

FIRST REGULAR SESSION

HOUSE BILL NO. 1096

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALSH (50).

2327H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 590.653, RSMo, and to enact in lieu thereof one new section relating to civilian review boards.

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

Section A. Section 590.653, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 590.653, to read as follows:

590.653. 1. **For purposes of this section, the following terms mean:**

(1) **"Board", any civilian review board established under this section;**

(2) **"Complaint", a sworn statement alleging misconduct of a law enforcement officer and filed by the person against whom the officer allegedly engaged in such misconduct, or in the case of a minor, by the minor's parent or guardian;**

(3) **"Department", the law enforcement agency of a branch of local government and for which the board shall perform its duties under this section;**

(4) **"Misconduct", any violation of federal or state law; police department policy, rule, regulation, or written order; or city, county, or city not within a county ordinance that governs the professional duties and responsibilities of a law enforcement officer;**

(5) **"Personal information", the same meaning as defined in section 407.1500;**

(6) **"Record" or "records", every document, photo, video, sound recording, and other form of evidence, irrespective of format, pertaining to the complaint or the law enforcement officer or officers named in the complaint.**

2. Each city, county, and city not within a county may establish a civilian review board, or may use an existing civilian review board which has been appointed by the local governing body, with the authority to investigate allegations of misconduct by local law enforcement

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 officers towards members of the public. The members shall not receive compensation but shall
19 receive reimbursement from the local governing body for all reasonable and necessary expenses.

20 ~~[2.]~~ **3.** The board shall have the power to receive, investigate, make findings and
21 recommend ~~[disciplinary]~~ **appropriate** action upon complaints by members of the public against
22 members of the ~~[police]~~ department that allege misconduct involving excessive use of force,
23 abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs
24 relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and
25 recommendations of the board, and the basis therefor, shall be submitted to the chief law
26 enforcement official. No finding or recommendation shall be based ~~[solely]~~ upon an unsworn
27 complaint or statement, nor shall ~~[prior]~~ **undocumented**, unsubstantiated, unfounded or
28 withdrawn complaints be the basis for any such findings or recommendations.

29 **4.** The board shall have an odd number of members who shall be residents and
30 registered to vote in the community served by the department. Board members shall not
31 be employed by the same governmental body as the department employing the law
32 enforcement officer against whom a complaint is filed and shall not be a party to any
33 pending litigation against that body, an office holder with that body, or a candidate for an
34 office of that body.

35 **5.** Board members shall accurately reflect the educational, cultural, professional,
36 geographic, and racial diversity of community served by the department and at least one
37 member of the board shall possess prior experience as a commissioned law enforcement
38 officer in Missouri. The member with prior experience as a commissioned law enforcement
39 officer shall be appointed by and with the advice and consent of the local department.

40 **6.** Board members shall have no record of felony conviction or convictions
41 involving moral turpitude or dishonesty. The chief law enforcement officer of the
42 department shall obtain a criminal history of all applicants for membership on the board
43 and advise the appointing authority of any convictions for violations of federal, state, or
44 local law.

45 **7.** Members shall attend a training program sponsored by the department, such as
46 a citizens' police academy, or other such training provided by the department.

47 **8.** Board members shall follow the National Association for Civilian Oversight of
48 Law Enforcement (NACOLE) Code of Ethics.

49 **9.** Board members shall participate in a training ride, or ride-along, with an officer
50 routinely assigned to patrol duties, for a duration equal to one-half of the normal shift for
51 a patrol officer with the department as a part of the qualification for the board, and again
52 at least one time every calendar year thereafter while serving on the board. The ride-along
53 shall occur during a period of time that transpires equally over both daylight and

54 darkness. At the member's option, the member may instead participate in two ride-alongs
55 each equal to at least one-fourth of the normal shift for a patrol officer with one ride-along
56 entirely during daylight and one entirely during darkness.

57 10. Notice of board meetings shall be consistent with the provisions of Chapter 610.

58 11. In order to ensure the availability of necessary evidence and the necessary and
59 accurate recollection of any witnesses, complaints shall be filed within thirty days of an
60 alleged incident. Notice of a complaint shall be given to each officer named in the
61 complaint and shall be considered delivered when served upon the officer or upon the date
62 of delivery as documented by a United States Postal Service return receipt for certified
63 mail.

64 12. All statements and testimony before the board shall be given under oath or
65 affirmation and shall be permanently recorded as required by Missouri Supreme Court
66 Rule 14.

67 13. Any complaint that is shown to contain false allegations shall be treated as a
68 false report as defined by section 575.080 and shall be referred by the board or the chief
69 law enforcement officer to the local prosecuting attorney with a request that the matter be
70 filed for prosecution.

71 14. The board shall not require legal counsel for the representation of any
72 individual person.

73 15. The board may establish rules and procedures that do not conflict with this
74 section or the local department rules and regulations governing the security of internal
75 affairs investigations.

76 16. The board shall meet in open session at all times, except it shall close to hear
77 testimony, receive evidence, or to discuss the following:

78 (1) Any witness sixteen years of age or younger;

79 (2) Any complaint or complaint-related matter involving sexual assault or sexual
80 intimidation;

81 (3) Any matter that could disclose of the identity of an officer working undercover;
82 or

83 (4) Any other matter that cannot be heard or discussed in an open meeting under
84 state or federal law.

85 17. All information classified by the department as confidential shall be treated as
86 such by the board. Board members shall not disclose or discuss any such information
87 other than with another current board member.

88 18. Notwithstanding any provision to the contrary, all records provided to or held
89 by the board or board members shall be closed until legal counsel for the department has

90 approved any information sought to be released to any entity or person who is not a
91 member of the board.

92 **19. Board members shall not reveal, disclose, or discuss, outside of a closed board**
93 **meeting, the personal information of an officer. Members who disclose any such**
94 **information in violation of any laws or ordinances may be immediately removed from the**
95 **board by the local governmental body as well as prosecuted and punished as provided for**
96 **by law.**

97 **20. Board members shall not disclose or discuss outside of a board meeting any**
98 **information that could disclose the identity of a source wishing to remain confidential or**
99 **a suspect not in custody; or which would disclose techniques, procedures, or guidelines for**
100 **law enforcement investigations or potential prosecutions reasonably likely to pose a danger**
101 **to the safety of any victim, witness, undercover officer, or other person; or jeopardize a**
102 **criminal investigation.**

103 **21. Any officer whose conduct is in whole or in part the subject of an matter before**
104 **the board or who was involved with the investigation, or a determination by the**
105 **department of a matter before the board, shall be notified at least ten business days in**
106 **advance, and shall be allowed to attend any board meeting at which such matters are to**
107 **be discussed or considered whether such meeting is open or closed.**

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