

SECOND REGULAR SESSION

SENATE BILL NO. 1053

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Read 1st time February 26, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5614S.011

AN ACT

To repeal section 590.500, RSMo, and to enact in lieu thereof one new section relating to law enforcement officer disciplinary actions.

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

Section A. Section 590.500, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 590.500, to read as follows:

590.500. 1. **The provisions of this section shall be known and may
2 be cited as the "Law Enforcement Officers' Bill of Rights". For purposes
3 of this section, "law enforcement officer" means any sworn peace
4 officer, other than an elected sheriff or deputy, who possesses the duty
5 and power of arrest for violations of the criminal laws of this state or
6 for violations of ordinances of counties or municipalities of this
7 state. The provisions of this section shall not apply to an officer
8 serving in a probationary period or to the highest ranking officer of
9 any law enforcement agency. Any law enforcement agency that has
10 substantially similar or greater procedures shall be deemed to be in
11 compliance with this section.**

12 2. Any law enforcement officer[, other than an elected sheriff or deputy,
13 who possesses the duty and power of arrest for violations of the criminal laws of
14 this state or for violations of ordinances of counties or municipalities of this
15 state,] who is regularly employed for more than thirty hours per week[, and who
16 is employed by a law enforcement agency of this state or political subdivision of
17 this state which employs more than fifteen law enforcement officers[, shall be
18 given upon written request a meeting within forty-eight hours of a dismissal,
19 disciplinary demotion or suspension that results in a reduction or withholding of

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

20 salary or compensatory time. The meeting shall be held before any individual or
21 board as designated by the governing body. At any such meeting, the employing
22 law enforcement agency shall at a minimum provide a brief statement, which may
23 be oral, of the reason of the discharge, disciplinary demotion or suspension, and
24 permit the law enforcement officer the opportunity to respond. The results from
25 such meeting shall be reduced to writing. [Any law enforcement agency that has
26 substantially similar or greater procedures shall be deemed to be in compliance
27 with this section. This section shall not apply to an officer serving in a
28 probationary period or to the highest ranking officer of any law enforcement
29 agency.]

30 **3. Whenever a law enforcement officer is under investigation or**
31 **is subjected to questioning, for any reason, that could lead to**
32 **disciplinary action, demotion, dismissal, transfer, or placement on a**
33 **status that could lead to economic loss, the investigation or questioning**
34 **shall be conducted under the following conditions:**

35 **(1) The law enforcement officer who is the subject of the**
36 **investigation shall be informed, in writing, of the existence and nature**
37 **of the alleged violation and the individual who will be conducting the**
38 **investigation;**

39 **(2) Anyone filing a complaint against a law enforcement officer**
40 **shall have the complaint supported by a sworn affidavit. Any complaint**
41 **having been supported by a sworn affidavit and having been found to**
42 **contain knowingly false material information, in total or in part, shall**
43 **be presented to the appropriate prosecuting attorney or circuit**
44 **attorney for a determination of prosecution;**

45 **(3) When a law enforcement officer is questioned or interviewed**
46 **regarding matters pertaining to his or her law enforcement duties or**
47 **actions taken within the scope of his or her employment, such**
48 **questioning shall be conducted for a reasonable length of time, with**
49 **times provided for the officer to allow for such personal necessities and**
50 **rest periods as reasonably necessary, and only while the officer is on**
51 **duty unless exigent circumstances exist that necessitate questioning**
52 **the officer while he or she is off duty;**

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

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

62 (6) Law enforcement officers shall not be threatened, harassed,
63 or promised rewards to induce them into answering any question;
64 except that, law enforcement officers may be compelled by their
65 employer to give protected statements to an investigator under the
66 direct control of the employer, but such compelled statements shall not
67 be used or derivatively used against the officer in any aspect of a
68 criminal case brought against the officer;

69 (7) Law enforcement officers under investigation are entitled to
70 have an attorney or any other individual of their choice present during
71 any questioning that the law enforcement officer reasonably believes
72 may result in disciplinary action. The questioning shall be suspended
73 for a period of up to forty-eight hours if the officer requests
74 representation;

75 (8) A complete record of the administrative investigation shall
76 be kept by the law enforcement agency conducting such
77 investigation. Upon notification that substantial evidence exists for
78 seeking an administrative sanction of the law enforcement officer, a
79 copy of the entire record shall be provided to the officer or the officer's
80 representative within forty-eight hours of the officer's written request;

81 (9) The law enforcement agency conducting the investigation
82 shall have ninety days from receipt of a complaint to complete such
83 investigation;

84 (10) At the conclusion of the administrative investigation, the
85 investigator shall inform the officer, in writing, of the investigative
86 findings and any recommendation for further action; and

87 (11) All records compiled as a result of any investigation subject
88 to the provisions of this section shall be held confidential and not be
89 released to the public at any time.

90 4. Law enforcement officers who are suspended without pay,
91 demoted, terminated, transferred, or placed on a status resulting in
92 economic loss shall be entitled to a full due process hearing. The
93 components of the hearing shall include, at a minimum:

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

96 **(2) Fourteen days' advance notification of the hearing date and**
97 **time;**

98 **(3) An opportunity to access and review documents, at least ten**
99 **days in advance of the hearing, that are in the employer's possession**
100 **and that were used as a basis for the disciplinary action or gathered in**
101 **the course of its investigation including, but not limited to, access to**
102 **audio or transcribed statements;**

103 **(4) An opportunity to present witnesses and evidence and a right**
104 **to cross-examine any adverse witness; and**

105 **(5) A complete record of the hearing shall be kept by the agency**
106 **for purposes of appeal. The record shall be provided to the officer or**
107 **his or her attorney upon written request.**

108 **If a contractual disciplinary grievance procedure executed by and**
109 **between the agency and the bargaining unit of that officer is in effect,**
110 **the terms of that disciplinary grievance procedure shall take**
111 **precedence and govern the conduct of the hearing.**

112 **5. In the event an officer is entitled to a hearing, a hearing shall**
113 **be scheduled within a reasonable period of time from the alleged**
114 **incident, but in no event more than one hundred twenty days following**
115 **the notification of discipline, unless waived in writing by the charged**
116 **officer.**

117 **6. Any decision, order, or action taken following the hearing**
118 **shall be in writing and shall be accompanied by findings of fact. The**
119 **findings shall consist of a concise statement upon each issue in the**
120 **case. A copy of the decision or order accompanying findings and**
121 **conclusions along with the written action and right of appeal, if any,**
122 **shall be delivered or mailed promptly to the law enforcement officer or**
123 **to the officer's attorney or representative of record.**

124 **7. Law enforcement officers shall have the opportunity to**
125 **provide a written response to any adverse materials placed in their**
126 **personnel file, and such written response shall be permanently**
127 **attached to the adverse material.**

128 **8. Law enforcement officers shall not be subject to double**
129 **jeopardy in the administration of discipline through separate**
130 **punishments for the same alleged act by multiple administrative**

131 **bodies, except that multiple administrative bodies may impose the same**
132 **punishment concurrently for the same act.**

133 **9. Law enforcement officers shall not be disciplined, demoted,**
134 **dismissed, transferred, or placed on a status resulting in economic loss**
135 **as a result of the assertion of their constitutional rights in any judicial**
136 **proceeding.**

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Unofficial

Bill

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