

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 574

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Section A. Sections 84.120, 84.170, 577.029, and 577.051, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 84.120, 84.170, 577.029 and 577.051, to read as follows:

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

2. The board shall have the sole discretion whether to

1 delegate portions of its jurisdiction to hearing officers. The
2 board shall retain final and ultimate authority over such matters
3 and over the person to whom the delegation may be made. In any
4 hearing before the board under this section, the member involved
5 may make application to the board to waive a hearing before the
6 board and request that a hearing be held before a hearing
7 officer.

8 3. Nothing in this section or chapter shall be construed to
9 prohibit the board of police commissioners from delegating any
10 task related to disciplinary matters, disciplinary hearings, or
11 any other hearing or proceeding which could otherwise be heard by
12 the board or concerning any determination related to whether an
13 officer is able to perform the necessary functions of the
14 position. Tasks related to the preceding matter may be delegated
15 by the board to a hearing officer under the provisions of
16 subsection 4 of this section.

17 4. (1) The hearing officer to whom a delegation has been
18 made by the board may, at the sole discretion of the board,
19 perform certain functions, including but not limited to the
20 following:

21 (a) Presiding over a disciplinary matter from its inception
22 through to the final hearing;

23 (b) Preparing a report to the board of police
24 commissioners; and

25 (c) Making recommendations to the board of police
26 commissioners as to the allegations and the appropriateness of
27 the recommended discipline.

28 (2) The board shall promulgate rules, which may be changed

1 from time to time as determined by the board, and shall make such
2 rules known to the hearing officer or others.

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

7 5. Hearing officers shall be selected in the following
8 manner:

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

13 (2) From the panel, the relevant member or officer and a
14 police department representative shall alternatively and
15 independently strike names from the list with the last remaining
16 name being the designated hearing officer. The board shall
17 establish a process to be utilized for each hearing which will
18 determine which party makes the first strike and the process may
19 change from time to time;

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

24 84.170. 1. When any vacancy shall take place in any grade
25 of officers, it shall be filled from the next lowest grade;
26 provided, however, that probationary patrolmen shall serve at
27 least six months as such before being promoted to the rank of
28 patrolman; patrolmen shall serve at least three years as such

1 before being promoted to the rank of sergeant; sergeants shall
2 serve at least one year as such before being promoted to the rank
3 of lieutenant; lieutenants shall serve at least one year as such
4 before being promoted to the rank of captain; and in no case
5 shall the chief or assistant chief be selected from men not
6 members of the force or below the grade of captain. Patrolmen
7 shall serve at least three years as such before promotion to the
8 rank of detective; the inspector shall be taken from men in the
9 rank not below the grade of lieutenant.

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

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

26 577.029. A licensed physician, registered nurse, or trained
27 medical technician at the place of his employment, acting at the
28 request and direction of the law enforcement officer, shall

1 withdraw blood for the purpose of determining the alcohol content
2 of the blood, unless such medical personnel, in his good faith
3 medical judgment, believes such procedure would endanger the life
4 or health of the person in custody. Blood may be withdrawn only
5 by such medical personnel, but such restriction shall not apply
6 to the taking of a breath test, a saliva specimen, or a urine
7 specimen. In withdrawing blood for the purpose of determining
8 the alcohol content thereof, only a previously unused and sterile
9 needle and sterile vessel shall be utilized and the withdrawal
10 shall otherwise be in strict accord with accepted medical
11 practices. [A nonalcoholic antiseptic shall be used for
12 cleansing the skin prior to venapuncture.] Upon the request of
13 the person who is tested, full information concerning the test
14 taken at the direction of the law enforcement officer shall be
15 made available to him.

16 577.051. 1. A record of the disposition in any court
17 proceeding involving a violation of any of the provisions of
18 sections 577.005 to 577.023, or violation of county or municipal
19 ordinances involving alcohol- or drug-related driving offenses
20 shall be forwarded to the [Missouri state highway patrol, or at
21 the written direction of the Missouri state highway patrol, to
22 the] department of revenue, within [fifteen] seven days by the
23 clerk of the court in which the proceeding was held. The records
24 shall be forwarded by the department of revenue within fifteen
25 days of receipt to the Missouri state highway patrol and shall be
26 entered by the highway patrol [or department of revenue] in the
27 Missouri uniform law enforcement system records. Dispositions
28 that shall be reported are pleas of guilty, findings of guilty,

1 suspended imposition of sentence, suspended execution of
2 sentence, probation, conditional sentences, sentences of
3 confinement, and any other such dispositions that may be required
4 under state or federal regulations. The record forwarded by the
5 clerk shall clearly show the court, the court case number, the
6 name, address, and motor vehicle operator's or chauffeur's
7 license number of the person who is the subject of the
8 proceeding, the code or number identifying the particular arrest,
9 and any court action or requirements pertaining thereto.

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

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

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

28 5. Forms and procedures for filing of records with the

1 Missouri state highway patrol or department of revenue as
2 required in this chapter shall be promulgated by the director of
3 the department of public safety or department of revenue, as
4 applicable, and approved by the Missouri supreme court.

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

9 Section B. Because of the need to effectively administer
10 the state's drunk driving laws, the repeal and reenactment of
11 section 577.029 of section A of this act is deemed necessary for
12 the immediate preservation of the public health, welfare, peace,
13 and safety, and is hereby declared to be an emergency act within
14 the meaning of the constitution, and the repeal and reenactment
15 of section 577.029 of section A of this act shall be in full
16 force and effect upon its passage and approval.

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