

SECOND REGULAR SESSION

HOUSE BILL NO. 1889

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

4486H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 590.500, RSMo, and to enact in lieu thereof one new section relating to law enforcement officer disciplinary actions.

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

Section A. Section 590.500, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 590.500, to read as follows:

590.500. **1. The provisions of this section shall be known and may be cited as the "Law Enforcement Officers' Bill of Rights". For purposes of this section, "law enforcement officer" means any sworn peace officer, other than an elected sheriff or deputy, who possesses the duty and power of arrest for violations of the criminal laws of this state or for violations of ordinances of counties or municipalities of this state. The provisions of this section shall not apply to an officer serving in a probationary period or to the highest ranking officer of any law enforcement agency. Any law enforcement agency that has substantially similar or greater procedures shall be deemed to be in compliance with this section.**

2. Any law enforcement officer~~[, other than an elected sheriff or deputy, who possesses the duty and power of arrest for violations of the criminal laws of this state or for violations of ordinances of counties or municipalities of this state,]~~ who is regularly employed for more than thirty hours per week~~[,]~~ and who is employed by a law enforcement agency of this state or political subdivision of this state which employs more than fifteen law enforcement officers~~[,]~~ shall be given upon written request a meeting within forty-eight hours of a dismissal, disciplinary demotion or suspension that results in a reduction or withholding of salary or compensatory time. The meeting shall be held before any individual or board as designated by the governing body.

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.

18 At any such meeting, the employing law enforcement agency shall at a minimum provide a brief
19 statement, which may be oral, of the reason of the discharge, disciplinary demotion or
20 suspension, and permit the law enforcement officer the opportunity to respond. The results from
21 such meeting shall be reduced to writing. ~~[Any law enforcement agency that has substantially
22 similar or greater procedures shall be deemed to be in compliance with this section. This section
23 shall not apply to an officer serving in a probationary period or to the highest ranking officer of
24 any law enforcement agency.]~~

25 **3. Whenever a law enforcement officer is under investigation or is subjected to**
26 **questioning, for any reason, that could lead to disciplinary action, demotion, dismissal,**
27 **transfer, or placement on a status that could lead to economic loss, the investigation or**
28 **questioning shall be conducted under the following conditions:**

29 **(1) The law enforcement officer who is the subject of the investigation shall be**
30 **informed, in writing, of the existence and nature of the alleged violation and the individual**
31 **who will be conducting the investigation;**

32 **(2) Anyone filing a complaint against a law enforcement officer shall have the**
33 **complaint supported by a sworn affidavit. Any complaint having been supported by a**
34 **sworn affidavit and having been found to contain knowingly false material information,**
35 **in total or in part, shall be presented to the appropriate prosecuting attorney or circuit**
36 **attorney for a determination of prosecution;**

37 **(3) When a law enforcement officer is questioned or interviewed regarding matters**
38 **pertaining to his or her law enforcement duties or actions taken within the scope of his or**
39 **her employment, such questioning shall be conducted for a reasonable length of time and**
40 **only while the officer is on duty unless exigent circumstances exist that necessitate**
41 **questioning the officer while he or she is off duty;**

42 **(4) Any interviews or questioning shall be conducted at a secure location at the**
43 **agency that is conducting the investigation or at the place where the officer reports to**
44 **work, unless the officer consents to another location;**

45 **(5) Law enforcement officers shall be questioned by a single investigator and shall**
46 **be informed of the name, rank, and command of the officer conducting the investigation;**
47 **except that, separate investigators shall be assigned to investigate alleged department**
48 **policy violations and alleged criminal violations;**

49 **(6) Interview sessions shall be for reasonable periods of time. There shall be times**
50 **provided for the officer to allow for such personal necessities and rest periods as are**
51 **reasonably necessary;**

52 **(7) Law enforcement officers shall not be threatened, harassed, or promised**
53 **rewards to induce them into answering any question; except that, law enforcement officers**

54 may be compelled by their employer to give protected statements to an investigator under
55 the direct control of the employer, but such compelled statements shall not be used or
56 derivatively used against the officer in any aspect of a criminal case brought against the
57 officer;

58 (8) Law enforcement officers under investigation are entitled to have an attorney
59 or any other individual of their choice present during any questioning that the law
60 enforcement officer reasonably believes may result in disciplinary action. The questioning
61 shall be suspended for a period of up to forty-eight hours if the officer requests
62 representation;

63 (9) A complete record of the administrative investigation shall be kept by the law
64 enforcement agency conducting such investigation. Upon notification that substantial
65 evidence exists for seeking an administrative sanction of the law enforcement officer, a
66 copy of the entire record shall be provided to the officer or the officer's representative
67 within forty-eight hours of the officer's written request;

68 (10) The law enforcement agency conducting the investigation shall have ninety
69 days from receipt of a complaint to complete such investigation;

70 (11) At the conclusion of the administrative investigation, the investigator shall
71 inform the officer, in writing, of the investigative findings and any recommendation for
72 further action; and

73 (12) All records compiled as a result of any investigation subject to the provisions
74 of this section shall be held confidential and not be released to the public at any time.

75 4. Law enforcement officers who are suspended without pay, demoted, terminated,
76 transferred, or placed on a status resulting in economic loss shall be entitled to a full due
77 process hearing. The components of the hearing shall include, at a minimum:

78 (1) The right to be represented by an attorney or other individual of their choice
79 during the hearing;

80 (2) Fourteen days' advance notification of the hearing date and time;

81 (3) An opportunity to access and review documents, at least ten days in advance of
82 the hearing, that are in the employer's possession and that were used as a basis for the
83 disciplinary action or gathered in the course of its investigation including, but not limited
84 to, access to audio or transcribed statements;

85 (4) An opportunity to present witnesses and evidence and a right to cross-examine
86 any adverse witness; and

87 (5) A complete record of the hearing shall be kept by the agency for purposes of
88 appeal. The record shall be provided to the officer or his or her attorney upon written
89 request.

90 **If a contractual disciplinary grievance procedure executed by and between the agency and**
91 **the bargaining unit of that officer is in effect, the terms of that disciplinary grievance**
92 **procedure shall take precedence and govern the conduct of the hearing.**

93 **5. In the event an officer is entitled to a hearing, a hearing shall be scheduled within**
94 **a reasonable period of time from the alleged incident, but in no event more than one**
95 **hundred twenty days following the notification of discipline, unless waived in writing by**
96 **the charged officer.**

97 **6. Any decision, order, or action taken following the hearing shall be in writing and**
98 **shall be accompanied by findings of fact. The findings shall consist of a concise statement**
99 **upon each issue in the case. A copy of the decision or order accompanying findings and**
100 **conclusions along with the written action and right of appeal, if any, shall be delivered or**
101 **mailed promptly to the law enforcement officer or to the officer's attorney or**
102 **representative of record.**

103 **7. Law enforcement officers shall have the opportunity to provide a written**
104 **response to any adverse materials placed in their personnel file, and such written response**
105 **shall be permanently attached to the adverse material.**

106 **8. Law enforcement officers shall not be subject to double jeopardy in the**
107 **administration of discipline through separate punishments for the same alleged act by**
108 **multiple administrative bodies, except that multiple administrative bodies may impose the**
109 **same punishment concurrently for the same act.**

110 **9. Law enforcement officers shall not be disciplined, demoted, dismissed,**
111 **transferred, or placed on a status resulting in economic loss as a result of the assertion of**
112 **their constitutional rights in any judicial proceeding.**

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