

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
CONFERENCE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 1665 & 1335

## 97TH GENERAL ASSEMBLY

5563H.08T

2014

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### AN ACT

To repeal sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and 610.122, RSMo, and to enact in lieu thereof ten new sections relating to the administration of justice, with penalty provisions.

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

Section A. Sections 57.015, 57.201, 57.220, 57.250, 483.140, 544.216, 610.120, and  
2 610.122, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as  
3 sections 57.015, 57.201, 57.220, 57.250, 407.1150, 483.140, 544.216, 610.120, 610.122, and 1,  
4 to read as follows:

57.015. [As used in this chapter] **For purposes of section 57.275**, the following words  
2 and terms shall have the following meaning:

3 (1) "Deputy sheriff" or "officer", any deputy sheriff who is employed full time by a law  
4 enforcement agency, authorized by this chapter and certified pursuant to chapter 590. This term  
5 shall not include an officer serving in probationary status or one year, whichever is longer, upon  
6 initial employment. This term shall not include any deputy sheriff with the rank of lieutenant  
7 and above, or any chief deputies, under sheriffs and the command staff as defined by the sheriff's  
8 department policy and procedure manual;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 (2) "Hearing", a closed meeting conducted by a hearing board appointed by the sheriff  
10 for the purpose of receiving evidence in order to determine the facts regarding the dismissal of  
11 a deputy sheriff. Witnesses to the event that triggered the dismissal may attend the hearing for  
12 the limited purpose of providing testimony; the attorney for the deputy dismissed may attend the  
13 hearing, but only to serve as an observer; the sheriff and his or her attorney may attend the  
14 hearing, but only to serve as an observer;

15 (3) "Hearing board", the individuals appointed by the sheriff for the purpose of receiving  
16 evidence in order to determine the facts regarding the dismissal of a deputy sheriff; and

17 (4) "Law enforcement agency", any county sheriff's office of this state that employs  
18 county law enforcement deputies authorized by this chapter and certified by chapter 590.

57.201. 1. The sheriff of all counties of the first class not having a charter form of  
2 government shall appoint such deputies, assistants and other employees as he deems necessary  
3 for the proper discharge of the duties of his office and may set their compensation within the  
4 limits of the allocations made for that purpose by the county commission. The compensation for  
5 the deputies, assistants and employees shall be paid in equal installments out of the county  
6 treasury in the same manner as other county employees are paid.

7 2. The assistants and employees shall hold office at the pleasure of the sheriff.

8 3. [Deputies] **A deputy sheriff, as the term "deputy sheriff" is defined under section**  
9 **57.015** shall hold office pursuant to the provisions of sections 57.015 and 57.275.

57.220. The sheriff, in a county of the second class, shall be entitled to such a number  
2 of deputies as a majority of the circuit judges of the circuit court shall deem necessary for the  
3 prompt and proper discharge of the duties of the sheriff's office; provided, however, such number  
4 of deputies appointed by the sheriff shall not be less than one chief deputy sheriff and one  
5 additional deputy for each five thousand inhabitants of the county according to the last decennial  
6 census. Such deputies shall be appointed by the sheriff, but no appointment shall become  
7 effective until approved by a majority of the circuit judges of the circuit court of the county. A  
8 majority of the circuit judges of the circuit court, by agreement with the sheriff, shall fix the  
9 salaries of such deputies. A statement of the number of deputies allowed the sheriff, and their  
10 compensation, together with the approval of any appointment by such judges of the circuit court,  
11 shall be in writing and signed by them and filed by the sheriff with the county commission.

12 [Deputies] **A deputy sheriff as the term "deputy sheriff" is defined under section 57.015**  
13 shall hold office pursuant to the provisions of sections 57.015 and 57.275.

57.250. The sheriff in counties of the third and fourth classifications shall be entitled to  
2 such number of deputies and assistants, to be appointed by such official, with the approval of a  
3 majority of the circuit judges of the circuit court, as such judges shall deem necessary for the  
4 prompt and proper discharge of such sheriff's duties relative to the enforcement of the criminal

5 law of this state. Such judges of the circuit court, in their order permitting the sheriff to appoint  
6 deputies or assistants, shall fix the compensation of such deputies or assistants. The circuit  
7 judges shall annually review their order fixing the number and compensation of the deputies and  
8 assistants and in setting such number and compensation shall have due regard for the financial  
9 condition of the county. Each such order shall be entered of record and a certified copy thereof  
10 shall be filed in the office of the county clerk at least fifteen days prior to the date of the adoption  
11 of the county budget as prescribed by section 50.610. The sheriff may at any time discharge any  
12 assistant and may regulate the time of such person's employment. [Deputies] **A deputy sheriff**  
13 **as the term "deputy sheriff" is defined under section 57.015** shall hold office pursuant to the  
14 provisions of sections 57.015 and 57.275. At the request of the sheriff, the presiding judge may  
15 order additional deputies in cases where exigent or emergency circumstances require the need  
16 for such additional deputies.

**407.1150. 1. As used in this section, the following words and phrases shall mean:**

2 **(1) "Booking photograph", a photograph of a subject individual that was taken in**  
3 **this state by an arresting law enforcement agency;**

4 **(2) "Criminal record information", a booking photograph, or the name, address,**  
5 **charges filed, or a description of a subject individual who is asserted or implied to have**  
6 **engaged in illegal conduct;**

7 **(3) "Subject individual", an individual who was arrested and had his or her**  
8 **photograph taken by law enforcement during the processing of the arrest.**

9 **2. It shall be unlawful for any person engaged in publishing or otherwise**  
10 **disseminating criminal record information through a print or electronic medium to solicit**  
11 **or accept from a subject individual the payment of a fee or other consideration to remove**  
12 **or correct criminal record information.**

13 **3. A person who knowingly and willfully violates the provisions of this section shall**  
14 **be guilty of a class A misdemeanor.**

15 **4. Each payment solicited or accepted in violation of this section constitutes a**  
16 **separate violation.**

17 **5. In addition to the remedies already provided in this section, any subject**  
18 **individual who suffers a loss or harm as a result of a violation of this section may be**  
19 **awarded an amount equal to ten thousand dollars or actual and punitive damages,**  
20 **whichever is greater, and in addition may be awarded reasonable attorney's fees, court**  
21 **costs, and any other remedies provided by law. Humiliation or embarrassment shall be**  
22 **adequate to show that the plaintiff has incurred damages; however, no physical**  
23 **manifestation of either humiliation or embarrassment is necessary for damages to be**  
24 **shown.**

483.140. It shall be the special duty of every judge of a court of record to examine into  
2 and superintend the manner in which the rolls and records of the court are made up and kept; to  
3 prescribe orders that will procure uniformity, regularity and accuracy in the transaction of the  
4 business of the court; to require that the records and files be properly maintained and entries be  
5 made at the proper times as required by law or supreme court rule, and that the duties of the  
6 clerks be performed according to law and supreme court rule; and if any clerk fail to comply with  
7 the law, the court shall proceed against him as for a misdemeanor. **The provisions of this**  
8 **section shall not be construed to permit the adoption of any local court rule that grants a**  
9 **judge the discretion to remove or direct the removal of any pleading, file, or**  
10 **communication from a court file or record without notification to the parties and providing**  
11 **the parties an opportunity to respond.**

544.216. **Except as otherwise provided in section 544.157**, any sheriff or deputy  
2 sheriff, any member of the Missouri state highway patrol, and any county or municipal law  
3 enforcement officer in this state, except those officers of a political subdivision or municipality  
4 having a population of less than two thousand persons or which does not have at least four  
5 full-time nonelected peace officers unless such subdivision or municipality has elected to come  
6 under and is operating pursuant to the provisions of sections 590.100 to 590.150, may arrest on  
7 view, and without a warrant, any person the officer sees violating or who such officer has  
8 reasonable grounds to believe has violated any **ordinance or** law of this state, including a  
9 misdemeanor or infraction, [or has violated any ordinance] over which such officer has  
10 jurisdiction. Peace officers of a municipality shall have arrest powers, as described in this  
11 section, upon lands which are leased or owned by the municipality in an unincorporated area.  
12 Ordinances enacted by a municipality, owning or leasing lands outside its boundaries, may be  
13 enforced by peace officers of the municipality upon such owned or leased lands. The power of  
14 arrest authorized by this section is in addition to all other powers conferred upon law  
15 enforcement officers, and shall not be construed so as to limit or restrict any other power of a law  
16 enforcement officer.

610.120. 1. **Except as otherwise provided under section 610.124**, records required  
2 to be closed shall not be destroyed; they shall be inaccessible to the general public and to all  
3 persons other than the defendant except as provided in this section and section 43.507. The  
4 closed records shall be available to: criminal justice agencies for the administration of criminal  
5 justice pursuant to section 43.500, criminal justice employment, screening persons with access  
6 to criminal justice facilities, procedures, and sensitive information; to law enforcement agencies  
7 for issuance or renewal of a license, permit, certification, or registration of authority from such  
8 agency including but not limited to watchmen, security personnel, private investigators, and  
9 persons seeking permits to purchase or possess a firearm; those agencies authorized by section

10 43.543 to submit and when submitting fingerprints to the central repository; the sentencing  
11 advisory commission created in section 558.019 for the purpose of studying sentencing practices  
12 in accordance with section 43.507; to qualified entities for the purpose of screening providers  
13 defined in section 43.540; the department of revenue for driver license administration; the  
14 division of workers' compensation for the purposes of determining eligibility for crime victims'  
15 compensation pursuant to sections 595.010 to 595.075, department of health and senior services  
16 for the purpose of licensing and regulating facilities and regulating in-home services provider  
17 agencies and federal agencies for purposes of criminal justice administration, criminal justice  
18 employment, child, elderly, or disabled care, and for such investigative purposes as authorized  
19 by law or presidential executive order.

20 2. These records shall be made available only for the purposes and to the entities listed  
21 in this section. A criminal justice agency receiving a request for criminal history information  
22 under its control may require positive identification, to include fingerprints of the subject of the  
23 record search, prior to releasing closed record information. Dissemination of closed and open  
24 records from the Missouri criminal records repository shall be in accordance with section 43.509.  
25 All records which are closed records shall be removed from the records of the courts,  
26 administrative agencies, and law enforcement agencies which are available to the public and  
27 shall be kept in separate records which are to be held confidential and, where possible, pages of  
28 the public record shall be retyped or rewritten omitting those portions of the record which deal  
29 with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature  
30 of the record books, such record entries shall be blacked out and recopied in a confidential book.

610.122. 1. Notwithstanding other provisions of law to the contrary, any record of arrest  
2 recorded pursuant to section 43.503 may be expunged if:

3 (1) The court determines that the arrest was based on false information and the following  
4 conditions exist:

5 [(1)] (a) There is no probable cause, at the time of the action to expunge, to believe the  
6 individual committed the offense;

7 [(2)] (b) No charges will be pursued as a result of the arrest; **and**

8 [(3)] The subject of the arrest has no prior or subsequent misdemeanor or felony  
9 convictions;

10 [(4)] (c) The subject of the arrest did not receive a suspended imposition of sentence for  
11 the offense for which the arrest was made or for any offense related to the arrest; [and

12 (5) No civil action is pending relating to the arrest or the records sought to be expunged]

13 **or**

14 (2) **The court determines the person was arrested for, or was subsequently charged**  
15 **with, a misdemeanor offense of chapter 303 or any moving violation as the term "moving**

16 **violation" is defined under section 302.010, except for any intoxication-related traffic**  
17 **offense as "intoxication-related traffic offense" is defined under section 577.023 and:**

18 **(a) Each such offense or violation related to the arrest was subsequently nolle**  
19 **prossed or dismissed, or the accused was found not guilty of each offense or violation; and**

20 **(b) The person is not a commercial driver's license holder and was not operating**  
21 **a commercial motor vehicle at the time of the arrest.**

22 **2. A record of arrest shall only be eligible for expungement under this section if:**

23 **(1) The subject of the arrest has no prior or subsequent misdemeanor or felony**  
24 **convictions; and**

25 **(2) No civil action is pending relating to the arrest or the records sought to be**  
26 **expunged.**

**Section 1. All courts that require mandatory electronic filing shall accept, file, and**  
2 **docket a notice of entry of appearance filed by an attorney in a criminal case if such filing**  
3 **does not exceed one page in length and was sent by fax or regular mail. The provisions of**  
4 **this section shall expire on December 31, 2016.**

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