

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 451
90TH GENERAL ASSEMBLY

Reported from the Committee on Public Safety and Law Enforcement, April 27, 1999, with recommendation that the House Committee Substitute for Senate Bill No. 451 Do Pass.

ANNE C. WALKER, Chief Clerk

L1218.04C

AN ACT

To repeal sections 57.010, 84.140, 590.100, 590.110, 590.116, 590.117, 590.130, 590.131, 590.150, 590.170, 590.175, 590.178 and 590.180, RSMo 1994, and sections 590.105, 590.115, 590.135 and 590.140, RSMo Supp. 1998, relating to POST certification and public safety benefits, and to enact in lieu thereof twenty-one new sections relating to the same subject, with penalty provisions and an expiration date for certain sections.

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

Section A. Sections 57.010, 84.140, 590.100, 590.110, 590.116, 590.117, 590.130, 590.131, 590.150, 590.170, 590.175, 590.178 and 590.180, RSMo 1994, and sections 590.105, 590.115, 590.135 and 590.140, RSMo Supp. 1998, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 57.010, 84.140, 590.100, 590.105, 590.110, 590.115, 590.117, 590.130, 590.131, 590.135, 590.137, 590.138, 590.139, 590.140, 590.150, 590.178, 590.180, 1, 2, 3 and 4, to read as follows:

57.010. At the general election to be held in 1948, and at each general election held every four years thereafter, the voters in every county in this state shall elect some suitable person sheriff. No person shall be eligible for the office of sheriff who has been convicted of a felony **or who at the time such person takes office has not completed at least one hundred twenty hours toward the requirements set forth in the provisions of sections 590.100 to 590.180, RSMo.** Such person shall be a resident taxpayer and elector of said county, shall have resided in said county for more than one whole year next before filing for said office and shall be a person capable of efficient law enforcement. When any person shall be elected sheriff, [he] **such person** shall enter upon the discharge of the duties of [his] **such person's office as chief law enforcement officer of that county** on the first day of January next succeeding [his] **such person's** election.

84.140. **1.** The boards shall grant every member of the police force hired prior to May 1, 1986, a total of three weeks vacation each year with pay, and each member of the police force who has served the department for twelve years or more shall receive four weeks vacation each year with pay, and each member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay; however, the boards shall grant every member of the police force hired on or after May 1, 1986, a total of two

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

weeks vacation each year with pay, and each such member of the police force who has served the department for five years or more shall receive three weeks vacation each year with pay, and each such member of the police force who has served the department for twelve years or more shall receive four weeks vacation each year with pay, and each such member of the police force who has served the department for twenty-one years or more shall receive five weeks vacation each year with pay. All members of the police force shall receive fourteen holidays with pay, and one hundred four days off duty each year with pay, and the boards may from time to time grant additional days off duty each year with pay when in the judgment of the boards, the granting thereof will not materially impair the efficiency of the department.

2. The St. Louis board of commissioners may compensate the chief of police for any vacation leave accumulated in lieu of providing vacation days off with pay if such arrangement for compensation is agreed to by both the board and the chief of police.

590.100. As used in sections 590.100 to 590.180, the following terms mean:

(1) **"Bailiff", an assigned officer of the court subject to control and supervision and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners and other services which are reasonably necessary for the proper functioning of the court;**

(2) **"Certified reserve officer", any person in a county of the third classification, who is certified with one hundred twenty hours of training, regularly works less than thirty hours a week and possesses the duty and power of arrest for violations of any criminal laws of the state, or for violation of ordinances of the counties or municipalities of the state and is under the supervision of a peace officer. Such certified reserve officers' police powers shall be limited to the appointing political subdivision;**

[(1)] (3) **"Certified training academy", any academy located within the state of Missouri which has been certified by the director to provide training programs for peace officers or certified reserve officers in this state;**

[(2)] (4) **"Chief executive officer", the chief of police, director of public safety, sheriff, department head or chief administrator of any law enforcement or public safety agency of the state or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state or for violation of ordinances of a county or municipality;**

[(3)] (5) **"Director", the director of the Missouri department of public safety;**

(6) **"Noncertified reserve officer", any person who is not certified serving in a law enforcement capacity with nonprimary enforcement authority, and is not under the supervision of a certified peace officer or certified reserve officer;**

(7) **"Nonprimary enforcement activities", activities which include, but are not limited to, traffic control, crowd control, checking abandoned, vacated and temporarily vacated structures, conveyance of motor vehicles, the administration of first aid, public appearances and public educational presentations;**

[(4)] (8) **"Peace officer", members of the state highway patrol, all state, county, and municipal law enforcement officers possessing the duty and power of arrest for violation of any criminal laws of the state or for violation of ordinances of counties or municipalities of the state [who serve full time, with pay;**

(5) **"Reserve officer", any person who serves in a less than full-time law enforcement capacity, with or without pay, and who, without certification, has no power of arrest and who,**

without certification, must be under the direct and immediate accompaniment of a certified peace officer of the same agency at all times while on duty. In a county of the first class adjoining a city not within a county, reserve peace officers may engage in all nonprimary enforcement activities without being under direct or immediate accompaniment of a certified peace officer.];

(9) "Primary enforcement activities", activities used to enforce the police powers of the state, including, but not limited to, a direct or indirect involvement in the activities of arrest, detention, vehicular pursuit, search or interrogations.

590.105. 1. A program of mandatory standards for the basic training and certification of peace officers and a program of optional standards for the basic training and certification of reserve officers in this state is hereby established. The peace officer standards and training commission shall establish the minimum number of hours of training and core curriculum. In no event, however, shall the commission require more than one thousand hours of such training for either peace or **certified** reserve officers employed by any state law enforcement agency, or more than six hundred hours of such training for other peace or **certified** reserve officers; provided, however, that the minimum hours of training shall be no lower than the following:

- (1) One hundred twenty hours as of August 28, 1993;
- (2) Three hundred hours as of August 28, 1994; and
- (3) Four hundred seventy hours as of August 28, 1996.

The higher standards provided in this section for certification after August 28, 1993, shall not apply to any peace or **certified** reserve officer certified prior to August 28, 1993[, or to deputies of any sheriff's department in any city not within a county requiring no more or less than one hundred twenty hours of training. Certified peace and reserve officers between January 1, 1992, and August 28, 1995, shall only meet the hours of training applicable to the year in which the officer was employed or appointed].

2. Beginning on August 28, 1996, peace officers shall be required to [complete the four hundred fifty hours of training as peace officers and] be certified to be eligible for employment. Park rangers appointed pursuant to section 64.335, RSMo, who do not carry firearms shall be exempt from the training requirements of this section.

3. Bailiffs who are not certified peace officers **or certified reserve officers** shall be required to complete a minimum of sixty hours of mandated training, except that any person who has served as a bailiff prior to January 1, 1995, shall not be required to complete the training requirements mandated by this subsection, provided such person's training or experience is deemed adequate by the peace officer standards and training commission in accordance with current standards.

4. All political subdivisions within this state may adopt standards which are higher than the minimum standards implemented pursuant to sections 590.100 to 590.180, and such minimum standards shall in no way be deemed adequate in those cases in which higher standards have been adopted.

5. [Any federal officer who has the duty and power of arrest on any federal military installation in this state may, at the option of the federal military installation in which the officer is employed, participate in the training program required under the provisions of sections 590.100 to 590.180 and, upon satisfactory completion of such training program, shall be certified by the director in the same manner provided for peace officers, as defined in section 590.100, except that the duty and power of arrest of military officers for violation of the general criminal laws of the

state or for violation of ordinances of counties or municipalities of the state shall extend only to the geographical boundaries within which the federal military installation is located. Any costs involved in the training of a federal officer shall be borne by the participating federal military installation.

6.] Notwithstanding any provision of this chapter to the contrary, any peace officer who is employed by a law enforcement agency located within a county of the third classification **before January 1, 2001**, shall be required to have no more or less than one hundred twenty hours of training for certification if the respective city or county adopts an order or ordinance to that effect.

[7.] **6.** The peace officers standards and training commission with input from the department of health and the division of family services shall provide a minimum of thirty hours of initial education to all prospective law enforcement officers, except for agents of the conservation commission, concerning domestic and family violence.

[8.] **7.** The course of instruction and the objectives in learning and performance for the education of law enforcement officers required pursuant to subsection [6] **5** of this section shall be developed and presented in consultation with public and private providers of programs for victims of domestic and family violence, persons who have demonstrated expertise in training and education concerning domestic and family violence, and the Missouri coalition against domestic violence. The peace officers standards and training commission shall consider the expertise and grant money of the national council of juvenile and family court judges, with their domestic and family violence project, as well as other federal funds and grant moneys available for training.

[9.] **8.** The course of instruction shall include, but is not limited to:

(1) The investigation and management of cases involving domestic and family violence and writing of reports in such cases, including:

- (a) Physical abuse;
- (b) Sexual abuse;
- (c) Child fatalities;
- (d) Child neglect;

(e) Interviewing children and alleged perpetrators;

(2) The nature, extent and causes of domestic and family violence;

(3) The safety of officers investigating incidents of domestic and family violence;

(4) The safety of the victims of domestic and family violence and other family and household members;

(5) The legal rights and remedies available to victims of domestic and family violence, including but not limited to rights and compensation of victims of crime, and enforcement of civil and criminal remedies;

(6) The services available to victims of domestic and family violence and their children;

(7) Sensitivity to cultural, racial and sexual issues and the effect of cultural, racial, and gender bias on the response of law enforcement officers and the enforcement of laws relating to domestic and family violence; and

(8) The provisions of applicable state statutes concerning domestic and family violence.

590.110. 1. No person shall be appointed **or employed** as a peace officer **or certified reserve officer** by any public law enforcement agency, which is possessed of the duty and power to enforce the general criminal laws of the state or the ordinances of any political subdivision of this state, unless he has been certified by the director as provided in sections 590.100 to 590.180[,

unless he is appointed on a probationary basis, and the hiring agency, within one year after his initial appointment, takes all necessary steps to qualify him for certification by the director. Unless a peace officer is certified within the one-year period after appointment, his appointment shall be terminated and he shall not be eligible for appointment by any other law enforcement agency as a peace officer. Beginning on August 28, 1995, peace officers shall be required to complete the four hundred fifty hours of training as peace officers and be certified to be eligible for employment].

2. The chief executive officer of each law enforcement agency shall notify the director of the appointment of any peace or reserve officer not later than thirty days after the date of the appointment and include with such notification a copy of a fingerprint card verified by the Missouri state highway patrol pertaining to the results of a criminal background check of the officer appointed and evidence of the completion of the standards necessary for employment as provided in sections 590.100 to 590.180.

3. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a reserve officer; however, any person who serves as a **noncertified** reserve officer in any public law enforcement agency which is possessed of the duty and power to enforce the general criminal laws of this state or the ordinances of any political subdivision of this state [may, at the option of the political subdivision in which the reserve officer is appointed, participate in the basic training program required under the provisions of sections 590.100 to 590.180, and, upon completion of such training program, shall be certified by the director in the same manner as provided for peace officers.] **has no power of arrest unless under direct and immediate accompaniment of a certified peace or reserve officer of the same agency in order to engage in primary enforcement activities.**

4. **Any applicant to a police officer standards and training certified law enforcement training center shall submit a fingerprint card to the training center, along with an authorization allowing the director to conduct a criminal history background check to include the records of the Federal Bureau of Investigation. The law enforcement training center shall forward the fingerprint card and authorization to the director, who shall conduct a criminal history background. The certified law enforcement training academy and the director may charge the applicant a fee for the cost of the criminal history check. The director may refuse to allow an applicant to complete a certified training course for conduct in violation of section 590.135.**

5. **In addition to the satisfactory completion of a basic training course at a certified training center, any person applying for peace officer certification shall be required to pass a certification examination pursuant to rules promulgated by the peace officer standards and training commission.**

6. **The director shall have the authority to issue certification to peace, reserve or federal law enforcement officers from other states or jurisdictions who are seeking certification as peace or reserve officers in this state pursuant to the rules promulgated by the peace officer standards and training commission.**

590.115. 1. Training and certification requirements specified in sections 590.100 to 590.180 are recommended but not required of a peace officer who has been consistently employed as a full-time peace officer and was appointed before December 31, 1978, whether or not such officer changes his place of employment.

2. Training and certification requirements specified in sections 590.100 to 590.180 are

recommended but not required of a reserve officer who was appointed as a reserve officer prior to August 15, 1988. Requirements for certification of such reserve officers may be determined by the commission. A certified reserve officer may transfer from one similar jurisdiction to another as a certified reserve officer without any additional training requirements unless or until the certified reserve officer becomes or attempts to become a full-time peace officer, at which time the individual must satisfy the requirements of this chapter to become a certified full-time police officer, or unless or until the certified reserve officer attempts to become a certified reserve officer in a jurisdiction wherein the basic training requirement is higher than the previous jurisdiction's basic training requirement, at which time the individual must satisfy the higher basic training requirements of the new jurisdiction to become a certified reserve officer.

3. Except as provided in subsections 1, 2 and 4 of this section, in the event that a peace officer claims to have had prior basic training, the chief executive officer shall furnish to the director evidence that the noncertified officer has satisfactorily completed instruction in a course of basic training for peace officers conducted by a law enforcement training academy or institute which is approved by the director as providing basic training equivalent to standards set for jurisdictions within this state. The basic training course satisfactorily completed by the noncertified officer shall meet the minimum basic training requirements of the jurisdiction in which he is appointed or is to be appointed as required under the provisions of sections 590.100 to 590.180.

4. The director may certify a chief executive officer as qualified under sections 590.100 to 590.180, if the person's employer furnishes the director with evidence that the chief executive officer has training or experience equivalent to the standards set forth in subsection 1, 2, or 3 of this section or is a graduate of the FBI National Academy or its equivalent as determined by the director, or holds a bachelor of science degree in criminal justice or a related field received from an accredited college or university or a doctor of jurisprudence degree received from a college or university approved by the American Bar Association.

5. Peace officers and reserve officers meeting the basic training requirements under sections 590.100 to 590.180 shall be eligible to be certified by the director.

6. Beginning August 28, 1996, the peace officer standards and training commission shall establish a program of continuing law enforcement education and training. Each peace officer or **certified** reserve officer subject to the training provisions of sections 590.100 to 590.180 shall participate in continuing law enforcement education to maintain certification. The providers of continuing law enforcement education and training, as well as the contents and subject matter thereof, shall be subject to the approval of the peace officer standards and training commission. The costs of the continuing law enforcement education and training offered by certified providers to persons entitled to receive such education and training shall be reimbursed by moneys from the peace officer standards and training commission fund created in section 590.178. The peace officer standards and training commission shall require by rule that all peace officers or **certified** reserve officers, subject to the training provisions herein, contribute, based on standards set by the commission, to the cost of said training.

7. The peace officer standards and training commission may provide by rule for the reciprocal recognition of equivalent entry level core basic training at a training center by law enforcement officers of the federal government or other states or territories of the United States, and may require such additional training prior to certification as the commission deems necessary.

[590.116. 1. Within one year from the date of probationary appointment, the

chief executive officer of a law enforcement agency shall furnish to the director evidence that the noncertified officer satisfactorily completed instruction in a course of training for peace officers in a certified training academy or is currently enrolled in a certified training program to be completed with the first year of employment.

2. This section shall expire on August 28, 1995.]

590.117. The department shall provide by administrative rule for the requirements for continuing certification of an inactive or unemployed peace officer **or certified reserve officer** during the term of such inactivity or unemployment, provided that the certification of such peace officers shall expire after five consecutive years of such inactivity or unemployment. The cost of any continuing law enforcement education and training required to maintain such certification shall be paid by the inactive or unemployed peace officer **or certified reserve officer**.

590.130. [No] **The** elected county peace officer or official shall be required **within one year after taking office**, to be certified [under] **pursuant to** sections 590.100 to 590.180 to [seek or] hold such office, [but] **and** all appointive deputies or assistants of such officer or official who are employed as peace officers[, provided that such county has five or more full-time peace officers,] shall be certified as a condition of appointment in the same manner as other peace officers are required to be certified. No arrest shall be deemed unlawful in any criminal or civil proceeding solely because the peace officer is not certified [under the terms of] **pursuant to** sections 590.100 to 590.180. Evidence on the question cannot be received in any civil or criminal case.

590.131. 1. The chief, **sheriff or** executive officer of [each] **an employing** law enforcement agency shall notify the director [of a peace officer's separation from the agency, whether voluntary or involuntary, and shall set forth in detail the facts and reasons for the separation on a form to be provided by the director] **within thirty days on a form adopted by the director, if a holder of any certificate issued pursuant to this chapter is separated from employment or appointment as a result of firing, termination, resignation, retirement or voluntary or involuntary leave of absence of any law enforcement officer.**

2. Any person or agency authorized to submit information pursuant to this section to the director shall be immune from liability arising from the submission of the information so long as the information was submitted in good faith and without negligence or malice.

3. In the case of a separation from employment or appointment for one of the following reasons, the notice shall so state:

(1) The officer was separated for his or her failure to meet the minimum qualifications for employment or appointment as a certified officer;

(2) The officer was dismissed for violations of municipal, state or federal law;

(3) The officer was dismissed for violations of the written and distributed regulations of the law enforcement agency;

(4) The officer resigned while he or she was the subject of pending internal investigation.

4. The director or his or her designee shall review the certification of an officer to determine whether the certification should be subject to discipline if the information provided by the agency indicates that officer violated the provisions of section 590.135.

590.135. 1. The director or any of his designated representatives may:

(1) Visit and inspect any certified academy or training program requesting certification

for the purpose of determining whether or not the minimum standards established pursuant to sections 590.100 to 590.180 are being complied with, and may issue, suspend or revoke certificates indicating such compliance;

(2) Issue, suspend or revoke certificates for instructors under the provisions of sections 590.100 to 590.180;

(3) Issue or authorize the issuance of diplomas, certificates and other appropriate indicia of compliance and qualification to peace officers **or certified reserve officers** trained under the provisions of sections 590.100 to 590.180.

2. The director may **singly, or in combination, warn, censure, probate**, refuse to issue, or may suspend or revoke any diploma, certificate or other indicia of compliance and qualification to peace officers, **certified reserve officers** or bailiffs issued pursuant to subdivision (3) of subsection 1 of this section of any peace officer **or refuse to admit an initial applicant to a certified academy or training program** for the following:

[(1) Conviction of a felony including the receiving of a suspended imposition of a sentence following a plea or finding of guilty to a felony charge;

(2) Conviction of a misdemeanor involving moral turpitude;

(3) Falsification or a willful misrepresentation of information in an employment application, or records of evidence, or in testimony under oath;

(4) Dependence on or abuse of alcohol or drugs;]

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for any offense reasonably related to the functions or duties of a peace officer or certified reserve officer or for any offense an essential element of which is fraud, dishonesty or an act of violence, intimidation or harassment or for any offense involving moral turpitude, whether or not a sentence is imposed;

(2) Falsification, fraud, deception, misrepresentation or bribery, in securing any certificates, diplomas, other appropriate indicia of compliance and qualification to peace officers or certified reserve officers trained under the provisions of sections 590.100 to 590.180, employment applications, records of evidence or in testimony under oath;

[(5)] **(3) Use or possession of, or trafficking in, any illegal substance, or violation of the drug laws, rules or regulations of this state, or any other state or the federal government;**

[(6) Gross misconduct indicating inability to function as a peace officer;]

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions and duties or indicating inability to function as a peace officer or certified reserve officer, certified or regulated by this chapter;

[(7)] **(5) Failure to comply with the continuing education requirements as promulgated by rule of the peace officer standards and training commission;**

(6) Being unable to serve as a peace officer or certified reserve officer with reasonable safety and competency because of illness, abuse of alcohol, drugs, narcotics, chemicals, or as a result of any mental or physical condition;

(7) Violating a probation agreement with the department or any other licensing agency;

(8) Final disciplinary action by any state or territory, whether agreed to voluntarily or not, including but not limited to any removal, suspension, limitation, or restriction of

certificate for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct or any other act which would constitute a violation of any provision of this chapter.

3. Any person aggrieved by a decision of the director under this section may appeal as provided in chapter 536, RSMo.

4. Any person or agency authorized to submit information pursuant to this section to the director shall be immune from liability arising from the submission of the information so long as the information was submitted in good faith and without malice.

5. The director may refuse to certify any law enforcement school, academy, or training program, any law enforcement instructor or any peace officer **or certified reserve officer** not meeting the requirements for certification under the provisions of sections 590.100 to 590.180. **The director may establish the minimum educational, age and residence requirements for entry into a certified training program or academy.** The director shall notify the applicant in writing of the reasons for the refusal. The applicant shall have the right to appeal the refusal by filing a complaint with the administrative hearing commission as provided by chapter 621, RSMo, and the director shall advise the applicant of this right of appeal.

6. The director shall cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any law enforcement instructor or any peace officer **or certified reserve officer** not in compliance with the requirements for certification under the provisions of sections 590.100 to 590.180.

7. After the filing of the complaint, the proceeding will be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 5 of this section for disciplinary action are met, the director may revoke the certification of any such law enforcement school, academy, or training program, law enforcement instructor or any peace officer **or certified reserve officer**.

8. The department may, at its discretion, issue a certificate subject to probation for any one or any combination of causes stated in subsection 2 of this section. If the department issues a probationary certificate to an applicant for certification, the applicant may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary certificate seeking review of whether cause exists to discipline the certificate pursuant to subsection 2 of this section. The department's order of probation shall contain a statement of the conditions of probation imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission.

9. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the department's determination shall be considered waived.

590.137. 1. Upon receipt of information that the holder of any certificate of registration or authority, permit or certificate issued pursuant to this chapter may present a clear and present danger to the public health and safety, the director may issue an order suspending or restricting, or suspending and restricting the holder of a certificate of registration or authority, permit or certificate if he believes:

(1) The peace officer's or certified reserve officer's acts, conduct or condition may have violated subsection 2 of section 590.135; and

(2) A peace officer or certified reserve officer is serving, attempting or intending to serve in Missouri; and

(3) The acts, conduct or condition of the individual constitute a clear and present danger to the public health and safety.

2. (1) The order of suspension or restriction:

(a) Shall be based on the sworn testimony or affidavits presented to the department;

(b) May be issued without notice and hearing to the peace officer or certified reserve officer;

(c) Shall include the facts which lead the department to conclude that the acts, conduct or condition of the peace officer or certified reserve officer constitute a clear and present danger to the public health and safety.

(2) The department or the administrative hearing commission shall serve the certificate holder, in person or by certified mail, with a copy of the order of suspension or restriction and all sworn testimony or affidavits presented to the department, a copy of the complaint and the request for expedited hearing, and a notice of the place where and the date upon which the preliminary hearing will be held. When it is not practicable to give the notice of hearing to a certificate holder in person, it may be sent to the certificate holder by certified or registered mail, return receipt requested, at the last mailing address shown in the personnel records of the last known employer. Proof of refusal of the certificate holder to accept delivery or the inability of postal authorities to deliver such mail shall be accepted as evidence that the required notice of hearing has been given.

(3) The order of restriction shall be effective upon service of the documents required in subdivision (2) of this subsection.

(4) The order of suspension shall become effective upon the entry of the preliminary order of the administrative hearing commission.

(5) The peace officer or certified reserve officer may seek a stay order from the circuit court of Cole County from the preliminary order of suspension, pending the issuance of a final order by the administrative hearing commission.

3. The department shall file a complaint with the administrative hearing commission with a request for expedited preliminary hearing and shall certify the order of suspension or restriction and all sworn testimony or affidavits presented to the department. Immediately upon receipt of a complaint filed pursuant to this section, the administrative hearing commission shall set the place and date of the expedited preliminary hearing which shall be conducted as soon as possible, but not later than five days after the date of service upon the licensee. The administrative hearing commission shall grant the request of a peace officer or certified reserve officer for a continuance of the preliminary hearing; however, the department's order shall remain in full force and effect until the preliminary hearing, which shall be held not later than forty days after service of the documents required in subdivision (2) of subsection 2 of this section.

4. At the preliminary hearing, the administrative hearing commission shall receive into evidence all information certified by the department and shall only hear evidence on the issue of whether the department's order of suspension or restriction should be terminated or modified. Within one hour after the preliminary hearing, the administrative hearing commission shall issue its oral or written preliminary order, with or without

findings of fact and conclusions of law, that either adopts, terminates or modifies the department's order. The administrative hearing commission shall reduce to writing any oral preliminary order within five business days, but the effective date of the order shall be the date orally issued.

5. The preliminary order of the administrative hearing commission shall become a final order and shall remain in effect for three years unless either party files a request for a full hearing on the merits of the complaint filed by the department within thirty days from the date of the issuance of the preliminary order of the administrative hearing commission.

6. Upon receipt of a request for full hearing, the administrative hearing commission shall set a date for hearing and notify the parties in writing of the time and place of the hearing. If a request for full hearing is timely filed, the preliminary order of the administrative hearing commission shall remain in effect until the administrative hearing commission enters an order terminating, modifying or dismissing its preliminary order or until the department issues an order of discipline following its consideration of the decision of the administrative hearing commission pursuant to section 621.110, RSMo, and subsection 3 of section 590.137.

7. Notwithstanding the provisions of this chapter or chapter 610, RSMo, or chapter 621, RSMo, to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

8. The burden of proving the elements listed in subsection 2 of this section shall be upon the department of public safety.

590.138. Upon application by the department, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from engaging in any practice or business authorized by a certificate, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of the state.

590.139. 1. The director may administer oaths, subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the department may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The department may enforce its subpoenas, including subpoenas duces tecum, by applying to a circuit court of the county of the investigation, hearing or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced. The show cause order and a copy of the application shall be served upon the person in the same manner as a summons in a civil action. If the circuit court after a hearing, determines that the subpoena should be sustained and enforced, the court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

3. In any investigation, hearing or other proceeding to determine a peace officer's,

certified reserve officer's or applicant's fitness to serve as a peace officer, any record relating to any peace officer, certified reserve officer or applicant shall be discoverable by the department and admissible into evidence, regardless of any statutory or common law privilege which such peace officer, certified reserve officer, applicant, record custodian might otherwise invoke. In addition, no peace officer, certified reserve officer, applicant or record custodian may withhold records or testimony bearing upon the peace officer's, certified reserve officer's or applicant's fitness to practice on the ground of privilege between the peace officer, certified reserve officer, applicant or record custodian.

4. Any person who reports or provides information to the department, or any person who assists the department, including, but not limited to, applicants, peace officers or certified reserve officers who are the subject of an investigation or serving on competency panels, record custodians, consultants, attorneys, department members, agents, employees or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the department pursuant to the provisions of this chapter and who does so in good faith and without negligence or malice shall not be subject to an action of civil damages as a result, and no cause of action of any nature shall arise against him.

590.140. 1. A surcharge of up to two dollars may be assessed as costs in each criminal case involving violations of any county ordinance or a violation of any criminal or traffic laws of the state, including infractions, or violations of municipal ordinances, provided that no such fee shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. Any such surcharge shall be authorized by the county or municipality and written notice given to the supreme court of such authorization prior to December first of the year preceding the state fiscal year during which such surcharge is to be collected and disbursed in the manner provided by sections 488.010 to 488.020, RSMo. If imposed by a municipality, such surcharges shall be collected by the clerk of the municipal court responsible for collecting court costs and fines and shall be transmitted monthly to the treasurer of the municipality where the violation occurred in cases of violations of municipal ordinances. If imposed by a county, such surcharges shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo. Such surcharges shall be payable to the treasurer of the county where the violation occurred in the case of violations of the general criminal laws of the state or county ordinances. An additional surcharge in the amount of one dollar shall be assessed as provided in this section, and shall be collected and disbursed as provided in sections 488.010 to 488.020, RSMo, and payable to the state treasury to the credit of the peace officer standards and training commission fund created in section 590.178. Such surcharges shall be in addition to the court costs and fees and limits on such court costs and fees established by section 66.110, RSMo, and section 479.260, RSMo.

2. Each county and municipality shall use all funds received under this section only to pay for the training required as provided in sections 590.100 to 590.180 or for the training of county coroners and their deputies **provided that any excess funds not allocated to pay for such training may be used to pay for additional training of peace officers or certified reserve**

officers or for training of other law enforcement personnel employed or appointed by the county or municipality. No county or municipality shall retain more than one thousand five hundred dollars of such funds for each certified law enforcement officer, candidate for certification employed by that agency or a coroner and the coroner's deputies. Any excess funds shall be transmitted quarterly to the general revenue fund of the county or municipality treasury which assessed the costs.

590.150. The provisions of sections 590.100 to 590.180 shall not apply to **peace officers who, as of the effective date of this act, are not certified and are continually employed by** a political subdivision having a population of less than two thousand persons or which does not have at least four full-time paid peace officers unless such political subdivision is located in a county of the first class having a charter form of government[; provided, however, the governing body of the political subdivision may by order or ordinance elect to come under the provisions of sections 590.100 to 590.180 or such election may be later rescinded and, provided further, that upon election to come under the provisions of sections 590.100 to 590.180 the political subdivision shall be entitled to authorize the fees allowed by section 590.140, otherwise, such fees shall not be collected].

[590.170. 1. The director shall consult with Missouri sheriffs and their professional organizations and after such consultation shall formulate a training program for persons elected for the first time to the office of sheriff for the purpose of developing improved law enforcement procedures throughout the state.

2. The training program shall consist of at least one hundred twenty hours of instruction covering all major phases of law enforcement with emphasis on the duties and responsibilities of sheriffs.]

[590.175. 1. Any person who is elected to his first term as sheriff in a general election or in a special election in any county of this state shall, within eighteen months of such election, cause to be filed with the presiding circuit judge of the county and director of the department of public safety proof that he has completed the training program formulated pursuant to sections 590.170 and 590.175 or some other comparable training program of not less than one hundred twenty hours instruction approved by the director of the department of public safety.

2. Whether any person elected to his first term as sheriff attends such a training program prior to or after assuming the duties of his office shall be left to the discretion of the governing body of the county from which he was elected. During the time that a sheriff-elect is enrolled in such a training program, he shall be hired as a county employee and receive as full compensation from the county from which he was elected, compensation at a rate equal to that of the sheriff of the county. Tuition and room and board for newly elected sheriffs and sheriffs-elect enrolled in such a training program shall be paid by the state.]

590.178. 1. There is hereby created in the state treasury the "Peace Officer Standards and Training Commission Fund". The peace officer standards and training commission fund shall be administered by the peace officer standards and training commission. Money in the fund shall be used solely for training required as provided in sections 590.100 to 590.180, or for additional training for peace officers **or certified reserve officers**, or for training for other law enforcement employees appointed by the county or municipality as approved by the commission. All interest earned upon moneys in the fund shall be credited to the peace officer standards and training

commission fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the peace officer standards and training fund shall not be transferred and placed to the credit of the general revenue fund.

590.180. 1. Any person who purposely violates any of the provisions of [section 590.110, 590.115 or 590.175] **this chapter** is guilty of a class B misdemeanor.

2. Any law enforcement agency which employs a peace officer who is not certified as required by sections 590.100 to 590.180 or who is otherwise in violation of any provision of sections 590.100 to 590.180 shall not be eligible to receive state or federal funds which would otherwise be paid to it for purposes of training and certifying peace officers or for other law enforcement, safety or criminal justice purposes.

Section 1. 1. As used in this section, unless the context clearly requires otherwise, the following terms mean:

(1) **"Burial benefit", an amount not to exceed ten thousand dollars to be used for the burial of a public safety officer killed in the line of duty;**

(2) **"Death benefit", a lump sum amount of one hundred thousand dollars, not to be taxed, to be paid as provided in this section;**

(3) **"Department", the department of public safety;**

(4) **"Eligible child", the natural, adopted or stepchild of a public safety officer;**

(5) **"Line of duty", any action of a public safety officer, whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires, is authorized or obligated by law, rule, regulation or condition of employment or service to perform;**

(6) **"Public safety officer", any firefighter, police officer, capitol police officer, sheriff, deputy sheriff, parole officer, probation officer, state correctional employee, water safety officer, park ranger, conservation officer or highway patrolman employed by the state of Missouri or a political subdivision thereof who is killed or permanently and totally disabled in the line of duty;**

(7) **"Spouse", the widow or widower of a public safety officer at the time of death of such public safety officer.**

2. **Within the limits of the amounts appropriated therefor, the department shall provide, as defined in this section, a burial benefit and a death benefit to:**

(1) **A spouse of a public safety officer killed in the line of duty; or**

(2) **If there is no surviving spouse, an eligible child of a public safety officer or employee killed in the line of duty;**

(3) **If there is no surviving spouse or eligible child of a public safety officer or employee killed in the line of duty, the executor of the public safety officer's estate.**

3. **The department shall promulgate all necessary rules for the implementation of this section.**

4. **No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.**

Section 2. As used in sections 2 to 4 of this act, the following terms mean:

(1) **"Full-time", any employee who is designated as full-time by a political subdivision, or any employee who works at least thirty-five hours per week for such**

political subdivision.

(2) "Policeman", any regular or permanent employee of the police department of a political subdivision, including a probationary policeman. The term "policeman" shall not include:

(a) Any civilian employee of a police department; or

(b) Any person temporarily employed as a policeman for an emergency;

(3) "Salary", the regular remuneration earned by a policeman or sheriff's deputy as an employee of a political subdivision, but not including employer paid fringe benefits except the value of employer paid medical benefits, including dental and vision, for employees, and not including consideration for agreeing to retire or other nonrecurring or unusual payments that are not a part of regular remuneration; the office of administration by its rules may further define salary in a manner consistent with this definition.

(4) "Sheriff's deputy", any person contemplated by the terms "deputy" or "deputy sheriff" as used in chapter 57, RSMo.

Section 3. 1. There is hereby established in the state treasury the "Policemen and Sheriff's Deputies Trust Fund". The moneys in the fund shall only be used for the purposes as provided in sections 2 to 4 of this act. The fund shall consist of moneys required by law to be credited to such fund and moneys appropriated to the fund by the general assembly.

2. Beginning in the fiscal year 2001, the general assembly shall appropriate from general revenue to the policemen and sheriff's deputies trust fund an amount necessary to fulfill the minimum salary requirements for policemen and sheriff's deputies in those political subdivisions that meet the criteria described in section 4 of this act. The appropriation shall be sufficient to ensure that all qualifying political subdivisions are able to comply with the minimum salary requirements of section 4 of this act. The office of administration shall determine, prior to January 1, 2000, those political subdivisions which shall be eligible to receive funds pursuant to sections 2 to 4 of this act during the fiscal years 2001, 2002, and 2003. A qualifying political subdivision shall be eligible to receive funds appropriated pursuant to sections 2 to 4 of this act only during the fiscal years 2001, 2002, and 2003.

Section 4. 1. Notwithstanding the provisions of sections 57.201 to 57.251, RSMo, and sections 84.160 and 84.510, RSMo, beginning with the fiscal year 2001, the minimum salary for all full-time policemen and sheriff's deputies in this state shall be eighteen thousand dollars.

2. Any political subdivision that, on January 1, 2000, pays any of its full-time policemen or sheriff's deputies less than eighteen thousand dollars may, for the fiscal years 2001, 2002, and 2003, use moneys from the policemen and sheriff's deputies trust fund established pursuant to section 3 of this act to increase the salaries of such policemen and sheriff's deputies to a minimum of eighteen thousand dollars. Any political subdivision that, prior to January 1, 2000, had paid all of its full-time policemen or sheriff's deputies a salary greater than seventeen thousand nine hundred ninety-nine dollars shall continue to do so without assistance from such fund.

3. The office of administration and the department of public safety may issue such rules as may be necessary for the enforcement of sections 2 to 4 of this act. No rule or portion of a rule promulgated pursuant to sections 2 to 4 of this act shall become effective

unless it is promulgated pursuant to chapter 536, RSMo.

4. The provisions of sections 2 to 4 of this act shall expire on July 1, 2004.

Unofficial

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