

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2224
94TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, April 17, 2008, with recommendation that the Senate Committee Substitute do pass.

4606S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 57.280, 488.435, 590.050, 610.021, 610.100, and 650.350, RSMo, and to enact in lieu thereof seven new sections relating to law enforcement.

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

Section A. Sections 57.280, 488.435, 590.050, 610.021, 610.100, and 650.350, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 57.278, 57.280, 488.435, 590.050, 610.021, 610.100, and 650.350, to read as follows:

57.278. 1. There is hereby created in the state treasury the "Deputy Sheriff Salary Supplementation Fund", which shall consist of money collected from charges for service received by county sheriffs under subsection 4 of section 57.280. The money in the fund shall be used solely to supplement the salaries of county deputy sheriffs, and employee benefits resulting from such salary increases, including required contributions to the county employees' retirement fund. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The Missouri sheriff methamphetamine relief taskforce created under section 650.350, RSMo, shall administer the fund.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such

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

17 investments shall be credited to the fund.

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ
2 or other order of court, in connection with any civil case, and making on the same
3 either a return indicating service, a non est return or a nulla bona return, the
4 sum of twenty dollars for each item to be served, except that a sheriff shall
5 receive a charge for service of any subpoena, and making a return on the same,
6 the sum of ten dollars; however, no such charge shall be collected in any
7 proceeding when court costs are to be paid by the state, county or municipality.
8 In addition to such charge, the sheriff shall be entitled to receive for each mile
9 actually traveled in serving any summons, writ, subpoena or other order of court,
10 the rate prescribed by the Internal Revenue Service for all allowable expenses for
11 motor vehicle use expressed as an amount per mile, provided that such mileage
12 shall not be charged for more than one subpoena or summons or other writ served
13 in the same cause on the same trip. All of such charges shall be received by the
14 sheriff who is requested to perform the service. Except as otherwise provided by
15 law, all charges made pursuant to this section shall be collected by the court clerk
16 as court costs and are payable prior to the time the service is rendered; provided
17 that if the amount of such charge cannot be readily determined, then the sheriff
18 shall receive a deposit based upon the likely amount of such charge, and the
19 balance of such charge shall be payable immediately upon ascertainment of the
20 proper amount of said charge. A sheriff may refuse to perform any service in any
21 action or proceeding, other than when court costs are waived as provided by law,
22 until the charge provided by this section is paid. Failure to receive the charge
23 shall not affect the validity of the service.

24 2. The sheriff shall receive for receiving and paying moneys on execution
25 or other process, where lands or goods have been levied and advertised and sold,
26 five percent on five hundred dollars and four percent on all sums above five
27 hundred dollars, and half of these sums, when the money is paid to the sheriff
28 without a levy, or where the lands or goods levied on shall not be sold and the
29 money is paid to the sheriff or person entitled thereto, his agent or attorney. The
30 party at whose application any writ, execution, subpoena or other process has
31 issued from the court shall pay the sheriff's costs for the removal, transportation,
32 storage, safekeeping and support of any property to be seized pursuant to legal
33 process before such seizure. The sheriff shall be allowed for each mile, going and
34 returning from the courthouse of the county in which he resides to the place
35 where the court is held, the rate prescribed by the Internal Revenue Service for

36 all allowable expenses for motor vehicle use expressed as an amount per
37 mile. The provisions of this subsection shall not apply to garnishment proceeds.

38 3. The sheriff upon the receipt of the charge herein provided for shall pay
39 into the treasury of the county any and all charges received pursuant to the
40 provisions of this section; however, in any county, any funds, not to exceed fifty
41 thousand dollars in any calendar year, other than as a result of regular budget
42 allocations or land sale proceeds, coming into the possession of the sheriff's office,
43 such as from the sale of recovered evidence, shall be held in a fund established
44 by the county treasurer, which may be expended at the discretion of the sheriff
45 for the furtherance of the sheriff's set duties. Any such funds in excess of fifty
46 thousand dollars, other than regular budget allocations or land sale proceeds,
47 shall be placed to the credit of the general revenue fund of the county. Moneys
48 in the fund shall be used only for the procurement of services and equipment to
49 support the operation of the sheriff's office. Moneys in the fund established
50 pursuant to this subsection shall not lapse to the county general revenue fund at
51 the end of any county budget or fiscal year.

52 **4. Notwithstanding the provisions of subsection 3 of this section**
53 **to the contrary, the sheriff shall receive ten dollars for service of any**
54 **summons, writ, subpoena, or other order of the court included under**
55 **subsection 1 of this section, in addition to the charge for such service**
56 **that each sheriff receives under subsection 1 of this section. The**
57 **money received by the sheriff under this subsection shall be paid into**
58 **the county treasury and the county treasurer shall make such money**
59 **payable to the state treasurer. The state treasurer shall deposit such**
60 **moneys in the deputy sheriff salary supplementation fund created**
61 **under section 57.278.**

488.435. 1. Sheriffs shall receive a charge, as provided in section 57.280,
2 RSMo, for service of any summons, writ or other order of court, in connection with
3 any civil case, and making on the same either a return indicating service, a non
4 est return or a nulla bona return, the sum of twenty dollars for each item to be
5 served, as provided in section 57.280, RSMo, except that a sheriff shall receive a
6 charge for service of any subpoena, and making a return on the same, the sum of
7 ten dollars, as provided in section 57.280, RSMo; however, no such charge shall
8 be collected in any proceeding when court costs are to be paid by the state, county
9 or municipality. In addition to such charge, the sheriff shall be entitled, as
10 provided in section 57.280, RSMo, to receive for each mile actually traveled in

11 serving any summons, writ, subpoena or other order of court, the rate prescribed
12 by the Internal Revenue Service for all allowable expenses for motor vehicle use
13 expressed as an amount per mile, provided that such mileage shall not be charged
14 for more than one subpoena or summons or other writ served in the same cause
15 on the same trip. All of such charges shall be received by the sheriff who is
16 requested to perform the service. Except as otherwise provided by law, all
17 charges made pursuant to section 57.280, RSMo, shall be collected by the court
18 clerk as court costs and are payable prior to the time the service is rendered;
19 provided that if the amount of such charge cannot be readily determined, then the
20 sheriff shall receive a deposit based upon the likely amount of such charge, and
21 the balance of such charge shall be payable immediately upon ascertainment of
22 the proper amount of such charge. A sheriff may refuse to perform any service
23 in any action or proceeding, other than when court costs are waived as provided
24 by law, until the charge provided by this section is paid. Failure to receive the
25 charge shall not affect the validity of the service.

26 2. The sheriff shall, as provided in section 57.280, RSMo, receive for
27 receiving and paying moneys on execution or other process, where lands or goods
28 have been levied and advertised and sold, five percent on five hundred dollars
29 and four percent on all sums above five hundred dollars, and half of these sums,
30 when the money is paid to the sheriff without a levy, or where the lands or goods
31 levied on shall not be sold and the money is paid to the sheriff or person entitled
32 thereto, his or her agent or attorney. The party at whose application any writ,
33 execution, subpoena or other process has issued from the court shall pay the
34 sheriff's costs, as provided in section 57.280, RSMo, for the removal,
35 transportation, storage, safekeeping and support of any property to be seized
36 pursuant to legal process before such seizure. The sheriff shall be allowed for
37 each mile, as provided in section 57.280, RSMo, going and returning from the
38 courthouse of the county in which he or she resides to the place where the court
39 is held, the rate prescribed by the Internal Revenue Service for all allowable
40 expenses for motor vehicle use expressed as an amount per mile. The provisions
41 of this subsection shall not apply to garnishment proceeds.

42 **3. As provided in subsection 4 of section 57.280, RSMo, the sheriff**
43 **shall receive ten dollars for service of any summons, writ, subpoena, or**
44 **other order of the court included under subsection 1 of such section, in**
45 **addition to the charge for such service that each sheriff receives under**
46 **subsection 1 of such section. The money received by the sheriff under**

47 **subsection 4 of section 57.280, RSMo, shall be paid into the county**
48 **treasury and the county treasurer shall make such money payable to**
49 **the state treasurer. The state treasurer shall deposit such moneys in**
50 **the deputy sheriff salary supplementation fund created under section**
51 **57.278, RSMo.**

590.050. 1. The POST commission shall establish requirements for the
2 continuing education of all peace officers. Peace officers who make traffic stops
3 shall be required to receive [annual training] **three hours of training within**
4 **the law enforcement continuing education three-year reporting period**
5 concerning the prohibition against racial profiling and such training shall
6 promote understanding and respect for racial and cultural differences and the use
7 of effective, noncombative methods for carrying out law enforcement duties in a
8 racially and culturally diverse environment.

9 2. The director shall license continuing education providers and may
10 probate, suspend and revoke such licenses upon written notice stating the reasons
11 for such action. Any person aggrieved by a decision of the director pursuant to
12 this subsection may appeal as provided in chapter 536, RSMo.

13 3. The costs of continuing law enforcement education shall be reimbursed
14 in part by moneys from the peace officer standards and training commission fund
15 created in section 590.178, subject to availability of funds, except that no such
16 funds shall be used for the training of any person not actively commissioned or
17 employed by a county or municipal law enforcement agency.

18 4. The director may engage in any activity intended to further the
19 professionalism of peace officers through training and education, including the
20 provision of specialized training through the department of public safety.

610.021. Except to the extent disclosure is otherwise required by law, a
2 public governmental body is authorized to close meetings, records and votes, to
3 the extent they relate to the following:

4 (1) Legal actions, causes of action or litigation involving a public
5 governmental body and any confidential or privileged communications between
6 a public governmental body or its representatives and its attorneys. However,
7 any minutes, vote or settlement agreement relating to legal actions, causes of
8 action or litigation involving a public governmental body or any agent or entity
9 representing its interests or acting on its behalf or with its authority, including
10 any insurance company acting on behalf of a public government body as its
11 insured, shall be made public upon final disposition of the matter voted upon or

12 upon the signing by the parties of the settlement agreement, unless, prior to final
13 disposition, the settlement agreement is ordered closed by a court after a written
14 finding that the adverse impact to a plaintiff or plaintiffs to the action clearly
15 outweighs the public policy considerations of section 610.011, however, the
16 amount of any moneys paid by, or on behalf of, the public governmental body
17 shall be disclosed; provided, however, in matters involving the exercise of the
18 power of eminent domain, the vote shall be announced or become public
19 immediately following the action on the motion to authorize institution of such
20 a legal action. Legal work product shall be considered a closed record;

21 (2) Leasing, purchase or sale of real estate by a public governmental body
22 where public knowledge of the transaction might adversely affect the legal
23 consideration therefor. However, any minutes, vote or public record approving
24 a contract relating to the leasing, purchase or sale of real estate by a public
25 governmental body shall be made public upon execution of the lease, purchase or
26 sale of the real estate;

27 (3) Hiring, firing, disciplining or promoting of particular employees by a
28 public governmental body when personal information about the employee is
29 discussed or recorded. However, any vote on a final decision, when taken by a
30 public governmental body, to hire, fire, promote or discipline an employee of a
31 public governmental body shall be made available with a record of how each
32 member voted to the public within seventy-two hours of the close of the meeting
33 where such action occurs; provided, however, that any employee so affected shall
34 be entitled to prompt notice of such decision during the seventy-two-hour period
35 before such decision is made available to the public. As used in this subdivision,
36 the term "personal information" means information relating to the performance
37 or merit of individual employees;

38 (4) The state militia or national guard or any part thereof;

39 (5) Nonjudicial mental or physical health proceedings involving
40 identifiable persons, including medical, psychiatric, psychological, or alcoholism
41 or drug dependency diagnosis or treatment;

42 (6) Scholastic probation, expulsion, or graduation of identifiable
43 individuals, including records of individual test or examination scores; however,
44 personally identifiable student records maintained by public educational
45 institutions shall be open for inspection by the parents, guardian or other
46 custodian of students under the age of eighteen years and by the parents,
47 guardian or other custodian and the student if the student is over the age of

48 eighteen years;

49 (7) Testing and examination materials, before the test or examination is
50 given or, if it is to be given again, before so given again;

51 (8) Welfare cases of identifiable individuals;

52 (9) Preparation, including any discussions or work product, on behalf of
53 a public governmental body or its representatives for negotiations with employee
54 groups;

55 (10) Software codes for electronic data processing and documentation
56 thereof;

57 (11) Specifications for competitive bidding, until either the specifications
58 are officially approved by the public governmental body or the specifications are
59 published for bid;

60 (12) Sealed bids and related documents, until the bids are opened; and
61 sealed proposals and related documents or any documents related to a negotiated
62 contract until a contract is executed, or all proposals are rejected;

63 (13) Individually identifiable personnel records, performance ratings or
64 records pertaining to employees or applicants for employment, except that this
65 exemption shall not apply to the names, positions, salaries and lengths of service
66 of officers and employees of public agencies once they are employed as such, and
67 the names of private sources donating or contributing money to the salary of a
68 chancellor or president at all public colleges and universities in the state of
69 Missouri and the amount of money contributed by the source;

70 (14) Records which are protected from disclosure by law;

71 (15) Meetings and public records relating to scientific and technological
72 innovations in which the owner has a proprietary interest;

73 (16) Records relating to municipal hotlines established for the reporting
74 of abuse and wrongdoing;

75 (17) Confidential or privileged communications between a public
76 governmental body and its auditor, including all auditor work product; however,
77 all final audit reports issued by the auditor are to be considered open records
78 pursuant to this chapter;

79 (18) Operational guidelines and policies developed, adopted, or maintained
80 by any public agency responsible for law enforcement, public safety, first
81 response, or public health for use in responding to or preventing any critical
82 incident which is or appears to be terrorist in nature and which has the potential
83 to endanger individual or public safety or health. Nothing in this exception shall

84 be deemed to close information regarding expenditures, purchases, or contracts
85 made by an agency in implementing these guidelines or policies. When seeking
86 to close information pursuant to this exception, the agency shall affirmatively
87 state in writing that disclosure would impair its ability to protect the safety or
88 health of persons, and shall in the same writing state that the public interest in
89 nondisclosure outweighs the public interest in disclosure of the records. This
90 exception shall sunset on December 31, 2008;

91 (19) Existing or proposed security systems and structural plans of real
92 property owned or leased by a public governmental body, and information that is
93 voluntarily submitted by a nonpublic entity owning or operating an infrastructure
94 to any public governmental body for use by that body to devise plans for
95 protection of that infrastructure, the public disclosure of which would threaten
96 public safety:

97 (a) Records related to the procurement of or expenditures relating to
98 security systems purchased with public funds shall be open;

99 (b) When seeking to close information pursuant to this exception, the
100 public governmental body shall affirmatively state in writing that disclosure
101 would impair the public governmental body's ability to protect the security or
102 safety of persons or real property, and shall in the same writing state that the
103 public interest in nondisclosure outweighs the public interest in disclosure of the
104 records;

105 (c) Records that are voluntarily submitted by a nonpublic entity shall be
106 reviewed by the receiving agency within ninety days of submission to determine
107 if retention of the document is necessary in furtherance of a state security
108 interest. If retention is not necessary, the documents shall be returned to the
109 nonpublic governmental body or destroyed;

110 (d) This exception shall sunset on December 31, 2008;

111 (20) Records that identify the configuration of components or the
112 operation of a computer, computer system, computer network, or
113 telecommunications network, and would allow unauthorized access to or unlawful
114 disruption of a computer, computer system, computer network, or
115 telecommunications network of a public governmental body. This exception shall
116 not be used to limit or deny access to otherwise public records in a file, document,
117 data file or database containing public records. Records related to the
118 procurement of or expenditures relating to such computer, computer system,
119 computer network, or telecommunications network, including the amount of

120 moneys paid by, or on behalf of, a public governmental body for such computer,
121 computer system, computer network, or telecommunications network shall be
122 open;

123 (21) Credit card numbers, personal identification numbers, digital
124 certificates, physical and virtual keys, access codes or authorization codes that
125 are used to protect the security of electronic transactions between a public
126 governmental body and a person or entity doing business with a public
127 governmental body. Nothing in this section shall be deemed to close the record
128 of a person or entity using a credit card held in the name of a public
129 governmental body or any record of a transaction made by a person using a credit
130 card or other method of payment for which reimbursement is made by a public
131 governmental body; and

132 **(22) Records and documents of, and pertaining to, internal**
133 **investigations by law enforcement agencies into matters of fitness and**
134 **conduct of law enforcement officers employed by such investigating law**
135 **enforcement agencies used solely in connection with matters relating**
136 **to the employment of such law enforcement officers, and records and**
137 **documents pertaining to any determinations or actions relating to an**
138 **officer's employment status taken in connection with or following such**
139 **investigations. Notwithstanding whether the subject matter or**
140 **allegations involved in the internal investigation involve criminal**
141 **conduct on the part of a law enforcement officer, such records shall be**
142 **considered records authorized to be closed under this section,**
143 **including subdivisions (3) and (13) of this section, and not incident**
144 **reports, investigative reports, or other documents covered under**
145 **section 610.100, unless such records and documents are used or shared**
146 **by the agency in a criminal investigation by the law enforcement**
147 **agency involving the officer.**

610.100. 1. As used in sections 610.100 to 610.150, the following words
2 and phrases shall mean:

3 (1) "Arrest", an actual restraint of the person of the defendant, or by his
4 or her submission to the custody of the officer, under authority of a warrant or
5 otherwise for a criminal violation which results in the issuance of a summons or
6 the person being booked;

7 (2) "Arrest report", a record of a law enforcement agency of an arrest and
8 of any detention or confinement incident thereto together with the charge

9 therefor;

10 (3) "Inactive", an investigation in which no further action will be taken
11 by a law enforcement agency or officer for any of the following reasons:

12 (a) A decision by the law enforcement agency not to pursue the case;

13 (b) Expiration of the time to file criminal charges pursuant to the
14 applicable statute of limitations, or ten years after the commission of the offense;
15 whichever date earliest occurs;

16 (c) Finality of the convictions of all persons convicted on the basis of the
17 information contained in the investigative report, by exhaustion of or expiration
18 of all rights of appeal of such persons;

19 (4) "Incident report", a record of a law enforcement agency consisting of
20 the date, time, specific location, name of the victim and immediate facts and
21 circumstances surrounding the initial report of a crime or incident, including any
22 logs of reported crimes, accidents and complaints maintained by that agency;

23 (5) "Investigative report", a record, other than an arrest or incident report,
24 prepared by personnel of a law enforcement agency, inquiring into a crime or
25 suspected crime, either in response to an incident report or in response to
26 evidence developed by law enforcement officers in the course of their duties.

27 **2. Investigative reports, incident reports, or other law**
28 **enforcement records covered under this section, shall not include any**
29 **record or document pertaining to internal investigations by a law**
30 **enforcement agency into matters of fitness and conduct of a law**
31 **enforcement officer employed by such investigating law enforcement**
32 **agency and used solely in connection with such officer's employment,**
33 **as described in subdivision (22) of section 610.021.**

34 **3.** Each law enforcement agency of this state, of any county, and of any
35 municipality shall maintain records of all incidents reported to the agency,
36 investigations and arrests made by such law enforcement agency. All incident
37 reports and arrest reports shall be open records. Notwithstanding any other
38 provision of law other than the provisions of subsections [4,] 5 [and], 6, and 7
39 of this section or section 320.083, RSMo, investigative reports of all law
40 enforcement agencies are closed records until the investigation becomes inactive.
41 If any person is arrested and not charged with an offense against the law within
42 thirty days of the person's arrest, the arrest report shall thereafter be a closed
43 record except that the disposition portion of the record may be accessed and
44 except as provided in section 610.120.

45 [3.] 4. Except as provided in subsections [4,] 5, 6 [and], 7, **and 8** of this
46 section, if any portion of a record or document of a law enforcement officer or
47 agency, other than an arrest report, which would otherwise be open, contains
48 information that is reasonably likely to pose a clear and present danger to the
49 safety of any victim, witness, undercover officer, or other person; or jeopardize a
50 criminal investigation, including records which would disclose the identity of a
51 source wishing to remain confidential or a suspect not in custody; or which would
52 disclose techniques, procedures or guidelines for law enforcement investigations
53 or prosecutions, that portion of the record shall be closed and shall be redacted
54 from any record made available pursuant to this chapter.

55 [4.] 5. Any person, including a family member of such person within the
56 first degree of consanguinity if such person is deceased or incompetent, attorney
57 for a person, or insurer of a person involved in any incident or whose property is
58 involved in an incident, may obtain any records closed pursuant to this section
59 or section 610.150 for purposes of investigation of any civil claim or defense, as
60 provided by this subsection. Any individual, his or her family member within the
61 first degree of consanguinity if such individual is deceased or incompetent, his or
62 her attorney or insurer, involved in an incident or whose property is involved in
63 an incident, upon written request, may obtain a complete unaltered and unedited
64 incident report concerning the incident, and may obtain access to other records
65 closed by a law enforcement agency pursuant to this section. Within thirty days
66 of such request, the agency shall provide the requested material or file a motion
67 pursuant to this subsection with the circuit court having jurisdiction over the law
68 enforcement agency stating that the safety of the victim, witness or other
69 individual cannot be reasonably ensured, or that a criminal investigation is likely
70 to be jeopardized. If, based on such motion, the court finds for the law
71 enforcement agency, the court shall either order the record closed or order such
72 portion of the record that should be closed to be redacted from any record made
73 available pursuant to this subsection.

74 [5.] 6. Any person may bring an action pursuant to this section in the
75 circuit court having jurisdiction to authorize disclosure of the information
76 contained in an investigative report of any law enforcement agency, which would
77 otherwise be closed pursuant to this section. The court may order that all or part
78 of the information contained in an investigative report be released to the person
79 bringing the action. In making the determination as to whether information
80 contained in an investigative report shall be disclosed, the court shall consider

81 whether the benefit to the person bringing the action or to the public outweighs
82 any harm to the public, to the law enforcement agency or any of its officers, or to
83 any person identified in the investigative report in regard to the need for law
84 enforcement agencies to effectively investigate and prosecute criminal
85 activity. The investigative report in question may be examined by the court in
86 camera. The court may find that the party seeking disclosure of the investigative
87 report shall bear the reasonable and necessary costs and attorneys' fees of both
88 parties, unless the court finds that the decision of the law enforcement agency not
89 to open the investigative report was substantially unjustified under all relevant
90 circumstances, and in that event, the court may assess such reasonable and
91 necessary costs and attorneys' fees to the law enforcement agency.

92 **[6.] 7.** Any person may apply pursuant to this subsection to the circuit
93 court having jurisdiction for an order requiring a law enforcement agency to open
94 incident reports and arrest reports being unlawfully closed pursuant to this
95 section. If the court finds by a preponderance of the evidence that the law
96 enforcement officer or agency has knowingly violated this section, the officer or
97 agency shall be subject to a civil penalty in an amount up to one thousand
98 dollars. If the court finds that there is a knowing violation of this section, the
99 court may order payment by such officer or agency of all costs and attorneys' fees,
100 as provided by section 610.027. If the court finds by a preponderance of the
101 evidence that the law enforcement officer or agency has purposely violated this
102 section, the officer or agency shall be subject to a civil penalty in an amount up
103 to five thousand dollars and the court shall order payment by such officer or
104 agency of all costs and attorney fees, as provided in section 610.027. The court
105 shall determine the amount of the penalty by taking into account the size of the
106 jurisdiction, the seriousness of the offense, and whether the law enforcement
107 officer or agency has violated this section previously.

108 **[7.] 8.** The victim of an offense as provided in chapter 566, RSMo, may
109 request that his or her identity be kept confidential until a charge relating to
110 such incident is filed.

650.350. 1. There is hereby created within the department of public
2 safety the "Missouri Sheriff Methamphetamine Relief Taskforce"
3 (MoSMART). MoSMART shall be composed of five sitting sheriffs. Every two
4 years, the Missouri Sheriffs' Association board of directors will submit twenty
5 names of sitting sheriffs to the governor. The governor shall appoint five
6 members from the list of twenty names, having no more than three from any one

7 political party, to serve a term of two years on MoSMART. The members shall
8 elect a chair from among their membership. Members shall receive no
9 compensation for the performance of their duties pursuant to this section, but
10 each member shall be reimbursed from the MoSMART fund for actual and
11 necessary expenses incurred in carrying out duties pursuant to this section.

12 2. MoSMART shall meet no less than twice each calendar year with
13 additional meetings called by the chair upon the request of at least two members.
14 A majority of the appointed members shall constitute a quorum.

15 3. A special fund is hereby created in the state treasury to be [know]
16 **known** as the "MoSMART Fund". The state treasurer shall invest the moneys
17 in such fund in the manner authorized by law. All moneys received for
18 MoSMART from interest, state, and federal moneys shall be deposited to the
19 credit of the fund. The director of the department of public safety shall distribute
20 at least fifty percent but not more than one hundred percent of the fund annually
21 in the form of grants approved by MoSMART.

22 4. **Except for money deposited into the deputy sheriff salary**
23 **supplementation fund created under section 57.278, RSMo**, all moneys
24 appropriated to or received by MoSMART shall be deposited and credited to the
25 MoSMART fund. The department of public safety shall only be reimbursed for
26 actual and necessary expenses for the administration of MoSMART, which shall
27 be no less than one percent and which shall not exceed two percent of all moneys
28 appropriated to the fund, **except that the department shall not receive any**
29 **amount of the money deposited into the deputy sheriff salary**
30 **supplementation fund for administrative purposes**. The provisions of
31 section 33.080, RSMo, to the contrary notwithstanding, moneys in the MoSMART
32 fund shall not lapse to general revenue at the end of the biennium.

33 5. Any rule or portion of a rule, as that term is defined in section 536.010,
34 RSMo, that is created under the authority delegated in this section shall become
35 effective only if it complies with and is subject to all of the provisions of chapter
36 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
37 536, RSMo, are nonseverable and if any of the powers vested with the general
38 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date
39 or to disapprove and annul a rule are subsequently held unconstitutional, then
40 the grant of rulemaking authority and any rule proposed or adopted after August
41 28, 2003, shall be invalid and void.

42 6. Any county law enforcement entity or established task force with a

43 memorandum of understanding and protocol may apply for grants from the
44 MoSMART fund on an application to be developed by the department of public
45 safety with the approval of MoSMART. All applications shall be evaluated by
46 MoSMART and approved or denied based upon the level of funding designated for
47 methamphetamine enforcement before 1997 and upon current need and
48 circumstances. No applicant shall receive a MoSMART grant in excess of one
49 hundred thousand dollars per year. The department of public safety shall
50 monitor all MoSMART grants.

51 7. MoSMART's anti-methamphetamine funding priorities are as follows:

52 (1) Sheriffs who are participating in coordinated multijurisdictional task
53 forces and have their task forces apply for funding;

54 (2) Sheriffs whose county has been designated HIDTA counties, yet have
55 received no HIDTA or narcotics assistance program funding; and

56 (3) Sheriffs without HIDTA designations or task forces, whose application
57 justifies the need for MoSMART funds to eliminate methamphetamine labs.

58 **8. MoSMART shall administer the deputy sheriff salary**
59 **supplementation fund as provided under section 57.278, RSMo.**

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