

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE BILL NO. 26

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

0828S.04P

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 67.030, 84.400, 557.045, and 574.085, RSMo, and to enact in lieu thereof seven new sections relating to public safety, with penalty provisions.

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

Section A. Sections 67.030, 84.400, 557.045, and 574.085,
2 RSMo, are repealed and seven new sections enacted in lieu
3 thereof, to be known as sections 67.030, 84.400, 557.045,
4 574.045, 574.085, 590.192, and 590.502, to read as follows:

67.030. **1.** The governing body of each political
2 subdivision may revise, alter, increase or decrease the
3 items contained in the proposed budget, subject to such
4 limitations as may be provided by law or charter **or in**
5 **subsection 2 of this section;** provided, that in no event
6 shall the total authorized expenditures from any fund exceed
7 the estimated revenues to be received plus any unencumbered
8 balance or less any deficit estimated for the beginning of
9 the budget year. Except as otherwise provided by law or
10 charter, the governing body of each political subdivision
11 shall, before the beginning of the fiscal year, approve the
12 budget and approve or adopt such orders, motions,
13 resolutions, or ordinances as may be required to authorize

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 the budgeted expenditures and produce the revenues estimated
15 in the budget.

16 **2. Any taxpayer of a political subdivision may**
17 **initiate an action for injunctive relief, which the court**
18 **shall grant, if the governing body of such political**
19 **subdivision decreases the budget for its law enforcement**
20 **agency by an amount exceeding more than twelve percent**
21 **relative to the proposed budgets of other departments of the**
22 **political subdivision over a five year aggregate amount.**

84.400. 1. Any one of said commissioners so appointed
2 or any member of any such police force who, during the term
3 of his **or her** office, shall accept any other place of public
4 trust, or emolument, or who shall knowingly receive any
5 nomination for an office elective by the people, and shall
6 fail to decline such nomination publicly within the five
7 days succeeding such nomination or shall become a candidate
8 for the nomination for any office at the hands of any
9 political party, shall be deemed to have thereby forfeited
10 and vacated office as such commissioner or member of such
11 police force.

12 **2. Notwithstanding any provisions of law to the**
13 **contrary, a member of the board or any member of such police**
14 **force may be appointed to serve on any state or federal**
15 **board, commission, or task force where no compensation for**
16 **such service is paid, except that such board member or**
17 **member of such police force may accept payment of a per diem**
18 **for attending meetings, or if no per diem is provided,**
19 **reimbursement from such board, commission, or task force for**
20 **reasonable and necessary expenses for attending such**
21 **meetings.**

557.045. No person found guilty of, or pleading guilty
2 to, the following offenses shall be eligible for probation,

3 suspended imposition or execution of sentence, or
4 conditional release, and shall be sentenced to a term of
5 imprisonment pursuant to subdivision (1) of subsection 2 of
6 section 557.011:

7 (1) Second degree murder when a person knowingly
8 causes the death of another person or, with the purpose of
9 causing serious physical injury to another person, causes
10 the death of another person, as defined in subdivision (1)
11 of subsection 1 of section 565.021;

12 (2) Any dangerous felony, as the term is defined in
13 section 556.061, where the person has been previously found
14 guilty of a class A or B felony or a dangerous felony; [or]

15 (3) Any dangerous felony, as the term is defined in
16 section 556.061, where the commission of the felony involves
17 the use of a deadly weapon, as that term is defined in
18 section 556.061; **or**

19 (4) **Any dangerous felony, as the term is defined in**
20 **section 556.061, where the victim is a law enforcement**
21 **officer, firefighter, or an emergency service provider while**
22 **in the performance of his or her duties.**

574.045. 1. **As used in this section, the following**
2 **terms mean:**

3 (1) **"Interstate highway", a highway located in this**
4 **state that is included in the national system of interstate**
5 **highways, as officially designated or as may be hereafter**
6 **designated by the Missouri highways and transportation**
7 **commission within the Missouri department of transportation**
8 **and approved by the United States Secretary of**
9 **Transportation;**

10 (2) **"Unlawful assembly", when a person knowingly**
11 **assembles with six or more other persons and agrees with**

12 such persons to violate any of the criminal laws of this
13 state or of the United States with force or violence.

14 2. A person commits the offense of unlawful traffic
15 interference if, with the intention to impede vehicular
16 traffic, the person walks, stands, sits, kneels, lays, or
17 places an object in such a manner as to block passage by a
18 vehicle on any public street, highway, or interstate
19 highway. This section shall not apply to the blocking of
20 passage by any person who has permission to do so from a
21 government authority, who is a law enforcement officer, or
22 who does so to direct traffic away from hazardous road
23 conditions, an obstacle, or a scene of an accident.

24 3. The offense of unlawful traffic interference on a
25 public street or highway is an infraction for the first
26 violation. Any second violation that occurs on a public
27 street or highway is a class B misdemeanor. Any third or
28 subsequent violation that occurs on a public street or
29 highway is a class E felony.

30 4. The offense of unlawful traffic interference on any
31 public street, highway, or interstate highway while part of
32 an unlawful assembly is an infraction for the first
33 violation. Any second violation that occurs on a public
34 street, highway, or interstate highway while part of an
35 unlawful assembly is a class A misdemeanor. Any third or
36 subsequent violation that occurs on a public street,
37 highway, or interstate highway while part of an unlawful
38 assembly is a class D felony.

574.085. 1. A person commits the offense of
2 institutional vandalism if he or she knowingly vandalizes,
3 defaces, or otherwise damages:

4 (1) Any church, synagogue or other building, structure
5 or place used for religious worship or other religious
6 purpose;

7 (2) Any cemetery, mortuary, military monument or other
8 facility used for the purpose of burial or memorializing the
9 dead;

10 (3) Any school, educational facility, community
11 center, hospital or medical clinic owned and operated by a
12 religious or sectarian group;

13 (4) The grounds adjacent to, and owned or rented by,
14 any institution, facility, building, structure or place
15 described in subdivision (1), (2), or (3) of this subsection;

16 (5) Any personal property contained in any
17 institution, facility, building, structure or place
18 described in subdivision (1), (2), or (3) of this
19 subsection; [or]

20 (6) Any motor vehicle which is owned, operated, leased
21 or under contract by a school district or a private school
22 for the transportation of school children; **or**

23 **(7) Any public monument or structure on public**
24 **property owned or operated by a public entity.**

25 2. The offense of institutional vandalism is a class A
26 misdemeanor, unless the value of the property damage is
27 seven hundred fifty dollars or more, in which case the
28 offense is a class E felony; or the value of the property
29 damage is more than five thousand dollars, in which case the
30 offense is a class D felony.

31 3. In determining the amount of damage to property,
32 for purposes of this section, damage includes the cost of
33 repair or, where necessary, replacement of the property that
34 was damaged.

590.192. 1. There is hereby created in the state treasury the "988 Public Safety Fund", which shall consist of money appropriated by the general assembly. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of public safety for the purposes of providing services for peace officers to assist in coping with stress and potential psychological trauma resulting from a response to a critical incident or emotionally difficult event. Such services may include consultation, risk assessment, education, intervention, and other crisis intervention services provided by the department to peace officers affected by a critical incident.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

590.502. 1. For purposes of this section, the following shall mean:

(1) "Board", any individual or body authorized by an agency or department to hear and make final decisions regarding appeals of disciplinary actions issued by an agency or department;

(2) "Color of law", any act by a law enforcement officer, whether on duty or off duty, that is performed in

9 furtherance of his or her sworn duty to enforce laws and to
10 protect and serve the public;

11 (3) "Economic loss", any economic loss, including but
12 not limited to, loss of overtime accrual, overtime income,
13 sick time accrual, sick time, secondary employment income,
14 holiday pay, and vacation pay;

15 (4) "Good cause", sufficient evidence or facts that
16 would support a party's request for extensions of time or
17 any other requests seeking accommodations outside the scope
18 of the rules set out herein;

19 (5) "Law enforcement officer", any sworn peace officer
20 with the power to arrest for a violation of the criminal
21 code who is employed by any unit of the state or any
22 political subdivision or by a state college or university.
23 "Law enforcement officer" shall not include any officer who
24 is the highest ranking officer in the law enforcement agency.

25 2. Whenever a law enforcement officer is under
26 investigation or is subjected to questioning, that the
27 officer reasonably believes could lead to disciplinary
28 action, demotion, dismissal, transfer, or placement on a
29 status that could lead to economic loss, the investigation
30 or questioning shall be conducted under the following
31 conditions:

32 (1) The law enforcement officer who is the subject of
33 the investigation shall be informed, in writing, of the
34 existence and nature of the alleged violation and the
35 individuals who will be conducting the investigation.
36 Notice shall be provided to the officer along with a copy of
37 the complaint at least twenty-four hours prior to any
38 interrogation or interview of the officer;

39 (2) Any person, including members of the same agency
40 or department as the officer under investigation, filing a

41 complaint against a law enforcement officer shall have the
42 complaint supported by a written statement outlining the
43 complaint that includes the personal identifying information
44 of the person filing the complaint. All personal
45 identifying information shall be held in camera by the
46 investigating agency;

47 (3) When a law enforcement officer is questioned or
48 interviewed regarding matters pertaining to his or her law
49 enforcement duties or actions taken within the scope of his
50 or her employment, such questioning shall be conducted for a
51 reasonable length of time and only while the officer is on
52 duty unless reasonable circumstances exist that necessitate
53 questioning the officer while he or she is off duty;

54 (4) Any interviews or questioning shall be conducted
55 at a secure location at the agency that is conducting the
56 investigation or at the place where the officer reports to
57 work, unless the officer consents to another location;

58 (5) Law enforcement officers shall be questioned by
59 two investigators and shall be informed of the name, rank,
60 and command of the officer conducting the investigation;
61 except that, separate investigators shall be assigned to
62 investigate alleged department policy violations and alleged
63 criminal violations;

64 (6) Interview sessions shall be for a reasonable
65 period of time. There shall be times provided for the
66 officer to allow for such personal necessities and rest
67 periods as are reasonably necessary;

68 (7) Law enforcement officers shall not be threatened,
69 harassed, or promised rewards to induce them into answering
70 any question; except that, law enforcement officers may be
71 compelled by their employer to give protected statements to
72 an investigator under the direct control of the employer,

73 but such compelled statements shall not be used or
74 derivatively used against the officer in any aspect of a
75 criminal case brought against the officer;

76 (8) Law enforcement officers under investigation are
77 entitled to have an attorney or any duly authorized
78 representative present during any questioning that the law
79 enforcement officer reasonably believes may result in
80 disciplinary action. The questioning shall be suspended for
81 a period of up to twenty-four hours if the officer requests
82 representation;

83 (9) Prior to the law enforcement officer being
84 interviewed, the officer and his or her representative shall
85 have the opportunity to review the complaint;

86 (10) The law enforcement agency conducting the
87 investigation shall have ninety days from receipt of a
88 complaint to complete such investigation. The agency shall
89 determine the disposition of the complaint and render a
90 disciplinary decision, if any, within ninety days. The
91 agency may, for good cause, petition the board overseeing
92 the administration of discipline for an extension of time to
93 complete the investigation. If the board finds the agency
94 has shown good cause for the granting of an extension of
95 time to complete the investigation, the board shall grant an
96 extension of up to sixty days. The agency is limited to two
97 extensions per investigation, except if there is an ongoing
98 criminal investigation there shall be no limitation on the
99 amount of sixty day extensions. Absent consent from the
100 officer being investigated, the board overseeing the
101 administration of discipline shall set the matter for
102 hearing and shall provide notice of the hearing to the law
103 enforcement officer under investigation. The officer shall

104 have the right to attend the hearing and to present evidence
105 and arguments against extension;

106 (11) Within five days of the conclusion of the
107 administrative investigation, the investigator shall inform
108 the officer, in writing, of the investigative findings and
109 any recommendation for further action, including discipline;

110 (12) A complete record of the administrative
111 investigation shall be kept by the law enforcement agency
112 conducting such investigation. Upon completion of the
113 investigation, a copy of the entire record, including, but
114 not limited to, audio, video, and transcribed statements,
115 shall be provided to the officer or the officer's
116 representative within five business days of the officer's
117 written request. The agency may request a protective order
118 to redact all personal identifying witness information; and

119 (13) All records compiled as a result of any
120 investigation subject to the provisions of this section
121 shall be held confidential and shall not be subject to
122 disclosure under chapter 610, except by lawful subpoena or
123 court order.

124 3. Law enforcement officers who are suspended without
125 pay, demoted, terminated, transferred, or placed on a status
126 resulting in economic loss shall be entitled to a full due
127 process hearing. However, nothing in this section shall
128 prohibit a law enforcement agency and the authorized
129 bargaining representative for a law enforcement officer
130 employed by that agency from reaching written agreements
131 providing disciplinary procedures more favorable than those
132 provided for this section. The components of the hearing
133 shall include, at a minimum:

134 (1) The right to be represented by an attorney or
135 other individual of their choice during the hearing;

136 (2) Seven days notice of the hearing date and time;

137 (3) An opportunity to access and review documents, at
138 least seven days in advance of the hearing, that are in the
139 employer's possession and that were used as a basis for the
140 disciplinary action;

141 (4) The right to refuse to testify at the hearing if
142 the officer is concurrently facing criminal charges in
143 connection with the same incident. A law enforcement
144 officer's decision not to testify shall not result in
145 additional internal charges or discipline;

146 (5) A complete record of the hearing shall be kept by
147 the agency for purposes of appeal. The record shall be
148 provided to the officer or his or her attorney upon written
149 request;

150 (6) The entire record of the hearing shall remain
151 confidential and shall not be subject to disclosure under
152 chapter 610, except by lawful subpoena or court order.

153 If a contractual disciplinary grievance procedure executed
154 by and between the agency and the bargaining unit of that
155 officer is in effect, the terms of that disciplinary
156 grievance procedure shall take precedence and govern the
157 conduct of the hearing.

158 4. Any decision, order, or action taken following the
159 hearing shall be in writing and shall be accompanied by
160 findings of fact. The findings shall consist of a concise
161 statement upon each issue in the case. A copy of the
162 decision or order accompanying findings and conclusions
163 along with the written action and right of appeal, if any,
164 shall be delivered or mailed promptly to the law enforcement
165 officer or to the officer's attorney or representative of
166 record.

167 5. Law enforcement officers shall have the opportunity
168 to provide a written response to any adverse materials
169 placed in their personnel file, and such written response
170 shall be permanently attached to the adverse material.

171 6. Law enforcement officers shall have the right to
172 compensation for any economic loss incurred during an
173 investigation if the officer is found to have committed no
174 misconduct.

175 7. Employers shall defend and indemnify law
176 enforcement officers from and against civil claims made
177 against them in their official and individual capacities if
178 the alleged conduct arose in the course and scope of their
179 obligations and duties as law enforcement officers. This
180 includes any actions taken off duty if such actions were
181 taken under color of law. In the event the law enforcement
182 officer is convicted of, or pleads guilty to, criminal
183 charges arising out of the same conduct, the employer shall
184 no longer be obligated to defend and indemnify the officer
185 in connection with related civil claims.

186 8. Law enforcement officers shall not be disciplined,
187 demoted, dismissed, transferred, or placed on a status
188 resulting in economic loss as a result of the assertion of
189 their constitutional rights in any judicial proceeding,
190 unless the officer admits to wrong-doing in which case the
191 provisions of this section shall not apply.

192 9. The remedies provided by this section against law
193 enforcement agencies or governmental bodies shall be in
194 addition to those provided by any other provision of law.
195 Any aggrieved law enforcement officer or authorized
196 representative may seek judicial enforcement of the
197 requirements of this section. Suits to enforce this section
198 shall be brought in the circuit court for the county in

199 which the law enforcement agency or governmental body has
200 its principal place of business.

201 10. Upon a finding by a preponderance of the evidence
202 that a law enforcement agency, governmental body, or member
203 of same has violated any provision of this section, a court
204 shall void any action taken in violation of this section.
205 Suit for enforcement shall be brought within one year from
206 which the violation is ascertainable.

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