SENATE SUBSTITUTE

FOR

SENATE BILL NO. 26

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Assembly of the State of Missouri, as follows: Section A. Sections 67.030, 84.400, 557.045, and 574.085, 2 RSMo, are repealed and seven new sections enacted in lieu 3 thereof, to be known as sections 67.030, 84.400, 557.045, 574.045, 574.085, 590.192, and 590.502, to read as follows: 4 67.030. 1. The governing body of each political subdivision may revise, alter, increase or decrease the 2 items contained in the proposed budget, subject to such 3 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 the estimated revenues to be received plus any unencumbered 7 8 balance or less any deficit estimated for the beginning of 9 the budget year. Except as otherwise provided by law or charter, the governing body of each political subdivision 10 11 shall, before the beginning of the fiscal year, approve the budget and approve or adopt such orders, motions, 12 resolutions, or ordinances as may be required to authorize 13 14 the budgeted expenditures and produce the revenues estimated

2. Any taxpayer of a political subdivision may
initiate an action for injunctive relief, which the court
shall grant, if the governing body of such political
subdivision decreases the budget for its law enforcement
agency by an amount exceeding more than twelve percent

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in the budget.

- 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 office, shall accept any other place of public trust,
- 4 or emolument, or who shall knowingly receive any nomination
- 5 for an office elective by the people, and shall fail to
- 6 decline such nomination publicly within the five days
- 7 succeeding such nomination or shall become a candidate for
- 8 the nomination for any office at the hands of any political
- 9 party, shall be deemed to have thereby forfeited and vacated
- 10 office as such commissioner or member of such police force.
- 11 2. Notwithstanding any provisions of law to the
- 12 contrary, a member of the board or any member of such police
- 13 force may be appointed to serve on any state or federal
- 14 board, commission, or task force where no compensation for
- 15 such service is paid, except that such board member or
- 16 member of such police force may accept payment of a per diem
- 17 for attending meetings, or if no per diem is provided,
- 18 reimbursement from such board, commission, or task force for
- 19 reasonable and necessary expenses for attending such
- 20 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)
- 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
- 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.
- 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.
- 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
- 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
- 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
- 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
- 2 treasury the "988 Public Safety Fund", which shall consist
- 3 of money appropriated by the general assembly. The state
- 4 treasurer shall be custodian of the fund. In accordance
- 5 with sections 30.170 and 30.180, the state treasurer may
- 6 approve disbursements. The fund shall be a dedicated fund
- 7 and money in the fund shall be used solely by the department
- 8 of public safety for the purposes of providing services for
- 9 peace officers to assist in coping with stress and potential
- 10 psychological trauma resulting from a response to a critical
- 11 incident or emotionally difficult event. Such services may
- 12 include consultation, risk assessment, education,
- intervention, and other crisis intervention services

- provided by the department to peace officers affected by a
- 15 critical incident.
- 2. Notwithstanding the provisions of section 33.080 to
- 17 the contrary, any moneys remaining in the fund at the end of
- 18 the biennium shall not revert to the credit of the general
- 19 revenue fund.
- 20 3. The state treasurer shall invest moneys in the fund
- in the same manner as other funds are invested. Any
- 22 interest and moneys earned on such investments shall be
- 23 credited to the fund.
 - 590.502. 1. For purposes of this section, the
- 2 following shall mean:
- 3 (1) "Board", any individual or body authorized by an
- 4 agency or department to hear and make final decisions
- 5 regarding appeals of disciplinary actions issued by an
- 6 agency or department;
- 7 (2) "Color of law", any act by a law enforcement
- 8 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.

- "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
- 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 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 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
- of the person filing the complaint. All personal
- 45 identifying information shall be held in camera. Any
- 46 complaint supported by a sworn affidavit and found, in total
- 47 or in part, to contain knowingly false material information,
- 48 shall be presented to the appropriate prosecuting or circuit
- 49 attorney for a determination of prosecution;
- 50 (3) When a law enforcement officer is questioned or
- 51 interviewed regarding matters pertaining to his or her law
- 52 enforcement duties or actions taken within the scope of his
- or her employment, such questioning shall be conducted for a
- 54 reasonable length of time and only while the officer is on

- 55 duty unless reasonable circumstances exist that necessitate
 56 questioning the officer while he or she is off duty;
- 57 (4) Any interviews or questioning shall be conducted
 58 at a secure location at the agency that is conducting the
 59 investigation or at the place where the officer reports to
 60 work, unless the officer consents to another location;

- (5) Law enforcement officers shall be questioned by two investigators and shall be informed of the name, rank, and command of the officer conducting the investigation; except that, separate investigators shall be assigned to investigate alleged department policy violations and alleged criminal violations;
- (6) Interview sessions shall be for a reasonable period of time. There shall be times provided for the officer to allow for such personal necessities and rest periods as are reasonably necessary;
- (7) Law enforcement officers shall not be threatened, harassed, or promised rewards to induce them into answering any question; except that, law enforcement officers may be compelled by their employer to give protected statements to an investigator under the direct control of the employer, but such compelled statements shall not be used or derivatively used against the officer in any aspect of a criminal case brought against the officer;
- (8) Law enforcement officers under investigation are entitled to have an attorney or any duly authorized representative present during any questioning that the law enforcement officer reasonably believes may result in disciplinary action. The questioning shall be suspended for a period of up to twenty-four hours if the officer requests representation;
- 86 (9) Prior to the law enforcement officer being
 87 interviewed, the officer and his representative shall have

88 the opportunity to review any audio or video in the 89 possession of the agency conducting the investigation and 90 the investigators shall redact any personal identifying 91 information; 92 (10) The law enforcement agency conducting the investigation shall have ninety days from receipt of a 93 complaint to complete such investigation. The agency shall 94 95 determine the disposition of the complaint and render a disciplinary decision, if any, within ninety days. The 96 agency may, for good cause, petition the board overseeing 97 the administration of discipline for an extension of time to 98 complete the investigation. If the board finds the agency 99 100 has shown good cause for the granting of an extension of time to complete the investigation, the board shall grant an 101 102 extension of up to sixty days. The agency is limited to two 103 extensions per investigation, except if there is an ongoing 104 criminal investigation there shall be no limitation on the 105 amount of sixty day extensions. Absent consent from the 106 officer being investigated, the board overseeing the administration of discipline shall set the matter for 107 hearing and shall provide notice of the hearing to the law 108 109 enforcement officer under investigation. The officer shall have the right to attend the hearing and to present evidence 110 111 and arguments against extension; 112 Within five days of the conclusion of the 113 administrative investigation, the investigator shall inform the officer, in writing, of the investigative findings and 114 any recommendation for further action, including discipline; 115 (12) A complete record of the administrative 116 117 investigation shall be kept by the law enforcement agency conducting such investigation. Upon completion of the 118 investigation, a copy of the entire record, including, but 119

not limited to, audio, video, and transcribed statements,

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- shall be provided to the officer or the officer's
- representative within five business days of the officer's
- 123 written request. The agency may request a protective order
- 124 to redact all personal identifying witness information; and
- 125 (13) All records compiled as a result of any
- investigation subject to the provisions of this section
- 127 shall be held confidential and shall not be subject to
- disclosure under chapter 610, except by lawful subpoena or
- court order.
- 3. Law enforcement officers who are suspended without
- 131 pay, demoted, terminated, transferred, or placed on a status
- 132 resulting in economic loss shall be entitled to a full due
- 133 process hearing. However, nothing in this section shall
- 134 prohibit a law enforcement agency and the authorized
- 135 bargaining representative for a law enforcement officer
- employed by that agency from reaching written agreements
- 137 providing disciplinary procedures more favorable than those
- 138 provided for this section. The components of the hearing
- 139 shall include, at a minimum:
- (1) The right to be represented by an attorney or
- 141 other individual of their choice during the hearing;
- 142 (2) Seven days notice of the hearing date and time;
- 143 (3) An opportunity to access and review documents, at
- 144 least seven days in advance of the hearing, that are in the
- 145 employer's possession and that were used as a basis for the
- 146 disciplinary action;
- 147 (4) The right to refuse to testify at the hearing if
- 148 the officer is concurrently facing criminal charges in
- 149 connection with the same incident. A law enforcement
- 150 officer's decision not to testify shall not result in
- 151 additional internal charges or discipline;
- 152 (5) A complete record of the hearing shall be kept by
- 153 the agency for purposes of appeal. The record shall be

- provided to the officer or his or her attorney upon written
 request;
- 156 (6) The entire record of the hearing shall remain
- 157 confidential and shall not be subject to disclosure under
- 158 chapter 610, except by lawful subpoena or court order.
- 159 If a contractual disciplinary grievance procedure executed
- 160 by and between the agency and the bargaining unit of that
- 161 officer is in effect, the terms of that disciplinary
- 162 grievance procedure shall take precedence and govern the
- 163 conduct of the hearing.
- 164 4. In the event a law enforcement officer is entitled
- 165 to a hearing, a hearing shall be scheduled within a
- 166 reasonable period of time from the alleged incident, but in
- 167 no event more than one hundred twenty days following the
- 168 notification of discipline, unless waived in writing by the
- 169 charged officer.
- 5. Any decision, order, or action taken following the
- 171 hearing shall be in writing and shall be accompanied by
- 172 findings of fact. The findings shall consist of a concise
- 173 statement upon each issue in the case. A copy of the
- 174 decision or order accompanying findings and conclusions
- 175 along with the written action and right of appeal, if any,
- 176 shall be delivered or mailed promptly to the law enforcement
- officer or to the officer's attorney or representative of
- 178 record.
- 179 6. Law enforcement officers shall have the opportunity
- 180 to provide a written response to any adverse materials
- 181 placed in their personnel file, and such written response
- 182 shall be permanently attached to the adverse material.
- 7. Law enforcement officers shall have the right to
- 184 compensation for any economic loss incurred during an
- investigation if the officer is found to have committed no
- 186 misconduct.

- 187 8. Employers shall defend and indemnify law 188 enforcement officers from and against civil claims made 189 against them in their official and individual capacities if the alleged conduct arose in the course and scope of their 190 191 obligations and duties as law enforcement officers. 192 includes any actions taken off duty if such actions were taken under color of law. In the event the law enforcement 193 officer is convicted of, or pleads guilty to, criminal 194 195 charges arising out of the same conduct, the employer shall
- no longer be obligated to defend and indemnify the officer in connection with related civil claims.
- 9. Law enforcement officers shall not be disciplined,
 demoted, dismissed, transferred, or placed on a status
 resulting in economic loss as a result of the assertion of
 their constitutional rights in any judicial proceeding,
 unless the officer admits to wrong-doing in which case the
 provisions of this section shall not apply.
- 204 The remedies provided by this section against law 205 enforcement agencies or governmental bodies shall be in 206 addition to those provided by any other provision of law. 207 Any aggrieved law enforcement officer or authorized representative may seek judicial enforcement of the 208 requirements of this section. Suits to enforce this section 209 210 shall be brought in the circuit court for the county in 211 which the law enforcement agency or governmental body has 212 its principal place of business.
- 213 11. Upon a finding by a preponderance of the evidence
 214 that a law enforcement agency, governmental body, or member
 215 of same has violated any provision of this section, a court
 216 shall void any action taken in violation of this section.
 217 Suit for enforcement shall be brought within one year from
 218 which the violation is ascertainable.