

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 553, Page 2, Section 285.043, Line 5, by
2 inserting after said section and line the following:

3
4 "590.500. 1. [Any law enforcement officer, other than an elected sheriff or deputy, who
5 possesses the duty and power of arrest for violations of the criminal laws of this state or for
6 violations of ordinances of counties or municipalities of this state, who is regularly employed for
7 more than thirty hours per week, and who is employed by a law enforcement agency of this state or
8 political subdivision of this state which employs more than fifteen law enforcement officers, shall be
9 given upon written request a meeting within forty-eight hours of a dismissal, disciplinary demotion
10 or suspension that results in a reduction or withholding of salary or compensatory time. The
11 meeting shall be held before any individual or board as designated by the governing body. At any
12 such meeting, the employing law enforcement agency shall at a minimum provide a brief statement,
13 which may be oral, of the reason of the discharge, disciplinary demotion or suspension, and permit
14 the law enforcement officer the opportunity to respond. The results from such meeting shall be
15 reduced to writing.] The provisions of this section shall be known and may be cited as the "Law
16 Enforcement Officers' Bill of Rights". Any law enforcement agency that has substantially similar or
17 greater procedures shall be deemed to be in compliance with this section. [This section shall not
18 apply to an officer serving in a probationary period or to the highest ranking officer of any law
19 enforcement agency.]

20 2. For purposes of this section, the following terms mean:

21 (1) "Board", any individual or body authorized by an agency or department to hear and
22 make final decisions regarding appeals of disciplinary actions issued by an agency or department;

23 (2) "Color of law", any act by a law enforcement officer, whether on duty or off duty, that is
24 performed in furtherance of his or her sworn duty to enforce laws and to protect and serve the
25 public;

26 (3) "Economic loss", any economic loss including, but not limited to, loss of overtime
27 accrual, overtime income, sick time accrual, sick time, secondary employment income, holiday pay,
28 and vacation pay;

29 (4) "Good cause", sufficient evidence or facts that would support a party's request for
30 extensions of time or any other requests seeking accommodations outside the scope of the rules set
31 out in this section;

32 (5) "Law enforcement officer", any sworn peace officer with the power to arrest for a
33 violation of the criminal code who is employed by any unit of the state or any county, charter
34 county, city, charter city, municipality, district, college, university, or any other political subdivision
35 or is employed by the board of police commissioners as defined in chapter 84. "Law enforcement
36 officer" shall not include any officer who is the highest ranking officer in the law enforcement

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1 agency;

2 (6) "Record", any transcription or audio or video recording of all interviews or hearings and
3 complete documentary file.

4 3. Whenever a law enforcement officer is under investigation or is subjected to questioning
5 that the officer reasonably believes could lead to disciplinary action, demotion, dismissal, transfer,
6 or placement on a status that could lead to economic loss, the investigation or questioning shall be
7 conducted under the following conditions:

8 (1) The law enforcement officer who is the subject of the investigation shall be informed, in
9 writing, of the existence and nature of the alleged violation and the individuals who will be
10 conducting the investigation. Notice shall be provided to the officer along with a copy of the
11 complaint at least twenty-four hours prior to any interrogation or interview of the officer;

12 (2) Any person, including members of the same agency or department as the officer under
13 investigation, filing a complaint against a law enforcement officer shall have the complaint
14 supported by a written statement outlining the complaint that includes the personal identifying
15 information of the person filing the complaint. All personal identifying information shall be held
16 confidential by the investigating agency;

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

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

25 (5) Law enforcement officers may be questioned by up to two investigators and shall be
26 informed of the name, rank, and command of the officer or officers conducting the investigation;
27 except that, separate investigators shall be assigned to investigate alleged department policy
28 violations and alleged criminal violations;

29 (6) Interview sessions shall be for a reasonable period of time. There shall be times
30 provided for the officer to allow for such personal necessities and rest periods as are reasonably
31 necessary;

32 (7) Prior to an interview session, the investigator or investigators conducting the
33 investigation shall advise the law enforcement officer of the rule set out in *Garrity v. New Jersey*,
34 385 U.S. 493 (1967), specifically that the law enforcement officer is being ordered to answer
35 questions under threat of disciplinary action and that the officer's answers to the questions will not
36 be used against the officer in criminal proceedings;

37 (8) Law enforcement officers shall not be threatened, harassed, or promised rewards to
38 induce them into answering any question; except that, law enforcement officers may be compelled
39 by their employer to give protected *Garrity* statements to an investigator under the direct control of
40 the employer, but such compelled statements shall not be used or derivatively used against the
41 officer in any aspect of a criminal case brought against the officer;

42 (9) Law enforcement officers under investigation are entitled to have an attorney or any
43 duly authorized representative present during any questioning that the law enforcement officer
44 reasonably believes may result in disciplinary action. The attorney or representative shall be
45 permitted to confer with the officer but shall not unduly disrupt or interfere with the interview. The
46 questioning shall be suspended for a period of up to twenty-four hours if the officer requests
47 representation;

48 (10) Prior to the law enforcement officer being interviewed, the officer and his or her
49 representative shall have the opportunity to review the complaint;

1 (11) Law enforcement officers or their designated representative shall have the right to bring
2 their own recording device and may record all aspects of the interview;

3 (12) The law enforcement agency conducting the investigation shall have ninety days from
4 receipt of a citizen complaint or from the date the agency became aware of the alleged conduct upon
5 which the allegation rests to complete the investigation. The date shall be stated on the document
6 providing notice to the law enforcement officer. The agency shall determine the disposition of the
7 complaint and render a disciplinary decision, if any, within ninety days. The agency may, for good
8 cause, petition the board overseeing the administration of discipline for an extension of time to
9 complete the investigation. Absent consent from the officer being investigated, the board
10 overseeing the administration of discipline shall set the petition for extension for hearing and
11 provide notice of the hearing to the law enforcement officer under investigation. The officer shall
12 have the right to attend the hearing and to present evidence and arguments against extension. If the
13 board finds the agency has shown good cause for the granting of an extension of time to complete
14 the investigation, the board shall grant an extension of up to sixty days. The agency shall be limited
15 to two extensions per investigation; except that, if there is an ongoing criminal investigation, there
16 shall be no limitation on the amount of sixty-day extensions;

17 (13) Within five days of the conclusion of the administrative investigation, the investigator
18 shall inform the officer in writing of the investigative findings and any recommendation for further
19 action, including discipline;

20 (14) A complete record of the administrative investigation shall be kept by the law
21 enforcement agency conducting such investigation. Upon completion of the investigation, a copy of
22 the entire record including, but not limited to, audio, video, or transcribed statements, shall be
23 provided to the officer or the officer's representative within five business days of the officer's written
24 request. The agency may request a protective order to redact all personal identifying witness
25 information;

26 (15) Law enforcement officers shall have the right to compensation for any economic loss
27 incurred during an investigation if the alleged misconduct is not sustained by the agency conducting
28 the investigation; and

29 (16) All records compiled as a result of any investigation subject to the provisions of this
30 section shall be held confidential and shall not be subject to disclosure under chapter 610 except by
31 court order.

32 4. Law enforcement officers who are suspended without pay, demoted, terminated,
33 transferred, or placed on a status resulting in economic loss shall be entitled to a full due process
34 hearing. The proceeding shall constitute a contested case under chapter 536. The components of the
35 hearing shall include, at a minimum:

36 (1) The right of the law enforcement officer to be represented by an attorney or other
37 individual of his or her choice during the hearing;

38 (2) The right of the law enforcement officer or his or her attorney to conduct discovery prior
39 to the hearing. Depositions may be taken in the same manner and under the same conditions as
40 provided for in the Missouri civil rules of civil procedure for civil cases in the circuit court.
41 Subpoenas may be issued by the board conducting the hearing or by the circuit court or the office of
42 the clerk for the county where the agency has its principal place of business;

43 (3) Seven days' notice of the hearing date and time;

44 (4) An opportunity for the law enforcement officer or his or her attorney to access and
45 review the investigatory record at least seven days prior to the hearing;

46 (5) The right of the law enforcement officer or his or her attorney to present witnesses and
47 evidence in the officer's defense and a right to cross-examine any adverse witnesses against the
48 officer;

49 (6) The right of the law enforcement officer to refuse to testify at the hearing if the officer is

1 concurrently facing criminal charges in connection with the same incident. A law enforcement
2 officer's decision not to testify shall not result in additional internal charges or discipline;

3 (7) A complete record of the hearing to be kept by the agency for purposes of appeal. The
4 record shall be provided to the law enforcement officer or his or her attorney upon written request;
5 and

6 (8) The entire record of the hearing to remain confidential and shall not be subject to
7 disclosure under chapter 610 except by lawful subpoena or court order.

8 5. Any decision, order, or action taken following the hearing shall be in writing and shall be
9 accompanied by findings of fact. The findings shall consist of a concise statement upon each issue
10 in the case. A copy of the decision or order accompanying the findings and conclusions along with
11 the written action and right of appeal, if any, shall be delivered or mailed promptly to the law
12 enforcement officer or to the officer's attorney or representative of record.

13 6. Law enforcement officers shall have the opportunity to provide a written response to any
14 adverse materials placed in their personnel file, and such written response shall be permanently
15 attached to the adverse material.

16 7. Law enforcement officers shall have the right to compensation for any economic loss
17 incurred as a result of disciplinary action by an agency if the alleged misconduct is not sustained by
18 the administrative body hearing the disciplinary appeal.

19 8. Law enforcement officers may petition the circuit court in the county in which the law
20 enforcement agency has its principal place of business to review the decision of the administrative
21 body hearing the appeal of discipline. Upon a finding that the discipline was not justified, the
22 circuit court may award the law enforcement officer back pay and costs incurred in bringing the suit,
23 including attorney's fees.

24 9. Employers shall defend and indemnify law enforcement officers from and against civil
25 claims made against them in their official and individual capacities if the alleged conduct arose in
26 the course and scope of their obligations and duties as law enforcement officers. This includes any
27 actions taken while off duty if such actions were taken under color of law. In the event a law
28 enforcement officer is convicted of or pleads guilty to criminal charges arising out of the same
29 conduct, the employer shall no longer be obligated to defend and indemnify the officer in
30 connection with related civil claims.

31 10. No law enforcement officer shall be disciplined, demoted, dismissed, transferred, or
32 placed on a status resulting in economic loss as a result of the officer's assertion of his or her
33 constitutional rights in any judicial proceeding unless the officer admits to wrongdoing, in which
34 case the provisions of this section shall not apply.

35 11. No state or local governmental unit including, but not limited to, a county, charter
36 county, city, charter city, municipality, district, college, university, or any other political subdivision
37 that employs a law enforcement officer shall enact, promulgate, enforce, or follow any law,
38 regulation, or policy that would abolish, conflict with, modify, or in any way diminish any right or
39 remedy provided to law enforcement officers under this section.

40 12. The rights set out in this section are minimum standards to be applied throughout the
41 state. However, nothing in this section shall prohibit a law enforcement agency and the authorized
42 bargaining representative for a law enforcement officer employed by that agency from reaching
43 written agreements providing disciplinary procedures more favorable than those provided in this
44 section.

45 13. The remedies provided by this section against law enforcement agencies or
46 governmental bodies shall be in addition to those provided by any other provision of law. Any
47 aggrieved law enforcement officer or authorized representative may seek judicial enforcement of the
48 requirements of these sections. Suits to enforce these sections shall be brought in the circuit court
49 for the county in which the law enforcement agency or governmental body has its principal place of

1 business.

2 14. Upon a finding by a preponderance of the evidence that a law enforcement agency,
3 governmental body, or member of such an entity has violated any provision of this section, a court
4 shall void any action taken under this section. Suit for enforcement shall be brought within one year
5 from the time a violation is ascertainable.

6 15. Nothing in this section shall apply to any investigation or other action by the director
7 regarding a license issued by the director under this chapter.

8 590.1265. 1. The provisions of this section shall be known and may be cited as the "Police
9 Use of Force Transparency Act of 2021".

10 2. For purposes of this section, the following terms mean:

11 (1) "Law enforcement agency", the same meaning as defined in section 590.1040;

12 (2) "Peace officer", the same meaning as defined in section 590.010;

13 (3) "Use-of-force incident", an incident in which:

14 (a) A fatality occurs that is connected to a use of force by a peace officer;

15 (b) Serious bodily injury occurs that is connected to a use of force by a peace officer; or

16 (c) In the absence of death or serious bodily injury, a peace officer discharges a firearm at,
17 or in the direction of, a person.

18 3. Each law enforcement agency shall, at least annually, collect and report local data on use-
19 of-force incidents involving peace officers to the National Use of Force Data Collection through the
20 Law Enforcement Enterprise Portal administered by the Federal Bureau of Investigation.

21 4. Each law enforcement agency shall additionally report the data submitted under
22 subsection 3 of this section to the department of public safety. Law enforcement agencies shall not
23 include personally identifying information of individual peace officers in their reports.

24 5. The department of public safety shall, no later than June 30, 2022, develop standards and
25 procedures governing the collection and reporting of use-of-force data under this section. The
26 standards and procedures shall be consistent with the requirements, definitions, and methods of the
27 National Use of Force Data Collection administered by the Federal Bureau of Investigation.

28 6. The department of public safety shall publish the data reported by law enforcement
29 agencies under subsection 4 of this section, including statewide aggregate data and agency-specific
30 data, in a publicly available report. Such data shall be deemed a public record consistent with the
31 provisions and exemptions contained in chapter 610.

32 7. The department of public safety shall undertake an analysis of any trends and disparities
33 in rates of use of force by all law enforcement agencies, with a report to be released to the public no
34 later than January 1, 2025. The report shall be updated periodically thereafter, but not less than once
35 every five years.

36 Section B. Section 590.1265 of section A of this act shall become effective on January 1,
37 2022."; and

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39 Further amend said bill by amending the title, enacting clause, and intersectional references
40 accordingly.