

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2088, Page 6, Section 217.704, Line 91, by inserting after said section and
2 line the following:

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4 "491.065. 1. As used in this section unless the context otherwise requires, the following
5 words mean:

6 (1) "Benefit", any plea bargain, bail consideration, reduction or modification of sentence, or
7 any other leniency, immunity, financial payment, reward, or amelioration of current or future
8 conditions of incarceration that has been requested or that has been or may, at a future date, be
9 offered or provided in connection with or in exchange for the testimony of an informant who was
10 endorsed by the state;

11 (2) "Informant", a witness who provides testimony that offers allegedly self-incriminating
12 statements or activities of another person who is under investigation or being charged with an
13 offense and the witness:

14 (a) Is or was incarcerated with the suspect or defendant;

15 (b) Is being detained by or in the custody of law enforcement; or

16 (c) Provides testimony in exchange for any benefit.

17 The term "informant" shall not refer to or include a codefendant or victim involved in the case.

18 2. Each prosecuting attorney's office shall maintain a central record that is searchable and
19 tracks:

20 (1) Each case in which an informant has been endorsed by the state to testify against a
21 defendant's interest;

22 (2) The substance of the testimony; and

23 (3) Any benefit that has been requested by or has been offered to the informant, and any
24 benefit that may be provided at a future date in connection with such testimony.

25 3. On a monthly basis, each county's prosecuting attorney's office shall send the information
26 described under subsection 2 of this section to the Missouri state highway patrol within the
27 department of public safety, and the information shall be maintained in a centralized statewide
28 record that is available to prosecuting attorneys throughout the state.

29 4. The information described in this section is accessible only by the prosecuting attorney's
30 office and is not subject to the provisions under chapter 610. Nothing in this section shall be
31 interpreted to exclude the mandatory disclosure of this information to a defendant through
32 discovery, in accordance with *Brady v. Maryland*, 373 U.S. 83 (1963) and other controlling legal
33 precedent.

34 5. If a prosecuting attorney endorses a witness to testify as an informant, the following
35 material and information shall be disclosed within the time frame provided under rule 25 of the

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1 Missouri rules of criminal procedure:

2 (1) The complete criminal history of the informant, including any charges that are pending
3 or were reduced, amended, or dismissed as part of a plea bargain;

4 (2) The informant cooperation agreement and a copy of any deal, promise, inducement, or
5 benefit that has been requested or that has been or may, at a future date, be offered or provided to the
6 informant in connection with testimony against the defendant's interest;

7 (3) The substance, time, and place of any statement allegedly given by the defendant to the
8 informant, and the substance, time, and place of any statement given by the informant to law
9 enforcement implicating the defendant in the offense charged;

10 (4) Whether the informant recanted that testimony or statement and, if so, the time and place
11 of the recantation, the nature of the recantation, and the names of the persons who were present at
12 the recantation; and

13 (5) Information concerning other criminal cases in any county in which the informant was
14 endorsed by the state to testify against a defendant, including the following:

15 (a) The case name and number;

16 (b) The substance of the testimony;

17 (c) Any cooperation agreement, deal, promise, inducement, or benefit that was requested,
18 offered, or provided to the informant in connection with the informant's testimony; and

19 (d) Any other information that is requested to be disclosed under the Constitution of the
20 United States, the Constitution of Missouri, and the Missouri rules of criminal procedure.

21 6. Failure to provide in discovery information in response to subsection 5 of this section
22 shall result in a waiver of absolute immunity for any prosecuting attorney who violates the provision
23 and a waiver of qualified immunity for any law enforcement officer who fails to disclose benefits or
24 promises of benefits.

25 7. In any criminal prosecution in which the prosecuting attorney's office intends to introduce
26 the testimony of an informant and upon the motion of the defendant, the court shall conduct a
27 pretrial hearing to determine whether the informant's testimony is reliable and therefore admissible
28 based upon the material and information disclosed under subsections 5 and 6 of this section, as well
29 as the following factors:

30 (1) The extent to which the informant's testimony is supported by other evidence;

31 (2) The specificity of the informant's testimony;

32 (3) The extent to which the testimony contains details known only by the defendant;

33 (4) The extent to which the details of the testimony could be obtained from a source other
34 than the defendant; and

35 (5) The circumstances under which the informant initially provided the information to law
36 enforcement or the prosecuting attorney, including whether the informant was responding to leading
37 questions.

38 8. The prosecuting attorney shall show by a preponderance of the evidence that the
39 informant's testimony is reliable based on the factors under subsection 5 of this section in order for
40 the court to allow the testimony to be heard at trial.

41 9. If the informant's testimony is admitted into evidence, the court shall instruct jurors to
42 consider the material and information disclosed and enumerated under subsection 5 of this section
43 when assessing the reliability and truthfulness of the informant's testimony.

44 10. If an informant receives a benefit related to a pending charge, a prior conviction, or a
45 sentence for an offense committed by the informant that involved a victim, the prosecuting attorney
46 shall notify the victim of the benefit the informant is receiving in accordance with the provisions
47 under chapter 595.

48 610.130. 1. After a period of not less than ten years, an individual who has pleaded guilty
49 or has been convicted for a first intoxication-related traffic offense or intoxication-related boating

1 offense [~~which~~] that is a misdemeanor or a county or city ordinance violation, or for an intoxication-
2 related traffic offense that is a class D felony under subdivision (4) of subsection 2 of section
3 577.010 or an intoxication-related boating offense that is a class D felony under subdivision (4) of
4 subsection 2 of section 577.013, and [~~which~~] that is not a conviction for driving a commercial motor
5 vehicle while under the influence of alcohol and who since such date has not been convicted of any
6 intoxication-related traffic offense or intoxication-related boating offense may apply to the court in
7 which he or she pled guilty or was sentenced for an order to expunge from all official records all
8 recordations of his or her arrest, plea, trial or conviction.

9 2. If the court determines, after hearing, that such person has not been convicted of any
10 subsequent intoxication-related traffic offense or intoxication-related boating offense, has no other
11 subsequent alcohol-related enforcement contacts as defined in section 302.525, and has no other
12 intoxication-related traffic offense or intoxication-related boating offenses or alcohol-related
13 enforcement actions pending at the time of the hearing on the application, the court shall enter an
14 order of expungement.

15 3. Upon granting of the order of expungement, the records and files maintained in any
16 administrative or court proceeding in an associate or circuit division of the circuit court under this
17 section shall be confidential and only available to the parties or by order of the court for good cause
18 shown. The effect of such order shall be to restore such person to the status he or she occupied prior
19 to such arrest, plea or conviction and as if such event had never taken place. No person as to whom
20 such order has been entered shall be held thereafter under any provision of any law to be guilty of
21 perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge
22 such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for
23 any purpose whatsoever and no such inquiry shall be made for information relating to an
24 expungement under this section. A person shall only be entitled to one expungement pursuant to
25 this section. Nothing contained in this section shall prevent the director from maintaining such
26 records as to ensure that an individual receives only one expungement pursuant to this section for
27 the purpose of informing the proper authorities of the contents of any record maintained pursuant to
28 this section.

29 4. The provisions of this section shall not apply to any individual who has been issued a
30 commercial driver's license or is required to possess a commercial driver's license issued by this
31 state or any other state."; and

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