

SENATE BILL NO. 26

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

0828S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To amend chapters 574 and 590, RSMo, by adding thereto two 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. Chapters 574 and 590, RSMo, are amended by adding thereto two new sections, to be known as sections 574.045 and 590.502, to read as follows:

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

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

(2) "Unlawful assembly", two or more persons who meet for the purpose of violating any of the criminal laws of this state or of the United States.

2. A person commits the offense of unlawful traffic interference if, with the intention to impede vehicular traffic, the person walks, stands, sits, kneels, lays, or places an object in such a manner as to block passage by a vehicle on any public street, highway, or interstate highway. This section shall not apply to the blocking of

19 passage by any person who has permission to do so from a
20 government authority, who is a law enforcement officer, or
21 who does so to direct traffic away from hazardous road
22 conditions, an obstacle, or a scene of an accident.

23 3. The offense of unlawful traffic interference on a
24 public street or highway, except an interstate highway, is a
25 class A misdemeanor for the first violation. Any second or
26 subsequent violation that occurs on a public street or
27 highway, except an interstate highway, is a class E felony.

28 4. The offense of unlawful traffic interference on an
29 interstate highway is a class E felony. For a first
30 violation, the court shall grant a suspended imposition of
31 sentence and impose a term of supervised probation for five
32 years, one hundred hours of community service, and a fine
33 not to exceed seven hundred fifty dollars.

34 5. The offense of unlawful traffic interference on any
35 public street, highway, or interstate highway while part of
36 an unlawful assembly is a class D felony. For a first
37 violation, the court shall grant a suspended imposition of
38 sentence and impose a term of supervised probation for five
39 years, one hundred hours of community service, and a fine
40 not to exceed one thousand dollars.

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

3 (1) "Board", any individual or body that hears and
4 makes final decisions regarding appeals of discipline issued
5 by an agency or department;

6 (2) "Color of law", any act by a law enforcement
7 officer, whether on duty or off duty, that is performed in
8 furtherance of his or her sworn duty to enforce laws and to
9 protect and serve the public;

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

14 (4) "Exigent circumstances", an emergency situation in
15 which the safety of the public is at immediate apprehension
16 of harm;

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

21 (6) "Law enforcement officer", any sworn police
22 officer who is employed by any unit of state or local
23 government or by a state college or university. This
24 section shall not apply to any officer who is the highest
25 ranking officer in the law enforcement agency.

26 2. Whenever a law enforcement officer is under
27 investigation or is subjected to questioning, for any
28 reason, that could lead to disciplinary action, demotion,
29 dismissal, transfer, or placement on a status that could
30 lead to economic loss, the investigation or questioning
31 shall be conducted under the following 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 individual who will be conducting the investigation. Notice
36 shall be provided to the officer along with a copy of the
37 complaint at least forty-eight 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 sworn affidavit. Any complaint
43 supported by a sworn affidavit and found, in total or in
44 part, to contain knowingly false material information, shall
45 be presented to the appropriate prosecuting or circuit
46 attorney for a determination of prosecution;

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 exigent 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 a
59 single investigator 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 forty-eight hours if the officer requests
82 representation;

83 (9) Prior to the law enforcement officer being
84 interviewed, the officer and his representative shall have
85 the opportunity to review any audio or video in the
86 possession of the agency conducting the investigation;

87 (10) The law enforcement agency conducting the
88 investigation shall have ninety days from receipt of a
89 complaint to complete such investigation. The agency shall
90 determine the disposition of the complaint and render a
91 disciplinary decision, if any, within ninety days. The
92 agency may, for good cause, petition the board overseeing
93 the administration of discipline for an extension of time to
94 complete the investigation. If the board finds the agency
95 has shown good cause for the granting of an extension of
96 time to complete the investigation, the board shall grant an
97 extension of up to sixty days. The agency is limited to one
98 extension per investigation. Absent consent from the
99 officer being investigated, the board overseeing the
100 administration of discipline shall set the matter for
101 hearing and shall provide notice of the hearing to the law
102 enforcement officer under investigation. The officer shall
103 have the right to attend the hearing and to present evidence
104 and arguments against extension;

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

109 (12) A complete record of the administrative
110 investigation shall be kept by the law enforcement agency
111 conducting such investigation. Upon completion of the
112 investigation, a copy of the entire record, including, but
113 not limited to, audio, video, and transcribed statements,
114 shall be provided to the officer or the officer's
115 representative within forty-eight hours of the officer's
116 written request; and

117 (13) All records compiled as a result of any
118 investigation subject to the provisions of this section
119 shall be held confidential and not be released to the public
120 at any time.

121 3. Law enforcement officers who are suspended without
122 pay, demoted, terminated, transferred, or placed on a status
123 resulting in economic loss shall be entitled to a full due
124 process hearing. The components of the hearing shall
125 include, at a minimum:

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

128 (2) Fourteen days notice of the hearing date and time;

129 (3) An opportunity to access and review documents, at
130 least ten days in advance of the hearing, that are in the
131 employer's possession and that were used as a basis for the
132 disciplinary action or gathered in the course of its
133 investigation including, but not limited to, access to audio
134 or transcribed statements;

135 (4) An opportunity to present witnesses and evidence
136 and a right to cross-examine any adverse witness;

137 (5) The right to refuse to testify at the hearing if
138 the officer is concurrently facing criminal charges in
139 connection with the same incident. A law enforcement
140 officer's decision not to testify shall not result in
141 additional internal charges or discipline;

142 (6) A complete record of the hearing shall be kept by
143 the agency for purposes of appeal. The record shall be
144 provided to the officer or his or her attorney upon written
145 request.

146 (7) The entire record of the hearing shall remain
147 confidential and shall not be released to the public.

148 If a contractual disciplinary grievance procedure executed
149 by and between the agency and the bargaining unit of that
150 officer is in effect, the terms of that disciplinary
151 grievance procedure shall take precedence and govern the
152 conduct of the hearing.

153 4. In the event a law enforcement officer is entitled
154 to a hearing, a hearing shall be scheduled within a
155 reasonable period of time from the alleged incident, but in
156 no event more than one hundred twenty days following the
157 notification of discipline, unless waived in writing by the
158 charged officer.

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

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

172 7. Law enforcement officers shall not be subject to
173 double jeopardy in the administration of discipline through
174 separate punishments for the same alleged act by multiple
175 administrative bodies, except that multiple administrative
176 bodies may impose the same punishment concurrently for the
177 same act.

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

189 9. Law enforcement officers shall not be disciplined,
190 demoted, dismissed, transferred, or placed on a status
191 resulting in economic loss as a result of the assertion of
192 their constitutional rights in any judicial proceeding.

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

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

202 11. Upon a finding by a preponderance of the evidence
203 that a law enforcement agency, governmental body or a member
204 of same has violated this section, the law enforcement
205 agency or governmental body or the member shall be subject
206 to a civil penalty in an amount up to five thousand dollars
207 for each violation. If the court finds that there is a
208 violation of this section, the court may order the payment
209 by such body or member of all costs and reasonable attorney
210 fees to any party successfully establishing a violation.
211 The court shall determine the amount of the penalty by
212 taking into account the size of the jurisdiction, the
213 seriousness of the offense, and whether the law enforcement
214 agency, governmental body or member of same has violated
215 sections previously.

216 12. Upon a finding by a preponderance of the evidence
217 that a law enforcement agency, governmental body, or a
218 member of a same has purposely violated these sections, the
219 law enforcement agency, governmental body, or the member
220 shall be subject to a civil penalty in an amount up to ten
221 thousand dollars. If the court finds that there was a
222 purposeful violation of these sections, then the court shall
223 order the payment by such body or member of all costs and
224 reasonable attorney fees to any party successfully
225 establishing such a violation. The court shall determine
226 the amount of the penalty by taking into account the size of
227 the jurisdiction, the seriousness of the offense, and
228 whether the law enforcement agency, governmental body, or
229 member of same has violated these sections previously.

230 13. Upon a finding by a preponderance of the evidence
231 that a law enforcement agency, governmental body, or member

232 of same has violated any provision of these sections, a
233 court shall void any action taken in violation of these
234 sections. Suit for enforcement shall be brought within one
235 year from which the violation is ascertainable.

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