

FIRST REGULAR SESSION

# SENATE BILL NO. 26

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

0828S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To amend chapters 574 and 590, RSMo, by adding thereto two 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. Chapters 574 and 590, RSMo, are amended by adding thereto two new sections, to be known as sections 574.045 and 590.502, to read as follows:

**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", two 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

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.

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

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

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

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

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

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

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

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

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

39           (2) Any person, including members of the same agency  
40 or department as the officer under investigation, filing a  
41 complaint against a law enforcement officer shall have the

42 complaint supported by a sworn affidavit. Any complaint  
43 supported by a sworn affidavit and found, in total or in  
44 part, to contain knowingly false material information, shall  
45 be presented to the appropriate prosecuting or circuit  
46 attorney for a determination of prosecution;

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

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

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

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

68 (7) Law enforcement officers shall not be threatened,  
69 harassed, or promised rewards to induce them into answering  
70 any question; except that, law enforcement officers may be  
71 compelled by their employer to give protected statements to  
72 an investigator under the direct control of the employer,  
73 but such compelled statements shall not be used or

74 derivatively used against the officer in any aspect of a  
75 criminal case brought against the officer;

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

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

87 (10) The law enforcement agency conducting the  
88 investigation shall have ninety days from receipt of a  
89 complaint to complete such investigation. The agency shall  
90 determine the disposition of the complaint and render a  
91 disciplinary decision, if any, within ninety days. The  
92 agency may, for good cause, petition the board overseeing  
93 the administration of discipline for an extension of time to  
94 complete the investigation. If the board finds the agency  
95 has shown good cause for the granting of an extension of  
96 time to complete the investigation, the board shall grant an  
97 extension of up to sixty days. The agency is limited to one  
98 extension per investigation. Absent consent from the  
99 officer being investigated, the board overseeing the  
100 administration of discipline shall set the matter for  
101 hearing and shall provide notice of the hearing to the law  
102 enforcement officer under investigation. The officer shall  
103 have the right to attend the hearing and to present evidence  
104 and arguments against extension;

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

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

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

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

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

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

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

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

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

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

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

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

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

159           5. Any decision, order, or action taken following the  
160 hearing shall be in writing and shall be accompanied by  
161 findings of fact. The findings shall consist of a concise  
162 statement upon each issue in the case. A copy of the  
163 decision or order accompanying findings and conclusions  
164 along with the written action and right of appeal, if any,  
165 shall be delivered or mailed promptly to the law enforcement  
166 officer or to the officer's attorney or representative of  
167 record.

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

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

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

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

193           10. The remedies provided by this section against law  
194 enforcement agencies or governmental bodies shall be in  
195 addition to those provided by any other provision of law.  
196 Any aggrieved law enforcement officer or authorized  
197 representative may seek judicial enforcement of the  
198 requirements of this section. Suits to enforce this section  
199 shall be brought in the circuit court for the county in

200 which the law enforcement agency or governmental body has  
201 its principal place of business.

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

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

230 13. Upon a finding by a preponderance of the evidence  
231 that a law enforcement agency, governmental body, or member

232 of same has violated any provision of these sections, a  
233 court shall void any action taken in violation of these  
234 sections. Suit for enforcement shall be brought within one  
235 year from which the violation is ascertainable.

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