

SENATE SUBSTITUTE
 FOR
 SENATE BILL NO. 26
 AN ACT

To repeal sections 67.030, 84.400, 557.045, and 574.085, RSMo, and to enact in lieu thereof seven new sections relating to public safety, with penalty provisions.

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

Section A. Sections 67.030, 84.400, 557.045, and 574.085, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.030, 84.400, 557.045, 574.045, 574.085, 590.192, and 590.502, to read as follows:

67.030. 1. The governing body of each political subdivision may revise, alter, increase or decrease the items contained in the proposed budget, subject to such limitations as may be provided by law or charter or in subsection 2 of this section; provided, that in no event shall the total authorized expenditures from any fund exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Except as otherwise provided by law or charter, the governing body of each political subdivision shall, before the beginning of the fiscal year, approve the budget and approve or adopt such orders, motions, resolutions, or ordinances as may be required to authorize the budgeted expenditures and produce the revenues estimated in the budget.

2. Any taxpayer of a political subdivision may initiate an action for injunctive relief, which the court shall grant, if the governing body of such political subdivision decreases the budget for its law enforcement agency by an amount exceeding more than twelve percent

21 relative to the proposed budgets of other departments of the
22 political subdivision over a five year aggregate amount.

84.400. 1. Any one of said commissioners so appointed
2 or any member of any such police force who, during the term
3 of his office, shall accept any other place of public trust,
4 or emolument, or who shall knowingly receive any nomination
5 for an office elective by the people, and shall fail to
6 decline such nomination publicly within the five days
7 succeeding such nomination or shall become a candidate for
8 the nomination for any office at the hands of any political
9 party, shall be deemed to have thereby forfeited and vacated
10 office as such commissioner or member of such police force.

11 2. Notwithstanding any provisions of law to the
12 contrary, a member of the board or any member of such police
13 force may be appointed to serve on any state or federal
14 board, commission, or task force where no compensation for
15 such service is paid, except that such board member or
16 member of such police force may accept payment of a per diem
17 for attending meetings, or if no per diem is provided,
18 reimbursement from such board, commission, or task force for
19 reasonable and necessary expenses for attending such
20 meetings.

557.045. No person found guilty of, or pleading guilty
2 to, the following offenses shall be eligible for probation,
3 suspended imposition or execution of sentence, or
4 conditional release, and shall be sentenced to a term of
5 imprisonment pursuant to subdivision (1) of subsection 2 of
6 section 557.011:

7 (1) Second degree murder when a person knowingly
8 causes the death of another person or, with the purpose of
9 causing serious physical injury to another person, causes
10 the death of another person, as defined in subdivision (1)
11 of subsection 1 of section 565.021;

12 (2) Any dangerous felony, as the term is defined in
13 section 556.061, where the person has been previously found
14 guilty of a class A or B felony or a dangerous felony; [or]

15 (3) Any dangerous felony, as the term is defined in
16 section 556.061, where the commission of the felony involves
17 the use of a deadly weapon, as that term is defined in
18 section 556.061; or

19 (4) Any dangerous felony, as the term is defined in
20 section 556.061, where the victim is a law enforcement
21 officer, firefighter, or an emergency service provider while
22 in the performance of his or her duties.

574.045. 1. As used in this section, the following
2 terms mean:

3 (1) "Interstate highway", a highway located in this
4 state that is included in the national system of interstate
5 highways, as officially designated or as may be hereafter
6 designated by the Missouri highways and transportation
7 commission within the Missouri department of transportation
8 and approved by the United States Secretary of
9 Transportation;

10 (2) "Unlawful assembly", when a person knowingly
11 assembles with six or more other persons and agrees with
12 such persons to violate any of the criminal laws of this
13 state or of the United States with force or violence.

14 2. A person commits the offense of unlawful traffic
15 interference if, with the intention to impede vehicular
16 traffic, the person walks, stands, sits, kneels, lays, or
17 places an object in such a manner as to block passage by a
18 vehicle on any public street, highway, or interstate
19 highway. This section shall not apply to the blocking of
20 passage by any person who has permission to do so from a
21 government authority, who is a law enforcement officer, or

22 who does so to direct traffic away from hazardous road
23 conditions, an obstacle, or a scene of an accident.

24 3. The offense of unlawful traffic interference on a
25 public street or highway is an infraction for the first
26 violation. Any second violation that occurs on a public
27 street or highway is a class B misdemeanor. Any third or
28 subsequent violation that occurs on a public street or
29 highway is a class E felony.

30 4. The offense of unlawful traffic interference on any
31 public street, highway, or interstate highway while part of
32 an unlawful assembly is an infraction for the first
33 violation. Any second violation that occurs on a public
34 street, highway, or interstate highway while part of an
35 unlawful assembly is a class A misdemeanor. Any third or
36 subsequent violation that occurs on a public street,
37 highway, or interstate highway while part of an unlawful
38 assembly is a class D felony.

574.085. 1. A person commits the offense of
2 institutional vandalism if he or she knowingly vandalizes,
3 defaces, or otherwise damages:

4 (1) Any church, synagogue or other building, structure
5 or place used for religious worship or other religious
6 purpose;

7 (2) Any cemetery, mortuary, military monument or other
8 facility used for the purpose of burial or memorializing the
9 dead;

10 (3) Any school, educational facility, community
11 center, hospital or medical clinic owned and operated by a
12 religious or sectarian group;

13 (4) The grounds adjacent to, and owned or rented by,
14 any institution, facility, building, structure or place
15 described in subdivision (1), (2), or (3) of this subsection;

16 (5) Any personal property contained in any
17 institution, facility, building, structure or place
18 described in subdivision (1), (2), or (3) of this
19 subsection; [or]

20 (6) Any motor vehicle which is owned, operated, leased
21 or under contract by a school district or a private school
22 for the transportation of school children; or

23 (7) Any public monument or structure on public
24 property owned or operated by a public entity.

25 2. The offense of institutional vandalism is a class A
26 misdemeanor, unless the value of the property damage is
27 seven hundred fifty dollars or more, in which case the
28 offense is a class E felony; or the value of the property
29 damage is more than five thousand dollars, in which case the
30 offense is a class D felony.

31 3. In determining the amount of damage to property,
32 for purposes of this section, damage includes the cost of
33 repair or, where necessary, replacement of the property that
34 was damaged.

590.192. 1. There is hereby created in the state
2 treasury the "988 Public Safety Fund", which shall consist
3 of money appropriated by the general assembly. The state
4 treasurer shall be custodian of the fund. In accordance
5 with sections 30.170 and 30.180, the state treasurer may
6 approve disbursements. The fund shall be a dedicated fund
7 and money in the fund shall be used solely by the department
8 of public safety for the purposes of providing services for
9 peace officers to assist in coping with stress and potential
10 psychological trauma resulting from a response to a critical
11 incident or emotionally difficult event. Such services may
12 include consultation, risk assessment, education,
13 intervention, and other crisis intervention services

14 provided by the department to peace officers affected by a
15 critical incident.

16 2. Notwithstanding the provisions of section 33.080 to
17 the contrary, any moneys remaining in the fund at the end of
18 the biennium shall not revert to the credit of the general
19 revenue fund.

20 3. The state treasurer shall invest moneys in the fund
21 in the same manner as other funds are invested. Any
22 interest and moneys earned on such investments shall be
23 credited to the fund.

590.502. 1. For purposes of this section, the
2 following shall mean:

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

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

11 (3) "Economic loss", any economic loss, including but
12 not limited to, loss of overtime accrual, overtime income,
13 sick time accrual, sick time, secondary employment income,
14 holiday pay, and vacation pay;

15 (4) "Good cause", sufficient evidence or facts that
16 would support a party's request for extensions of time or
17 any other requests seeking accommodations outside the scope
18 of the rules set out herein;

19 (5) "Law enforcement officer", any sworn peace officer
20 with the power to arrest for a violation of the criminal
21 code who is employed by any unit of the state or any
22 political subdivision or by a state college or university.

23 "Law enforcement officer" shall not include any officer who
24 is the highest ranking officer in the law enforcement agency.

25 2. Whenever a law enforcement officer is under
26 investigation or is subjected to questioning, that the
27 officer reasonably believes could lead to disciplinary
28 action, demotion, dismissal, transfer, or placement on a
29 status that could lead to economic loss, the investigation
30 or questioning shall be conducted under the following
31 conditions:

32 (1) The law enforcement officer who is the subject of
33 the investigation shall be informed, in writing, of the
34 existence and nature of the alleged violation and the
35 individual who will be conducting the investigation. Notice
36 shall be provided to the officer along with a copy of the
37 complaint at least twenty-four hours prior to any
38 interrogation or interview of the officer;

39 (2) Any person, including members of the same agency
40 or department as the officer under investigation, filing a
41 complaint against a law enforcement officer shall have the
42 complaint supported by a written statement outlining the
43 complaint that includes the personal identifying information
44 of the person filing the complaint. All personal
45 identifying information shall be held in camera. Any
46 complaint supported by a sworn affidavit and found, in total
47 or in part, to contain knowingly false material information,
48 shall be presented to the appropriate prosecuting or circuit
49 attorney for a determination of prosecution;

50 (3) When a law enforcement officer is questioned or
51 interviewed regarding matters pertaining to his or her law
52 enforcement duties or actions taken within the scope of his
53 or her employment, such questioning shall be conducted for a
54 reasonable length of time and only while the officer is on

55 duty unless reasonable circumstances exist that necessitate
56 questioning the officer while he or she is off duty;

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

61 (5) Law enforcement officers shall be questioned by
62 two investigators and shall be informed of the name, rank,
63 and command of the officer conducting the investigation;
64 except that, separate investigators shall be assigned to
65 investigate alleged department policy violations and alleged
66 criminal violations;

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

71 (7) Law enforcement officers shall not be threatened,
72 harassed, or promised rewards to induce them into answering
73 any question; except that, law enforcement officers may be
74 compelled by their employer to give protected statements to
75 an investigator under the direct control of the employer,
76 but such compelled statements shall not be used or
77 derivatively used against the officer in any aspect of a
78 criminal case brought against the officer;

79 (8) Law enforcement officers under investigation are
80 entitled to have an attorney or any duly authorized
81 representative present during any questioning that the law
82 enforcement officer reasonably believes may result in
83 disciplinary action. The questioning shall be suspended for
84 a period of up to twenty-four hours if the officer requests
85 representation;

86 (9) Prior to the law enforcement officer being
87 interviewed, the officer and his representative shall have

88 the opportunity to review any audio or video in the
89 possession of the agency conducting the investigation and
90 the investigators shall redact any personal identifying
91 information;

92 (10) The law enforcement agency conducting the
93 investigation shall have ninety days from receipt of a
94 complaint to complete such investigation. The agency shall
95 determine the disposition of the complaint and render a
96 disciplinary decision, if any, within ninety days. The
97 agency may, for good cause, petition the board overseeing
98 the administration of discipline for an extension of time to
99 complete the investigation. If the board finds the agency
100 has shown good cause for the granting of an extension of
101 time to complete the investigation, the board shall grant an
102 extension of up to sixty days. The agency is limited to two
103 extensions per investigation, except if there is an ongoing
104 criminal investigation there shall be no limitation on the
105 amount of sixty day extensions. Absent consent from the
106 officer being investigated, the board overseeing the
107 administration of discipline shall set the matter for
108 hearing and shall provide notice of the hearing to the law
109 enforcement officer under investigation. The officer shall
110 have the right to attend the hearing and to present evidence
111 and arguments against extension;

112 (11) Within five days of the conclusion of the
113 administrative investigation, the investigator shall inform
114 the officer, in writing, of the investigative findings and
115 any recommendation for further action, including discipline;

116 (12) A complete record of the administrative
117 investigation shall be kept by the law enforcement agency
118 conducting such investigation. Upon completion of the
119 investigation, a copy of the entire record, including, but
120 not limited to, audio, video, and transcribed statements,

121 shall be provided to the officer or the officer's
122 representative within five business days of the officer's
123 written request. The agency may request a protective order
124 to redact all personal identifying witness information; and

125 (13) All records compiled as a result of any
126 investigation subject to the provisions of this section
127 shall be held confidential and shall not be subject to
128 disclosure under chapter 610, except by lawful subpoena or
129 court order.

130 3. Law enforcement officers who are suspended without
131 pay, demoted, terminated, transferred, or placed on a status
132 resulting in economic loss shall be entitled to a full due
133 process hearing. However, nothing in this section shall
134 prohibit a law enforcement agency and the authorized
135 bargaining representative for a law enforcement officer
136 employed by that agency from reaching written agreements
137 providing disciplinary procedures more favorable than those
138 provided for this section. The components of the hearing
139 shall include, at a minimum:

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

142 (2) Seven days notice of the hearing date and time;

143 (3) An opportunity to access and review documents, at
144 least seven days in advance of the hearing, that are in the
145 employer's possession and that were used as a basis for the
146 disciplinary action;

147 (4) The right to refuse to testify at the hearing if
148 the officer is concurrently facing criminal charges in
149 connection with the same incident. A law enforcement
150 officer's decision not to testify shall not result in
151 additional internal charges or discipline;

152 (5) A complete record of the hearing shall be kept by
153 the agency for purposes of appeal. The record shall be

154 provided to the officer or his or her attorney upon written
155 request;

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

159 If a contractual disciplinary grievance procedure executed
160 by and between the agency and the bargaining unit of that
161 officer is in effect, the terms of that disciplinary
162 grievance procedure shall take precedence and govern the
163 conduct of the hearing.

164 4. In the event a law enforcement officer is entitled
165 to a hearing, a hearing shall be scheduled within a
166 reasonable period of time from the alleged incident, but in
167 no event more than one hundred twenty days following the
168 notification of discipline, unless waived in writing by the
169 charged officer.

170 5. Any decision, order, or action taken following the
171 hearing shall be in writing and shall be accompanied by
172 findings of fact. The findings shall consist of a concise
173 statement upon each issue in the case. A copy of the
174 decision or order accompanying findings and conclusions
175 along with the written action and right of appeal, if any,
176 shall be delivered or mailed promptly to the law enforcement
177 officer or to the officer's attorney or representative of
178 record.

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

183 7. Law enforcement officers shall have the right to
184 compensation for any economic loss incurred during an
185 investigation if the officer is found to have committed no
186 misconduct.

187 8. Employers shall defend and indemnify law
188 enforcement officers from and against civil claims made
189 against them in their official and individual capacities if
190 the alleged conduct arose in the course and scope of their
191 obligations and duties as law enforcement officers. This
192 includes any actions taken off duty if such actions were
193 taken under color of law. In the event the law enforcement
194 officer is convicted of, or pleads guilty to, criminal
195 charges arising out of the same conduct, the employer shall
196 no longer be obligated to defend and indemnify the officer
197 in connection with related civil claims.

198 9. Law enforcement officers shall not be disciplined,
199 demoted, dismissed, transferred, or placed on a status
200 resulting in economic loss as a result of the assertion of
201 their constitutional rights in any judicial proceeding,
202 unless the officer admits to wrong-doing in which case the
203 provisions of this section shall not apply.

204 10. The remedies provided by this section against law
205 enforcement agencies or governmental bodies shall be in
206 addition to those provided by any other provision of law.
207 Any aggrieved law enforcement officer or authorized
208 representative may seek judicial enforcement of the
209 requirements of this section. Suits to enforce this section
210 shall be brought in the circuit court for the county in
211 which the law enforcement agency or governmental body has
212 its principal place of business.

213 11. Upon a finding by a preponderance of the evidence
214 that a law enforcement agency, governmental body, or member
215 of same has violated any provision of this section, a court
216 shall void any action taken in violation of this section.
217 Suit for enforcement shall be brought within one year from
218 which the violation is ascertainable.