

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 66

AN ACT

To repeal sections 67.030, 557.045, 574.050, and 574.085, RSMo, and to enact in lieu thereof six 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Section A. Sections 67.030, 557.045, 574.050, and 574.085, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 67.030, 557.045, 574.045, 574.050, 574.085, and 590.502, to read as follows: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. The chief law enforcement officer 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 relative to the proposed budgets of other departments of the political subdivision over a five year aggregate amount.

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

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

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

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

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

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

(1) "Interstate highway", a highway located in this state that is included in the national system of interstate highways, as officially designated or as may be hereafter designated by the Missouri highways and transportation commission within the Missouri department of transportation

and approved by the United States Secretary of Transportation;

(2) "Unlawful assembly", six or more persons who meet for the purpose of violating any of the criminal laws of this state or of the United States.

2. A person commits the offense of unlawful traffic interference if, with the intention to impede vehicular traffic, the person walks, stands, sits, kneels, lays, or places an object in such a manner as to block passage by a vehicle on any public street, highway, or interstate highway. This section shall not apply to the blocking of passage by any person who has permission to do so from a government authority, who is a law enforcement officer, or who does so to direct traffic away from hazardous road conditions, an obstacle, or a scene of an accident.

3. The offense of unlawful traffic interference on any public street, highway, or an interstate highway is a class A misdemeanor.

4. The offense of unlawful traffic interference on any public street, highway, or interstate highway while part of an unlawful assembly is a class E felony.

574.050. 1. A person commits the offense of rioting if he or she knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.

2. The offense of rioting is a class A misdemeanor, unless the offense is committed and such person knowingly damages property of another to an extent exceeding seven hundred fifty dollars, in which case it is a class E felony.

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

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

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

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

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

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

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

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

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

3. In determining the amount of damage to property, for purposes of this section, damage includes the cost of

repair or, where necessary, replacement of the property that was damaged.

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

(1) "Board", any individual or body that hears and makes final decisions regarding appeals of discipline issued by an agency or department;

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

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

(4) "Exigent circumstances", an emergency situation in which the safety of the public is at immediate apprehension of harm;

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

(6) "Law enforcement officer", any sworn police officer who is employed by any unit of state or local government or by a state college or university. This section shall not apply to any officer who is the highest ranking officer in the law enforcement agency.

2. Whenever a law enforcement officer is under investigation or is subjected to questioning, for any reason, that could lead to disciplinary action, demotion, dismissal, transfer, or placement on a status that could lead to economic loss, the investigation or questioning shall be conducted under the following conditions:

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

(2) Any person, including members of the same agency or department as the officer under investigation, filing a complaint against a law enforcement officer shall have the complaint supported by a sworn affidavit. Any complaint supported by a sworn affidavit and found, in total or in part, to contain knowingly false material information, shall be presented to the appropriate prosecuting or circuit attorney for a determination of prosecution;

(3) When a law enforcement officer is questioned or interviewed regarding matters pertaining to his or her law enforcement duties or actions taken within the scope of his or her employment, such questioning shall be conducted for a reasonable length of time and only while the officer is on duty unless exigent circumstances exist that necessitate questioning the officer while he or she is off duty;

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

(5) Law enforcement officers shall be questioned by a single investigator and shall be informed of the name, rank, and command of the officer conducting the investigation; except that, separate investigators shall be assigned to investigate alleged department policy violations and alleged criminal violations;

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

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

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

(9) Prior to the law enforcement officer being interviewed, the officer and his representative shall have the opportunity to review any audio or video in the possession of the agency conducting the investigation;

(10) The law enforcement agency conducting the investigation shall have ninety days from receipt of a complaint to complete such investigation. The agency shall determine the disposition of the complaint and render a disciplinary decision, if any, within ninety days. The agency may, for good cause, petition the board overseeing the administration of discipline for an extension of time to complete the investigation. If the board finds the agency has shown good cause for the granting of an extension of time to complete the investigation, the board shall grant an

extension of up to sixty days. The agency is limited to one extension per investigation. Absent consent from the officer being investigated, the board overseeing the administration of discipline shall set the matter for hearing and shall provide notice of the hearing to the law enforcement officer under investigation. The officer shall have the right to attend the hearing and to present evidence and arguments against extension;

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

(12) A complete record of the administrative investigation shall be kept by the law enforcement agency conducting such investigation. Upon completion of the investigation, a copy of the entire record, including, but not limited to, audio, video, and transcribed statements, shall be provided to the officer or the officer's representative within forty-eight hours of the officer's written request; and

(13) All records compiled as a result of any investigation subject to the provisions of this section shall be held confidential and not be released to the public at any time.

3. Law enforcement officers who are suspended without pay, demoted, terminated, transferred, or placed on a status resulting in economic loss shall be entitled to a full due process hearing. The components of the hearing shall include, at a minimum:

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

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

(3) An opportunity to access and review documents, at least ten days in advance of the hearing, that are in the employer's possession and that were used as a basis for the disciplinary action or gathered in the course of its investigation including, but not limited to, access to audio or transcribed statements;

(4) An opportunity to present witnesses and evidence and a right to cross-examine any adverse witness;

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

(6) A complete record of the hearing shall be kept by the agency for purposes of appeal. The record shall be provided to the officer or his or her attorney upon written request; and

(7) The entire record of the hearing shall remain confidential and shall not be released to the public.

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

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

5. Any decision, order, or action taken following the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise

statement upon each issue in the case. A copy of the decision or order accompanying findings and conclusions along with the written action and right of appeal, if any, shall be delivered or mailed promptly to the law enforcement officer or to the officer's attorney or representative of record.

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

7. Law enforcement officers shall not be subject to double jeopardy in the administration of discipline through separate punishments for the same alleged act by multiple administrative bodies, except that multiple administrative bodies may impose the same punishment concurrently for the same act.

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

9. Law enforcement officers shall not be disciplined, demoted, dismissed, transferred, or placed on a status resulting in economic loss as a result of the assertion of their constitutional rights in any judicial proceeding.

10. The remedies provided by this section against law enforcement agencies or governmental bodies shall be in

addition to those provided by any other provision of law.
Any aggrieved law enforcement officer or authorized
representative may seek judicial enforcement of the
requirements of this section. Suits to enforce this section
shall be brought in the circuit court for the county in
which the law enforcement agency or governmental body has
its principal place of business.

11. Upon a finding by a preponderance of the evidence
that a law enforcement agency, governmental body or a member
of same has violated this section, the law enforcement
agency or governmental body or the member shall be subject
to a civil penalty in an amount up to five thousand dollars
for each violation. If the court finds that there is a
violation of this section, the court may order the payment
by such body or member of all costs and reasonable attorney
fees to any party successfully establishing a violation.
The court shall determine the amount of the penalty by
taking into account the size of the jurisdiction, the
seriousness of the offense, and whether the law enforcement
agency, governmental body or member of same has violated
sections previously.

12. Upon a finding by a preponderance of the evidence
that a law enforcement agency, governmental body, or a
member of a same has purposely violated these sections, the
law enforcement agency, governmental body, or the member
shall be subject to a civil penalty in an amount up to ten
thousand dollars. If the court finds that there was a
purposeful violation of these sections, then the court shall
order the payment by such body or member of all costs and
reasonable attorney fees to any party successfully
establishing such a violation. The court shall determine
the amount of the penalty by taking into account the size of
the jurisdiction, the seriousness of the offense, and

whether the law enforcement agency, governmental body, or member of same has violated these sections previously.

13. Upon a finding by a preponderance of the evidence that a law enforcement agency, governmental body, or member of same has violated any provision of these sections, a court shall void any action taken in violation of these sections. Suit for enforcement shall be brought within one year from which the violation is ascertainable.