

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Bill No. 762, Page 1, Section 610.057, Lines 1-9, by deleting all of said lines and
2 inserting in lieu thereof the following:

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4 "590.810. 1. No law enforcement agency shall be required by the state to provide mobile
5 video recorders as defined in section 610.100 to officers employed by the agency, nor shall the state
6 require any peace officer to wear such recorders.

7 2. Any law enforcement agency that utilizes a mobile video recorder shall have a written
8 policy on the use of the recorders.

9 610.100. 1. As used in sections 610.100 to 610.150, the following words and phrases shall
10 mean:

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

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

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

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

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

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

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

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

32 (6) "Mobile video recorder", any system or device that captures visual signals that is capable
33 of installation in a vehicle, vessel, or aircraft, or being worn or carried by personnel of a law
34 enforcement agency and that includes, at a minimum, a camera and recording capabilities.

35 2. Each law enforcement agency of this state, of any county, and of any municipality shall
36 maintain records of all incidents reported to the agency, investigations and arrests made by such law

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1 enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding
2 any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or
3 section 320.083, investigative reports of all law enforcement agencies are closed records until the
4 investigation becomes inactive. If any person is arrested and not charged with an offense against the
5 law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record
6 except that the disposition portion of the record may be accessed and except as provided in section
7 610.120. Notwithstanding any other provision of law to the contrary, other than the provisions of
8 subsections 4, 5, and 6 of this section or section 320.083, a law enforcement agency is authorized
9 to close records consisting of data from mobile video recorders.

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

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

33 5. Any person may bring an action pursuant to this section in the circuit court having
34 jurisdiction to authorize disclosure of the information contained in an investigative report of any law
35 enforcement agency or data in the possession of a law enforcement agency from a mobile video
36 recorder, which would otherwise be closed pursuant to this section. The court may order that all or
37 part of the information contained in an investigative report or the data from a mobile video recorder
38 be released to the person bringing the action.

39 (1) In making the determination as to whether information contained in an investigative
40 report or data from a mobile video recorder shall be disclosed, the court shall consider whether the
41 benefit to the person bringing the action or to the public outweighs any harm to the public, to the law
42 enforcement agency or any of its officers, or to any person identified in the investigative report or
43 captured in the data from the mobile video recorder in regard to the need for law enforcement
44 agencies to effectively investigate and prosecute criminal activity.

45 (2) The investigative report or data from a mobile video recorder in question may be
46 examined by the court in camera.

47 (3) **If the disclosure is authorized in whole or in part, the court may make any order**
48 **that justice requires, including one or more of the following:**

1 (a) That the data from a mobile video recorder may be disclosed only on specified terms
2 and conditions, including a designation of the time or place;

3 (b) That the data from a mobile video recorder may be had only by a method of
4 disclosure other than that selected by the party seeking the disclosure;

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

6 (d) That the disclosure occur with no one present except persons designated by the
7 court; or

8 (e) That a trade secret or other confidential research, development, or commercial
9 information not be disclosed or be disclosed only in a designated way;

10 (4) The court may find that the party seeking disclosure of the investigative report or data
11 from a mobile video recorder shall bear [the] its reasonable and necessary costs and attorneys' fees
12 [of both parties], unless the court finds that the decision of the law enforcement agency not to open
13 the investigative report or data from a mobile video recorder was substantially unjustified under all
14 relevant circumstances, and in that event, the court [may] shall assess such reasonable and necessary
15 costs and attorneys' fees to the law enforcement agency.

16 6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction
17 for an order requiring a law enforcement agency to open incident reports and arrest reports being
18 unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that
19 the law enforcement officer or agency has knowingly violated this section, the officer or agency shall
20 be subject to a civil penalty in an amount up to one thousand dollars. If the court finds that there is a
21 knowing violation of this section, the court may order payment by such officer or agency of all costs
22 and attorneys' fees, as provided by section 610.027. If the court finds by a preponderance of the
23 evidence that the law enforcement officer or agency has purposely violated this section, the officer or
24 agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall
25 order payment by such officer or agency of all costs and attorney fees, as provided in section
26 610.027. The court shall determine the amount of the penalty by taking into account the size of the
27 jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has
28 violated this section previously.

29 7. The victim of an offense as provided in chapter 566 may request that his or her identity be
30 kept confidential until a charge relating to such incident is filed."; and

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32 Further amend said bill by amending the title, enacting clause, and intersectional references
33 accordingly.