

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 41
94TH GENERAL ASSEMBLY

0487S.02T

2007

AN ACT

To repeal sections 43.030, 43.050, 43.090, 43.220, 43.530, 84.120, 84.170, 86.365, 195.503, 590.040, and 650.120, RSMo, and to enact in lieu thereof twelve new sections relating to law enforcement, with an emergency clause for certain sections.

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

Section A. Sections 43.030, 43.050, 43.090, 43.220, 43.530, 84.120, 84.170, 86.365, 195.503, 590.040, and 650.120, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 43.030, 43.050, 43.090, 43.220, 43.530, 43.546, 43.547, 84.120, 84.170, 195.503, 590.040, and 650.120, to read as follows:

43.030. 1. The superintendent of the Missouri state highway patrol shall be appointed **from the uniformed membership of the patrol** by the governor by and with the advice and consent of the senate. The superintendent shall hold office at the pleasure of the governor. The superintendent shall be a citizen of the United States and a resident taxpaying citizen of this state for a period of three years previous to being appointed as superintendent and shall be at least thirty years of age. The superintendent shall maintain an office [and reside] in Jefferson City.

2. The superintendent of the Missouri state highway patrol shall:

(1) Have command of the patrol and perform all duties imposed on the superintendent and exercise all of the powers and authority conferred upon the superintendent by the provisions of this chapter and the requirements of chapter 650, RSMo;

(2) Within available appropriations, establish an equitable pay plan for the members of the highway patrol and radio personnel taking into consideration ranks and length of service.

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

43.050. 1. The superintendent may appoint not more than twenty-five captains and one director of radio, each of whom shall have the same qualifications as the superintendent, nor more than sixty lieutenants, and such additional force of sergeants, corporals and patrolmen, so that the total number of members of the patrol shall not exceed nine hundred sixty-five officers and patrolmen and such numbers of radio personnel as the superintendent deems necessary.

2. In case of a national emergency the superintendent may name additional patrolmen and radio personnel in a number sufficient to replace, temporarily, patrolmen and radio personnel called into military services.

3. **The superintendent may enter into an agreement with the Missouri gaming commission to enforce any law, rule, or regulation, conduct background investigations under the laws of this state, and enforce the regulations of licensed gaming activities governed by chapter 313, RSMo. A notice of either party to terminate or modify the provisions of such agreement shall be in writing and executed not less than one year from the effective date of the termination or modification, unless mutually agreed upon by the superintendent and the Missouri gaming commission.** Members of the patrol hired in conjunction with any agreement with the Missouri gaming commission shall not be subject to the personnel cap referenced in subsection 1 of this section. If such agreement is subsequently terminated or modified to reduce the number of personnel used in such agreement, those members affected by such termination or modification shall not be subject to the personnel cap referenced in subsection 1 of this section for a period of [three] **five** years.

4. [Members] **Member positions** of the patrol [hired] **originally acquired** in conjunction with the community-oriented policing services federal grant or members assigned to fulfill the duties established in sections 43.350 to 43.380 shall not be subject to the personnel cap referenced in subsection 1 of this section.

5. Applicants shall not be discriminated against because of race, creed, color, national origin or sex.

43.090. [The board of public buildings shall provide suitable offices for general headquarters at Jefferson City, Missouri, which shall at all times be open and in charge of the superintendent, or some member of the patrol designated by him.] The superintendent[, with the consent and approval of the commission,] shall employ such clerical force, radio operators, and other subordinates, and shall provide such office equipment, stationery, postage supplies, [telegraph] **communication** and telephone facilities as he **or she** shall deem necessary **for general headquarters located at Jefferson City, Missouri**, and shall also provide offices, equipment, stationery, postage, clerical force, **communication, telephone**, and other subordinates for the headquarters of each [district] **troop or division** of the patrol. The state highway patrol [radio network] **communications division** shall be under the control of and at

11 the service of the superintendent for such regular and emergency [bulletins] **communications**,
12 and service as the superintendent may require [from time to time].

43.220. Neither the governor[, the commission,] nor the superintendent shall have any
2 power, right or authority to command, order or direct any member of the patrol to perform any
3 duty or service not authorized [by this chapter] **under state statute**.

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] **nine** dollars per request
3 for criminal history record information not based on a fingerprint search [when the requesting
4 entity is required to obtain such information by any provision of state or federal law and pay a
5 fee of not more than fourteen dollars per request for criminal history record information based
6 on a fingerprint search when the requesting entity is required to obtain such information by any
7 provision of state or federal law; provided that, when the requesting entity is not required to
8 obtain such information by law, the requesting entity shall pay a fee of not more than ten dollars
9 per request for criminal history record information not based on a fingerprint search and] . **In**
10 **each year beginning on or after January 1, 2010, the superintendent may increase the fee**
11 **paid by requesting entities by an amount not to exceed one dollar per year, however, under**
12 **no circumstance shall the fee paid by requesting entities exceed fifteen dollars per request.**

2. For each request requiring the payment of a fee received by the central
14 **repository, the requesting entity shall** pay a fee of not more than twenty dollars per request for
15 criminal history record information based on a fingerprint search[. Each such] , **unless the**
16 **request is required under the provisions of subdivision (6) of section 210.481, RSMo,**
17 **section 210.487, RSMo, or section 571.101, RSMo, in which case, the fee shall be fourteen**
18 **dollars.**

3. A request **made under subsections 1 and 2 of this section** shall be limited to check
20 and search on one individual. Each request shall be accompanied by a check, warrant, voucher,
21 money order, or electronic payment payable to the state of Missouri-criminal record system or
22 payment shall be made in a manner approved by the highway patrol. The highway patrol may
23 establish procedures for receiving requests for criminal history record information for
24 classification and search for fingerprints, from courts and other entities, and for the payment of
25 such requests. There is hereby established by the treasurer of the state of Missouri a fund to be
26 entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section
27 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not
28 totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended
29 moneys in such fund shall remain in the fund and the balance shall be kept in the fund to
30 accumulate from year to year.

43.546. 1. Any state agency, board, or commission may require the fingerprinting of applicants in specified occupations or appointments within the state agency, board, or commission for the purpose of positive identification and receiving criminal history record information when determining an applicant's ability or fitness to serve in such occupation or appointment.

2. In order to facilitate the criminal background check under subsection 1 of this section on any person employed or appointed by a state agency, board, or commission, and in accordance with section 43.543, the applicant or employee shall submit a set of fingerprints collected under the standards determined by the Missouri highway patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded to the highway patrol to be used to search the state criminal history repository and the fingerprints shall be forwarded to the Federal Bureau of Investigations for a national criminal background check. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the request.

43.547. 1. The Missouri state highway patrol, at the direction of the governor, shall conduct name or fingerprint background investigations of gubernatorial appointees. The governor's directive shall state whether the background investigation shall be a name background investigation or a fingerprint background investigation. In addition, the patrol may, at the governor's direction, conduct other appropriate investigations to determine if an applicant or appointee is in compliance with section 105.262, RSMo, and other necessary inquiries to determine the person's suitability for positions of public trust.

2. In order to facilitate the fingerprint background investigation under subsection 1 of this section, and in accordance with the provisions of section 43.543, the appointee shall submit a set of fingerprints collected under the standards determined by the Missouri highway patrol. The fingerprints and accompanying fees, unless otherwise arranged, shall be forwarded to the highway patrol to be used to search the state criminal history repository and the fingerprints shall be forwarded to the Federal Bureau of Investigations for a national criminal background check. Any background investigation conducted at the direction of the governor under subsection 1 of this section may include criminal history record information and other source information obtained by the highway patrol.

84.120. 1. No person shall be appointed or employed as policeman, turnkey, or officer of police who shall have been convicted of, or against whom any indictment may be pending, for any offense, the punishment of which may be confinement in the penitentiary; nor shall any person be so appointed who is not of good character, or who is not a citizen of the United States, or who is not able to read and write the English language, or who does not possess ordinary

6 physical strength and courage. The patrolmen and turnkeys hereafter appointed shall serve while
7 they shall faithfully perform their duties and possess mental and physical ability and be subject
8 to removal only for cause after a hearing by the boards, who are hereby invested with the
9 [exclusive] jurisdiction in the premises.

10 **2. The board shall have the sole discretion whether to delegate portions of its**
11 **jurisdiction to hearing officers. The board shall retain final and ultimate authority over**
12 **such matters and over the person to whom the delegation may be made. In any hearing**
13 **before the board under this section, the member involved may make application to the**
14 **board to waive a hearing before the board and request that a hearing be held before a**
15 **hearing officer.**

16 **3. Nothing in this section or chapter shall be construed to prohibit the board of**
17 **police commissioners from delegating any task related to disciplinary matters, disciplinary**
18 **hearings, or any other hearing or proceeding which could otherwise be heard by the board**
19 **or concerning any determination related to whether an officer is able to perform the**
20 **necessary functions of the position. Tasks related to the preceding matter may be**
21 **delegated by the board to a hearing officer under the provisions of subsection 4 of this**
22 **section.**

23 **4. (1) The hearing officer to whom a delegation has been made by the board may,**
24 **at the sole discretion of the board, perform certain functions, including but not limited to**
25 **the following:**

26 **(a) Presiding over a disciplinary matter from its inception through to the final**
27 **hearing;**

28 **(b) Preparing a report to the board of police commissioners; and**

29 **(c) Making recommendations to the board of police commissioners as to the**
30 **allegations and the appropriateness of the recommended discipline.**

31 **(2) The board shall promulgate rules, which may be changed from time to time as**
32 **determined by the board, and shall make such rules known to the hearing officer or others.**

33 **(3) The board shall at all times retain the authority to render the final decision after**
34 **a review of the relevant documents, evidence, transcripts, videotaped testimony, or report**
35 **prepared by the hearing officer.**

36 **5. Hearing officers shall be selected in the following manner:**

37 **(1) The board shall establish a panel of not less than five persons, all who are to be**
38 **licensed attorneys in good standing with the Missouri Bar. The composition of the panel**
39 **may change from time to time at the board's discretion;**

40 **(2) From the panel, the relevant member or officer and a police department**
41 **representative shall alternatively and independently strike names from the list with the last**

42 **remaining name being the designated hearing officer. The board shall establish a process**
43 **to be utilized for each hearing which will determine which party makes the first strike and**
44 **the process may change from time to time;**

45 **(3) After the hearing officer is chosen and presides over a matter, such hearing**
46 **officer shall become ineligible until all hearing officers listed have been utilized, at which**
47 **time the list shall renew, subject to officers' availability.**

84.170. 1. When any vacancy shall take place in any grade of officers, it shall be filled
2 from the next lowest grade; provided, however, that probationary patrolmen shall serve at least
3 six months as such before being promoted to the rank of patrolman; patrolmen shall serve at least
4 three years as such before being promoted to the rank of sergeant; sergeants shall serve at least
5 one year as such before being promoted to the rank of lieutenant; lieutenants shall serve at least
6 one year as such before being promoted to the rank of captain; and in no case shall the chief or
7 assistant chief be selected from men not members of the force or below the grade of captain.
8 Patrolmen shall serve at least three years as such before promotion to the rank of detective; the
9 inspector shall be taken from men in the rank not below the grade of lieutenant.

10 2. The boards of police are hereby authorized to make all such rules and regulations, not
11 inconsistent with sections 84.010 to 84.340, or other laws of the state, as they may judge
12 necessary, for the appointment, employment, uniforming, discipline, trial and government of the
13 police. The said boards shall also have power to require of any officer or policeman bond with
14 sureties when they may consider it demanded by the public interests. All lawful rules and
15 regulations of the board shall be obeyed by the police force on pain of dismissal or such lighter
16 punishment, either by suspension, fine, reduction or forfeiture of pay, or otherwise as the boards
17 may adjudge.

18 **3. The authority possessed by the board of police includes, but is not limited to, the**
19 **authority to delegate portions of its powers authorized in section 84.120, including**
20 **presiding over a disciplinary hearing, to a hearing officer as determined by the board.**

195.503. As used in sections 195.501 to 195.511, the following terms mean:

- 2 (1) "Department", the department of public safety;
3 (2) "Director", the director of the department of public safety;
4 (3) "Drug laws", all laws regulating the production, sale, prescribing, manufacturing,
5 administering, transporting, having in possession, dispensing, distributing, or use of controlled
6 substances, as defined in section 195.010;
7 (4) "Multijurisdictional enforcement group", or "MEG", a combination of political
8 subdivisions established under sections 573.500 and 573.503, RSMo, section 178.653, RSMo,
9 and section 311.329, RSMo, to [enforce the drug laws of this state] **investigate and enforce**
10 **computer, Internet-based, narcotics, and drug violations.**

590.040. 1. The POST commission shall set the minimum number of hours of basic training for licensure as a peace officer no lower than four hundred seventy and no higher than six hundred, with the following exceptions:

(1) Up to one thousand hours may be mandated for any class of license required for commission by a state law enforcement agency;

(2) As few as one hundred twenty hours may be mandated for any class of license restricted to commission as a reserve peace officer with police powers limited to the commissioning political subdivision;

(3) Persons validly licensed on August 28, 2001, may retain licensure without additional basic training;

(4) Persons licensed and commissioned within a county of the third classification before July 1, 2002, may retain licensure with one hundred twenty hours of basic training if the commissioning political subdivision has adopted an order or ordinance to that effect;

(5) Persons [commissioned and] serving as a reserve [peace] officer **on August 27, 2001,** within a county of the first classification **or a county with a charter form of government and with more than one million inhabitants** on August [28] **27,** 2001, having previously completed a minimum of one hundred sixty hours of training, shall be granted a license necessary to function as a reserve peace officer **only within such county. For the purposes of this subdivision, the term "reserve officer" shall mean any person who serves in a less than full-time law enforcement capacity, with or without pay and who, without certification, has no power of arrest and who, without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty;** and

(6) The POST commission shall provide for the recognition of basic training received at law enforcement training centers of other states, the military, the federal government and territories of the United States regardless of the number of hours included in such training and shall have authority to require supplemental training as a condition of eligibility for licensure.

2. The director shall have the authority to limit any exception provided in subsection 1 of this section to persons remaining in the same commission or transferring to a commission in a similar jurisdiction.

3. The basic training of every peace officer, except agents of the conservation commission, shall include at least thirty hours of training in the investigation and management of cases involving domestic and family violence. Such training shall include instruction, specific to domestic and family violence cases, regarding: report writing; physical abuse, sexual abuse, child fatalities and child neglect; interviewing children and alleged perpetrators; the nature, extent and causes of domestic and family violence; the safety of victims, other family and

37 household members and investigating officers; legal rights and remedies available to victims,
38 including rights to compensation and the enforcement of civil and criminal remedies; services
39 available to victims and their children; the effects of cultural, racial and gender bias in law
40 enforcement; and state statutes. Said curriculum shall be developed and presented in
41 consultation with the department of health and senior services, the division of family services,
42 public and private providers of programs for victims of domestic and family violence, persons
43 who have demonstrated expertise in training and education concerning domestic and family
44 violence, and the Missouri coalition against domestic violence.

650.120. 1. Subject to appropriation, the department of public safety shall create a
2 program to distribute grants to multijurisdictional Internet cyber crime law enforcement task
3 forces, **multijurisdictional enforcement groups, as defined in section 195.503, RSMo, that**
4 **are investigating Internet sex crimes against children,** and other law enforcement agencies.
5 **Not more than three percent of the money appropriated may be used by the department**
6 **to pay the administrative costs of the grant program.** The grants shall be awarded and used
7 to pay the salaries of detectives and computer forensic personnel whose focus is investigating
8 Internet sex crimes against children, including but not limited to enticement of a child,
9 possession or promotion of child pornography, [and to] provide funding for the training of law
10 enforcement personnel, **and purchase necessary equipment, supplies, and services.** The
11 funding for such training may be used to cover the travel expenses of those persons participating.

12 2. A panel is hereby established in the department of public safety to award grants under
13 this program and shall be comprised of the following members:

- 14 (1) The director of the department of public safety, or his or her designee;
15 (2) Two members shall be appointed by the director of the department of public safety
16 from a list of six nominees submitted by the Missouri Police Chiefs Association;
17 (3) Two members shall be appointed by the director of the department of public safety
18 from a list of six nominees submitted by the Missouri Sheriffs' Association;
19 (4) Two members of the state highway patrol shall be appointed by the director of the
20 department of public safety from a list of six nominees submitted by the Missouri State Troopers
21 Association;
22 (5) One member of the house of representatives who shall be appointed by the speaker
23 of the house of representatives; and
24 (6) One member of the senate who shall be appointed by the president pro tem.

25
26 The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection
27 shall serve a four-year term ending four years from the date of expiration of the term for which
28 his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the

29 expiration of such a term shall be appointed for the remainder of the term. Such members shall
30 hold office for the term of his or her appointment and until a successor is appointed. The
31 members of the panel shall receive no additional compensation but shall be eligible for
32 reimbursement for mileage directly related to the performance of panel duties.

33 3. Local matching amounts, which may include new or existing funds or in-kind
34 resources including but not limited to equipment or personnel, are required for
35 multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement
36 agencies to receive grants awarded by the panel. Such amounts shall be determined by the state
37 appropriations process or by the panel.

38 4. When awarding grants, priority should be given to newly hired detectives and
39 computer forensic personnel.

40 5. The panel shall establish minimum training standards for detectives and computer
41 forensic personnel participating in the grant program established in subsection 1 of this section.

42 6. Multijurisdictional Internet cyber crime law enforcement task forces and other law
43 enforcement agencies participating in the grant program established in subsection 1 of this
44 section shall share information and cooperate with the highway patrol and with existing Internet
45 Crimes Against Children task force programs.

46 7. The panel may make recommendations to the general assembly regarding the need for
47 additional resources or appropriations.

48 8. **The power of arrest of any peace officer who is duly authorized as a member of**
49 **a multijurisdictional Internet cyber crime law enforcement task force shall only be**
50 **exercised during the time such peace officer is an active member of such task force and**
51 **only within the scope of the investigation on which the task force is working.**
52 **Notwithstanding other provisions of law to the contrary, such task force officer shall have**
53 **the power of arrest, as limited in this subsection, anywhere in the state and shall provide**
54 **prior notification to the chief of police of a municipality or the sheriff of the county in**
55 **which the arrest is to take place. If exigent circumstances exist, such arrest may be made**
56 **and notification shall be made to the chief of police or sheriff as appropriate and as soon**
57 **as practical. The chief of police or sheriff may elect to work with the multijurisdictional**
58 **Internet cyber crime law enforcement task force at his or her option when such task force**
59 **is operating within the jurisdiction of such chief of police or sheriff.**

60 9. Under section 23.253, RSMo, of the Missouri sunset act:

61 (1) The provisions of the new program authorized under this section shall sunset
62 automatically six years after June 5, 2006, unless reauthorized by an act of the general assembly;
63 and

64 (2) If such program is reauthorized, the program authorized under this section shall
65 sunset automatically twelve years after the effective date of the reauthorization of this section;
66 and

67 (3) This section shall terminate on September first of the calendar year immediately
68 following the calendar year in which the program authorized under this section is sunset.

2 [86.365. Any person who served as a policeman for a period of thirty
3 years and who terminated employment and actually retired prior to October 1,
4 1957, in the police department of any city not within a county, under the
5 provisions of this chapter, shall, upon application to the police department of that
6 city, be employed by the department as a special advisor and supervisor in
7 connection with city police problems. Any person so employed shall perform
8 such duties as the chief of police directs and shall receive a salary of one hundred
9 dollars per month, payable out of the department budget pursuant to
10 appropriations for the purpose; except that the payment to the retired person for
11 such services, together with the retirement benefits such retired person receives
12 under this chapter, shall not exceed two hundred dollars per month. The
13 employment provided for by this section shall in no way affect any person's
eligibility for retirement benefits under any provision of this chapter.]

Section B. Because of the need to protect the citizens of this state, the repeal and
2 reenactment of sections 195.503 and 650.120 of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby declared to be an
4 emergency act within the meaning of the constitution, and the repeal and reenactment of sections
5 195.503 and 650.120 of this act shall be in full force and effect upon its passage and approval.

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