

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 574
94TH GENERAL ASSEMBLY

1372L.02T

2007

AN ACT

To repeal sections 84.120, 84.170, 577.029 and 577.051, RSMo, and to enact in lieu thereof four new sections relating to Missouri uniform law enforcement system records, with a penalty provision and an emergency clause for a certain section.

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

Section A. Sections 84.120, 84.170, 577.029, and 577.051, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 84.120, 84.170, 577.029 and
3 577.051, to read as follows:

84.120. **1.** No person shall be appointed or employed as policeman, turnkey, or officer
2 of police who shall have been convicted of, or against whom any indictment may be pending,
3 for any offense, the punishment of which may be confinement in the penitentiary; nor shall any
4 person be so appointed who is not of good character, or who is not a citizen of the United States,
5 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**

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.

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 from the next lowest grade; provided, however, that probationary patrolmen shall serve at least six months as such before being promoted to the rank of patrolman; patrolmen shall serve at least three years as such before being promoted to the rank of sergeant; sergeants shall serve at least one year as such before being promoted to the rank of lieutenant; lieutenants shall serve at least one year as such before being promoted to the rank of captain; and in no case shall the chief or assistant chief be selected from men not members of the force or below the grade of captain. Patrolmen shall serve at least three years as such before promotion to the rank of detective; the inspector shall be taken from men in the rank not below the grade of lieutenant.

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

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

577.029. A licensed physician, registered nurse, or trained medical technician at the place of his employment, acting at the request and direction of the law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless such medical personnel, in his good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of determining the alcohol content thereof, only a previously unused and sterile needle and sterile vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. [A nonalcoholic antiseptic shall be used for cleansing the skin prior to venapuncture.] Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him.

577.051. 1. A record of the disposition in any court proceeding involving a violation of any of the provisions of sections 577.005 to 577.023, or violation of county or municipal ordinances involving alcohol- or drug-related driving offenses shall be forwarded to the

4 [Missouri state highway patrol, or at the written direction of the Missouri state highway patrol,
5 to the] department of revenue, within [fifteen] **seven** days by the clerk of the court in which the
6 proceeding was held. **The records shall be forwarded by the department of revenue within**
7 **fifteen days of receipt to the Missouri state highway patrol** and shall be entered by the
8 highway patrol [or department of revenue] in the Missouri uniform law enforcement system
9 records. Dispositions that shall be reported are pleas of guilty, findings of guilty, suspended
10 imposition of sentence, suspended execution of sentence, probation, conditional sentences,
11 sentences of confinement, and any other such dispositions that may be required under state or
12 federal regulations. The record forwarded by the clerk shall clearly show the court, the court
13 case number, the name, address, and motor vehicle operator's or chauffeur's license number of
14 the person who is the subject of the proceeding, the code or number identifying the particular
15 arrest, and any court action or requirements pertaining thereto.

16 2. All records received by the Missouri state highway patrol or the department of revenue
17 under the provisions of this section shall be entered in the Missouri uniform law enforcement
18 system records and maintained by the Missouri state highway patrol. Records placed in the
19 Missouri uniform law enforcement system under the provisions of this section shall be made
20 available to any law enforcement officer in this state, any prosecuting or circuit attorney in this
21 state, or to any judge of a municipal or state court upon request.

22 3. Any person required by this section to furnish records to the Missouri state highway
23 patrol or department of revenue who willfully refuses to furnish such records [shall be] **is** guilty
24 of a class C misdemeanor.

25 4. Records required to be filed with the Missouri state highway patrol or the department
26 of revenue under the provisions of sections 302.225, RSMo, and 577.001 to 577.051 shall be
27 filed beginning July 1, 1983, and no penalties for nonfiling of records shall be applied prior to
28 July 1, 1983.

29 5. Forms and procedures for filing of records with the Missouri state highway patrol or
30 department of revenue as required in this chapter shall be promulgated by the director of the
31 department of public safety or department of revenue, as applicable, and approved by the
32 Missouri supreme court.

33 6. All record-keeping procedures required under the provisions of sections 577.005 to
34 577.023 shall be in accordance with this section, chapter 610, RSMo, to the contrary
35 notwithstanding.

Section B. Because of the need to effectively administer the state's drunk driving laws,
2 the repeal and reenactment of section 577.029 of section A of this act is deemed necessary for
3 the immediate preservation of the public health, welfare, peace, and safety, and is hereby

4 declared to be an emergency act within the meaning of the constitution, and the repeal and
5 reenactment of section 577.029 of section A of this act shall be in full force and effect upon its
6 passage and approval.

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