

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 26
AN ACT

To repeal sections 67.030, 557.045, and 574.085, RSMo, and to enact in lieu thereof five 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Section A. Sections 67.030, 557.045, and 574.085, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 67.030, 557.045, 574.045, 574.085, and 590.502, to read as follows: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. Any taxpayer 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

21 relative to the proposed budgets of other departments of the
22 political subdivision over a five year aggregate amount.

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

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

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

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

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

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

3 (1) "Interstate highway", a highway located in this
4 state that is included in the national system of interstate
5 highways, as officially designated or as may be hereafter
6 designated by the Missouri highways and transportation
7 commission within the Missouri department of transportation
8 and approved by the United States Secretary of
9 Transportation;

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

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

23 3. The offense of unlawful traffic interference on a
24 public street or highway, except an interstate highway, is a
25 class A misdemeanor for the first violation. Any second or
26 subsequent violation that occurs on a public street or
27 highway, except an interstate highway, is a class E felony.

28 4. The offense of unlawful traffic interference on an
29 interstate highway is a class E felony. For a first
30 violation, the court shall grant a suspended imposition of
31 sentence and impose a term of supervised probation for five
32 years, one hundred hours of community service, and a fine
33 not to exceed seven hundred fifty dollars.

34 5. The offense of unlawful traffic interference on any
35 public street, highway, or interstate highway while part of
36 an unlawful assembly is a class D felony. For a first
37 violation, the court shall grant a suspended imposition of
38 sentence and impose a term of supervised probation for five
39 years, one hundred hours of community service, and a fine
40 not to exceed one thousand dollars.

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

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

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

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

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

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

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

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

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

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

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

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

3 (1) "Board", any individual or body authorized by an
4 agency or department to hear and make final decisions
5 regarding appeals of disciplinary actions issued by an
6 agency or department;

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

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

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

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

22 (6) "Law enforcement officer", any sworn peace officer
23 with the power to arrest for a violation of the criminal
24 code who is employed by any unit of the state or any
25 political subdivision or by a state college or university.
26 "Law enforcement officer" shall not include any officer who
27 is the highest ranking officer in the law enforcement agency.

28 2. Whenever a law enforcement officer is under
29 investigation or is subjected to questioning, that the
30 officer reasonably believes could lead to disciplinary
31 action, demotion, dismissal, transfer, or placement on a

32 status that could lead to economic loss, the investigation
33 or questioning shall be conducted under the following
34 conditions:

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

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

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

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

61 (5) Law enforcement officers shall be questioned by a
62 single investigator and shall be informed of the name, rank,
63 and command of the officer conducting the investigation;
64 except that, separate investigators shall be assigned to

65 investigate alleged department policy violations and alleged
66 criminal violations;

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

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

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

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

90 (10) The law enforcement agency conducting the
91 investigation shall have ninety days from receipt of a
92 complaint to complete such investigation. The agency shall
93 determine the disposition of the complaint and render a
94 disciplinary decision, if any, within ninety days. The
95 agency may, for good cause, petition the board overseeing
96 the administration of discipline for an extension of time to
97 complete the investigation. If the board finds the agency

98 has shown good cause for the granting of an extension of
99 time to complete the investigation, the board shall grant an
100 extension of up to sixty days. The agency is limited to one
101 extension per investigation. Absent consent from the
102 officer being investigated, the board overseeing the
103 administration of discipline shall set the matter for
104 hearing and shall provide notice of the hearing to the law
105 enforcement officer under investigation. The officer shall
106 have the right to attend the hearing and to present evidence
107 and arguments against extension;

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

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

120 (13) All records compiled as a result of any
121 investigation subject to the provisions of this section
122 shall be held confidential and shall not be subject to
123 disclosure under chapter 610.

124 3. Law enforcement officers who are suspended without
125 pay, demoted, terminated, transferred, or placed on a status
126 resulting in economic loss shall be entitled to a full due
127 process hearing. However, nothing in this section shall
128 prohibit a law enforcement agency and the authorized
129 bargaining representative for a law enforcement officer
130 employed by that agency from reaching written agreements

131 providing disciplinary procedures more favorable than those
132 provided for this section. The components of the hearing
133 shall include, at a minimum:

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

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

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

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

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

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

154 (7) The entire record of the hearing shall remain
155 confidential and shall not be subject to disclosure under
156 chapter 610.

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

162 4. In the event a law enforcement officer is entitled
163 to a hearing, a hearing shall be scheduled within a

164 reasonable period of time from the alleged incident, but in
165 no event more than one hundred twenty days following the
166 notification of discipline, unless waived in writing by the
167 charged officer.

168 5. Any decision, order, or action taken following the
169 hearing shall be in writing and shall be accompanied by
170 findings of fact. The findings shall consist of a concise
171 statement upon each issue in the case. A copy of the
172 decision or order accompanying findings and conclusions
173 along with the written action and right of appeal, if any,
174 shall be delivered or mailed promptly to the law enforcement
175 officer or to the officer's attorney or representative of
176 record.

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

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

187 8. Employers shall defend and indemnify law
188 enforcement officers from and against civil claims made
189 against them in their official and individual capacities if
190 the alleged conduct arose in the course and scope of their
191 obligations and duties as law enforcement officers. This
192 includes any actions taken off duty if such actions were
193 taken under color of law. In the event the law enforcement
194 officer is convicted of, or pleads guilty to, criminal
195 charges arising out of the same conduct, the employer shall

196 no longer be obligated to defend and indemnify the officer
197 in connection with related civil claims.

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

202 10. The remedies provided by this section against law
203 enforcement agencies or governmental bodies shall be in
204 addition to those provided by any other provision of law.
205 Any aggrieved law enforcement officer or authorized
206 representative may seek judicial enforcement of the
207 requirements of this section. Suits to enforce this section
208 shall be brought in the circuit court for the county in
209 which the law enforcement agency or governmental body has
210 its principal place of business.

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

225 12. Upon a finding by a preponderance of the evidence
226 that a law enforcement agency, governmental body, or a
227 member of a same has purposely violated these sections, the
228 law enforcement agency, governmental body, or the member

229 shall be subject to a civil penalty in an amount up to ten
230 thousand dollars. If the court finds that there was a
231 purposeful violation of these sections, then the court shall
232 order the payment by such body or member of all costs and
233 reasonable attorney fees to any party successfully
234 establishing such a violation. The court shall determine
235 the amount of the penalty by taking into account the size of
236 the jurisdiction, the seriousness of the offense, and
237 whether the law enforcement agency, governmental body, or
238 member of same has violated these sections previously.

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