



Maneke law column

Bill could offer needed Sunshine Law changes

Missouri Press Association, along with news media across the state, has been keeping you, our members, aware of activities in our legislature this session, including the proposal recently announced by Attorney General Josh Hawley that would create an "Office of Transparency" in the Attorney General's office.

That bill has not yet been introduced, but we are hoping for that to happen by the end of the month. Needless to say, Missouri Press is supporting the Attorney General in his efforts to create this capability in his office.

It is important for you, our members, to understand more about this proposal because it's a significant step and will benefit all of us if it passes. All of you know, of course, that moving a bill from start to finish is not a simple process in any legislative body. (All of us stop a minute and sing a few measures of "I'm Just a Bill" in honor of that amazing process in our own state legislature.)

In our state, in particular, if a bill isn't on file by mid to late February, its chances of passage by the end of the session are pretty slim. Even then, any controversy that arises can be cause to disrupt its progress. So it is important that the public understand some basics about this particular bill and I'm hoping each of you can help in that endeavor.

How many times have you called

the AG's office to complain about something a state agency has done or its lack of response to a Sunshine Law request, only to be told that the AG's office cannot respond because they are mandated to defend the state agency against just such complaints? If the AG's office cannot help you, it's highly unlikely that you'll get help from any other source. That has always been a defect in the Missouri law. It's a clear conflict of interest and lawyers, especially the state's highest lawyer, aren't about to dabble in any action that could be a conflict of interest for that office.

This proposal would allow the AG to segregate out a portion of his staff to be separated from the lawyers who defend the state, and to allow them to serve only to handle Sunshine Law matters brought to the AG's office by the public. It also would allow them to issue a subpoena to force entities to produce records if they would not do so voluntarily. It would be a major step in advancing the ability of the public to access records on the

keep such records.

One of the most frequent questions I've heard since this proposal was introduced is whether this is in some way a response to actions in recent weeks from others in state government, including our State's Governor. And the answer is that it clearly is NOT a response in any way to such activities. In fact, the roots of this proposal go back to an article I co-authored in 2007 for the Journal of the Missouri Bar. Back at that time, nearly 20 states had an office that assisted members of the public in regard to Sunshine Law requests and disputes.

I haven't taken time to research how many more states have added such offices in the last 10 years, but I know the number has increased because each time I would hear about another state creating such an office, I'd remember the article and wish Missouri would make that move. Missouri Press created language and attempted to find a sponsor for such a bill back at that time but had no success.

It's too early to know what will happen with this proposal in this legislative session. While sometimes bills make it through in their first effort, other times it takes bills several sessions to get enough support to make it past both houses and into law. Know that Missouri Press will keep you informed. Your part is to help your readers understand what this bill would do for them and why it is important to them.

If you have questions or need more information about the bill (assuming it gets filed in the next few weeks), let me know and I'll be happy to forward you the background article from 2007 and answer any questions. And keep your fingers crossed for this one!

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state level.

It would also institute a fine and penalty for state entities that fail to properly keep public records, a function governed by chapter 109 of the Missouri Statutes. Presently there are no penalties in that chapter for public bodies which fail to properly



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