

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 53 & 60

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

0461S.06P

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 57.280, 84.400, 565.240, 566.145, 590.030, and 590.070, RSMo, and to enact in lieu thereof twelve new sections relating to law enforcement officers, with penalty provisions.

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

Section A. Sections 57.280, 84.400, 565.240, 566.145, 590.030, and 590.070, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 57.280, 84.400, 84.575, 546.265, 563.015, 565.240, 566.145, 590.030, 590.070, 590.075, 590.192, and 590.1265, to read as follows:

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ or other order of court, in connection with any civil case, and making on the same either a return indicating service, a non est return or a nulla bona return, the sum of twenty dollars for each item to be served, except that a sheriff shall receive a charge for service of any subpoena, and making a return on the same, the sum of ten dollars; however, no such charge shall be collected in any proceeding when court costs are to be paid by the state, county or municipality. In addition to such charge, the sheriff shall be entitled to receive for

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

12 each mile actually traveled in serving any summons, writ,
13 subpoena or other order of court the rate prescribed by the
14 Internal Revenue Service for all allowable expenses for
15 motor vehicle use expressed as an amount per mile, provided
16 that such mileage shall not be charged for more than one
17 subpoena or summons or other writ served in the same cause
18 on the same trip. All of such charges shall be received by
19 the sheriff who is requested to perform the service. Except
20 as otherwise provided by law, all charges made pursuant to
21 this section shall be collected by the court clerk as court
22 costs and are payable prior to the time the service is
23 rendered; provided that if the amount of such charge cannot
24 be readily determined, then the sheriff shall receive a
25 deposit based upon the likely amount of such charge, and the
26 balance of such charge shall be payable immediately upon
27 ascertainment of the proper amount of said charge. A
28 sheriff may refuse to perform any service in any action or
29 proceeding, other than when court costs are waived as
30 provided by law, until the charge provided by this section
31 is paid. Failure to receive the charge shall not affect the
32 validity of the service.

33 2. The sheriff shall receive for receiving and paying
34 moneys on execution or other process, where lands or goods
35 have been levied and advertised and sold, five percent on
36 five hundred dollars and four percent on all sums above five
37 hundred dollars, and half of these sums, when the money is
38 paid to the sheriff without a levy, or where the lands or
39 goods levied on shall not be sold and the money is paid to
40 the sheriff or person entitled thereto, his agent or
41 attorney. The party at whose application any writ,
42 execution, subpoena or other process has issued from the
43 court shall pay the sheriff's costs for the removal,

44 transportation, storage, safekeeping and support of any
45 property to be seized pursuant to legal process before such
46 seizure. The sheriff shall be allowed for each mile, going
47 and returning from the courthouse of the county in which he
48 resides to the place where the court is held, the rate
49 prescribed by the Internal Revenue Service for all allowable
50 expenses for motor vehicle use expressed as an amount per
51 mile. The provisions of this subsection shall not apply to
52 garnishment proceeds.

53 3. The sheriff upon the receipt of the charge herein
54 provided for shall pay into the treasury of the county any
55 and all charges received pursuant to the provisions of this
56 section. The funds collected pursuant to this section, not
57 to exceed fifty thousand dollars in any calendar year, shall
58 be held in a fund established by the county treasurer, which
59 may be expended at the discretion of the sheriff for the
60 furtherance of the sheriff's set duties. Any such funds in
61 excess of fifty thousand dollars in any calendar year shall
62 be placed to the credit of the general revenue fund of the
63 county. Moneys in the fund shall be used only for the
64 procurement of services and equipment to support the
65 operation of the sheriff's office. Moneys in the fund
66 established pursuant to this subsection shall not lapse to
67 the county general revenue fund at the end of any county
68 budget or fiscal year.

69 4. Notwithstanding the provisions of subsection 3 of
70 this section to the contrary, the sheriff, or any other
71 person specially appointed to serve in a county that
72 receives funds under section 57.278, shall receive ten
73 dollars for service of any summons, writ, subpoena, or other
74 order of the court included under subsection 1 of this
75 section, in addition to the charge for such service that

76 each sheriff receives under subsection 1 of this section.
77 The money received by the sheriff, or any other person
78 specially appointed to serve in a county that receives funds
79 under section 57.278, under this subsection shall be paid
80 into the county treasury and the county treasurer shall make
81 such money payable to the state treasurer. The state
82 treasurer shall deposit such moneys in the deputy sheriff
83 salary supplementation fund created under section 57.278.

84 **5. Sheriffs shall receive up to fifty dollars for**
85 **service of any summons, writ, or other order of the court in**
86 **connection with any eviction proceeding, in addition to the**
87 **charge for such service that each sheriff receives under**
88 **this section. All of such charges shall be received by the**
89 **sheriff who is requested to perform the service and shall be**
90 **paid to the county treasurer in a fund established by the**
91 **county treasurer, which may be expended at the discretion of**
92 **the sheriff for the furtherance of the sheriff's set**
93 **duties. All charges shall be payable prior to the time the**
94 **service is rendered; provided that if the amount of such**
95 **charge cannot be readily determined, then the sheriff shall**
96 **receive a deposit based upon the likely amount of such**
97 **charge, and the balance of such charge shall be payable**
98 **immediately upon ascertainment of the proper amount of said**
99 **charge.**

84.400. 1. Any one of said commissioners so appointed
2 or any member of any such police force who, during the term
3 of his office, shall accept any other place of public trust,
4 or emolument, or who shall knowingly receive any nomination
5 for an office elective by the people, and shall fail to
6 decline such nomination publicly within the five days
7 succeeding such nomination or shall become a candidate for
8 the nomination for any office at the hands of any political

9 party, shall be deemed to have thereby forfeited and vacated
10 office as such commissioner or member of such police force.

11 2. Notwithstanding any provisions of law to the
12 contrary, a member of the board or any member of such police
13 force may be appointed to serve on any state or federal
14 board, commission, or task force where no compensation for
15 such service is paid, except that such board member or
16 member of such police force may accept payment of a per diem
17 for attending meetings, or if no per diem is provided,
18 reimbursement from such board, commission, or task force for
19 reasonable and necessary expenses for attending such
20 meetings.

84.575. 1. The board of police commissioners
2 established by section 84.350 shall not require, as a
3 condition of employment, that any currently employed or
4 prospective law enforcement officer or other employee reside
5 within any jurisdictional limit. If the board of police
6 commissioners has a residency rule or requirement for law
7 enforcement officers or other employees that is in effect on
8 or before August 28, 2021, the residency rule or requirement
9 shall not apply and shall not be enforced.

10 2. The board of police commissioners may impose a
11 residency rule or requirement on law enforcement officers or
12 other employees, but the rule or requirement shall be no
13 more restrictive than requiring such personnel to reside
14 within thirty miles from the nearest city limit and within
15 the boundaries of the state of Missouri.

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

3 (1) "Crime stoppers organization", a private, not-for-
4 profit organization that collects and expends donations for
5 rewards to persons who report to the organization

6 information concerning criminal activity and that forwards
7 such information to appropriate law enforcement agencies;

8 (2) "Privileged communication", information by an
9 anonymous person to a crime stoppers organization for the
10 purpose of reporting alleged criminal activity.

11 2. No person shall be required to disclose, by way of
12 testimony or otherwise, a privileged communication between a
13 person who submits a report of alleged criminal activity to
14 a crime stoppers organization and the person who accepts the
15 report on behalf of a crime stoppers organization or to
16 produce, under subpoena, any records, documentary evidence,
17 opinions, or decisions relating to such privileged
18 communication:

19 (1) In connection with any criminal case or
20 proceeding; or

21 (2) By way of any discovery procedure.

22 3. Any person arrested or charged with a criminal
23 offense may petition the court for an in-camera inspection
24 of the records of a privileged communication concerning the
25 report such person made to a crime stoppers organization.
26 The petition shall allege facts showing that such records
27 would provide evidence favorable to the defendant and
28 relevant to the issue of guilt or punishment. If the court
29 determines that the person is entitled to all or any part of
30 such records, the court may order production and disclosure
31 as the court deems appropriate.

563.015. 1. A law enforcement officer is prohibited
2 from using a respiratory choke-hold unless deadly force is
3 authorized pursuant to this chapter.

4 2. A respiratory choke-hold includes the use of any
5 body part or object to attempt to control or disable by
6 applying pressure to a person's neck with the purpose,

7 **intent, or effect of controlling or restricting such**
8 **person's breathing.**

565.240. 1. A person commits the offense of unlawful
2 posting of certain information over the internet if he or
3 she knowingly posts the name, home address, Social Security
4 number, [or] telephone number, **or any other personally**
5 **identifiable information** of any person on the internet
6 intending to cause great bodily harm or death, or
7 threatening to cause great bodily harm or death to such
8 person.

9 2. The offense of unlawful posting of certain
10 information over the internet is a class C misdemeanor,
11 **unless the person knowingly posts the name, home address,**
12 **Social Security number, telephone number, or any other**
13 **personally identifiable information of any law enforcement**
14 **officer, corrections officer, parole officer, or prosecuting**
15 **attorney, or immediate family member of such officers, on**
16 **the internet intending to cause great bodily harm or death,**
17 **or threatening to cause great bodily harm or death, in which**
18 **case it is a class E felony.**

566.145. 1. A person commits the offense of sexual
2 conduct **in the course of public duty if the person engages**
3 **in sexual conduct:**

4 (1) With a **detainee, a prisoner, or an** offender [if he
5 or she] **and the person:**

6 [(1)] (a) Is an employee of, or assigned to work in,
7 any jail, prison or correctional facility and engages in
8 sexual conduct with a prisoner or an offender who is
9 confined in a jail, prison, or correctional facility; [or

10 (2)] (b) Is a probation and parole officer and engages
11 in sexual conduct with an offender who is under the direct
12 supervision of the officer; **or**

13 (c) Is a law enforcement officer and engages in sexual
14 conduct with a detainee or prisoner who is in the custody of
15 such officer; or

16 (2) With someone who is not a detainee, a prisoner, or
17 an offender and the person is:

18 (a) A probation and parole officer, a police officer,
19 or an employee of, or assigned to work in, any jail, prison,
20 or correctional facility;

21 (b) On duty; and

22 (c) Acting with a coercive purpose.

23 2. For the purposes of this section, the following
24 terms shall mean:

25 (1) "Detainee", a person deprived of liberty and kept
26 under involuntary restraint, confinement, or custody;

27 (2) "Offender", includes any person in the custody of
28 a prison or correctional facility and any person who is
29 under the supervision of the state board of probation and
30 parole;

31 [(2)] (3) "Prisoner", includes any person who is in
32 the custody of a jail, whether pretrial or after disposition
33 of a charge.

34 3. The offense of sexual conduct [with a prisoner or
35 offender] **in the course of public duty** is a class E felony.

36 4. Consent of a **detainee, a prisoner [or], an**
37 offender, **or any other person** is not a defense.

590.030. 1. The POST commission shall establish
2 minimum standards for the basic training of peace officers.
3 Such standards may vary for each class of license
4 established pursuant to subsection 2 of section 590.020.

5 2. The director shall establish minimum age,
6 citizenship, and general education requirements and may
7 require a qualifying score on a certification examination as

8 conditions of eligibility for a peace officer license. Such
9 general education requirements shall require completion of a
10 high school program of education under chapter 167 or
11 obtainment of a General Educational Development (GED)
12 certificate.

13 3. The director shall provide for the licensure, with
14 or without additional basic training, of peace officers
15 possessing credentials by other states or jurisdictions,
16 including federal and military law enforcement officers.

17 4. The director shall establish a procedure for
18 obtaining a peace officer license and shall issue the proper
19 license when the requirements of this chapter have been met.

20 5. As conditions of licensure, all licensed peace
21 officers shall:

22 (1) Obtain continuing law enforcement education
23 pursuant to rules to be promulgated by the POST commission;
24 [and]

25 (2) Maintain a current address of record on file with
26 the director; **and**

27 **(3) Submit to being fingerprinted on or before January**
28 **1, 2022, and at any time a peace officer is commissioned**
29 **with a different law enforcement agency, for the purpose of**
30 **a criminal history background check and enrollment in the**
31 **state and federal Rap Back programs, pursuant to section**
32 **43.540. The criminal history background check shall include**
33 **the records of the Federal Bureau of Investigation. The**
34 **resulting report shall be forwarded to the officer's**
35 **commissioning law enforcement agency at the time of**
36 **enrollment and Rap Back enrollment shall be for the purpose**
37 **of the requirements of subsection 3 of section 590.070 and**
38 **subsection 2 of section 590.118. An officer shall take all**
39 **necessary steps to maintain enrollment in Rap Back at all**

40 **law enforcement agencies where the officer is commissioned**
41 **for as long as the officer is commissioned with that agency.**

42 6. A peace officer license shall automatically expire
43 if the licensee fails to hold a commission as a peace
44 officer for a period of five consecutive years, provided
45 that the POST commission shall provide for the relicensure
46 of such persons and may require retraining as a condition of
47 eligibility for relicensure, and provided that the director
48 may provide for the continuing licensure, subject to
49 restrictions, of persons who hold and exercise a law
50 enforcement commission requiring a peace officer license but
51 not meeting the definition of a peace officer pursuant to
52 this chapter.

53 7. **All law enforcement agencies shall enroll in the**
54 **state and federal Rap Back programs on or before January 1,**
55 **2022, and continue to remain enrolled. The law enforcement**
56 **agency shall take all necessary steps to maintain officer**
57 **enrollment for all officers commissioned with that agency in**
58 **the Rap Back programs. An officer shall submit to being**
59 **fingerprinted at any law enforcement agency upon**
60 **commissioning and for as long as the officer is commissioned**
61 **with that agency.**

590.070. 1. The chief executive officer of each law
2 enforcement agency shall, within thirty days after
3 commissioning any peace officer, notify the director on a
4 form to be adopted by the director. The director may
5 require the chief executive officer to conduct a current
6 criminal history background check and to forward the
7 resulting report to the director.

8 2. The chief executive officer of each law enforcement
9 agency shall, within thirty days after any licensed peace
10 officer departs from employment or otherwise ceases to be

11 commissioned, notify the director on a form to be adopted by
12 the director. Such notice shall state the circumstances
13 surrounding the departure from employment or loss of
14 commission and shall specify any of the following that apply:

15 (1) The officer failed to meet the minimum
16 qualifications for commission as a peace officer;

17 (2) The officer violated municipal, state or federal
18 law;

19 (3) The officer violated the regulations of the law
20 enforcement agency; or

21 (4) The officer was under investigation for violating
22 municipal, state or federal law, or for gross violations of
23 the law enforcement agency regulations.

24 3. Whenever the chief executive officer of a law
25 enforcement agency has reasonable grounds to believe that
26 any peace officer commissioned by the agency is subject to
27 discipline pursuant to section 590.080, the chief executive
28 officer shall report such knowledge to the director.

29 **4. Notwithstanding any other provision of law to the**
30 **contrary, the chief executive officer of each law**
31 **enforcement agency has absolute immunity from suit for**
32 **compliance with this section, unless the chief executive**
33 **officer presented false information to the director with the**
34 **intention of causing reputational harm to the peace officer.**

590.075. The chief executive officer of each law
2 enforcement agency shall, prior to commissioning any peace
3 officer, request a certified copy from the director of all
4 notifications received pursuant to section 590.070 and the
5 director shall provide all notifications stored
6 electronically to the chief executive officer who requested
7 the notifications within three business days after receipt
8 of request. If the director receives any additional

9 notifications regarding the candidate for commissioning
10 within sixty days of a chief executive officer's request
11 under this section, a copy of such notifications shall be
12 forwarded by the director to the requesting chief executive
13 officer within three business days following receipt.

590.192. 1. There is hereby established the "Critical
2 Incident Stress Management Program" within the department of
3 public safety. The program shall provide services for peace
4 officers to assist in coping with stress and potential
5 psychological trauma resulting from a response to a critical
6 incident or emotionally difficult event. Such services may
7 include consultation, risk assessment, education,
8 intervention, and other crisis intervention services
9 provided by the department to peace officers affected by a
10 critical incident. For purposes of this section, a
11 "critical incident" shall mean any event outside the usual
12 realm of human experience that is markedly distressing or
13 evokes reactions of intense fear, helplessness, or horror
14 and involves the perceived threat to a person's physical
15 integrity or the physical integrity of someone else.

16 2. All peace officers shall be required to meet with a
17 program service provider once every three to five years for
18 a mental health check-in. The program service provider
19 shall send a notification to the peace officer's commanding
20 officer that he or she completed such check-in.

21 3. Any information disclosed by a peace officer shall
22 be privileged and shall not be used as evidence in criminal,
23 administrative, or civil proceedings against the peace
24 officer unless:

25 (1) A program representative reasonably believes the
26 disclosure is necessary to prevent harm to a person who
27 received services or to prevent harm to another person;

28 (2) The person who received the services provides
29 written consent to the disclosure; or

30 (3) The person receiving services discloses
31 information that is required to be reported under mandatory
32 reporting laws.

33 4. (1) There is hereby created in the state treasury
34 the "988 Public Safety Fund", which shall consist of money
35 appropriated by the general assembly. The state treasurer
36 shall be custodian of the fund. In accordance with sections
37 30.170 and 30.180, the state treasurer may approve
38 disbursements. The fund shall be a dedicated fund and money
39 in the fund shall be used solely by the department of public
40 safety for the purposes of providing services for peace
41 officers pursuant to subsection 1 of this section. Such
42 services may include consultation, risk assessment,
43 education, intervention, and other crisis intervention
44 services provided by the department to peace officers
45 affected by a critical incident. The director of public
46 safety may prescribe rules and regulations necessary to
47 carry out the provisions of this section. Any rule or
48 portion of a rule, as that term is defined in section
49 536.010, that is created under the authority delegated in
50 this section shall become effective only if it complies with
51 and is subject to all of the provisions of chapter 536 and,
52 if applicable, section 536.028. This section and chapter
53 536 are nonseverable and if any of the powers vested with
54 the general assembly pursuant to chapter 536 to review, to
55 delay the effective date, or to disapprove and annul a rule
56 are subsequently held unconstitutional, then the grant of
57 rulemaking authority and any rule proposed or adopted after
58 August 28, 2021, shall be invalid and void.

59 (2) Notwithstanding the provisions of section 33.080
60 to the contrary, any moneys remaining in the fund at the end
61 of the biennium shall not revert to the credit of the
62 general revenue fund.

63 (3) The state treasurer shall invest moneys in the
64 fund in the same manner as other funds are invested. Any
65 interest and moneys earned on such investments shall be
66 credited to the fund.

 590.1265. 1. The provisions of this section shall be
2 known and may be cited as the "Police Use of Force
3 Transparency Act of 2021".

4 2. For purposes of this section, the following terms
5 mean:

6 (1) "Law enforcement agency", the same meaning as
7 defined in section 590.1040;

8 (2) "Peace officer", the same meaning as defined in
9 section 590.010;

10 (3) "Serious physical injury", the same meaning as
11 defined in section 556.061;

12 (4) "Use-of-force incident", an incident in which:

13 (a) A fatality occurs that is connected to a use of
14 force by a peace officer;

15 (b) Serious bodily injury occurs that is connected to
16 a use of force by a peace officer; or

17 (c) In the absence of death or serious physical
18 injury, a peace officer discharges a firearm at, or in the
19 direction of, a person.

20 3. Starting on March 1, 2022, and at least annually
21 thereafter, each law enforcement agency shall collect and
22 report local data on use-of-force incidents involving peace
23 officers to the National Use of Force Data Collection
24 through the Law Enforcement Enterprise Portal administered

25 by the Federal Bureau of Investigation. Law enforcement
26 agencies shall not include personally identifying
27 information of individual peace officers in their reports.

28 4. Each law enforcement agency shall additionally
29 report the data submitted under subsection 3 of this section
30 to the department of public safety. Law enforcement
31 agencies shall not include personally identifying
32 information of individual peace officers in their reports.

33 5. The department of public safety shall, no later
34 than October 31, 2021, develop standards and procedures
35 governing the collection and reporting of use-of-force data
36 under this section. The standards and procedures shall be
37 consistent with the requirements, definitions, and methods
38 of the National Use of Force Data Collection administered by
39 the Federal Bureau of Investigation.

40 6. By March 1, 2023, and at least annually thereafter,
41 the department of public safety shall publish the data
42 reported by law enforcement agencies under subsection 4 of
43 this section, including statewide aggregate data and agency-
44 specific data, in a publicly available report on the
45 department of public safety's website. Such data shall be
46 deemed a public record consistent with the provisions and
47 exemptions contained in chapter 610.

48 7. The department of public safety shall undertake an
49 analysis of any trends and disparities in rates of use of
50 force by all law enforcement agencies, with a report to be
51 released to the public no later than June 30, 2025. The
52 report shall be updated periodically thereafter, but not
53 less than once every five years.

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