

SECOND REGULAR SESSION

HOUSE BILL NO. 1480

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RUPP (Sponsor), SMITH (14), KELLY (36), LEMBKE, BRUNS, DEMPSEY, JOHNSON (90), KELLY (144), THRELKELD, NIEVES, RECTOR, HOBBS, DUSENBERG, PORTWOOD, PRATT, STEVENSON, DIXON, BEAN, JETTON, STEFANICK, SELBY, HAMPTON, WAGNER, SEIGFREID, JOLLY, HILGEMANN, GEORGE, MUCKLER, VOGT, SPRENG, CARNAHAN, DAVIS (122), LOWE, CAMPBELL, BARNITZ, GREEN, ZWEIFEL, DARROUGH, CORCORAN, SKAGGS, LIESE, WALSH, BISHOP, HENKE, SWINGER, McKENNA, GRAHAM, MEINERS, KUESSNER, ABEL, RANSDALL, BRINGER, SAGER AND SCHNEIDER (Co-sponsors).

Read 1st time February 12, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3616L.04I

AN ACT

To repeal sections 43.530 and 43.532, RSMo, and to enact in lieu thereof eighteen new sections relating to law enforcement officers, with a penalty provision.

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

Section A. Sections 43.530 and 43.532, RSMo, are repealed and eighteen new sections
2 enacted in lieu thereof, to be known as sections 43.530, 43.532, 86.949, 86.952, 86.955, 86.958,
3 86.961, 86.964, 86.967, 86.970, 86.973, 86.976, 86.980, 86.985, 86.988, 86.991, 86.994, and
4 488.028, to read as follows:

43.530. 1. For each request requiring the payment of a fee received by the central
2 repository, the requesting entity shall pay a fee of not more than [five] **fifteen** dollars per request
3 for criminal history record information not based on a fingerprint search and pay a fee of not
4 more than [fourteen] **twenty-five** dollars per request for criminal history record information
5 based on a fingerprint search. **The central repository shall deposit five dollars per request**
6 **for criminal history record information not based on a fingerprint search and pay a fee of**
7 **not more than five dollars per request for criminal history record information based on a**
8 **fingerprint search to the police chiefs' and officers' annuity and healthcare fund created**
9 **under section 86.952, RSMo.** Each such request shall be limited to check and search on one
10 individual. Each request shall be accompanied by a check, warrant, voucher, money order, or

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

11 electronic payment payable to the state of Missouri-criminal record system or payment shall be
12 made in a manner approved by the highway patrol. The highway patrol may establish procedures
13 for receiving requests for criminal history record information for classification and search for
14 fingerprints, from courts and other entities, and for the payment of such requests. There is
15 hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal
16 Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary,
17 if the moneys collected and deposited into this fund are not totally expended annually for the
18 purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall
19 remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

20 2. For purposes of obtaining criminal records prior to issuance of a school bus operator's
21 permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the
22 applicant for such permit shall submit two sets of fingerprints to the director of revenue when
23 applying for the permit. The fingerprints shall be collected in a manner approved by the
24 superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate
25 fee described in this section and pay the appropriate fee determined by the Federal Bureau of
26 Investigation for the federal criminal history record when he or she applies for the school bus
27 permit. Collections for records described in this subsection shall be deposited in the criminal
28 record system fund.

43.532. 1. Criminal history and identification records obtained from the central
2 repository shall **not be altered in any way and shall** be used solely for the purpose for which
3 they were obtained. The subject of the record shall be afforded the opportunity to challenge the
4 correctness, accuracy, or completeness of a criminal history record.

5 2. The central records repository shall have authority to engage in the practice of
6 collecting, assembling, or disseminating criminal history record information for the purpose of
7 retaining manually or electronically stored criminal history information. Any person obtaining
8 criminal history record information from the central repository under false pretense, or who
9 advertises or engages in the practice of collecting, assembling, and disseminating as a business
10 enterprise, other than for the purpose of furnishing criminal history information to the authorized
11 requester for its intended purpose, is guilty of a class A misdemeanor.

**86.949. As used in sections 86.949 to 86.994, unless the context clearly indicates that
2 a different meaning is intended, the following terms shall mean:**

3 (1) "Annuity", annual payments made in equal monthly installments to a member
4 from funds provided for, in, or authorized by sections 86.949 to 86.994;

5 (2) "Board of directors" or "board", the board of directors established in sections
6 86.949 to 86.994;

7 (3) "Creditable membership service", service as a police chief or a police officer of

8 an eligible municipality after becoming a member that is creditable in determining the
9 amount of the member's benefits under this system;

10 (4) "Effective date of the establishment of the system", the date the governor
11 declares the system established pursuant to section 86.958;

12 (5) "Employee", any full-time police chief or police officer of a municipal police
13 department in this state, including the Kansas City police department, the St. Louis police
14 department, and the St. Louis County police department;

15 (6) "Health care and annuity system" or "system", the police chief's and officer's
16 healthcare and annuity system authorized by sections 86.949 to 86.994;

17 (7) "Member and eligible members", any active police chief or police officer of the
18 system, any former police chief or police officer receiving retirement benefits from the
19 system, any former police chief or police officer that is vested in the system but is not
20 receiving benefits, any police chief or police officer on disability leave, and for the purposes
21 of section 86.961, any police chief or police officer who is employed full time by an eligible
22 municipality;

23 (8) "Municipality or eligible municipality", each municipal police department in
24 this state, including the Kansas City police department, the St. Louis police department,
25 and the St. Louis County police department;

26 (9) "Prior service", the total years of full-time licensed and commissioned law
27 enforcement service.

86.952. There is hereby established a "Police Chiefs' and Officers' Annuity and
2 Healthcare Fund" which shall be under the management of a board of directors described
3 in section 86.958. The board of directors shall be responsible for the administration and
4 the investment of the funds of such retirement fund. Neither the general assembly nor the
5 governing body of a county shall appropriate funds for deposit in the fund. If insufficient
6 funds are generated to provide the benefits payable pursuant to the provisions of sections
7 86.949 to 86.994, the board shall proportion the benefits according to the funds available.

86.955. 1. Beginning August 28, 2004, the following surcharge for police chiefs and
2 police officers shall be collected and paid as follows:

3 (1) There shall be assessed and collected a surcharge of four dollars in all criminal
4 cases filed in the courts of this state including violation of any county or municipal
5 ordinance, or any violation of criminal or traffic laws of this state, including infractions,
6 but no such surcharge shall be assessed when the costs are waived or are to be paid by the
7 state, county, or municipality or when a criminal proceeding or the defendant has been
8 dismissed by the court or against any person who has pled guilty and paid their fine
9 pursuant to subsection 4 of section 476.385, RSMo. For purposes of this section, the term

10 "county ordinance" shall include any ordinance of the city of St. Louis;

11 (2) The clerk responsible for collecting court costs in municipal criminal cases shall
12 collect and disburse such amounts as provided by sections 488.010 to 488.026, RSMo. Such
13 funds shall be payable to the police chiefs' and officers' annuity and healthcare fund
14 created under section 86.952, and shall be used only for the purposes provided for in
15 sections 86.949 to 86.994 and for no other purpose.

16 2. The board may accept gifts, donations, grants, and bequests from public or
17 private sources to the police chiefs' and officers' annuity and healthcare fund.

86.958. 1. The general administration and the responsibility for the proper
2 operation of the fund and the investment of the fund are vested in a board of directors of
3 five persons. Three directors shall be either elected or appointed chiefs of police who are
4 members of the Missouri police chiefs' association and two of the directors shall be
5 appointed full-time municipal police officers who are members of an organization which
6 represents a simple majority of the full-time municipal law enforcement officers in the state
7 of Missouri. The three police chief directors shall be elected by a secret ballot vote of the
8 police chiefs of the municipalities. The two police officer directors shall be elected by a
9 secret ballot vote of police officers under the rank of chief. Directors shall be chosen for
10 terms of four years from the first day of January; except that the members of the first
11 board shall be appointed by the governor by and with the consent of the senate. Upon
12 completion of the appointment of the board, the governor shall declare the system
13 established. It shall be the responsibility of the initial board to establish procedures for the
14 conduct of future elections of trustees and such procedures must be approved by a
15 majority vote by secret ballot of the police chiefs and officers of all the eligible
16 municipalities. The board shall have all powers and duties that are necessary and proper
17 to enable it, its officers, employees, and agents to fully and effectively carry out all the
18 purposes of sections 86.949 to 86.994.

19 2. The board of directors shall elect one of their members as chair and one of their
20 members as vice chair and may employ an administrator who shall serve as secretary to
21 the board. The board shall hold regular meetings at least once each quarter. Other
22 meetings may be called as necessary by the chair. Notice of such meetings shall be given
23 in accordance with chapter 610, RSMo.

24 3. The board of directors shall retain an actuary as technical advisor to the board
25 of directors and an investment counsel to be an investment advisor to the board, and the
26 board of directors shall arrange for annual audits by a certified public accountant.

27 4. The board of directors shall serve without compensation for their services as
28 such; except that each director shall be paid for any necessary expenses incurred in the

29 performance of duties authorized by the board.

30 **5. The board of directors shall be allowed administrative costs for the operation of**
31 **the system.**

32 **6. The board shall keep a record of its proceedings which shall be open to public**
33 **inspection and shall annually prepare a report showing the financial condition of the**
34 **system. The report shall contain, but not be limited to, an auditor's opinion, financial**
35 **statements prepared in accordance with generally accepted accounting principles, an**
36 **actuary's certification along with actuarial assumptions, and financial solvency tests.**

37 **7. Notwithstanding any other provisions of law to the contrary, after the expiration**
38 **of the terms of the board of trustees or directors holding office on January 1, 2005, the**
39 **directors elected as successors to those directors holding office on January 1, 2005, shall**
40 **be elected to staggered terms of four years each in the following manner: two directors**
41 **shall be elected for a two-year term with their successors being elected to four-year terms**
42 **and three directors shall be elected for a four-year term. The procedures for such elections**
43 **and the designation of which terms will initially be two-year terms and which will be four-**
44 **year terms shall be established solely by the board of directors of the police chiefs' and**
45 **officers' retirement system. Three directors shall be elected by a secret ballot vote of the**
46 **active and eligible police chiefs and two directors shall be elected by a secret vote of the**
47 **active and eligible police officers with a rank less than chief. Beginning with the election**
48 **of directors under the provisions of this subsection, at least one but not more than two of**
49 **the directors may be a retired member of the police chiefs' and officers' retirement system;**
50 **except that any vacancies occurring on the board after all members have been duly elected**
51 **shall be filled by the board and such appointed members shall serve until the next**
52 **regularly scheduled election for such filled position.**

53 **8. Notwithstanding any provision of law to the contrary, any board member who**
54 **was elected to the board as an active member representative and becomes a retired**
55 **member of the system after such election shall, with the approval of the board, continue**
56 **to serve on the board as an active member representative until the next regularly scheduled**
57 **election for that position.**

86.961. On and after the effective date of the establishment of the system, as an
2 **incident to his or her employment or continued employment, each person employed full**
3 **time as an elected marshal or chief of police, appointed chief of police, or police officer of**
4 **a municipality shall become a member of the system upon their enrollment as a member**
5 **of the system and their first monthly contribution payment of twenty dollars. Such**
6 **membership shall continue as long as the person continues to be an employee in a**
7 **municipal police department, continues to make their monthly contribution, or is eligible**

8 to receive benefits under the provisions of sections 86.949 to 86.994.

2 **86.964.** Any member who has ten years or more of creditable membership service
3 and a minimum of ten years of prior service as police chief or police officer of an eligible
4 municipality may receive a normal annuity or who has five years or more of creditable
5 membership service and a minimum of fifteen years of prior service as police chief or
6 police officer of an eligible municipality may receive a normal annuity. If a member seeks
7 to retire prior to the minimum five years of creditable membership service that has fifteen
8 years of creditable service and is at least fifty-five years of age, but continues to make their
9 contribution payments, that member shall be eligible for a normal annuity. If a member
10 which is receiving benefits passes away then the payments shall continue for the remainder
of the five-year benefit period to the member's beneficiary.

2 **86.967.** The normal annuity of an activated member shall be determined by the
3 board who will establish the monthly amount to be paid to each retired member. The
4 monthly payments are at the discretion of the board on the advice of the actuary. The
5 anticipated sum of all such payments during the year, plus the annual normal cost plus the
6 annual amount to amortize the unfunded actuarial accrued liability in no more than thirty
7 years, shall not exceed the anticipated moneys credited to the system pursuant to section
8 **86.955.** The money amount granted shall be continued to any survivor determined and
9 officially documented by each member upon enrollment and may be revised by official
10 notification. In no case shall any member receive benefits of this program prior to the age
of fifty-five.

2 **86.970.** For the purpose of calculating benefits of a member, creditable membership
3 service years of service as a member of the program and twelfths of a year are to be used.

2 **86.973.** Any eligible police chief or officer who becomes a member of the system on
3 the effective date of the establishment of the system shall be given credit for eligible prior
4 service up to fifteen years. All such prior service must be established to the satisfaction of
5 the board.

2 **86.976.** Any member may retire at any time after the end of the month during
3 which the member becomes eligible to retire under the provisions of section 86.964 and
4 upon the member's submission of a written application to the board setting forth at what
5 time, not less than thirty days nor more than ninety days subsequent to the execution and
6 filing of the application, the member desires to be retired. The payment of the annuity,
7 subject to the provisions of section 86.994, shall begin as of the first day of the calendar
8 month coincident with or next following the date specified by the member and shall
conclude upon the passage of five complete years.

86.980. A death benefit of ten thousand dollars may be paid to the designated

2 beneficiary of every active member upon his or her death or to his or her estate if there is
3 no designated beneficiary, if the member is killed in the performance of his or her duty.

2 86.985. 1. A former member who has forfeited creditable service may have the
3 creditable service restored by again becoming an employee and completing creditable
4 membership service as set forth in section 86.961.

4 2. Absences for sickness or injury of less than twelve months shall be counted as
5 membership service.

2 86.988. 1. Any annuity, benefits, funds, property, or rights created by, or accruing
3 to, any person under the provisions of sections 86.949 to 86.994 are hereby made and
4 declared exempt from any tax of the state of Missouri or any political subdivision or taxing
5 body thereof, and shall not be subject to execution, garnishment, attachment, writ of
6 sequestration, or any other process or claim whatsoever, and shall be unassignable.

6 2. No alteration, amendment, or repeal of the provisions of sections 86.949 to 86.994
7 shall affect the existing rights of members and beneficiaries, but shall be effective only as
8 to rights which would otherwise accrue hereunder as a result of services rendered by an
9 employee after such alteration, amendment, or repeal.

2 86.991. The benefits provided for by sections 86.949 to 86.994 shall in no way affect
3 any person's eligibility for retirement benefits under the local government employees'
4 retirement system under sections 70.600 to 70.755, RSMo, or any other local government
5 retirement or pension system, or in any way have the effect of reducing retirement benefits
6 in such systems, or reducing compensation or mileage reimbursement of employees.

2 86.994. Annuity payments to retired employees under the provisions of sections
3 86.949 to 86.994 shall be available beginning January first next succeeding the expiration
4 of five calendar years from the effective date of the establishment of the system to eligible
5 retired employees.

2 488.028. 1. As provided by section 86.955, RSMo, there shall be assessed and
3 collected a surcharge of four dollars in all municipal criminal cases filed in the courts of
4 this state, including violations of any county ordinance or any violation of criminal or
5 traffic laws of this state, including infractions, but no such surcharge shall be assessed
6 when the costs are waived or are to be paid by the state, county, or municipality or when
7 a criminal proceeding or the defendant has been dismissed by the court or against any
8 person who has pled guilty and paid their fine pursuant to subsection 4 of section 476.385,
9 RSMo. For purposes of this section, the term "county ordinance" shall include any
10 ordinance of the city of St. Louis. The clerk responsible for collecting court costs in
11 criminal cases shall collect and disburse such amounts as provided by sections 488.010 to
488.020. Such funds shall be payable to the police chiefs' and officers' annuity and

12 **healthcare fund created under section 86.952, RSMo.**