

FIRST REGULAR SESSION

HOUSE BILL NO. 414

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANKS.

0804H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 590.080 and 590.090, RSMo, and to enact in lieu thereof two new sections relating to peace officer disciplinary actions.

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

Section A. Sections 590.080 and 590.090, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 590.080 and 590.090, to read as follows:

590.080. 1. The director shall have cause to discipline any peace officer licensee who:

(1) Is unable to perform the functions of a peace officer with reasonable competency or reasonable safety as a result of a mental condition, including alcohol or substance abuse;

(2) Has committed any criminal offense, whether or not a criminal charge has been filed;

(3) Has committed any act while on active duty or under color of law that involves moral turpitude or a reckless disregard for the safety of the public or any person;

(4) Has caused a material fact to be misrepresented for the purpose of obtaining or retaining a peace officer commission or any license issued pursuant to this chapter;

(5) Has violated a condition of any order of probation lawfully issued by the director;

or

(6) Has violated a provision of this chapter or a rule promulgated pursuant to this chapter.

2. When the director has knowledge of cause to discipline a peace officer license pursuant to this section, the director ~~may~~ **shall** cause a complaint to be filed with the administrative hearing commission, which shall conduct a hearing to determine whether the director has cause for discipline, and which shall issue findings of fact and conclusions of law on the matter. The administrative hearing commission shall not consider the relative severity of

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 the cause for discipline or any rehabilitation of the licensee or otherwise impinge upon the
19 discretion of the director to determine appropriate discipline when cause exists pursuant to this
20 section.

21 3. Upon a finding by the administrative hearing commission that cause to discipline
22 exists, the director shall, within thirty days, hold a hearing to determine the form of discipline
23 to be imposed and thereafter shall probate, suspend, or permanently revoke the license at issue.
24 If the licensee fails to appear at the director's hearing, this shall constitute a waiver of the right
25 to such hearing.

26 4. Notice of any hearing pursuant to this chapter or section ~~may~~ **shall** be made by
27 certified mail to the licensee's address of record pursuant to subdivision (2) of subsection 3 of
28 section 590.130. Proof of refusal of the licensee to accept delivery or the inability of postal
29 authorities to deliver such certified mail shall be evidence that required notice has been given.
30 Notice may be given by publication.

31 5. Nothing contained in this section shall prevent a licensee from informally disposing
32 of a cause for discipline with the consent of the director by voluntarily surrendering a license or
33 by voluntarily submitting to discipline.

34 6. The provisions of chapter 621 and any amendments thereto, except those provisions
35 or amendments that are in conflict with this chapter, shall apply to and govern the proceedings
36 of the administrative hearing commission and pursuant to this section the rights and duties of the
37 parties involved.

590.090. 1. The director shall have cause to suspend immediately the peace officer
2 license of any licensee who:

3 (1) Is under indictment for, is charged with, or has been convicted of the commission of
4 any felony;

5 (2) Is subject to an order of another state, territory, the federal government, or any peace
6 officer licensing authority suspending or revoking a peace officer license or certification; or

7 (3) Presents a clear and present danger to the public health or safety if commissioned as
8 a peace officer.

9 2. At any time after the filing of a disciplinary complaint pursuant to section 590.080,
10 if the director determines that probable cause exists to suspend immediately the peace officer
11 license of the subject of the complaint, the director ~~may~~ **shall**, without notice or hearing, issue
12 an emergency order suspending such license until final determination of the disciplinary
13 complaint. Such order shall state the probable cause for the suspension and shall be served upon
14 the licensee by certified mail at the licensee's address of record pursuant to subdivision (2) of
15 subsection 3 of section 590.130. Proof of refusal of the licensee to accept delivery or the
16 inability of postal authorities to deliver such certified mail shall be evidence that required notice

17 has been given. The director shall also notify the chief executive officer of any law enforcement
18 agency currently commissioning the officer. The director shall have authority to dissolve an
19 emergency order of suspension at any time for any reason.

20 3. A licensee subject to an emergency order of suspension may petition the
21 administrative hearing commission for review of the director's determination of probable cause,
22 in which case the administrative hearing commission shall within five business days conduct an
23 emergency hearing, render its decision, and issue findings of fact and conclusions of law. Sworn
24 affidavits or depositions shall be admissible on the issue of probable cause and may be held
25 sufficient to establish probable cause. The administrative hearing commission shall have no
26 authority to stay or terminate an emergency order of suspension without a hearing pursuant to
27 this subsection. Findings and conclusions made in determining probable cause for an emergency
28 suspension shall not be binding on any party in any proceeding pursuant to section 590.080.

29 4. Any party aggrieved by a decision of the administrative hearing commission pursuant
30 to this section may appeal to the circuit court of Cole County as provided in section 536.100.

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