

SECOND REGULAR SESSION

SENATE BILL NO. 916

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SINGLETON AND SCOTT.

Read 1st time January 26, 2000, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4191S.011

AN ACT

To repeal sections 590.100, 590.101, 590.110, 590.116, 590.117, 590.130, 590.131, 590.150, 590.170, 590.175 and 590.180, RSMo 1994, and sections 590.105, 590.115, 590.135 and 590.140, RSMo Supp. 1999, relating to the training and certification of peace officers, and to enact in lieu thereof twelve new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 590.100, 590.101, 590.110, 590.116, 590.117, 590.130, 590.131, 590.150, 590.170, 590.175 and 590.180, RSMo 1994, and sections 590.105, 590.115, 590.135 and 590.140, RSMo Supp. 1999, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 590.100, 590.105, 590.110, 590.117, 590.130, 590.131, 590.135, 590.137, 590.138, 590.139, 590.140 and 590.180, to read as follows:

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

[(2)] (3) "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

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

and the enforcement of the general criminal laws of the state or for violation of ordinances of a county or municipality] **of the state;**

[(3)] (4) "Commission", when used in relation to a peace officer, bailiff, or law enforcement agency: grant of authority to act as a peace officer or bailiff by appointment, employment, or any other means;

(5) "Director", the director of the Missouri department of public safety;

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

[(5)] (7) "Reserve peace 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] a peace officer regularly working less than thirty hours per week, with or without pay.

[590.101. In any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, the definitions contained in section 590.100 shall apply, except that as used in sections 590.100 to 590.180, the following terms shall 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) "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, public appearances, and public educational presentations;

(3) "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, interrogations or the administration of first aid; and

(4) "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 direct and immediate

accompaniment of a certified peace officer of the same agency in order to engage in primary enforcement activities.]

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 reserve] officers [employed] **commissioned** by any state law enforcement agency, or more than six hundred hours of such training for other peace [or reserve] officers; provided, however, that the minimum hours of training **for a peace officer** shall be no lower than **four hundred seventy, with the following exceptions:**

- (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 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.] **Persons certified as peace officers before August 28, 1993, may retain certification with one hundred twenty hours of basic training;**

(2) Persons certified as peace officers on or after August 28, 1993, and before August 28, 1994, may retain certification with three hundred hours of basic training;

(3) Persons certified as peace officers and commissioned in a county of the third classification before July 1, 2001, may retain certification with one hundred twenty hours of certification, but only if the commissioning political subdivision adopts an order or ordinance to that effect;

(4) The peace officer standards and training commission may establish a lesser basic training standard for a limited certification for commission as a reserve peace officer with police powers restricted to the commissioning political subdivision and may place additional restrictions on the powers and duties for which such persons are certified to be commissioned.

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 shall be required to complete a minimum of

sixty hours of mandated training, except that any person who has [served] **been commissioned** as a bailiff prior to January 1, 1995, **or who has been commissioned as a peace officer at any time**, 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 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.] 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] **include within the required basic training for peace officers**, except for agents of the conservation commission, **a minimum of thirty hours of education** concerning domestic and family violence.

[8.] **6.** 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.] **7.** 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.

8. 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.

590.110. 1. No person shall be [appointed] **commissioned or hold a commission** as a peace 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] **or bailiff in** this state, unless he **or she** has **first** been certified by the director as [provided in] **qualified pursuant to the program of minimum standards established pursuant to 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.] with the following exceptions:**

(1) No certification shall be required to seek or hold an elected county office;

(2) No certification shall be required to be commissioned pursuant to section 64.335, RSMo, as a park ranger not carrying a firearm;

(3) Certification shall not be required for any person continually commissioned as a peace officer since the effective date of this section by a political subdivision having either less than four full-time paid peace officers or a population less than two thousand, except that this exception shall not apply to any person commissioned in a county of the first class having a charter form of government;

(4) Certification is recommended but shall not be required for any person commissioned as a peace officer before December 31, 1978, and consistently commissioned as a full-time peace officer since that date;

(5) Certification is recommended but shall not be required for any reserve peace officer commissioned as a reserve peace officer before August 15, 1988, and such persons may transfer, as reserve peace officers, among similar jurisdictions without losing the benefit of this exception; provided, however, that the peace officer standards and training commission may establish training and certification requirements for such persons and may limit the powers and duties for which such persons may be commissioned;

(6) No certification shall be required to serve in a law enforcement capacity without the power of arrest.

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 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.] **Any applicant to a certified training academy 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 certified training academy shall forward the fingerprint card and authorization to the director, who shall conduct a criminal history background. The certified 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.

4. In addition to the satisfactory completion of a basic training course at a certified training academy, the director may require all persons applying for peace officer certification to pass a certification examination. The peace officer standards and training commission may promulgate rules to govern the content and administration of any such examination.

5. The director shall have the authority to issue certification to peace officers, federal law enforcement officers, or military police officers from other states or jurisdictions who are seeking certification as peace 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 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 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. 1. The peace officer standards and training commission shall establish a program of continuing law enforcement education and training. Each certified peace officer 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.

2. The department shall provide by administrative rule for the requirements for continuing certification of an inactive or unemployed peace 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. **Notwithstanding the provisions of subsection 1 of this section,** 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.

590.130. [No elected county peace officer or official shall be required to be certified under sections 590.100 to 590.180 to seek or hold such office, but 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 executive officer of each law enforcement agency **that commissions any peace officer** 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.] **on a form adopted by the director, if a holder of any certificate issued pursuant to this chapter departs from employment or otherwise ceases to be commissioned by that agency. The departure form shall be submitted within thirty days following the departure or loss of commission.**

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. The notice shall so state if the circumstances surrounding the departure from employment or loss of commission included any of the following:

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

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

(3) The officer was dismissed for violation of the written and distributed

regulations of the law enforcement agency.

4. All educational transcripts, test scores, complaints, investigatory reports, and other information retained by the department of public safety pertaining to any person who is certified pursuant to sections 590.100 to 590.180, or to an applicant for such certification are confidential and may not be disclosed to the public or any member of the public, except with written consent of the person whose records are involved. The director shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. The director is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that the director may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. The name, currency of certification, and commissioning agency, if any, of persons certified pursuant to sections 590.100 to 590.180 and the name of applicants for such certification are not confidential information.

590.135. 1. The director or any of [his] **the director's** 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] **pursuant to** 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 trained [under] **pursuant to** 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 or bailiffs issued pursuant to subdivision (3) of subsection 1 of this section of any peace officer 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;

(5) Use or possession of, or trafficking in, any illegal substance;

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

(7) Failure to comply with the continuing education requirements as promulgated by rule of the peace officer standards and training commission.] **the certification of any peace officer or bailiff or refuse to admit an initial applicant to a certified training academy for any of the following reasons:**

(1) The person has been finally adjudicated and found guilty or has entered a plea of guilty or nolo contendere in a criminal prosecution, whether or not a sentence has been imposed, for any offense:

(a) Reasonably related to the functions or duties for which that person is certified or seeking to be trained;

(b) An essential element of which is fraud, dishonesty, an act of violence, intimidation, or harassment; or

(c) Involving moral turpitude;

(2) Falsification, fraud, deception, misrepresentation or bribery:

(a) In securing any certificates, diplomas, other indicia of compliance and qualification pursuant to the provisions of sections 590.100 to 590.180;

(b) On any employment application;

(c) In records of evidence; or

(d) In testimony under oath;

(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;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct;

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

(6) Inability to serve as a certified peace officer or bailiff 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) Violation of a probation agreement with the department;

(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 bailiff** not meeting the requirements for certification [under] **pursuant to** the provisions of sections 590.100 to 590.180. **The director may establish minimum educational, age and residency requirements for certification and for entry into a certified training 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 not in compliance with the requirements for certification [under] **pursuant to** 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.

8. The department may, at its discretion, issue a certification subject to probation for any one or any combination of causes stated in subsection 2 of this section. If the department issues a probationary certification, the recipient may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary certification seeking review of whether cause exists to discipline the certification 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 for such conditions of probation, 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 a certified peace officer or bailiff may present a clear and present danger to the public health or safety, the director may issue an order suspending or restricting, or suspending and restricting the certification of the peace officer or bailiff if the director believes that the acts, conduct, or condition of the peace officer or bailiff:

- (1) May have violated subsection 2 of section 590.135; and**
- (2) 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 sworn testimony or affidavits presented to the department;**
- (b) May be issued without notice to the peace officer or bailiff and without a hearing;**

(c) Shall include the facts that lead the department to conclude that the acts, conduct or condition of the peace officer or bailiff constitute a clear and present danger to the public health or 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 bailiff 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 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 pursuant to 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 or applicant's fitness to serve as a peace officer, any record relating to any peace 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, applicant, record custodian might otherwise invoke. In addition, no peace officer, applicant or record custodian may withhold records or testimony bearing upon the peace officer's or applicant's fitness to practice on the grounds 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 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 such person.

590.140. 1. A surcharge of 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] **pursuant to** 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 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 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.]

590.180. 1. Any person who purposely violates any of the provisions of section 590.110, 590.115 [or 590.175], **590.140 or 590.178** is guilty of a class B misdemeanor.

2. A person commits a class B misdemeanor if, in violation of sections 590.100 to 590.180, such person knowingly:

(1) Commences or continues the commission of a peace officer or bailiff not certified as such by the director; or

(2) Accepts a commission as, or otherwise acts as, a peace officer or bailiff without being certified as such by the director.

3. 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.