

SECOND REGULAR SESSION

# HOUSE BILL NO. 3148

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE ANDERSON.

6925H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 84.120, 84.570, and 590.030, RSMo, and to enact in lieu thereof three new sections relating to citizenship requirements for law enforcement officers.

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

Section A. Sections 84.120, 84.570, and 590.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 84.120, 84.570, and 590.030, to read as follows:

84.120. 1. **(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~~]. **No person** 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 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) Any person appointed or employed as a policeman, turnkey, or officer of police shall be a citizen of the United States or shall be a lawful permanent resident of the United States who has been honorably discharged from the Armed Forces of the United States.**

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

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.

17 board under this section, the member involved may make application to the board to waive a  
18 hearing before the board and request that a hearing be held before a hearing officer.

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

25 4. (1) The hearing officer to whom a delegation has been made by the board may, at  
26 the sole discretion of the board, perform certain functions, including but not limited to the  
27 following:

- 28 (a) Presiding over a disciplinary matter from its inception through to the final hearing;
- 29 (b) Preparing a report to the board of police commissioners; and
- 30 (c) Making recommendations to the board of police commissioners as to the  
31 allegations and the appropriateness of the recommended discipline.

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

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

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

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

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

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

49 6. Nothing in this section shall be construed to authorize the board of police  
50 commissioners to remove or discharge any chief, as that term is defined in section 106.273.

84.570. 1. **(1)** No person shall be appointed policeman or officer of police who shall  
2 have been convicted of any offense, the punishment of which may be confinement in the state  
3 penitentiary~~;~~ ~~nor~~. **No person** shall ~~[any person]~~ be appointed who is not proven to be of

4 good character, [~~or who is not proven to be a bona fide citizen of the United States,~~] or who  
5 cannot read and write the English language and who does not possess ordinary physical  
6 strength and courage, nor shall any person be originally appointed to said police force who is  
7 less than twenty-one years of age. Notwithstanding any other provision of law, the board  
8 shall have the sole authority to determine conditions of employment for police officers  
9 pursuant to section 84.460.

10 **(2) Any person appointed as a policeman or officer of police shall be a citizen of**  
11 **the United States or shall be a lawful permanent resident of the United States who has**  
12 **been honorably discharged from the Armed Forces of the United States.**

13 2. In the interest of efficiency and public safety, law enforcement officers, as such  
14 term is defined in 29 U.S.C. Section 630 or any successor statute, shall be separated from  
15 service on the last day of the month in which the employee becomes sixty-five years of age or  
16 reaches thirty-five years of creditable service, as such term is defined in subdivision (8) of  
17 section 86.900, whichever occurs later.

18 3. The board shall from time to time require open competitive examinations or tests  
19 for determining the qualifications and fitness of all applicants for appointment to positions on  
20 the police force. Such examinations and tests shall be practical and shall relate to matters  
21 which fairly measure the relative fitness of the candidates to discharge the duties of the  
22 positions to which they seek to be appointed. Notice of such examinations and tests shall be  
23 given not less than ten days in advance thereof by public advertisement in at least one  
24 newspaper of general circulation in such city, and by posting notice in the police headquarters  
25 building. A list of those qualifying in such examinations shall be established, listing those  
26 qualified in order of rank. When an appointment is to be made, the appointment shall be  
27 made from such eligible list.

28 4. The board shall also establish rules for:

29 (1) Temporary employment for not exceeding sixty days in the absence of any  
30 eligible list;

31 (2) Hours of work of police employees and officers subject to the provisions of  
32 section 84.510; and

33 (3) Attendance regulations and leaves of absence.

590.030. 1. The POST commission shall establish minimum standards for the basic  
2 training of peace officers. Such standards may vary for each class of license established  
3 pursuant to subsection 2 of section 590.020.

4 2. The director shall establish minimum age, citizenship, and general education  
5 requirements and may require a qualifying score on a certification examination as conditions  
6 of eligibility for a peace officer license. Such general education requirements shall require

7 completion of a high school program of education under chapter 167 or obtainment of a  
8 General Educational Development (GED) certificate.

9 3. The director shall provide for the licensure, with or without additional basic  
10 training, of peace officers possessing credentials by other states or jurisdictions, including  
11 federal and military law enforcement officers.

12 4. The director shall establish a procedure for obtaining a peace officer license and  
13 shall issue the proper license when the requirements of this chapter have been met.

14 5. As conditions of licensure, all licensed peace officers shall:

15 (1) Obtain continuing law enforcement education pursuant to rules to be promulgated  
16 by the POST commission;

17 (2) Maintain a current address of record on file with the director; and

18 (3) Submit to being fingerprinted on or before January 1, 2022, and at any time a  
19 peace officer is commissioned with a different law enforcement agency, for the purposes of a  
20 criminal history background check and enrollment in the state and federal Rap Back  
21 programs, pursuant to section 43.540. The criminal history background check shall include  
22 the records of the Federal Bureau of Investigation. The resulting report shall be forwarded to  
23 the officer's commissioning law enforcement agency at the time of enrollment and Rap Back  
24 enrollment shall be for the purpose of the requirements of subsection 3 of section 590.070 and  
25 subsection 2 of section 590.118. An officer shall take all necessary steps to maintain  
26 enrollment in Rap Back at all law enforcement agencies where the officer is commissioned  
27 for as long as the officer is commissioned with a law enforcement agency or that agency.

28 6. A peace officer license shall automatically expire if the licensee fails to hold a  
29 commission as a peace officer for a period of five consecutive years, provided that the POST  
30 commission shall provide for the relicensure of such persons and may require retraining as a  
31 condition of eligibility for relicensure, and provided that the director may provide for the  
32 continuing licensure, subject to restrictions, of persons who hold and exercise a law  
33 enforcement commission requiring a peace officer license but not meeting the definition of a  
34 peace officer pursuant to this chapter.

35 7. All law enforcement agencies shall enroll in the state and federal Rap Back  
36 programs on or before January 1, 2022, and continue to remain enrolled. The law  
37 enforcement agency shall take all necessary steps to maintain officer enrollment for all  
38 officers commissioned with that agency in the Rap Back programs. An officer shall submit to  
39 being fingerprinted at any law enforcement agency upon commissioning and for as long as  
40 the officer is commissioned with that agency.

41 **8. Notwithstanding any other provision of law to the contrary, any citizenship**  
42 **requirements established by the POST commission as a condition of eligibility for a**  
43 **peace officer license shall allow a person to serve as a law enforcement officer if he or**

44 **she is a lawful permanent resident of the United States who has been honorably**  
45 **discharged from the Armed Forces of the United States.**

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