

Missouri governor attempts to limit access to government through changes to state's Sunshine Law

Missouri Gov. Mike Parson is trying again to restrict access to public information, making it harder and more costly for people to hold the government accountable through open records laws.

Parson wants government agencies to have the authority to charge fees for the time their attorneys spend reviewing and responding to records requested by the public. That would be a big increase in the cost for citizens or news organizations seeking open records and public data.

The Missouri Independent [first reported](#) on the governor's plans earlier this year, which he detailed in a presentation to cabinet members on his 2022 legislative agenda. These plans also included pay raises for state employees and a hands-off approach to COVID policies. The news outlet obtained the presentation through an open records request.



(Photo via Flickr)

Last summer the Missouri Supreme Court [ruled](#) against a previous effort by the governor to increase fees. The case was brought in 2018 by Elad Gross, an attorney and former Democratic candidate for attorney general investigating dark money support for former Gov. Eric Greitens. Gross was charged \$3,618.40 for documents requested through the governor's office. The state Supreme Court voted against Parson 6-0, stating, "A public records request may be fulfilled without any attorney review time."

Missouri State Rep. Bruce DeGroot is attempting to undo the court ruling by changing the Sunshine Law itself. The bill, which critics say would ["gut"](#) the Sunshine law, is currently pending before the state legislature. DeGroot [has said](#) he worked with Parson's office on the substance of the proposal, which would allow a government agency to charge a member of the public the hourly rate of the lowest paid attorney used to conduct research or review requested records.

"If the law successfully changes the Missouri Supreme Court opinion, you're probably talking about \$80-\$120 an hour if it's inside counsel or an outside counsel at \$200 an hour," said Lewis Rice lawyer Joseph Martineau in a telephone interview. Ordinary citizens and the media will pay several

thousand dollars for documents that need to be reviewed by counsel.

The governor argues that the fee increase is necessary because state employees have to review the request, sometimes through government lawyers and sometimes with outside firms.

Under Missouri's Sunshine Law citizens and reporters file Sunshine requests for information through the Missouri Attorney General's Office.

But because that office serves as counsel for the state, there is a potential [conflict of interest when individuals submit Sunshine requests to the AG's office.](#)

"I don't think anyone should be under any illusion that the attorney general is going to enforce the Sunshine Law against any state agency. They're just basically never going to do that," Andy Hirth, who served as deputy general counsel in the attorney general's office under Democrat Chris Koster, told St. Louis Public Radio. "They're always going to defend the state agency, because that is their primary responsibility."

Attorney Mark Pedroli is the founder of the Sunshine and Government Accountability Project, which has been involved in substantial litigation within Missouri. Pedroli told GJR that sunshine laws are valuable because they eliminate secrecy in the government.

In 2017, Eric Greitens was Missouri governor when the Kansas City Star revealed he and his office were using the app Confide, which causes text messages to disappear. A citizen filed a Sunshine Law request seeking to find out who was using the app – and whether the messages could be seen like any other record of governance. When the governor's office failed to respond in a timely way, [Pedroli filed suit](#) and found that at least 27 Greitens staffers were using Confide.

Cole County Judge Jon Beetem found that Missouri's Sunshine

Law [only applies to government records that have been retained](#), while disappearing text messages cease to exist soon after arrival. Private citizens, Beetem wrote, had no right to sue over them.

The problem is that “you can’t report a story if you don’t know anything about what’s going on due to lack of data,” said Sandra Davidson, a former media law professor at the University of Missouri School of Journalism.

Missouri Sen. Josh Hawley, who was the state’s attorney general at the time, launched [a probe](#) into the use of Confide, interviewing Greitens’ staffers, He ultimately opted not to interview Greitens and found no violation of state law in his investigation.

Special interest groups that want close relationships with politicians want to secretly communicate with politicians, Pedroli told GJR.

“I think there’s so much dark money around Governor Parson and there are so many lobbyists and consultants involved with him that they all want secrecy to run with his dark money donations,” Pedroli said.

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