

SECOND REGULAR SESSION

HOUSE BILL NO. 2113

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STORCH (Sponsor) AND JOHNSON (Co-sponsor).

Read 1st time February 13, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4893L.01I

AN ACT

To repeal section 84.120, RSMo, and to enact in lieu thereof one new section relating to physical assessment of certain police officers.

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

Section A. Section 84.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.120, to read as follows: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 board may develop a test to measure ordinary physical strength for employed commissioned police officers; however, the test shall not be used as the sole factor in determining a police officer's continuing employment.** 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 jurisdiction in the premises.

2. The board shall have the sole discretion whether to delegate portions of its jurisdiction to hearing officers. The board shall retain final and ultimate authority over such matters and over the person to whom the delegation may be made. In any hearing before the board under this

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.

15 section, the member involved may make application to the board to waive a hearing before the
16 board and request that a hearing be held before a hearing officer.

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

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

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

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

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

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

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

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

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

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

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

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