in
chapter 523 for the determination of damages in case of the
exercise of the power of eminent domain.

3. If a state of emergency is proclaimed in response to
civil unrest, the governor shall, at the request of the county
health department, assign a sufficient number of state social
workers, counselors, or psychologists to provide counseling and
mental health services in the region affected by the unrest.

590.711. 1. As used in this section, the term "protest"
means the assembly of people for the purpose of expressing
disapproval or objection to some person or thing. The term
"protest" shall not include any unlawful assembly as defined in
section 574.040, or any assembly that interferes with the rights
of others through the commission of disorderly acts.

2. Each law enforcement agency shall have a policy that
requires peace officers on duty at a protest to wear accurate,
visible, department-issued identification tags displaying the
name of the law enforcement agency and the officer's last name,
when feasible.

590.810. 1. For purposes of this section, "law enforcement
camera" means a camera which is capable of recording video or
audio and is, during the course of a peace officer's official
duties:

(1) Worn on the person of a peace officer;

(2) Attached to a peace officer's motor vehicle,
watercraft, or aircraft; or

(3) Attached to any other device used by a peace officer.

2. No law enforcement agency shall be required by the state
to provide law enforcement cameras to officers employed by the
agency, nor shall the state require any peace officer to wear
such cameras.

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

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

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

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

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

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

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

(4) "Incident report", a record of a law enforcement agency
consisting of the date, time, specific location, name of the
victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

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

(6) "Law enforcement camera", the same meaning as provided under section 590.810.

2. Each law enforcement agency of this state, of any county, and of any municipality shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120. Notwithstanding any other provision of law other than the provisions of subsections 4 and 8 of this section or section 320.083 to the contrary, a law enforcement agency is authorized
to close recordings captured by law enforcement cameras.

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

4. Any person, including a family member of such person within the first degree of consanguinity if such person is deceased or incompetent, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section.
Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds
that the decision of the law enforcement agency not to open the
investigative report was substantially unjustified under all
relevant circumstances, and in that event, the court may assess
such reasonable and necessary costs and attorneys' fees to the
law enforcement agency.

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

7. The victim of an offense as provided in chapter 566 may
request that his or her identity be kept confidential until a
charge relating to such incident is filed.
8. Recordings captured by law enforcement cameras shall be available to any civilian review board for the purposes of investigating allegations of misconduct by a law enforcement officer. The recordings shall not be further disclosed by the civilian review board to any person who is not a member of the board.