

SECOND REGULAR SESSION

SENATE BILL NO. 1070

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KENNEDY AND GRAHAM.

Read 1st time January 31, 2008, and ordered printed.

4839S.021

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 84.120, RSMo, and to enact in lieu thereof one new section relating to physical assessment of certain police officers.

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

Section A. Section 84.120, RSMo, is repealed and one new section enacted
2 in lieu thereof, to be known as section 84.120, to read as follows:

84.120. 1. No person shall be appointed or employed as policeman,
2 turnkey, or officer of police who shall have been convicted of, or against whom
3 any indictment may be pending, for any offense, the punishment of which may be
4 confinement in the penitentiary; nor shall any person be so appointed who is not
5 of good character, or who is not a citizen of the United States, or who is not able
6 to read and write the English language, or who does not possess ordinary physical
7 strength and courage. **The board may develop a test to measure ordinary
8 physical strength for employed commissioned police officers; however,
9 the test shall not be used as the sole factor in determining a police
10 officer's continuing employment.** The patrolmen and turnkeys hereafter
11 appointed shall serve while they shall faithfully perform their duties and possess
12 mental [and physical] ability and be subject to removal only for cause after a
13 hearing by the boards, who are hereby invested with the jurisdiction in the
14 premises.

15 2. The board shall have the sole discretion whether to delegate portions
16 of its jurisdiction to hearing officers. The board shall retain final and ultimate

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

17 authority over such matters and over the person to whom the delegation may be
18 made. In any hearing before the board under this section, the member involved
19 may make application to the board to waive a hearing before the board and
20 request that a hearing be held before a hearing officer.

21 3. Nothing in this section or chapter shall be construed to prohibit the
22 board of police commissioners from delegating any task related to disciplinary
23 matters, disciplinary hearings, or any other hearing or proceeding which could
24 otherwise be heard by the board or concerning any determination related to
25 whether an officer is able to perform the necessary functions of the
26 position. Tasks related to the preceding matter may be delegated by the board
27 to a hearing officer under the provisions of subsection 4 of this section.

28 4. (1) The hearing officer to whom a delegation has been made by the
29 board may, at the sole discretion of the board, perform certain functions,
30 including but not limited to the following:

31 (a) Presiding over a disciplinary matter from its inception through to the
32 final hearing;

33 (b) Preparing a report to the board of police commissioners; and

34 (c) Making recommendations to the board of police commissioners as to
35 the allegations and the appropriateness of the recommended discipline.

36 (2) The board shall promulgate rules, which may be changed from time to
37 time as determined by the board, and shall make such rules known to the hearing
38 officer or others.

39 (3) The board shall at all times retain the authority to render the final
40 decision after a review of the relevant documents, evidence, transcripts,
41 videotaped testimony, or report prepared by the hearing officer.

42 5. Hearing officers shall be selected in the following manner:

43 (1) The board shall establish a panel of not less than five persons, all who
44 are to be licensed attorneys in good standing with the Missouri Bar. The
45 composition of the panel may change from time to time at the board's discretion;

46 (2) From the panel, the relevant member or officer and a police
47 department representative shall alternatively and independently strike names
48 from the list with the last remaining name being the designated hearing
49 officer. The board shall establish a process to be utilized for each hearing which
50 will determine which party makes the first strike and the process may change

51 from time to time;

52 (3) After the hearing officer is chosen and presides over a matter, such
53 hearing officer shall become ineligible until all hearing officers listed have been
54 utilized, at which time the list shall renew, subject to officers' availability.

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Unofficial

Bill

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