

SECOND REGULAR SESSION

SENATE BILL NO. 813

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUSE.

Read 1st time January 12, 2000, and 1,000 copies ordered printed.

3581L.021

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 85.011, RSMo 1994, relating to discipline of law enforcement officers, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Section 85.011, RSMo 1994, is repealed and five new sections enacted in lieu thereof, to be known as sections 590.505, 590.508, 590.511, 590.514 and 590.517, to read as follows:

[85.011. Any law enforcement officer, other than an elected sheriff or deputy, who possesses the duty and power of arrest for violations of the criminal laws of this state or for violations of ordinances of counties or municipalities of this state, who is regularly employed for more than thirty hours per week, and who is employed by a law enforcement agency of this state or political subdivision of this state which employs more than fifteen law enforcement officers, shall be given upon written request a meeting within forty-eight hours of a dismissal, disciplinary demotion or suspension that results in a reduction or withholding of salary or compensatory time. The meeting shall be held before any individual or board as designated by the governing body. At any such meeting, the employing law enforcement agency shall at a minimum provide a brief statement, which may be oral, of the reason of the discharge, disciplinary demotion or suspension, and permit the law enforcement officer the opportunity to respond. The results from such meeting shall be reduced to writing. Any law enforcement agency that has substantially similar or greater procedures shall be deemed to be in compliance with this section. This section shall not apply to an officer serving in a probationary period or to the highest ranking officer of any law enforcement agency. Any law enforcement officer employed by

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

the state shall not be subject to the provisions of this section.]

590.505. As used in sections 590.505 to 590.517, the following terms mean:

(1) "Employing law enforcement agency" or "law enforcement agency", this state or any political subdivision in this state that employs law enforcement officers certified as required by this chapter;

(2) "Hearing", any meeting conducted by a hearing grievance committee for the purpose of taking or adducing testimony or receiving other evidence in order to determine the facts regarding an occurrence which may lead to punitive action against a law enforcement officer;

(3) "Hearing or grievance committee", the committee as established by the written guidelines of the department's policy and procedures manual, which may include already established personnel boards;

(4) "Law enforcement officer" or "officer", any person who is regularly employed by an employing law enforcement agency and certified pursuant to this chapter, who possesses the duty and power of arrest for violation of the criminal laws of this state or for violation of orders or ordinances of this state or any political subdivision of this state. This term shall not include an officer serving in probationary status upon initial employment, highway patrol members, water patrol members, conservation agents, state park rangers, or an elected sheriff, elected marshal, appointed chief of police or any chief deputy, deputy or undersheriff of a sheriff's department;

(5) "Punitive action", any disciplinary action, except a written or oral reprimand, taken against a law enforcement officer by the employing law enforcement agency, including but not limited to dismissal, demotion, suspension, reduction in salary, withholding of salary, or a disciplinary transfer.

590.508. Any law enforcement officer who is the subject of punitive action shall at a minimum be furnished with a written statement and citations from the employing law enforcement agency's written and distributed policies and procedures for the reason of the punitive action. Upon receipt of the written reasons for the punitive action the law enforcement officer may, within five working days, request a hearing in writing. Such a hearing shall take place before any individual or board to be defined by the published and distributed ordinance, administrative rule or regulation or written and distributed employing law enforcement agency policies and procedures. The employing law enforcement agency shall schedule the hearing no sooner than five days and no later than ten days after the written request was received from the law enforcement officer. At such hearings, all voting will be conducted by secret ballots. The results of such hearing shall be reduced to writing and distributed to all parties involved. Any law enforcement agency that has a published and distributed ordinance, administrative rule or regulation or written and distributed

policies and procedures, which provides an officer who is subject to punitive action, written notification and citation of the reason for the punitive action and allows the officer to request and have a hearing and the results of such hearing be reduced to writing shall be deemed to be in compliance with this section.

590.511. 1. When any law enforcement officer is under investigation and subjected to interrogation by such officer's commanding officer, or any other member of the employing law enforcement agency, which could lead to punitive action, such interrogation shall be conducted under the following conditions:

(1) The interrogation shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer is on duty, or during such officer's normal working hours, unless the seriousness of the investigation requires otherwise. If such interrogation does occur during off-duty time of the law enforcement officer being interrogated at any place other than such officer's residence, such law enforcement officer shall be compensated for such off-duty time in accordance with regular department procedure. If the interrogation of the law enforcement officer occurs during such officer's regular duty hours, such officer shall not be released from employment for any work missed during the interrogation;

(2) Any law enforcement officer under investigation shall be informed of the nature of the investigation prior to any interrogation. Such officer shall also be informed of the name, rank and command of the officer in charge of the interrogation, the interrogating officers, and all other persons to be present during the interrogation. No more than three interrogators at one time shall question the law enforcement officer under investigation;

(3) No law enforcement officer under interrogation shall be subjected to offensive language or threatened with punitive action. No promise of reward shall be made as an inducement to answering questions;

(4) The complete interrogation of any law enforcement officer shall be recorded, either written, taped or transcribed. Upon request of the law enforcement officer under investigation a copy of the record shall be made available to him not less than ten days prior to any hearing;

(5) Upon the filing of a formal written statement of charges or whenever an interrogation focuses on matters which are likely to result in punitive action against any law enforcement officer, that officer shall have the right to be represented by counsel who may be present at all times during such interrogation.

2. Nothing in this section shall prohibit the immediate temporary suspension, pending an investigation, from duty of any law enforcement officer who reports for duty under the influence of alcohol or controlled substances, or under the influence of an apparent mental or emotional disorder.

3. The provisions of this section shall not be applicable in the event any criminal charges have been filed against any law enforcement officer.

590.514. 1. If the investigation or interrogation of a law enforcement officer results in the recommendation of some punitive action, before taking such action the law enforcement agency shall give notice to the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing or grievance committee.

2. Upon receipt of a written statement and citation from the employing law enforcement agency policy and procedure explaining the reason for the punitive action, the law enforcement officer may within five working days request a hearing before the established hearing or grievance committee. Both the law enforcement officer and the law enforcement agency shall be given ample opportunity to present evidence and argument with respect to the issues involved.

3. With respect to the subject of any investigation or hearing conducted pursuant to this section, the hearing or grievance committee may subpoena witnesses and administer oaths or affirmations and examine any individual under oath, and may require and compel the production of records, books, papers, contracts, and other documents.

4. Any decision, order or action taken as a result of the hearing shall be in writing and shall be accompanied by findings of fact. The findings shall consist of a concise statement upon each element in the case. A copy of the decision or order and accompanying findings and conclusions, along with written recommendations for action, shall be delivered or mailed by certified mail promptly to the law enforcement officer. The hearing or grievance committee may either agree with or disagree with the recommendation of the law enforcement agency, but shall in no case increase the punitive action recommended.

590.517. Any similar or like procedures to those provided for in sections 590.505 to 590.517 shall remain in effect in the law enforcement agencies that have established such procedures.

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