GOVERNOR OF MISSOURI

JEFFERSON CITY

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TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Committee Substitute for House Bill No. 878 (House Bill No. 878) entitled:

AN ACT

To repeal section 590.750, RSMo, and to enact in lieu thereof one new section relating to corporate security advisors, with an existing penalty provision.

I disapprove of Senate Committee Substitute for House Bill No. 878. My reasons for disapproval are as follows:

As a result of legislation I approved last year, individuals may obtain a private corporate security advisor license from the State of Missouri if they satisfy the required training, education, and experience. House Bill No. 878 would significantly expand a licensed corporate security advisor's authority and would have the Director of the Department of Public Safety confer on those individuals a "commission" if the Director deems their qualifications appropriate and they are licensed peace officers. Under current law, a "commission" is more than a paper certificate – it is a grant of authority to act as a peace officer. This bill, therefore, would give an individual working for a private company the power to arrest, the power to search, and the power to seize property. House Bill No. 878 cannot receive my approval.

In Missouri, the authority to act as a peace officer has rightfully been reserved for officers employed by recognized criminal justice agencies created by state or federal statutes and with clearly defined jurisdiction and authority. For example, county sheriff departments, municipal police, railroad police, and the Missouri State Highway Patrol have the power to enforce criminal laws but only within the jurisdictional boundaries and limits provided by their authorizing statute. Thus, officers employed by those agencies are commissioned to act as peace officers to carry out those duties and, as a result, are empowered to make arrests, conduct searches, and seize evidence within the confines of their agencies' statutory powers.

The authority to arrest and seize personal property is the ultimate exercise of power in our democracy and should only be bestowed in the most narrow circumstances. House Bill No. 878, however, would confer on private corporate security advisors the same powers and authority as a

commissioned peace officer, such as a city police officer or deputy sheriff, without any of the jurisdictional restrictions imposed on those officers and without any clear limits on their authority. Thus, commissioned corporate security advisors employed by domestic or foreign corporations would be cloaked with police authority to search a private car or residence anywhere in Missouri. For example, this bill would give a corporate security advisor working for a company in St. Louis the power to arrest someone in Kennett. That cloak of authority would provide a basis to detain and question anyone that came under their suspicion, regardless of whether that person was on corporate property. Their power of arrest would go well beyond that provided to city police and deputy sheriffs since they would not be limited by jurisdictional boundaries within Missouri. In all, these powers would far exceed a corporate security advisor's current authority.

Even more troubling, there is no assurance that actions taken against citizens by commissioned corporate security advisors working solely on behalf of their private employers would be subject to the same constitutional restrictions that are imposed on officers working for government law enforcement agencies. Throughout American history, limitations on the use of police powers have been a cornerstone of our constitutional jurisprudence for good reason: Seizing private property and confining people against their will should only be done with strict adherence to the constitutional rights that protect personal freedom and liberty. However, the protections provided to citizens by the constitution, such as the right to be free from unreasonable searches, seizures and arrests, apply only to governmental actions.

If a commissioned corporate security advisor's actions are deemed purely non-governmental, a citizen may rightfully assert a violation of their personal freedom or liberty, yet not receive the benefit of constitutional protection because the violation involved a private corporate security advisor. For example, a teenager who finds himself the subject of an investigation for trespassing on corporate property could be interrogated by a commissioned corporate security advisor without the benefit of Miranda warnings and be unable to successfully raise a constitutional challenge in criminal court. Private emails and correspondence could be confiscated and the owner would not have the ability to successfully challenge those seizures as a violation of the Fourth Amendment. And, property owners may not be justified in relying on state laws allowing them to stand their ground if a commissioned corporate security advisor cloaked with police authority comes onto their property.

If, on the other hand, a commissioned corporate security advisor is considered a state actor, they and their employers would potentially be subject to federal civil rights claims under 42 U.S.C. 1983 for violation of constitutional rights. While the proponents of this legislation may not have contemplated the potential for federal civil rights liability, those remedies would provide little solace to individuals that are held or interrogated against their will on behalf of a corporation's interest. Because I cannot condone such a broad grant of police authority to private individuals, this bill cannot receive my approval.

In accordance with the above stated reasons for disapproval, I am returning House Committee Substitute for House Bill No. 878 without my approval.

Respectfully submitted,

Jeremiah W. (Jay) Nixon
Governor